

Decision

IN THE MATTER OF
JOSEPH CARMEL, INC., ET AL.

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

Docket 6406. Complaint, Aug. 24, 1955—Decision, Jan. 5, 1956

Order requiring a manufacturer in New York City to cease violating the Wool Products Labeling Act by labeling ladies' coats falsely as "70% Guanaco, 30% Wool," and failing to label certain coats as required.

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

INITIAL DECISION BY WILLIAM L. PACK, HEARING EXAMINER

The complaint in this matter charges the respondents with misbranding ladies' coats in violation of the Wool Products Labeling Act of 1939 and the Federal Trade Commission Act. The complaint was issued on August 24, 1955, and in due course served on respondents, service on the individual respondent being effected on August 30, 1955, and on the corporate respondent on August 31, 1955. No answer to the complaint was filed by either respondent. The complaint set the initial hearing for October 26, 1955, at the Office of the Commission in the United States Court House, Foley Square, New York, New York. However, by consent of respondents and of counsel supporting the complaint, the place of hearing was changed from New York City to Washington, D. C., and the hearing was held at 10:00 A.M., on October 26, 1955, in Room 692, in the Federal Trade Commission Building, Sixth Street and Pennsylvania Avenue, N. W., Washington, D. C., all in conformity with an order issued by the hearing examiner on October 10, 1955, and duly served on respondents. There was no appearance by either of respondents at the hearing. Counsel supporting the complaint was present at the hearing and submitted a proposed order for consideration by the hearing examiner. Respondents being in default both as to answering the complaint and as to appearance at the hearing, the hearing examiner, proceeding under Rule 3.7 of the Commission's Rules of Practice, now issues his initial decision, finding the facts to be as alleged in the complaint and issuing an order considered by him to be warranted by such facts, the order being essentially the same as that submitted at the hearing by counsel supporting the complaint.

1. Respondent Joseph Carmel, Inc., is a corporation organized and existing under and by virtue of the laws of the State of New York,

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with its office and principal place of business located at 512 Seventh Avenue, New York, New York. The individual respondent, Joseph Carmel, is President and Treasurer of the corporate respondent, Joseph Carmel, Inc., and formulates, directs and controls its acts, policies and practices.

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 that Act, wool products, as "wool products" are defined therein.

3. Certain of such wool products were misbranded within the intent and meaning of Section 4(a) (1) of the Wool Products Labeling Act of 1939 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 ladies' coats labeled or tagged by respondents as consisting of "70% Guanaco, 30% Wool," whereas, actually, the products were not composed of 70 percent guanaco, 30 percent wool.

4. Certain of such wool products (ladies' coats) were also 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 in the manner and form prescribed by the Rules and Regulations promulgated under the Act.

5. Certain of such wool products (ladies' coats) were further misbranded by respondents in that the character and amount of the constituent fibers contained in the interlinings thereof were not separately set forth on the stamp, tag or label as required by said Act and Rule 24 of the Rules and Regulations promulgated thereunder.

6. Respondents, in the course and conduct of their business, are in direct and substantial competition with other corporations, firms and individuals engaged in the sale, in commerce, of wool products, including ladies' coats.

CONCLUSIONS

The proceeding is in the public interest. The acts and practices of respondents constitute misbranding of wool products and are in violation of the Wool Products Labeling Act of 1939 and the Rules and Regulations promulgated thereunder, are to the prejudice 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.

Order

ORDER

It is ordered, That respondent Joseph Carmel, Inc., a corporation, and its officers, and respondent Joseph Carmel, 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 ladies' wool coats 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.

3. Failing to separately set forth on the required stamp, tag or label or other means of identification the character and amount of the constituent fibers appearing in the interlinings of such wool products as provided by Rule 24 of the Rules and Regulations promulgated under said Act.

Provided, that the foregoing provisions concerning misbranding shall not be construed to prohibit acts permitted by paragraphs (a)

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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 5th day of January 1956, 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.

Complaint

IN THE MATTER OF
MAGNESIUM COMPANY OF AMERICA, INC.

CONSENT ORDER, ETC., IN REGARD TO THE ALLEGED VIOLATION
OF SEC. 2 (a) OF THE CLAYTON ACT

Docket 6370. Complaint, June 27, 1955—Decision, Jan. 6, 1956

Consent order requiring one of the largest manufacturers of dockboards in the country, with annual gross sales approximating \$4,000,000 for all its material handling equipment, including magnesium dockboards, loading ramps, hand trucks, barrel skids, etc., to cease violating Sec. 2 (a) of the Clayton Act as amended by discriminating in price between different purchasers through use of a system of quantity and dollar volume discounts, both noncumulative and cumulative, under which the discount was determined, respectively, by the number of dockboards purchased, regardless of price, or by a customer's total purchase during a 12-month period, and permitted customers to pool orders from several branches under either plan.

Before *Mr. James A. Purcell*, hearing examiner.

Mr. Edward S. Ragsdale and *Mr. Cecil G. Miles* for the Commission.

Bell, Boyd, Marshall & Lloyd, of Chicago, Ill., for respondent.

COMPLAINT

The Federal Trade Commission having reason to believe that the party respondent named in the caption herein, and hereinafter more particularly designated and described, has violated and is now violating the provisions of subsection (a) of Section 2 of the Clayton Act (U.S.C. Title 15, Section 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. Respondent Magnesium Company of America, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of Indiana, with its principal office, place of business, and plant located at 5222 Indianapolis Boulevard, East Chicago, Indiana. Respondent also has a branch office and branch plant located at 1017 Elsegundo Boulevard, Los Angeles, California, and deliveries are made out of either the East Chicago or the Los Angeles plants. Respondent has other branch offices located at: