

Complaint

IN THE MATTER OF

JONI GAIL, INC. 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 6323. Complaint, Apr. 4, 1955—Decision, Aug. 12, 1955

Consent order requiring a manufacturer and its corporate selling agent in New York City to cease violating the Wool Products Labeling Act by Labeling as "50% wool, 50% orlon" two-piece ladies' weskit and skirt combinations which contained substantial quantities of reprocessed wool and miscellaneous non-woolen fibers, and by failing to identify the manufacturer on tags and to label the skirts separately, as required by the Act.

Before *Mr. William L. Pack*, hearing examiner.

Mr. George E. Steinmetz and *Mr. Roslyn D. Young, Jr.* for the Commission.

Mr. Robert J. Eliasberg, 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 Joni Gail, Inc., a corporation, and Ethel Boroff, also known as Ethel Estran, Evelyn Finke and Elvira Torre, individually and as officers of said corporation; Sue Carson, Inc., a corporation, and Herman Boroff, Ben Costa, and Paul Weiner, individually and as officers of said corporation, hereinafter referred to as respondents, have violated the provisions of said Acts, and the Rules and Regulations promulgated under the Wool Products Labeling Act of 1939, 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:

PAR. 1. The corporate respondent, Joni Gail, Inc., is a corporation organized and existing under and by virtue of the laws of the State of New York. Respondent Ethel Boroff is President, respondent Evelyn Finke is Vice President and Respondent Elvira Torre is Secretary-Treasurer of said corporate respondent. These individual respondents formulate, direct and control the acts, policies and practices of the corporate respondent. The office and principal place of business of each and all of said corporate and individual respondents is located at 1400 Broadway, New York, New York.

Complaint

52 F. T. C.

PAR. 2. The corporate respondent, Sue Carson, Inc., is a corporation organized and existing under and by virtue of the laws of the State of New York. Respondent Herman Boroff is President, respondent Ben Costa is Vice President, and respondent Paul Weiner is Secretary-Treasurer of said corporate respondent. These individual respondents formulate, direct and control the acts, policies and practices of the corporate respondent. The office and principal place of business of each and all of said corporate and individual respondents is located at 534 Eighth Avenue, New York, New York.

Respondent Joni Gail, Inc., is a wholly owned subsidiary of respondent, Sue Carson, Inc., and acts primarily as a selling agent for respondent, Sue Carson, Inc.

PAR. 3. Subsequent to the effective date of the Wool Products Labeling Act of 1939, and more especially since January 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 in said Act, wool products, as "wool products" are defined therein.

PAR. 4. Certain of said wool products 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 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 two piece ladies' weskit and skirt combinations labeled or tagged by respondents as consisting of "50% wool, 50% orlon," whereas, in truth and in fact said ladies' weskit and skirt combinations did not contain 50% wool, 50% orlon, but contained substantial quantities of reprocessed wool and miscellaneous non-woolen fibers in quantities other than those represented by respondents.

PAR. 5. Certain of said wool products were further misbranded by respondents in that they were not stamped, tagged or labeled as required under the provisions of Section 4 (a) (2) of the Wool Products Labeling Act of 1939 and of the Rules and Regulations promulgated thereunder.

Among such misbranded wool products were two piece ladies' weskit and skirt combinations misbranded in that they were not stamped, tagged, or labeled as to describe 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. 6. Said wool products described as ladies' weskit and skirt combinations were further misbranded by respondents in that the

skirts of said combinations were not separately stamped, tagged, or labeled as required by Rule 12 of the Rules and Regulations promulgated under the Wool Products Labeling Act of 1939.

PAR. 7. The acts and practices of respondents, as set forth herein, 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 within the intent and meaning of the Federal Trade Commission Act.

INITIAL DECISION BY WILLIAM L. PACK, HEARING EXAMINER

The complaint in this matter charges the respondents with the misbranding of certain wool products in violation of the Wool Products Labeling Act of 1939 and the Federal Trade Commission Act. A stipulation has now been entered into by respondents Joni Gail, Inc., a corporation, Sue Carson, Inc., a corporation and Herman Boroff, Ben Costa and Paul Weiner, individuals, and counsel supporting the complaint which provides, among other things, that these respondents admit all the jurisdictional allegations in the complaint; that the filing of answers to the complaint is waived; that the inclusion of findings of fact and conclusions of law in the decision disposing of this matter is waived, together with any further procedural steps before the hearing examiner and the Commission to which such respondents may be entitled under the Federal Trade Commission Act or the Rules of Practice of the Commission; that the order hereinafter set forth may be entered in disposition of the proceeding, such order to have the same force and effect as if made after a full hearing, presentation of evidence, and findings and conclusions thereon, such respondents specifically waiving any and all right, power and privilege to challenge or contest the validity of such order; that the complaint may be used in construing the terms of the order, which may be altered, modified or set aside in the manner provided by statute for other orders of the Commission; and that the signing of the stipulation is for settlement purposes only and does not constitute an admission by any of such respondents that he or it has violated the law as alleged in the complaint.

