

Complaint

IN THE MATTER OF

DIAMOND CAP COMPANY, INC., ET AL.

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

Docket 6377. Complaint, June 28, 1955—Decision, Nov. 9, 1955

Consent order requiring a manufacturer in Philadelphia, Pa., to cease labeling as "100% Wool" caps which contained a large percentage of reprocessed or reused wool, and to tag other wool products with the information required by the Wool Products Labeling Act.

Before *Mr. Everett F. Haycraft*, hearing examiner.

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

Mr. Samuel R. Wurtman, of Philadelphia, Pa., 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 Diamond Cap Company, Inc., a corporation, and Crisfield Cap Company, a corporation, and Louis Goldenberg and Harry Faerman, individually and as officers of said corporations, 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. The respondent Diamond Cap Company, Inc., is a corporation organized and existing under and by virtue of the laws of the Commonwealth of Pennsylvania, being engaged in the manufacture, sale, and distribution of men's, women's, and children's caps. The office and principal place of business of said corporate respondent is located at 3330 North 3rd Street, Philadelphia, Pennsylvania.

The respondent Crisfield Cap Company, a wholly owned subsidiary of respondent Diamond Cap Company, Inc., is a corporation organized and existing under and by virtue of the laws of the Commonwealth of Pennsylvania, being engaged in the manufacture of caps for respondent Diamond Cap Company, Inc. The office and principal place of business of Crisfield Cap Company is located at 116 Locust Street, Crisfield, Maryland.

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The individual respondents, Louis Goldenberg and Harry Faerman, are president and vice-president respectively of each of said corporate respondents and these individuals formulate, direct and control the acts, policies and practices of each of said corporate respondents.

The office and principal place of business of respondent Louis Goldenberg is located at 3330 North 3rd Street, Philadelphia, Pennsylvania. The office and principal place of business of respondent Harry Faerman is located at 116 Locust Street, Crisfield, Maryland.

PAR. 2. 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. 3. 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 products were caps labeled or tagged as consisting of "100% wool," whereas, in truth and in fact, said caps did not consist of 100% wool as the term "wool" is defined in said Wool Products Labeling Act, but contained a large percentage of reprocessed or reused wool, as the terms "reprocessed" and "reused" wool are likewise defined therein.

PAR. 4. Some 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 the Rules and Regulations promulgated thereunder.

Among such wool products were caps misbranded by said respondents in that they were not stamped, tagged or labeled so as to disclose the fiber content or the name or 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 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 caps.

PAR. 6. The acts and practices of respondents, as herein alleged, 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.

INITIAL DECISION BY EVERETT F. HAYCRAFT, HEARING EXAMINER

The Federal Trade Commission issued its complaint against the above-named respondents on June 28, 1955, charging them with having violated the Wool Products Labeling Act of 1939 and the Rules and Regulations promulgated thereunder, and the Federal Trade Commission Act, through the misbranding of certain wool products.

After the issuance of said complaint and the filing of their answer thereto, the respondents entered into an agreement with counsel supporting the complaint, dated August 22, 1955, providing for the entry of a consent order disposing of all the issues in this proceeding as to all parties, which agreement was duly approved by the Director of the Bureau of Litigation. It was expressly provided in said agreement 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 agreement, the said respondents admitted all the jurisdictional facts alleged in the complaint and agreed that the record herein may be taken as if findings of jurisdictional facts had been duly made in accordance with such allegations.

By said agreement respondents' answer to the complaint shall be considered as having been withdrawn and the record on which the initial decision and the decision of the Commission shall be based shall consist solely of the complaint and the said agreement. Respondents in the agreement expressly waive any further procedural steps before the hearing examiner and the Commission; the making of findings of fact or conclusions of law; and all of the rights they may have to challenge or contest the validity of the order to cease and desist entered in accordance with the said agreement. It was further agreed that the agreement shall not become a part of the official record unless and until it becomes a part of the decision of the Commission.

The agreement also provided that the following order to cease and desist may be entered in this proceeding by the Commission without further notice to respondents and when so entered, it shall have the same force and effect as if entered after a full hearing; that it may be altered, modified, or set aside in the manner provided for other orders, and that the complaint may be used in construing the terms of the order.

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This proceeding having now come on for final consideration by the hearing examiner on the complaint and the aforesaid agreement for consent order, and it appearing that said agreement provides for an appropriate disposition of this proceeding, the aforesaid agreement is hereby accepted and is ordered filed upon becoming part of the Commission's decision in accordance with Sections 3.21 and 3.25 of the Rules of Practice, and the hearing examiner makes the following jurisdictional findings and order:

1. Respondent Diamond Cap Company, Inc., is a corporation existing and doing business under and by virtue of the laws of the Commonwealth of Pennsylvania, with its office and principal place of business located at 3330 North 3rd Street, Philadelphia, Pennsylvania. Respondent Crisfield Cap Company is a corporation existing under and by virtue of the laws of the Commonwealth of Pennsylvania, with its office and principal place of business located at Crisfield, Maryland. Individual respondents Louis Goldenberg and Harry Faerman are president and vice president, respectively, of said corporate respondents, with their office and principal place of business located at 3330 North 3rd Street, Philadelphia, Pennsylvania.

2. The Federal Trade Commission has jurisdiction of the subject matter of this proceeding, which is in the public interest, and of the respondents hereinabove named; the complaint herein states a cause of action against said respondents under the provisions of the Federal Trade Commission Act and the Wool Products Labeling Act of 1939.

ORDER

It is ordered, That respondent Diamond Cap Company, Inc., a corporation; and respondent Crisfield Cap Company, a corporation; and respondents Louis Goldenberg and Harry Faerman, individually and as officers of said corporations, and respondents' representatives, agents and employees, directly or through any corporate or other device, in connection with 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 caps 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 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; and

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 shall, on the 9th day of November, 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

DENNING-GOLDEN FURS, INC., ET AL.

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

Docket 6337. Complaint, Apr. 26, 1955—Decision, Nov. 10, 1955

Consent order requiring furriers in New York City to cease advertising in spurious liquidation sales, fictitious prices as the value of fur garments and sale prices as affording 40% to 80% savings off regular prices; and to disclose information in advertising, keep records as a basis for savings claims, and invoice products, all as required by the Fur Products Labeling Act.

Before *Mr. John Lewis*, hearing examiner.

Mr. John J. McNally for the Commission.

Mr. Benjamin Hauptman, of New York City, for respondents.

COMPLAINT

Pursuant to the provisions of the Federal Trade Commission Act and the Fur Products Labeling Act, and by virtue of the authority vested in it by said Acts, the Federal Trade Commission, having reason to believe that Denning-Golden Furs, Inc., a corporation, Denning, Inc., a corporation, Irving Golden, individually and as President of said corporations, and Bernard Golden, an individual, hereinafter referred to as respondents, have violated the provisions of said Acts and the Rules and Regulations promulgated under the Fur Products Labeling 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. Respondents Denning-Golden Furs, Inc., and Denning, Inc., are corporations, organized and existing under and by virtue of the laws of the State of New York, with their office and principal place of business located at 124 West 30th Street, New York, New York. Individual respondents Irving Golden and Bernard Golden are President and Manager, respectively, of said corporate respondents, and in such capacities formulate, direct and control the policies, acts and practices of said corporate respondents. Said individual respondents have the same office and principal place of business as said corporate respondents and have as their place of residence 7281-113th Street, Forest Hills, New York. Said individual respond-