

IN THE MATTER OF
GAY TIME FROCK CO. OF SCRANTON ET AL.

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 5350. Complaint, July 3, 1945—Decision, June 22, 1950

Garments made from rayon fibers which have been so manufactured as to simulate natural fibers in texture and appearance have the appearance and feel of natural-fiber garments, and many members of the purchasing public are unable to distinguish between such rayon garments and those made from natural fibers, so that the former are readily accepted by some as natural fiber products.

Products manufactured from silk, the product of the cocoon of the silk worm, for many years have been held and still are held in great public esteem because of their outstanding qualities, and there has been for many years and still is a public demand for such products.

Where two corporations and two individuals who were officers and directors of both, engaged in the sale and distribution of women's wearing apparel and other articles through two types of retail stores—their "Gay Time" and their "York" stores, which they operated in Indiana, Illinois, Pennsylvania, and Virginia, and in purchasing for their said stores through their New York buying office merchandise from various sources in other States, which, when delivered to them in said city, they examined, sorted, priced, and, when necessary, labeled, and shipped to their said various retail stores; and engaged also for a time in carrying on a mail order business pursuant to which they shipped merchandise to purchasers in other States—

Offered and sold certain garments which simulated in texture and appearance garments composed of natural fibers but were made wholly or in part of rayon, without disclosing in words familiar to the purchasing public the fact that said garments were wholly or partly rayon;

Whereby many members of the purchasing public were led to believe that said garments were composed wholly or in part of silk, the product of the silk worm, or of other natural fibers:

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

Where two partners, engaged in the manufacture of women's wearing apparel and in the interstate sale of such apparel and other articles to the aforementioned corporation and individuals, among others, and in introducing into commerce and manufacturing for introduction into commerce wool products composed in whole or in part of wool, reprocessed wool or reused wool, and, as such, subject to the Wool Products Labeling Act and the rules and regulations promulgated thereunder—

Caused such articles of wearing apparel, including ladies' coats, dresses, and suits, to be misbranded in violation of the provisions of said act and rules, etc., through failing to affix thereto stamps, tags, labels, or other means of identification, or a substitute in lieu thereof, showing the percentage of the fiber weight of wool, fiber other than wool, and other information called for, including the name of the manufacturer or that of one or more persons subject to section 3 of said act, or the registered identification number of such person or persons as provided for in rule 4 of the regulations as amended:

Held, That such acts, practices, and methods constituted misbranding of wool products and were in violation of said Wool Products Labeling Act and the rules and regulations promulgated thereunder; and 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.

As respects certain other charges in the complaint with regard to the alleged certification of values by some outside independent agency, etc., improper or unwarranted use of the words Shetland and Camelton, and of the words taffeta, faille, jersey, satin, and crepe, and the charge that respondent Gay Time Frock Co., of Pennsylvania, removed or participated in the removal of the stamps, etc., required by the Wool Products Labeling Act, the Commission was of the opinion and found that such charges were not sustained by the evidence.

Before *Mr. W. W. Sheppard*, trial examiner.

Mr. DeWitt T. Puckett for the Commission.

Fein & Altersohn, of Chicago, Ill., for Gay Time Frock Co., a Pennsylvania corporation, Gay Time Frock Co., an Illinois corporation, Leo Simon, Adolph Rosen, Benjamin F. Rosner, and Harold A. Fein.

Mr. Jack Hirsch, of New York City, for Herman Seldin and Nathan Lieberman.

COMPLAINT ¹

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 Gay Time Frock Co., a Pennsylvania cor-

¹ The Commission on October 4, 1945, issued an order amending complaint, as follows:

"This matter coming on to be heard by the Commission upon the request of Herman Seldin and Nathan Lieberman, individuals doing business as Gil Sportwear Co., a partnership, that they be made parties respondent in this proceeding in the place and stead of respondent Gil Sportwear Co., Inc., without the issuance and service upon them of an amended complaint or notice with respect thereto, and the Commission having fully considered the said request and the record herein, and being now fully advised in the premises;

"It is ordered, That the complaint herein be, and the same hereby is, amended by substituting as parties respondent Herman Seldin and Nathan Lieberman, individuals doing business as Gil Sportwear Co., for respondent Gil Sportwear Co., Inc."

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poration, Gay Time Frock Co., an Illinois corporation, Leo Simon, Adolph Rosen, Benjamin F. Rosner, and Harold A. Fein, individually and as officers and directors of both aforesaid corporations, and Gil Sportwear Co., Inc., a 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 its complaint stating its charges in that respect as follows:

PARAGRAPH 1. The respondents Leo Simon, Adolph Rosen, Benjamin F. Rosner, and Harold A. Fein, are officers and directors of respondent corporations Gay Time Frock Co., one of which was organized and is now existing and doing business under the laws of the State of Illinois and the other having been organized and is now existing and doing business under the laws of the State of Pennsylvania. Said respondents operate two types of retail stores, one type known as "Gaytime" stores and the other as "York" stores.

Said respondents are now and for more than 2 years last past have been engaged in the sale and distribution of women's wearing apparel and other articles. Their principal office is at 370 Seventh Avenue, New York, N. Y.

All of the aforesaid respondents act in concert in formulating and in carrying out the acts, practices, and policies hereinafter described.

PAR. 2. Respondent Gil Sportwear Co., 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 519 Eighth Avenue, New York, N. Y. Said respondent is now, and for more than 1 year last past, has been engaged in manufacturing and selling women's wearing apparel and other articles, some of which is sold to the other afore-mentioned respondents.

All of the aforesaid respondents have caused and are now causing some of their said products, when sold, or to be sold by them, to be transported from their said places of business in the State of New York or from the State in which manufactured to purchasers thereof located in various other States of the United States and in the District of Columbia. Said respondents maintain, and at all times mentioned herein have maintained, a substantial course of trade in said products in commerce among and between the various States of the United States and in the District of Columbia.

PAR. 3. In the course and conduct of their business as aforesaid, respondents Gay Time Frock Co. of Pennsylvania, Gay Time Frock Co. of Illinois, and Leo Simon, Adolph Rosen, Benjamin F. Rosner,

and Harold A. Fein, for the purpose of inducing the sale of certain of their said merchandise have used, and are now using, various statements and representations which purport to be descriptive of their merchandise. These representations and statements are made in various newspaper advertisements and in various other ways. Sometimes mail order coupons are included in the advertisements and the orders are received by the local store and transmitted to the principal office at 370 Seventh Avenue, New York, N. Y., where they are filled and from there delivered to the purchaser.

Among and typical of such statements and representations found in said advertisements are the following:

Certified \$----- Value or Certified Value \$-----
 89¢ ----- All Certified \$1.29 Values.
 50% Wool Shetland.
 Camel-Tone.

PAR. 4. Through the use of the aforesaid statements and representations said respondents, except Gil Sportwear Co., Inc., have represented and now represent that their merchandise has been certified as to values by some outside independent agency; that the garments advertised as "50 percent Wool Shetland" were in fact made of wool produced in the Shetland Islands and that the garments advertised as "Camel-Tone" were composed of camel's hair.

PAR. 5. The aforesaid statements and representations are false, misleading, and deceptive. In truth and in fact, the values represented as "Certified" are in fact only certified by the respondents themselves and not by an outside agency. The garments were not made of wool produced in the Shetland Islands, and the coats described as "Camel-Tone" contained no camel's hair at all.

PAR. 6. The use by said respondents of the aforesaid false, misleading and deceptive representations and statements with respect to their said wearing apparel as alleged in paragraph 3 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 has caused and now causes a substantial portion of the purchasing public, because of such erroneous and mistaken belief, to purchase substantial quantities of said wearing apparel.

