

Complaint

IN THE MATTER OF

THE A. & N. TRADING CO., INC., TRADING AS A. & N.
TRADING COMPANY, A & N TRADING COMPANY, INC.,
AND SPORT CENTER

COMPLAINT, FINDINGS, AND ORDER IN REGARD TO THE ALLEGED VIOLATION
OF THE FEDERAL TRADE COMMISSION ACT APPROVED SEPT. 26, 1914, AND
THE WOOL PRODUCTS LABELING ACT OF 1939 APPROVED OCT. 14, 1940

Docket 4932. Complaint, Mar. 18, 1943—Decision, Apr. 17, 1944

Neither the intent of a respondent in violating the Wool Products Labeling Act of 1939, nor its knowledge that it was violating such act, are material to proceedings thereunder before the Commission, and in the instant case, in which the respondent made such allegations in its answer, the Commission is without knowledge in said respect and makes no findings with regard thereto.

Where a corporation, engaged in the operation of retail stores in Washington, D. C., and in the offer and sale to the general public therein, of clothing and other merchandise, including many articles subject to the Wool Products Labeling Act of 1939, such as shirts, sweaters, trousers, caps, underwear and blankets,—

Sold and distributed such articles in commerce, misbranded in violation of said act and the rules and regulations promulgated thereunder, in that when introduced therein they did not have on or affixed thereto a stamp, tag, label or other means of identification as thereby provided, showing the percentage of the total fiber weight, of wool, reprocessed wool, reused wool, non-wool fiber, and non-fibrous filling or adulterating matter, and proper identification of the manufacturer or reseller, etc., subject to provisions of act:

Held, That aforesaid acts, practices and methods of respondent, under the circumstances set forth, were in violations of the act and said Rules and Regulations, and were all to the prejudice and injury of the public, and constituted unfair and deceptive acts and practices in commerce.

Mr. DeWitt T. Puckett for the Commission.

Mr. Philip Goldstein, of Washington, D. C., for respondents.

COMPLAINT ¹

Pursuant to the provisions of the Federal Trade Commission Act and the Wool Products Labeling Act of 1939 and by virtue of the authority vested in it by said acts, the Federal Trade Commission, having reason to believe that Army and Navy Trading Company, a corporation, trading as A & N Trading Company, A & N Trading Company, Inc., and Sport Center, hereinafter referred to as respondent, has violated the pro-

¹ By order dated Nov. 6, 1943 the complaint was amended, as respects respondent's corporate name, as follows:

This matter coming on to be heard by Federal Trade Commission upon the motion of counsel for the Commission to amend the complaint in this case by substituting the name "A & N Trading Company, Inc." for the name "Army and Navy Trading Company," and it appearing that respondent does not resist said motion, and the Commission having duly considered the said motion and the record herein and being now fully advised in the premises.

It is ordered that the complaint herein be, and the same hereby is, amended by substituting the name "A & N Trading Company, Inc." for the name "Army and Navy Trading Company."

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visions of the said acts and the rules and regulations promulgated under the Wool Products Labeling Act of 1939, and it appearing to the Commission that a proceeding by it in respect thereof would be in the public interest, hereby issues its complaint, stating its charges in that respect as follows:

PARAGRAPH 1. Respondent, Army and Navy Trading Company, a corporation, trading as A & N Trading Company, A- & N Trading Company, Inc., and Sport Center, is a corporation organized, existing and doing business under and by virtue of the laws of the State of Maryland and has its principal office and place of business at 8th and D Streets, N. W., Washington, D. C.

PAR. 2. Respondent is now, and for several years last past has been, engaged in the business of operating retail stores in Washington, D. C., and is offering for sale and selling to the general public in the District of Columbia various articles of clothing and other merchandise. Respondent maintains, and at all times mentioned herein has maintained, a course of trade in commerce in the District of Columbia.

PAR. 3. Among the articles sold by respondent since July 15, 1941, are many which are wool products within the intent and meaning of the Wool Products Labeling Act of 1939, in that such articles which include shirts, sweaters, trousers, caps, underwear and blankets are composed in whole or in part of wool, reprocessed wool or reused wool as those terms are defined in said act.

Many of these said wool products sold and distributed by respondent in said commerce as aforesaid were misbranded in violation of the Wool Products Labeling Act of 1939 and the rules and regulations promulgated under such act in that said wool products, when introduced in said commerce, did not have on or affixed thereto a stamp, tag, label or other means of identification or a substitute in lieu thereof as provided by said act, showing (a) the percentage of the total fiber weight of the wool product, exclusive of ornamentation not exceeding 5 percentum of said total fiber weight, of (1) wool, (2) reprocessed wool, (3) reused wool, (4) each fiber other than wool where said percentage by weight of such fiber was 5 percentum or more, and (5) the aggregate of all other fibers; (b) the maximum percentage of the total weight of the wool product of non-fibrous loading, filling, or adulterating matter; (c) the name of the manufacturer of the wool product, or, in lieu thereof, a registered number with name of a reseller under the conditions provided in the rules and regulations promulgated under such act, or the name of one or more persons subject to section 3 of the said act with respect to such wool product.

PAR. 4. The aforesaid acts, practices and methods of respondent, as herein alleged, are all to the prejudice and injury of the public and constitute unfair and deceptive acts and practices in commerce within the intent and meaning of the Federal Trade Commission Act.

REPORT, FINDINGS AS TO THE FACTS, AND ORDER

Pursuant to the provisions of the Federal Trade Commission Act, and the Wool Products Labeling Act of 1939, the Federal Trade Commission, on the 18th day of March, 1943, issued and subsequently served its complaint in this proceeding upon respondent, The A. & N. Trading Co., Inc., a corporation, trading as A. & N. Trading Company, A & N Trading Company, Inc., and Sport Center, charging it with the use of unfair and

deceptive acts and practices in commerce in violation of the provisions of said acts and the rules and regulations promulgated under the Wool Products Labeling Act of 1939. Subsequently the respondent filed its answer, and on November 17, 1943, the Commission, by order entered herein, granted respondent's request for permission to withdraw said answer and to substitute therefor an answer admitting all the material allegations of fact set forth in said complaint and waiving all intervening procedure and further hearing as to said facts. Thereafter a stipulation as to certain facts regarding the correct corporate name of the respondent was entered into by and between Richard P. Whiteley, Assistant Chief Counsel for the Commission, and counsel for the respondent, and made a part of the record herein.

Thereafter, this proceeding regularly came on for final hearing before the Commission on the said complaint, the substitute answer and said stipulation as to the facts, and the Commission having duly considered the matter and being now fully advised in the premises, finds that this proceeding is in the interest of the public and makes this its findings as to the facts and its conclusion drawn therefrom.

FINDINGS AS TO THE FACTS

PARAGRAPH 1. Respondent, The A. & N. Trading Co., Inc., a corporation, trading as A. & N. Trading Company, A & N Trading Company, Inc., and Sport Center, is a corporation organized, existing and doing business under and by virtue of the laws of the State of Maryland and has its principal office and place of business at 8th and D Streets, N. W., Washington, D. C.

PAR. 2. Respondent is now, and for several years last past has been, engaged in the business of operating retail stores in Washington, D. C., and is offering for sale and selling to the general public in the District of Columbia various articles of clothing and other merchandise. Respondent maintains, and at all times mentioned herein has maintained, a course of trade in commerce in the District of Columbia.

PAR. 3. The complaint in this proceeding alleged that the corporate name of the respondent was Army and Navy Trading Company. The respondent's answer alleged that the correct name of the respondent was A & N Trading Company, Inc., and on November 6, 1943, the Commission, by order duly entered herein, amended the complaint to correct the name of the respondent. A stipulation as to the facts with regard to the correct name of the respondent was entered into between counsel for the Commission and respondent and made a part of the records, and shows the correct name of respondent to be "The A. & N. Trading Co., Inc." and the Commission so finds.

PAR. 4. Among the articles sold by respondent since July 15, 1941, are many which are wool products within the intent and meaning of the Wool Products Labeling Act of 1939, in that such articles, which include shirts, sweaters, trousers, caps, underwear and blankets, are composed in whole or in part of wool, reprocessed wool or reused wool as those terms are defined in said act.

Many of these said wool products sold and distributed by respondent in said commerce as aforesaid were misbranded in violation of the Wool Products Labeling Act of 1939 and the rules and regulations promulgated under such act in that said wool products, when introduced into said

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commerce, did not have on or affixed thereto a stamp, tag, label or other means of identification or a substitute in lieu thereof as provided by said act, showing (a) the percentage of the total fiber weight of the wool product, exclusive of ornamentation not exceeding 5 percentum of said total fiber weight, of (1) wool, (2) reprocessed wool, (3) reused wool, (4) each fiber other than wool where said percentage by weight of such fiber was 5 percentum or more, and (5) the aggregate of all other fibers; (b) the maximum percentage of the total weight of the wool product of non-fibrous loading, filling, or adulterating matter; (c) the name of the manufacturer of the wool product, or, in lieu thereof, a registered number with name of a reseller under the conditions provided in the rules and regulations promulgated under such act, or the name of one or more persons subject to Section 3 of the said act with respect to such wool product.

PAR. 5. Respondent's answer contains a paragraph which states in substance that any violation of the Wool Products Labeling Act of 1939 was committed without any intent to do so or knowledge thereof by the respondent. Neither the intent of the respondent in violating the act nor its knowledge that it was violating the act are material to proceedings under the Wool Products Labeling Act of 1939 before the Commission, and the Commission is without knowledge in these respects and makes no finding with regard thereto.

The aforesaid acts, practices and methods of respondent as herein found were and are in violation of the Wool Products Labeling Act of 1939 and the Rules and Regulations promulgated thereunder and are all to the prejudice and injury of the public and constitute unfair and deceptive acts and practices in commerce within the intent and meaning of the Federal Trade Commission Act, and the Wool Products Labeling Act of 1939.

ORDER TO CEASE AND DESIST

This proceeding having been heard by the Federal Trade Commission upon the amended complaint of the Commission and the answer of respondent, in which answer respondent admits all the material allegations of fact set forth in said amended complaint and states that it waives all intervening procedure and further hearing as to said facts, and the Commission having made its findings as to the facts and its conclusion that said respondent has violated the provisions of the Federal Trade Commission Act, and the provisions of the Wool Products Labeling Act of 1939.

It is ordered, That the respondent, The A. & N. Trading Co., Inc., a corporation, trading as A. & N. Trading Company, A & N Trading Company, Inc., and Sport Center, or trading under any other name, its officers, representatives, agents and employees, directly or through any corporate or other device, in connection with the sale or offering for sale in commerce as "commerce" is defined in the aforesaid acts, do forthwith cease and desist from misbranding shirts, sweaters, trousers, caps, underwear and blankets, or other "wool products," as defined in, and subject to, the Wool Products Labeling Act of 1939, which contain, purport to contain or in any way are represented as containing "wool," "reprocessed wool" or "reused wool" as those terms are defined in said act, by failing to securely affix to or place on such products a stamp, tag, label or other means of identification showing in a clear and conspicuous manner:

(a) The percentage of the total fiber weight of such wool product, exclusive of ornamentation not exceeding five percentum of said total fiber weight of (1) wool, (2) reprocessed wool, (3) reused wool, (4) each fiber other than wool where said percentage by weight of such fiber is five percentum or more, and (5) the aggregate of all other fibers.

(b) The maximum percentage of the total weight of such wool products of any non-fibrous loading, filling or adulterating matter.

(c) The name of the manufacturer of such wool product; or the manufacturer's registered identification number and the name of a seller of such wool product; or the name of one or more persons introducing such wool product into commerce, or engaged in the sale, transportation, or distribution thereof in commerce, as "commerce" is defined in the Federal Trade Commission Act and the Wool Products Labeling Act of 1939.

Provided, That the foregoing provisions concerning misbranding shall not be construed to prohibit acts permitted by Paragraphs (a) and (b) of Section 3 of the Wool Products Labeling Act of 1939; and provided, further, that nothing contained in this order shall be construed as limiting any applicable provisions of said act or the rules and regulations promulgated thereunder.

It is further ordered, That the respondent shall, within 60 days after service upon it of this order, file with the Commission a report in writing setting forth in detail the manner and form in which it has complied with this order.

IN THE MATTER OF
ALEXANDER AUERBACH, TRADING IN HIS OWN NAME
AND AS FRANK CORWIN, ETC.

COMPLAINT, FINDINGS, AND ORDER IN REGARD TO THE ALLEGED VIOLATION
OF THE FEDERAL TRADE COMMISSION ACT APPROVED SEPT. 26, 1914, AND
THE WOOL PRODUCTS LABELING ACT OF 1939 APPROVED OCT. 14, 1940

Docket 5025. Complaint, Aug. 12, 1943—Decision, Apr. 18, 1944

Where an individual engaged under his own name and various trade names—subsequent to the dissolution of a corporation used by him for acts and practices below described—in the buying of woolen rags, clippings and other wool waste for shipment to reprocessing mills in other States and conversion into “shoddy,” and in the sale and distribution to his customers in various States either directly therefrom or after return to him—

- (a) Misbranded his said goods in violation of the Wool Products Labeling Act of 1939 and the rules and regulations promulgated thereunder, in that they did not, when marketed in commerce, have on or affixed thereto a stamp, tag, label or other means of identification showing the percentage of the total fiber weight of wool, reprocessed wool, reused wool, non-wool fibers, and non-fibrous loading, filling or adulterating matter, and proper identification of the manufacturer or reseller, etc.;
- (b) Falsely represented orally, by telephone and telegraphic communications, through letters and otherwise, that his products were “wool” and that his said products could be labeled “wool” as defined by act in question, were “all wool” or “100% wool,” and that his stock generally could be labeled as “reprocessed wool” in accordance with such act, and thereby placed in the hands of customers the means whereby they, through wholesalers and retailers, might deceive members of the purchasing public into the mistaken belief that said “shoddy” products were all wool or all reprocessed wool, and as a consequence into purchase of substantial quantities thereof; and
- (c) Made use of fictitious names and shipped his said products thereunder to purchasers in various States, and thereby fraudulently concealed his real identity from purchasers who, having been previously deceived and defrauded by him under the name of his aforesaid dissolved corporation or in his own name, would not have made such purchases if his true identity had been known to them:

Held, That such acts, practices and methods were all to the prejudice and injury of the public and constituted unfair and deceptive acts and practices in commerce within the intent and meaning of the Federal Trade Commission Act and the Wool Products Labeling Act of 1939.

Mr. R. P. Bellinger for the Commission.

Mr. Samuel Shapiro, of New York City, for respondent.

COMPLAINT

Pursuant to the provisions of the Federal Trade Commission Act, and the Wool Products Labeling Act of 1939, and by virtue of the authority vested in it by said acts, the Federal Trade Commission, having reason to believe that Alexander Auerbach, an individual, trading in his own name, and as Frank Corwin, Frank Corwin Company, Frank Cohen, David Demerer and Hanover Wool Stock Company, hereinafter referred