

Complaint

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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,

having reason to believe that Lorraine Smart Shops, Inc., a corporation, Lorraine Roanoke Shop, Inc., a corporation, and Mrs. Ruby Shepherd, individually and as a managerial employee of Lorraine Smart Shops, Inc., 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. Respondent Lorraine Smart Shops, Inc., is a corporation organized, existing, and doing business under and by virtue of the laws of the State of New York and has an office or place of business at 270 West Thirty-ninth Street, New York, N. Y. It also maintains an office or place of business at 260 West Forty-first Street in New York City.

Respondent Lorraine Roanoke Shop, Inc., is a corporation organized, existing, and doing business under and by virtue of the laws of the State of Virginia and has its office and place of business at 12 West Campbell Avenue, Roanoke, Va.

Respondent Mrs. Ruby Shepherd is a managerial employee of respondent Lorraine Smart Shops, Inc., and is vested with authority to dictate policies and practices engaged in by the aforesaid corporate respondents.

PAR. 2. Respondent Lorraine Smart Shops, Inc., is now, and for more than 1 year last past has been engaged in purchasing wearing apparel from various manufacturers thereof located in various States of the United States and having said apparel shipped either to said respondent's New York address where said apparel is checked, sorted, prepared for shipment, and shipped from said address in New York to approximately 23 retail stores, including respondent Lorraine Roanoke Shop, Inc., located in various States of the United States, all of which retail stores are owned by respondent Lorraine Smart Shops, Inc., or its stockholders, or the merchandise is shipped direct from said manufacturers to said retail stores at which place said merchandise is offered for sale and sold to the ultimate purchasing public by respondent's said stores.

PAR. 3. Respondent Lorraine Roanoke Shop, Inc., is one of the aforesaid retail stores and is engaged in offering for sale and selling said wearing apparel to the ultimate purchasing public.

PAR. 4. A substantial portion of the articles of wearing apparel offered for sale and sold to the purchasing public by the respondents, as aforesaid, are wool products as such products are defined in the Wool Products Labeling Act of 1939 in that said products are com-

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posed in whole or in part of wool, reprocessed wool, or reused wool, as those terms are defined in said act.

PAR. 5. Among the wool products purchased and transported in commerce as aforesaid and also among the wool products manufactured for introduction into said commerce and thereafter offered for sale and sold by respondents as aforesaid since July 15, 1941, were women's coats, sweaters, and suits and other garments. All of said wool products purchased and transported in commerce as aforesaid, and all of said wool products manufactured for introduction into said commerce, were subject to the provisions of the Wool Products Labeling Act of 1939 and the rules and regulations promulgated thereunder.

PAR. 6. Some of the aforesaid wool products were misbranded within the intent and meaning of the Wool Products Labeling Act of 1939 and the rules and regulations promulgated thereunder when offered for sale and sold by respondents, in that said products, when offered for sale and sold by respondents, did not have affixed thereto a stamp, tag, label, or other means of identification showing (a) the percentage of the total fiber weight of the 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 was 5 percentum or more, and (5) the aggregate of all other fibers; (b) the maximum percentage of the total weight of the wool product of non-fibrous loading, filling, or adulterating matter; (c) the name of the manufacturer of the wool product, or the manufacturer's registered identification number and the name of a subsequent seller or reseller of the product, as provided for in the rules and regulations promulgated under such act, or the name of one or more persons subject to section 3 of said act with respect to such wool product; (d) the percentages in words and figures plainly legible, by weight of the wool contents of said wool product where said wool product contained a fiber other than wool.

PAR. 7. The aforesaid wool products, when received by respondent Lorraine Smart Shops, Inc., at its New York address or at the said retail stores, direct from the manufacturers thereof, had affixed thereto stamps, tags, labels, or other means of identification purporting to contain the information required by the Wool Products Labeling Act of 1939. After said wool products were delivered to the respondent's said stores, as aforesaid, and before said wool products were offered for sale or sold by respondents to the general public, said respondents, with intent to violate the provisions of the Wool Products Labeling Act of 1939 and the rules and regulations promulgated thereunder,

did remove, and participate in and cause removal of, the stamps, tags, labels, or other means of identification which purported to contain the information required by the provisions of said act and said rules and regulations affixed to said wool products by the manufacturer thereof or by some person authorized or required by said act to affix such stamps, tags, labels, or other means of identification to said wool products.

