

Complaint

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IN THE MATTER OF

RICE'S FASHION CORNER, INC., ET AL.

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

Docket 6385. Complaint, June 30, 1955—Decision, Oct. 12, 1955

Consent order requiring a dealer in Norfolk, Va., to cease misbranding and falsely advertising ladies' weskit and skirt combinations, in violation of the Wool Products Labeling Act and the Federal Trade Commission Act.

Before *Mr. William L. Pack*, hearing examiner.
Mr. R. D. Young, Jr. 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 Rice's Fashion Corner, Inc., a corporation; and Irving G. Rice and Maurice Nordlinger, 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:

PARAGRAPH 1. Respondent, Rice's Fashion Corner, Inc., is a corporation organized and existing under and by virtue of the laws of the State of Virginia. Respondent Irving G. Rice is President and respondent Maurice Nordlinger is Secretary-Treasurer and General Manager of said corporation 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 400 Granby Street, Norfolk 10, Virginia.

PAR. 2. Subsequent to the effective date of the Wool Products Labeling Act of 1939, and more especially since January, 1954, respondents have 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. 3. Certain of said wool products were misbranded by respondents 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, as tagged and labeled by respondents.

PAR. 4. 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 by respondents 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. 5. 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. 6. The respondents were, at all times mentioned herein, in competition, in commerce, with other individuals and with firms and corporations likewise engaged in the sale of ladies' weskit and skirt combinations.

PAR. 7. The acts and practices of respondents, as set forth in Paragraphs 2, 3, 4, 5 and 6 hereof constitute misbranding of wool products and are in violation of the Wool Products Labeling Act of 1939 and the Rules and Regulations promulgated thereunder; and all of the aforesaid acts and practices, as alleged herein, are all to the prejudice and injury of the public and of respondents' 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.

PAR. 8. In the course and conduct of their business, as aforesaid, and for the purpose of inducing the purchase of said wool products described herein as ladies' weskit and skirt combinations, respondents

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have published advertisements in nationally circulated fashion magazines containing various statements concerning their products. Among and typical, but not all inclusive, of such statements are the following:

Reversible Weskit and Permanently
Pleated Skirt in Washable
ORLON & WOOL * * *
60% ORLON, 40% WOOL

PAR. 9. Through the use of the aforesaid statements to describe said reversible weskit and pleated skirt, respondents represented that said product was composed of 60% orlon, 40% wool.

PAR. 10. The aforesaid statements were false, misleading and deceptive, since in truth and in fact said ladies' weskit and skirt combinations were composed of substantially more than 60% non-woolen fibers and substantially less than 40% woolen fibers.

PAR. 11. The use by respondents of the statements herein set forth, in the course of selling and offering for sale their products, in commerce, as above described, had the capacity and tendency to mislead and deceive a substantial portion of the purchasing public into the erroneous and mistaken belief that such statements were and are true, and to induce the purchase of said products on account of such beliefs induced as aforesaid. As a consequence thereof substantial trade in commerce has been unfairly diverted to respondents from their competitors and substantial injury has been done to competition in commerce.

PAR. 12. The respondents were, at all times mentioned herein, in competition, in commerce, with other individuals and with firms and corporations likewise engaged in the sale of ladies' weskit and skirt combinations.

PAR. 13. The acts and practices of respondents, as set forth in Paragraphs 8, 9, 10, 11 and 12 herein, are all to the prejudice and injury of the public and of respondents' 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.

INITIAL DECISION BY WILLIAM L. PACK, HEARING EXAMINER

The complaint in this matter charges respondents with the mislabeling of certain wool products in violation of the Wool Products Labeling Act and the Federal Trade Commission Act. An agreement has now been entered into by respondents and counsel supporting the complaint which provides, among other things, that respondents admit all the jurisdictional allegations in the complaint; that the

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complaint and agreement shall constitute the entire record in the proceeding; 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 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, respondents specifically waiving any and all right, power and privilege to challenge or contest the validity of such order; that the order 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 agreement 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 hearing examiner having considered the agreement and proposed order and being of the opinion that they provide an appropriate basis for settlement and disposition of the proceeding, the agreement is hereby accepted and made a part of the record, the following jurisdictional findings made, and the following order issued:

1. Respondent Rice's Fashion Corner, Inc., is a corporation existing and doing business under the laws of the State of Virginia, with its office and principal place of business at 400 Granby Street, Norfolk, Virginia.

While respondent Irwin G. Rice (referred to in the complaint as Irving G. Rice) was president of the corporate respondent at all times mentioned in the complaint, he severed all relationship with the corporation on June 30, 1955. His present post-office address is 225 West 34th Street, New York, New York.

Respondent Maurice Nordlinger was secretary-treasurer and general manager of the corporate respondent at all times mentioned in the complaint. However, on June 30, 1955, he terminated these relationships with the corporation. He is now secretary of the corporation and has his office at the same address as that 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 the respondent, Rice's Fashion Corner, Inc., a corporation, and its officers and respondent Maurice Nordlinger,

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individually and as an officer of said corporation, and respondent Irwin G. Rice, individually, 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' 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:

- (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 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 products, of any non-fibrous loading, filling, or adulterating matter;

- (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, and

3. Failing to securely affix to or place on each separate piece of such products a stamp, tag, label or other means of identification as required 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 respondent Rice's Fashion Corner, Inc., a corporation, and its officers, and respondent Maurice Nordlinger, individually and as an officer of said corporation, and respondent Irwin G. Rice, individually, and respondents' agents, representatives and employees, directly or through any corporate or other device, in connection with the offering for sale, sale, or distribution in commerce, as "commerce" is defined in the Federal Trade Commission Act, of ladies' weskit and skirt combinations or other products, do forthwith cease and desist from:

Misrepresenting the constituent fibers of which their products are composed or the percentages or amounts thereof, in advertisements or in any other manner.

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 shall, on the 12th day of October, 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.

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IN THE MATTER OF
THE UNION MALLEABLE MANUFACTURING COMPANY
CONSENT ORDER, ETC., IN REGARD TO THE ALLEGED VIOLATION OF SEC. 2 (c)
OF THE CLAYTON ACT

Docket 6366. Complaint, June 20, 1955—Decision, Oct. 13, 1955

Consent order requiring a corporation in Ashland, Ohio, to cease granting Sears, Roebuck & Co., large mail order house, on direct purchases of "U-Brand" plumbing products, an allowance amounting to brokerage in addition to the discounts allotted other customers, all of whom purchased through brokers, thus charging Sears, Roebuck prices lower than it charged other buyers by an amount reflecting brokerage fees, in violation of Sec. 2 (c) of the amended Clayton Act.

Before *Mr. Frank Hier*, hearing examiner.

Mr. Donald K. King for the Commission.

Mr. Samuel K. Walzer, of Cleveland, Ohio, 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 violated, and is now violating, the provisions of Subsection (c) of Section 2 of the Clayton Act (15 U.S.C. 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. The Union Malleable Manufacturing Company, hereinafter referred to as respondent, is a corporation organized, existing and doing business under the laws of the State of Ohio. Its executive offices and principal place of business are located at Cork Street, Ashland, Ohio. Respondent, in connection with its business, operates two wholly owned corporate subsidiaries which are also located in Ashland, Ohio, and maintains sales offices in all principal cities throughout the world.

PAR. 2. Respondent corporation as aforesaid is now and has been since 1936 engaged in the business of manufacturing, selling, and distributing malleable iron pipe fittings, steel pipe nipples, wrought steel couplings, cast brass solder joint fittings, floor flanges, bushings, and other items of like character used in the plumbing trade. Such products are hereinafter referred to as plumbing products. Respondent corporation sells and distributes its products under its own brand, namely, "U-Brand."