

Complaint

IN THE MATTER OF

ISAAC REISS DOING BUSINESS AS GRAND
MANUFACTURING COMPANY

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

Docket 6293. Complaint, Feb. 18, 1955—Decision, June 2, 1955

Consent order requiring a seller to wholesalers and dealers from his place of business in New York City, to cease representing falsely by attached tags and insignia that his Armed Forces-type jackets and outer coats were manufactured according to specifications for the U. S. Armed Forces, and to cease representing falsely by use of his trade name and otherwise that he was a manufacturer.

Before *Mr. John Lewis*, hearing examiner.

Mr. Terral A. Jordan for the Commission.

COMPLAINT

Pursuant to the provisions of the Federal Trade Commission Act, and by virtue of the authority vested in it by said Act, the Federal Trade Commission, having reason to believe that Isaac Reiss, an individual trading as Grand Manufacturing Company, hereinafter referred to as respondent, has violated the provisions of said Act, 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 Isaac Reiss is an individual trading and doing business as a sole proprietorship under the name of Grand Manufacturing Company with his office and principal place of business located at 330 Grand Street, New York 2, New York.

PAR. 2. Respondent is now and for more than two years last past has been engaged in the sale and distribution of jackets and outer coats to wholesalers and dealers, in commerce, among and between the various States of the United States and the District of Columbia. Respondent maintains and at all times mentioned herein has maintained, a substantial course of trade in said garments, in commerce among and between the various States of the United States.

PAR. 3. The garments sold and distributed by respondent in the course and conduct of his business as aforesaid closely resemble the jackets and outer coats issued and furnished to members of the United States Armed Forces in color, pattern and style. Respondent also

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causes to be affixed to said garments certain markings, insignia, labels and tags which purport to designate the branch of service, model, contract number, specification number, stock number and directions as to the manner of use in substantially the same form, kind and manner as the markings, insignia, labels and tags prescribed and used by the United States Armed Forces on similar and like garments. Typical of the aforesaid markings, insignia, labels and tags are:

JACKET, TYPE N-1
SPEC, 4-J-112-N.Y.C.
Q.M.-O.D.-1951
STOCK NO. 02-J-624-7807

THIS JACKET INCREASES GREATLY THE WARMTH OF
CLOTHING WORN UNDER IT IN COLD AND
TEMPERATE CLIMATES BECAUSE IT IS WINDPROOF.

In addition to the foregoing label the letters "U. S. N." in large size appear on the upper, left, front portion of said jackets.

ARMY AIR FORCE STYLE
B-15 BOMBER
CONTRACT MFG2502
MARCH 18, 1949 M 7542
SPEC. M 1989 GRMFG 330
SIZE -----

In addition to the foregoing label said jackets on the shoulder thereof bears a simulated Army Air Force shoulder insignia made up in part of Air Force Wings and below such wings "U. S. Air Force."

PAR. 4. Through the use of said colors, patterns and styles and the markings, insignia, labels and tags, as described in Paragraph Three hereof, respondent has represented and implied and does represent and imply that said jackets and outer coats, sold and distributed by him in commerce were manufactured for the United States Armed Forces and in accordance with specifications of said Armed Forces.

PAR. 5. Said representations and implications are false, misleading and deceptive. In truth and in fact, respondent's said garments were neither manufactured for the United States Armed Forces nor in accordance with specifications of said Armed Forces.

PAR. 6. By selling and distributing to wholesalers and dealers said products manufactured as aforesaid and having affixed to them the markings, insignia, tags and labels hereinabove described, respondent furnishes to such wholesalers and dealers the means and instrumentalities through and by which they may mislead and deceive the purchasing public as to the origin, kind, type, and style of their said jackets and outer coats.

PAR. 7. Through the use of the words "manufacturing" and "manufacturers of" in his trade name and on his stationery, invoices and price lists, respondent has represented and is now representing that he owns, operates or controls a factory or factories where his said merchandise is manufactured and that he is the manufacturer of such merchandise. In truth and in fact, said respondent does not own, operate or control a factory wherein is manufactured the merchandise sold and distributed by him.

PAR. 8. There is a preference on the part of wholesalers and dealers for dealing directly with manufacturers of products rather than with outlets, distributors, jobbers or other intermediaries, such preference being due in part to a belief that by dealing directly with the manufacturer lower prices and other advantages may be obtained.

PAR. 9. In the course and conduct of his business respondent is in direct and substantial competition with other corporations and firms and individuals engaged in the sale in commerce of jackets and outer coats.

PAR. 10. The sale and distribution in commerce of said garments in the color, pattern and style, and with markings, insignia, labels and tags, as hereinabove alleged, had and now have the tendency and capacity to mislead a substantial portion of the purchasing public into the erroneous and mistaken belief that said garments were manufactured for the United States Armed Forces and in accordance with specifications of said Armed Forces, and the use of the words "manufacturing" and "manufacturers of" in his trade name and on his stationery, invoices and price lists, as herein alleged, has the tendency and capacity to mislead the wholesalers and dealers who purchase the merchandise of the respondent into the erroneous and mistaken belief that respondent is the manufacturer of his merchandise and owns, operates or controls the plant or plants where such merchandise is manufactured, and into the purchase of substantial quantities of respondent's merchandise in commerce because of such erroneous and mistaken beliefs. As a result thereof, substantial trade in commerce has been unfairly diverted to respondent from his competitors and substantial injury has been done to competition in commerce.

PAR. 11. The aforesaid acts and practices of the respondent, as herein alleged, are all to the prejudice and injury of the public and of respondent's competitors 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 June 2, 1955, the initial decision in the instant matter of hearing examiner John Lewis, as set out as follows, became on that date the decision of the Commission.

INITIAL DECISION BY JOHN LEWIS, HEARING EXAMINER

The Federal Trade Commission issued its complaint against the above-named respondent on February 18, 1955, charging him with the use of unfair methods of competition and unfair acts and practices in commerce, in violation of the provisions of the Federal Trade Commission Act. After being duly served with said complaint, the respondent entered into a stipulation with counsel supporting the complaint, dated April 13, 1955, providing for the entry of a consent order disposing of all the issues in this proceeding. Said stipulation has been submitted to the above-named hearing examiner, heretofore duly designated by the Commission, for his consideration in accordance with Rule V of the Commission's Rules of Practice.

Respondent, pursuant to the aforesaid stipulation, has admitted all the jurisdictional allegations of the complaint and agreed that the record herein may be taken as if the Commission had made findings of jurisdictional facts in accordance with such allegations. Said stipulation further provides that all parties expressly waive a hearing before the hearing examiner or the Commission, and all further and other procedure to which the respondent may be entitled under the Federal Trade Commission Act or the Rules of Practice of the Commission. Respondent has also agreed that the order to cease and desist issued in accordance with said stipulation shall have the same force and effect as if made after a full hearing, and specifically waives any and all right, power, or privilege to challenge or contest the validity of said order. It has been further stipulated and agreed that the complaint herein may be used in construing the terms of the order provided for in said stipulation, and that the signing of said stipulation is for settlement purposes only and does not constitute an admission by respondent that he has violated the law as alleged in the complaint.

This proceeding having now come on for final consideration by the hearing examiner on the complaint and the aforesaid stipulation for consent order, and it appearing that said stipulation provides for an appropriate disposition of this proceeding, the same is hereby ac-

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cepted and ordered filed as part of the record herein by the hearing examiner, who makes the following findings, for jurisdictional purposes, and order:

1. Respondent Isaac Reiss is now, and has been at all times mentioned herein, an individual trading and doing business as a sole proprietorship under the name of Grand Manufacturing Company with his office and principal place of business located at 330 Grand Street, New York 2, New York.

2. The Federal Trade Commission has jurisdiction of the subject matter of this proceeding and of the respondent hereinabove named. The complaint states a cause of action against said respondent under the Federal Trade Commission Act, and this proceeding is in the interest of the public.

ORDER

It is ordered, That respondent Isaac Reiss, an individual trading as Grand Manufacturing Company, or under any other trade name, and respondent's agents, representatives and employees, directly or through any corporate or other device, in the offering for sale, sale or distribution of wearing apparel, or of any other merchandise in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. Representing, directly or by implication, by marking, branding, labeling, tagging, or in any other manner, that such merchandise was manufactured for the Armed Forces of the United States or in accordance with specifications of said Armed Forces.

2. Using the words "manufacturing" and "manufacturers of" or any other word or words of similar import or meaning as a part of a trade name, or representing through the use of the words "manufacturing" or "manufacturers of" or any other word or words of similar import or meaning on stationery, invoices, price lists or in any other manner that he manufactures the merchandise sold by him.

ORDER TO FILE REPORT OF COMPLIANCE

It is ordered, That the respondent herein shall within sixty (60) days after service upon him of this order, file with the Commission a report in writing setting forth in detail the manner and form in which he has complied with the order to cease and desist [as required by said declaratory decision and order of June 2, 1955].

IN THE MATTER OF
ROCKFORD FURNITURE FACTORIES, INC.

Docket 4503. Modifying order, June 14, 1955

Mr. Daniel J. Murphy for the Commission.

Mr. Samuel F. Ferster and *Mr. Horace S. Bellfatto*, of Newark, N. J., for respondent.

ORDER REOPENING PROCEEDING AND MODIFYING ORDER TO
CEASE AND DESIST

This matter having come on to be heard by the Commission upon the application, filed on December 15, 1954, by Rockford Furniture Co., Inc., successor to the business of the respondent, Rockford Furniture Factories, Inc., for modification of the order to cease and desist issued herein on August 12, 1941,¹ answer thereto filed by counsel supporting the complaint, and reply to said answer; and

The Commission having duly considered said application, answer and reply, and the record herein, and it appearing that the facts which existed at the time the order to cease and desist was issued have so changed that modification of the order to cease and desist is warranted:

It is ordered, That this proceeding be, and it hereby is, reopened for the purpose of modifying the order to cease and desist issued herein on August 12, 1941.

It is further ordered, That said order to cease and desist be, and it hereby is, modified by adding to the paragraph numbered (1) thereof the following provision:

"Provided, however, That this shall not be construed as prohibiting Rockford Furniture Co., Inc., a New Jersey corporation, successor to the business of the respondent, Rockford Furniture Factories, Inc., from using the word 'Rockford' in its corporate name."

¹ In the order to cease and desist, 33 F. T. C. 971, 976, Rockford Furniture Factories, Inc., its officers, etc., were ordered to cease and desist from:

"1. Using the word 'Rockford,' or any simulation thereof, in its corporate name, or in any way to designate or refer to its business or its display rooms, when the furniture offered for sale and sold by respondent is not in substantial proportion manufactured in the city of Rockford, Ill.

"2. Using the word 'Rockford,' or any simulation thereof, on its letterheads, posters, advertising materials, or in any manner to represent, import, or imply that furniture not manufactured in the city of Rockford, Ill., was manufactured in that city.

"3. Using the word 'Factories,' or any other word or terms of similar import or meaning, in its corporate name, or to designate or refer to its business or in any manner represent, import, or imply that respondent is the manufacturer of furniture offered for sale or sold by it."

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IN THE MATTER OF

JEANNE D'OR MODES, INC., ET AL.

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

Docket 6313. Complaint, Mar. 16, 1955—Decision, June 14, 1955

Consent order requiring a manufacturer in New York City to cease violating the Wool Products Labeling Act by labeling as "100% cashmere" ladies' coats which were composed of wool with only a trace of the fleece of the Cashmere goat, and by failing to set forth on labels the fiber content of interlinings.

Before *Mr. Loren H. Laughlin*, 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 the authority vested in it by said Acts, the Federal Trade Commission having reason to believe that Jeanne D'Or Modes, Inc., a corporation, and Sol Gelfond and Larry Goldwater, each 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 Jeanne D'Or Modes, Inc., is a corporation organized and existing under and by virtue of the laws of the State of New York. Sol Gelfond is president and Larry Goldwater is secretary and treasurer of said respondent corporation, and these individuals formulate, direct, and control the acts, policies, and practices of said corporate respondent. The offices and principal place of business of said respondents are located at 214 West 39th Street, New York, New York.

PAR. 2. Subsequent to the effective date of the Wool Products Labeling Act of 1939, and more especially since January 1, 1954, 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 the said Wool Products Labeling Act, wool products, as "Wool products" are defined therein.

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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 therein.

Among such misbranded wool products were ladies' coats labeled or tagged by respondents as consisting of "100% cashmere", and "100% imported cashmere", whereas in truth and in fact, said products were composed of the wool of the genus sheep with only a trace of the fiber designated as Cashmere, being the hair or fleece of the Cashmere goat.

PAR. 4. Certain of said wool products were further misbranded by the respondents in that the fiber content of interlinings contained in certain of said coats were not separately set forth on labels or tags attached thereto as required under the provisions of Section 4 (a) (2) of said Wool Products Labeling Act and of Rule 24 of the Rules and Regulations promulgated thereunder.

PAR. 5. The acts and practices of the respondents as herein alleged were and are in violation of the Wool Products Labeling Act of 1939 and of 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.

DECISION OF THE COMMISSION

Pursuant to Sec. 3.21 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 June 14, 1955, the initial decision in the instant matter of hearing examiner Loren H. Laughlin, as set out as follows, became on that date the decision of the Commission.

INITIAL DECISION BY LOREN H. LAUGHLIN, HEARING EXAMINER

The Federal Trade Commission (hereinafter referred to as the Commission) on March 16, 1955, issued its complaint herein under the Federal Trade Commission Act and the Wool Products Labeling Act of 1939, against the above-named corporate respondent and also against the respondents Sol Gelfond and Larry Goldwater, both individually and as officers of said corporation, charging them and each of them in having manufactured for introduction into commerce and having introduced, sold, transported, distributed, delivered for shipment, and offered for sale in commerce certain wool products, some of which wool products were misbranded in various particulars by being falsely and deceptively labeled or tagged with respect to the

character and amount of the constituent fibers contained therein, contrary to Section 4 (a) (1) of the said Wool Products Labeling Act and of the Rules and Regulations promulgated by the Commission thereunder; that among such misbranded products were ladies' coats labeled or tagged by respondents as consisting of "100% cashmere" and "100% imported cashmere" which were actually composed of wool of the genus sheep with only a trace of "Cashmere" which is the hair or fleece of the Cashmere goat; and further that among such misbranded products certain wool coats lacked labels or tags attached thereto separately setting forth the fibre content of their interlinings as required by Section 4 (a) (2) of said Wool Products Labeling Act and Rule 24 of the Commission's Rules and Regulations promulgated thereunder.

Said complaint was duly served upon each of said respondents, who, within the time fixed for answer, and on April 4, 1955, stipulated in writing with counsel supporting the complaint, therein waiving the filing of an answer and agreeing that a consent order against the respondents be entered herein in terms identical with those contained in the notice issued and served on respondents as a part of the complaint herein. Such written stipulation was approved in writing by the Director and Assistant Director of the Commission's Bureau of Litigation.

By said stipulation, among other things, respondents have admitted all the jurisdictional allegations of the complaint and agreed that the record herein may be taken as if the Commission had made findings of jurisdictional facts in accordance with such allegations; that the parties have expressly waived a hearing before the Hearing Examiner or the Commission and all further and other procedure to which the respondents may be entitled under the Federal Trade Commission Act or the Rules of Practice of the Commission; and have agreed that the order to cease and desist issued in accordance with said stipulation shall have the same force and effect as if made after a full hearing, the parties having waived specifically therein any and all right, power or privilege to challenge or contest the validity of said order. It was also stipulated and agreed therein that the complaint herein may be used in construing the terms of the order provided for in said stipulation, and, further, that the signing of said stipulation is for settlement purposes only and does not constitute an admission by respondents that they have violated the law as alleged in the complaint.

The aforesaid stipulation for consent order as so approved was submitted on April 12, 1955, to the above-named hearing examiner for his consideration in accordance with Rules V and XXII of the Com-

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mission's Rules of Practice. And upon due consideration of the complaint and the stipulation for consent order, which is hereby accepted and ordered filed as part of the record herein, it having been stipulated they shall be the entire record herein on which such order may be entered, the hearing examiner finds that the Commission has jurisdiction of the subject matter of this proceeding and of each and all of the parties respondent herein, the individual respondents being subject to such jurisdiction both individually and as officers of said corporate respondent; that the complaint states a legal cause for complaint against the respondents and each of them under the Federal Trade Commission Act and the Wool Products Labeling Act of 1939 and the Rules and Regulations promulgated by the Commission under the latter Act, both as an entirety and in each of the particular violations alleged therein; that this proceeding is in the interest of the public; that the following order as proposed in said stipulation is appropriate for the disposition of this proceeding, the same to become final when it becomes the order of the Commission; and that said order therefore should be, and hereby is, entered as follows:

ORDER

It is ordered, That the respondent Jeanne D'Or Modes, Inc., a corporation, and its officers and Sol Gelfond and Larry Goldwater, 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 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 ladies' coats 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 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 product, exclusive of ornamentation not exceeding five percentum of said total

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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 five per centum 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, 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 appearing in the interlinings of such wool products, as provided in Rule 24 of the Rules and Regulations promulgated under the said Act.

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.

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 June 14, 1955].

IN THE MATTER OF

BENJAMIN AND EDWARD J. GROSS COMPANY,
INC., ET AL.

Docket 6068. Complaint, Dec. 1, 1952—Order, June 24, 1955

Order dismissing, for failure to sustain the allegations, complaint charging a seller in New York City of diamond rings, under the trade name of "Rings O' Romance", with advertising as the usual and regular retail prices, prices which were in fact fictitious and greatly in excess of those at which the rings were usually sold at retail.

Mr. Frederick J. McManus for the Commission.

Halperin, Natanson, Shivitz & Scholer, of New York City, for Benjamin and Edward J. Gross Co., Inc., Benjamin Gross and Edward J. Gross.

Brobeck, Phleger & Harrison, of San Francisco, Calif., for Theodore H. Segall.

INITIAL DECISION BY EARL J. KOLB, HEARING EXAMINER

This proceeding is before the undersigned Hearing Examiner for final consideration on the complaint, answer thereto, testimony and other evidence and proposed findings as to the facts and conclusions presented by counsel, and the Hearing Examiner having considered the matter and being now fully advised in the premises makes the following findings as to the facts and conclusions drawn therefrom:

1. Respondent Benjamin and Edward J. Gross Company, Inc., is a corporation organized under the laws of the State of New York with its principal office and place of business located at 64 West 48th Street, New York, New York. Respondents Benjamin Gross and Edward J. Gross were president and secretary, respectively of said corporation and as the officers thereof formulated, directed and controlled the policies, acts and practices of said corporate respondent. The respondent Benjamin Gross is now deceased, having died subsequent to the issuance of the order of the Hearing Examiner closing the taking of testimony in this proceeding.

2. Respondent Theodore H. Segall is an individual doing business under the name of Theodore H. Segall Advertising Agency with his office at 544 Market Street, San Francisco, California. Said respondent, for a period of time during 1951, was engaged as advertising agent for the corporate respondent, Benjamin and Edward J. Gross Company, Inc.