PAR. 7. Among the products offered for sale and sold by the respondents Gay Time Frock Co. of Illinois, Gay Time Frock Co. of Pennsylvania, Leo Simon, Adolph Rosen, Benjamin F. Rosner, and Harold A. Fein, in commerce as aforesaid, are some which are composed wholly or in part of rayon.

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PAR. 8. Rayon is a chemically manufactured fiber which may be manufactured so as to simulate natural fibers in texture and appearance, and fabrics manufactured from such rayon fibers simulate natural-fiber fabrics in texture and appearance. Garments manufactured from such rayon fabrics have the appearance and feel of natural-fiber garments, and many members of the purchasing public are unable to distinguish between such rayon garments and garments manufactured from natural fibers; consequently, such rayon garments are readily accepted by some members of the purchasing public as natural-fiber products.

PAR. 9. Products manufactured from silk, the product of the cocoon of the silkworm, for many years have been held, and still are held, in great public esteem because of their outstanding qualities, and there has been for many years, and still is, a public demand for such products.

PAR. 10. The respondents, except Gil Sportwear Co., Inc., sell, in commerce as aforesaid, garments composed wholly or in part of rayon, which garments simulate in texture and appearance garments composed wholly or in part of silk, the product of the cocoon of the silkworm, or other natural fibers. Respondents do not inform the purchasing public of the fact that the garments which resemble silk in texture and appearance or other natural fibers are made wholly or in part of rayon and not of silk or other natural fibers.

PAR. 11. The practice of the said respondents in offering for sale and selling said garments manufactured wholly or in part of rayon which resemble in texture and appearance garments manufactured from silk or other natural fibers, in commerce as aforesaid, without disclosing, in words familiar to the purchasing public, the fact that said garments are composed wholly or in part of rayon is misleading and deceptive and many members of the purchasing public are thereby led to believe that said garments are composed wholly or in part of silk, the product of the cocoon of the silkworm, or other natural fibers.

PAR. 12. Silk fibers have long been woven into a variety of fabrics, and distinctive terms well known to and understood by the purchasing public have been applied to such silk fabrics as designating the different types of weaving. Among the terms well known to and understood by the purchasing public as designating a type of fabric woven from silk are "taffeta," "faille," "jersey," "satin," and "crepe." The use of these terms to designate, describe or refer to fabrics having the texture and appearance of silk is understood by the purchasing public to indicate that the fabrics are composed of silk, unless such terms are accompanied by words familiar to the purchasing public indicating clearly

that such fabrics are not composed of silk but of fibers other than the product of the cocoon of the silkworm.

PAR. 13. The respondents, except Gil Sportwear Co., Inc., in connection with the offering for sale and sale of their said articles of wearing apparel composed wholly or in part of rayon, which wearing apparel resembles in texture and appearance wearing apparel manufactured from silk, the product of the cocoon of the silkworm, in commerce as aforesaid, in advertisements circulated among the purchasing public, designate, describe, and refer to certain of said wearing apparel as "taffeta," "faille," "jersey," "satin," and "crepe" and do not accompany such words with words familiar to the purchasing public which disclose the fact that said fabrics are not composed of silk, the product of the cocoon of the silkworm, but wholly or in part of other fibers.

PAR. 14. The use by the respondents of the acts and practices described in paragraph 13 has the capacity and tendency to, and does, mislead and deceive members of the purchasing public as to the fiber contents of their said products and as a result of this deception substantial quantities of respondents' products are purchased in the belief that they are composed of silk, the product of the cocoon of the silkworm.

