

Complaint

52 F. T. C.

IN THE MATTER OF

JAY GEE FABRICS, INC., ET AL.

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

Docket 6422. Complaint, Sept. 27, 1955—Decision, Dec. 1, 1955

Consent order requiring a manufacturer in New York City to cease falsely labeling and invoicing, as "70% Guanaco Fur, 30% Virgin Wool" and "50% Cashmere, 50% Guanaco," bolts of fabric which contained substantial amounts of miscellaneous fur fibers other than guanaco, and to conform in other respects to the labeling requirements of the Wool Products Labeling Act.

Before *Mr. Abner E. Lipscomb*, hearing examiner.

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

Mr. Irving Markowitz, 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 Jay Gee Fabrics, Inc., a corporation, and Jack Grodowitz, individually and as an officer of said corporation, hereinafter referred to as respondents, have violated the provisions of said Acts, and the Rules and Regulations promulgated under said Wool 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. Respondent, Jay Gee Fabrics, Inc., is a corporation organized and existing under and by virtue of the laws of the State of New York, with its office and principal place of business located at 230 West 41st Street, New York, New York.

The individual respondent, Jack Grodowitz, is Secretary-Treasurer of the corporate respondent, Jay Gee Fabrics, Inc., and he formulates, directs and controls the acts, policies and practices of said corporate respondent. Said individual respondent has his office and principal place of business at the same address as the corporate respondent.

PAR. 2. Subsequent to the effective date of the Wool Products Labeling Act of 1939, and more especially since January 1953, re-

spondents 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 wool products were pieces or bolts of fabric labeled or tagged by respondents as consisting of "70% Guanaco Fur, 30% Virgin Wool," whereas, in truth and in fact, said products were not composed of 70% guanaco fur and 30% virgin wool, as tagged or labeled by said respondents, but contained substantial amounts of miscellaneous fur fibers other than guanaco, the term "Guanaco" referring to the fur or fleece of the South American animal known as the guanaco, or "Llama Guanicoe."

Respondents further misbranded said pieces or bolts of fabric by stamping, tagging or labeling them as consisting of "50% Cashmere, 50% Guanaco," whereas in truth and in fact said products were not composed of 50% cashmere, 50% guanaco, as tagged or labeled by said respondents, the term "Cashmere" referring to the hair or fleece of the Cashmere goat.

PAR. 4. 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 said Wool Products Labeling Act of 1939, and in the manner and form prescribed by the Rules and Regulations promulgated thereunder.

PAR. 5. Respondents, in the course and conduct of their business as aforesaid are and were in competition with other corporations and with firms and individuals, likewise engaged in the sale of pieces or bolts of fabric, in commerce.

PAR. 6. The acts and practices of respondents, as set forth in Paragraphs 2, 3, 4 and 5 constitute misbranding of wool products and 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 and unfair methods of competition in commerce within the intent and meaning of the Federal Trade Commission Act.

PAR. 7. In the course and conduct of their business in connection with the sale of their products, in commerce, respondents have made

various statements concerning their products in sales invoices. Among and typical, but not all inclusive, of such statements are the following:

50% CASHMERE

50% GUANACO

PAR. 8. Through the use of such statements and representations to describe said pieces or bolts of fabric, respondents represented, directly or by implication, that said products were composed of 50% cashmere and 50% guanaco.

PAR. 9. The aforesaid statements and representations are false, misleading and deceptive, since, in truth and in fact, respondents' products described as pieces or bolts of fabric and represented by respondents as 50% cashmere and 50% guanaco were composed of substantially less than 50% cashmere and substantially less than 50% guanaco.

PAR. 10. Respondents, in the course and conduct of their business as aforesaid are and were in competition with other corporations and with firms and individuals, likewise engaged in the sale of pieces or bolts of fabric, in commerce.

PAR. 11. The use by respondents of statements herein set forth, in the course of selling and offering for sale their products in commerce as above described, has 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 such products on account of such beliefs induced as aforesaid. As a result thereof substantial trade in commerce has been diverted to respondents from their competitors, and substantial injury has thereby been done to competition in commerce.

PAR. 12. The acts and practices of the respondents as set forth in Paragraphs 7, 8, 9, 10, and 11 herein were all to the prejudice and injury of the public and of respondents' competitors and constituted 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 ABNER E. LIPSCOMB, HEARING EXAMINER

On September 27, 1955, the Federal Trade Commission issued its complaint in this proceeding, charging the Respondents with misbranding their wool products in commerce, in violation of the Federal Trade Commission Act, and Sections 4 (a) (1) and 4 (a) (2) of the Wool Products Labeling Act of 1939 and the Rules and Regulations promulgated thereunder.

Thereafter, on October 13, 1955, respondents entered into an agreement with counsel supporting the complaint, and, pursuant thereto,

submitted to the Hearing Examiner an Agreement Containing Consent Order To Cease And Desist, disposing of all the issues involved in this proceeding.

Respondent Jay Gee Fabrics, Inc., is identified in the agreement as a New York corporation, with its office and principal place of business located at 230 West 41st Street, New York, New York, and respondent Jack Grodowitz as an individual and Secretary-Treasurer of the corporate respondent, and having his office and principal place of business at the same address as the corporate respondent.

Respondents admit all the jurisdictional facts alleged in the complaint, and agree that the record herein may be taken as if findings of jurisdictional facts had been duly made in accordance with such allegations.

Respondents waive any further procedure 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 agreement. All parties agree that the record on which the initial decision and the decision of the Commission shall be based shall consist solely of the complaint and the agreement, and that 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 agreement sets forth that the order to cease and desist contained therein shall have the same force and effect as if entered after a full hearing, and may be altered, modified or set aside in the manner provided for other orders; and that the complaint herein may be used in construing the terms of the order.

After consideration of the charges set forth in the complaint and the provisions of the proposed order contained in the agreement, it appears that such order will safeguard the public interest to the same extent as could be accomplished by the issuance of an order after full hearing and all other adjudicative procedure waived in said agreement. Accordingly, in consonance with the terms of the aforesaid agreement, the Hearing Examiner accepts the Agreement Containing Consent Order to Cease and Desist and finds that the Commission has jurisdiction over the respondents and over their acts and practices as alleged in the complaint, and that this proceeding is in the public interest. Accordingly,

It is ordered, That the respondent, Jay Gee Fabrics, Inc., a corporation, and its officers, and respondent Jack Grodowitz, individually and as an officer of said corporation, and respondents' respective representatives, agents and employees, directly or through any cor-

Order

52 F. T. C.

porate 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 pieces or bolts of wool fabric 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 provision 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 Jay Gee Fabrics, Inc., a corporation, and its officers, and respondent Jack Grodowitz, individually and as an officer of said corporation, and respondents' representatives, agents and employees, directly or through any corporate or other device, in connection with the offering for sale, sale or distribution of pieces or bolts of wool fabric or any other wool products

548

Decision

in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

Misrepresenting the constituent fibers of which their wool products are composed, or the percentages or amounts thereof, in sales invoices 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 1st day of December, 1955, become the decision of the Commission; and, accordingly:

It is ordered, That Respondents Jay Gee Fabrics, Inc., a corporation, and Jack Grodowitz, individually and as an officer 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 have complied with the order to cease and desist.

Complaint

52 F. T. C.

IN THE MATTER OF
ADMIRAL CORPORATION

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

Docket 6319. Complaint, Mar. 23, 1955—Decision, Dec. 3, 1955

Consent order requiring a manufacturer in Chicago to cease representing falsely by radio and television broadcasts, advertisements in magazines, newspapers, etc., and advertising material furnished to its distributors, that the screen area of its television sets which were equipped with its Giant 21" picture tube was 20% larger than that of its competitors' television sets likewise equipped.

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

Mr. Edward F. Downs for the Commission.

Pope & Ballard, of Chicago, Ill., for respondent.

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 Admiral Corporation, a corporation, 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 respect thereof as follows:

PARAGRAPH 1. Respondent Admiral Corporation is a corporation, organized and existing under and by virtue of the laws of the State of Delaware, having its principal office and place of business at 3800 Cortland Street, Chicago, Illinois.

PAR. 2. Respondent is now and for several years last past has been, engaged, among other things, in the manufacture, distribution and sale of television sets.

Respondent causes and has caused its said television sets when sold to be transported from its place of business in the State of Illinois to purchasers thereof located in various other states of the United States and in the District of Columbia and at all times mentioned herein has maintained a course of trade in said television sets in commerce among and between the various states of the United States and in the District of Columbia. Respondent's volume of business in said television sets in such commerce is and has been substantial.