

Decision

IN THE MATTER OF
BARCLAY HOME PRODUCTS, INC., ET AL.

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

Docket 6526. Complaint, Mar. 6, 1956—Decision, Apr. 2, 1957

Consent order requiring a manufacturer in Cohoes, N.Y., to cease branding and invoicing as "Wool", "ALL NEW MATERIAL CONSISTING OF WOOL BATTING", and "WOOL BATTING", comforters which contained a substantial amount of fibers other than wool or a large percentage of reprocessed wool; failing to stamp or label wool products as required by the Wool Products Labeling Act; and enclosing in the individual containers with said comforters streamers or inserts bearing a fictitious price greatly in excess of the regular price.

Harold A. Kennedy, Esq., for the Commission.

Irving Meller, Esq., of New York City, for respondents.

INITIAL DECISION BY ROBERT L. PIPER, HEARING EXAMINER

The Federal Trade Commission issued its complaint against the above-named respondents on March 6, 1956, charging them with having violated the Wool Products Labeling Act, the rules and regulations issued thereunder, and the Federal Trade Commission Act, by misbranding, falsely representing and falsely invoicing their wool products. Respondents appeared by counsel and after the conclusion of the case-in-chief entered into an agreement, dated January 22, 1957, containing a consent order to cease and desist, disposing of all the issues in this proceeding without further hearings, which agreement has been duly approved by the Director of the Bureau of Litigation. Said agreement has been submitted to the undersigned, heretofore duly designated to act as hearing examiner herein, for his consideration in accordance with Section 3.25 of the Rules of Practice of the Commission. The order submitted with the agreement is as complete as one which could have been issued at the conclusion of hearing the entire proceeding.

Respondents, pursuant to the aforesaid agreement, have admitted all of the jurisdictional allegations of the complaint and agreed that the record may be taken as if findings of jurisdictional facts had been made duly in accordance with such allegations. Said agreement further provides that respondents waive all further procedural steps before the hearing examiner or the Commission, including the making of findings of fact or conclusions of law and the right to

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challenge or contest the validity of the order to cease and desist entered in accordance with such agreement. It has also been agreed that the record herein shall consist solely of the complaint and said 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 said 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, that said order to cease and desist 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 may be used in construing the terms of the order.

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

1. Respondent Barclay Home Products, 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 North Mohawk Street, in the City of Cohoes, State of New York. Respondents Alexander Buchman and Louis Buchman are individuals and officers of said corporate respondent and have the same address as that of the said 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 and the Federal Trade Commission Act, and this proceeding is in the interest of the public.

ORDER

It is ordered, That the respondents Barclay Home Products, Inc., a corporation, and its officers and Alexander Buchman and Louis Buchman, 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"

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is defined in the Federal Trade Commission Act and the Wool Products Labeling Act of 1939, of comforters or other "wool products", as such products are defined in and subject to said Wool Products Labeling Act, 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 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.

It is further ordered, That Barclay Home Products, Inc., a corporation, and Alexander Buchman and Louis Buchman, 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 offering for sale, sale or distribution of comforters or any other products, in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. Misrepresenting the constituent fibers of which their products are composed or the percentages of amounts thereof in sales invoices, shipping memoranda or in any other manner.

2. Representing in any manner that certain amounts are the usual and regular retail prices of their products when such amounts are in excess of the prices at which their products are usually and regularly sold at retail, or making any other false statement or repre-

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sentation or engaging in any deceptive practice or plan which would provide retailers of their products with a means of misrepresenting their usual and regular retail price.

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 2nd day of April, 1957, 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.

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IN THE MATTER OF
MAGIC WEAVE, INC., ET AL.CONSENT ORDER, ETC., IN REGARD TO THE ALLEGED VIOLATION OF THE
FEDERAL TRADE COMMISSION ACT*Docket 6644. Complaint, Oct. 5, 1956—Decision, Apr. 2, 1957*

Consent order requiring the sellers in Boston, Mass., of a reweaving kit designated as "Magi-Weave" with a course of instruction in reweaving, to cease misrepresenting in sales literature, by statements of salesmen, and in "Help Wanted" columns of newspapers, the subject matter of the course, the ease of learning by anyone, the money-making opportunities and demand for reweaving services, etc.

Mr. Michael J. Vitale for the Commission.

Mr. Franklin J. Cronin, of Boston, Mass., for respondents.

INITIAL DECISION BY JOSEPH CALLAWAY, HEARING EXAMINER

The Federal Trade Commission issued its complaint against the above-named respondents on October 5, 1956, charging them with violation of the Federal Trade Commission Act, as alleged in said complaint. After service of the complaint and without filing any answer thereto, all respondents and their attorney, on February 13, 1957 entered into an agreement with counsel supporting the complaint for a consent order to cease and desist from the practices complained of, which agreement purports to dispose of all the issues in this proceeding without hearing. This agreement has been duly approved by the Assistant Director and Director of the Bureau of Litigation and has been submitted to the undersigned, heretofore designated to act as hearing examiner herein for his consideration in accordance with Rule 3.25 of the Rules of Practice of the Commission.

Respondents Magic Weave, Inc., a corporation, and Carmen J. Ciarfella, individually and as an officer and director of said corporation, and Diego Ciarfella and Mary R. Ciarfella, individually and as directors of said corporation in 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 the jurisdictional facts had been duly made in accordance with such allegations. Said agreement provides further that respondents waive all further procedural steps before the hearing examiner or the Commission, including the making of findings of fact or conclusions of