PAR. 8. Said respondents did not replace said stamps, tags, labels, or other means of identification with substitute stamps, tags, labels, or other means of identification containing the information required under the provisions of the Wool Products Labeling Act of 1939 and the rules and regulations thereunder. As a result of respondents' said acts and practices in removing said stamps, tags, labels, or other means of identification affixed to said wool products, said wool products, when offered for sale and sold by respondents to the general public at their said stores and places of business, did not have affixed thereto stamps, tags, labels, or other means of identification containing the information required by said act and said rules and regulations.

PAR. 9. The aforesaid acts, practices, and methods of the respondents, as herein 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 AND ORDER TO FILE REPORT OF COMPLIANCE

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 June 28, 1949, issued and subsequently served its complaint in this proceeding upon the respondents named in the caption hereof, charging them with the use of unfair and deceptive acts and practices in commerce in violation of the provisions of said acts and the rules and regulations promulgated under the Wool Products Labeling Act of 1939, in connection with the sale of women's wearing apparel. After the filing of respondents' answer, hearings were held before a trial examiner of the Commission theretofore duly designated by it, at which testimony and other evidence in support of and in opposition to the allegations of the complaint were introduced, and said testimony and other evidence were duly recorded and filed in the office of the Commission. On May 14, 1951, the trial examiner filed his initial decision.

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The Commission, having reason to believe that the initial decision did not constitute an adequate disposition of the matter, subsequently placed this case on its own docket for review, and on August 17, 1951, it issued, and thereafter served upon the parties, its order affording the respondents an opportunity to show cause why said initial decision should not be altered in the manner and to the extent shown in a tentative decision of the Commission attached to said order. Respondents having filed no objections in response to the leave to show cause, the proceeding regularly came on for final consideration by the Commission upon the record herein on review; and the Commission, having duly considered the matter and being now fully advised in the premises, finds that this proceeding is in the interest of the public and makes this its findings as to the facts, conclusion drawn therefrom, and order, the same to be in lieu of the initial decision of the trial examiner.

FINDINGS AS TO THE FACTS

PARAGRAPH 1. Respondent Lorraine Smart Shops, Inc., is a corporation organized, existing, and doing business under and by virtue of the laws of the State of New York, and has an office or place of business at 270 West Thirty-ninth Street, New York, N. Y. It also maintains an office or place of business at 260 West Forty-first Street in New York City.

Respondent Lorraine Roanoke Shop, Inc., is a corporation organized, existing, and doing business under and by virtue of the laws of the State of Virginia, and has its office and place of business at 12 West Campbell Avenue, Roanoke, Va.

Respondent Mrs. Ruby Shepherd is a managerial employee of respondent Lorraine Smart Shops, Inc., and is vested with authority to fire and hire employees and to dictate policies and practices engaged in by the aforesaid corporate respondents, but is now closely supervised.

PAR. 2. Respondent Lorraine Smart Shops, Inc., is now, and for more than 1 year last past has been, engaged in purchasing wearing apparel from various manufacturers thereof located in various States of the United States and having said apparel shipped either to said respondent's New York address where said apparel is checked, sorted, prepared for shipment, and shipped from said address in New York to approximately 23 retail stores, including respondent Lorraine Roanoke Shops, Inc., located in various States of the United States, all of which retail stores are owned by respondent Lorraine Smart Shops, Inc., or its stockholders, or direct from said manufacturers to said retail stores at which places said merchandise is offered for sale and sold to the ultimate purchasing public by respondent's said stores.

PAR. 3. Respondent Lorraine Roanoke Shop, Inc., is one of the aforesaid retail stores and is engaged in offering for sale and selling said wearing apparel to the ultimate purchasing public.

PAR. 4. A substantial portion of the articles of wearing apparel offered for sale and sold to the purchasing public by the respondents as aforesaid, are wool products as such products are defined in the Wool Products Labeling Act of 1939, in that said products are composed in whole or in part of wool, reprocessed wool, or reused wool, as these terms are defined in said act.

PAR. 5. Among the wool products purchased and transported in commerce as aforesaid and also among the wool products manufactured for introduction into said commerce and thereafter offered for sale and sold by respondents as aforesaid since July 15, 1941, were women's coats, sweaters, and suits, and other garments. All of said wool products purchased and transported in commerce as aforesaid, and all of said wool products manufactured for introduction into said commerce, were subject to the provisions of the Wool Products Labeling Act of 1939 and the rules and regulations promulgated thereunder.

PAR. 6. The aforesaid wool products when received by respondent Lorraine Smart Shops, Inc., at its New York address, or at the said retail stores direct from the manufacturers thereof, had affixed thereto stamps, tags, labels, or other means of identification purporting to contain the information required by the Wool Products Labeling Act of 1939. After said wool products were delivered to the respondent's said stores as aforesaid, and before said wool products were offered for sale or sold by respondents to the general public, said respondents, with intent to violate the provisions of the Wool Products Labeling Act of 1939 and the rules and regulations promulgated thereunder, did remove, and participate in and cause the removal of, the stamps, tags, labels, or other means of identification which purported to contain the information required by the provisions of said act and said rules and regulations, affixed to said wool products by the manufacturer thereof or by some person authorized or required by said act to affix such stamps, tags, labels, or other means of identification to said wool products.

PAR. 7. Said respondents did not replace said stamps, tags, labels, or other means of identification with substitute stamps, tags, labels, or other means of identification containing the information required under the provisions of the Wool Products Labeling Act of 1939 and the rules and regulations thereunder. As a result of respondents' said acts and practices in removing said stamps, tags, labels, or other means of identification affixed to said wool products, said wool prod-

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ucts when offered for sale and sold by respondents to the general public at their said stores and places of business did not have affixed thereto stamps, tags, labels, or other means of identification containing the information required by said act and said rules and regulations.

PAR. 8. There is no evidence that the respondents manufactured, delivered for shipment, shipped, sold, or offered for sale in commerce any wool products which were misbranded within the intent and meaning of the Wool Products Labeling Act of 1939 and the rules and regulations promulgated thereunder. Consequently, the allegations of the complaint that the respondents offered for sale and sold wool products in commerce which were misbranded within the intent and meaning of said act and said rules and regulations are not sustained.

CONCLUSION

The acts and practices and methods of respondents as found in paragraphs 6 and 7 hereof were and are in violation of the Wool Products Labeling Act of 1939, and are to the prejudice and injury of the public 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 Lorraine Smart Shops, Inc., a corporation, its officers, respondent Lorraine Roanoke Shop, Inc., a corporation, its officers, and respondent Mrs. Ruby Shepherd, individually and as a managerial employee of Lorraine Smart Shops, Inc., trading under the name of Lorraine Smart Shops, Inc., Lorraine Roanoke Shop, Inc., or any other name, their respective representatives, agents, and employees, directly or through any corporate or other device, in connection with the purchase, offering for sale, sale, or distribution of wearing apparel or any other "wool products" as such products are defined in and subject to the Wool Products Labeling Act of 1939, do forthwith cease and desist from causing or participating in the removal or mutilation of any stamp, tag, label, or other means of identification affixed to any such "wool product" pursuant to the Wool Products Labeling Act of 1939, with intent to violate the provisions of said Wool Products Labeling Act, and which stamp, tag, label, or other means of identification purports to contain all or any part of the information required by said act.

It is further ordered, That the respondents 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 this order.

Syllabus

IN THE MATTER OF
MORRIS HESSEL, INC., ET AL.

COMPLAINT, FINDINGS, AND ORDERS IN REGARD TO THE ALLEGED VIOLATION
OF SEC. 5 OF AN ACT OF CONGRESS APPROVED SEPT. 28, 1914

Docket 5870. Complaint, Apr. 4, 1951—Decision, Sept. 27, 1951

Many members of the purchasing public are unaware of the fact that "mouton" is the French word for lamb and believe that said word stands for the fur for some other animal—a belief enhanced by the fact that the fur, correctly designated as "mouton dyed lamb", is dyed so that it resembles other furs.

