

Complaint

IN THE MATTER OF
BOLGER BROTHERS

COMPLAINT, FINDINGS, AND ORDER IN REGARD TO THE ALLEGED VIOLATION OF SEC. 5 OF AN ACT OF CONGRESS APPROVED SEPT. 26, 1914 AND OF AN ACT OF CONGRESS APPROVED OCT. 14, 1940

Docket 5378. Complaint, Sept. 5, 1945—Decision, Aug. 26, 1946

Where a corporation engaged in the introduction into commerce of garnetted or reclaimed wool waste material, composed of spun, woven, knitted, or felted yarns or fabrics which it purchased and garnetted, sold and distributed in commerce for its own account, and also garnetted for other concerns on a commission basis and shipped as directed by the owners thereof, and which was a wool product under the terms of the Wool Products Labeling Act of 1939,—

Caused to be misbranded, and misbranded, said products in violation of said act and the rules and regulations promulgate thereunder, in that they did not 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, nonwool fiber and aggregate thereof, including filler or adulterating matter, and proper identification of the manufacturer or seller:

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 the Federal Trade Commission Act and the Wool Products Labeling Act of 1939.

Before *Mr. James A. Purcell*, trial examiner.

Mr. J. W. Brookfield, Jr. and *Mr. George M. Martin* for the Commission.

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 Bolger Brothers, a corporation, herein-after referred to as respondent, has 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 its complaint, stating its charges in that respect as follows:

PARAGRAPH 1. The respondent, Bolger Brothers, is a corporation, organized, existing and doing business under and by virtue of the laws of the State of Pennsylvania and has its principal office and

Complaint

43 F. T. C.

place of business at 1139-51 East Cheltenham Avenue, Germantown, Philadelphia, Pa.

PAR. 2. Respondent's business is that of garnetting or reclaiming wool waste material, composed of spun, woven, knitted, or felted yarns or fabrics, which material is a wool product under the terms of the Wool Products Labeling Act of 1939. A large portion of such wool waste material is garnetted for other concerns on a commission basis and shipped as directed by the owners thereof.

Respondent is engaged in the introduction into commerce, as "commerce" is defined in the Wool Products Labeling Act of 1939, and in the Federal Trade Commission Act, of the garnetted wool products which are processed on contract for others as aforesaid. The garnetted material which is processed for others and introduced into commerce by respondent as aforesaid is a wool product as that term is 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.

Respondent also purchases wool waste material composed of spun, woven, knitted or felted yarns and fabrics, and garnetts such material which is by it sold and shipped in commerce to purchasers thereof on its own account. Respondent, as to this material, is engaged in the manufacture for introduction into commerce, as "commerce" is defined in the Wool Products Labeling Act of 1939, and in the Federal Trade Commission Act, and in the introduction into said commerce, and in the sale, transportation and distribution of said wool products in said commerce, as such products are defined in the Wool Products Labeling Act of 1939. The garnetted material which is processed for its own account and manufactured for introduction into commerce, and introduced, sold and distributed in commerce by respondent, as aforesaid, is a wool product, as that term is 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, respondent has 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 commerce, by causing said wool products to be misbranded within the intent and meaning of said act and the rules and regulations.

PAR. 3. Exemplifying respondent's practice of violating said act, and the rules and regulations promulgated thereunder, in connection with said wool products manufactured for introduction into said com-

merce and introduced, sold and transported, and distributed in said commerce, is its misbranding of the aforesaid wool products in violation of the provisions of said act and said rules and regulations by failing to affix to said wool products 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 per centum 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 per centum 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 adulterated 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. 4. The aforesaid acts, practises, and methods of the respondent as alleged were and are in violation of the Wool Products Labeling Act of 1939 and the rules and regulations promulgated thereunder, 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 5th day of September, 1945, issued and subsequently served its complaint in this proceeding upon respondent Bolger Brothers, 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 and the filing of respondent's answer, the Commission, by order entered herein, granted respondent's motion 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, which substitute 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 substitute answer, and the Commission,

Findings

43 F. T. C.

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. The respondent, Bolger Brothers, is a corporation, organized, existing and doing business under and by virtue of the laws of the State of Pennsylvania and has its principal office and place of business at 1139-51 East Cheltenham Avenue, Germantown, Philadelphia, Pa.

PAR. 2. Respondent's business is that of garnetting or reclaiming wool waste material, composed of spun, woven, knitted or felted yarns or fabrics, which material is a wool product under the terms of the Wool Products Labeling Act of 1939. A large portion of such wool waste material is garnetted for other concerns on a commission basis and shipped as directed by the owners thereof.

Respondent is engaged in the introduction into commerce, as "commerce" is defined in the Wool Products Labeling Act of 1939, and in the Federal Trade Commission Act, of the garnetted wool products which are processed on contract for others as aforesaid. The garnetted material which is processed for others and introduced into commerce by respondent as aforesaid is a wool product as that term is 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.

Respondent also purchases wool waste material composed of spun, woven, knitted, or felted yarns and fabrics, and garnetts such material which is by it sold and shipped in commerce to purchasers thereof on its own account. Respondent, as to this material, is engaged in the manufacture for introduction into commerce, as "commerce" is defined in the Wool Products Labeling Act of 1939, and in the Federal Trade Commission Act, and in the introduction into said commerce, and in the sale, transportation and distribution of said wool products in said commerce, as such products are defined in the Wool Products Labeling Act of 1939. The garnetted material which is processed for its own account and manufactured for introduction into commerce, and introduced, sold and distributed in commerce by respondent, as aforesaid, is a wool product, as that term is 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.

Order

Since July 15, 1941, respondent has 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 commerce, by causing said wool products to be misbranded within the intent and meaning of said act and the rules and regulations.

PAR. 3. Exemplifying respondent's practice of violating said act, and the rules and regulations promulgated thereunder, in connection with said wool products manufactured for introduction into said commerce and introduced, sold and transported, and distributed in said commerce, is its misbranding of the aforesaid wool products in violation of the provisions of said act and said rules and regulations by failing to affix to said wool products 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 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 adulterated 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.

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 provision of the Federal Trade Commission Act and the provisions of the Wool Products Labeling Act of 1939;

It is ordered, that respondent, Bolger Brothers, 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 garnetted or reclaimed wool waste material composed of spun, woven, knitted or felted yarns or fabrics or any other "wool products," as such products are defined in and subjected 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 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 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.

(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 or 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.

Commissioner Ferguson not participating on account of his absence from Washington.

Syllabus

IN THE MATTER OF

THE PAEBAR COMPANY, INC., AND ALAN F. PATER,
TRADING UNDER THE NAMES THE PAEBAR COMPANY,
LITERARY PUBLICATIONS, WHO'S WHO PUBLISHING
COMPANY, COLUMBIA BOOK PUBLISHING COMPANY,
AND JUDICIAL PUBLISHING COMPANY

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

Docket 5369. Complaint, Aug. 22, 1945—Decision, Aug. 27, 1946

Where a corporation and its principal stockholder who controlled its business, operating as "Who's Who Publishing Co." and otherwise, engaged in the publication and competitive interstate sale and distribution of certain annual publications of the so-called vanity type, made up of the writings of unknown and unrecognized authors as hereinbelow set out—

- (a) Adopted and used the name "We, The People" as the title for a so-called yearbook of public opinion, and represented falsely thereby that their said publication was a product of the producers or sponsors of the well-known radio program "We, The People";
- (b) Adopted and used the trade name "Who's Who Publishing Co.," and the title "Who's Who in Poetry in America" for a book of biographical data, and through such title falsely represented or tended to represent to the purchasing public that said publication was a product of and associated with the long-established and well-known "Who's Who in America";
- (c) Induced the purchase of their said publication "We, The People" and the payment of the purchase price therefor through making such statements in form letters and pamphlets to writers of letters published in various newspapers as: "Because your letter voices an opinion of public interest, it has been selected by the Editorial Board of We, The People: The year book of public opinion to appear in the ——— edition of this annual publication. The object of the Year Book is to present outstanding letters of public-spirited citizens like yourself, that have appeared in newspapers and magazines throughout this country and Canada. * * * You will find that publication of your letter in 'We, the People' will * * * bring your message, your ideas, your beliefs, your convictions to the attention of we know not how many thousands of persons everywhere in this country * * *";

The facts being there was no real selection by their "editorial board" of letters to the editor, but it was said individual's practice to clip the editorial pages of various papers and circularize some 25,000 writers of letters to the editors annually for each volume, publishing the book when a sufficient number of subscriptions had been received to make it pay; 75 percent of the subscribers were the authors of the letters published in the volume; it was the practice, after receiving subscriber's permission and subscription price, to send him a form letter advising that the editor reserved the right to revise or abridge his "selected" article without recourse, that acceptance was on the basis of merit and public interest only, that publication was not conditioned upon