PAR. 15. Respondent Gil Sportwear Co., Inc., is engaged in the introduction and manufacture for introduction into commerce, and all of the respondents are engaged in the offering for sale, 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 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, respondent Gil Sportwear Co., Inc., has violated the provisions of said act and said rules and regulations in the introduction and manufacture for introduction into commerce, and all of the said respondents have violated the provisions of said act and said rules and regulations in the offering for sale, 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. 16. Among the wool products introduced and manufactured for introduction into commerce by Gil Sportwear Co., Inc., and offered for sale, sold, transported, and distributed in said commerce by all the respondents as aforesaid, were articles of wearing apparel such as

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ladies' coats, dresses, and suits. Exemplifying respondents' practice of violating said act and the rules and regulations promulgated thereunder is their misbranding of the aforesaid articles of wearing apparel in violation of the provisions of said act and said rules and regulations by failing to affix to said wearing apparel a stamp, tag, label, or other means of identification, or a substitute in lieu thereof, as provided by said act, showing (a) the percentage of the total fiber weight of the wool product, exclusive of ornamentation not exceeding 5 percentum of said total fiber weight, of (1) wool, (2) reprocessed wool, (3) reused wool, (4) each fiber other than wool where said percentage by weight of such fiber was 5 percentum or more, and (5) the aggregate of all other fibers; (b) the maximum percentage of the total weight of the wool product of nonfibrous loading, filling or adulterating matter; (c) the 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. 17. All of said wool products purchased and transported in said commerce as aforesaid and all of said wool products manufactured for introduction into said commerce were subject to the provisions of the Wool Act of 1939 and the rules and regulations promulgated thereunder, and all of said wool products had affixed thereto by the manufacturer thereof or by some person authorized under the provisions of said act and said rules and regulations, a stamp, tag, label, or other means of identification purporting to show (a) the percentage of the total fiber weight of the wool product, exclusive of ornamentation not exceeding 5 percentum of said total fiber weight, of (1) wool, (2) reprocessed wool, (3) reused wool, (4) each fiber other than wool where said percentage by weight of such fiber was 5 percentum or more, and (5) the aggregate of all other fibers; (b) the maximum percentage of the total weight of the wool product of nonfibrous loading, filling or adulterating matter; (c) the percentages, in words and figures plainly legible, by weight of the wool contents of such wool product where said wool products contain 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. 18. After said wool products were delivered to the respondent Gay Time Frock Co. (of Pennsylvania) at its said stores and places of business as aforesaid and before said wool products were offered for sale or sold by respondent to the general public, said respondent, 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. 19. After said wool products were delivered to the respondent, Gay Time Frock Co. (of Pennsylvania) at its said store and place of business as aforesaid and before said wool products were offered for sale or sold by respondent to the general public, said respondent, with intent to violate the provisions of said Wool Products Labeling Act of 1939 and said rules and regulations 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. 20. Said respondent 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 respondent's 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 respondent to the general public at its 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. 21. The acts and practices and methods of respondents as alleged in paragraphs 15, 16, 17, 18, 19, and 20 hereof constitute mis-

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branding 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 July 3, 1945, issued and thereafter served its complaint in this proceeding on Gay Time Frock Co. of Scranton (named in the complaint as Gay Time Frock Co.), a Pennsylvania corporation, Gay Time Frock Co., an Illinois corporation, Leo Simon, Adolph Rosner (named in the complaint as Adolph Rosen), Benjamin F. Rosner, Harold A. Fein, and Gil Sportswear Co., Inc., charging them with the use of unfair and deceptive acts and practices in commerce in violation of the provisions of said acts and the rules and regulations promulgated under the Wool Products Labeling Act of 1939. On August 10, 1945, Herman Seldin and Nathan Lieberman, copartners trading as Gil Sportswear Co., requested that the complaint be amended by substituting them as parties respondent in the place and stead of respondent Gil Sportswear Co., Inc., and the Commission, on October 4, 1945, granted the request and the complaint was accordingly amended. Respondents, except Herman Seldin and Nathan Lieberman, filed their answer to the complaint admitting certain allegations and denying others. Respondents Herman Seldin and Nathan Lieberman filed an answer admitting all material allegations of fact set forth in the complaint insofar as it related to them and waiving all intervening procedure and further hearing as to said facts. Testimony and other evidence in support of and in opposition to the allegations of the complaint were introduced before a trial examiner of the Commission theretofore duly designated by it, and such testimony and other evidence were duly recorded and filed in the office of the Commission. Thereafter, this proceeding regularly came on for final consideration by the Commission on the complaint as amended, answers thereto, testimony and other evidence, recommended decision of the trial examiner with exceptions thereto, and briefs and oral argument of counsel; and the Commission, having duly considered the matter and having entered its order disposing of exceptions to the recommended decision of the trial examiner 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 Gay Time Frock Co. of Scranton is a Pennsylvania corporation, with its principal office at 423 Lackawanna Avenue, Scranton, Pa. Respondent Gay Time Frock Co. is an Illinois corporation, with its principal office at 77 West Washington Street, Chicago, Ill. Both of said respondent corporations maintain an accounting and buying office at 370 Seventh Avenue, New York, N. Y. Respondents Leo Simon and Benjamin F. Rosner are officers and directors of each of said respondent corporations and are responsible for formulating and carrying out the acts, practices, and policies hereinafter described.