Where a corporation and its three officers, engaged in the interstate sale and distribution of fur, fur coats, jackets, scarfs, and related fur garments, in competition with many similarly engaged, who do not misrepresent their business status or the prices charged for their merchandise; in advertising in newspapers, circulars, and other media—

- (a) Represented that said corporation was a manufacturer of fur products, manufactured such products sold by it, and had been in the fur business continuously for a period of 37 years, through such statements as "Manufacturing furrier," "Over 30 years in fur manufacturing," etc.;

The facts being that while its president had 38 years of experience in the fur business, said corporation had been in business only since its incorporation in 1940; and while it did for a limited period manufacture a small portion of the fur products sold by it, the great majority of its products had been at all times bought from others;

- (b) Represented falsely that said corporation was a wholesaler and sold at wholesale prices, and that its prices were 30 percent less than those charged by any retail store, through such statements as "He conceived the plan of selling furs directly to the individual at the wholesale level available to big store buyers * * *," "Wholesale to you," "You know our regular prices are 30 percent below those of any retail furrier * * *," etc.;

- (c) Represented falsely that its said products were sold at special sales at prices as much as 50 percent less than the regular prices, that certain of its sales were private and for selected customers only; and that the merchandise offered at such sales was not available for purchase by the public generally, through such statements as "Please keep this private sale a secret! This is a private sale for regular Morris Hessel patrons only. It is not open to the general public * * *," etc.; and

- (d) Represented that its president was the author of books entitled "Fur Book of Knowledge" and "Facts You Should Know About Furs," and by reason thereof an outstanding authority on furs;

The facts being that while he supplied the material for the former and caused its publication, and distributed the latter, he was the author of neither; and

- (e) Advertised as "mouton" certain of their furs correctly described as "mouton dyed lamb";

With tendency and capacity to mislead and deceive a substantial portion of the purchasing public with respect to their products and thereby cause its purchase thereof:

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Held, That such acts and practices, under the circumstances set forth, were all to the prejudice of the public and their competitors, and constituted unfair methods of competition in commerce and unfair and deceptive acts and practices therein.

Before *Mr. William L. Pack*, trial examiner.

Mr. Charles S. Cox for the Commission.

Mr. Jacob H. Goldsheim, of New York City, and *Mr. Howard M. Lawn*, of Newark, N. J., 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 Morris Hessel, Inc., a corporation; and Morris Hessel, Lee Hessel, and Tillie Hessel, individually and as officers of said corporation, hereinafter referred to as respondents, have violated the provisions of said act, 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 Morris Hessel, Inc., is a corporation, organized, existing and doing business under and by virtue of the laws of the State of New York, with its office and principal place of business located at 231 West Twenty-ninth Street, New York, N. Y. Morris Hessel, Lee Hessel, and Tillie Hessel are president, secretary-treasurer and vice president of corporate respondent. All of the individual respondents also have offices and a principal place of business at 231 West Twenty-ninth Street, New York, N. Y. The individual respondents in their official capacities as officers of corporate respondent have acted and now act in conjunction and cooperation with each other in formulating, directing, and controlling the business, acts, practices, and policies of corporate respondent including the advertising claims made by said corporate respondent in connection with the sale of its products.

PAR. 2. Respondents have for several years last past been engaged in the sale and distribution of furs, fur coats, jackets, scarfs, and related fur garments. Respondents cause and have caused the aforesaid products, when sold, to be transported from their aforesaid place of business in the State of New York to purchasers thereof at their respective points of location in various States of the United States, and in the District of Columbia. Respondents maintain, and at all times mentioned herein have maintained, a course of trade in said products in commerce among and between the various States of the

United States and in the District of Columbia. Their volume of business in said commerce has been and is substantial.

PAR. 3. Respondents, during the period herein stated, in the course and conduct of their aforesaid business and for the purpose of inducing the purchase of their said merchandise have made many statements and representations with regard to the quality and price thereof, the character of their said business and the method and plans employed by them in connection with the sale of their said merchandise. The statements and representations so made by respondent have appeared in advertisements published in newspapers, circulars, and other advertising media of general circulation in various States of the United States. Typical of said advertising representations of respondents, but not all inclusive, are the following:

Manufacturing Furrier

A manufacturing furrier who sells direct to the public.

MANUFACTURER'S CLOSE-OUT . . .

100 Hollander Blended

LET-OUT MUSKRATS . . . * * *

Over 30 years in fur manufacturing

We were able to buy the raw skins of these furs at prices 25% less than they now cost to replace.

* * * So I beat the gun by buying fresh, beautiful skins while the market was low, and making them into coats so typical of Morris Hessel quality.

He conceived the plan of selling furs directly to the individual at the wholesale level available to big store buyers, of saving on the many expensive operations between manufacturers and customers. Thus, he became one of the first manufacturing furriers to throw open his door to all women.

Wholesale-To-You

America's foremost manufacturing furrier now celebrating our 37th anniversary
WITH THE GREATEST AUGUST FUR SALE IN OUR HISTORY!

