

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

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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, Princess Ann Girl Coat, Inc., is a corporation organized and existing under and by virtue of the laws of the State of New York; respondent Jack Horowitz is its president and Seymour Wasserman is its secretary-treasurer. The individual respondents formulate, direct, and control the policies, acts, and practices of the corporate respondent. The office and principal place of business of both corporate respondent and individual respondents is located at 225 West Thirty-sixth Street, N. Y.

PAR. 2. Subsequent to January 1, 1949, respondents manufactured for introduction into commerce, introduced into commerce, sold, transported, distributed, delivered for shipment, and offered for sale, in commerce as "commerce" is defined in the Wool Products Labeling Act, 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 with respect to the character and amount of their constituent fibers.

Certain of said wool products were misbranded in that they were falsely and deceptively labeled by respondents by placing on said products labels showing conflicting fiber content information. Typical of such practice is the placing of a label on garments at one place showing the content as "100 percent reprocessed wool" and another label on the same product showing the content as "100 percent wool." The use on said products of such conflicting labels has the capacity and tendency to confuse and deceive and does confuse and deceive the purchasing public as to the fiber content of said products and is in violation of the Wool Products Labeling Act and the rules and regulations promulgated thereunder.

Certain of said wool products were further misbranded in that the constituent fibers and the percentages thereof, as well as the name of the manufacturer or its registered identification number as required by said act and the rules and regulations thereunder were not set out on labels attached to such products, in the manner and form as required by the said rules and regulations.

PAR. 4. The 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 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 September 21, 1951, the initial decision in the instant matter of trial examiner Earl J. Kolb, as set out as follows, became on that date the decision of the Commission.

INITIAL DECISION BY EARL J. KOLB, 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 May 3, 1951, issued and subsequently served its complaint in this proceeding upon the respondents Princess Ann Girl Coat, Inc., a corporation, and Jack Horowitz and Seymour Wasserman, individually and as officers of said corporation, charging them with the use of unfair and deceptive acts and practices in commerce in violation of the provisions of those acts. After the service of said complaint upon said respondents, a stipulation as to the facts was entered into whereby it was stipulated and agreed that a statement of facts executed by counsel supporting the complaint and counsel for respondents might be taken as the facts in this proceeding and in lieu of evidence in support of and in opposition to the charges stated in the complaint, and that such statement of facts might serve as the basis for findings as to the facts and conclusion based thereon and an order disposing of the proceeding without presentation of proposed findings and conclusions or oral argument. The stipulation further provided that upon appeal to or review by the Commission such stipulation might be set aside by the Commission and this matter remanded for further proceedings under the complaint. 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 stipulation as to the facts, said stipulation having been approved by said 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 Princess Ann Girl Coat, Inc., is a corporation organized and existing under and by virtue of the laws of the State of New York; respondent Jack Horowitz is its president and Seymour Wasserman is its secretary-treasurer. The individual re-

Conclusion

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spondents formulate, direct and control the policies, acts and practices of the corporate respondent. The office and principal place of business of both corporate respondent and individual respondents is located at 225 W. Thirty-sixth Street, New York, N. Y.

PAR. 2. Subsequent to January 1, 1949, respondents manufactured for introduction into commerce, introduced into commerce, sold, transported, distributed, delivered for shipment, and offered for sale, in commerce, as "commerce" is defined in the Wool Products Labeling Act, 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 mislabeled by respondents by placing on said products labels showing conflicting fiber content information. Typical of such practice is the placing of a label on garments at one place showing the content as "100 percent reprocessed wool" and another label on the same product showing the content as "100 percent wool." The use on said products of such conflicting labels has the capacity and tendency to confuse and does confuse the purchasing public as to the fiber content of said products.

As said products cannot be composed entirely of reprocessed wool and composed entirely of wool at one and the same time, the use of conflicting labels designating said products as being "100 percent reprocessed wool" and "100 percent wool" constitutes false and deceptive labeling of such products in violation of the Wool Products Labeling Act and the rules and regulations promulgated thereunder.

Certain of said wool products were further misbranded in that the constituent fibers and the percentages thereof, as well as the name of the manufacturer or its registered identification number as required by said act and the rules and regulations thereunder, were not set out on labels attached to such products in the manner and form required by the said rules and regulations.

CONCLUSION

The acts and practices of the respondents in the manufacture for introduction into commerce and in the sale, transportation and distribution in commerce of wool products which were misbranded, as herein found, were in violation of the provisions of the Wool Products Labeling Act of 1939 and the rules and regulations promulgated thereunder and were to the prejudice and injury of the public and constituted 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 Princess Ann Girl Coat, Inc., a corporation, and its officers, and Jack Horowitz and Seymour Wasserman, individually and as officers of said corporation, and their respective representatives, agents and employees, directly or through any corporate or other device, in connection with the introduction into commerce or the offering for sale, sale, or distribution in commerce, as "commerce" is defined in the aforesaid acts, of 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 affixing or attaching to said products labels describing fiber content, one or more of which do not clearly state the correct constituent fibers, as required by the Wool Products Labeling Act.

2. By failing to affix securely 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 product, exclusive of ornamentation not exceeding 5 percent 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 percent or more, and (5) the aggregate of all other fibers.

(b) The name or the registered identification number of the manufacturer of such wool product one or more persons engaged in introducing such wool product into commerce, or in 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 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 21, 1951].

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IN THE MATTER OF

LORRAINE SMART SHOPS, 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 OF AN
ACT OF CONGRESS APPROVED OCT. 14, 1940

Docket 5669. Complaint, June 28, 1949—Decision, Sept. 27, 1951

Where a corporation engaged in the purchase from manufacturers in other States of wearing apparel which it caused to be shipped to its New York address for checking, sorting, and shipment to its approximately 23 retailers in various States, or direct from said manufacturers to said retail stores for sale to the purchasing public, one of said retail stores, and a managerial employee of said corporation;

After delivery to said corporation or its stores of articles of wearing apparel which were wool products subject to the Wool Products Labeling Act of 1939 and the rules and regulations promulgated thereunder, including women's coats, sweaters, and suits, and before offer for sale thereof to the general public, and with intent to violate the provisions of said act and rules—

Removed and participated in, and caused, the removal of the stamps, tags, labels, or other means of identification required by said act and which has been affixed to said products by the manufacturer, and did not replace them with substitute stamps, etc.,

With the result that said wool products when offered for sale and sold by them to the general public at their said stores did not have affixed thereto stamps, etc., required by said act and rules:

Held, That said acts and practices of respondents, under the circumstances set forth, were in violation of the Wool Products Labeling Act of 1939 and to the prejudice and injury of the public, and constituted unfair and deceptive acts and practices in commerce.

As respects the allegations of the complaint that respondents offered for sale and sold wool products in commerce which were misbranded with the intent and meaning of said act and said rules and regulations: there was no evidence that they manufactured, delivered for shipment, shipped, sold, or offered for sale in commerce any wool products which were thus misbranded, so that said allegations were not sustained.

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

Mr. DeWitt T. Puckett and *Mr. Randolph W. Branch* for the Commission.

Conrad & Smith, 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,