

Decision

IN THE MATTER OF
MAXIMILIAN GOTTLIEB ET AL. TRADING AS
EMPIRE WOOLEN MILLS

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

Docket 6609. Complaint, Aug. 17, 1956—Decision, Dec. 6, 1956

Consent order requiring a manufacturer at Woonsocket, R.I., to cease violating the Wool Products Labeling Act by representing the constituent fibers of piece goods falsely as "65% Beaver, 35% Wool" on attached labels, sales invoices and shipping memoranda, and on labels furnished to customers to be attached to garments manufactured from said wool products.

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

Mr. Sidney Silverstein, of Woonsocket, R.I., for respondents.

INITIAL DECISION BY JOHN LEWIS, HEARING EXAMINER

The Federal Trade Commission issued its complaint against the above-named respondents on August 17, 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 and the furnishing of incorrect labels to customers for use in connection with the sale of such products. After being served with said complaint, respondents appeared by counsel and entered into an agreement containing consent order to cease and desist, dated October 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

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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 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, said agreement is hereby accepted and is ordered filed upon this decision's becoming the decision of the Commission 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. Respondents Maximilian Gottlieb and Ilona Gottlieb are individuals and co-partners, trading and doing business as Empire Woolen Mills. Respondents have their office and principal place of business at 640 Winter Street, in the City of Woonsocket, State of Rhode Island.

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 respondents Maximilian Gottlieb and Ilona Gottlieb, trading under the name of Empire Woolen Mills, or trading under any other name; 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 piece goods or other "wool products" (as "wool products" are defined in the Wool Products Labeling Act); do forthwith cease and desist from:

- A. Misbranding such products by:

1. Attaching or using stamps, tags, labels or other means of identification which represent that such products contain a certain percentage of beaver hair or fiber which is contrary to fact;

2. Otherwise falsely or deceptively stamping, tagging, labeling or identifying such products as to the character or amount of their constituent fibers;

3. Failing to affix securely 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 the total fiber weight) of (1) wool, (2) reprocessed wool, (3) reused wool, (4) each fiber other than wool where the percentage of 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 of such wool product 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 respondents Maximilian Gottlieb and Ilona Gottlieb, trading under the name of Empire Woolen Mills, or trading under any other name; and respondents' agents, representatives, and employees, directly or through any corporate or other device, in connection with the offering for sale, sale or distribution in commerce (as "commerce" is defined in the Federal Trade Commission Act) of piece goods or other wool products, do forthwith cease and desist from:

A. Misrepresenting in invoices, shipping memoranda and by labels separately furnished or in any other manner the character or amount of the constituent fibers contained in such products.

B. Furnishing to or placing in the hands of others stamps, tags, or labels by means of which the respondents' products, or garments made from them, may be falsely or deceptively stamped, tagged, labeled or otherwise identified, either as to the character or amount of their constituent fibers or in any other respect.

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 6th day of December, 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.

Decision

IN THE MATTER OF
R. H. MACY & COMPANY, INC.

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

Docket 6568. Complaint, June 12, 1956—Decision, Dec. 12, 1956

Consent order requiring a furrier in New York City to cease violating the Fur Products Labeling Act by newspaper and other advertising which failed to disclose the names of animals producing certain furs; misrepresented prices of fur products as reduced from regular prices which were in fact fictitious; used percentage savings claims and comparative prices not based on current market values; and misrepresented the values of fur products.

Mr. John T. Walker for the Commission.

Mr. Donald B. Smiley and *Mr. William J. O'Donnell*, Office of the General Attorney, R. H. Macy & Co., Inc., of New York City, for respondent.

INITIAL DECISION BY J. EARL COX, HEARING EXAMINER

The complaint charges respondent with violation of the provisions of the Federal Trade Commission Act and the Fur Products Labeling Act and the Rules and Regulations promulgated thereunder, by falsely and deceptively advertising certain of its fur products offered for sale, sold, advertised, transported and distributed in commerce, subsequent to August 9, 1952, the effective date of the Fur Products Labeling Act.

After the issuance of the complaint, to which no answer was filed, counsel supporting the complaint submitted a motion citing agreement reached at a prehearing conference held September 19, 1956; stating that the evidence was insufficient to support the charge contained in the subparagraph immediately following Paragraph 4D of the complaint, which subparagraph reads as follows:

In making the pricing claims and representations referred to in subparagraphs B, C and D hereof, respondent failed to maintain full and adequate records disclosing the facts upon which such claims and representations were purportedly based, in violation of Rule 44(e) of said Rules and Regulations; and requesting that said charge be dismissed from the complaint. This motion was thereafter granted, and said charge dismissed.

As to the remainder of the complaint, respondent, its counsel, and counsel supporting the complaint entered into an Agreement Containing Consent Order To Cease And Desist, which was ap-