

Complaint

IN THE MATTER OF

FALLS YARN MILLS, INC., ET AL.

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

Docket 6511. Complaint, Feb. 17, 1956—Decision, May 24, 1956

Consent order requiring manufacturers in Woonsocket, R. I., to cease violating the Wool Products Labeling Act by labeling and invoicing as "65% 70-80 Lambs' Wool—30% mink 5% nylon" cones of yarn which contained substantially less than 30% mink fur fibers.

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

Mr. Frederick McManus for the Commission.

Edwards & Angell, of Providence, R. I., 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 Falls Yarn Mills, Inc., a corporation, and John Cavedon, Sr., individually and as an officer of said corporation, and John Cavedon, Jr., individually, 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 Falls Yarn Mills, Inc., is a corporation, organized, existing and doing business under and by virtue of the laws of the State of Rhode Island, with its offices and principal place of business located at 68 South Main Street, Woonsocket, Rhode Island.

PAR. 2. The individual respondent John Cavedon, Sr. is president and treasurer of the corporate respondent and the individual respondent John Cavedon, Jr. is the production manager of corporate respondent. These individuals cooperate in formulating, directing and controlling the acts, policies and practices of the corporate respondent. Their address is the same as that of the corporate respondent.

PAR. 3. Subsequent to the effective date of the Wool Products Labeling Act of 1939, and more especially since January 1, 1954, respondents have manufactured for introduction into commerce, sold,

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transported, distributed, delivered for shipment and offered for sale in commerce, as "commerce" is defined in said Act, wool products, as "wool products" is defined therein, consisting of cones of yarn.

PAR. 4. 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 stamped, tagged or labeled with respect to the character and amount of the constituent fibers contained therein.

Among such misbranded wool products were cones of yarn stamped and labeled as "65% 70-80 Lambs-Wool—30% mink 5% nylon"; whereas, in truth and in fact, said yarn contained substantially less than 30% mink fibers.

PAR. 5. Said wool products consisting of cones of yarn were misbranded 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, and in the manner and form prescribed by the Rules and Regulations promulgated thereunder.

PAR. 6. Respondents, in the course and conduct of their business, were and are in competition, in commerce, with other corporations and with firms and individuals in the sale of wool products, including yarns.

PAR. 7. The acts and practices as set forth in Paragraphs Four and Five constituted misbranding of wool products and were in violation of the Wool Products Labeling Act of 1939 and the Rules and Regulations promulgated thereunder, 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.

PAR. 8. In the course and conduct of their business as aforesaid, respondents have made various statements in sales invoices and other shipping memoranda in connection with their cones of yarn shipped in commerce. Among and typical, but not all inclusive of such statements, is the following: "65%. 70/80 Lamb's Wool, 30% Mink, 5% Nylon."

PAR. 9. Through the use of such statement to describe their wool products, respondents represented that said wool products contained 30% mink fur fibers.

PAR. 10. Said statement was false, misleading and deceptive. In truth and in fact, said product contained substantially less than 30% mink fur fibers.

PAR. 11. The use by respondents of the statement set forth in Paragraph Eight had the capacity and tendency to mislead and deceive a substantial portion of the purchasing public into the erroneous and

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mistaken belief that such statement was true and to induce the purchasers of said product to misbrand the fabrics manufactured with said yarn as to their fiber content.

PAR. 12. The acts and practices of the respondents set forth in Paragraph Eight were and are to the prejudice and injury of the public and constituted unfair and deceptive acts and practices, in commerce, within the intent and meaning of the Federal Trade Commission Act.

INITIAL DECISION BY J. EARL COX, HEARING EXAMINER

The complaint charges that respondents, subsequent to the effective date of the Wool Products Labeling Act of 1939, and more especially since January 1, 1954, have manufactured, sold, transported and distributed in commerce, as "commerce" is defined in said Act, wool products, as "wool products" is defined therein, consisting of cones of yarn, certain of which products were misbranded in violation of the Federal Trade Commission Act and Sections 4 (a) (1) and 4 (a) (2) of the Wool Products Labeling Act and the Rules and Regulations promulgated thereunder.

After the issuance of the complaint, to which no answer was filed, respondents, their counsel, and counsel supporting the complaint, on April 2, 1956, entered into an Agreement Containing Consent Order To Cease and Desist, which was approved by the Director and Assistant Director, Bureau of Litigation of the Commission, and thereafter transmitted to the Hearing Examiner for consideration.

The agreement identifies respondent Falls Yarn Mills, Inc. as a corporation organized, existing and doing business under and by virtue of the laws of the State of Rhode Island, with its offices and principal place of business located at 68 South Main Street, Woonsocket, Rhode Island, and states that respondent John Cavedon, Jr. is president and respondent John Cavedon, Sr. vice president and treasurer of the corporate respondent and that these individuals cooperate in formulating, directing and controlling the acts, policies and practices of the corporate respondent. The agreement thus reflects a change in official status of the individual respondents since the issuance of the complaint herein, at which time John Cavedon, Sr. was president and treasurer, and John Cavedon, Jr. production manager of the corporate respondent.

The agreement provides, among other things, that respondents admit all the jurisdictional facts alleged in the complaint and that the record herein may be taken as if findings of jurisdictional facts had been made in accordance with such allegations; that the record on which the initial decision and the decision of the Commission shall

be based shall consist solely of the complaint and this agreement; 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; that the complaint may be used in construing the terms of the order agreed upon, which may be altered, modified, or set aside in the manner provided for other orders; 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; and that the order set forth in the agreement and hereinafter included in this decision shall have the same force and effect as if entered after a full hearing.

Respondents 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 agreement.

The order agreed upon fully covers all the issues raised in the complaint, and adequately prohibits the acts and practices charged therein as being in violation of the Federal Trade Commission Act and Sections 4 (a) (1) and 4 (a) (2) of the Wool Products Labeling Act and the Rules and Regulations promulgated thereunder. Accordingly, the Hearing Examiner finds this proceeding to be in the public interest and accepts the Agreement Containing Consent Order To Cease And Desist as part of the record upon which this decision is based. Therefore,

It is ordered, That respondent, Falls Yarn Mills, Inc., a corporation, and its officers; respondent John Cavedon, Jr., individually and as an officer of said corporation, and respondent John Cavedon, Sr., 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 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 yarns or any 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;

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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 percentages by weight of such fiber is five percentum or more, and (5) the aggregate of all other fibers;

(b) the maximum percentages 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 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 Falls Yarn Mills, Inc., a corporation, and its officers, and John Cavedon, Jr., individually and as an officer of said corporation, and John Cavedon, Sr., 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 yarn or any other products 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 products are composed or the percentages or amounts thereof, in sales invoices, shipping memoranda 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 24th day of May 1956, become the decision of the Commission; and, accordingly:

It is ordered, That respondents Falls Yarn Mills, Inc., a corporation, and John Cavedon, Sr., individually and as an officer of said corporation, and John Cavedon, Jr., 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.

Opinion

IN THE MATTER OF
PREMIER PILLOW CORPORATION ET AL.

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

Docket 6136. Complaint, Oct. 28, 1953—Decision, May 25, 1956

Interlocutory order reversing the hearing examiner's ruling that he is "without authority to rule on respondents' motion" to dismiss at the close of the prosecution's case-in-chief, and remanding the matter to him for decision.

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

Mr. Ames W. Williams and *Mr. Charles S. Cox* for the Commission.

Mr. Edward L. Smith, of Washington, D. C., for respondents.

ORDER REMANDING CASE TO HEARING EXAMINER

This matter having come on to be heard by the Commission upon the hearing examiner's ruling referring respondents' motion to dismiss to the Commission for disposition; and

The Commission having determined, for the reasons appearing in the accompanying opinion of the Commission, that the hearing examiner erroneously concluded that he is without authority to rule upon respondents' motion to dismiss, and that the case should be remanded to the hearing examiner:

It is ordered, That this case be, and it hereby is, remanded to the hearing examiner with instructions to proceed in accordance with the Commission's opinion.

OPINION OF THE COMMISSION

MASON, Commissioner:

This matter is before the Commission upon the hearing examiner's ruling referring to us respondents' motion "to dismiss the complaint ¹ herein for the reason that, under the testimony and evidence, the proceeding lacks 'the public interest necessary to support the Commission's jurisdiction'."

The examiner indicates the issue raised by respondents' motion in this proceeding is based on a procedural record similar to that presented in the Florida Citrus case,² and accordingly ruled:

¹ Complaint issued Oct. 28, 1953, charging violation of the Federal Trade Commission Act.

² In the Matter of Florida Citrus Mutual, Docket 6074, May 10, 1954.