

Consent Settlement

IN THE MATTER OF

JOE FRIED WOOLEN CORPORATION ET AL.

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

Docket 6144. Complaint, Nov. 18, 1953—Decision, Feb. 9, 1954

Where a corporation and its president, engaged in jobbing and selling at wholesale wool fabrics purchased from manufacturers in other states—

- (a) With intent to violate the provisions of the Wool Products Labeling Act, participated in and caused the removal of stamps, tags, labels, or other means of identification which had been affixed to certain of said woolen fabrics which purported to contain the information required by the said Act and the Rules and Regulations promulgated thereunder to be affixed thereto, and
- (b) Misbranded certain of said wool products in that, following the receipt and removal of the original manufacturer's tags, etc., as aforesaid, they falsely and deceptively labeled and tagged the same with respect to the character and amount of the constituent fibers contained therein and thus misbranded woolen fabrics or piece goods containing substantial quantities of fibers other than wool as "100% Wool":

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

Before *Mr. John Lewis*, hearing examiner.

Mr. George E. Steinmetz for the Commission.

Mr. Samuel J. Krinn, of New York City, for respondents.

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 November 18, 1953, issued and subsequently served its complaint upon 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.

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 February 9, 1954 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

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The respondents, desiring that this proceeding be disposed of by consent settlement procedure, provided in Rule V of the Commission's Rules of Practice, solely for the purpose of this proceeding, and 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. Respondent Joe Fried Woolen Corporation is a corporation organized and existing under and by virtue of the laws of the State of New York and respondent Joseph Fried is the president thereof. Said individual respondent formulates, directs and controls the acts, policies and practices of said respondent corporation, the business of which consists of the jobbing and selling at wholesale of wool fabrics. The office and principal place of business of both respondents is located at 226 West 37th Street, New York, New York.

PAR. 2. Subsequent to the effective date of said Wool Products Labeling Act of 1939 and more especially since January of 1951, said respondents have purchased from various manufacturers located in States other than New York State, wool products, as "wool products" are defined in said Act. Said wool products, consisting of woolen fabrics, have been and are, after purchase by respondents, transported in commerce from the sellers located in other States to respondents

in the State of New York. Said woolen fabrics so manufactured for introduction into, and transported in commerce, as aforesaid, were thereafter offered for sale and sold by said respondents to the general public at their said place of business located at 226 West 37th Street, New York, New York.

PAR. 3. Certain of said woolen fabrics purchased and transported in commerce, as aforesaid, had affixed thereto when delivered to them at their said place of business, stamps, tags, labels, or other means of identification required by said Wool Products Labeling Act of 1939. Thereafter, and before being offered for sale or sold by respondents to the general public, the respondents, with intent to violate the provisions of said Wool Products Labeling Act of 1939 and the Rules and Regulations promulgated thereunder, removed, and participated in and caused the removal of such stamps, tags, labels or other means of identification which purported to contain the information required by the provisions of said Act and said Rules and Regulations to be affixed to such products by the manufacturer thereof, or by some person authorized or required by said Act to affix such stamps, tags, labels or other means of identification to said wool products.

PAR. 4. Subsequent to the effective date of said Wool Products Labeling Act of 1939, and more especially since January of 1951, respondents introduced into, offered for sale, sold and delivered in commerce, as "commerce" is defined in the said Wool Products Labeling Act, wool products, as "wool products" are defined therein.

PAR. 5. Certain of said wool products were misbranded within the meaning and intent of said Wool Products Labeling Act and the Rules and Regulations promulgated thereunder in that, following the receipt and removal of the original manufacturers' tags, stamps, labels or other means of identification by respondents, as aforesaid, said respondents thereupon falsely and deceptively labeled or tagged the same with respect to the character and amount of the constituent fibers contained therein.

Among such wool products misbranded by respondents, as aforesaid, were woolen fabrics or piece goods labeled or tagged by respondents as consisting of "100% Wool," whereas in truth and in fact, said fabrics did not consist of one hundred percent wool but contained substantial quantities of fibers other than wool.

CONCLUSION

The aforesaid acts, practices and methods of the respondents, as herein found, were and are in violation of the Wool Products Labeling Act of 1939, and of the Rules and Regulations promulgated there-

Order

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under, and as such constitute unfair and deceptive acts and practices in commerce within the meaning and intent of the Federal Trade Commission Act.

ORDER TO CEASE AND DESIST

It is ordered, That the respondent Joe Fried Woolen Corporation, a corporation, and its officers, and respondent Joseph Fried, individually, and respondents' respective agents, representatives 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 Federal Trade Commission Act and the Wool Products Labeling Act of 1939, of woolen fabrics 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 falsely identifying such products as to the character or amount of the constituent fibers contained therein;

Provided, That the foregoing provisions concerning misbranding shall not be construed to prohibit acts permitted by paragraph (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 said respondent Joe Fried Woolen Corporation, a corporation, and its officers, and respondent Joseph Fried, individually, and respondents' respective agents, representatives and employees, directly or through any corporate or other device, in connection with the purchase, offering for sale, sale or distribution of "wool products" as such products are defined in and subject to the Wool Products Labeling Act of 1939, do forthwith cease and desist from causing or participating in the removal of any stamp, tag, label, or other means of identification affixed to any such "wool product" pursuant to the Wool Products Labeling Act of 1939, with intent to violate the provisions of said Act, and which stamp, tag, label or other means of identification purports to contain all or any part of the information required by said Act.

It is further ordered, That the respondents herein shall, within sixty (60) days after service upon them of this Order, file with the Com-

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mission a report in writing setting forth in detail the manner and form in which they have complied with the order to cease and desist.

Joe Fried Woolen Corporation,
a corporation.

By /s/ Joseph Fried, *President*.

/s/ Joseph Fried,

JOSEPH FRIED, individually and as
an officer of Joe Fried Woolen
corporation, a corporation.

Date: Dec. 16, 1953.

The foregoing consent settlement is hereby accepted by the Federal Trade Commission and ordered entered of record on this 9th day of February, 1954.

Order

50 F. T. C.

IN THE MATTER OF
PROGRESS TAILORING COMPANY ET AL.

MODIFIED CEASE AND DESIST ORDER

Docket 3747. Order, Feb. 16, 1954

Order modifying—in harmony with the Commission's changed interpretation of the application of Sec. 5 of the Act to the use of such terms as "free" in advertising or other offers, as set out in *Walter J. Black, Inc.*, Docket 5571, Sept. 11, 1953, and the modified final decree dated Dec. 9, 1953, of the Court of Appeals for the Seventh Circuit in the instant matter—Commission's prior orders, dated July 20, 1943, 37 F. T. C. 277, prohibiting various practices, including use of the term "free" as there set out—

So as to require respondents, in connection with the offer, sale, and distribution of wearing apparel and other merchandise—in connection with which it advertised for the services of salesmen—to cease and desist from "using the term 'free' or any other term of similar import or meaning to designate, describe, or refer to wearing apparel or other items of merchandise which are furnished as compensation for services rendered, *unless in close connection therewith all the conditions, obligations, or other prerequisites to the receipt and retention of said wearing apparel or other items of merchandise are clearly and conspicuously set forth*".

Before *Mr. Randolph Preston* and *Mr. James A. Purcell*, hearing examiners.

Mr. R. P. Bellinger for the Commission.

Mayer, Meyer, Austrian & Platt, of Chicago, Ill., and *Hogan & Hartson*, of Washington, D. C., for respondents.

MODIFIED ORDER TO CEASE AND DESIST

This proceeding having been heard by the Federal Trade Commission upon the complaint of the Commission, answer of the respondents, testimony and other evidence in support of and in opposition to the allegations of said complaint taken before trial examiners of the Commission theretofore duly designated by it, report of the trial examiners upon the evidence, briefs filed in support of the complaint and in opposition thereto, and oral argument of counsel; and the Commission having made its findings as to the facts and its conclusion that said respondents had violated the provisions of the Federal Trade Commission Act, and on July 20, 1943, issued an order to cease and desist against respondents Progress Tailoring Company, a corporation, trading under its own name and also as J. C. Field & Son; Stone-Field Corporation, a corporation; W. Z. Gibson, Inc., a corporation; Pioneer Tailoring Company, a corporation; and Certified Tailoring