

Complaint

IN THE MATTER OF

CLIFTWOOD COATS, INC., AND MAX SHAPIRO

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 5855. Complaint, Mar. 1, 1951—Decision, July 11, 1951

Where a corporation and its president, engaged in the introduction into commerce and in the offer, sale and distribution therein of wool products as defined in the Wool Products Labeling Act—

- (a) Misbranded certain of said wool products in that they (1) were falsely and deceptively labeled "100% wool", notwithstanding the fact they contained substantial quantities of rayon fiber; and (2) did not have affixed thereto tags or labels showing their constituent fibers and the percentages thereof as required by said act and the rules and regulations promulgated thereunder; and
- (b) Misbranded certain of said wool products in that (1) the interlinings were falsely and deceptively labeled as "100% wool" or as "all wool" when they contained 100% reused wool or substantial quantities of other fibers; and (2) they similarly did not have affixed thereto the tags or labels supplying the aforesaid required information:

Held, That such acts, practices and methods, under the circumstances set forth, were in violation of sections 3 and 4 of the Wool Products Labeling Act of 1939, and Rule 24 of the rules and regulations promulgated thereunder, and constituted unfair and deceptive acts and practices.

Before *Mr. Frank Hier*, trial examiner.

Mr. Jesse D. Kash for the Commission.

Mr. Robert S. Olnick, 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 Cliftwood Coats, Inc., a corporation, and Max Shapiro, individually and as an officer of said corporation, 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. Respondent Cliftwood Coats, Inc., is a corporation organized, existing, and doing business under and by virtue of the

laws of the State of New York, with its principal place of business located at 252 West Thirty-seventh Street, New York, N. Y.

Respondent Max Shapiro is president of corporate respondent and in such capacity he formulates and executes its policies and practices. His business address is the same as that of corporate respondent.

PAR. 2. Subsequent to July 15, 1941, respondents have introduced into commerce, manufactured for introduction, and offered for sale, sold and distributed in commerce, as "commerce" is defined in the Wool Products Labeling Act of 1939, wool products, as "wool products" are defined therein.

PAR. 3. Certain of said wool products were misbranded within the intent and meaning of the said act and the rules and regulations promulgated thereunder in that they were falsely and deceptively labeled "100% wool," whereas in truth and in fact said products did not contain 100 percent wool but contained substantial quantities of rayon fiber. The said wool products so labeled were further misbranded in that their constituent fibers and the percentages thereof were not shown on the tags or labels thereon as required by said Act, in the manner and form as required by the said rules and regulations.

Certain of said wool products were misbranded within the intent and meaning of the said act and rules and regulations promulgated thereunder in that the interlinings were falsely and deceptively labeled as 100 percent wool or as all wool. Whereas in truth and in fact said interlinings did not contain 100 percent wool but contained 100 percent reused wool or substantial quantities of other fibers. The said wool products' interlinings so labeled were further misbranded in that their constituent fibers and the percentages thereof were not shown on the tags or labels thereon as required by said act in the manner and form as required by the said rules and regulations.

PAR. 4. The aforesaid acts and practices and methods of respondents as alleged were and are in violation of sections 3 and 4 of the Wool Products Labeling Act of 1939 and rule 24 of 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 July 11, 1951, the initial decision in the instant matter of Trial Examiner Frank Hier, as set out as follows, became on that date the decision of the Commission.

INITIAL DECISION BY FRANK HIER, 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 March 1, 1951, issued and subsequently served its complaint in this proceeding upon the respondents Cliftwood Coats, Inc., a corporation, and Max Shapiro, individually and as an officer of such corporation, charging said respondents with the use of unfair and deceptive acts and practices in commerce in violation of those acts. On April 4, 1951, respondents filed their answer to said complaint admitting all of the material allegations of fact set forth therein, but alleging that the misbranding arose through an unintentional, unwitting and innocent mistake and requesting dismissal of the complaint on this ground. This motion for dismissal was denied by the trial examiner on April 6, 1951, and proposed findings and conclusions were directed to be filed, if desired, before April 17, 1951. No proposed findings and conclusions were filed by either counsel. Thereafter, the proceeding regularly came on for final consideration by the above-named trial examiner theretofore duly designated by the Commission upon said complaint and respondents' 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 Cliftwood Coats, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of New York with its principal place of business located at 252 West Thirty-seventh Street, New York, N. Y.

Respondent Max Shapiro is president of corporate respondent and in such capacity he formulates and executes its policies and practices. His business address is the same as that of corporate respondent.

PAR. 2. Subsequent to July 15, 1941, respondents have introduced into commerce, manufactured for introduction, and offered for sale, sold and distributed in commerce, as "commerce" is defined in the Wool Products Labeling Act of 1939, wool products, as "wool products" are defined therein.

PAR. 3. Certain of said wool products were misbranded within the intent and meaning of the said act and the rules and regulations promulgated thereunder in that they were falsely and deceptively labeled "100% wool," whereas in truth and in fact said products did not contain 100 percent wool but contained substantial quantities of rayon

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fiber. The said wool products so labeled were further misbranded in that their constituent fibers and the percentages thereof were not shown on the tags or labels thereon as required by said act, in the manner and form as required by the said rules and regulations.

PAR. 4. Certain of said wool products were misbranded within the intent and meaning of the said act and rules and regulations promulgated thereunder in that the interlinings were falsely and deceptively labeled as 100 percent wool or as all wool. Whereas in truth and in fact said interlinings did not contain 100 percent wool but contained 100 percent reused wool or substantial quantities of other fibers. The said wool products' interlinings so labeled were further misbranded in that their constituent fibers and the percentages thereof were not shown on the tags or labels thereon as required by said act in the manner and form as required by the said rules and regulations.

CONCLUSION

The aforesaid acts and practices and methods of respondents as found were and are in violation of sections 3 and 4 of the Wool Products Labeling Act of 1939 and Rule 24 of 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 Cliftwood Coats, Inc., a corporation, its officers, and Max Shapiro, individually and as an officer of said corporation, their 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 sale, transportation or distribution of wool products in commerce, as "commerce" is defined in the aforesaid acts, do forthwith cease and desist from misbranding such wool products, as defined in and subject to the Wool Products Labeling Act of 1949, which contain, or 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:

1. By falsely or deceptively stamping, tagging, labeling, or otherwise identifying such products;

2. 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 percent of said total fiber

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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 percent or more and (5) the aggregate of all other fibers;

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

(c) The name 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.

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 July 11, 1951].

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IN THE MATTER OF

HENRY J. HANDELSMAN, JR. ET AL. DOING BUSINESS AS
THE CAMERA MAN; AND HENRY J. HANDELSMAN, JR.
INC.

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

Docket 5386. Complaint, Oct. 3, 1945—Decision, July 12, 1951

Where three individuals engaged in interstate sale and distribution at retail of cameras and other merchandise, and their advertising agency, through advertisements in newspapers and magazines—

- (a) Falsely represented that their cameras were equipped with fast lenses, and would take sharp, clear pictures of persons and things in motion or still; had the appearance, performance, and durability of much higher-priced cameras; would take pictures in color with ordinary films; were nationally advertised by the manufacturers; and that a simulated leather carrying case was given free with each camera;

The facts being that the reproduction of color is a property of the color film and not the camera, and almost any camera can be used for taking color pictures; charge for the case was included in the price of the camera; and other aforesaid claims were likewise false;

- (b) Falsely represented that the prices for which they offered their cameras were special prices; and

- (c) Represented that the purchase price would be refunded immediately without question to dissatisfied customers and that the cameras were guaranteed to give a lifetime of service, notwithstanding which they failed and refused to make such refunds and to replace broken and defective cameras;

With the effect of misleading and deceiving a substantial portion of the purchasing public into the erroneous belief that such representations were true and thereby into the purchase of a substantial number of their products:

Held, That such acts and practices, 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.

Mr. Joseph Callaway for the Commission.

Mr. Joseph J. Merensky, of Chicago, Ill., and *Mr. John L. Ingoldsby, Jr.*, of Washington, D. C., 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 J. Handelsman, Jr., Birdye Handelsman and William Handelsman, individually and as copartners, trading and doing business as The Camera Man and Henry J. Handelsman, Jr., Inc., a corporation, hereinafter re-