It appears that the individual respondents Adolph Rosner and Harold A. Fein do not exercise a substantial degree of authority or control over the policy or conduct of the business of said respondent corporations and that they should not be retained as parties respondent. As hereinafter used, "respondents" does not include the individual respondents Adolph Rosner and Harold A. Fein.

Said respondents operate two types of retail stores, one type known as "Gay Time" stores and the other as "York" stores, and are now, and for more than 2 years last past have been, engaged in the sale and distribution of women's wearing apparel and other articles.

The aforesaid respondents, through their buying office in New York, N. Y., purchase merchandise from various sources, including sources located outside the State of New York, which merchandise is delivered to said respondents in New York City, where it is examined, sorted, priced, and, when necessary, labeled, and thereafter shipped to their various retail stores in the States of Indiana, Illinois, Pennsylvania, and Virginia, where said merchandise is sold to the consuming public.

In the course and conduct of their business the aforesaid respondents also carried on a mail-order business from December 7, 1942, until December 16, 1943, with at least one mail order having been filled after the latter date. Respondent Leo Simon notified the various retail stores of the discontinuance of the mail-order business on June 5, 1944, after having been contacted by an investigator of the Federal Trade Commission in May 1944. In the conduct of such mail-order business, merchandise was shipped by said respondents, pursuant to mail-order requests therefor, from said respondents' warehouse in New

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York City to purchasers located in States other than the State of New York.

The Commission finds, therefore, that the aforesaid respondents maintain, and at all times herein mentioned have maintained, a substantial course of trade in women's wearing apparel and other articles in commerce among and between various States of the United States.

PAR. 2. Respondents Herman Seldin and Nathan Lieberman, co-partners trading as Gil Sportwear Co. (formerly officers and owners of Gil Sportwear, Inc., a corporation no longer in existence), have their principal office and place of business at 519 Eighth Avenue, New York, N. Y. Said respondents are now, and for more than 1 year last past have been, engaged in manufacturing and selling women's wearing apparel and other articles, some of which were sold to the other aforementioned respondents.

The respondents Herman Seldin and Nathan Lieberman have caused, and are now causing, some of their said products when sold to be transported from their said place of business in the State of New York to purchasers thereof located in various States of the United States and in the District of Columbia. Said respondents maintain, and at all times herein mentioned have maintained, a substantial course of trade in said products in commerce among and between the various States of the United States and in the District of Columbia.

PAR. 3. Among the products offered for sale and sold by the respondents, except Herman Seldin and Nathan Lieberman, in commerce as aforesaid, are some which are composed wholly or in part of rayon.

PAR. 4. Rayon is a chemically manufactured fiber which may be manufactured so as to simulate natural fibers in texture and appearance, and fabrics manufactured from such rayon fibers simulate natural-fiber fabrics in texture and appearance. Garments manufactured from such rayon fabrics have the appearance and feel of natural-fiber garments, and many members of the purchasing public are unable to distinguish between such rayon garments and garments manufactured from natural fibers; consequently, such rayon garments are readily accepted by some members of the purchasing public as natural-fiber products.

