

IN THE MATTER OF
SUPERIOR WOOL BATTING CORPORATION ET AL.

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

Docket 6321. Complaint, Apr. 1, 1955—Decision, July 15, 1955

Consent order requiring a manufacturer in Bronx, N. Y., to cease violating the Wool Products Labeling Act through misbranding wool batts or battings as "80% Reused Wool, 20% Other Fibers", and through failing to conform to requirements of the Act in labeling such batts.

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

Mr. Roslyn D. Young, Jr. for the Commission.

Mayersohn & Dompf, of New York City, for respondents.

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 Superior Wool Batting Corporation, a corporation, and Mark Burney, 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, Superior Wool Batting Corporation, is a corporation organized and existing under and by virtue of the laws of the State of New York, with its principal place of business located at 1000 Washington Street, Bronx, New York.

The individual respondent, Mark Burney, is President of said corporate respondent. He formulates, directs and controls the acts, policies and practices of said corporate respondent.

PAR. 2. Subsequent to the effective date of the said Wool Products Labeling Act of 1939 and more especially since February, 1954, respondents have manufactured for introduction into commerce, introduced into commerce, sold, transported, distributed, delivered for shipment and offered for sale in commerce as "commerce" is defined by the Wool Products Labeling Act, wool products, as "wool products" are defined therein.

PAR. 3. Certain of said wool products described as batts or battings were misbranded within the intent and meaning of Section 4 (a) (1) of said Wool Products Labeling Act and the Rules and Regulations promulgated thereunder. Among such misbranded products were wool batts or battings labeled or tagged by respondents as consisting of "80% Reused Wool, 20% Other Fibers," whereas in truth and in fact said batts or battings did not contain 80% reused wool and 20% other fibers but consisted of substantially less than 80% reused or reprocessed wool fibers and substantially more than 20% miscellaneous non-woolen fibers.

PAR. 4. Certain of said wool products described as batts or battings were misbranded by respondents 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 prescribed by 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 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.

INITIAL DECISION BY EARL J. KOLB, HEARING EXAMINER

The complaint in this proceeding charges respondent Superior Wool Batting Corporation, a New York corporation located at 1000 Washington Street, Bronx, New York, and respondent Mark Burney, individually and as an officer of said corporation located at the same address, with violation of the provisions of the Federal Trade Commission Act, the Wool Products Labeling Act of 1939 and the Rules and Regulations made pursuant thereto, by misbranding of certain wool products manufactured by them for introduction into commerce.

In lieu of submitting answer to said complaint, respondents entered into a stipulation for consent order with counsel in support of the complaint which was duly approved by the Director and Assistant Director of the Bureau of Litigation. It was expressly provided in said stipulation that the signing thereof is for settlement purposes only and does not constitute an admission by respondents that they have violated the law as alleged in the complaint.

By the terms of said stipulation, the respondents 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. By said stipulation all parties expressly waived the filing of answer, a hearing before

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the 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 respondents may be entitled under the Federal Trade Commission Act or the Rules of Practice of the Commission.

By said stipulation, respondents further 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, presentation of evidence, and findings and conclusions thereon, and specifically waived any and all right, power or privilege to challenge or contest the validity of such order.

It was further provided that said stipulation, together with the complaint, shall constitute the entire record herein, that the complaint herein may be used in construing the terms of the order issued pursuant to said stipulation, and that said order may be altered, modified or set aside in the manner prescribed by the statute for orders of the Commission.

The hearing examiner has considered such stipulation and the order therein contained, and, it appearing that said stipulation and order provides for appropriate disposition of this proceeding, the same is hereby accepted and made a part of the record and in consonance with the terms of said stipulation the hearing examiner finds that the Federal Trade Commission has jurisdiction of the subject matter of this proceeding and of the respondents named herein, and that this proceeding is in the interest of the public, and issues the following order:

ORDER

It is ordered, That the respondent Superior Wool Batting Corporation, a corporation, and its officers, and Mark Burney, individually and as an officer of said corporation, and respondents' respective 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 wool batts or battings 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 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 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 percentum or more, and (5) the aggregate of all other fibers;

- (b) The maximum percentage of the total weight of such wool product of any non-fibrous 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.

DECISION OF THE COMMISSION AND ORDER TO FILE REPORT OF COMPLIANCE

Pursuant to Section 3.21 of the Commission's Rules of Practice, the initial decision of the hearing examiner did, on the 15th day of July, 1955, become the decision of the Commission; and, accordingly:

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.

IN THE MATTER OF
CORDOVA DISTRICT FISHERIES UNION ET AL.

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

Docket 6261. Complaint, Nov. 5, 1954—Decision, July 16, 1955

Consent orders requiring the corporate operators of the only large clam packing plant in Alaska and a union of independent clam diggers and its members to cease concertedly fixing prices and restraining trade in Alaska's Cordova and Bering River area clam industry.

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

Mr. Paul H. LaRue for the Commission.

Mr. Roy E. Jackson, of Seattle, Wash., for Cordova District Fisheries Union, and Executive Secretary and members of the Executive Board thereof.

Ryan, Askren & Mathewson, of Seattle, Wash., for G. P. Halferty & Co., Halferty Canneries, Inc., and officers thereof.

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 the parties hereinafter referred to as respondents have violated the provisions of Section 5 of the Federal Trade Commission 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 these respects as follows:

PARAGRAPH 1. Respondent Cordova District Fisheries Union, hereinafter referred to as respondent Union, is an unincorporated association, among whose members are individuals engaged in the digging and selling of clams in the Cordova and Bering River areas of Alaska. Its principal office and place of business is located at Cordova, Alaska.

Respondent Harold Z. Hansen is an individual and Executive Secretary of respondent Union with his office and place of business located at the same address.

Respondents Paul Graham, Knute Johnson and Edward King are individuals and members of the Executive Board of respondent Union.

The above named persons, individually and in their capacities as officials of respondent Union, have formulated, directed or controlled the policies and activities of said Union and in so doing have expressly