

Complaint

IN THE MATTER OF
SAMUEL ELIAS AND JACK OSTROW DOING BUSINESS AS
MUTUAL TOGS CO.

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 5861. Complaint, Mar. 23, 1951—Decision, Sept. 20, 1951

Where two partners engaged in the manufacture and introduction into commerce, and offer, sale, and distribution therein, of wool products as defined in the Wool Products Labeling Act—

Misbranded ladies' skirts within the intent and meaning of said act and the rules and regulations promulgated thereunder in that, (1) contrary to the labels affixed thereto, they were not 60 percent "wool," as there defined, and they contained more than 40 percent of rayon; and, (2) the labels affixed thereto did not show the aggregate of all other fibers, each of which constituted less than 5 percent of the total fiber weight:

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.

As respects the charge in the complaint that respondents removed tags affixed to the piece goods received from the manufacturer, and substituted tags and labels which contained different information: said charge, while true, was dismissed as not properly subject to the charge of violation of the Act under the circumstances.

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

Mr. Russell T. Porter for the Commission.

Mr. Harold Henry, 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 Sam Elias and Jack Ostrow, individually and as copartners doing business as Mutual Togs Co., hereinafter referred to as respondents, have violated the provisions of said acts and rules and regulations promulgated under the Wool Products Labeling Act of 1939, and it appearing to the Commission that a proceeding by it in respect thereof would be in the public interest, hereby issues its complaint, stating its charges in that respect as follows:

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PARAGRAPH 1. The Mutual Togs Co. is a partnership. Samuel Elias and Jack Ostrow, individually and as copartners doing business as Mutual Togs Co., are in control of the operations of the said company, whose principal place of business is located at 6605 Twentieth Avenue, Brooklyn 2, N. Y.

PAR. 2. Subsequent to May 1950, respondents manufactured for introduction into commerce, introduced into commerce, offered for sale in commerce, and 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. The said wool products included ladies' skirts which were made by respondents from a fabric designated as "Parker-Wilder 1121," purchased from Strand Woolen Co.

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

Mutual Togs Company
60% Wool
40% Rayon
Exclusive Ornamentation

PAR. 4. The said skirts were misbranded within the intent and meaning of 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 skirts were not 60 percent wool as "wool" is defined in said act; the aggregate of the woolen fibers therein constituted less than 60 percent of the said skirts and they contained more than 40 percent of rayon. Said articles were further misbranded in that the labels affixed thereto did not show the aggregate of all other fibers, each of which constituted less than 5 percent of the total fiber weight.

PAR. 5. The person by whom the piece goods, from which said skirts were made by respondents, were manufactured for introduction into commerce affixed thereto labels and tags as required by said Act containing information with respect to its fiber content as follows:

20% Wool
30% Reprocessed Wool
50% Rayon.

Respondents have further violated the provisions of the Wool Products Labeling Act of 1939 by substituting for said tags and affixing to the said skirts tags and labels containing information set forth in paragraph 3 herein with respect to the content thereof which was not identical with the information with respect to such content upon the tags and labels as affixed to the wool product from which said

skirts were made by the person by whom it was manufactured for introduction into commerce.

PAR. 6. The aforesaid acts and practices of respondents 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 September 20, 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 March 23, 1951, issued and subsequently served its complaint in this proceeding upon the respondents, Samuel Elias and Jack Ostrow, individually and as copartners doing business as Mutual Togs Co., charging said respondents with the use of unfair and deceptive acts and practices in commerce in violation of those acts. On April 12, 1951, respondents filed their answer to said complaint admitting all of the material allegations of fact therein set forth but alleging that the misbranding arose through inexperience in the trade and unfamiliarity with the acts cited; that since discovery of their violations as charged, respondents have taken all necessary steps to avoid future violations. Also, in said answer, respondents requested the privilege of entering into a stipulation with the Commission to cease and desist from the acts complained of which request was, on April 17, 1951, denied by formal order of the examiner. Proposed findings and conclusions were directed to be filed before May 4, 1951, pursuant to which order the attorney in support of the complaint did, on April 23, 1951, file proposed findings and conclusions, but none were submitted by respondents. 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

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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. Samuel Elias and Jack Ostrow, individually, and as copartners doing business as Mutual Togs Co., with principal place of business located at 6605 Twentieth Avenue, Brooklyn, N. Y., are named as respondents and as such are in control of the operations of the Mutual Togs Co.

