

Complaint

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IN THE MATTER OF
JAMES JEBAILY, INC.

COMPLAINT, FINDINGS, AND ORDER IN REGARD TO THE ALLEGED VIOLATION
OF THE FEDERAL TRADE COMMISSION ACT APPROVED SEPT. 23, 1914, AND
THE WOOL PRODUCTS LABELING ACT OF 1939, APPROVED OCT. 14, 1940.

Docket 5066. Complaint, Oct. 21, 1943—Decision, June 14, 1944

Where a corporation engaged in the manufacture of women's robes, housecoats, pajamas and other articles of wearing apparel, some of which were made from rayon and some from fabrics composed of rayon and other fibers—

- (a) Misleadingly and deceptively failed to inform the purchasing public in words familiar to it that certain articles of women's clothing, and outer and inner linings of others simulating fabrics of silk, product of the cocoon of the silk worm, were not made from silk but from rayon, whereby many members of said public were led to believe that articles in question were composed of silk;
- (b) Misleadingly and deceptively designated certain of aforesaid clothing in advertisements as "taffeta," "crepe" and "satin," accompanied in many instances by word "Celanese," but without accompanying the same with words familiar to the purchasing public disclosing fact that fabrics in question were not composed of silk which, as aforesaid, they resembled, but of rayon, whereby many members of said public were led to believe that such fabrics were silk;

With effect of misleading and deceiving wholesale and retail purchasers of its said clothing, and members of the purchasing public, as to the fiber content thereof, and of placing in the hands of said dealers a means and instrumentality whereby they might and did mislead and deceive the purchasing public as to the fiber content of said clothing, as a result of which substantial quantities of its products were purchased as composed wholly of silk;

- (c) Sold certain products composed in whole or in part of wool, reprocessed wool, or reused wool, misbranded in violation of the Wool Products Labeling Act of 1939 in that they did not have affixed thereto a stamp, tag, etc. showing the percentage of the total fiber weight of wool, reprocessed wool, reused wool and non-wool fiber, and maximum percentage of adulterating matter; and proper identification of the manufacturer, seller, etc. subject to the Act:

Held, That such acts, practices and methods, under the circumstances set forth, 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 acts concerned.

Mr. DeWitt T. Puckett for the Commission.

Rigby, Leon & Weill, 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 James Jebaily, Inc., a corporation, hereinafter referred to as respondent, has violated the provisions 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, James Jebaily, Inc., is a corporation, organized, existing and doing business under and by virtue of the laws of the State of New York, and has its principal office and place of business at 36 East 31st Street, New York, N. Y.

PAR. 2. Respondent is now and for more than one year last past has been engaged in manufacturing women's robes, housecoats, pajamas and various other articles of wearing apparel. Some of said articles are manufactured wholly from fabrics composed of rayon, while others are manufactured from rayon fabrics and other fabrics composed of fibers other than rayon. Some of said articles of clothing are referred to and described by the respondent as "Celanese."

Respondent causes its said clothing, when sold, to be transported from its place of business in the State of New York to the purchasers thereof located in various other States of the United States and in the District of Columbia. Respondent maintains and for several years last past has maintained a course and current of trade in said products in commerce among and between the various States of the United States and in the District of Columbia.

PAR. 3. Rayon is a chemically manufactured fiber which may be manufactured so as to simulate silk and, when so manufactured, it has the appearance and feel of silk and is by the purchasing public practically indistinguishable from silk. By reason of these qualities rayon is, when manufactured to simulate silk and not designated as rayon, readily believed to be and accepted by the purchasing public as being silk, the product of the cocoon of the silk worm.

PAR. 4. Products manufactured from silk, the product of the cocoon of the silk worm, have for many years held and still hold a great public esteem and confidence because of their outstanding qualities. Such fibers have long been woven into a variety of fabrics and distinctive terms well-known to and understood by the purchasing public have been applied to such silk fabrics as designating the different types of weaving. Among the terms well-known to and understood by the purchasing public as designating a type of fabric woven from silk are "taffeta," "crepe," and "satin." The use of these terms to designate, describe or refer to fabrics having the texture and appearance of silk is understood by the purchasing public to indicate that the fabrics are composed of silk, unless such terms are accompanied by words familiar to the purchasing public indicating clearly that such fabrics are not composed of silk but of fibers other than the product of the cocoon of the silk worm.

PAR. 5. The respondent manufactures and sells and distributes in commerce as aforesaid women's clothing composed wholly of rayon fibers and also articles of clothing the outer lining and inner lining of which are composed of rayon fibers, which linings and materials simulate in texture and appearance fabrics composed of silk, the product of the cocoon of the silk worm. The respondent does not inform the purchasing public of the fact that said articles of wearing apparel which resemble silk in texture and appearance are not made from silk but from rayon.

The practice of the respondent in offering for sale and selling clothing manufactured, in whole or in part, of rayon and which resemble in texture and appearance fabrics manufactured from silk in commerce as aforesaid, without disclosing in words familiar to the purchasing public the fact that said articles of clothing are composed, in whole or in part, of rayon, is misleading and deceptive, and many members of the purchasing public are

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thereby led to believe that said articles of clothing are composed of silk, the product of the cocoon of the silk worm.

PAR. 6. The respondent in connection with offering for sale and selling its said articles of clothing composed wholly of rayon and clothing composed in part of rayon, which clothing resembles in texture and appearance fabrics manufactured from silk, the product of the cocoon of the silk worm, in commerce as aforesaid, in advertisements circulated among the purchasing public, designates, describes and refers to certain of said clothing as "taffeta," "crepe" and "satin" and does not accompany such words with words familiar to the purchasing public which disclose the fact that said fabrics are not composed of silk, the product of the cocoon of the silk worm, but of rayon. In many instances said terms are accompanied by the word "Celanese," but this term is not sufficiently well-known and understood by the purchasing public to inform it that the fabrics designated, described and referred to as aforesaid are made from fibers other than silk, to wit, rayon. The use by the respondent of the terms "taffeta," "crepe" and "satin," either alone or when accompanied by the term or word "Celanese" in designating, describing, or referring to said fabrics resembling silk but composed of rayon, is misleading and deceptive and causes many members of the purchasing public to believe that the said fabrics are composed of silk, the product of the cocoon of the silk worm.

PAR. 7. The use by the respondent of the acts and practices hereinabove described have the capacity and tendency to and do mislead and deceive wholesalers and retailers who purchase its said clothing for resale and members of the purchasing public as to the fiber content thereof. By said acts and practices respondent also places in the hands of said purchasers of its clothing a means and instrumentality whereby they may and do mislead and deceive the purchasing public as to the fiber content of said clothing. As a result of this deception substantial quantities of respondent's products are purchased in the belief that they are composed wholly of silk.

PAR. 8. Among the products manufactured, sold and distributed by respondent in commerce as aforesaid, since July 15, 1941, are some which are wool products within the intent and meaning of the Wool Products Labeling Act of 1939, in that such fabrics are composed in part of wool, reprocessed wool or reused wool, as those terms are defined in said act. Said fabrics are subject to the provisions of the Wool Products Labeling Act of 1939 and the rules and regulations promulgated thereunder.

The said wool products sold and distributed by respondent in 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, sold or distributed in said commerce, by respondent, 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 the manufacturer's registered identification number and the name of a subsequent seller or reseller of the

product as provided for in the rules and regulations promulgated under such act, or the name of one or more persons subject to section 3 of said act with respect to such wool product; (d) the percentages, in words and figures plainly legible, by weight of the wool contents of such wool product where said wool product contains a fiber other than wool.

PAR. 9. The aforesaid acts, practices and methods of the respondent, as alleged in paragraph 8 hereof, were and are in violation of the Wool Products Labeling Act of 1939 and the rules and regulations promulgated thereunder and all the acts, practices and methods of the respondent, as alleged herein, are 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 21st day of October, 1943, issued and subsequently served its complaint in this proceeding upon respondent, James Jebaily, Inc., a corporation, charging it with the use of unfair and deceptive acts and practices in commerce in violation of the provisions of said acts. After the issuance of said complaint, the respondent submitted 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, which answer was duly filed in the office of the Commission. Thereafter this proceeding regularly came on for final hearing before the Commission on the said complaint and answer 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, James Jebaily, Inc., is a corporation, organized, existing and doing business under and by virtue of the laws of the State of New York, and has its principal office and place of business at 36 East 31st Street, New York, N. Y.

PAR. 2. Respondent is now and for more than one year last past has been engaged in manufacturing women's robes, housecoats, pajamas and various other articles of wearing apparel. Some of said articles are manufactured wholly from fabrics composed of rayon, while others are manufactured from rayon fabrics and other fabrics composed of fibers other than rayon. Some of said articles of clothing are referred to and described by the respondent as "Celanese."

Respondent causes its said clothing, when sold, to be transported from its place of business in the State of New York to the purchasers thereof located in various other States of the United States and in the District of Columbia. Respondent maintains and for several years last past has maintained a course and current of trade in said products in commerce among and between the various States of the United States and in the District of Columbia.

PAR. 3. Rayon is a chemically manufactured fiber which may be manufactured so as to simulate silk and, when so manufactured, it has the ap-

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pearance and feel of silk and is by the purchasing public practically indistinguishable from silk. By reason of these qualities rayon is, when manufactured to simulate silk and not designated as rayon, readily believed to be and accepted by the purchasing public as being silk, the product of the cocoon of the silk worm.

PAR. 4. Products manufactured from silk, the product of the cocoon of the silk worm, have for many years held and still hold a great public esteem and confidence because of their outstanding qualities. Such fibers have long been woven into a variety of fabrics and distinctive terms well-known to and understood by the purchasing public have been applied to such silk fabrics as designating the different types of weaving. Among the terms well-known to and understood by the purchasing public as designating a type of fabric woven from silk are "taffeta," "crepe," and "satin." The use of these terms to designate, describe or refer to fabrics having the texture and appearance of silk is understood by the purchasing public to indicate that the fabrics are composed of silk, unless such terms are accompanied by words familiar to the purchasing public indicating clearly that such fabrics are not composed of silk but of fibers other than the product of the cocoon of the silk worm.

PAR. 5. The respondent manufactures and sells and distributes in commerce as aforesaid women's clothing composed wholly of rayon fibers and also articles of clothing the outer lining and inner lining of which are composed of rayon fibers, which linings and materials simulate in texture and appearance fabrics composed of silk, the product of the cocoon of the silk worm. The respondent does not inform the purchasing public of the fact that said articles of wearing apparel which resemble silk in texture and appearance are not made from silk but from rayon.

The practice of the respondent in offering for sale and selling clothing manufactured, in whole or in part, of rayon and which resemble in texture and appearance fabrics manufactured from silk in commerce as aforesaid, without disclosing in words familiar to the purchasing public the fact that said articles of clothing are composed, in whole or in part, of rayon, is misleading and deceptive, and many members of the purchasing public are thereby led to believe that said articles of clothing are composed of silk, the product of the cocoon of the silk worm.

PAR. 6. The respondent in connection with offering for sale and selling its said articles of clothing composed wholly of rayon and clothing composed in part of rayon, which clothing resembles in texture and appearance fabrics manufactured from silk, the product of the cocoon of the silk worm, in commerce as aforesaid, in advertisements circulated among the purchasing public designates, describes and refers to certain of said clothing as "taffeta," "crepe" and "satin" and does not accompany such words with words familiar to the purchasing public which disclose the fact that said fabrics are not composed of silk, the product of the cocoon of the silk worm, but of rayon. In many instances said terms are accompanied by the word "Celanese," but this term is not sufficiently well known and understood by the purchasing public to inform it that the fabrics designated, described and referred to as aforesaid are made from fibers other than silk, to wit, rayon. The use by the respondent of the terms "taffeta," "crepe" and "satin," either alone or when accompanied by the term or word "Celanese" in designating, describing, or referring to said fabrics resembling silk but composed of rayon, is misleading and deceptive and causes many members of the purchasing public to believe that the said

fabrics are composed of silk, the product of the cocoon of the silk worm.

PAR. 7. The use by respondent of the acts and practices hereinabove described have the capacity and tendency to and do mislead and deceive wholesalers and retailers who purchase its said clothing for resale and members of the purchasing public as to the fiber content thereof. By said acts and practices respondent also places in the hands of said purchasers of its clothing a means and instrumentality whereby they may and do mislead and deceive the purchasing public as to the fiber content of said clothing. As a result of this deception substantial quantities of respondent's products are purchased in the belief that they are composed wholly of silk.

PAR. 8. Among the products manufactured, sold and distributed by respondent in commerce as aforesaid, since July 15, 1941, are some which are wool products within the intent and meaning of the Wool Products Labeling Act of 1939, in that such fabrics are composed in part of wool, reprocessed wool or reused wool, as those terms are defined in said act. Said fabrics are subject to the provisions of the Wool Products Labeling Act of 1939 and the rules and regulations promulgated thereunder.

The said wool products sold and distributed by respondent in 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, sold or distributed in said commerce, by respondent, 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 the manufacturer's registered identification number and the name of a subsequent seller or reseller of the product as provided for in the rules and regulations promulgated under such act, or the name of one or more persons subject to section 3 of said act with respect to such wool product; (d) the percentages, in words and figures plainly legible, by weight of the wool contents of such wool product where said wool product contains a fiber other than wool.

CONCLUSION

The aforesaid acts, practices and methods of respondent, as herein found, 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 complaint of the Commission and the answer of respondent, in which answer respondent admits all the material allegations of fact set forth in said 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, James Jebaily, Inc., a corporation, its officers, representatives, agents and employees, directly or through any corporate or other device, in connection with the offering for sale, sale and distribution of articles of clothing or other garments in commerce as "commerce" is defined in the Federal Trade Commission Act do forthwith cease and desist from:

1. Using the word "taffeta," or the word "crepe," or the word "satin," or any other descriptive term indicative of silk to designate or describe any product which is not composed entirely of silk, the product of the cocoon of the silk worm; *Provided, however*, that such word or descriptive term may be used truthfully to designate or describe the type of weave, construction or finish if such word is qualified by using in immediate connection or conjunction therewith in letters of at least equal size and conspicuousness words clearly and accurately naming the fibers or materials from which such product is made.

2. Advertising, offering for sale, or selling products composed in whole or in part of rayon without clearly disclosing such rayon content; and when such products are composed in part of rayon and in part of other fibers or materials, all such fibers or materials, including the rayon, shall be clearly and accurately disclosed.

It is further ordered, That respondent, James Jebaily, Inc., a corporation, its officers, representatives, agents and employees, directly or through any corporate or other device, in connection with the introduction or manufacture for introduction into commerce, or the sale, transportation or distribution in commerce, as "commerce" is defined in the aforesaid acts, do forthwith cease and desist from misbranding articles of clothing or other "wool products" as such products are defined in and subject to the Wool Products Labeling Act of 1939, which products 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 product 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

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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.

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IN THE MATTER OF

JANNETTE B. DOWNS

COMPLAINT, FINDINGS, AND ORDER IN REGARD TO THE ALLEGED VIOLATION
OF SEC. 5 OF AN ACT OF CONGRESS APPROVED SEPT. 28, 1914*- Docket 5081. Complaint, Nov. 13, 1943—Decision, June 14, 1944*

Where an individual engaged under the trade name "National Bureau of Missing Heirs" in interstate sale and distribution of reply post cards designed for use by creditors and collection agencies in locating delinquent debtors which, headed by aforesaid trade name along with her address and words "Estate Probate Attorneys In All Principal Cities" and "Searchers of Records," advised the person addressed that said "National Bureau of Missing Heirs" was "looking for a person of your name," had reasons to believe said person might be the one, that the matter was of "distinct importance to you" in that event, and requested that, to verify this, person "please answer the questions on the attached reply card" for return to said bureau, calling, among other things, for his name and address, and that of his employer and bank, home ownership and description;

Making use of a plan under which her customers addressed the cards to the persons concerning whom information was sought at their last known addresses or in the care of others believed to have knowledge of their whereabouts, returned them to her for mailing, and the cards filled out and returned by the recipients to her, were by her sent to the customers, identified by numbers;

(a) Falsely represented and placed in the hands of her customers means of falsely representing, directly and by implication, to those to whom said cards were sent, that the "National Bureau of Missing Heirs" had connections with attorneys in all principal cities who engage in probate matters, was engaged in the business of locating heirs to estates or to interests therein and of searching records, and that the persons concerning whom information was sought had or might have interests in estates or lands which might be of financial benefit to them; when her sole purpose was to secure information to facilitate collection of alleged delinquent accounts by her customers; and

(b) Falsely represented, directly and by implication, through use of name "National Bureau of Missing Heirs" that her business bore some relation to estates and the locating of the heirs thereto and to interests therein; when it was merely a disguise for the true nature of the business;

With effect of misleading many persons to whom said cards were sent into the erroneous belief that the said representations were true, and by reason thereof into giving information which they would not otherwise have supplied:

Held, That said acts and practices, under the circumstances set forth, were all to the prejudice and injury of the public, and constituted unfair and deceptive acts and practices in commerce.

Before *Mr. Arthur F. Thomas*, trial examiner.

Mr. Randolph W. Branch for the Commission.

Mr. Eugene D. O'Sullivan, of Omaha, Nebr., for respondent.

COMPLAINT

Pursuant to the provisions of the Federal Trade Commission Act, and by virtue of the authority vested in it by said act, the Federal Trade Commission, having reason to believe that Jannette B. Downs, an individual,