

IN THE MATTER OF

H. M. PRINCE TEXTILES, INC., ET AL.

CONSENT SETTLEMENT IN REGARD TO THE ALLEGED VIOLATION OF THE
FEDERAL TRADE COMMISSION ACT AND THE WOOL PRODUCTS LABELING
ACT

Docket 6081. Complaint, Feb. 10, 1953—Decision, July 29, 1953

Where two corporations and their common officer, and three officers of a bankrupt corporation, which the first two had furnished with quantities of wool and wool stocks, together with orders, specifications, content tags and labels, and instructions for manufacturing into wool products as defined in the Wool Products Labeling Act, engaged in the sale and distribution in commerce of said wool products—

- (1) Misbranded certain blankets in that they were not stamped, etc., as required by said Act; and
- (2) Misbranded certain blankets through such false labeling as "All Wool—Excl. of ornamentation," when in fact they contained in part reused or reprocessed wool, together with substantial quantities of miscellaneous other fibers:

Held, That such acts and practices constituted misbranding in violation of the Wool Products Labeling Act and the Rules and Regulations promulgated thereunder; were to the prejudice and injury of the public; and constituted unfair and deceptive acts and practices in commerce.

Before *Mr. James A. Purcell* and *Mr. Webster Ballinger* hearing examiners.

Mr. George E. Steinmetz for the Commission.

Mr. Abner R. Sisson, of Boston, Mass., for H. M. Prince Textiles, Inc., Hugo M. Prince, and Devonshire Fabrics, Inc.

Mr. George Gruzen, of Boston, Mass., for Nathan Tarmy, Morris Tarmy, and Solomon Tarmy.

Mr. Wilfred A. Hay, of Portland, Maine, for Robert D. Schwarz, receiver.

CONSENT SETTLEMENT¹

Pursuant to the provisions of the Federal Trade Commission Act and the Wool Products Labeling Act of 1939, the Federal Trade Commission, on February 10, 1953, issued and subsequently served its complaint on the respondents named in the caption hereof, charging them

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 July 29, 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.

with the use of unfair and deceptive acts and practices in violation of the provision of said Acts.

The respondents, with the exception of Deena Woolen Mills, Inc., 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 answer to said complaint hereby:

1. Admit all the jurisdictional allegations set forth in the complaint.

2. Consent 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 refrain from admitting or denying that they have engaged in any of the acts or practices stated therein to be in violation of law.

3. Agree 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. Corporate respondents H. M. Prince Textiles, Inc., and Devonshire Fabrics, Inc., each constitute a corporation organized and existing under and by virtue of the laws of the State of New York. The respondent Hugo M. Prince is the president and treasurer of each said corporate respondent. This individual formulates, directs and controls the acts, policies and practices in each such instance. The offices and the principal place of business of both said corporation respondents and of said Hugo M. Prince are located at 450 Seventh Avenue in the City of New York, New York.

PAR. 2. Corporate respondent Deena Woolen Mills, Inc., is a corporation duly organized and existing under and by virtue of the laws of the State of Maine. Said corporate respondent since the filing of the complaint herein has been adjudicated a bankrupt pursuant to involuntary bankruptcy proceedings initiated in the U. S. District Court for the District of Maine in Portland, Maine, such adjudication having been had on March 3, 1953; followed by the appointment of John D.

Leddy, Esquire, Portland, Maine, as Receiver of said Deena Woolen Mills, Inc., a corporation, bankrupt, for the purpose of administering said bankrupt estate pending the election of a Trustee by the creditors thereof.

The said Receiver has in writing stated that no operations are being conducted by said bankrupt respondent corporation at this time and that no further operations are contemplated. By reason of such adjudication in bankruptcy, together with the fact that no further operations have been in effect or are now contemplated in the future, the Commission finds that the said complaint insofar as it relates to the corporate respondent Deena Woolen Mills, Inc., should be dismissed.

PAR. 3. Nathan Tarmy, Morris Tarmy, and Solomon Tarmy were, during all times referred to in the complaint, officers of the said respondent, Deena Woolen Mills, Inc. These individuals formulated, directed and controlled the acts, policies and practices of said corporate respondent Deena Woolen Mills, Inc.

PAR. 4. Respondents H. M. Prince Textiles, Inc., and Devonshire Fabrics, Inc., during all of the times hereinafter mentioned, furnished and continued to furnish respondent Deena Woolen Mills, Inc., with quantities of wool and wool stocks, together with orders, specifications, content tags and labels, with instructions for manufacturing such materials into wool products.

Thereafter, in conjunction with said Devonshire Fabrics, Inc., the said H. M. Prince Textiles, Inc., undertook to sell and distribute, and did sell and distribute, in commerce certain of said wool products manufactured by respondent Deena Woolen Mills, as aforesaid. The said wool products, namely, blankets, when finished, were thereupon introduced into commerce by Deena Woolen Mills, Inc., as well as by respondent Devonshire Fabrics, Inc., pursuant to content labeling and shipping instructions furnished by the said H. M. Prince Textiles, Inc., or its selling division, Devonshire Fabrics, Inc.

PAR. 5. Subsequent to the effective date of the said Wool Products Labeling Act and more especially since 1950, said respondents and each of them have manufactured or caused to be manufactured, for introduction into commerce, introduced or caused to be introduced into commerce, sold, offered for sale, transported, distributed and delivered for shipment in commerce, as "commerce" is defined in the Wool Products Labeling Act of 1939, wool products, as "wool products" are defined therein.

PAR. 6. 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 said Wool Products Labeling Act of 1939, and in the manner and form prescribed by the Rules and Regulations promulgated under said Act.

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PAR. 7. Certain of said wool products were misbranded within the intent and meaning of said Wool Products Labeling Act and the Rules and Regulations promulgated thereunder in that they were falsely and deceptively labeled with respect to the constituent fibers included therein.

Among the misbranded wool products aforementioned were blankets, labeled by said corporate respondents as "All Wool—Excl. of ornamentation"; whereas in truth and in fact said blankets were not all wool as defined by the Wool Products Labeling Act of 1939 and the Rules and Regulations promulgated thereunder, but contained in part reused or reprocessed wool, together with substantial quantities of miscellaneous fibers other than wool.

CONCLUSION

The acts and practices of the respondents as herein found, constitute misbranding of wool products and as such are in violation of the Wool Products Labeling Act of 1939 and of the Rules and Regulations promulgated thereunder; and all of the aforesaid acts and practices as herein alleged are 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.

ORDER TO CEASE AND DESIST

It is ordered, That the corporate respondents, H. M. Prince Textiles, Inc., and Devonshire Fabrics, Inc., and their officers, and Hugo M. Prince, Nathan Tarmy, Morris Tarmy, and Solomon Tarmy, individually, and respondents' 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 sale, transportation, or distribution in commerce, as "commerce" is defined in the Federal Trade Commission Act and the Wool Products Labeling Act of 1939, of blankets 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 products by:

1. Falsely or deceptively stamping, tagging, labeling, or otherwise identifying such products as to the character or amount of the constituent fibers included therein;

2. Failing to securely affix to or place on each 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 5 per centum 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 5 per centum or more, and (5) the aggregate of all other fibers.

(b) The maximum percentages 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, distribution, or delivery for shipment 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 complaint herein, insofar as it relates to the corporate respondent Deena Woolen Mills, Inc., be, and the same is, hereby dismissed.

It is further ordered, That the respondents herein, except the corporate respondent Deena Woolen Mills, Inc., 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.

H. M. PRINCE TEXTILES,
INC., A CORPORATION,

(Sgd) By [S] H. M. PRINCE.
(Name) (Title) *Pres.*

DEVONSHIRE FABRICS,
INC., A CORPORATION,

(Sgd) By [S] H. M. PRINCE.
(Name) (Title) *Pres.*

Hugo M. Prince, individually
and an officer of H. M.
Prince Textiles, Inc., and
Devonshire Fabrics, Inc.

(Sgd) [S] HUGO M. PRINCE,
Nathan Tarmy, individually
and as an officer of Deena
Woolen Mills, Inc.

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(Sgd) [S] NATHAN TARMY,
Morris Tarmy, individually
and as an officer of Deena
Woolen Mills, Inc.

(Sgd) [S] MORRIS TARMY,
Solomon Tarmy, individually
and as an officer of Deena
Woolen Mills, Inc.

(Sgd) [S] SOLOMON TARMY.

Date : June 22, 1953.

The foregoing consent settlement is hereby accepted by the Federal Trade Commission and ordered entered of record on this 29th day of July 1953.

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IN THE MATTER OF
CELANESE CORP. OF AMERICA

Docket 4934. Complaint, Mar. 24, 1943—Decision and order, Aug. 2, 1953

Charge: Neglecting, unfairly or deceptively, to make material disclosure as to composition of product and advertising falsely or misleadingly as to composition, nature, qualities, properties or results and comparative merits of product; in connection with the manufacture and sale of acetate rayon yarn and fabrics manufactured from said yarn.

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

Mr. R. P. Bellinger for the Commission.

Davies, Richberg, Tydings, Beebe & Landa, Roberts & McInnis and *Mr. G. Kirby Munson*, of Washington, D. C., and *Mr. Matthew H. O'Brien*, of New York City, for respondent.

DECISION OF THE COMMISSION

Pursuant to Rule XXII of the Commission's Rules of Practice, the attached decision of the hearing examiner shall, on August 2, 1953, become the decision of the Commission.

Commissioner Carretta not participating.

ORDER DISMISSING COMPLAINT WITHOUT PREJUDICE

INITIAL DECISION BY JAMES A. PURCELL, HEARING EXAMINER

This proceeding came on to be considered by the above-named Hearing Examiner heretofore duly designated by the Commission on April 16, 1945, upon the complaint, the answer of respondent, testimony and other evidence introduced in support of and in opposition to the allegations of the complaint, and proposed findings and conclusions presented by counsel, all testimony and evidence being made a matter of record and duly filed in the office of the Commission.

The complaint herein was filed on March 24, 1943, and the taking of testimony commenced on May 16, 1945, during the course of which some 4,500 pages of testimony of 105 witnesses, and 1,750 exhibits were received. Much of the testimony was highly technical in nature, having to do with the production of man-made fibers by chemical and mechanical processes and means. During the course of the proceedings unavoidable delays such as appeals and cross-appeals were encountered, on two occasions the matter was reopened on motion of the respondent for the reception of further testimony and evidence and on one occasion, November 15, 1949, the record was ordered reopened by the Commission for the purpose of complying with the Commission's decision on cross-appeals.