

Complaint

49 F. T. C.

IN THE MATTER OF
DARCO WOOL CORPORATION 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, AND OF AN ACT OF CONGRESS APPROVED OCT. 14, 1940

Docket 6075. Complaint, Jan. 7, 1953—Decision, Apr. 14, 1953

Where a corporation and its three officers, engaged in the manufacture and interstate sale and distribution of wool products as defined in the Wool Products Labeling Act—

- (a) Misbranded certain of said products described as batts or battings in that they were not stamped, tagged, or labeled as required by said Act and the Rules and Regulations promulgated thereunder; and
- (b) Misbranded batts or battings in that—marked, stamped, or labeled as “100 per cent reused wool” and “100 per cent reprocessed wool”—they contained substantial quantities of fibers other than wool:

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 and deceptive acts and practices in commerce.

Before *Mr. James A. Purcell*, hearing examiner.

Mr. George E. Steinmetz for the Commission.

Mr. Myron Goldman, 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 Darco Wool Corporation, a corporation, and Max Dabek, David Racine and Jack Dabek, individually and as officers of said corporation, hereinafter referred to as respondents, have violated the provisions of said Acts, 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 Darco Wool Corporation is a corporation, organized and existed under and by virtue of the laws of the State of New Jersey, with its office and principal place of business at 1417 Hudson Boulevard, North Bergen, New Jersey.

The individual respondents Max Dabek, David Racine and Jack Dabek are president, secretary and treasurer, respectively of respond-

ent corporation, and as such, maintain their place of business at the same location as the corporate respondent; and in their respective capacities as officers thereof individually, jointly and severally formulate, direct and control, the acts, practices and policies of said corporate respondent.

PAR. 2. Subsequent to the effective date of said Wool Products Labeling Act and more especially since June of 1951, 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 described as batts or battings 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 promulgated thereunder.

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

PAR. 5. 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 constitute unfair and deceptive acts and practices in commerce within the intent and meaning of the Federal Trade Commission Act.

CONSENT SETTLEMENT ¹

Pursuant to the provisions of the Federal Trade Commission Act and the Wool Products Labeling Act of 1939, the Federal Trade Commission on January 7, 1953 issued and subsequently served its com-

¹ The Commission's "Notice" announcing and promulgating the consent settlement as published herewith, follows:

The consent settlement tendered by the parties in this proceeding, a copy of which is served herewith, was accepted by the Commission on April 14, 1953, and ordered entered of record as the Commission's findings as to the facts, conclusion, and order in disposition of this proceeding.

The time for filing report of compliance pursuant to the aforesaid order runs from the date of service hereof.

Findings

49 F. T. C.

plaint on the respondents named in the caption hereof charging them with the use of unfair and deceptive acts and practices in violation of the provisions of said Acts.

The respondents, desiring that this proceeding be disposed of by the consent settlement procedure provided in Rule V of the Commission's Rules of Practice, solely for the purposes of this proceeding, any review thereof, and the enforcement of the order consented to, and conditioned upon the Commission's acceptance of the consent settlement hereinafter set forth, and in lieu of the answer to said complaint heretofore filed and which, upon acceptance by the Commission of this settlement is to be withdrawn from the record, hereby:

1. Admits all the jurisdictional allegations set forth in the complaint.
2. Consents that the Commission may enter the matters hereinafter set forth as its findings as to the facts, conclusion, and order to cease and desist. It is understood that the respondents, in consenting to the Commission's entry of said findings as to the facts, conclusion, and order to cease and desist, specifically refrains from admitting or denying that it has engaged in any of the acts or practices stated therein to be in violation of law.
3. Agrees that this consent settlement may be set aside in whole or in part under the conditions and in the manner provided in paragraph (f) of Rule V of the Commission's Rules of Practice.

The admitted jurisdictional facts, the statement of the acts and practices which the Commission had reason to believe were unlawful, the conclusion based thereon, and the order to cease and desist, all of which the respondents consent may be entered herein in final disposition of this proceeding, are as follows:

FINDINGS AS TO THE FACTS

PARAGRAPH 1. Respondent Darco Wool Corporation is a corporation, organized and existing under and by virtue of the laws of the State of New Jersey, with its office and principal place of business at 1417 Hudson Boulevard, North Bergen, New Jersey.

The individual respondents Max Dabek, David Racine and Jack Dabek are president, secretary and treasurer, respectively of respondent corporation, and as such, maintain their place of business at the same location as the corporate respondent; and in their respective capacities as officers thereof individually, jointly and severally formulate, direct and control, the acts, practices and policies of said corporate respondent.

PAR. 2. Subsequent to the effective date of said Wool Products Labeling Act and more especially since June of 1951, respondents

1306

Order

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 described as batts or battings 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 promulgated thereunder.

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

CONCLUSION

The acts and practices of the respondents as herein found 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.

ORDER TO CEASE AND DESIST

It is ordered. That the respondent, Darco Wool Corporation, a corporation, and its officers, and respondents, Max Dabek, David Racine and Jack Dabek, individually and as officers of said corporation, and respondents' representatives, agents and employees, directly or through any corporate or other device, in connection with the introduction into commerce or the offering for sale, sale, transportation or distribution in commerce, as "commerce" is defined in the Wool Products Labeling Act of 1939, of wool batts or battings or other wool products, as such products are defined in and subject to said Act, 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 wool products by:

Order

49 F. T. C.

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 to or place on each such product 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 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, or distribution thereof in commerce, as "commerce" is defined 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 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

1306

Order

and form in which they have complied with the order to cease and desist.

DARCO WOOL CORP.

DARCO WOOL CORPORATION

By DAVID RACINE

(Name)

Secretary

(Title)

MAX DABEK

Max Dabek, individually, and as an officer of
Darco Wool Corporation, a corporation.

DAVID RACINE

David Racine, individually, and as an officer
of Darco Wool Corporation, a corporation.

JACK DABEK

Jack Dabek, individually, and as an officer of
Darco Wool Corporation, a corporation.

The foregoing consent settlement is hereby accepted by the Federal Trade Commission and ordered entered of record on this the 14th day of April, 1953.

IN THE MATTER OF
FEDERAL CORDAGE COMPANY, INC. ET AL.

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

Docket 5951. Complaint, Jan. 25, 1952—Decision, Apr. 28, 1953

The preference existing among a substantial segment of the consuming public for merchandise which is composed of new and unused materials is common knowledge and obtains in virtually all fields of merchandising; and in the absence of adequate disclosure or explanation, merchandise which resembles and has the appearance of merchandise composed of new material, but which in fact is composed of reclaimed materials, may be selected and purchased by the public as products composed of new and unused material.

Rope and cordage made from new and unused manila fiber is more desirable than that made from used or reclaimed fiber, the yarns made of the new fiber having greater tensile strength than do those obtained from used hawsers and ropes; and while the difference in appearance between rope and cordage made from new and unused fiber and that made from used or reclaimed fiber is such that it can generally be detected by an expert in the trade, a substantial portion of the purchasing public would find it difficult to determine such difference, particularly where they do not have before them both types of rope to compare.

"Manila" is a fiber obtained from a plant grown mainly in the Philippine Islands and the East Indies and used in the manufacture of rope, and the word "Manila", when used in referring to rope or cordage, used alone and without any qualifying language or other words of disclosure, is understood in the rope and cordage business and among a substantial portion of the purchasing public, to refer to rope or cordage made of new and unused Manila fiber.

Where a corporation and its two officers, engaged in the manufacture of rope and cordage of which a substantial portion was made from fibers reclaimed from hawsers and rope, mostly previously used, purchased from the Maritime Commission, the Navy, and other government agencies, and, to a lesser extent, from other dealers in rope and which was composed also to a substantial extent of Manila fiber; and in the interstate sale and distribution thereof to customers who frequently resold it in the same package in which it was received from them, in competition with others engaged in the manufacture and sale or distribution of rope and cordage—

- (a) Made use of the word "Manila" in identifying such rope in sales to dealers, jobbers, distributors, and others, through such statements as "Manila Rope" or "Manila" on the corporate invoices, upon which appeared, beneath the corporate name, the words "Manufacturers of Reprocessed Cordage", but without any qualifying language indicating that said product was made from used or reclaimed Manila fiber; and