

Complaint

IN THE MATTER OF

CLARENCE LITTLEFIELD DOING BUSINESS AS
PLYMOUTH WOOLEN MILL

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 5846. Complaint, Feb. 5, 1951—Decision, July 21, 1951

Where an individual engaged in the manufacture, for introduction into commerce, and in the distribution therein, of blankets which were made for it by a certain corporation on a contract basis, and were wool products as defined in the Wool Products Labeling Act—

Misbranded said blankets in that, (1) labeled "100 percent wool, exclusive of ornamentation," they were not composed entirely of wool, as "wool" is defined in said act, but contained substantial amounts of "reused wool" and "reprocessed wool"; and (2) they did not have affixed thereto tags or labels showing their constituent fibers and the percentages thereof as required by said act:

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

Before *Mr. James A. Purcell*, trial examiner.

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

Mr. Shirley Berger, of Bangor, Me., for respondent.

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 Clarence Littlefield, an individual, doing business as Plymouth Woolen Mill, hereinafter referred to as respondent, has 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 Clarence Littlefield, is an individual doing business as Plymouth Woolen Mill with his office and principal place of business located at Plymouth, Me.

PAR. 2. Subsequent to January 1, 1949, respondent manufactured for introduction into commerce, introduced into commerce, and dis-

tributed in commerce, as "commerce" is defined in the Wool Products Labeling Act of 1939, wool products, as "wool products" are defined therein. The said wool products consisted of blankets which were manufactured for Arluck Blanket Corp. by respondent on a contract basis.

PAR. 3. Upon the labels affixed to the said blankets appeared the following:

Medical blanket
100% wool exclusive of ornamentation
MFR 7088

PAR. 4. The said blankets 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 with respect to the character and amount of their constituent fibers. In truth and in fact, the said blankets were not composed entirely of wool, as "wool" is defined in said act, but contained substantial amounts of "reused wool" and "reprocessed wool," as those terms are defined in said act. The said articles were further misbranded in that the labels affixed thereto did not show the percentage of the total fiber weight thereof, exclusive of ornamentation not exceeding 5 percent of said total fiber weight, of: "wool," "reused wool," and "reprocessed wool," as those terms are defined in said act; each fiber, other than wool, constituting 5 percent or more of such total fiber weight; and the aggregate of all other fibers, each of which constituted less than 5 percent of such total fiber weight.

PAR. 5. The aforesaid acts and practices of respondent as herein alleged were in violation of the Wool Products Labeling Act of 1939 and the rules and regulations promulgated thereunder, and constituted 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 21, 1951, the initial decision in the instant matter of Trial Examiner James A. Purcell, as set out as follows, became on that date the decision of the Commission.

INITIAL DECISION BY JAMES A. PURCELL, 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 February 5, 1951, issued and subsequently served its complaint in this proceeding upon the respondent, Clarence Littlefield doing business as Plymouth Woolen Mill, charging the respondent with the use of unfair and deceptive acts and practices in commerce in violation of those Acts. On March 15, 1951, respondent filed his answer to said complaint denying all of the material allegations of fact set forth therein. Initial hearing for the taking of testimony and reception of evidence was set for April 6, 1951, at Bangor, Maine, at which time respondent filed his formal motion to withdraw the original answer and to file a substitute answer. Said motion was granted by the above-named trial examiner, whereupon respondent filed his substitute answer admitting all of the material allegations of fact charged in the complaint and waiving all intervening procedure and further hearing as to said facts. On April 20, 1951, the matter was formally closed for the reception of testimony and said order fixed May 16, 1951, for the filing of proposed findings and conclusions. Proposed findings and conclusions, as also a proposed order to cease and desist were filed by the attorney in support of the complaint; none were submitted by respondent.

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 the substitute 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, conclusions drawn therefrom, and order:

FINDINGS AS TO THE FACTS

PARAGRAPH 1. Respondent, Clarence Littlefield, is an individual doing business as Plymouth Woolen Mill, with his office and principal place of business located at Plymouth, Maine.

PAR. 2. Subsequent to January 1, 1949, respondent manufactured for introduction into commerce, introduced into commerce, and distributed in commerce, as "commerce" is defined in the Wool Products Labeling Act of 1939, wool products, as "wool products" are defined therein. The said wool products consisted of blankets which were manufactured for Arluck Blanket Corp. by respondent on a contract basis.

PAR. 3. Upon the labels affixed to said blankets appeared the following:

Medical blanket
100% wool exclusive of ornamentation
MFR 7088.

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PAR. 4. The said blankets 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 with respect to the character and amount of their constituent fibers, said products being labeled "100% wool, exclusive of ornamentation," whereas in truth and in fact, said blankets were not composed entirely of wool, as "wool" is defined in said act, but contained substantial amounts of "reused wool" and "reprocessed wool," as those terms are defined in said act. Said manufactured articles were further misbranded in that the labels affixed thereto did not show the percentage of the total fiber weight thereof, exclusive of ornamentation not exceeding 5 percent of said total fiber weight, of: "wool," "reused wool," and "reprocessed wool," as those terms are defined in said act; each fiber, other than wool, constituting 5 percent or more of such total fiber weight; and the aggregate of all other fibers, each of which constituted less than 5 percent of such total fiber weight.

CONCLUSION

The aforesaid acts and practices of respondent as herein found were and are in violation of sections 3 and 4 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 the respondent, Clarence Littlefield, an individual doing business as the Plymouth Woolen Mill, his 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 1939, 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 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 the 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 products 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 of the rules and regulations promulgated thereunder.

ORDER TO FILE REPORT OF COMPLIANCE

It is ordered, That the respondent herein shall, within 60 days after service upon him of this order, file with the Commission a report in writing setting forth in detail the manner and form in which he has complied with the order to cease and desist [as required by said declaratory decision and order of July 21, 1951].

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IN THE MATTER OF

THE MASONITE CORP.

MODIFIED ORDER TO CEASE AND DESIST

Docket 2614. Order, Aug. 3, 1951

Order modifying original order of November 6, 1937, 25 F. T. C. 1320, so as to require respondent, in connection with the offer, etc. of its wall board and wall covering in commerce, to cease and desist from the use of the words "Temprtile" or "tile" as below set forth and subject to the qualifications therein stated.

Before *Mr. Charles F. Diggs*, *Mr. John J. Keenan*, and *Mr. John L. Hornor*, trial examiners.

Mr. Morton Nesmith and *Mr. George M. Martin* for the Commission.
Dyke & Schaines, of New York City, and *Mr. David W. Knight*, of Chicago, Ill., for respondents.

Hines, Rearick, Door & Hammond, of New York City, for Tile Manufacturers' Association, Inc., amicus curiae.

MODIFIED ORDER TO CEASE AND DESIST

This proceeding having been heard by the Federal Trade Commission upon the complaint of the Commission, the answer of respondent, testimony and other evidence in support of the allegations of the complaint and in opposition thereto, taken before a trial examiner of the Commission theretofore duly designated by it, no briefs being filed and oral argument not having been requested, and the Commission, having made its findings as to the facts and its conclusion that said respondent had violated the provisions of the Federal Trade Commission Act, on November 6, 1937, issued and subsequently served upon the respondent said findings as to the facts, conclusion, and its order to cease and desist.

Thereafter, pursuant to a motion filed by counsel in support of the complaint and agreed to by respondent, the Commission reconsidered the matter, and being of the opinion that its order to cease and desist issued on November 6, 1937, should be modified in certain respects:

It is ordered, That the respondent, The Masonite Corp., a corporation, its officers, representatives, agents and employees, in connection with the offering for sale, sale and distribution of its wallboard and wall covering in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from representing: