

Complaint

48 F. T. C.

IN THE MATTER OF
RAYCREST MILLS, INC.

COMPLAINT, FINDINGS, AND ORDER 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 5834. Complaint, Dec. 19, 1950—Decision, Nov. 28, 1951

Where a corporation engaged in the manufacture of men's suiting materials, ladies' dress goods and similar fabrics which were sold and distributed in commerce and were wool products as defined in the Wool Products Labeling Act—

Misbranded fabrics composed of 80 percent rayon and 20 percent wool within the intent and meaning of said Act and the rules and regulations promulgated thereunder, in that they did not have on or affixed thereto a stamp, tag, label or other means of identification showing their constituent fibers and the percentages thereof and other information required:

Held, That such acts and practices, under the circumstances set forth, were in violation of the provisions of said Act and rules and regulations, and constituted unfair and deceptive acts and practices in commerce.

Before *Mr. Webster Ballinger*, hearing examiner.

Mr. Henry D. Stringer for the Commission.

Conrad & Smith, of New York City, 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 Raycrest Mills, Inc., a corporation, 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. Raycrest Mills, Inc., is a corporation organized under and by virtue of the laws of Rhode Island, with its office and place of business located at 560 Mineral Spring Avenue, Pawtucket, Rhode Island.

PAR. 2. Subsequent to July 15, 1941, respondent has violated the provisions of the Wool Products Labeling Act of 1939, and the Rules and Regulations promulgated thereunder, by manufacturing for introduction into commerce, introducing into commerce, offering for

sale in commerce, and selling and distributing in commerce, as "commerce" is defined in said Act, wool products, as "wool products" are defined therein, which were "misbranded," within the meaning of said Act in that there were not on or affixed thereto any stamps, tags, labels, or other means of identification, containing the information required by said Act, and in the manner and form required by the Rules and Regulations promulgated thereunder. Among said wool products were included approximately 200,000 yards of piece goods of which approximately 38,000 yards were sold to Roseline Fabrics, Inc., in October, 1948.

PAR. 3. 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 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 December 19, 1950, issued and subsequently served its complaint in this proceeding upon the respondent, Raycrest Mills, Inc., a corporation, charging it with the use of unfair and deceptive acts and practices in commerce in violation of the provisions of those Acts. After the filing of respondent's answer, testimony and other evidence in support of and in opposition to the allegations of the complaint were introduced before a hearing examiner of the Commission theretofore designated by it, and such testimony and other evidence were duly recorded and filed in the office of the Commission. On April 2, 1951, the hearing examiner filed his initial decision dismissing the complaint herein without prejudice.

Within the time permitted by the Commission's Rules of Practice, counsel supporting the complaint filed with the Commission an appeal from said initial decision, and thereafter this proceeding regularly came on for final consideration by the Commission upon the record herein, including the briefs in support of and in opposition to the appeal and oral argument of counsel; and the Commission, having issued its order granting said appeal, 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 and its conclusion drawn therefrom, the same to be in lieu of the initial decision of the hearing examiner.

Order

48 F. T. C.

FINDINGS AS TO THE FACTS

PARAGRAPH 1. Respondent Raycrest Mills, Inc., is a corporation organized under and by virtue of the laws of the State of Rhode Island, with its office and place of business located at 560 Mineral Spring Avenue, Pawtucket, R. I.

PAR. 2. Respondent is now and since prior to 1947 has been engaged in the manufacture and sale of men's suiting materials, ladies' dress goods and similar fabrics. During the years 1947 and 1948, respondent manufactured 200,000 yards of fabrics composed of 80 percent rayon and 20 percent wool, as the term "wool" is defined in the Wool Products Labeling Act of 1939, which fabrics were manufactured for introduction and sale in commerce and which were in fact introduced, sold and distributed in commerce, as "commerce" is defined in the Wool Products Labeling Act of 1939 and in the Federal Trade Commission Act. Said fabrics were wool products as that term is defined in the Wool Products Labeling Act of 1939, and were therefore subject to the provisions of said Act and the Rules and Regulations promulgated thereunder.

PAR. 3. The above-described wool products when introduced into commerce and sold and distributed in commerce, as aforesaid, were misbranded within the intent and meaning of the Wool Products Labeling Act of 1939 and the Rules and Regulations promulgated thereunder in that they did not have on or affixed to them a stamp, tag, label or other means or identification showing the constituent fibers and the percentages thereof, of such products, and other information required by said Act and the Rules and Regulations promulgated thereunder.

CONCLUSION

Th acts and practices of the respondent, as hereinabove found, were in violation of the provisions of the Wool Products Labeling Act of 1939 and the Rules and Regulations thereunder, and constituted 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, Raycrest Mills, Inc., a corporation, and its officers, 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 offering for sale, sale, transportation, or distribution in commerce, as "com-

merce" is defined in the aforesaid Acts, of fabrics 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 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 five percentum 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 five percentum or more, and (5) the aggregate of all other fibers.

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

(c) The name or the registered identification number of the manufacturer of such wool product or of one or more persons engaged in introducing such wool product into commerce, or in the offering for sale, sale, transportation, or distribution thereof in commerce, as "commerce" is defined in the Federal Trade Commission Act and in the Wool Products Labeling Act of 1939.

Provided, That the foregoing provisions concerning misbranding shall not be construed to prohibit acts permitted by paragraphs (a) and (b) of Section 3 of the Wool Products Labeling Act of 1939; *and provided further*, that nothing contained in this order shall be construed as limiting any applicable provisions of said Act or the Rules and Regulations promulgated thereunder.

It is further ordered, That the respondent shall, within sixty (60) days after service upon it of this order, file with the Commission a report in writing setting forth in detail the manner and form in which it has complied with this order.

IN THE MATTER OF
ESTHER ZITSERMAN TRADING AS J. M. HOWARD CO.

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

Docket 5737. Complaint, Jan. 25, 1950—Decision, Nov. 29, 1951

The Commission is of the opinion that the distribution in commerce of devices which aid and encourage merchandising by gambling is contrary to the interest of the public.

Merchandising by gambling should not be divided into isolated acts, which, when examined separately, might appear innocent, and in said connection both the gamblers and those who furnish them with the instrumentalities by means of which merchandising by gambling is conducted, are engaged in practices contrary to public policy.

Where an individual engaged in the manufacture and interstate sale and distribution of push cards and punchboards which, bearing appropriate explanatory legends and depictions (or space therefor), were designed for use by retailers in the sale and distribution of merchandise to the public by means of a game of chance, under plans whereby the purchasers of a punch or push who by chance selected concealed winning numbers became entitled to designated articles of merchandise without additional cost, at prices which were much less than their normal retail prices, others receiving nothing for their money other than the privilege of a push or punch—

Sold and distributed such devices to dealers in candy, cigarettes, pipes, clocks, razors, cosmetics and other articles, assortments of which, along with said devices, were made up by said dealers and exposed and sold by the retailer purchasers to the purchasing public wholly by lot or chance in accordance with the aforesaid plan; and thereby supplied to and placed in the hands of retailers the means of conducting lotteries or games of chance in the sale and distribution of merchandise to the general public, and knowingly and purposely assisted and participated in the violation of an established public policy of the United States Government;

With the result that gambling among members of the public was taught and encouraged, to its injury, and said individual thus polluted the stream of interstate commerce by supplying to and placing in the hands of others instrumentalities for engaging in unfair acts and practices within the intent and meaning of the Federal Trade Commission Act:

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

As respects respondent's appeal from the hearing examiner's initial decision in the instant matter on the ground that the proceeding was not in the interest of the public, since prohibiting respondent from selling lottery devices in commerce would not eliminate the unfair practice, which was the distribu-