

Complaint

IN THE MATTER OF

SANITARY FEATHER CO., INC., AND DANIEL HUTTNER

CONSENT ORDER, ETC., IN REGARD TO THE ALLEGED VIOLATION OF THE
FEDERAL TRADE COMMISSION ACT AND OF THE WOOL PRODUCTS LABELING
ACT

Docket 6202. Complaint, Apr. 22, 1954—Decision, Aug. 14, 1954

Consent settlement order requiring a Chicago manufacturer of wool products to cease misbranding "wool" products as defined by the Wool Products Labeling Act through labeling or tagging bed comforters containing cotton batting or padding as "All New Material Consisting of Wool Batting", and through failing to stamp or label certain bed comforters as required by the Act.

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

Mr. George E. Steinmetz for the Commission.

COMPLAINT

Pursuant to the provisions of the Federal Trade Commission Act and the Wool Products Labeling Act of 1939, and by virtue of authority vested in it by said Acts, the Federal Trade Commission, having reason to believe that Sanitary Feather Co., Inc., a corporation, and Daniel Huttner, individually, and as an officer 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 Sanitary Feather Co., Inc., is a corporation, organized and existing under and by virtue of the laws of the State of Illinois. Daniel Huttner is president and treasurer of said respondent corporation, and this individual formulates, directs, and controls the acts, policies, and practices of said corporate respondent. The offices and principal place of business of said respondents are located at 5034 South State Street, Chicago 9, Illinois.

PAR. 2. Subsequent to the effective date of the Wool Products Labeling Act of 1939, and more especially since January 1953, respondents have manufactured for introduction into commerce, introduced, sold, transported, distributed, delivered for shipment, and offered for sale in commerce, as "commerce" is defined in said Wool

Products Labeling Act, wool products, as "wool products" are defined therein.

PAR. 3. Certain of said wool products were misbranded within the meaning and intent of Section 4 (a) (1) of said Wool Products Labeling Act and of the Rules and Regulations promulgated thereunder in that they were falsely and deceptively labeled or tagged with respect to the character and amount of the constituent fibers contained in the paddings and battings therein.

Among such misbranded wool products were bed comforters labeled or tagged by respondents as consisting of "All New Material Consisting of Wool Batting"; whereas, in truth and in fact, the batting or padding contained in said wool products did not consist of wool as the term "wool" is defined in said Wool Products Labeling Act and the Rules and Regulations promulgated thereunder but consisted of cotton.

PAR. 4. Certain of said wool products described as bed comforters were misbranded in that they were not stamped, tagged, or labeled as required under the provisions of Section 4 (a) (2) of said Wool Products Labeling Act, and in the manner and form provided by Rule 24 of the Rules and Regulations promulgated thereunder.

Among such misbranded wool products were bed comforters bearing labels or tags which failed to set forth the name or the registered identification number of the manufacturer thereof; or of one or more persons subject to Section 3 of said Act with respect to said wool products.

PAR. 5. The acts and practices of respondents as herein alleged, were and are in violation of the Wool Products Labeling Act of 1939 and of Rule 24 of the Rules and Regulations made pursuant thereto, and constitute unfair and deceptive acts and practices and unfair methods of competition 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 August 14, 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 respondents now located at 5034 South State Street, Chicago, Illinois, with violating the provisions of the Federal Trade Commission Act, the Wool Products Labeling Act of 1939, and the Rules and Regulations made pursuant thereto by the misbranding of certain wool products manufactured by them for introduction into commerce.

After the issuance and service of the complaint, a stipulation was entered into by respondents and counsel supporting the complaint. By the terms of said stipulation the respondents admit all jurisdictional allegations set forth in the complaint and waive the filing of an answer, a hearing before a hearing examiner or the Commission, the making of findings of fact or conclusions of law by the hearing examiner or the Commission, the filing of exceptions and oral argument before the Commission and all further and other procedure before the hearing examiner and the Commission to which the said respondents and each of them may be entitled under the Federal Trade Commission Act, the Wool Products Labeling Act of 1939, or the Rules of Practice of the Commission.

Respondents agree that the order hereinafter set forth shall have the same force and effect as if made after a full hearing, presentation of evidence, and findings and conclusions thereon, and specifically waive any and all right, power, or privilege to challenge or contest the validity of the order entered in accordance with this stipulation, and that this stipulation, together with the complaint, shall constitute the entire record in this proceeding.

The stipulation is made a part of the record herein. This proceeding is found to be in the public interest, and in conformity with the terms of the stipulation the following order is issued:

It is ordered that the respondent Sanitary Feather Co., Inc., a corporation, and its officers, and respondent Daniel Huttner, individually, and as an officer of said corporation, 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 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 bed comforters or other "wool products," as such products are defined in and are subject to the Wool Products Labeling Act of 1939, which products contain, purport to contain, or are in any way represented as containing "wool," "reprocessed wool," or "reused

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wool," as those terms are defined in said Act, to 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 included 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 percentum 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 percentum 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.

(c) The name or the registered identification number of the manufacturer of such wool products or of one or more persons engaged in introducing such wool products 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.

3. Failing to separately set forth on the required stamp, tag, label, or other means of identification the character and amount of the constituent fibers contained in the batting or padding of said wool products as provided by Rule 24 of the Rules and Regulations promulgated under said Act.

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 said Act or the Rules and Regulations promulgated thereunder.

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 August 14, 1954].

Complaint

IN THE MATTER OF
TOPCO ASSOCIATES, INC.CONSENT ORDER, ETC., IN REGARD TO THE ALLEGED VIOLATION OF SEC. 2
(C) OF THE CLAYTON ACT AS AMENDED*Docket 6160. Complaint, Feb. 2, 1954—Decision, Aug. 17, 1954*

Consent settlement order requiring a cooperative of 27 super markets and grocery chains, to cease accepting from any seller, commissions or brokerage in connection with the purchase of merchandise for its own account or when acting for a purchaser.

Before *Mr. Abner E. Lipscomb*, hearing examiner.
Mr. Edward S. Ragsdale and *Mr. Cecil G. Miles* for the Commission.
Bell, Boyd, Marshall & Lloyd, of Chicago, Ill., for respondent.

COMPLAINT

The Federal Trade Commission, having reason to believe that the party respondent named in the caption hereof, and hereinafter more particularly designated and described, has been and is now violating the provisions of subsection (c) of Section 2 of the Clayton Act (U. S. C. Title 15, Section 13), as amended by the Robinson-Patman Act approved June 19, 1936, hereby issues its complaint, stating its charges with respect thereto as follows:

PARAGRAPH 1. Topco Associates, Inc., hereinafter sometimes referred to as the respondent and as Topco, is a cooperative corporation, organized, existing and doing business under and by virtue of the laws of the State of Wisconsin, with its principal office and place of business located at 30 West Washington Street, Chicago, Illinois. It was incorporated on October 10, 1944 under the name of Food Cooperative, Inc. However, on or about June 14, 1949 the name was changed to Topco Associates, Inc. Its membership is composed of twenty-seven super markets and grocery chains located in various cities throughout the United States, which members in turn own or control approximately four thousand smaller stores. The respondent is a substantial factor in the purchase and distribution of food products.

PAR. 2. Respondent is authorized to issue 13,000 shares of 3% noncumulative preferred stock with a par value of \$100 per share and 2,000 shares of common stock with a similar par value per share. As of August 16, 1951, it had issued and outstanding 7,040 shares of pre-