

IN THE MATTER OF

SOL H. RUBEN AND FLORRINE B. RUBEN, TRADING AS
BROOKS CLOTHES

COMPLAINT, FINDINGS, AND ORDER IN REGARD TO THE ALLEGED VIOLATION
OF SEC. 5 OF AN ACT OF CONGRESS APPROVED SEPT. 26, 1914, AND THE WOOL
PRODUCTS LABELING ACT OF 1939

Docket 5518. Complaint, Nov. 21, 1947—Decision, Apr. 13, 1948

Where two partners engaged in selling to the general public from their store men's coats or wool products composed in whole or in part of "wool," "reprocessed wool," or "reused wool" as defined in the Wool Products Labeling Act, which they purchased from manufacturers in other States and also from manufacturers in their own State who made them for introduction into commerce—

- (a) Sold some of the aforesaid wool products which were misbranded in violation of the Wool Products Labeling Act and the rules and regulations promulgated thereunder in that there was not affixed to them the required stamp, tag, label or other means of identification showing the percentage of wool and nonwool fiber and aggregate, including filling or adulterating matter, and identification of the manufacturer or seller; and
- (b) With intent to violate said act and rules, etc., removed and mutilated and caused and participated in the removal and mutilation, after receipt of products and prior to their offer or sale, of such stamps, etc., which had been affixed to said wool products by the manufacturer or other authorized person and purported to contain the required information, and did not replace the same with substitute stamps, etc., containing the information required as above set out;

With the result that the products concerned when offered and sold by them to the general public did not have affixed thereto stamps, etc., containing the information required by law:

Held, That said acts, practices and methods, under the circumstances set forth, were in violation of said Wool Products Labeling Act and rules and regulations promulgated thereunder, and constituted unfair and deceptive acts and practices in commerce.

Mr. DeWitt T. Puckett for the Commission.

Kusworm & Kusworm, of Dayton, Ohio, 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 Sol H. Ruben and Florraine B. Ruben, individually and as copartners trading as Brooks Clothes, hereinafter referred to as respondents, have violated the provisions of said Acts

Complaint

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. Respondents, Sol H. Ruben and Florraine B. Ruben, are copartners trading and doing business as Brooks Clothes. Their place of business is at 509 Fifth Avenue, Pittsburgh, Pa.

PAR. 2. Respondents are now and for several years last past have been operating a store at the aforesaid address selling to the general public wool products, as such products are defined in the Wool Products Labeling Act of 1939, in that said products are composed in whole or in part of wool, reprocessed wool or reused wool, as those terms are defined in said act.

PAR. 3. During all the time aforementioned, the respondents have purchased and are now purchasing said wool products from various manufacturers located in States other than the State of Pennsylvania, and have caused and are now causing such products to be transported in commerce through regular and continuous channels of trade in which such products through respondents reach the ultimate purchaser-consumer in a State other than the State of manufacture or first introduction into such commerce. Respondents also purchase said products from various manufacturers located in the State of Pennsylvania who manufacture such products for introduction into said commerce.

Said wool products transported in commerce as aforesaid and said wool products manufactured for introduction into said commerce are thereafter offered for sale and sold by respondents to the general public at their said place of business. Said products are offered for sale and some are sold to purchasers residing in States other than the State of Pennsylvania and shipped to said purchasers at their respective points of residence from respondents' place of business in Pittsburgh, Pa.

PAR. 4. Among the wool products purchased and transported in commerce as aforesaid and also among the wool products manufactured for introduction into said commerce and thereafter offered for sale and sold by respondents as aforesaid since July 15, 1941, were men's coats, and other garments. All of said wool products purchased and transported in commerce as aforesaid, and all of said wool products manufactured for introduction into said commerce, were subject to the provisions of the Wool Products Labeling Act of 1939 and the rules and regulations promulgated thereunder.

Complaint

44 F. T. C.

PAR. 5. Some of the aforesaid wool products were misbranded within the intent and meaning of the Wool Products Labeling Act of 1939 and the rules and regulations promulgated thereunder when offered for sale and sold by respondents, in that said products, when offered for sale and sold by respondents, did not have affixed thereto a stamp, tag, label, or other means of identification 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 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 said wool product where said wool product contained a fiber other than wool.

PAR. 6. The aforesaid wool products, when received by respondents at their said place of business, had affixed thereto stamps, tags, labels, or other means of identification purporting to contain the information required by the Wool Products Labeling Act of 1939. After said wool products were delivered to the respondents at their said store and place of business as aforesaid, and before said wool products were offered for sale or sold by respondents to the general public, said respondents, with intent to violate the provisions of the Wool Products Labeling Act of 1939 and the rules and regulations promulgated thereunder, did remove, and participate in and cause the removal of, the stamps, tags, labels, or other means of identification which purported to contain the information required by the provisions of said act and said rules and regulations affixed to said wool products by the manufacturer thereof or by some person authorized or required by said act to affix such stamps, tags, labels, or other means of identification to said wool products.

PAR. 7. After said wool products were delivered to the respondents at their said store and place of business as aforesaid, and before said wool products were offered for sale or sold by respondents to the general public, said respondents, with intent to violate the provisions of said Wool Products Labeling Act of 1939 and said rules and regu-

lations promulgated thereunder, did mutilate and participate in and cause the mutilation of the stamps, tags, labels, or other means of identification which purported to contain the information required by the provisions of said act and said rules and regulations affixed to said wool products by the manufacturer thereof, or by some person authorized or required by said act to affix such stamps, tags, labels, or other means of identification to said wool products.

PAR. 8. Said respondents did not replace said stamps, tags, labels, or other means of identification with substitute stamps, tags, labels, or other means of identification containing the information required under the provisions of the Wool Products Labeling Act of 1939 and the rules and regulations thereunder. As a result of respondents' said acts and practices in removing and mutilating said stamps, tags, labels, or other means of identification affixed to said wool products, said wool products, when offered for sale and sold by respondents to the general public at their said store and place of business, did not have affixed thereto stamps, tags, labels, or other means of identification containing the information required by said act and said rules and regulations.

PAR. 9. The aforesaid acts, practices, and methods of the respondents, as herein 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 November 21, 1947, issued and on November 22, 1947, served upon the respondents, Sol H. Ruben and Florryne B. Ruben, individually and as copartners trading as Brooks Clothes, its complaint in this proceeding, charging said respondents with the use of unfair and deceptive acts and practices in commerce in violation of the provisions of those acts. On December 15, 1947, the respondents filed their answer to said complaint, but on February 20, 1948, they filed a motion to be permitted to withdraw said original answer and in lieu thereof to substitute an answer dated February 6, 1948, which was annexed to said motion, and on February 27, 1948, this motion was granted. In said substitute answer the respondents admitted all of the material allegations of fact set forth in the complaint

Findings

44 F. T. C.

and waived all intervening procedure and further hearing as to said facts. Thereafter, this proceeding regularly came on for final hearing before the Commission on the complaint of the Commission and the respondents' substitute answer thereto; and the Commission, having duly considered the matter and being now fully advised in the premises, finds that the 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, Sol H. Ruben and Florrine B. Ruben, are copartners trading and doing business as Brooks Clothes, with their principal place of business located at 509 Fifth Avenue, Pittsburgh, Pa.

PAR. 2. The respondents are now and for several years last past have been operating a store at the aforesaid address, selling to the general public "wool products" as such products are defined in the Wool Products Labeling Act of 1939, in that said products are composed in whole or in part of "wool," "reprocessed wool" or "reused wool," as those terms are defined in said act.

PAR. 3. During all of the time mentioned herein the respondents have purchased and are now purchasing said wool products from various manufacturers located in States other than the State of Pennsylvania, and they have caused and are now causing such products to be transported in commerce through regular and continuous channels of trade in which such products through the respondents reach the ultimate purchasers in States other than the State of manufacture or the State where such products were first introduced into commerce. The respondents also purchase some of said wool products from various manufacturers located in the State of Pennsylvania who manufacture such products for introduction into commerce.

The wool products transported in commerce and manufactured for introduction into commerce, as aforesaid, are thereafter offered for sale and sold by the respondents to the general public at their place of business in Pittsburgh, Pa. Such products are offered for sale and some are sold to purchasers residing in States other than the State of Pennsylvania, and when so sold are shipped to said purchasers at their respective points of residence from the respondents' place of business in Pittsburgh, Pa.

PAR. 4. Among the wool products purchased and transported in commerce and manufactured for introduction into commerce and thereafter offered for sale and sold in commerce by the respondents,

as aforesaid, since July 15, 1941, were men's coats and other garments. All of said wool products were subject to the provisions of the Wool Products Labeling Act of 1939 and the rules and regulations promulgated thereunder.

PAR. 5. Some of the aforesaid wool products, when offered for sale and sold by the respondents, were misbranded within the intent and meaning of the Wool Products Labeling Act of 1939 and the rules and regulations promulgated thereunder in that said products did not have affixed thereto a stamp, tag, label, or other means of identification, or a substitute therefor, showing: (a) The percentage of the total fiber weight of the wool products, 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 is 5 per centum 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 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 or figures plainly legible, by weight of the wool contents of said wool product where said wool product contained a fiber other than wool.