Of course, you know our normal low prices are 30% less than any retail store.

Introductory card * * * The bearer of this card is interested in buying a coat at 30% below retail.

You know our regular prices are 30% below those of any retail furrier * * *

FUR Manufacturer's

ENTIRE STOCK

REDUCED 50%

Right now, we must make room for the Spring furs soon to be rushed in from our workrooms—AND WE ARE CLOSING OUT HUNDREDS OF BEAUTIFUL FUR COATS BELOW OUR COST! * * *

Please keep this Private Sale a secret! This is a private sale for regular Morris Hessel patrons only. It is not open to the general public—so please keep it a secret.

Hessel has written several books on furs . . . One of them "Facts You Should Know About Furs" is available. A penny postcard or a phone call will get you a FREE copy!

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Morris Hessel is the author of books used by both the trade and by the customer who wants to learn about furs in order to make the best possible investment. These books, "The Fur Book of Knowledge" * * *

PAR. 4. Through the use of the statements aforesaid and others of the same import but not specifically set out herein, respondents represented that Morris Hessel, Inc., is a manufacturer of fur products and manufactured all of the fur products sold by it; that it buys the raw skins used in the manufacture of its fur products; that it is a wholesaler and sells at wholesale prices; that it has been in the fur business continuously for a period of 37 years; that the prices charged for its fur products are 30% less than those charged by any retail store; that its fur products are sold at sales prices as much as 50% less than regular prices and at times below cost; that certain of its sales are private and for selected customers only and the merchandise offered at such sales is not available for purchase by the public generally; and that respondent Morris Hessel is the author of the books entitled "Fur Book of Knowledge" and "Facts You Should Know About Furs," and by reason thereof is an outstanding authority on furs.

PAR. 5. The aforesaid statements and representations are false, misleading and deceptive. In truth and in fact, while corporate respondent for a limited time manufactured some fur coats sold by it, the great majority of its fur products were at all times bought from others. It bought raw furs only during the limited time when the small portion of its fur products were manufactured by it. Corporate respondent is a retailer and not a wholesaler and does not sell at wholesale prices. Morris Hessel, Inc., was incorporated in 1940 and has been in business only since that time. It does not sell its fur products for less than many retailers and its sale prices are not 50 percent less than its regular prices and it does not sell at prices below its costs. Sale represented as being private and for selected customers only are in fact open to the public generally. Respondent Morris Hessel is not the author of the books Fur Book of Knowledge or Facts You Should Know About Furs.

PAR. 6. Respondent advertises certain of its furs as "mouton." This is the word in the French language for lamb. Many members of the purchasing public are unaware of this fact and believe that this is the fur of an animal other than a lamb. This belief is enhanced by the fact that the fur is dyed so that it resembles other furs. The correct designation of such fur is "mouton dyed lamb." The failure of respondents to designate the said fur by its proper English name confuses and misleads the public and constitutes an unfair and deceptive practice.

PAR. 7. Respondents, in the conduct of said business, as aforesaid, have been and are in substantial competition, in commerce, with other corporations, individuals, partnerships and others engaged in the sale of the same kinds of merchandise as that sold by respondents. Among such competitors are many who do not make any misrepresentations concerning their practices, the prices charged for their merchandise or otherwise.

PAR. 8. The use by respondents of the foregoing false, misleading and deceptive statements and representations has had, and now has, the tendency and capacity to mislead and deceive the purchasing public into the erroneous and mistaken belief that such representations were and are true and has caused and causes the purchasing public, because of such erroneous and mistaken belief, to purchase substantial quantities of respondents' merchandise.

PAR. 9. The aforesaid acts and practices of respondents, as herein alleged, are all to the prejudice and injury of the public and constitute unfair methods of competition and 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 27, 1951, the initial decision in the instant matter of trial examiner William L. Pack, as set out as follows, became on that date the decision of the Commission.

INITIAL DECISION BY WILLIAM L. PACK, TRIAL EXAMINER

Pursuant to the provisions of the Federal Trade Commission Act, the Federal Trade Commission on April 4, 1951, issued and subsequently served its complaint in this proceeding upon the respondents named in the caption hereof, charging them with the use of unfair methods of competition and unfair and deceptive acts and practices in commerce in violation of the provisions of that act. No answer was filed by respondents to the complaint. Thereafter, a stipulation was entered into whereby it was stipulated and agreed that a statement of facts executed by counsel supporting the complaint and the 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 the trial examiner might proceed upon such statement of facts to make his initial decision, stating his

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findings as to the facts including inferences which he might draw from the stipulated facts, and his conclusion based thereon and enter his order disposing of the proceeding without the filing of proposed findings and conclusions or the presentation of oral argument. The stipulation further provided that upon appeal to or review by the Commission, the stipulation might be set aside by the Commission and this matter remanded for further proceedings under the complaint. Subsequently, the proceeding regularly came on for final consideration by the trial examiner, theretofore duly designated by the Commission, upon the complaint and stipulation, the stipulation having been approved by the 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 Morris Hessel, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of New York, with its office and principal place of business located at 231 West Twenty-ninth Street, New York, N. Y. Respondents Morris Hessel, Lee Hessel, and Tillie Hessel are president, secretary-treasurer and vice president, respectively, of the corporate respondent. The individual respondents in their capacities as officers of the corporate respondent have acted and now act in conjunction and cooperation with each other in formulating, directing and controlling the business, acts, practices, and policies of the corporation, including the advertising claims made by it in connection with the sale of its products.

PAR. 2. Respondents have for several years last past been engaged in the sale and distribution of furs, fur coats, jackets, scarfs, and related fur garments. Respondents cause and have caused their products, when sold, to be transported from their place of business in the State of New York to purchasers thereof at their respective points of location in various States of the United States and in the District of Columbia. Respondents maintain, and at all times mentioned herein have maintained, a course of trade in their products in commerce among and between the various States of the United States and in the District of Columbia. Their volume of business in such commerce has been and is substantial.

PAR. 3. In the course and conduct of their business and for the purpose of inducing the purchase of their merchandise, respondents have made various statements with respect to themselves and their

merchandise, such statements being disseminated among prospective purchasers by means of newspaper advertisements, circulars, and other advertising media. Typical of such statements are the following:

Manufacturing Furrier

A manufacturing furrier who sells direct to the public

MANUFACTURER'S CLOSE-OUT . . .

100 Hollander Blended

LET-OUT MUSKRATS . . . * * *

Over 30 years in fur manufacturing

We were able to buy the raw skins of these furs at prices 25% less than they now cost to replace.

* * * So I beat the gun by buying fresh, beautiful skins while the market was low, and making them into coats so typical of Morris Hessel quality.

He conceived the plan of selling furs directly to the individual at the wholesale level available to big store buyers, of saving on the many expensive operations between manufacturers and customers. Thus, he became one of the first manufacturing furriers to throw open his door to all women.

Wholesale-To-You

America's foremost manufacturing furrier now celebrating our 37th anniversary **WITH THE GREATEST AUGUST FUR SALE IN OUR HISTORY!**

Of course, you know our normal low prices are 30% less than any retail store.

Introductory card * * * The bearer of this card is interested in buying a coat at 30% below retail.

You know our regular prices are 30% below those of any retail furrier * * *

FUR Manufacturer's

ENTIRE STOCK

REDUCED 50%

Right now, we must make room for the spring furs soon to be rushed in from our workrooms—**AND WE ARE CLOSING OUT HUNDREDS OF BEAUTIFUL FUR COATS BELOW OUR COST! * * ***

Please keep this Private Sale a secret! This is a private sale for regular Morris Hessel patrons only. It is not open to the general public—so please keep it a secret.

Hessel has written several books on furs . . . One of them "Facts You Should Know About Furs" is available. A penny postcard or a phone call will get you a **FREE Copy!**

Morris Hessel is the author of books used by both the trade and by the customer who wants to learn about furs in order to make the best possible investment. These books, "The Fur Book of Knowledge" * * *

PAR. 4. Through the use of these statements and others of the same import, respondents have represented that Morris Hessel, Inc., is a manufacturer of fur products and manufactures all of the fur products sold by it; that it is a wholesaler and sells at wholesale prices; that it has been in the fur business continuously for a period of 37 years; that the prices charged for its fur products are 30 percent less than those charged by any retail store; that its fur products are sold at special sales at prices as much as 50 percent less than regular prices;

that certain of its sales are private and for selected customers only and the merchandise offered at such sales is not available for purchase by the public generally; and that respondent Morris Hessel is the author of the books entitled "Fur Book of Knowledge" and "Facts You Should Know About Furs," and by reason thereof is an outstanding authority on furs.

PAR. 5. These representations were erroneous and misleading. The corporate respondent Morris Hessel, Inc., was not incorporated until 1940 and has been in business only since that time, although the record indicates that the individual respondent Morris Hessel has personally had some 38 years of experience in the fur business. While the corporation did for a limited period of time manufacture a small portion of the fur products sold by it, the great majority of its products have been at all times bought from others. The corporation is a retailer and not a wholesaler. It does not sell at wholesale prices, nor are its products normally sold at special sales at prices 50 percent less than its regular prices. Its prices are not lower than those of all other retailers. Sales represented as being private and for selected customers only were in fact open to the public generally. Respondent Morris Hessel is not the author of the book, Facts You Should Know About Furs, but merely distributed it. The book, Fur Book of Knowledge, was not written by respondent Morris Hessel but was written by Anna Bird Stewart, although the record indicates that respondent Hessel supplied the material for the book and caused the publication of the book.

PAR. 6. Respondents advertise certain of their furs as "mouton." This is the word in the French language for lamb. Many members of the purchasing public are unaware of this fact and believe that this is the fur of an animal other than a lamb. This belief is enhanced by the fact that the fur is dyed so that it resembles other furs. The correct designation of such fur is "mouton dyed lamb." The failure of respondents to designate such fur by its proper English name confuses and misleads the public.

PAR. 7. In the course and conduct of their business respondents are and have been in substantial competition in commerce with other corporations and individuals and with partnerships engaged in the sale of merchandise similar to that sold by respondents. Among such competitors are many who do not misrepresent their business status or the prices charged for their merchandise.

PAR. 8. The use by respondents of the representations set forth above has the tendency and capacity to mislead and deceive a substantial portion of the purchasing public with respect to respondents' products, and the tendency and capacity to cause such portion of the

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public to purchase such products as a result of the erroneous and mistaken belief so engendered.

CONCLUSION

The acts and practices of the respondents, as hereinabove set out, are all to the prejudice of the public and of respondents' competitors, and constitute unfair methods of competition and 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 respondents, Morris Hessel, Inc., a corporation, and its officers, and Morris Hessel, Lee Hessel, and Tillie Hessel, individually and as officers of said corporation, and respondents' agents, representatives and employees, directly or through any corporate or other device, in connection with the offering for sale, sale, and distribution of furs and fur garments in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. Representing, directly or by implication:

(a) That respondents manufacture all of the products sold by them; or that respondents manufacture any of such products, unless respondents do in fact manufacture the products in connection with which such representation is made.

(b) That respondents are wholesalers, or that the prices of respondents' products are wholesale prices or are lower than the prices of all other retailers.

(c) That the prices at which respondents' products are offered at special sales are lower by 50 percent, or any other designated percentage or amount, than the regular prices of such products, unless such is the fact.

(d) That any sale conducted by respondents is a private sale and for selected customers only, or that the merchandise offered is not available for purchase by the general public, when such sale is in fact open to the public generally.

(e) That respondent corporation was organized or began business prior to 1940; provided however, that this shall not prohibit the individual respondent Morris Hessel from representing truthfully that he personally has had a longer period of experience in the fur business.

(f) That respondent Morris Hessel is the author of the books, *Facts You Should Know About Furs* or the *Fur Book of Knowledge*.

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2. Using the word "mouton" to designate or describe furs or fur products made from lamb peltries, unless such word is immediately followed by the words "dyed lamb," as mouton dyed lamb."

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 27, 1951].

Order

IN THE MATTER OF

ARNOLD A. SALTZMAN AND IRVING SALTZMAN TRADING
AS PREMIER KNITTING CO.

MODIFIED CEASE AND DESIST ORDER

Docket 4659. Order, September 28, 1951

Order modifying original order of July 20, 1951 (48 F. T. C. 72), so as to require respondent, in connection with the offer, etc., of sweaters or other knitwear in commerce, to cease and desist from the use of the word "Shetland," or the use of the word "Kittn-Gora," or any simulations of said words, etc., as in said order below set forth and subject to the qualifications there noted.

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

Mr. R. A. McOuat and *Mr. Jesse D. Kash* for the Commission.

Rothstein & Korzenik, of New York City, for respondents.

MODIFIED ORDER TO CEASE AND DESIST

This proceeding having been heard by the Federal Trade Commission upon the complaint of the Commission, the respondents' answer thereto, testimony and other evidence in support of and in opposition to the allegations of the complaint introduced before a trial examiner of the Commission theretofore duly designated by it, the trial examiner's recommended decision and exceptions thereto by counsel for respondents, and briefs and oral argument of counsel, and the Commission having ruled on the exceptions to the trial examiner's recommended decision and having made its findings as to the facts and its conclusion that the respondents had violated the provisions of the Federal Trade Commission Act, on July 20, 1951, issued and subsequently served upon the respondents said findings as to the facts, conclusion, and its order to cease and desist.

Thereafter, this matter came on for reconsideration by the Commission upon its own motion to reopen this proceeding for the purpose of modifying the order to cease and desist herein, an order to show cause why the order to cease and desist should not be modified, served upon respondents by the Commission, and respondents' answer thereto, and the Commission having reconsidered the matter and being of the opinion that its order to cease and desist issued herein should be modified in certain respects:

It is ordered, That the respondents, Arnold A. Saltzman and Irving Saltzman, individually and trading under the name of Premier Knitting Co., or trading under any other name, and their agents, repre-

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sentatives, and employees, directly or through any corporate or other device, in connection with the offering for sale, sale, or distribution of sweaters or other knitwear in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. Using the word "Shetland," or any simulation thereof, either alone or in connection with other words, to designate, describe, or refer to any product which is not composed entirely of wool of Shetland sheep raised on the Shetland Islands or the contiguous mainland of Scotland:

Provided, however, That in the case of a product composed in part of wool of Shetland sheep and in part of other fibers or materials, such word may be used as descriptive of the Shetland wool content if there are used in immediate connection therewith, in letters of at least equal conspicuousness, words truthfully describing such other constituent fibers or materials.

2. Using the term "Kittn-Gora," or any other form or simulation of the word "Angora," to designate, describe or refer to any product which is not composed entirely of hair of the Angora goat: *Provided, however,* That such term may be used (a) in the case of a product composed in substantial part of hair of the Angora goat and in part of other fibers or materials if such other fibers or materials are truthfully described in immediate connection therewith; or (b) in the case of a product composed in whole or in substantial part of hair of the Angora rabbit if the fact that such part consists of Angora rabbit hair and a truthful description of the other fibers or materials in the product are clearly stated in immediate connection therewith.

It is further ordered, That the respondents 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 it.

Note: The modification has to do with the proviso which follows paragraph two prohibiting the use of the term "Kittn-Gora" etc. Said proviso in the original order of July 20, 1951, read:

Provided, however, That in the case of a product composed in part of hair of the Angora goat and in part of other fibers or materials, such term or word may be used as descriptive of the Angora fiber content if there are used in immediate connection or conjunction therewith, in letters of at least equal size and conspicuousness, words truthfully describing such other constituent fibers or materials.

Complaint

IN THE MATTER OF
NEW YORK FEATHER COMPANY, 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*Docket 5840. Complaint, Jan. 18, 1951—Decision, Oct. 2, 1951*

Where a corporation and its two officers, engaged in the manufacture and interstate sale and distribution of pillows—

Inaccurately and misleadingly labeled certain of their said products in that, as illustrative, a pillow labeled "10% Down, 90% Duck Feathers," actually contained no down and only 24 percent duck feathers, with chicken and turkey feathers, chicken and turkey feather fiber and other materials as the remainder; one labeled "50% Down, 50% Duck Feathers" contained only 6.7 percent down and about 82 percent duck feathers; and a third labeled "White Goose Down" contained 46.7 percent thereof, about 47 percent white goose feathers, and 6 percent feather fiber;

With tendency and capacity to mislead and deceive a substantial portion of the purchasing public and thereby induce it to purchase their products:

Held, That such acts and practices, under the circumstances set forth, were all to the prejudice of the public and constituted unfair and deceptive acts and practices in commerce.

Before *Mr. William L. Pack*, trial examiner.

Mr. Russell T. Porter for the Commission.

Mr. Harry Heller, of Brooklyn, N. Y., 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 New York Feather Co., Inc., a corporation, and Joseph Yurkowitz and Mandel Yurkowitz, individually and as officers of said corporation, hereinafter referred to as respondents, have violated the provisions of said Act, 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: