

IN THE MATTER OF

A. DAVIS & SONS, INC., MILTON E. DAVIS AND
CHARLES S. DAVIS, INDIVIDUALLY AND
AS OFFICERS THEREOF

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

Docket 5322. Complaint, May 21, 1945—Decision, Sept. 25, 1945

Where a corporation and two partners, officers thereof, engaged in the manufacture and interstate sale and distribution respectively of (1) women's coats, suits and other articles of wearing apparel, and (2) clothing and other articles—

- (a) Represented through such statements on labels and in advertisements in newspapers, magazines and circulars as "De-Luxe-Camel Fluff", "Kenpaca", "Imperial Camel Coat", that garments made from the first named material were composed entirely or to a great extent of camel hair; that "Kenpaca" garments were made from fabric composed entirely or in great part of alpaca; and that their "Imperial Camel Coat" was made of fabric composed entirely of camel hair;

When in fact the garments labeled "De Luxe Camel Fluff" contained no camel hair; those designated "Kenpaca" contained only 25 percent of alpaca wool or hair; and those designated "Imperial Camel Coats" contained 10 percent of camel hair;

With effect of misleading and deceiving purchasers and prospective purchasers into the erroneous belief that such representations were true and of causing a substantial portion of the purchasing public, because of such belief, to purchase substantial quantities of said products; and also of placing in the hands of purchasers of their products for resale a means and instrumentality whereby they might, and did, mislead and deceive the purchasing public as to the real fiber content of said products:

Held, That such acts and practices, under the circumstances set forth, 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; and

Where said corporation and individuals engaged in the introduction, and manufacture for introduction, into commerce of wool products which included women's coats, suits and other articles of wearing apparel—

- (b) Sold said garments misbranded in violation of the Wool Products Labeling Act and rules and regulations promulgated thereunder by failing to affix thereto a stamp, tag, label or other means of identification 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, etc.; and proper identification of the manufacturer, seller, etc., as thereby required; and
- (c) Violated said act and rules and regulations through use on the same garments of conflicting labels, in that some articles carried cardboard tags purporting to contain the information required by the Wool Products Labeling Act and bearing such expressions as "New Wool" and "Pure

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Wool," and in addition thereto, cloth labels bearing such expressions as "Camel Fluff" or "Kenpaca" or "The Imperial Camel Coat";

With capacity and tendency to mislead and deceive a substantial portion of the purchasing public as to the fiber content thereof:

Held, That said acts and practices, under the circumstances set forth, 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 and the Wool Products Labeling Act of 1939.

Mr. J. W. Brookfield, Jr. for the Commission.

Mr. Sidney O. Raphael, 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 A. Davis & Sons, Inc., a corporation, Milton E. Davis and Charles S. Davis, individually and as officers of the aforesaid corporation, hereinafter referred to as respondents, have violated the provisions of 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 this complaint stating its charges in that respect as follows:

PARAGRAPH 1. Respondent, A. Davis & Sons, 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 225 West 37th St., New York, N. Y. Respondents Milton E. Davis and Charles S. Davis are president and secretary, respectively, of the aforesaid corporation. The respondents are now and for more than one year last past have been engaged in the manufacture, sale, and distribution of women's coats, suits, and other articles of wearing apparel.

Respondents cause said products when sold by them to be transported from their said place of business in the State of New York to various purchasers of their said products for resale at their respective points of location in the 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. 2. In April 1944, the respondents Milton E. Davis and Charles S. Davis organized a partnership under the name A. Davis & Sons, and since that time the partnership has engaged in the

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manufacture, sale, and distribution of clothing and other articles, in commerce, as aforesaid.

PAR. 3. In the course and conduct of their aforesaid business and for the purpose of promoting the sale of their said products, the respondents have caused various false, misleading, and deceptive statements and representations, descriptive of the constituent fibers of which their products are made, to be printed on labels attached to their said products, to be inserted in newspapers, magazines, and advertising circulars, and to be distributed in various other ways. Among and typical of such false and misleading statements and representations used as aforesaid are the following:

De Luxe-Camel Fluff.

Kenpaca.

Imperial Camel Coat.

thereby representing that garments made from the material designated "De Luxe Camel Fluff" are composed entirely or to a great extent of camel hair; that garments made from the fabric designated "Kenpaca" are made from fabric composed entirely or in great part of alpaca; and that their "Imperial Camel Coat" is made of fabric composed entirely of camel hair.

PAR. 4. In truth and in fact, the above quoted designations for respondents' products are false and misleading in that the garments labeled "De Luxe Camel Fluff" contain no camel hair, the garments designated "Kenpaca" are composed of a fabric containing a very small percentage of alpaca wool or hair, and the garments designated "Imperial Camel Coats" are made from a fabric containing a very small percentage of the hair of the camel.

PAR. 5. Wearing apparel and other articles made of the hair or wool of the alpaca and of the camel, now and for many years last past have been well and favorably known to the purchasing public as articles possessing desirable qualities and there is now, and for many years has been, a demand on the part of a substantial portion of the purchasing public for wearing apparel and other articles made therefrom.

PAR. 6. The use by the respondents of the aforementioned false, misleading, and deceptive representations and statements with respect to their said products has had and now has the tendency and capacity to mislead and deceive and has misled and deceived purchasers and prospective purchasers into the erroneous and mistaken belief that such representations and statements are true and causes a substantial portion of the purchasing public, because of such erroneous and mistaken belief, to purchase substantial quantities of said products. By said acts and practices respondents also place in

the hands of purchasers of respondents' products for resale a means and instrumentality whereby they may and do mislead and deceive the purchasing public as to the truth in regard to the real fiber content of said products.

PAR. 7. Respondents are engaged in the introduction and manufacture for introduction into commerce and in the sale, transportation, and distribution of wool products as such products are defined in the Wool Products Labeling Act of 1939, in commerce, as "commerce" is defined in said Act and in the Federal Trade Commission Act. Many of the respondents' said products are composed in whole or in part of wool, reprocessed wool or reused wool as those terms are defined in the Wool Products Labeling Act of 1939, and such products are subject to the provisions of said Act and the Rules and Regulations promulgated thereunder. Since July 15, 1941, respondents have violated the provisions of said Act and said Rules and Regulations in the introduction and manufacture for introduction into commerce and in the sale, transportation, and distribution of said wool products in said commerce by causing said wool products to be misbranded within the intent and meaning of said Act and the Rules and Regulations.

PAR. 8. Among the wool products introduced and manufactured for introduction into commerce and sold, transported, and distributed in commerce as aforesaid are women's coats, suits, and other articles of wearing apparel. Exemplifying respondents' practice of violating said Act and the Rules and Regulations promulgated thereunder is their misbranding of the aforesaid garments in violation of the provisions of said Act and said Rules and Regulations by failing to affix to said garments 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 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 was five 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 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; (d) the name of the manufacturer of the wool product, or the manufacturer's registered identification number and the name of a 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.

PAR. 9. Among the said wool products manufactured for introduction into commerce and offered for sale, sold, and distributed in commerce as aforesaid by respondents are articles of wearing apparel that bear conflicting labels. Some of said garments have attached thereto cardboard tags purporting to contain the information required by the Wool Products Labeling Act, and bearing such expressions as "New Wool" and "Pure Wool." In addition to said cardboard tags, said garments have attached thereto cloth labels bearing such expressions as "Camel Fluff" or "Kenpaca" or "The Imperial Camel Coat."

The use on the same garment of a cardboard tag which states that the garment is composed of wool and a cloth label containing a statement which implies that the garment is composed of camel hair or alpaca hair is confusing and has the capacity and tendency to mislead and deceive a substantial portion of the purchasing public as to the fiber content of said garments and constitutes a violation of the Wool Products Labeling Act of 1939, and the Rules and Regulations promulgated thereunder.

PAR. 10. The aforesaid acts, practices, and methods of respondents as alleged in paragraphs 7, 8, and 9 hereof constitute misbranding of wool products and are in violation of the Wool Products Labeling Act of 1939, and the Rules and Regulations promulgated thereunder and all of the aforesaid acts, practices and methods as alleged herein are to the prejudice and injury of the public and constitute unfair or deceptive acts or 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 May, 1945, issued and subsequently served its complaint in this proceeding upon respondents, A. Davis & Sons, Inc., a corporation, and Milton E. Davis and Charles S. Davis, individually and as officers of the aforesaid corporation, charging them 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, and the filing of respondents' answer thereto, a stipulation was entered into whereby it was stipulated and agreed that a statement of facts signed and executed

by the attorney for respondents and Richard P. Whiteley, Assistant Chief Counsel for the Federal Trade Commission, subject to the approval of the Commission, may be taken as the facts in this proceeding and in lieu of testimony in support of the charges stated in the complaint, or in opposition thereto, and that the said Commission may proceed upon said statement of facts to make its report, stating its findings as to the facts and its conclusion based thereon, and enter its order disposing of the proceeding. In said stipulation respondents expressly waived the filing of a report upon the evidence by a trial examiner. Thereafter, this proceeding regularly came on for final hearing before the Commission upon said complaint, answer and stipulation, said stipulation having been approved, accepted, and filed; and the Commission having duly considered the same 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, A. Davis & Sons, 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 225 West 37th St., New York, N. Y. Respondents Milton E. Davis and Charles S. Davis are president and secretary, respectively, of the aforesaid corporation. The respondents are now and for more than one year last past have been engaged in the manufacture, sale, and distribution of women's coats, suits, and other articles of wearing apparel.

