

IN THE MATTER OF
ISIDORE SANDBERG ET AL. TRADING AS SEYMOUR
DRESS & BLOUSE COMPANY

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

Docket 6059. Complaint, Nov. 18, 1952—Decision, Apr. 2, 1953

Rayon is a chemical fiber which may be manufactured and finished in such manner as to simulate wool and other natural fibers in texture and appearance, and many members of the purchasing public are unable to distinguish between articles of wearing apparel, including dresses, made from such rayon fabrics and those manufactured from wool or other natural fibers; and readily accept wearing apparel made from rayon as made from wool or other natural fibers.

Where two individuals engaged in the manufacture and interstate sale and distribution to retailer purchasers of articles of women's wearing apparel, including dresses, made of rayon—

- (a) Failed to label or otherwise inform purchasers that said dresses were composed of rayon; and
- (b) Falsely represented and impliedly warranted that certain of said dresses, made from brushed rayon fabric, were safe to wear, through failing to reveal the highly inflammable characteristic of the material;

With tendency and capacity to mislead a substantial portion of the purchasing public into the mistaken belief that said garments were made of wool and were suitable and safe for wearing as articles of clothing, and thereby into the purchase of substantial quantities thereof:

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.

While it appeared that respondents, since about January 1952, had been labeling all garments made of rayon and other synthetic fabrics to show their synthetic fiber content, and stated that they were then fully complying with the Trade Practice Rules of the Commission applicable to the rayon and acetate textile industry, it was nevertheless in the public interest that cease and desist order issue in view of the inflammable characteristics of fabrics theretofore used in some of the wearing apparel made and distributed by them.

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

Mr. George E. Steinmetz for the Commission.

Helman & Hurwitz, of New York City, 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 Isidore Sandberg and Seymour Sandberg, individually and doing business as a copartnership under the firm name of Seymour Dress & Blouse Company, 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. Respondents are individuals trading and doing business as a copartnership under the firm name of Seymour Dress & Blouse Company with their office and principal place of business located at 462 Seventh Avenue, New York, New York. The home address of respondent Isidore Sandberg is 100 Riverside Drive, New York, New York, and the home address of respondent Seymour Sandberg is 404 Barnard Avenue, Cedarhurst, Long Island, New York.

PAR. 2. The respondents are now and for more than one year last past have been engaged in the manufacture, sale and distribution of articles of women's wearing apparel including dresses, which are composed of rayon. Respondents cause their products when sold to be transported from their place of business in the State of New York to purchasers thereof located in various other States of the United States. Respondents maintain, and at all times mentioned herein have maintained, a substantial course of trade in said products in commerce among and between the various States of the United States.

PAR. 3. Rayon is a chemical fiber which may be manufactured and finished in such manner as to simulate wool and other natural fibers in texture and appearance, and many members of the purchasing public are unable to distinguish between articles of wearing apparel, including dresses made from such rayon fibers, from those manufactured from wool or other natural fibers. Consequently, articles of wearing apparel made from such rayon fabrics are readily accepted by many members of the purchasing public as made from wool or other natural fibers.

PAR. 4. Some of the dresses manufactured and distributed by the respondents are made from a particular type of brushed rayon fabric which is highly inflammable. Respondents do not label or otherwise inform the purchasers thereof that they are composed of rayon nor do they reveal in any manner the highly inflammable characteristics thereof.

PAR. 5. Purchasers of brushed rayon dresses manufactured by respondents include retail stores which resell the same to the general public, and the failure of respondents to reveal that such articles are made of rayon, and failing to reveal that they are made of highly inflammable material, places in the hands of retailers and others a means and instrumentality whereby members of the purchasing public may be misled and deceived in the manner above set forth.

PAR. 6. By failing to label or tag their said brushed rayon dresses as rayon, and by failing to reveal or disclose the inflammable characteristics thereof, respondents have represented and impliedly warranted that said dresses are safe to wear. In truth and in fact, dresses and other articles of wearing apparel made of such brushed rayon material are dangerous and unsafe to be worn because they are highly inflammable.

PAR. 7. The practices of respondents of failing to reveal that their garments are made of rayon and of failing to reveal that some of their garments made of a particular type of brushed rayon are highly inflammable and are unsafe to be worn as articles of clothing had the tendency and capacity to mislead and deceive a substantial portion of the purchasing public into the erroneous and mistaken belief that said garments were made of wool and were suitable and safe to be worn as articles of clothing and into the purchase of substantial quantities of their garments because of such erroneous and mistaken belief.

PAR. 8. The aforesaid acts and practices of respondents as herein alleged are all 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.

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 April 2, 1953, 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, the Federal Trade Commission on November 18, 1952, issued and subsequently served its complaint in this proceeding upon the respondents Isidore Sandberg and Seymour Sandberg, individually and as partners trading as Seymour Dress & Blouse Company, charging

them with the use of unfair and deceptive acts and practices in commerce within the intent and meaning of said Act. After the filing of respondents' answer in this proceeding a hearing was held on January 21, 1953, before the above-named hearing examiner of the Commission, theretofore duly designated by it, at which a stipulation was entered into by and between Jacob E. Hurwitz, attorney for respondents, and George E. Steinmetz, attorney in support of the complaint, subject to the approval of the hearing examiner, whereby it was stipulated and agreed that a statement of facts agreed to on the record may be made a part of the record herein and may be taken as the facts in this proceeding and in lieu of evidence in support of the charges stated in the complaint or in opposition thereto; that the said hearing examiner may proceed upon said statement of facts to make his initial decision stating his findings as to the facts, including inferences which he may draw from the said stipulation of facts, and his conclusion based thereon, and enter his order disposing of the proceeding as to said respondents without the filing of proposed findings and conclusions or the presentation of oral argument. Said stipulation as to the facts expressly provides that upon appeal to or review by the Commission, said stipulation may be set aside by the Commission and this matter remanded for further proceedings under the complaint.

Thereafter, this proceeding regularly came on for final consideration by said hearing examiner upon the complaint, answer, and stipulation, said stipulation having been approved by the hearing 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. Respondents are individuals trading and doing business as a copartnership under the firm name of Seymour Dress & Blouse Company with their office and principal place of business located at 462 Seventh Avenue, New York, New York. The home address of respondent Isidore Sandberg is 100 Riverside Drive, New York, New York, and the home address of respondent Seymour Sandberg is 404 Barnard Avenue, Cedarhurst, Long Island, New York.

PAR. 2. The respondents are now and for more than one year last past have been engaged in the manufacture, sale and distribution of articles of women's wearing apparel, including dresses, which are composed of rayon. Respondents cause their products when sold to be transported from their place of business in the State of New York to purchasers thereof located in various other States of the United

States. Respondents maintain, and at all times mentioned herein have maintained, a substantial course of trade in said products in commerce among and between the various States of the United States.

PAR. 3. Rayon is a chemical fiber which may be manufactured and finished in such manner as to simulate wool and other natural fibers in texture and appearance, and many members of the purchasing public are unable to distinguish between articles of wearing apparel, including dresses, made from such rayon fabrics and those manufactured from wool or other natural fibers. Consequently, articles of wearing apparel made from such rayon fabrics are readily accepted by many members of the purchasing public as made from wool or other natural fibers.

PAR. 4. Some of the dresses manufactured and distributed by the respondents were made from a particular type of brushed rayon fabric which burns rapidly or intensely and is highly inflammable. Respondents did not label or otherwise inform the purchasers thereof that they were composed of rayon nor did they reveal in any manner the highly inflammable characteristics thereof.

PAR. 5. Purchasers of brushed rayon dresses manufactured by respondents include retail stores which resell the same to the general public, and the failure of respondents to reveal that such articles were made of rayon, and the failure to reveal that they were made of highly inflammable material, places in the hands of retailers and others a means and instrumentality whereby members of the purchasing public may have been misled and deceived.

PAR. 6. By failing to label or tag their said brushed rayon dresses as rayon, and by failing to reveal or disclose the inflammable characteristics of some of their fabrics and garments, respondents have represented and impliedly warranted that said dresses were and are safe to wear. In truth and in fact, dresses and other articles of wearing apparel made of such brushed rayon material were and are dangerous and unsafe to be worn because they were and are highly inflammable.

PAR. 7. The practices of respondents of failing to reveal that their garments were made of rayon and of failing to reveal that some of their garments made of a particular type of brushed rayon were and are highly inflammable and unsafe to be worn as articles of clothing had the tendency and capacity to mislead and deceive a substantial portion of the purchasing public into the erroneous and mistaken belief that said garments were made of wool and were suitable and safe to be worn as articles of clothing and into the purchase of substantial quantities of their garments because of such erroneous and mistaken belief.

1278

Order

CONCLUSION

The aforesaid acts and practices of respondents as hereinabove found are all 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.

The respondents have since about January 1952 labeled all garments made of rayon and other synthetic fabrics to show the synthetic fiber content thereof, and further state that they are now fully complying with the Trade Practice Rules of the Federal Trade Commission applicable to the rayon and acetate textile industry. However, because of the inflammable characteristics of the fabrics heretofore used in some of the wearing apparel manufactured and distributed by the respondents, it is in the public interest that a cease and desist order be issued.

ORDER

It is ordered, That the respondents Isidore Sandberg and Seymour Sandberg, individually and trading and doing business as Seymour Dress & Blouse Company, or under any other name or names, and their respective representatives, agents and employees, directly or through any corporate or other device, in connection with the offering for sale, sale and distribution in commerce, as "commerce" is defined in the Federal Trade Commission Act, of dresses or any other garments, do forthwith cease and desist from:

1. Offering for sale or selling any garments composed in whole or in part of rayon without clearly disclosing thereon, or on tags or labels affixed thereto, such rayon content.

2. Offering for sale or selling any garments made of highly inflammable materials without clearly and affirmatively disclosing thereon, or on tags or labels affixed thereto, that said garments are highly inflammable and are dangerous and unsafe to be worn as articles of clothing.

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 April 2, 1953].

IN THE MATTER OF
PHILLIPS, INC. ET AL.

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

Docket 6021. Complaint, Dec. 15, 1952¹—Decision, Apr. 7, 1953

Where a corporation and its three officers, engaged in the sale, among other things, of freezers to purchasers in the District of Columbia and adjacent States, after making arrangements whereby purchasers of said products were enrolled in a food distributing organization operated by an unaffiliated concern which entitled members to purchase frozen food items in bulk—

- (a) Represented through radio broadcasts, oral statements of their salesmen, and other advertising, that they were engaged in the operation of a food purchasing plan, that said plan was offered by them to assist participants in buying their food at wholesale prices, and that participants in such plan could eliminate the retailer and buy at wholesale prices or from a wholesaler;
- When in fact their sole connection with the food business was that they enrolled purchasers of their freezers in said plan to promote the sale of their freezers; the food distributing organization was not a wholesaler, and participants could not eliminate the retailer since many normal food requirements were not available under the plan; and the prices at which participants purchased were not wholesale prices;
- (b) Falsely represented as aforesaid that participants in the plan could effect over-all monetary savings through the general use of frozen foods in place of other forms; the facts being that frozen foods, purchased ordinarily in increased quantity through the plan, in the main cost more per edible pound than other forms;
- (c) Falsely represented that any family could reduce its expenditure for food by \$30 or more per month by participation in the plan, and that participants could purchase for 70c meat or frozen food which would cost \$1.00 at retail and thus save 30%;

The facts being that many common articles of food are not available under the plan; a participant would effect his maximum saving only by continuing to purchase no greater amounts of meat and frozen foods than were purchased through retail channels theretofore; difference in food prices was small; the monthly food bill of a family prior to participation would have to be far in excess of the usual cost for many to permit any such saving; and prices of many meats and frozen foods available through the plan were more than 70% of the retail prices;

- (d) Falsely and misleadingly represented that monetary savings could be effected by all who purchased and used their freezers, and that installment payments, calculated on a daily basis, represented cost of food consumed and also payment on a freezer;

¹ Amended.