

IN THE MATTER OF
SILK-O-LITE MANUFACTURING CORP.

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

Docket 5709. Complaint, Nov. 9, 1949—Decision, May 8, 1951

Where a corporation engaged in the manufacture and interstate sale and distribution of lamp shades, of which 85 percent were composed solely of rayon and of which 15 percent had silk shantung tops with rayon linings—

- (a) Represented through the use of the word "silk" as a part of its name, and the statements in connection therewith "Manufacturers of Silk Lamp Shades", on invoice forms, that it was a manufacturer of silk lamp shades, when in fact more than 85 percent of the fabric content of its products was rayon;
- (b) Represented through the use of the hyphenated word "Silk-O-Lite" on the tags attached to its lamp shades and the words on the reverse side thereof, "Celanese and Acetate Taffeta Top, Fine Rayon Taffeta Lining", that the entire top portion of its shades was made of material other than rayon, and, when considered in connection with the similarity in appearance of rayon and silk, conveyed thereby the deceptive impression that it was silk; and
- (c) Placed in the hands of purchasers of its products for resale the same deceptive implication through advertising data supplied by it:

Held, That such acts and practices as above set out, constituted deceptive acts and practices.

Respondent's revision of its label and advertising data subsequent to the institution of the instant proceeding, as a result of which it inserted in the label immediately under the word "Silk-O-Lite", in small type, the words "Mfg. Corp." and, in lieu of the words "Celanese and Acetate Taffeta Top, Fine Rayon Taffeta Lining", the words "Fine Rayon Celanese Taffeta"; revised its advertising data so as to describe the material in the top of its shades as "Celanese Rayon Taffeta", and the material in the lining as "rayon"; and revised its invoices so that there appeared therein under the word "Description", the words "The fabric content of this lamp shade group is fine Celanese Rayon Taffeta; Rayon lined for durability"; constituted no defense to the charges contained in the complaint, and, if permanently adopted and adhered to, would not correct the deceptive inference flowing from the word "silk" in the hyphenated word "Silk-O-Lite" in respondent's corporate name and trade mark, and the words "Manufacturers of Silk Lamp Shades".

Before *Mr. Webster Ballinger*, trial examiner.

Mr. Edward F. Downs for the Commission.

Nemeroff, Jelline, Danzig & Paley, of New York City, for respondent.

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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 Silk-O-Lite Manufacturing Corp., hereinafter referred to as respondent, has 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. Respondent Silk-O-Lite Manufacturing Corp. 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 230 Fifth Avenue, New York, N. Y.

PAR. 2. The respondent is now and for several years last past has been engaged in the manufacture, sale, and distribution of lamp shades, which are sold principally to retail stores for resale to the purchasing public. In the course and conduct of its said business, respondent causes said products when sold to be transported from its place of business in the State of New York or from its factory in the State of New Jersey to the purchasers thereof located in various other States of the United States and in the District of Columbia. Respondent maintains and at all times mentioned herein has maintained a 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. From about 1924 to about 1941 respondent was engaged in the manufacture and sale of silk lamp shades exclusively, during which time respondent earned and enjoyed a favorable reputation throughout the industry for its said silk lamp shades, and the fact that respondent was the manufacturer of silk lamp shades became firmly implanted in the public mind. About 1941 silk became unobtainable due to war conditions, and as a consequence respondent changed to the manufacture of rayon lamp shades.

PAR. 4. In the course and conduct of its business respondent used the trade-mark "Silk-O-Lite" to designate its silk lamp shades, and continued to use the same trade-mark to designate its rayon lamp shades when the manufacture of silk lamp shades was discontinued. It is and has been respondent's practice to place a label bearing the trade-mark "Silk-O-Lite" on each lamp shade and in the case of rayon lamp shades to also attach a tag thereto on one side of which

appears the size of the shade and on the other side of which appears the printed words:

Celanese and Acetate Taffeta Tops
Fine Rayon Taffeta Lining

and to use an invoice form on which appears the legend:

Silk-O-Lite Manufacturing Corp.
Manufacturers of
Silk Lamp Shades & Novelties.

Respondent also places in the hands of the purchaser of its products advertising data bearing the trade-mark "Silk-O-Lite" and describing respondent's products as being made of acetate and celanese taffeta, with rayon linings.

PAR. 5. The use by respondent of the word "Silk-O-Lite" in its corporate name and as a trade-mark printed on its stationery and labels, and on its invoice forms together with the express representation that respondent manufactures silk lamp shades, is a representation to customers that respondent's lamp shades are composed of silk, the product of the cocoon of the silkworm. In truth and in fact practically all of respondent's lamp shades are made of rayon, with only a very small percentage of its shades being made of silk. Furthermore, respondent by the use of the statement "Celanese and Acetate Taffeta Tops Fine Rayon Taffeta Lining" on the tag attached to said shades, and in advertising data placed in the hands of its purchasers, represented that the tops of said shades were made of material other than rayon. In truth and in fact celanese and acetate are a form of rayon.

PAR. 6. The use by respondent of the said false and misleading statements and representations in the sale and distribution of the aforesaid products has had, and now has, the capacity and tendency to, and does, mislead and deceive purchasers and prospective purchasers of respondent's said products into the erroneous and mistaken belief that such false statements and representations are true, and to cause, and does cause, a substantial portion of the purchasing public to purchase respondent's products as a result of such mistaken belief.

PAR. 7. The aforesaid acts and practices of respondent 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.

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

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Order to File Report of Compliance," dated May 8, 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 the Federal Trade Commission on November 9, 1949, issued and subsequently served its complaint in this proceeding upon respondent Silk-O-Lite Manufacturing Corp., a corporation, charging it with 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 respondent's answer thereto, a stipulation was entered into whereby it was stipulated and agreed that a statement of facts, signed and executed by counsel for the respondent and by Edward F. Downs for the Federal Trade Commission, subject to approval by the trial examiner, may be taken as the facts in this proceeding, in lieu of testimony in support of and in opposition to the charges stated in the complaint. Said stipulation as to the facts expressly provides that upon appeal to or review by the Commission said stipulation may be set aside by the Commission and this matter remanded for further proceedings under the complaint. Thereafter counsel submitted their respective requests for findings as to the facts and conclusions, oral argument not having been requested, and this proceeding regularly came on for final consideration by the trial examiner upon the complaint, answer and stipulation, said stipulation having been approved by the trial examiner, who after duly considering the record 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 Silk-O-Lite Manufacturing Corp., 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 230 Fifth Avenue, New York, N. Y.

PAR. 2. Respondent is now and for several years last past has been engaged in the manufacture, sale, and distribution of lamp shades which are sold principally to retail stores for resale to the purchasing public. In the course and conduct of its said business respondent causes said products, when sold, to be transported from its place of business in the State of New York, or from its factory in the State of

New Jersey, to the purchasers thereof located in various other States of the United States and in the District of Columbia. Respondent maintains, and at all times mentioned herein has maintained, a 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. From about 1924 to about 1930 respondent was engaged in the manufacture and sale of georgette, tub silk, and radium silk mixed with cotton sateen and miscellaneous cotton fabrics. From 1931 until 1936 the respondent manufactured and sold lamp shades in the following proportions: one-half manufactured products were made of radium silk with rayon linings; one-half were made of rayon taffeta with rayon linings. From 1936 to 1940 the products of the respondent were composed of 75 percent rayon and the remaining 25 percent were silk shantung tops with rayon linings. From 1940 until the present time about 85 percent of the respondent's products were composed solely of rayon, 15 percent of the products having silk tops with rayon linings. During this time the respondent also manufactured and sold in fluctuating quantities shades made of parchment.

PAR. 4. In the course and conduct of its business respondent has used the trade mark "Silk-O-Lite" to designate all of its shades including rayon, silk, and parchment. Until about 1945 respondent placed no tags or labels on its products. Thereafter a label bearing the trade mark "Silk-O-Lite" was placed on each lamp shade, and in the case of rayon lamp shades a tag was also attached thereto on one side of which appeared the size of the shade and on the other side of which appeared the printed words:

Celanese and Acetate Taffeta Top

Fine Rayon Taffeta Lining

Respondent used an invoice form on which appeared the legend;

Silk-O-Lite Manufacturing Corp.

Manufacturers of

Silk Lamp Shades * *

Respondent also placed in the hands of the purchaser of its products advertising data bearing the trade mark "Silk-O-Lite" and describing respondent's products as being made of acetate and celanese taffeta with rayon linings.