Respondents cause said products when sold by them to be transported from their said place of business in the State of New York to various purchasers of their said products for resale at their respective points of location in the 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. 2. In April, 1944 the respondents Milton E. Davis and Charles S. Davis organized a partnership under the name A. Davis & Sons, and since that time the partnership has engaged in the manufacture, sale and distribution of clothing and other articles, in commerce, as aforesaid.

PAR. 3. In the course and conduct of their aforesaid business and for the purpose of promoting the sale of their said products, the respondents have caused various statements and representations, de-

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scriptive of the constituent fibers of which their products are made, to be printed on labels attached to their said products, to be inserted in newspapers, magazines, and advertising circulars, and to be distributed in various other ways. Among and typical of such statements and representations used as aforesaid are the following:

De Luxe-Camel Fluff

Kenpaca

Imperial Camel Coat

thereby representing that garments made from the material designated "De Luxe Camel Fluff" are composed entirely or to a great extent of camel hair; that garments made from the fabric designated "Kenpaca" are made from fabric composed entirely or in great part of alpaca; and that their "Imperial Camel Coat" is made of fabric composed entirely of camel hair.

PAR. 4. In truth and in fact, the garments labeled "De Luxe Camel Fluff" contain no camel hair; the garments designated "Kenpaca" are composed of a fabric containing a percentage of alpaca wool or hair amounting to approximately 25 percent only; and the garments designated "Imperial Camel Coats" are made from a fabric containing a percentage of 10 percent of the hair of the camel.

PAR. 5. Wearing apparel and other articles made of the hair or wool of the alpaca and of the camel, now and for many years last past have been well and favorably known to the purchasing public as articles possessing desirable qualities and there is now, and for many years has been, a demand on the part of a substantial portion of the purchasing public for wearing apparel and other articles made therefrom.

PAR. 6. The use by the respondents of the aforementioned representations and statements with respect to their said products has had and now has the tendency and capacity to mislead and deceive and has misled and deceived purchasers and prospective purchasers into the erroneous and mistaken belief that such representations and statements are true and causes a substantial portion of the purchasing public, because of such erroneous and mistaken belief, to purchase substantial quantities of said products. By said acts and practices respondents also place in the hands of purchasers of respondents' products for resale a means and instrumentality whereby they may and do mislead and deceive the purchasing public as to the truth in regard to the real fiber content of said products.

PAR. 7. Respondents are engaged in the introduction and manufacture for introduction into commerce and in the sale, transportation, and distribution of wool products as such products are defined

in the Wool Products Labeling Act of 1939, in commerce, as "commerce" is defined in said Act and in the Federal Trade Commission Act. Many of the respondents' said products are composed in whole or in part of wool, reprocessed wool or reused wool as those terms are defined in the Wool Products Labeling Act of 1939, and such products are subject to the provisions of said Act and the Rules and Regulations promulgated thereunder. Since July 15, 1941, respondents have violated the provisions of said Act and said Rules and Regulations in the introduction and manufacture for introduction into commerce and in the sale, transportation and distribution of said wool products in said commerce by causing said wool products to be misbranded within the intent and meaning of said Act and the Rules and Regulations.

PAR. 8. Among the wool products introduced and manufactured for introduction into commerce and sold, transported, and distributed in commerce as aforesaid are women's coats, suits, and other articles of wearing apparel. Exemplifying respondents' practice of violating said Act and the Rules and Regulations promulgated thereunder is their misbranding of the aforesaid garments in violation of the provisions of said Act and said Rules and Regulations by failing to affix to said garments 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 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 was five 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 percentage 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; (d) the name of the manufacturer of the wool product, or the manufacturer's registered identification number and the name of a 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.

PAR. 9. Among the said wool products manufactured for introduction into commerce and offered for sale, sold, and distributed in commerce as aforesaid by respondents are articles of wearing apparel that bear conflicting labels. Some of said garments have attached thereto cardboard tags purporting to contain the information required by the Wool Products Labeling Act, and bearing

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such expressions as "New Wool" and "Pure Wool." In addition to said cardboard tags, said garments have attached thereto cloth labels bearing such expressions as "Camel Fluff" or "Kenpaca" or "The Imperial Camel Coat."

The use on the same garment of a cardboard tag which states that the garment is composed of wool and a cloth label containing a statement which implies that the garment is composed of camel hair or alpaca hair is confusing and has the capacity and tendency to mislead and deceive a substantial portion of the purchasing public as to the fiber content of said garments and constitutes a violation of the Wool Products Labeling Act of 1939, and the Rules and Regulations promulgated thereunder.

PAR. 10. The sale and advertising of the "Kenpaca" coats was discontinued by respondents in the spring of 1943; the sale and advertising of the "Imperial Camel" coat was discontinued in 1942; and the sale and advertising of "Camel Fluff" coats was discontinued after April 1, 1944.

CONCLUSION

The aforesaid acts and practices of respondents as herein found are all to the prejudice 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, the answer of the respondents, and a stipulation as to the facts entered into by the respondents herein and Richard P. Whiteley, Assistant Chief Counsel for the Commission, which provides, among other things, that without further evidence or other intervening procedure the Commission may issue and serve upon the respondents herein findings as to the facts and its conclusion based thereon, and an order disposing of the proceeding, and the Commission having made its findings as to the facts and conclusion that said respondents have violated the provisions of the Federal Trade Commission Act and the Wool Products Labeling Act of 1939:

It is ordered, That the respondent A. Davis & Sons, Inc., a corporation, its officers, representatives, agents, and employees, and respondents Milton E. Davis and Charles S. Davis, individually and as officers of respondent A. Davis & Sons, Inc., their representatives, agents and employees, directly or through any corporate or other

device, in connection with the offering for sale, sale, and distribution of women's coats, suits, and other articles of wearing apparel in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. Using the terms "De Luxe Camel Fluff" or "Imperial Camel Coat," or any other terms of similar import and meaning, either alone or in connection or conjunction with any other word or words, to designate, describe, or refer to any product which is not composed entirely of the hair of the camel; *Provided, however*, that in the case of a product composed in part of camel hair and in part of other fibers or materials, such terms may be used as descriptive of the camel hair content if there are used in immediate connection or conjunction therewith, in letters of at least equal size and conspicuousness, words truthfully designating such other constituent fibers or materials.

2. Using the term "Kenpaca," or any other term of similar import and meaning, either alone or in connection or conjunction with any other word or words, to designate, describe, or refer to any product which is not composed entirely of the hair of the alpaca; *Provided, however*, that in the case of a product composed in part of the hair of the alpaca and in part of other fibers or materials, such term may be used as descriptive of the alpaca hair content if there are used in immediate connection or conjunction therewith, in letters of at least equal size and conspicuousness, words truthfully designating such other constituent fibers or materials.

3. Representing in any manner, or by any means, that respondents' products are composed of fibers or materials other than those of which such products are actually composed.

It is further ordered, That respondent A. Davis & Sons, Inc., a corporation, its officers, representatives, agents, and employees, and respondents Milton E. Davis and Charles S. Davis, individually and as officers of respondent A. Davis & Sons, Inc., 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 in commerce, as "commerce" is defined in the aforesaid acts, do forthwith cease and desist from misbranding women's suits and coats or other articles of wearing apparel 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 affix securely or place on such products a stamp, tag,

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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 nonfibrous 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 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.

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IN THE MATTER OF

HENRY LANKENAU, RICHARD LANKENAU,
AND HARRY LANKENAU, TRADING AS
LANKENAU COMPANY

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

Docket 5328. Complaint, June 1, 1945—Decision, Sept. 25, 1945

Where three partners engaged in the interstate sale and distribution of wool and rayon fabrics—

Represented to the public that they were the manufacturers of such products through use in advertisements in newspapers and trade journals, and on letterheads and other printed matter, of such typical statements as "Lankenau Company, textile manufacturers and merchants";

When in fact they were merely engaged in the sale and distribution of fabrics purchased from others who processed and manufactured them;

With tendency and capacity to mislead and deceive the purchasing public, a substantial portion of whom have a marked preference for dealing directly with manufacturers, into the erroneous belief that such false representation was true, whereby a substantial number of such public was induced to buy their said products:

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

Mr. Jesse D. Kash for the Commission.

Mr. Joseph F. Ruggieri, of Brooklyn, N. Y., for respondents.

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 Henry Lankenau, Richard Lankenau, and Harry Lankenau, individuals trading as Lankenau Company, hereinafter referred to as respondents, have violated the provisions of said Act 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. Henry Lankenau, Richard Lankenau, and Harry Lankenau are individuals trading as Lankenau Company, with their office and principal place of business located at 1450 Broadway, New York, N. Y.

PAR. 2. The respondents, Henry Lankenau, Richard Lankenau, and Harry Lankenau, are now and have been for more than two years last past engaged in the sale and distribution of wool and