

Complaint

IN THE MATTER OF

RONELL FASHIONS, INC. ET AL.

COMPLAINT, DECISION, 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 5916. Complaint, Aug. 16, 1951—Decision, Mar. 17, 1952

Where a corporation and its president and secretary-treasurer, engaged in the manufacture, sale, and distribution in commerce of "wool products" as defined in the Wool Products Labeling Act, including some 500 women's top-per coats, which they made from bolt-ends, samples and other odd pieces of cloth, the actual fiber content of which they did not know—

- (a) Misbranded a substantial number of said garments as to the character and amount of the constituent fibers, including, as illustrative, three of said coats which, all labeled "100% wool", contained 37.1%, 29%, and 35.3% wool respectively, with the balance of viscose rayon; and
- (b) Misbranded certain of said products in that they did not have affixed thereto tags or labels required under the Act:

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

Before *Mr. J. Earl Cox*, hearing examiner.

Mr. Russell T. Porter 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 Ronell Fashions, Inc., a corporation, and Abraham Wolf and Hyman Ellis, individually and as officers of said corporation, 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, Ronell Fashions, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of New York. Its principal office and place of business is located at 241-37th Street, New York, New York.

Respondents Abraham Wolf and Hyman Ellis are President and Secretary-Treasurer, respectively, of respondent Ronell Fashions, Inc.,

and as such, formulate and execute its policies and practices. Their business address is the same as that of the corporate respondent.

PAR. 2. Subsequent to the effective date of the Act and more especially since January 1950, 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 in that they were not stamped, tagged or labeled as required under the provisions of section 4 (a) (2) of the Wool Products Labeling Act of 1939 and in the manner and form prescribed by the Rules and Regulations relating thereto.

PAR. 4. Certain of said wool products were misbranded within the intent and meaning of the said Act and Rules and Regulations in that they were falsely and deceptively labeled with respect to the character and amount of the constituent fibers appearing therein. Among the misbranded products aforementioned were womens coats. Such coats were labeled by the respondent as "100% wool." In truth and in fact, the coats were not 100% wool as labeled but contained substantial quantities of fibers other than wool.

PAR. 5. 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 March 17, 1952, the initial decision in the instant matter of hearing examiner, J. Earl Cox, as set out as follows, became on that date the decision of the Commission.

INITIAL DECISION BY J. EARL COX, HEARING 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 August 16, 1951, issued and subsequently served its complaint in this proceeding upon the respondents Ronell Fashions, Inc., a corporation, and Abraham Wolf and Hyman Ellis, individually and as officers of said cor-

poration, charging them with the use of unfair and deceptive acts and practices in commerce in violation of the provisions of said Acts. After the issuance of said complaint and the filing of respondents' answer thereto, hearings were held at which testimony and other evidence in support of and in opposition to the complaint were introduced before the above-named hearing examiner, theretofore duly designated by the Commission, and said testimony and other evidence were duly recorded and filed in the office of the Commission. Thereafter the proceeding regularly came on for final consideration by said hearing examiner on the complaint, the answer thereto, testimony and other evidence, proposed findings as to the facts and conclusions presented by counsel, oral argument not having been requested; and said hearing examiner, having duly considered the record herein, finds that this proceeding is in the interest of the public and makes the following findings as to the facts, conclusion drawn therefrom, and order:

FINDINGS AS TO THE FACTS

PARAGRAPH 1. Respondent, Ronell Fashions, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of New York, with its principal office and place of business located at 241 West 37th Street, New York, New York.

Respondents Abraham Wolf and Hyman Ellis are President and Secretary-Treasurer, respectively, of respondent Ronell Fashions, Inc., and as such, formulate and execute its policies and practices. Their business address is the same as that of the corporate respondent.

PAR. 2. Since January, 1950, respondents manufactured for introduction into commerce, introduced into commerce, offered for sale, sold, transported, and distributed in commerce, as "commerce" is defined in said Federal Trade Commission Act and Wool Products Labeling Act, wool products, as "wool products" are defined in said Wool Products Labeling Act.

PAR. 3. Certain of said wool products were misbranded in that they were not stamped, tagged or labeled as required under the provisions of Section 4 (a) (2) of the Wool Products Labeling Act of 1939 and in the manner and form prescribed by the Rules and Regulations relating thereto.

PAR. 4. Certain of said wool products were misbranded within the intent and meaning of the said Act and Rules and Regulations promulgated thereunder in that they were falsely and deceptively labeled with respect to the character and amount of the constituent fibers appearing therein. Among the misbranded products aforementioned were three women's topper coats which were labeled by the respondents as "100% wool." In truth and in fact, the coats were not 100%

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wool as labeled, but contained substantial quantities of fibers other than wool. One topper coat contained 62.9% of viscose rayon and 37.1% wool, another 71% viscose rayon and 29% wool, and the third 64.7% viscose rayon and 35.3% wool. Approximately 500 topper coats similar to these three were made by respondent corporation from bolt-ends, samples and other odd pieces of cloth which carried no markings as to wool and other fiber content. The respondents did not know the actual fiber content of the garments so made, and a substantial number of them were mislabeled. The use of such materials was discontinued by said respondent about January, 1951. Total annual production of respondent corporation was approximately 100,000 garments.

CONCLUSION

The aforesaid acts and practices of respondents, as herein found, were 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.

ORDER

It is ordered, That the respondent Ronell Fashions, Inc., a corporation, and its officers, and Abraham Wolf and Hyman Ellis, individually, and as officers of said corporation, 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 offering for sale, sale, transportation or distribution in commerce, as "commerce" is defined in the aforesaid Acts, of women's topper coats 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 said women's coats or other wool products:

1. By falsely and deceptively representing on any stamp, tag, label or other means of identification appearing on a wool product the character or amount of the constituent fibers appearing therein;
2. By failing to securely affix to or place on such products a stamp, tag, label or other means of identification showing in a clear and conspicuous manner:

(A) The percentage of the total fiber weight of such wool product, exclusive of ornamentation not exceeding five per centum of said total

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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 per centum or more and (5) the aggregate of all other fibers;

(B) The maximum percentage of the total weight of such wool product of any non-fibrous 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, distribution or delivering for shipment thereof in commerce, as "commerce" is defined in the Federal Trade Commission Act and in the Wool Products Labeling Act of 1939.

Provided, That the foregoing provisions concerning misbranding shall not be construed to prohibit acts permitted by paragraphs (a) and (b) of Section 3 of the Wool Products Labeling Act of 1939; and

Provided further, That nothing contained in this order shall be construed as limiting any applicable provisions of said Act or of the Rules and Regulations promulgated thereunder.

ORDER TO FILE REPORT OF COMPLIANCE

It is ordered, That the 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 March 17, 1952].

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IN THE MATTER OF

HERBST SHOE MANUFACTURING COMPANY

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

Docket 5843. Complaint, Jan. 25, 1951—Decision, Mar. 18, 1952

An orthopedic shoe is one made as prescribed by an orthopedic doctor to correct a special disorder or abnormality in a particular case, and, due to the causes and nature of abnormalities of the feet, to prescribe an orthopedic shoe for an individual in many cases necessitates a thorough physical examination of the individual by an orthopedic doctor to determine the cause of the trouble, often necessitating X-rays of particular areas of the body, or keeping the individual under observation and treatment for a time.

Where a corporation engaged in the manufacture and interstate sale and distribution of shoes; through statements and representations on its shoe boxes and in advertisements in magazines of general circulation and in folders and circulars—

- (a) Represented falsely that its "Child Life" shoes were orthopedically designed, tested and approved and were truly "orthopedic shoes", and that its "College Chum Orthopedic" and "Official P. H. D. Physical Health Director" shoes correctly supported the longitudinal arch of the foot and the ankle and thereby prevented pronation and eversion and caused the foot to function normally, and were specially designed for their physical health properties; when in fact its said products were stock shoes;
- (b) Falsely represented that its "Child Life" shoes would make young feet grow strong and healthy and keep them so, would insure freedom from future foot ailments, maintain normal foot health, prevent development of abnormalities, deformities and disorders in growing feet and correct any such conditions which might manifest themselves; would promote and maintain a proper and balanced posture, prevent and correct poor posture, promote and insure proper foot growth, hold the bones of the feet in proper alignment, promote sound physical development, correct muscle strain and inrolling ankles, make crooked ankles straight and restore the arch to normal;

With effect of misleading and deceiving a substantial portion of the purchasing public into the erroneous belief that such representations were true, and with capacity and tendency so to do, and thereby induce purchase of substantial quantities of its said products:

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

Before *Mr. Webster Ballinger*, hearing examiner.

Mr. B. G. Wilson and *Mr. J. M. Doukas* for the Commission.

Nohl, Petrie & Stocking, of Milwaukee, Wis., for respondent.

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