PAR. 5. Since the institution of this proceeding respondent has revised its label and advertising data described in paragraph 4 by inserting in the label immediately under the word "Silk-O-Lite" in small type the words "Mfg. Corp." and in lieu of the words "Celanese and Acetate Taffeta Top, Fine Rayon Taffeta Lining" the words "Fine

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Rayon Celanese Taffeta"; has revised its advertising data and now describes the material in the top of its shades as "Celanese Rayon Taffeta" and the material in the lining as "rayon," and has revised its invoices so that there now appears thereon under the word "Description" the following words "The fabric content of this lamp shade group is fine Celanese Rayon Taffeta; Rayon lined for durability."

CONCLUSION

The use by respondent of the word "silk" as a part of the hyphenated word "Silk-O-Lite" in its corporate name. "Silk-O-Lite Manufacturing Corp.," was and is an implied representation, and when considered in connection with the statement immediately under the corporate name "Manufacturers of Silk Lamp Shades * * *," it was and is an express representation that it was and is a manufacturer of silk lamp shades, whereas, in truth and in fact, it was and is a manufacturer of lamp shades, more than 85 percent of the fabric content of which was and is rayon.

The use by respondent of tags attached to its lamp shades bearing the hyphenated word "Silk-O-Lite" on the face and on the reverse side the words "Celanese and Acetate Top, Fine Rayon Taffeta Lining," and identical representation of its shades in advertising data placed in the hands of purchasers of its products for resale constituted and implied representation that the entire top portion of such shades were made of material other than rayon which, when considered in connection with the similarity in appearance of rayon and silk conveyed the deceptive and erroneous impression that the entire top portion of such shades were made of silk.

Respondent's revision of its labels, invoices, and advertising data subsequent to the institution of this proceeding, as set forth in finding 5, constitutes no defense to the charges contained in the complaint, and if permanently adopted and adhered to would not correct the deceptive inference flowing from the word "silk" in the hyphenated word "Silk-O-Lite" appearing in the respondent's corporate name and trade mark, and the words "Manufacturers of Silk Lamp Shades * * *" appearing immediately under its corporate name.

The acts and practices of the respondent in the respects above indicated constitute deceptive acts and practices within the intent and meaning of section 5 of the Federal Trade Commission Act.

ORDER

It is ordered, That respondent Silk-O-Lite Manufacturing Corp., its officers, directors, agents and employees, directly or through any

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corporate or other device in connection with the sale or offering for sale and distribution of lamp shades in commerce, as "commerce" is defined in the Federal Trade Commission Act do forthwith cease and desist from:

1. The use of the corporate name "Silk-O-Lite Manufacturing Corp.," unless in immediate connection and conjunction therewith there appear clearly and conspicuously the words "Manufacturers of Rayon Lamp Shades."

2. The use of the trade name "Silk-O-Lite," in connection with the offering for sale, or sale of its lamp shades, unless in immediate connection and conjunction therewith there appear clearly and conspicuously the words "A Trade Name" and designating all the constituent materials or fibers therein contained.

3. Describing in advertising data or on tags or labels or otherwise its lamp shades made of rayon as "Celanese and Acetate Taffeta" without disclosing that the products so described are made of rayon.

ORDER TO FILE REPORT OF COMPLIANCE

It is ordered, That the respondent herein shall, within sixty (60) days after service upon it of this order, file with the Commission a report in writing setting forth in detail the manner and form in which it has complied with the order to cease and desist [as required by said declaratory decision and order of May 8, 1951].

Complaint

IN THE MATTER OF

PRATT AND POMARS ASSOCIATES, INC., ET AL.

COMPLAINT, FINDINGS, AND ORDERS IN REGARD TO THE ALLEGED VIOLATION
OF SEC. 5 OF AN ACT OF CONGRESS APPROVED SEPT. 26, 1914*Docket 5849. Complaint, Feb. 20, 1951—Decision, May 8, 1951*

Where a corporation and its two officers, engaged in making collections for their clients of delinquent accounts, both within and without the State of New York, prior to November 30, 1950 (since which time they limited their collection business to delinquent debtors located only in said state);

In attempting to ascertain current addresses of persons from whom they were endeavoring to collect monies due their clients, as well as the names and addresses of such persons' employers and other information concerning them—

Falsely represented, through the use, singly and in combination, of the phraseology "Placement Clerk", "Divisional Registry", "Industrial Bureau", "Application Clerk", "Call for Interview", and "Appointment Clerk", to the persons to whom they sent form post cards in the foregoing connection, that they operated an industrial bureau; were engaged in personnel work and in the employment of workers in connection therewith; and that the information sought was in connection with the placement or appointment of the recipient of the card to a position;

With capacity and tendency to mislead and deceive persons to whom said cards were sent into the mistaken belief that such representations were true and thereby induce the recipients to call respondents and give information which they otherwise would not have supplied:

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

Before *Mr. Webster Ballinger*, trial examiner.

Mr. J. W. Brookfield, Jr., for the Commission.

Mr. Sol H. Erstein, of New York City, for respondents.

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 Pratt and Pomars Associates, Inc., a corporation, and Harold A. Pomars, and Ida May Pomars, individually and as officers of said corporation, hereinafter referred to as 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:

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PARAGRAPH 1. Respondent Pratt and Pomars Associates, Inc., is a corporation organized and doing business under and by virtue of the laws of the State of New York with its office and principal place of business located at 45 West 34th Street, in the city of New York, New York. Respondents Harold A. Pomars and Ida May Pomars are President and Secretary, respectively, of respondent corporation and formulate, direct and control the policies and practices of said corporation.

PAR. 2. Respondents are now, and for more than 5 years last past have been, engaged in conducting a collection agency and in collecting accounts owed to creditor clients of said respondents. Said clients are located both within and without the State of New York, as are also those from whom the respondents endeavor to collect such delinquent accounts. Said respondents, in the course and conduct of their said business, are engaged in commercial intercourse and communication with their clients and their clients' debtors located in various States of the United States.

PAR. 3. In the course and conduct of their said business, respondents frequently attempt to ascertain current addresses of persons from whom they are endeavoring to collect money due their clients, as well as the names and addresses of the employers of such persons and other information about said persons. For the purpose of obtaining such information respondents have employed and now employ various methods including the use of certain written communications, typical of which are the following:

Post cards are addressed and mailed to the debtors and contain the following wording:

Registry No. -----
It is urgent to call at once LO 4-5878
Mr. John Walker, Placement Clerk Ext. 8
Divisional Registry

Call at once
Industrial Bureau
Longacre 4-5878
Dept. -----

Application Clerk

Call for Interview
Longacre 4-5878
Extension -----

Appointment Clerk

PAR. 4. Through the use, singly and in combination, of the phraseology "Placement Clerk," "Divisional Registry," "Industrial Bureau," "Application Clerk," "Call for Interview" and "Appointment Clerk," respondents represented to the persons to whom the cards are sent that they operated an industrial bureau; were engaged in personnel work and in the employment of workers in connection therewith; and that the information sought is in connection with the placement or appointment of the recipient of the card to a position.

PAR. 5. The said representations are false, misleading, and deceptive. In truth and in fact, respondents do not operate an industrial bureau nor are they engaged in personnel or employment services. On the contrary their only business is that of collecting delinquent accounts and the information sought to be obtained is for use by respondents only in the collection of their clients' accounts.

PAR. 6. The use as hereinabove set forth of the false, misleading, and deceptive statements, representations, and designations, has had and now has the capacity and tendency to mislead and deceive persons to whom said post cards were sent into the erroneous and mistaken belief that the said statements and representations were true and thus to induce the recipients to call respondents and give information which they otherwise would not have supplied.

PAR. 7. The aforesaid acts and practices of 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.

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 8, 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, the Federal Trade Commission on February 20, 1951, issued and subsequently served its complaint in this proceeding upon respondents Pratt & Pomars Associates, Inc., a corporation, and Harold A. Pomars and Ida May Pomars, individually and as officers of said corporation, charging them with the use of unfair and deceptive acts and practices

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in commerce in violation of the provisions of said act. After the issuance of said complaint respondents filed a joint answer in which they admitted substantially all of the material allegations of fact set forth on the complaint and answer, and waived all intervening proceedings. Thereafter, the proceeding regularly came on for final consideration by the above named trial examiner theretofore duly designated by the Commission upon the complaint, and answer thereto, and said trial examiner, having duly considered the record 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 Pratt and Pomars Associates, Inc., is a corporation organized and doing business under and by virtue of the laws of the State of New York with its office and principal place of business located at 45 West 34th Street, in the city of New York, N. Y. Respondents Harold A. Pomars and Ida May Pomars are president and secretary, respectively, of the respondent corporation and formulate, direct, and control the policies and practices of said corporation.

