

Complaint

IN THE MATTER OF

SAMUEL RUDOVSKY AND MAX BRAUNSTEIN, TRADING
AS RUDD MANUFACTURING COMPANY

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

Docket 5047. Complaint, Sept. 13, 1943—Decision, Mar. 24, 1945

Where two partners engaged in designing and cutting of fabrics, made into men's and boys' pants and various other articles of wearing apparel by others, and in the interstate sale and distribution of said pants and other articles, including many which were wool products within the intent and meaning of the Wool Products Labeling Act of 1939—

Sold substantial numbers of aforesaid wool products, misbranded in violation of said act and the rules and regulations promulgated thereunder in that, when introduced into commerce, they did not have affixed thereto a stamp, tag, etc., showing the percentage of the total fiber weight of wool, reprocessed wool, and reused wool and non-wool fiber, and maximum percentage of adulterating matter; and proper identification of the manufacturer, seller, etc., as required by the Act, and, in plainly legible words and figures, the percentages by weight of wool where such wool product contained other fibers:

Held, That such acts and practices, under the circumstances set forth, were in violation of the Wool Products Labeling Act, and the rules and regulations promulgated thereunder, and were all to the prejudice of the public, and constituted unfair and deceptive acts and practices in commerce within the intent and meaning of the Federal Trade Commission Act.

Before *Mr. Miles J. Furnas*, trial examiner.

Mr. DeWitt T. Puckett for the Commission.

Mr. Samuel Sutro, of New York City, for respondents.

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 Samuel Rudovsky and Max Braunstein, copartners, trading and doing business as Rudd Manufacturing Company, hereinafter referred to as respondents, have 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. The respondents, Samuel Rudovsky and Max Braunstein, are copartners, trading and doing business as Rudd Manufacturing Company and have their principal office and place of business at 17 West 17th Street, New York, N. Y.

PAR. 2. Respondents are now, and for more than one year last past have been, engaged in designing and cutting fabrics which are manufactured into men's and boys' pants, and various other articles of wearing apparel.

The remaining manufacturing operations necessary to the completion of the clothing are performed for respondents by others.

Respondents cause and for more than one year last past have caused said pants and other articles of wearing apparel when sold by them to be transported from their said place of business in New York, to various purchasers thereof at their respective points of location in various States of the United States and in the District of Columbia. Respondents maintain and at all times mentioned herein have maintained a course 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. Among the pants and other articles of wearing apparel sold and distributed by respondents in commerce as aforesaid 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 pants and other articles of wearing apparel are composed in whole, or in part, of wool, reprocessed wool, or reused wool as those terms are defined in said Act. Said wool products are subject to the Labeling provisions of said Act and said Rules and Regulations.

PAR. 4. Many of these said wool products sold and distributed by respondents 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 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 nonfibrous 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 the said act with respect to such wool product, (d) the percentages, in words and figures, plainly legible, by weight of wool contents of said wool product where such wool product contained a fiber other than wool.

PAR. 5. The aforesaid acts, practices and methods of respondents, as herein alleged, are all 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.

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 September 13, 1943, issued and subsequently served its complaint in this proceeding upon respondents, Samuel Rudovsky and Max Braunstein, copartners, trading and doing business as Rudd Manufacturing Company, charging them with the use of unfair and deceptive acts and prac-

tices in commerce in violation of the provisions of said acts. After the issuance of said complaint and the filing of answer thereto by respondents, certain admissions were stipulated into the record by counsel for respondents at a hearing held before an examiner of the Commission theretofore duly designated by it, and the transcript of said hearing 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, answer, admissions stipulated into the record, report of the trial examiner, and briefs in support of and in opposition to the complaint (oral argument not having been requested); 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. Respondents, Samuel Rudovsky and Max Braunstein, are copartners, trading and doing business as Rudd Manufacturing Company, with their principal office and place of business at 17 West Seventeenth Street, New York, N. Y. Said respondents are now, and for more than one year last past have been, engaged in designing and cutting fabrics which are manufactured into men's and boys' pants and various other articles of wearing apparel. The remaining manufacturing operations necessary to completion of the apparel are performed for respondents by others.

PAR. 2. In the course and conduct of their aforesaid business, respondents have caused, and cause, said pants and other articles of wearing apparel, when sold by them, to be transported from their place of business in New York to purchasers thereof at their respective points of location in other States of the United States and in the District of Columbia. Respondents maintain, and have maintained, a course 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. Among the articles of wearing apparel sold and distributed by respondents in commerce as aforesaid 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 of wearing apparel were composed in whole or in part of wool or reprocessed or reused wool as those terms are defined in said act.

PAR. 4. Substantial numbers of the aforesaid wool products sold and distributed by respondents in commerce as aforesaid were misbranded in violation of the Wool Products Labeling Act of 1939 and the rules and regulations promulgated thereunder in that said wool products, when introduced into commerce, did not have on or affixed to them 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 the 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 any nonfibrous loading, fillings, 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 said act, or the name of one or more persons subject to section 3 of the said act with respect to such wool product; (d) in plainly legible words and figures, the percentages by weight of the wool contents of said wool product where such wool product contains fibers other than wool.

CONCLUSION

The aforesaid acts and practices of respondents 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.

ORDER TO CEASE AND DESIST

This proceeding having been heard by the Federal Trade Commission upon the complaint of the Commission, answer of respondents thereto, certain admissions stipulated into the record, report of the trial examiner, and briefs of counsel, and the Commission having made its findings as to the facts and its conclusion that said respondents have violated the provisions of the Wool Products Labeling Act of 1939 and the provisions of the Federal Trade Commission Act.

It is ordered, That respondents, Samuel Rudovsky and Max Braunstein, copartners, trading and doing business as Rudd Manufacturing Company, or under any other name, jointly or severally, their 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 of such products in commerce, as "commerce" is defined in the aforesaid acts, do forthwith cease and desist from misbranding men's and boys' pants, wearing apparel, 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 affix securely to or place on such products a stamp, tag, label, or other means of identification showing in a clear and conspicuous manner:

1. The percentage of the total fiber weight of such 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 is 5 percentum or more, and (5) the aggregate of all other fibers.

2. The maximum percentage of the total weight of such wool product of any nonfibrous loading, filling, or adulterating matter.

3. 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

Order

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 respondents shall, within 60 days after service upon them of this order, file with the Commission a report in writing setting forth in detail the manner and form in which they have complied with this order.

IN THE MATTER OF

J. CLAUD GRIFFIN, TRADING AS COMMERCIAL ART COMPANY, ETC. AND DANIEL G. RIES, TRADING AS PROGRESSIVE PORTRAIT COMPANY

COMPLAINT, FINDINGS, AND ORDER IN REGARD TO THE ALLEGED VIOLATION OF SEC. 5 OF AN ACT OF CONGRESS APPROVED SEPT. 26, 1914

Docket 5133. Complaint, Feb. 26, 1944—Decision, Mar. 24, 1945

Where an individual engaged in interstate sale and distribution of colored or tinted enlargements of photographs and of frames therefor, through house-to-house sales agents whom he supplied with small photographs or miniatures which purported to be samples of his work, and which represented a high degree of photographic and artistic skill and were very attractive in appearance—

- (a) Represented to prospective purchasers, who were induced to produce one or more photographs for examination, that such photographs would make excellent enlargements which would be similar in quality, finish, color, etc., to the aforesaid miniatures or samples, and frequently referred to the enlargement as a "painting" or a "hand painted portrait," stating that it would be hand painted by artists; The facts being that the enlargements produced from photographs so submitted were in no way comparable to such miniatures, but were of very inferior quality and frequently worthless, and they were in no sense paintings or hand painted portraits but were merely cheap photographic enlargements on which little or no hand work was done and on which the coloring was supplied through an air brush;
- (b) Falsely represented at times that the price quoted for the enlargement—usually \$2.98—represented a special or introductory offer and was lower than the price at which they were usually sold;
- (c) Concealed from customers, when the pictures were ordered, that the finished product would be so shaped and designed that it could be used only in an odd-style frame not ordinarily obtained in stores accessible to the consuming public, and that it would be difficult or impossible to obtain a frame to fit the picture from any source other than himself, and failed to reveal said facts until the customer was called upon by his second representative or "proof passer," who exhibited what purported to be a proof in black and white of the proposed enlargement, for the ostensible purpose of obtaining the necessary color specifications, collected the purchase price or the balance due thereon, and for first time sought to secure the sale of a frame at an exorbitant price ranging from \$5 to \$22, failing which said individual took little or no further interest in supplying the pictures ordered, and customers declining to buy frames frequently encountered unreasonably long delays in obtaining the pictures and the return of the original photographs; and
- (d) Made use of various addresses as his places of business, which were in fact merely the addresses of persons or firms from whom he obtained the products he sold and who permitted use of their addresses as an inducement to him to purchase their products; and

Where a second individual, from whom the former purchased enlargements—

- (e) Permitted the use by the former of the address at which his photograph enlarging business was located and thereby aided and cooperated with the former in carrying on the practices above described;

With tendency and capacity to mislead and deceive a substantial portion of the purchasing public with respect to the character, quality, and value of the products