

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:

PARAGRAPH 1. The respondents, S. Waxman and Oscar Stein are partners trading as Sandy Fashions, with their office and principal place of business located at 251 West Fortieth Street, New York, N. Y.

PAR. 2. The respondents are engaged in the introduction and manufacture for introduction into commerce and in 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 rules and regulations promulgated thereunder. Since July 15, 1941, respondents have violated the provisions of said act and said rules and regulations in the introduction and manufacture for introduction into commerce, and in the 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. 3. Among the wool products introduced and manufactured for introduction into commerce, and sold, transported, and distributed in said commerce, as aforesaid, were ladies' coats and other products. Exemplifying respondents' practice of violating said act and the rules and regulations promulgated thereunder is their misbranding of the aforesaid products in violation of the provisions of said act and the rules and regulations by failing to affix to said garments 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. 4. The aforesaid acts, practices and methods of respondents as 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 18, 1951, the initial decision in the instant matter of trial examiner Henry P. Alden, as set out as follows, became on that date the decision of the Commission.

INITIAL DECISION BY HENRY P. ALDEN, TRIAL EXAMINER

Pursuant to the provisions of the Federal Trade Commission Act and the Wool Products Labeling Act of 1939, the Federal Trade Commission on November 2, 1950, issued and subsequently served its complaint in this proceeding upon the respondents S. Waxman and Oscar Stein, charging them as individuals and as partners trading as Sandy Fashions with the use of unfair and deceptive acts and practices in commerce in violation of the provisions of those Acts.

On January 23, 1951, the date of the initial and only hearing in this proceeding, an answer signed by both of the respondents was offered and accepted by the trial examiner. In such answer, the respondents admitted all of the material allegations of fact set forth in the complaint and waived all intervening procedure and further hearing as to the facts for the purpose of this proceeding, the enforcement or review thereof in the Circuit Court of Appeals, and for any review thereof in the Supreme Court of the United States, or for any other court proceedings in connection therewith which may be brought or instituted by virtue of the authority contained in the Federal Trade Commission Act, as amended and approved March 21, 1938.

Thereafter, this proceeding regularly came on for consideration by the above-named trial examiner, theretofore duly designated by the Commission, upon the complaint and answer thereto; and the 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. The respondents, S. Waxman and Oscar Stein, are partners trading as Sandy Fashions. Their office and principal place of business are located at 251 West Fortieth Street, New York, N. Y.

Conclusion

47 F. T. C.

PAR. 2. The respondents are now and for some time past were engaged in the introduction and manufacture for introduction into commerce and in the offering for sale, sale, distribution, and transportation 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.

PAR. 3. Among the wool products manufactured for introduction and introduced into commerce, offered for sale and sold, distributed and transported by the respondents in commerce, were ladies' coats and other products 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.

PAR. 4. Substantial quantities of respondents' aforesaid wool products manufactured for introduction and introduced into commerce, offered for sale and sold, distributed and transported in commerce since July 15, 1941, were misbranded in violation of the provisions of the Wool Products Labeling Act of 1939, and the rules and regulations promulgated thereunder, by respondents' failure to affix to said wool products 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 five 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 five 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.

CONCLUSION

The aforesaid acts, practices and methods of the respondents, as herein found, were and are in violation of the Wool Products Labeling Act of 1939 and the rules and regulations promulgated thereunder, and constitute unfair and deceptive acts and practices in commerce within the intent and meaning of the Federal Trade Commission Act.

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Order

ORDER

It is ordered, That the respondents, S. Waxman and Oscar Stein, individually and as partners trading as Sandy Fashions or under any other name, their agents, representatives and employees, directly or through any other device, in connection with the introduction of manufacture for introduction into commerce, or the sale, transportation or distribution of such wool products in commerce, as "commerce" is defined in the aforesaid acts, do forthwith cease and desist from misbranding ladies' coats or other "wool products," 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:

(a) The percentage of the total fiber weight of such wool products, exclusive of ornamentation not exceeding 5 per centum of said total fiber weight of (1) wool, (2) reprocessed wool, (3) reused wool, (4) each fiber other than wool where said percentage by weight of such fiber is 5 per centum or more, and (5) the aggregate of all other fibers;

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

(c) The percentage 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 the Wool Products Labeling Act of 1939, 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 of such Act, as amended;

Provided, That the foregoing provisions concerning misbranding shall not be construed to prohibit acts permitted by Paragraph (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

47 F. T. C.

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 18, 1951].

Order

IN THE MATTER OF

ELGIN RAZOR CORPORATION ET AL.

MODIFIED ORDER TO CEASE AND DESIST

Docket 4458. Order, May 24, 1951

Order modifying prior order of Commission, in accordance with the opinion and decision of the Court of Appeals for the Seventh Circuit on February 5, 1951, in *Galter et al. v. Federal Trade Commission*, 186 F. (2d) 810, and the court's final decree in said matter (which modified the Commission's cease and desist order issued on August 4, 1947, in *Elgin Razor Corporation et al.*, 44 F. T. C. 80, by striking therefrom paragraphs 1 (g) and 5 (f) reading "Representing as 'candid type' cameras any cameras which are not equipped with special lenses and shutters and which are incapable of taking action pictures under very unfavorable light conditions", and by striking therefrom also the names of two corporate respondents; and affirmed said order as modified;

So as to require respondents to cease and desist from the deceptive and misleading use of the words "Elgin", "Hamilton", "Remington", or "Underwood", to designate, describe or refer to their products, or as a part of their corporate or trade names, and from misrepresenting prices and guarantees in said order in detail set out.

Before *Mr. Randolph Preston*, trial examiner.

Mr. Carrel F. Rhodes and *Mr. Edward L. Smith* for the Commission.

Mr. James R. McKnight and *Nash & Donnelly*, of Chicago, Ill., for Elgin Razor Corp., Underwood Laboratories, Inc., and Underwood Industries, Inc.

Mr. Henry H. Koven and *Nash & Donnelly*, of Chicago, Ill., for Match King, Inc.

MODIFIED ORDER TO CEASE AND DESIST

This proceeding having been heard by the Federal Trade Commission upon the complaint of the Commission, the answers of the respondents, certain stipulations of fact entered into between the respondents and counsel for the Commission, and testimony and other evidence, and the Commission having made its findings as to the facts and its conclusion that the respondents have violated the provisions of the Federal Trade Commission Act and issued its order to cease and desist on August 14, 1947; and

Respondents Jack Galter, individually and as former president of Match King, Inc., a dissolved corporation, Dora M. Galter, William