

IN THE MATTER OF

PAUL TENNENBAUM TRADING AS TENEN QUILT
COMPANYDECISION IN REGARD TO THE ALLEGED VIOLATION OF THE FEDERAL TRADE
COMMISSION ACT AND THE WOOL PRODUCTS LABELING ACT

Docket 6151. Complaint, Dec. 14, 1953—Decision, May 11, 1954

Where an individual 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 within the intent and meaning of the Wool Products Labeling Act and the Rules and Regulations promulgated thereunder in that certain quilts or comforters, labeled as containing "All New Material Consisting of ALL WOOL" or "All New Material Consisting of ALL WOOL BATTING," did not contain all new material or "All Wool"; and
- (b) Misbranded certain of said products in that they were not stamped, tagged, or labeled as required under the provisions of said Act and Rules:

Held, That such acts and practices were in violation of the Wool Products Labeling Act of 1939 and the Rules and Regulations promulgated thereunder and constituted unfair and deceptive acts and practices in commerce.

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

Mr. George E. Steinmetz and *Mr. John J. McNally* for the Commission.

Mr. Samuel Rosenthal, of Newark, N. J., for respondent.

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 May 11, 1954, 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

The complaint in this proceeding charges that the respondent, Paul Tennenbaum, trading as Tenen Quilt Company of 16 Main Street, Newark, New Jersey, has violated the Wool Products Labeling Act of 1939, and the Rules and Regulations promulgated thereunder, and has engaged in acts and practices which constitute unfair and deceptive acts and practices in commerce within the intent and meaning of the Federal Trade Commission Act. Specifically, it is alleged in the complaint that the respondent has manufactured, offered for sale, and sold in interstate commerce certain wool products, quilts and com-

forters, which were falsely and deceptively labeled as containing "All New Material Consisting of ALL WOOL," or "All New Material Consisting of WOOL BATTING," when in fact the material was neither all wool nor all new.

By answer the respondent admitted the jurisdiction of the Federal Trade Commission and the other allegations of the complaint but stated that the acts of misbranding were not willful. Respondent further consented to the entry of a cease and desist order in the form set forth in the notice attached to the complaint.

Under these circumstances the facts are found to be as stated in the complaint and since willfulness is not an element of the offense charged, the conclusion is reached that the acts and practices of respondent are 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. Therefore,

It is ordered, That respondent, Paul Tennenbaum, trading as Tenen Quilt Company, or trading under any other name, and respondent's 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 Federal Trade Commission Act and the Wool Products Labeling Act of 1939, of quilts or comforters 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 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 products, exclusive of ornamentation not exceeding five 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 is five per centum or more, and (5) the aggregate of all other fibers.

- (b) The maximum percentage of the total weight of such wool products of any nonfibrous loading, filling or adulterating material.

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(c) The name or registered identification number of the manufacturer of such wool products or of one or more persons engaged in introducing such products into commerce or in offering for sale, selling, transporting, distributing, or delivering for shipment thereof in commerce, as "commerce" is defined in the Wool Products Labeling Act of 1939.

Providing, 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.

Providing further, That nothing contained in this order shall be construed as limiting any applicable provision of the Wool Products Labeling Act of 1939 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 it of this order, file with the Commission a report in writing setting forth in detail the manner and form in which it has complied with the order to cease and desist [as required by said declaratory decision and order of May 11, 1954].

Commissioner Carretta not participating.

Order Vacating

IN THE MATTER OF
PHILIP MORRIS & CO., LTD., INC.

Docket 4794. Complaint, Aug. 5, 1942. Original decision, Dec. 29, 1952, 49 F. T. C. 703. Order vacating, etc., May 19, 1954

Charge: Advertising falsely comparative and protective qualities, etc., of Philip Morris cigarettes.

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

Mr. Frederick J. McManus and *Mr. Daniel J. Murphy* for the Commission.

Lee, Toomey & Kent, of Washington, D. C., and *Pennie, Edmonds, Morton, Barrows & Taylor* and *Conboy, Hewitt, O'Brien & Boardman*, of New York City, for respondent.

ORDER VACATING DECISION OF THE COMMISSION AND INITIAL DECISION
OF THE HEARING EXAMINER, REOPENING PROCEEDING AND REMAND-
ING CASE TO HEARING EXAMINER

The United States Court of Appeals for the District of Columbia Circuit having granted the Commission's motion to set aside the order to cease and desist entered in this proceeding on December 29, 1952, and having remanded said proceeding to the Commission "for reconsideration and such disposition as the public interest, the facts, and the law may warrant"; and

The Commission having reconsidered its former decision, and being of the opinion that the record in support thereof did not provide an adequate basis for an informed determination of the principal issue in the case, namely, whether or not Philip Morris cigarettes are less irritating than other leading brands of cigarettes; and

The Commission being of the further opinion that the public interest requires that this deficiency in the record be corrected:

It is ordered, That the Commission's decision entered herein on December 29, 1952, its order ruling on the respondent's appeal from the hearing examiner's initial decision, entered on the same date, and the hearing examiner's initial decision, filed January 23, 1952, be, and they hereby are, all vacated and set aside.

It is further ordered, That this proceeding be, and it hereby is, reopened and remanded to the hearing examiner for the receipt of such further testimony and evidence as may be offered in support of and in opposition to the allegations of the complaint in the light of this order.

IN THE MATTER OF
PRICE VACUUM STORES, INC., ET AL.

CONSENT SETTLEMENT IN REGARD TO THE ALLEGED VIOLATION OF THE
FEDERAL TRADE COMMISSION ACT

Docket 6150. Complaint, Dec. 14, 1953—Decision, May 20, 1954

Where a corporation and its officer engaged in the competitive interstate sale to the purchasing public, of vacuum cleaners and of sewing machines made in Japan, upon which machines the words "Made in Japan," displayed on an easily removable medallion on the front of said machine, were so small and indistinct as not to constitute adequate notice to the purchasing public that said machines were imported—

- (a) Failed to disclose adequately the Japanese origin of their said machines, upon which they placed no other mark showing foreign origin or otherwise informing the public, before their offer or sale to the public, of said fact;
- (b) Falsely represented through use of the word "Admiral" as a trade or brand name for their said sewing machines and vacuum cleaners, as conspicuously displayed on the front horizontal arm of the sewing machine head and on the tank of the cleaner, and use thereof in their advertising matter, that their products had been manufactured by or were connected in some way with a well and favorably known American firm with which said name had long been associated;
- (c) Represented that they were making a bona fide offer to sell rebuilt Singer portable electric sewing machines for the sum of \$29.50 and rebuilt General Electric or Hoover and Electrolux vacuum cleaners for the sums of \$11.95 and \$18.50 through such statements in their advertising as "Reconstructed and Electrified * * * Rebuilt SINGER. Use the Coupon!", together with a picturization of a portable electric sewing machine, and the words "Full Cash Price \$29.50," and other similar statements with respect to the aforesaid various makes;

When in fact said offers were not genuine or bona fide offers, but were made to obtain leads and information as to those interested in purchasing such products, following which respondents or their salesmen called upon such persons disparaging the products advertised, attempted to sell different and more expensive machines and cleaners:

Held, That such acts and practices constituted unfair and deceptive acts and practices in commerce and unfair methods of competition therein.

Before *Mr. John Lewis*, hearing examiner.

Mr. Michael J. Vitale for the Commission.

Caesar & Rivise, of Philadelphia, Pa., for respondents.