PAR. 2. Subsequent to the month of May 1950, respondents manufactured for introduction into commerce, introduced into commerce, offered for sale in commerce, and 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. The said wool products included ladies' skirts which were made by respondents from a fabric designated as "Parker-Wilder 1121," purchased from the Strand Woolen Co.

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

Mutual Togs Company
60% Wool
40% Rayon
Exclusive Ornamentation

PAR. 4. The said skirts were misbranded within the intent and meaning of 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 skirts were not 60 percent wool, as "wool" is defined in said act; the aggregate of the woolen fibers therein constituted less than 60 percent of the said skirts and they contained more than 40 percent of rayon. Said articles were further misbranded in that the labels affixed thereto did not show the aggregate of all other fibers, each of which constituted less than 5 percent of the total fiber weight.

PAR. 5. When the piece goods, from which said skirts were manufactured, was received by the respondents such piece goods had affixed thereto by the manufacturer thereof, labels and tags as required by said act containing information with respect to its fiber content as follows:

20% Wool
30% Reprocessed Wool
50% Rayon

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Respondents did remove the tags and labels from such piece goods and substituted therefor, attaching same to said skirts, the labels as set forth in paragraph 3 hereof, the information contained in the two described tags or labels being at variance, one with the other, as will be seen upon comparison.

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 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.

The charge contained in paragraph 5 of the complaint, as found to be true in these findings as to the facts (par. 5), setting forth an alleged violation by respondents in that the tags affixed to the piece goods, as received by respondents from the manufacturer thereof, were removed and in place thereof were substituted, by respondents, the tags and labels set forth in paragraph 3 hereof, is dismissed as not properly subject to the charge of violation of the act under the circumstances hereof.

ORDER

It is ordered, That the respondents Samuel Elias and Jack Ostrow, individually, and as copartners doing business as Mutual Togs Co., their respective representatives, agents, 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 in commerce, as "commerce" is defined in the aforesaid acts, of ladies' skirts or other wool products, as such products are defined in and subject to the Wool Products Labeling Act of 1939, which products 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, do forthwith cease and desist from misbranding such products:

1. By falsely and 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 or such wool products, exclusive of ornamentation not exceeding 5 percent of said total fiber

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weight, or (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 products of any nonfibrous loading, filling, or adulterating matter.

(c) The name or the registered identification number of the manufacturer of such wool products 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 of the rules and regulations promulgated thereunder.

The charge of substitution of tags and labels by respondents, as charged in paragraph 5 of the complaint, is dismissed, such acts not being properly chargeable as a violation of the Act under the circumstances and conditions of the instant matter.

ORDER TO FILE REPORT OF COMPLIANCE

It is ordered, That the respondents herein shall, within sixty (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 September 20, 1951].

Complaint

IN THE MATTER OF

PRINCESS ANN GIRL COAT, 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, AND AN ACT OF CONGRESS APPROVED OCT. 14, 1940

Docket 5877. Complaint, May 3, 1951—Decision, Sept. 21, 1951

The use of different labels on the same product, subject to the Wool Products Labeling Act, which show conflicting fiber content information, such as a label on one place of a garment showing the content as "100 percent reprocessed wool," and another showing it as "100 percent wool," constitute false and deceptive labeling of such products in violation of said act and the rules and regulations promulgated thereunder, since the product cannot be composed entirely of reprocessed wool and wool at one and the same time.

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

- (a) Misbranded certain of said products within the intent and meaning of said act and the rules and regulations promulgated thereunder in that they placed thereon conflicting fiber content information, such as labeling the garment at one place as "100 percent reprocessed wool," and at another place as "100 percent wool," with effect of confusing the purchasing public as to the fiber content of said products; and
- (b) Further misbranded certain of said products in that the constituent fibers and the percentages thereof, as well as the name of the manufacturer or its registered identification number, were not set out on the labels attached thereto in the manner and form required by said rules and regulations:

Held, That such acts and practices, under the circumstances set forth, were in violation of said act and the rules and regulations promulgated thereunder, were to the prejudice and injury of the public and constituted unfair and deceptive acts and practices in commerce.

Before *Mr. Earl J. Kolb*, trial examiner.

Mr. B. G. Wilson and *Mr. Carlo J. Aimone* for the Commission.

Mr. Frederick Silver, 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 Princess Ann Girl Coat, Inc., a corporation, Jack Horowitz and Seymour Wasserman, individually and as officers of said corporation, have violated the provisions of said acts and rules and regulations promulgated under the Wool Products