

Complaint

IN THE MATTER OF
RAINBOW GIRL COAT 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, AND OF AN ACT OF CONGRESS APPROVED OCT. 14, 1940

Docket 5924. Complaint, Sept. 21, 1951—Decision, Aug. 9, 1952

Where a corporation and its two officers, engaged in the manufacture and interstate sale and distribution of wool products as defined in the Wool Products Labeling Act, including certain girls' coats—

- (a) Misbranded certain of said wool products in that they were not stamped, tagged, or labeled as required by said Act and the Rules and Regulations promulgated thereunder;
- (b) Misbranded certain girls' coats in that, labeled as "100% Wool", they contained substantial quantities of other fibers;
- (c) Misbranded certain of their wool products in that the name of the constituent fibers appearing on the stamp, tag, or label affixed thereto was abbreviated and not fully spelled out as required under the provisions of Rule 9 of the aforesaid Rules and Regulations; and
- (d) Misbranded certain girls' coats in that the character and amount of constituent fibers contained in the linings, which were represented as containing wool, reprocessed wool or reused wool, were not separately set forth on the label as required by said Act and Rule 24 of the aforesaid Rules and Regulations:

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

Certain evidence offered by respondents for the purpose of showing that the misbranding involved was due to inadvertence and carelessness on the part of respondents' employees did not constitute a defense to the proceeding, and was, in fact, offered only to show the circumstances under which the violations occurred.

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

Mr. Carlo J. Aimone and *Mr. George E. Steinmetz* for the Commission.

Mr. Gerald J. Parish, of Springfield, Mass., 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 Rainbow Girl Coat Company, Inc., a corporation, and Arnold Freed and Harold Freed, individually and as officers of said corporation have violated the provisions of said

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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, Rainbow Girl Coat Company, Inc., is a corporation organized and existing under and by virtue of the laws of the Commonwealth of Massachusetts, and respondents Arnold Freed and Harold Freed are the president and treasurer, respectively, of the said respondent corporation. Respondents Arnold Freed and Harold Freed formulate, direct and control the policies, acts and practices of the corporate respondent. The offices and principal place of business of all respondents are located at 1879 Columbus Avenue, Springfield, Massachusetts.

PAR. 2. Subsequent to the effective date of the Act and more especially since 1949, respondents have 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 as prescribed by the Rules and Regulations promulgated under such Act.

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

Certain of respondents' wool products were misbranded in that on the stamp, tag, or label affixed thereto, the required information descriptive of fiber content was falsely and deceptively set out in that the name of the constituent fibers appearing therein, was abbreviated and not fully spelled out as required under the provisions of Rule 9 of the Regulations.

PAR. 5. Other wool products of the respondent corporation, namely, girls' coats, were misbranded in that the character and amount of the constituent fibers contained in the linings thereof which purported to contain or were represented as containing wool, reprocessed wool or

reused wool, were not separately set forth on the stamp, tag, or label as required by the said Act and Rule 24 of the Rules and Regulations promulgated thereunder.

PAR. 6. The acts and practices of the respondents as herein alleged were in violation of the Wool Products Labeling Act of 1939 and the Rules and Regulations promulgated thereunder and constituted unfair and deceptive acts 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 August 9, 1952, the initial decision in the instant matter of hearing examiner Earl J. Kolb, as set out as follows, became on that date the decision of the Commission.

INITIAL DECISION BY EARL J. KOLB, 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 September 21, 1951, issued and subsequently served its complaint in this proceeding upon the respondents Rainbow Girl Coat Company, Inc., a corporation and Arnold Freed and Harold Freed, 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 upon the record 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 hearing examiner, theretofore duly designated by the Commission, upon the complaint and stipulation as to the facts, said stipulation having been approved by said hearing examiner, who, after duly considering the

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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, Rainbow Girl Coat Company, Inc., is a corporation organized and existing under and by virtue of the laws of the Commonwealth of Massachusetts, and respondents Arnold Freed and Harold Freed are the president and treasurer, respectively, of the said respondent corporation. Respondents Arnold Freed and Harold Freed formulate, direct and control the policies, acts and practices of the corporate respondent. The offices and principal place of business of all respondents are located at 1879 Columbus Avenue, Springfield, Massachusetts.

PAR. 2. Subsequent to the effective date of the Act and more especially since 1949, respondents have 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 as prescribed by the Rules and Regulations promulgated under such Act.

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

Certain of respondents' wool products were misbranded in that on the stamp, tag, or label affixed thereto, the required information descriptive of fiber content was falsely and deceptively set out in that the name of the constituent fibers appearing therein, was abbreviated and not fully spelled out as required under the provisions of Rule 9 of the Regulations.

PAR. 5. Other wool products of the respondent corporation, namely, girls' coats, were misbranded in that the character and amount of the constituent fibers contained in the linings thereof which purported to contain or were represented as containing wool, reprocessed wool or

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reused wool, were not separately set forth on the stamp, tag, or label as required by the said Act and Rule 24 of the Rules and Regulations promulgated thereunder.

PAR. 6. The respondents, in addition to entering into said stipulation, introduced evidence with reference to the circumstances under which the various products had been misbranded for the purpose of showing that such misbranding was due to inadvertence and carelessness on the part of their employees. Such evidence does not constitute a defense to this proceeding and was, in fact, offered only to show the circumstances under which the violations occurred.

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.

ORDER

It is ordered, That the respondent, Rainbow Girl Coat Company, Inc., a corporation, and its officers, and the respondents, Arnold Freed and Harold Freed, individually and as officers of said respondent corporation, and said respondents' 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 Act, of girls' 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 such products by:

1. Falsely or deceptively stamping, tagging, labeling or otherwise identifying such products as to the character or amount of the constituent fibers therein;
2. Failing to securely affix or to place on each such product a stamp, tag, label, or other means of identification showing in a clear and conspicuous manner:

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(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 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 Wool Products Labeling Act of 1939;

3. Failing to separately and distinctly set forth on the required stamp, tag, label, or other means of identification affixed to or placed on any such product, the character and amount of the constituent fibers appearing in the linings thereof which purport to contain, or in any manner are represented as containing wool, reprocessed wool, or reused wool.

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 respondent 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 August 9, 1952].

Syllabus

IN THE MATTER OF
HARRY C. HAYES DOING BUSINESS AS DELUXE SALES
CO. AND DELUXE MANUFACTURING CO.

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

Docket 5750. Complaint, Mar. 15, 1950—Decision, Aug. 18, 1952

There is a preference on the part of dealers and of the purchasing public for dealing with the manufacturer of the products directly, due to their belief that thereby lower prices and other advantages may be obtained.

Where an individual engaged in the interstate sale and distribution of various kinds of push cards and punchboards, which, bearing explanatory legends or space therefor, were designed for and used only in combination with other merchandise in the sale thereof by ultimate purchasers by lot or chance under plans whereby purchasers who, by chance, selected certain specified numbers, received articles at much less than their normal retail prices and others received nothing for their money other than the privilege of a push or punch—

- (a) Sold and distributed such devices to dealers who packed them with assortments of candy, cigarettes, clocks, razors, cosmetics, clothing, and other articles, following which they were exposed and sold by the retail dealer purchasers by lot or chance; and

Thereby supplied to and placed in the hands of others means of conducting lotteries, games of chance or gift enterprises in the sale or distribution of their merchandise, in contravention of an established public policy of the United States Government; in the violation of which said individual assisted and participated;

With the result that many members of the purchasing public were induced to trade or deal with retailers who thus sold or distributed merchandise; many retailers were induced to deal with suppliers who sold and distributed said assortments; and gambling among members of the public was taught and encouraged, all to their injury; and

- (b) Represented through use of the trade name "Deluxe Manufacturing Company" that he manufactured the devices and merchandise sold by him; when in fact he purchased said products from the manufacturers;

With effect of misleading and deceiving many persons into the erroneous belief that he was a manufacturer, and into the purchase of his said products in such belief; and with capacity and tendency so to do:

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.

Mr. J. W. Brookfield, Jr., for the Commission.