While the other respondents in the proceeding, Ethel Boroff, Evelyn Finke and Elvira Torre, were formerly officers of corporate respondent Joni Gail, Inc., it appears from affidavits executed by such respondents and by respondents Herman Boroff, Benn Costa and Paul Weiner, and also a certificate executed by respondent Herman Boroff as Secretary of said corporation, that respondents Ethel Boroff, Evelyn Finke and Elvira Torre are no longer connected with said

Order

52 F. T. C.

corporation, and moreover, that at no time did such individuals participate actively in the management or control of the corporation. It is therefore concluded that the complaint should be dismissed as to these individuals.

It appearing that said stipulation, affidavits and certificate afford an adequate basis for an appropriate settlement and disposition of the proceeding, such instruments are hereby accepted and made a part of the record, the following jurisdictional findings made, and the following order issued:

1. (a) Respondent Joni Gail, Inc., is a corporation organized under the laws of the State of New York, with its office and principal place of business located at 1400 Broadway, New York, New York.

(b) Respondent Sue Carson, Inc., is a corporation organized under the laws of the State of New York, with its office and principal place of business located at 534 Eighth Avenue, New York, New York. Respondents Herman Boroff, Ben Costa and Paul Weiner are officers of the corporation.

2. The Federal Trade Commission has jurisdiction of the subject matter of this proceeding and of the respondents, and the proceeding is in the interest of the public.

ORDER

It is ordered, That respondent Joni Gail, Inc., a corporation and its officers, respondent Sue Carson, Inc., a corporation and its officers, and respondents Herman Boroff, Ben Costa and Paul Weiner, individually and as officers of Sue Carson, Inc., 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 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' two piece weskit and skirt combinations 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:

145

Order

(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 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 affix to each unit or piece of any such wool product combinations a stamp, tag, label or other means of identification showing the required information as provided by Rule 12 of the Rules and Regulations promulgated under 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.

It is further ordered, That the complaint be, and it hereby is, dismissed as to respondents Ethel Boroff, Evelyn Finke and Elvira Torre.

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 12th day of August, 1955, become the decision of the Commission; and, accordingly:

It is ordered, That the respondents Joni Gail, Inc., a corporation, Sue Carson, Inc., a corporation, and Herman Boroff, Ben Costa and Paul Weiner, individually and as officers of said corporation, 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 complied with the order to cease and desist.

Complaint

52 F. T. C.

IN THE MATTER OF

WM. H. WISE CO., INC.; THE CHARMING WOMAN, INC.;
ET AL.

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

Docket 6288. Complaint, Jan. 17, 1955—Decision, Aug. 19, 1955

Consent order requiring sellers in New York City of a correspondence course in beauty culture, to cease use of a misleading "introductory offer" which, following acceptance by a customer, they treated as a contract for the entire course, and to cease continuing to mail lessons and demand additional payment after being advised of the customer's wish to discontinue the lessons.

A third charge of using a fictitious trade name for the purpose of collecting amounts alleged to be delinquent remained for decision in due course.¹

Before *Mr. Loren H. Laughlin*, hearing examiner.

Mr. William R. Tincher for the Commission.

Mr. Thomas Barrett Scott, of Washington, D. C., for respondents.

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 Wm. H. Wise Co., Inc., a corporation, The Charming Woman, Inc., a corporation, and John J. Crawley, individually and as an officer of said corporations, hereinafter called respondents, have 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. Wm. H. Wise Co., Inc., is a corporation duly organized, existing and doing business under the laws of the State of New York, with its principal office and place of business at 50 West 47th Street, in the city and State of New York. The Charming Woman, Inc., is a corporation duly organized, existing and doing business under the laws of the State of New York and a wholly owned subsidiary of said Wm. H. Wise Co., Inc., with its principal office and place of business at 37 West 47th Street, in the city and State of New York. John J. Crawley is an individual and President of said cor-

¹ This charge of representing that respondents' "Publishers Protective Service" was an independent and separate organization employed to collect accounts in arrears, was settled by an order to cease and desist entered Nov. 1, 1956, 53 F. T. C. —.