PAR. 2. The individual respondents Harold A. Pomars and Ida May Pomars for more than 5 years last past have been engaged exclusively in the business of making collections for their clients of delinquent accounts, the business being conducted in the name of the corporate respondent Pratt and Pomars Associates, Inc. Their clients were and are located in New York as well as other States. Prior to the 30th day of November 1950, respondents endeavored to locate delinquent debtors located in various States, including the State of New York, and make collection of monies due their clients. Since November 30, 1950, respondents have confined their said business operations to delinquent debtors residing in the State of New York. In the course and conduct of their said business respondents were, prior to November 30, 1950, engaged in commercial intercourse and communication with their clients and their clients' delinquent debtors located in various States of the United States. Since November 30, 1950, while representing clients in various States of the United States with whom they are and have been in commercial intercourse and communication respondents have confined their collection business to delinquent debtors located only in the State of New York.

PAR. 3. In the course and conduct of their said business, respondents have and do now frequently attempt to ascertain current addresses of persons from whom they are endeavoring to collect monies due

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their clients, as well as the names and addresses of the employers of such persons and other information about said persons. For the purpose of obtaining such information respondents have employed and now employ various methods including the use of certain written communications, typical of which are the following:

Post cards are addressed and mailed to the debtors and contain the following wording:

Registry No. -----

It is urgent to call at once LO 4-5878

Mr. John Walker, Placement Clerk Ext. 8

Divisional Registry

Call at once

Industrial Bureau

Longacre 4-5878

Dept. -----

Application Clerk

Call for Interview

Longacre 4-5878

Extension -----

Appointment Clerk

Since November 30, 1950, said post cards have been forwarded by respondents only to the New York States addresses of delinquent debtors, and not to any place outside of said State.

PAR. 4. Through the use, singly and in combination, of the phraseology "Placement Clerk," "Divisional Registry," "Industrial Bureau," "Application Clerk," "Call for Interview" and "Appointment Clerk," respondents have falsely represented and now falsely represent to the persons to whom the cards were and are sent that they have operated and now operate an industrial bureau; were and are engaged in personnel work and in the employment of workers in connection therewith; and that the information sought is in connection with the placement or appointment of the recipient of the card to a position.

PAR. 5. The use of the false, misleading, and deceptive statements, representations and designations, above set forth, has had and now has the capacity and tendency to mislead and deceive persons to whom said post cards were sent into the erroneous and mistaken belief that the said statements and representations were true and thus to induce the recipients to call respondents and give information which they otherwise would not have supplied.

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CONCLUSION

The acts and practices of the respondents as set forth in the findings of fact were and are 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

It is ordered, That Pratt and Pomars Associates, Inc., a corporation, its officers, directors, agents, and employees, and Harold A. Pomars and Ida May Pomars, individually, either directly or through any corporate or other devices in connection with the use in commerce, as "commerce" is defined in the Federal Trade Commission Act, of postal or other cards, or any other printed or written material of similar nature do forthwith cease and desist from:

Using any of the words "Placement Clerk," "Divisional Registry," "Industrial Bureau," "Application Clerk," "Call for Interview," "Appointment Clerk," or otherwise representing directly or by implication that respondents operate an industrial bureau, or are engaged in personnel work and in the employment of workers in connection therewith, or that the information sought is in connection with the placement or appointment of the person to whom the card is addressed to a position, or that respondents' business is other than that of a collection agency.

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 8, 1951].

Complaint

IN THE MATTER OF

HENRY MODELL & COMPANY, INC., ET AL.

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

Docket 5805. Complaint, Sept. 5, 1950—Decision, May 12, 1951

The word "wool" is understood by the trade and among the purchasing public to mean the fiber from the fleece of the sheep or lamb, or hair of the Angora or Cashmere goat, including the so-called specialty fibers from the hair of the camel, alpaca, llama and vicuna, which has never been reclaimed from any woven or felted products, and is wholly free from both "reprocessed wool" and "reused wool".

"Reprocessed wool" means the resulting fibers made from a woven or felted wool product which has never been utilized in any way by the ultimate consumer.

"Reused wool" means the resulting fiber when wool or reprocessed wool has been spun, woven, knitted or felted into a wool product, and after having been used by an ultimate consumer, is subsequently reduced to a fiber state.

