

Complaint

IN THE MATTER OF
CENU FIBRES, LTD., ET AL.CONSENT ORDER, ETC., IN REGARD TO THE ALLEGED VIOLATION OF THE
FEDERAL TRADE COMMISSION AND THE WOOL PRODUCTS LABELING ACTS*Docket 6512. Complaint, Feb. 17, 1956—Decision, June 16, 1956*

Consent order requiring a manufacturer in New York City to cease violating the Wool Products Labeling Act, through failing to attach to wool fabrics tags, labels, etc., bearing the information required by the Act.

Before *Mr. Abner E. Lipscomb*, hearing examiner.
Mr. John T. Walker for the Commission.

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 Cenu Fibres, Ltd., a corporation, and Philip Hausfeld, 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 Cenu Fibres, Ltd., 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 868 Sixth Avenue, New York, New York.

The individual respondent, Philip Hausfeld, is president of the corporate respondent, Cenu Fibres, Ltd., and 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 corporate respondent.

PAR. 2. Subsequent to the effective date of the Wool Products Labeling Act of 1939, 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.

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PAR. 3. Among the wool products introduced and manufactured for introduction into commerce, and sold, transported and distributed in said commerce as aforesaid, were fabrics. Exemplifying respondents' practice of violating said Act and the Rules and Regulations promulgated thereunder is their misbranding of the aforesaid products in violation of the provisions of said Act and said Rules and Regulations by failing to affix to said fabrics a stamp, tag, label or other means of identification, or a substitute in lieu thereof, as provided by said Act, showing (a) the percentage of the total fiber weight of the 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 the wool product of non-fibrous loading, filling or adulterating matter; (c) the percentages in words and figures plainly legible by weight of the wool contents of such wool product where said wool product contains a fiber other than wool; (d) the name of the manufacturer of the wool product or the name of one or more persons subject to Section 3 of said Act with respect to such wool product, or the registered identification number of such person or persons as provided for in Rule 4 of the Regulations as amended.

PAR. 4. Respondents, in the course and conduct of their business, were and are in competition with other corporations, firms and individuals likewise engaged in the sale of fabrics in commerce.

PAR. 5. 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 said acts and practices are 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 ABNER E. LIPSCOMB, HEARING EXAMINER

On February 17, 1956, the Federal Trade Commission issued its complaint in this proceeding, charging the Respondents with unfair and deceptive acts and practices and unfair methods of competition in commerce by the misbranding of their wool products, in violation of the Federal Trade Commission Act, the Wool Products Labeling Act of 1939 and the Rules and Regulations promulgated thereunder.

On April 27, 1956, Respondents and counsel supporting the complaint entered into an Agreement Containing Consent Order To Cease

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Order

And Desist, which was approved by the Director and Assistant Director of the Commission's Bureau of Litigation, and thereafter submitted to the Hearing Examiner for consideration.

Respondent Cenu Fibres, Ltd., is identified in the agreement as a New York corporation, with its office and principal place of business located at 868 Sixth Avenue, New York, New York, and Respondent Philip Hausfeld as the president thereof, having his office at the same place as the corporate Respondent, the acts, policies and practices of which he formulates, directs and controls.

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

Respondents, in the agreement, 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 therewith. 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 as 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 said order.

After consideration of the charges set forth in the complaint, and the provisions of the agreement and the proposed order, the Hearing Examiner is of the opinion that such order will safeguard the public interest to the same extent as could be accomplished by an order issued 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; finds that the Commission has jurisdiction over the Respondents and over their acts and practices as alleged in the complaint; and finds that this proceeding is in the public interest. Therefore,

It is ordered, That Respondents Cenu Fibres, Ltd., a corporation, and Philip Hausfeld, 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 offering

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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 any "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:

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;

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 16th day of June 1956, become the decision of the Commission; and, accordingly:

It is ordered, That respondents Cenu Fibres, Ltd., a corporation, and Philip Hausfeld, 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

IN THE MATTER OF

CYRUS SWIFT AND MYRTLE F. SWIFT
DOING BUSINESS AS FAIRYFOOTCONSENT ORDER, ETC., IN REGARD TO THE ALLEGED VIOLATION OF THE
FEDERAL TRADE COMMISSION ACT*Docket 6479. Complaint, Dec. 8, 1955—Decision, June 19, 1956*

Consent order requiring a seller in Chicago to cease representing falsely in advertisements in newspapers, periodicals, leaflets, and form letters, that her bunion plasters, designated "Fairyfoot for Bunions," were a sensational and miraculous scientific achievement use of which would permanently stop the pain of a bunion, cause the inflammation and swelling to quickly subside, correct the deformity of the foot associated with a bunion, etc.

Before *Mr. Robert L. Piper*, hearing examiner.
Mr. Joseph Callaway for the Commission.

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 Cyrus Swift and Myrtle F. Swift, individuals doing business under the trade name of Fairyfoot, hereinafter referred to as respondents, have 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 that respect as follows:

PARAGRAPH 1. Respondents Cyrus Swift and Myrtle F. Swift are individuals doing business under the trade name of Fairyfoot, with their office and principal place of business located at 1223 South Wabash Avenue, Chicago 5, Illinois.

PAR. 2. Respondents are now and have been for more than two years last past engaged in the sale and distribution of bunion plasters designated as Fairyfoot for Bunions. Respondents' said product comes within the classification of both "drug" and "device" as those terms are defined in the Federal Trade Commission Act. According to the manufacturer, the formula is 98% rubber adhesive base and 2% benzocaine. On the label of the product as sold by respondents it is stated:

This formula in combination contains 1% Benzocaine