PAR. 6. The aforesaid wool products, when received by the respondents at their place of business, had affixed to them stamps, tags, labels, or other means of identification, purporting to contain the information required by the Wool Products Labeling Act of 1939. After such products were delivered to the respondents and before they were offered for sale, or sold, by the respondents to the general public, the respondents, with intent to violate the provisions of the Wool Products Labeling Act of 1939 and the rules and regulations promulgated thereunder, did remove and participate in and cause the removal of, and did mutilate and participate in and cause the mutilation of, the stamps, tags, labels, or other means of identification, which purported to contain the information required by the provisions of said act and said rules and regulations, affixed to such products by the manufacturer thereof or by some person authorized or required by said act to affix such stamps, tags, labels, or other means of identification, to said products.

PAR. 7. The respondents did not replace said stamps, tags, labels, or other means of identification, with substitute stamps, tags, labels,

or other means of identification, containing the information required under the provisions of the Wool Products Labeling Act of 1939 and the rules and regulations promulgated thereunder. As a result of the respondents' removal and mutilation of said stamps, tags, labels, or other means of identification, affixed to said wool products, such products, when offered for sale and sold by the respondents to the general public, did not have affixed thereto stamps, tags, labels, or other means of identification, containing the information required by said act and the rules and regulations promulgated thereunder.

CONCLUSION

The aforesaid acts, practices, and methods of the respondents as herein found 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.

ORDER TO CEASE AND DESIST

This proceeding having been heard by the Federal Trade Commission upon the complaint of the Commission and the substitute answer of the respondents, in which answer said respondents admitted all of the material allegations of fact set forth in said complaint and waived 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 the respondents have violated the provisions of the Federal Trade Commission Act and the Wool Products Labeling Act of 1939:

It is ordered, That the respondents, Sol H. Ruben and Florraine B. Ruben, copartners trading and doing business as Brooks Clothes, or trading under any other name, jointly or severally, and their agents, representatives, and employees, directly or through any corporate or other device, in connection with the introduction into commerce or the sale, transportation, or distribution in commerce, as "commerce" is defined in the aforesaid acts, of men's coats or any other "wool products," as such products are 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, do forthwith cease and desist from misbranding such products 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 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 is 5 per centum or more; and (5) the aggregate of all other fibers.

(b) The maximum percentage of the total weight of such wool; products 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 said respondents and their agents, representatives and employees, directly or through any corporate or other device, in connection with the purchase, offering for sale, sale or distribution of men's coats or any other "wool products," as such products are defined in and subject to the Wool Products Labeling Act of 1939, do forthwith cease and desist from causing or participating in the removal or mutilation of any stamp, tag, label, or other means of identification, affixed to any such "wool product" pursuant to the provisions of the Wool Products Labeling Act of 1939, with intent to violate the provisions of said act, and which stamp, tag, label, or other means of identification purports to contain all or any part of the information required by said Act.

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.

Complaint

44 F. T. C.

IN THE MATTER OF
SORBTEx FOUNDATION, INC.COMPLAINT, FINDINGS, AND ORDER IN REGARD TO THE ALLEGED VIOLATION
OF SEC. 5 OF AN ACT OF CONGRESS APPROVED SEPT. 26, 1914*Docket 4989. Complaint, June 30, 1943—Decision, Apr. 23, 1948*

Where a corporation engaged in the manufacture and interstate sale and distribution of a chemical solution intended for use as a treatment or process for towels, designated "Sorbtex"; in advertising through pamphlets, booklets, circulars, and other advertising material intended primarily for towel manufacturers, but distributed also to some extent among members of the public, directly or by implication—

- (a) Represented that its said product made towels more absorbent and substantially increased their "dryability," and that towels treated therewith dried faster;
 - (b) Represented that the effects produced by the product were permanent, and that the solution remained in the fabric after repeated launderings; and
 - (c) Falsely represented that the product increased the tensile strength of towels;
- The facts being that, as disclosed by tests by the Bureau of Standards and private laboratories, the ability of the solution to increase the absorptive capacity of towels was limited to effects upon the towel before laundering and was in no sense permanent as the solution was not retained in the towels after repeated launderings;

With tendency and capacity to mislead and deceive a substantial number of towel manufacturers and of the purchasing public, and thereby to induce purchase by the former of substantial quantities of the product concerned:

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.

In said proceeding, in which as aforesaid noted there was evidence, consisting of tests by the Bureau of Standards and also by private laboratories, to the effect that respondent's product would not accomplish the results claimed therefor, and on the basis of which the Commission found respondent's representations erroneous and misleading in so far as they related to towels after laundering, the Commission was of the opinion that evidence in the record to the contrary of said conclusions, which consisted largely of the personal opinions of witnesses unsupported by actual tests, was insufficient to meet the evidence based on aforesaid tests.

In said proceeding in which the complaint also charged respondent with misrepresenting, directly or by implication, that its said preparation made white towels whiter and that the process involved was patented, the Commission was of the view that such additional charges were not sustained by the record.

Before *Mr. Randolph Preston*, trial examiner.

Mr. B. G. Wilson for the Commission.

Mr. Ralph Dombrower, of Richmond, Va., for respondent.