PAR. 5. Products manufactured from silk, the product of the cocoon of the silkworm, for many years have been held, and still are held, in great public esteem because of their outstanding qualities, and there has been for many years, and still is, a public demand for such products.

PAR. 6. The respondents, except Herman Seldin and Nathan Lieberman, sell, in commerce as aforesaid, garments composed wholly or in part of rayon, which garments simulate in texture and appearance garments composed of natural fibers. Respondents do not inform the purchasing public of the fact that the garments which resemble natural-fiber garments in texture and appearance are made wholly or in part of rayon and not of natural fibers.

PAR. 7. The Commission finds the practice of the respondents, except Herman Seldin and Nathan Lieberman, in offering for sale and selling said garments manufactured wholly or in part of rayon, which resemble in texture and appearance garments manufactured from natural fibers, in commerce as aforesaid, without disclosing, in words familiar to the purchasing public, the fact that said garments are composed wholly or in part of rayon is misleading and deceptive and many members of the purchasing public are thereby led to believe that said garments are composed wholly or in part of silk, the product of the cocoon of the silkworm, or other natural fibers.

PAR. 8. Respondents Herman Seldin and Nathan Lieberman, copartners trading as Gil Sportwear Co., are engaged in the introduction and manufacture for introduction into commerce, and in the offering for sale, sale, transportation, and distribution in commerce, of wool products as such products are defined in the Wool Products Labeling Act of 1939. 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 Herman Seldin and Nathan Lieberman have violated the provisions of said act and said rules and regulations in the introduction and manufacture for introduction into commerce, and have violated the provisions of said act and said rules and regulations in the offering for sale, sale, transportation, and distribution of wool products in interstate commerce, by causing said wool products to be misbranded within the intent and meaning of said act and the rules and regulations.

PAR. 9. Among the wool products introduced and manufactured for introduction into commerce by Herman Seldin and Nathan Lieberman, copartners trading as Gil Sportwear Co., and offered for sale, sold, transported, and distributed in said commerce, were articles of wearing apparel such as ladies' coats, dresses, and suits. Exemplifying respondents' practice of violating said act and the rules and regulations promulgated thereunder is their misbranding of the aforesaid

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articles of wearing apparel in violation of the provisions of said act and said rules and regulations by failing to affix to said wearing apparel 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 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 name of one or more persons subject to section 3 of said act with respect to such wool product, or the registered identification number of such person or persons as provided for in rule 4 of the regulations as amended.

PAR. 10. While the complaint contained certain charges in addition to those mentioned herein, the Commission is of the opinion, and finds, that such charges are not sustained by the evidence.

CONCLUSION

The acts, practices, and methods of respondents Herman Seldin and Nathan Lieberman, copartners trading as Gil Sportwear Co., as found in paragraphs 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 the acts, practices, and methods of the aforesaid respondents, and the acts, practices, and methods of respondents Gay Time Frock Co. of Scranton, Gay Time Frock Co., Leo Simon, and Benjamin F. Rosner as found in paragraphs 6 and 7 hereof, are all to the prejudice and injury of the public and constitute unfair and deceptive acts and practices in commerce within the intent and meaning of the Federal Trade Commission Act.

ORDER TO CEASE AND DESIST

This proceeding having been heard by the Federal Trade Commission upon the complaint of the Commission, the answer of respondents Herman Seldin and Nathan Lieberman admitting the material allegations of fact in the complaint insofar as it related to them and waiving all intervening procedure and further hearing as to said facts, the answer of the other respondents admitting certain allega-

tions and denying others, testimony and other evidence introduced before a trial examiner of the Commission theretofore duly designated by it, recommended decision of the trial examiner, with exceptions thereto, and briefs and oral argument of counsel; and the Commission having made its findings as to the facts and conclusion that respondents Herman Seldin and Nathan Lieberman have violated the provisions of the Wool Products Labeling Act of 1939 and the rules and regulations promulgated thereunder and that all of the respondents, except Adolph Rosner and Harold A. Fein, have violated the provisions of the Federal Trade Commission Act:

It is ordered, That the respondents Gay Time Frock Co. of Scranton, a Pennsylvania corporation, Gay Time Frock Co., an Illinois corporation, their officers, agents, representatives, and employees, and Leo Simon and Benjamin F. Rosner individually, and their respective agents, representatives, and employees, directly or through any corporate or other device, in connection with the offering for sale, sale and distribution of women's wearing apparel and other articles in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from advertising, offering for sale, or selling products composed in whole or in part of rayon without clearly disclosing such rayon content.

It is further ordered, That the respondents Herman Seldin and Nathan Lieberman, copartners trading as Gil Sportwear Co., or trading under any other name, and their respective agents, representatives, and employees, directly or through any corporate or other device, in connection with the introduction or manufacture for introduction into commerce, or the offering for sale, sale, transportation, or distribution in commerce, as "commerce" is defined in the aforesaid acts, 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, do forthwith cease and desist from misbranding such apparel or other 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 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.

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

(c) The name or the registered identification number of the manufacturer of such wool product or of one or more persons engaged in introducing such wool product into commerce, or in the offering for sale, sale, transportation, or distribution thereof in commerce, as "commerce" is defined in the Federal Trade Commission Act and in 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 complaint herein as to Adolph Rosner and Harold A. Fein be, and the same hereby is, dismissed.

It is further ordered, That the respondents against whom this order is directed 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.

Syllabus

IN THE MATTER OF

PHILIP BARR & CO., INC. ET AL.

COMPLAINT, FINDINGS, AND ORDER IN REGARD TO THE ALLEGED VIOLATION OF SEC. 2 (C) OF AN ACT OF CONGRESS APPROVED OCT. 15, 1914 AS AMENDED BY AN ACT APPROVED JUNE 19, 1936, AND OF SEC. 5 OF AN ACT APPROVED SEPT. 26, 1914

Docket 5651. Complaint, Apr. 25, 1949—Decision, June 22, 1950

Where a corporation engaged in New York City, in buying, selling and distributing canned foods and vegetables, canned and barrelled olives and other food products; and two individuals, its officers and stockholders, who also, in order to further the practice below set out, carried on at the same location two businesses likewise thus engaged under assumed trade names and with fictitious addresses, and who made use of a fictitious name on correspondence and elsewhere;

In buying food products for their own account (as distinguished from their buying as brokers), in the course of which (1) they transmitted their own purchase orders directly to various sellers, by whom said products were invoiced and shipped to them for the account of said corporation or of said assumed trade names employed by them as above set forth; and (2) thereafter warehoused and insured said products against loss at their own expense and in their own name and for their own account, and (3) sold them at their own prices and terms and invoiced them to their customers in one of said names and otherwise assuming full credit risks and reaping a profit or sustaining a loss on each—

Received and accepted, directly or indirectly, on purchases of substantial quantities of food products made by them for their own account from sellers, who shipped the products from their respective States to them or to their customers, commissions, brokerage fees, or other compensation or allowances or discounts in lieu thereof:

Held, That such receipt and acceptance of commissions, brokerage fees, etc., under the circumstances set forth, constituted violations of subsection (c) of section 2 of the Clayton Act as amended: and

Where said individuals, engaged in making numerous and large purchases of food products from sellers in other States, pursuant to which said products were shipped and transported to them or to their customers; in advertising their business in various trade publications and journals and otherwise—

Represented that "Associated Food Factors" was a group of long-established individual organizations, and included over 250 top wholesalers and chain grocers, super markets and hotel, restaurant and bakery supply houses which operated through one buying and distributing source for its several hundred members, had offices at 401 Broadway, New York City, and offered many advantages to simplify distribution for the packer and processor of foods;

The facts being that their activities conducted under the aforesaid trade name were not for the advantage of packers and processors but were conducted for the sole benefit and advantage of said individuals; said Associated Food