

IN THE MATTER OF

MORRIS ROSEN AND ROSELINE FABRICS, INC.

COMPLAINT, FINDINGS, AND ORDERS 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 5833. Complaint, Dec. 19, 1950—Decision, May 5, 1951

Where an individual and the corporate instrumentality through which he conducted his business—

Misbranded certain wool products in violation of the Wool Products Labeling Act and rules and regulations promulgated thereunder, in that they offered, sold and distributed in commerce, 38,000 yards of piece goods, purchased in greige form, without affixing thereto the stamps, tags, labels, etc., required by said act and rules, etc.:

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

Before *Mr. Webster Ballinger*, trial examiner.

Mr. R. L. Banks, Jr. and *Mr. Jesse D. Kash* for the Commission.

Mr. William Weisman, of New York City, for respondents.

COMPLAINT

Pursuant to the provisions of the Federal Trade Commission Act and the Wool Products Labeling Act of 1939, and by virtue of the authority vested in it by said acts, the Federal Trade Commission, having reason to believe that Morris Rosen, an individual, and Roseline Fabrics, Inc., a corporation, hereinafter referred to as respondents, have violated the provisions of said acts and 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. Respondent Morris Rosen, is an individual, and Roseline Fabrics, Inc., is a corporation organized and existing under and by virtue of the laws of the State of New York with its office and principal place of business located at 1410 Broadway, New York, N. Y. Respondent, Morris Rosen, is president of Roseline Fabrics, Inc., and in control of its operations, and said respondent corporation is in fact an instrumentality through which the said Morris Rosen conducts his business.

PAR. 2. Subsequent to July 15, 1941, respondents have violated the provisions of the Wool Products Labeling Act of 1939, and the rules and regulations promulgated thereunder, by introducing into commerce, offering for sale in commerce, and selling and distributing in commerce, as "commerce" is defined in said act, wool products, as "wool products" are defined therein, which were "misbranded" within the meaning of said act in that there were not on or affixed thereto any stamps, tags, labels, or other means of identification, containing the information required by said act and in the manner and form required by the rules and regulations promulgated thereunder. Among said wool products were included approximately 38,000 yards of piece goods which were purchased, in greige form, from Raycrest Mills, Inc., in October 1948.

PAR. 3. The aforesaid acts and practices of 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.

DECISION OF THE COMMISSION

Pursuant to rule XXII of the Commission's rules of practice, and as set forth in the Commission's "Decision of the Commission and Order to File Report of Compliance", dated May 5, 1951, the initial decision in the instant matter of trial examiner Webster Ballinger, as set out as follows, became on that date the decision of the Commission.

INITIAL DECISION BY WEBSTER BALLINGER, TRIAL EXAMINER

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 on December 19, 1950, issued and subsequently served its complaint in this proceeding upon the respondents Morris Rosen, an individual, and Roseline Fabrics, Inc., a corporation, charging them, and each of them, with the use of unfair and deceptive acts and practices in commerce in violation of the provisions of those acts. On March 12, 1951, respondents filed a joint answer in which they admitted all the material allegations of fact set forth in the complaint and waived all intervening procedure and further hearing as to said facts. Thereafter this proceeding regularly came on for final hearing before the trial examiner upon the complaint and the joint admission answer of both respondents, and the trial examiner, having duly considered the record

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herein, finds that this proceeding is in the interest of the public and makes the following findings as to the facts, conclusion drawn therefrom and order.

FINDINGS AS TO THE FACTS

PARAGRAPH 1. Respondent Morris Rosen, is an individual, and respondent Roseline Fabrics, Inc., is a corporation organized and existing under and by virtue of the laws of the State of New York with its office and principal place of business located at 1410 Broadway, New York, N. Y. Respondent, Morris Rosen, is president of Roseline Fabrics, Inc., the respondent corporation being in fact an instrumentality through which the said Morris Rosen conducts his business.

PAR. 2. Subsequent to July 15, 1941, respondents offered for sale, sold and distributed in commerce, as "commerce" is defined in the Wool Products Labeling Act, wool products including 38,000 yards of piece goods purchased, in greige form, from Raycrest Mills, Inc., without affixing there to any stamps, tags, labels, or other means of identification, containing the information required by said act and in the manner and form required by the Rules and Regulations promulgated thereunder.

CONCLUSION

The aforesaid acts and practices of the respondents were 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

It is ordered, That respondents Morris Rosen, an individual, and Roseline Fabrics, Inc., a corporation, its officers, directors, representatives and agents, directly or through any corporate or other device, in connection with the introduction into commerce, or the sale, transportation, or distribution of products made in whole or in part of wool in commerce, as "commerce" is defined in the aforesaid acts, do forthwith cease and desist from misbranding products made in whole or in part of wool as 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, by failing to securely affix to or place on such products a stamp, tag, label, or other means of identification showing in a clear and conspicuous manner:

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(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 product, of any nonfibrous loading, filling, or adulterating matter;

(C) In the case of a wool product containing a fiber other than wool, the percentages by weight, in words and figures plainly legible, of the wool contents thereof;

(D) The name of the manufacturer of the wool product, or the name of one or more persons subject to section 3 of the Wool Products Labeling Act of 1939, or the registered identification number of such person or persons as provided in Rule 4 of the Regulations as amended.

Provided, That the foregoing 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 provision of said act or the rules and regulations promulgated thereunder.

ORDER TO FILE REPORT OF COMPLIANCE

It is ordered, That the respondents herein 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 the order to cease and desist [as required by said declaratory decision and order of May 5, 1951].

IN THE MATTER OF

HERBOLD LABORATORY, INC., ET AL.

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

Docket 5733. Complaint, Jan. 16, 1950—Decision, May 7, 1951

Where a corporation and its president who formulated and controlled its policy and practices, engaged in selling and distributing a cosmetic preparation designated "Herbold Pomade"; in advertisements including circulars and newspapers, as well as other advertising matter—

(a) Represented falsely that their said preparation would add color to the roots of the hair and prevent the hair from becoming gray, and would impart the former natural or natural-like shade or color to gray, streaked, and faded hair; the facts being that the so-called color produced upon the hair was limited to shades from gray to black and was not natural or natural-like but, on the contrary, was artificial and unnatural;

(b) Represented falsely that said preparation would help to remove loose dandruff and would keep the scalp clean and free of dandruff;

The facts being that it would not remove loose dandruff scales, but would only render them less conspicuous by causing them to adhere more closely to the scalp and hair shafts;

(c) Falsely represented that said product was safe and harmless; when in fact it contained lead, which might cause ill effects when brought into contact with the skin; and

(d) Represented falsely that it was a unique, new, and revolutionary product; With capacity and tendency to mislead and deceive a substantial portion of the purchasing public into the mistaken belief that such representations were true, and with effect of inducing it, as a result, to purchase respondent's said preparation:

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

Mr. B. G. Wilson for the Commission.

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 Herbold Laboratory, Inc., a corporation, and Milton Herbold, individually and as an officer of Herbold Laboratory, Inc., a corporation, hereinafter referred to as respondents, have violated the provisions of the 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: