

IN THE MATTER OF
THE VIRGINIA WOOLEN COMPANY ET AL.

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

Docket 6618. Complaint, Aug. 22, 1956—Decision, May 24, 1957

Consent order requiring a manufacturer in Winchester, Va., to cease violating the Wool Products Labeling Act by labeling and invoicing as "92½% Wool 7½% Rayon", fabrics containing substantially less than 92½% wool, and by failing in other respects to comply with the labeling requirements of the Act.

The charges of the complaint were dismissed as to one individual respondent.

Mr. Donald K. King and Mr. S. F. House supporting the complaint.

Stroock & Stroock & Lavan & John P. McGann of New York City, for The Virginia Woolen Co. and William H. Mellor, Jr.

Mr. Flournoy L. Largent, Jr., of Winchester, Va., appearing for himself.

INITIAL DECISION BY JOSEPH CALLAWAY, HEARING EXAMINER

The Federal Trade Commission issued its complaint against the above-named respondents on August 22, 1956, charging them with violation of the Federal Trade Commission Act and the Wool Products Labeling Act of 1939 and the Rules and Regulations promulgated under the last mentioned act as set forth in said complaint. After the issuance and service of the complaint and the filing of answers thereto, a hearing was held in Winchester, Virginia, pursuant to notice, on November 19 and 20, 1956, at which time evidence in support of the complaint was taken. Following the above-mentioned hearing respondent Flournoy L. Largent, Jr. on November 23, 1956, filed motion to dismiss as to him, which counsel supporting the complaint does not oppose.

Subsequent to said hearing, respondents, The Virginia Woolen Company and William H. Mellor, Jr., on April 3, 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 as to them. This agreement has been duly approved by the Assistant Director and the 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.

Considering first the motion to dismiss as to respondent Flournoy L. Largent, Jr., the evidence shows that he was secretary of respondent The Virginia Woolen Company for a short time prior to January 1955 and served in the capacity until August 1955 at which time he was elected vice president for administration. Beginning August 24, 1955, he and respondent William H. Mellor, Jr. were given full responsibility for operating the plant of The Virginia Woolen Company. Mr. Mellor was in charge of manufacturing and Mr. Largent was in charge of general administration which included insurance, financing, industrial and labor relations. After March 15, 1956, when a new group took over control of respondent corporation, Mr. Largent's duties were gradually diminished to where he was only responsible for industrial relations and labor relations. It was his understanding with the new group that as soon as he would conveniently be replaced he would get out of the respondent company and return to the practice of law in Winchester, Virginia, where he had been practicing law prior to his association with The Virginia Woolen Company. He was not physically at the company plant after August 1, 1956, but his resignation did not become effective until October 1, 1956. It was during the period of time when he and Mr. Mellor were jointly responsible for operating the plant that some of the acts took place that are alleged in the complaint to be violations of the law by The Virginia Woolen Company.

Unlike the other individual respondent, the record shows Mr. Largent knows nothing about the technical operation of a woolen mill, or how the fiber content of the fabrics are determined. Without passing on the question of whether the law was violated by The Virginia Woolen Company as alleged in the complaint, the hearing examiner finds that Mr. Largent has ended his association with the corporate respondent and that there is no likelihood of his being again associated with that respondent or any other woolen mill in a managerial capacity. For these reasons the motion to dismiss as to respondent Largent is granted.

In the agreement for a consent order to cease and desist respondents, The Virginia Woolen Company a corporation and William H. Mellor, Jr., individually and as an officer of said corporation 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 these respondents waive all further procedural steps before the hearing examiner of the Commission, including the making of findings of fact or conclusions

of law and the right to challenge or contest the validity of the order to cease and desist entered into in accordance with the agreement. It has also been agreed that as to these respondents for the purpose of an initial decision and the decision of the Commission 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 said 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 of the Commission 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 agreement and order cover all the allegations of the complaint in regard to said respondents and provide for an appropriate disposition of this proceeding as to them, the order and the agreement are hereby accepted and ordered filed upon becoming a part of the Commission's decision pursuant to Sections 3.21 and 3.25 of the Commission's Rules of Practice.

The order and the agreement being accepted as above set forth, the hearing examiner accordingly makes the following findings for jurisdictional purposes and order:

1. Respondent, The Virginia Woolen Company is a corporation existing and doing business under and by virtue of the laws of the Commonwealth of Virginia with its office and principal place of business located at Winchester, Virginia.

2. The individual respondent William H. Mellor, Jr., is the vice-president of the corporate respondent and has the same address. He formulates, directs and controls the acts, practices and policies of the corporate respondent.

3. The Federal Trade Commission has jurisdiction of the subject matter of this proceeding and of the respondents herein. The complaint states a cause of action against said respondents under the Federal Trade Commission Act and under the Wool Products Labeling Act of 1939 and the Rules and Regulations promulgated under the last mentioned act. This proceeding is in the public interest.

ORDER

It is ordered, That the respondents The Virginia Woolen Company, a corporation, and its officers, and William H. Mellor, Jr.,

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Order

individually and as an officer of said corporation, and respondents' respective agents, representatives, 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 wool products as "wool products" are defined in and subject to the Wool Products Labeling Act, do forthwith cease and desist from misbranding such products by:

1. Falsely or deceptively stamping, tagging, labeling, or otherwise identifying such wool products as to the character or amount of the constituent fibers contained therein;

2. Failing to securely affix to, or place on each of such wool products 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, (5) the aggregate of all other fibers;

- b. The maximum percentage of the total weight of the wool products, of any non-fibrous loading, filling, or adulterating matter;

- c. The name or registered identification number of the manufacturer of such wool products, or of one or more persons engaged in introducing such wool products 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 the respondents The Virginia Woolen Company, a corporation, and its officers, and William H. Mellor, Jr., individually and as an officer of said corporation, and respondents' respective 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:

1. Misrepresenting by statements or representations, in correspondence, contracts, orders, confirmations, invoices, or other documents, or by any other means, the character or amount of the constituent fibers contained in such products.

It is further ordered, That the complaint herein be and the same hereby is, dismissed as to respondent Flournoy L. Largent, Jr.

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, 1957, become the decision of the Commission; and, accordingly:

It is ordered, That respondents, The Virginia Woolen Company and William H. Mellor, Jr., 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

JOSEPH BENARD TRADING AS BENARD'S FURS

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

Docket 6731. Complaint, Feb. 21, 1957—Decision, May 24, 1957

Consent order requiring a furrier in San Francisco, Calif., to cease violating the Fur Products Labeling Act by deceptively naming, in advertising and on labels and invoices, the animals producing certain furs or naming other animals; by substituting deceptive and incomplete labels for the original manufacturer's labels; by abbreviating information on invoices; failing to name the country of origin of imported furs and to reveal that the fur in certain products was artificially colored; advertising regular prices as reduced; and failing in other respects to conform to the requirements of the Act.

Mr. George E. Steinmetz for the Commission.

Mr. Joseph Benard, of San Francisco, Calif., pro se.

INITIAL DECISION BY EARL J. KOLB, HEARING EXAMINER

The complaint in this proceeding issued February 21, 1957, charged the respondent Joseph Benard, an individual trading as Benard's Furs, located at 55 Regency Court, "Stonestown", San Francisco, California, with the use of unfair and deceptive acts and practices in interstate commerce in violation of the provisions of the Federal Trade Commission Act and the Fur Products Labeling Act and the rules and regulations promulgated thereunder.

After the issuance of said complaint, the respondent Joseph Benard, an individual trading as Benard's Furs, entered into an agreement for consent order with counsel in support of the complaint disposing of all the issues in this proceeding, which agreement was duly approved by the Acting Director, Bureau of Litigation. It was expressly provided in said agreement that the signing thereof is for settlement purposes only and does not constitute an admission by respondent that he has violated the law as alleged in the complaint.

By the terms of said agreement, the said respondent admitted all the jurisdictional facts alleged in the complaint and agreed that the record herein may be taken as if the Commission had made findings of jurisdictional facts in accordance with such allegations.

By said agreement the respondent expressly waived any further procedural steps before the hearing examiner and the Commission; the making of findings of fact or conclusions of law; and all the