

Complaint

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IN THE MATTER OF

JOSEPH GRAIS ET AL. TRADING AS
RUBIN GRAIS & SONS

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

Docket 6488. Complaint, Jan. 11, 1956—Decision, May 1, 1956

Consent order requiring five copartners to cease violating the Wool Products Labeling Act through tagging boys' jackets falsely with respect to the character and amount of constituent fibers contained in the fabrics composing them, and through failing to label wool products as required.

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

Mr. Floyd O. Collins for the Commission.

Brown, Fox & Blumberg, of Chicago, Ill., 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 Joseph Grais, Edward Grais, Benjamin Grais, Rubin Grais and Lyllian Braun, individually and as copartners, trading and doing business as Rubin Grais & Sons, hereinafter referred to as respondents, have violated 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. Respondents Joseph Grais, Edward Grais, Benjamin Grais, Rubin Grais and Lyllian Braun are individuals and copartners trading and doing business under the firm name of Rubin Grais & Sons with their office and principal place of business located at 325 South Wacker Drive, Chicago, Illinois. These individual respondents formulate, direct and control the acts, practices and policies of the said business.

PAR. 2. Subsequent to the effective date of the Wool Products Labeling Act and more especially since January, 1952, respondents have manufactured for introduction into commerce, introduced, sold, transported and distributed, delivered for shipment and offered for sale in commerce as "commerce" is defined in the Wool Products Labeling Act, wool products, as "wool products" are defined therein.

PAR. 3. Certain of said wool products were misbranded within the intent and meaning 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 boys' jackets labeled or tagged by respondents as "Shell 100% wool" whereas in truth and in fact a substantial quantity of said jackets were made out of fabrics composed of 100% reprocessed wool, and a substantial number of said jackets were manufactured out of fabrics containing 35% wool and 65% reused wool.

PAR. 4. Certain of said wool products were misbranded 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. The acts and practices of respondents as herein alleged were and are in violation of the Wool Products Labeling Act of 1939, and of 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.

INITIAL DECISION BY EARL J. KOLB, HEARING EXAMINER

The complaint in this proceeding issued January 11, 1956, charged the respondents Joseph Grais, Edward Grais, Benjamin Grais, Rubin Grais, and Lyllian Braun, individually and as co-partners trading as Rubin Grais & Sons located at 325 South Wacker Drive, Chicago, Illinois, with the use of unfair and deceptive acts and practices and unfair methods of competition in interstate commerce in violation of the provisions of the Federal Trade Commission Act, the Wool Products Labeling Act of 1939, and the Rules and Regulations made pursuant thereto, by misbranding certain wool products manufactured by them for introduction into commerce.

After the issuance of said complaint and the filing of their answer thereto, the respondents Joseph Grais, Edward Grais, Benjamin Grais, Rubin Grais and Lyllian Braun, individually and as co-partners trading as Rubin Grais & Sons, entered into an agreement for consent order with counsel in support of the complaint disposing of all the issues in this proceeding, which agreement was duly approved by the Director and Assistant 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 con-

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stitute 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 the Commission had made findings of jurisdictional facts in accordance with such allegations.

By said agreement, the answer heretofore filed by respondents was withdrawn and the parties expressly waived any further procedural steps before the hearing examiner and the Commission; the making of findings of fact or conclusions of law and all the rights they may have to challenge or contest the validity of the order to cease and desist entered in accordance with the agreement.

By said agreement, respondents further agreed that the order to cease and desist, issued in accordance with said agreement, shall have the same force and effect as if made after a full hearing, presentation of evidence and findings and conclusions thereon.

It is further provided that said agreement, together with the complaint, shall constitute the entire record herein, that the complaint herein may be used in construing the terms of the order issued pursuant to said agreement, and that said order may be altered, modified or set aside in the manner prescribed by the statute for orders of the Commission.

The hearing examiner has considered such agreement and the order therein contained, and, it appearing that said agreement and order provides for an appropriate disposition of this proceeding, the same 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, in consonance with the terms of said agreement, the hearing examiner finds that the Federal Trade Commission has jurisdiction of the subject matter of this proceeding and of the respondents named herein, and that this proceeding is in the interest of the public, and issues the following order:

ORDER

It is ordered, That the respondents, Joseph Grais, Edward Grais, Benjamin Grais, Rubin Grais and Lyllian Braun, individually and as copartners trading as Rubin Grais & Sons, or under any other name, and their 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 boys' jackets or other "wool

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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 to contain "wool," "reprocessed wool," or "reused wool" as those terms are defined in said Act, do forthwith cease and desist from misbranding or mislabeling such products by:

1. Falsely or deceptively stamping, tagging, labeling, or otherwise identify 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 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, (5) the aggregate of all other fibers;

- (b) The maximum percentage of the total weight of the wool product, of any non-fibrous loading, filling, or adulterating matter;

- (c) The name or 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 nothing contained in this order shall be construed as limiting any applicable provisions of the Wool Products Labeling Act of 1939 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 1st day of May 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.

IN THE MATTER OF
SIMPLICITY PATTERN COMPANY, INC.

Docket 6221. Order and opinion, May 2, 1956

Interlocutory order denying (1) respondent's motion that hearing examiner's partial oral dismissal be construed as an initial decision, and (2) complaint counsel's appeal from such dismissal as untimely.

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

Mr. William H. Smith, Mr. Brockman Horne and *Mr. R. D. Young, Jr.* for the Commission.

House, Grossman, Vorhaus & Hemley, of New York City, and *Mr. William Simon*, of Washington, D. C., for respondent.

ORDER DENYING INTERLOCUTORY APPEAL OF COUNSEL SUPPORTING
THE COMPLAINT AND MOTION OF THE RESPONDENT

Counsel in support of the complaint having filed an appeal from the hearing examiner's ruling of February 13, 1956, granting the respondent's motion to dismiss Count I of the complaint in this proceeding; and

The respondent having subsequently filed a motion for an order construing said rulings as an initial decision under Section 3.21 of the Commission's Rules of Practice, rather than interlocutory rulings; and

The Commission, for the reasons stated in its accompanying opinion, having concluded that said appeal and motion should not be granted:

It is ordered, That the appeal of counsel supporting the complaint, and the respondent's motion for an order construing the rulings below as an initial decision, be, and the same hereby are, denied.

Commissioner Gwynne not participating.

OPINION OF THE COMMISSION

Per Curiam:

After the reception of evidence in support of the case-in-chief was closed, oral arguments were heard by the hearing examiner in support of and in opposition to the respondent's motion to dismiss the complaint on grounds that a prima facie case was not established. The hearing examiner thereupon stated his reasons why he deemed the motion to be well taken as to the first of the two counts contained in the complaint and without merit as to the second, and orally ruled that Count I was dismissed, accordingly. In his interlocutory appeal