

Syllabus

IN THE MATTER OF

SIEGEL & ALENIKOFF

COMPLAINT, FINDINGS, AND ORDER IN REGARD TO THE ALLEGED VIOLATION
OF SECTION 5 OF AN ACT OF CONGRESS APPROVED SEPTEMBER 26, 1914

Docket 4824. Complaint, Aug. 26, 1942—Decision, Sept. 3, 1947

Where two partners engaged in the manufacture and interstate sale and distribution of coats and other garments for women—

(a) Represented that certain coats, to which they attached labels bearing the words "Alaska Karakul" and which were so manufactured that in outward appearance they resembled lamb peltries, were made of the peltries of the young of the Karakul breed of sheep; and through use of the words "Afghan-Lam" on other coats, that they were made of lamb peltries;

The facts being that the fabrics involved had a mohair pile and a wool pile, respectively, on a cotton back, which was fully covered by the lining of the coat so that only the pile face of the fabric was available for inspection by a prospective purchaser;

(b) Represented through use of the words "Imported Mohair" and a depiction of a shepherd and a sheep on the principal label attached to another type of coat, and through use of words "Exclusive Afghan-Kurl of Imported Wool" on a fourth type, and through failure adequately to disclose otherwise the content of the fabric concerned, that the garment in question was all wool;

When in fact the fabrics concerned were made of mohair pile and wool pile, respectively, on a cotton back and consisted, as disclosed by a separate tag attached to the coats, of about 62 percent mohair and 38 percent cotton in the first case, and about 65 percent wool and 35 percent cotton in the second, the backs concealed, as in the case of the other garments, by the lining;

(c) Represented through designations "Silver-Krimma," and "Marjhan Fabric," respectively, displayed on certain coats, the fabrics of which were so made as to give them the appearance and feel of wool and the composition of which was not disclosed, that garments in question were composed entirely of wool; notwithstanding the fact that fabrics concerned were made of a rayon pile, with the appearance and feel of wool, on a cotton back concealed by the garments' linings;

With effect of misleading and deceiving members of the purchasing public into the erroneous beliefs that garments aforesaid were made of lamb peltries or of fabrics composed entirely of wool, and with the result of inducing their purchase by reason of the erroneous beliefs so engendered:

Held, That such acts and practices were all to the prejudice and injury of the public, and constituted unfair and deceptive acts and practices in commerce.

Before *Mr. John W. Addison*, trial examiner.

Mr. Carrel F. Rhodes for the Commission.

Mr. Leopold Bleich, of New York City, for respondents.

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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 Joseph Henschel, Jacob Siegel, and Philip Alenikoff, individually and as copartners trading as Siegel & Alenikoff, hereinafter referred to as the 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. The respondents, Joseph Henschel, Jacob Seigel, and Philip Alenikoff are copartners doing business under the firm name of Siegel & Alenikoff and having their principal place of business at 520 Eighth Avenue in the city of New York, State of New York.

PAR. 2. The respondents are now, and for more than 1 year last past have been, engaged in the business of manufacturing and selling women's textile coats and other garments. Respondents cause said products when sold to be transported from their place of business in the State of New York to the purchasers thereof at their respective points of location in various other 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 their said products in commerce between and among the various States of the United States and in the District of Columbia.

PAR. 3. The word "Karakul" when applied to and used in connection with coats, cloaks, and similar garments for women indicates to and is accepted by the purchasing public as meaning that the garments to which said name is applied are made from the peltries of the young of the karakul breed of sheep originally found in the Bokharan region of Russia.

Rayon is a chemically manufactured fiber or fabric which may be so manufactured as to simulate wool. When manufactured to simulate wool it has the appearance and feel of wool. By reason of these qualities, rayon, when manufactured to simulate wool and not designated as rayon is, by the purchasing public, practically indistinguishable from wool. Products made from rayon resembling wool and not described as rayon are accepted by the public as wool even though such products may not be designated by terms representing or implying that they are wool.

PAR. 4. In the course and conduct of their aforesaid business, respondents sell and offer for sale, among others, coats and other garments designated by the following names:

"Silva-Krimma," "Alaska Karakul," "Marjhan Fabric," "Shepherd Fabric," "Afghan-Lam," and "Afghan-Kurl."

The respondents attach to the said coats and garments described as "Silva-Krimma" labels bearing the words "Silva-Krimma," together with a picturization of two sheep, which labels fail to disclose the rayon content of said coats and garments. By failing to disclose the rayon content of said coats and garments, which have the appearance and feel of wool, and by the use of the picturization of two sheep as heretofore alleged, respondents represent that said coats and garments are composed entirely of wool. Said representation is false and misleading. In truth and in fact said coats and garments are not composed of wool but are made of a rayon pile sewed on a cotton backing.

Respondents attach to said coats and garments described as "Alaska Karakul" labels bearing the words "Alaska Karakul," and thereby represent that the coats and garments so described are made from the peltries of the young of the karakul breed of sheep. Said representation is false and misleading. Said coats and garments are not made from the peltries of the young of the karakul breed of sheep or from any other peltries, but are made of a wool pile sewed on a cotton backing.

Respondents attach to said coats and garments described as "Marjhan Fabric" a label which fails to disclose the rayon content of said coats and garments. By failing to disclose said rayon content respondents represent that said coats and garments, which have the appearance and feel of wool, are wool. Said representation is false and misleading. Said coats and garments are not wool, but are composed of a rayon pile sewed on a cotton backing.

Said coats and garments described as "Shepherd Fabric" are made of a rayon pile on a cotton backing. Respondents fail in any way to disclose the rayon content of said coats and garments and attach to them a label bearing the words "Shepherd Fabric" and a picturization of a shepherd and a sheep, and the words "Imported Mohair." Respondents fail to disclose the cotton content of said Shepherd Fabric coats and garments on said labels, or in any other way except on a separate tag attached to said garments and marked "62% Mohair, 38% Cotton." By failure to disclose the rayon content of said coats and garments described as "Shepherd Fabric," which resemble wool, and by the use of the representation of a shepherd and of a sheep

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and of the words "Imported Mohair" as heretofore alleged, and by failure to disclose the cotton content thereof on the labels attached thereto, respondents represent that such coats and garments are all wool and are made from imported mohair wool. Said representations are false and misleading. In truth and in fact said shepherd fabric coats and garments are not made from imported mohair wool or from any other kind of mohair wool or from wool of any kind but are composed of a rayon pile on a cotton backing.

The said coats and garments known as "Afghan-Lam" are made of a wool pile on a cotton backing. Respondents attach to said coat and garments labels bearing the words "Afghan-Lam of Imported Wool." By use of the coined phrase "Afghan-Lam" respondents represent that the coats and garments so labeled are made from the peltries of lambs. Said representation is false and misleading. Said Afghan-Lam coats and garments are not made from the peltries of lambs or from any other peltries.

The said coats and garments known as "Afghan Kurl" are made of wool and a substantial portion of cotton. Respondents attach to said coats and garments a label bearing, among other things, the unqualified words "Of Imported Wool." Respondents fail to disclose on said label or elsewhere the cotton content of said Afghan Kurl coats and garments except on separate tags attached to said coats and garments and marked "68% Wool, 32% Cotton." By failing to disclose the cotton content of said coats and garments described as "Afghan Kurl" on the label attached thereto, and by use of the words "Of Imported Wool" on said labels, respondents represent that said Afghan Kurl coats and garments are pure wool. Said representation is false and misleading. In truth and in fact, said Afghan Kurl coats and garments are not pure wool, but are composed of a substantial portion of cotton.

PAR. 5. The acts and practices of the respondents as herein set forth have the tendency and capacity to, and do, mislead and deceive a substantial portion of the purchasing public into the erroneous and mistaken belief that said representations and statements are true. On account of these erroneous beliefs a number of the consuming and purchasing public purchases a substantial volume of respondents' products.

PAR. 6. The aforesaid acts and practices of the respondents, as herein alleged, are all to the prejudice and injury of the public and constitute unfair and deceptive acts and practices in commerce within the intent and meaning of the Federal Trade Commission Act.

REPORT, FINDINGS AS TO THE FACTS, AND ORDER

Pursuant to the provisions of the Federal Trade Commission Act, the Federal Trade Commission on August 26, 1942, issued and subsequently served its complaint in this proceeding upon respondents Joseph Henschel, Jacob Siegel, and Philip Alenikoff, individually and as copartners trading as Siegel & Alenikoff, charging them with the use of unfair and deceptive acts and practices in commerce in violation of the provisions of said act. After the issuance of said complaint and the filing of respondents' answer thereto, testimony and other evidence were introduced before an examiner of the Commission theretofore duly designated by it, and said testimony and other evidence were duly recorded and filed in the office of the Commission. Thereafter, the proceeding regularly came on for final hearing before the Commission on the said complaint, the answer thereto, testimony and other evidence, certain stipulated facts and a nunc pro tunc amendment thereto (respondents having waived a report by the trial examiner, the filing of briefs, and oral argument); 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. The respondents, Joseph Henschel, Jacob Siegel, and Philip Alenikoff, are copartners doing business under the firm name of Siegel & Alenikoff, having their principal place of business at 500 Seventh Avenue, New York, N. Y. They are now, and for a number of years last past have been, engaged in the manufacture, sale, and distribution of coats and other garments for women.

PAR. 2. In the course and conduct of their aforesaid business, respondents cause their coats and other garments, when sold, to be transported from their place of business in the State of New York to the purchasers thereof at their respective points of location in various other States of the United States and in the District of Columbia, and maintain, and have maintained, a course of trade in said products between and among various States of the United States and in the District of Columbia.

PAR. 3. Among the types of women's coats sold and distributed by respondents as aforesaid is one designated as "Alaska Karakul" and another designated as "Afghan-Lam." The coats described as "Alaska Karakul" are made of a textile fabric which has mohair pile

on a cotton back, and a sample of this fabric appears in the record as Commission exhibit 3. The coats described as "Afghan-Lam" are made of a textile fabric which has wool pile on a cotton back, and a sample of this fabric appears in the record as Commission exhibit 8-A. These fabrics are so manufactured that in outward appearance they resemble lamb peltries. Respondents' coats made of these fabrics are lined so that the back of the fabric of which the coat is made is fully covered and only the pile face of the fabric is available for inspection by a prospective purchaser of such a coat. Respondents attach to coats made of these fabrics labels bearing the words "Alaska Karakul" and "Afghan-Lam," respectively, and thereby represent in the case of "Alaska Karakul" that such coats are made of the peltries of the young of the Karakul breed of sheep. The word "karakul," when applied to women's coats, indicates to and is accepted by the purchasing public as meaning that the garments are made from the peltries of the young of the karakul breed of sheep originally found in the Bokharan region of Russia. In the case of the coats labeled "Afghan-Lam," respondents thus represent that such coats are made of lamb peltries. Respondents' said representations have the capacity and tendency to mislead and deceive members of the purchasing public into the erroneous belief that such garments are made from the peltries of lambs.

PAR. 4. Another type of coat sold and distributed by respondents is one described as "Shepherd Fabric." These coats are made of a textile fabric, a sample of which appears as Commission exhibit 7-A, and respondents have placed on such coats a label reading "Exclusive * * * Shepherd Fabric * * * Imported Mohair," together with a depiction of a shepherd and a sheep. This fabric is made of mohair pile on a cotton back and consists of about 62 percent mohair and 38 percent cotton. As in the case of other coats sold by respondents, these coats are also lined so that when offered for sale the back of the fabric is not available for inspection by members of the purchasing public. Respondents attach to such garments a separate tag marked "62% mohair, 38% cotton." By means of the words "Imported Mohair" and a depiction of a shepherd and a sheep on the principal label and the failure to disclose the cotton content of said fabric except to the extent and in the manner stated, respondents represent that said garment is all wool. Such representations have the capacity and tendency to confuse, mislead, and deceive members of the purchasing public into the erroneous belief that such coats are made of a fabric composed entirely of wool.

PAR. 5. Another type of coat sold and distributed by respondents is one designated as "Afghan-Kurl." Coats of this type are made of the

fabric a sample of which appears as Commission exhibit 8-A and which is composed of wool pile on a cotton back. The fiber content of this fabric is approximately 65 percent wool and 35 percent cotton. Respondents' coats made of this fabric are lined so that the back of the fabric is not available for inspection by members of the purchasing public, and respondents place on such coats a label reading "Exclusive Afghan-Kurl of Imported Wool." By means of these labels, respondents represent that the fabric is all wool. Respondents do not disclose the cotton content of said fabric except on separate tags attached to said garments marked "68% wool, 32% cotton." The aforesaid representation that the product is "imported wool" and the failure to disclose the cotton content thereof, except to the extent and in the manner stated, has the capacity and tendency to confuse, mislead, and deceive members of the public into the erroneous belief that such garments are composed entirely of wool.

PAR. 6. Respondents sell and distribute other coats, some of which are designated as "Silva-Krimma" and "Marjhan Fabric," respectively. The coats described as "Silva-Krimma" are made of fabric a sample of which appears in the record as Commission exhibit 1, and the coats designated "Marjhan Fabric" are made of fabric a sample of which appears in the record as Commission exhibit 6-A. Both of these fabrics are made of rayon pile on a cotton back and respondents place in the coats made of these fabrics labels reading "Exclusive Silva-Krimma" with a depiction of two sheep, and "Marjhan Fabric Exclusive," respectively. The rayon used in these fabrics has been so made and the fabrics so manufactured as to give them the appearance and feel of wool. Respondents' coats made of these fabrics are so lined that when offered for sale the back of the fabric used is covered and not available for inspection by members of the purchasing public and is thus practically indistinguishable from wool. By means of the aforesaid labels and by means of the failure of respondents to disclose that these fabrics, which have the appearance and feel of wool, are in substantial part made of rayon, respondents falsely represent that they are composed entirely of wool. These practices have the capacity and tendency to mislead and deceive, and have in fact misled and deceived, members of the purchasing public into the erroneous belief that garments made of these fabrics are composed entirely of wool. As a result of the acts and practices set out in this and in preceding paragraphs hereof, and the erroneous beliefs engendered thereby, members of the public have been induced to purchase substantial numbers of respondents' said products.

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CONCLUSION

The aforesaid acts and practices of respondents are all to the prejudice and injury of the public and constitute unfair and deceptive acts and practices in commerce within the 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, the answer of respondents, testimony and other evidence taken before an examiner of the Commission theretofore duly designated by it, and certain stipulated facts (a report by the trial examiner, briefs, and oral argument having been waived), and the Commission having made its findings as to the facts and its conclusion that said respondents have violated the provisions of the Federal Trade Commission Act:

It is ordered, That respondents Joseph Henschel, Jacob Siegel, and Philip Alenikoff, trading as Siegel & Alenikoff or under any other name, individually or collectively, their representatives, agents, and employees, directly or through any corporate or other device, in connection with the offering for sale, sale, and distribution of coats or other garments in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. Using the words "Karakul," "Afghan-Lam," or any other word or words indicative of animal peltries, to designate, describe, or refer to any coat or other garment which is not in fact made from peltries of the animal named: *Provided, however*, That when used to designate, describe, or refer to a coat or other garment made of a textile fabric manufactured in such manner as to resemble the peltry of the animal named, such word or words may be used if immediately accompanied by another word or words equally conspicuous and clearly disclosing that the fabric of which such coat or other garment is made is merely an imitation of the peltry of the animal named; as, for example, "Imitation karakul."

2. Representing in any manner or by any means that coats or other garments made from a textile fabric are made from animal peltries.

3. Advertising, offering for sale, or selling coats or other garments composed in whole or in part of rayon made to resemble wool, or having the appearance and feel of wool, without clearly disclosing such rayon content, and when composed in part of such rayon and in part of other fibers or materials, without clearly and accurately disclosing each constituent fiber or material, including the rayon.

4. Using the unqualified words "imported wool," or depictions of a sheep or a shepherd, to designate, describe, or refer to any garment composed in whole or in part of fibers other than wool; or representing in any manner that any garment composed in part of fibers other than wool is composed entirely of wool.

It is further ordered, That nothing contained in this order shall be construed as limiting any applicable provisions of the Wool Products Labeling Act of 1939 or the rules and regulations promulgated thereunder.

It is further ordered, That respondents shall, within 60 days after the 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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