Where a corporation and its three officers engaged in selling at wholesale and at retail various articles of merchandise including blankets and wearing apparel, and in the interstate sale and distribution of their said products; in advertising in newspapers, circulars, and other advertising matter disseminated among the trade and the purchasing public throughout the United States—

Misrepresented the constituent fiber or material of which certain blankets and pea-jackets were composed through the use of such words as "new, 100% wool", "100% wool", "brand new, all wool", or "100% all wool", to describe said products; the facts being that the products in question were composed wholly or largely of "reprocessed wool" or "reused wool"; as revealed by the labeling thereof as required under the Wool Products Labeling Act;

With capacity and tendency to mislead a substantial portion of the purchasing public as to the constituent fiber or material used in the manufacture of their said products, and with the result that many members of the purchasing public, as a consequence, purchased substantial quantities thereof:

Held, That such acts and practices, under the circumstances set forth, were all to the prejudice of the public and constituted unfair acts and practices in commerce.

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

Mr. Edward L. Smith and *Mr. H. D. Stringer* for the Commission.

Mr. Milton Solomon, of New York City, for respondents.

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 Henry Modell & Co., Inc., and Henry Modell, Rose Modell, and William Modell, individually and as officers of Henry Modell & Co., Inc., hereinafter referred to as 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 respondent, Henry Modell & 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 700 Broadway, New York, N. Y. Said respondent is now and for several years last past has been engaged in selling at wholesale and at retail various articles of merchandise including blankets and articles of wearing apparel.

The respondents, Henry Modell, Rose Modell, and William Modell, are officers of respondent, Henry Modell & Co., Inc., and as such determine, direct, and control the merchandising policies of said corporate respondent and the acts and practices hereinafter set forth and described.

Respondents cause and have caused their said products, when sold by them, during all the times mentioned herein, to be transported from the State of New York to various purchasers thereof at their respective points of location in the various 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 said products among and between the various States of the United States and in the District of Columbia.

PAR. 2. In the course and conduct of their said business the respondents have engaged and are now engaged in the practice of falsely representing the constituent fiber or material of which the said products sold and distributed by them in commerce are made. In furtherance of this practice, and for the purpose of inducing the purchase of its said products, respondents have caused false statements and representations purporting to be descriptive of such products and their respective constituent fiber or materials to be inserted in newspapers, circulars and other types of advertising matter disseminated among the trade and the purchasing public throughout the United States.

PAR. 3. Among and typical of the acts and practices above described, the respondents in the aforesaid advertising matter represent said products as follows:

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NEW 100% WOOL GREY
BLANKETS*

. . .

#6058 . . . 100% Wool . . .

Good all wool Blankets . . .

*Labeled

BRAND NEW, ALL WOOL*
GREY
BLANKETS . . .

*Labeled as to wool content.

#6058 . . .

100% all wool . . .

100%

WOOL* CAMP BLANKET

BRAND NEW BATTLESHIP GREY

. . .

Labeled as to wool content.

HEAVY ALL WOOL—NAVY-STYLE

Pea-Jackets . . . made of windproof 33 ounce all-wool*

. . .

*Labeled for wool content.

In truth and in fact said blankets and pea-jackets were not composed of NEW 100% WOOL, 100% WOOL, BRAND NEW, ALL WOOL, ALL WOOL, or 100% all wool, within the meaning of the word "wool" as hereinbelow set out in paragraph 4, but were in fact composed wholly or largely of "reprocessed wool" and/or "reused wool." Certain of said blankets when sold and delivered by the respondents were labeled under the provisions of the Wool Products Labeling Act as containing 45 percent reprocessed wool, 45 percent reused wool, and 10 percent wool, while others were labeled under such act as containing 30 percent wool and 70 percent reprocessed wool. The pea-jackets were labeled under such act as containing 100 percent reprocessed wool.

PAR. 4. The word "wool" is understood by the trade and among the purchasing public to mean the fiber from the fleece of the sheep or lamb, or hair of the Angora or Cashmere goat, including the so-called specialty fibers from the hair of the camel, alpaca, llama and vicuna, which has never been reclaimed from any woven or felted product, as distinguished from "reprocessed wool" and/or "reused wool"; and its use by respondents as aforesaid causes purchasers and prospective purchasers to have the mistaken and erroneous belief that the said products so advertised are composed wholly of fibers falling within the classification "wool" as hereinabove set out, rather than "reprocessed wool" and/or "reused wool."

PAR. 5. The use by the respondents of the aforesaid representations in advertising their products has the capacity and tendency to mislead and deceive, and has misled and deceived, a substantial portion of the purchasing and consuming public as to the constituent fiber or material used in the manufacture of respondents' said products and as a result of that deception or mistaken belief many members of the purchasing public have purchased in commerce and are likely to continue to purchase in commerce substantial quantities of respondents' said 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 or deceptive acts or 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 12, 1951, the initial decision in the instant matter of trial examiner John W. Addison, as set out as follows, became on that date the decision of the Commission.

INITIAL DECISION BY JOHN W. ADDISON, TRIAL EXAMINER

Pursuant to the provisions of the Federal Trade Commission Act, the Federal Trade Commission on September 5, 1950, issued and subsequently served its complaint in this proceeding upon respondents, Henry Modell & Co., Inc., a corporation, and upon Henry Modell, Rose Modell, and William Modell, individually and as officers of the corporation, charging them with the use of unfair or deceptive acts or practices in commerce within the intent and meaning of the Federal Trade Commission Act. After the issuance of the complaint and the filing of respondents' answer thereto, hearings were held at which counsel supporting the complaint rested after introducing testimony and other evidence in support of the allegations of the complaint before the above named trial examiner, theretofore duly designated by the Commission, which is duly recorded and filed in the office of the Commission. At the last hearing on November 16, 1950, the taking of testimony at distant points was obviated by agreement between counsel; and on December 26, 1950, and January 5, 1951, to obviate further hearings counsel for respondents joined with counsel supporting the complaint in filing proposed findings, conclusions, and order to cease and desist upon the express reservation of right to withdraw the proposals and introduce testimony in the event that the proposals are not adopted by the trial examiner or that the Commission does not approve

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Findings

them, but waiving the introduction of testimony on behalf of respondents if the proposals and reservation are acceptable. Thereafter the proceeding regularly came on for final consideration by said trial examiner on the complaint, the answer thereto, testimony and other evidence, proposed findings as to the facts, conclusions and order presented by opposing counsel jointly (oral argument not having been requested); and the trial examiner, having duly considered the record herein, finds that this proceeding is in the interest of the public and that the proposals jointly filed by opposing counsel are in accord with the testimony and adequately cover all material allegations in the complaint and with minor verbal changes adopts them as the basis for this his findings as to the facts, conclusion drawn therefrom, and order:

FINDINGS AS TO THE FACTS

PARAGRAPH 1. The respondent, Henry Modell & 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 700 Broadway, New York, N. Y. Said respondent is now and for several years last past has been engaged in selling at wholesale and at retail various articles of merchandise including blankets and articles of wearing apparel. The respondents, Henry Modell, Rose Modell, and William Modell, are officers of respondent, Henry Modell & Co., Inc., and as such determine, direct and control the merchandising practices of said corporate respondent and the acts and practices hereinafter set forth and described.

PAR. 2. The respondents cause and have caused their said products when sold by them during all the times mentioned herein to be transported from the State of New York to various purchasers thereof at their respective points of location in the various 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 said products 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 the respondents have engaged in the practice of erroneously representing the constituent fiber or material of which the said products sold and distributed by them in commerce are made. In furtherance of this practice and for the purpose of inducing the purchase of its said products respondents have caused erroneous and misleading representations purporting to be descriptive of such products and their respective constituent fiber or materials to be inserted in newspapers, circulars

and other types of advertising matter disseminated among the trade and the purchasing public throughout the United States.

PAR. 4. Typical of the acts and practices, above described, the respondents in the aforesaid advertising matter represent said products as follows:

NEW 100% WOOL GREY
BLANKETS*

#6058 . . . 100% Wool . . .
Good all wool Blankets . . .
*Labeled

BRAND NEW, ALL WOOL*
GREY
BLANKETS . . .

*Labeled as to wool content.

#6058 . . .
100% all wool . . .

100%
WOOL* CAMP BLANKET
BRAND NEW BATTLESHIP GREY

Labeled as to wool content.

HEAVY ALL-WOOL—NAVY-STYLE

Pea-Jackets . . . made of windproof 33 ounce all-wool*

*Labeled for wool content.

PAR. 5. The said blankets and pea-jackets were not composed of NEW 100% WOOL, 100% WOOL, BRAND NEW, ALL WOOL, or 100% all wool, within the meaning of the word "wool" as hereinbelow set out, but were in fact composed wholly or largely of "reprocessed wool" or "reused wool." Certain of said blankets when sold and delivered by the respondents were labeled under the provisions of the Wool Products Labeling Act as containing 45 percent reprocessed wool, 45 percent reused wool, and 10 percent wool, while others were labeled under such act as containing 30 percent wool and 70 percent reprocessed wool. The pea-jackets were labeled under such act as containing 100 percent reprocessed wool.

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Order

PAR. 6. The word "wool" is understood by the trade and among the purchasing public to mean the fiber from the fleece of the sheep or lamb, or hair of the Angora or Cashmere goat, including the so-called specialty fibers from the hair of the camel, alpaca, llama, and vicuna, which has never been reclaimed from any woven or felted product, and is wholly free from both "reprocessed wool" and "reused wool"; and its use by respondents as aforesaid causes purchasers and prospective purchasers to have the mistaken and erroneous belief that the said products so advertised are composed wholly of fibers falling within the classification "wool" as hereinabove set out, and contain no "reprocessed wool" and no "reused wool." "Reprocessed wool" means the resulting fiber made from a woven or felted wool product which has never been utilized in any way by the ultimate consumer. "Reused wool" means the resulting fiber when wool or reprocessed wool has been spun, woven, knitted, or felted into a wool product and after having been used by an ultimate consumer is subsequently reduced to a fiber state.

PAR. 7. The use by the respondents of the aforesaid representations in advertising their products has the capacity and tendency to mislead a substantial portion of the purchasing and consuming public as to the constituent fiber or material used in the manufacture of respondents' said products and as a result of that mistaken belief many members of the purchasing public have purchased in commerce substantial quantities of respondents' said products.

CONCLUSION

The acts and practices of respondents, as hereinabove set out, are all to the prejudice of the public and constitute unfair acts and practices in commerce within the intent and meaning of the Federal Trade Commission Act.

ORDER TO CEASE AND DESIST

It is ordered, That the respondents, Henry Modell & Co., Inc., a corporation, and its officers, and Henry Modell, Rose Modell, and William Modell, and their representatives, agents and employees, directly or through any corporate or other device in connection with the offering for sale, sale and distribution of its blankets and other merchandise in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. Misrepresenting in any way the constituent fiber or material used in its merchandise or the respective percentages thereof;

Order

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2. Describing, designating or in any way referring to any product or portion of a product which is "reprocessed wool" or "reused wool" as "wool";

3. Using the word "wool" to describe, designate or in any way refer to any product or portion of a product which is not the fiber from the fleece of the sheep or lamb, or hair of the Angora or Cashmere goat, or hair of the camel, alpaca, llama, or vicuna which has never been reclaimed from any woven or felted product; provided however, nothing herein shall prohibit the use of the terms "reprocessed wool" or "reused wool" when the products or those portions thereof referred to are composed of such fibers.

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 12, 1951].

Complaint

IN THE MATTER OF

S. WAXMAN AND OSCAR STEIN TRADING AS SANDY FASHIONS

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 5826. Complaint, Nov. 2, 1950—Decision, May 18, 1951

Where two partners engaged in the introduction and manufacture for introduction into commerce, and in the offer for sale, sale, distribution and transportation of wool products including ladies' coats and other products composed in whole or in part of wool, reprocessed wool or reused wool as defined in the Wool Products Labeling Act and subject to the provisions thereof and the rules and regulations promulgated thereunder—

Misbranded substantial quantities of their aforesaid wool products in violation of said Act and said rules and regulations in that they failed to affix thereto the required stamps, tags, labels or other means of identification showing the percentage of the fiber weight of wool and other fiber, and other information required thereby 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 said regulations as amended:

Held, That such acts and practices, under the circumstances set forth, were in violation of said Act and rules and regulations and constituted unfair and deceptive acts and practices in commerce within the intent and meaning of the Federal Trade Commission Act.

Before *Mr. Henry P. Alden*, trial examiner.

Mr. Jesse D. Kash for the Commission.

Stein & Stein, 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 S. Waxman and Oscar Stein, individually and as partners trading as Sandy Fashions, 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: