

Decision

IN THE MATTER OF
JU-EL MANUFACTURING COMPANY, INC., ET AL.

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

Docket 6584. Complaint, July 9, 1956—Decision, Oct. 23, 1956

Consent order requiring a manufacturer in New York City to cease violating the Wool Products Labeling Act, through labeling as "100% WOOL Exclusive of Ornamentation" skirts which contained a large percent of other fibers, failing to label certain products as required, and using, to promote sales, samples of its products that were not labeled to show fiber content.

Mr. William R. Kearney for the Commission.

Mr. Herbert G. Kreisberg, of New York City, for respondents.

INITIAL DECISION OF JOHN LEWIS, HEARING EXAMINER

The Federal Trade Commission issued its complaint against the above-named respondents on July 9, 1956, charging them with having violated the Wool Products Labeling Act of 1939 and the Rules and Regulations promulgated thereunder, and the Federal Trade Commission Act, through the misbranding of certain wool products. After being served with said complaint, respondents appeared by counsel and entered into an agreement containing consent order to cease and desist, dated September 4, 1956, purporting to dispose of all of this proceeding as to all parties. Said agreement, which has been signed by all respondents, by counsel for said respondents, and by counsel supporting the complaint, and approved by the Director and Assistant Director of the Commission's Bureau of Litigation, has been submitted to the above-named hearing examiner for his consideration, in accordance with Section 3.25 of the Commission's Rules of Practice and Procedure.

Respondents, pursuant to the aforesaid agreement, have admitted all the jurisdictional facts alleged in the complaint, and have agreed that the record may be taken as if findings of jurisdictional facts had been made in accordance with such allegations. Said agreement further provides that 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 said agreement. It has also been agreed that the order to cease and desist issued in accordance with said agreement shall have the same force and effect as if entered after a full hearing and that the complaint may be

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used in construing the terms of said order. It has been further agreed that the aforesaid 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.

This proceeding having now come on for final consideration on the complaint and the aforesaid agreement containing consent order, and it appearing that the order provided for in said agreement covers all the allegations of the complaint and provides for an appropriate disposition of this proceeding as to all parties, the same is hereby accepted and is ordered filed upon becoming part of the Commission's decision pursuant to Sections 3.21 and 3.25 of the Rules of Practice and Procedure, and the hearing examiner, accordingly, makes the following jurisdictional findings and order:

1. Respondent Ju-El Manufacturing Company, Inc., is a corporation existing and doing business under and by virtue of the laws of the State of New York, with its office and principal place of business located at 1384 Broadway, in the City of New York, State of New York. Respondents Joseph Kamhi, Ralph Kamhi and Julius Kamhi are individuals and they are officers of the said corporate respondent and their office and principal place of business is the same as that of the corporate respondent.

2. The Federal Trade Commission has jurisdiction of the subject matter of this proceeding and of the respondents hereinabove named. The complaint states a cause of action against said respondents under the Wool Products Labeling Act of 1939 and the Federal Trade Commission Act, and this proceeding is in the interest of the public.

ORDER

It is ordered, That the respondent, Ju-El Manufacturing Company, Inc., a corporation, and its officers, and Joseph Kamhi, Ralph Kamhi, and Julius Kamhi, individually and as officers 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 ladies' skirts 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 contained 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, 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 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 stamp, tag or label samples, swatches or specimens of wool products, which are used to promote or effect sales of such wool products in commerce with the information required under Paragraph 2 hereof, as provided by Rule 22, of the Rules and Regulations promulgated under 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 23rd day of October, 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
WASHINGTON MUSHROOM INDUSTRIES, INC., ET AL.

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

Docket 6273. Complaint, Dec. 22, 1954—Decision, Oct. 24, 1956

Order requiring sellers of mushroom spawn and fertilizer in Seattle, Wash., to cease representing falsely in their correspondence, advertisements, and trade literature, the demand for mushrooms, ease of culture, extraordinary financial returns even to inexperienced purchasers and users of their product, etc.

Mr. William R. Tincher and Mr. Peter J. Dias for the Commission.

Mr. Jeffrey Neiman, of Seattle, Wash., for respondents.

INITIAL DECISION BY J. EARL COX, HEARING EXAMINER

The complaint charges that respondents have violated the Federal Trade Commission Act by making false and deceptive statements in connection with the selling of mushroom spawn and fertilizer. By answer the charges of the complaint were denied and the matter proceeded to hearings at which evidence both in support of and in opposition to the allegations of the complaint was received, duly recorded and later filed in the office of the Commission. At the completion of the presentation of evidence in support of the complaint, respondents filed a motion to dismiss the complaint because of failure of proof. This motion was denied. Following the completion of the taking of all the evidence, counsel in support of the complaint and counsel for respondents submitted proposed findings of fact and conclusions of law. Respondents' counsel, contemporaneously therewith, filed a motion to dismiss the complaint on the ground that the Federal Trade Commission has no jurisdiction in the matter. The proceeding is now before the Hearing Examiner, who, upon the basis of the entire record, makes the following findings of fact:

1. Respondent Washington Mushroom Industries, Inc., is a corporation organized in 1949, existing and doing business under and by virtue of the laws of the State of Washington. Respondent Arthur T. Lelles is an individual and president of said corporation. He formulates, directs and controls the sales and advertising policies of the said corporate respondent. The principal office and place