

IN THE MATTER OF
MEYRICH TEXTILE CO.

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

Docket 6985. Complaint, Dec. 13, 1957—Decision, Apr. 26, 1958

Consent order requiring a manufacturer of wool products in New York City to cease violating the Wool Products Labeling Act by labeling as "100% Wool Except of Ornamentation", interlining materials which consisted of reprocessed wool or reprocessed wool and nonwoolen fibers; by failing to label certain wool products as required; and by misrepresenting wool products in sales invoices, shipping memoranda, and letters to garment manufacturers as "100% Stitched Wool" and "100% Wool."

Garland S. Ferguson, Esq., for the Commission.

INITIAL DECISION BY JAMES A. PURCELL, HEARING EXAMINER

The complaint in this proceeding, issued December 13, 1957, charges the respondent above named with violation of the Federal Trade Commission Act and the Wool Products Labeling Act of 1939, and of the rules and regulations promulgated under authority of the said Wool Products Labeling Act, in connection with the introduction or manufacture for introduction into commerce, sale, offering for sale, transportation and distribution, and delivery for shipment in commerce of interlinings or other wool products in commerce, as "commerce" is defined in said Acts.

After the issuance of said complaint respondent, on January 29, 1958, entered into an agreement for a consent order with counsel in support of the complaint, disposing of all of the issues in this proceeding, which agreement was duly approved by the director and assistant director of the Bureau of Litigation of the Federal Trade Commission. 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 respondent admitted all of the jurisdictional allegations of the complaint and agreed that the record herein may be taken as though the Commission had made findings of jurisdictional facts in accordance with such allegations. By said agreement the parties expressly waived a hearing before the hearing examiner or the Commission, the making of findings of fact or conclusions of law by the hearing examiner or the Commission,

1438

Order

the filing of exceptions and oral argument before the Commission, and all further and other procedure before the hearing examiner and the Commission to which the respondent may otherwise be entitled under the Federal Trade Commission Act or the rules of practice of the Commission.

By said agreement, respondent further agreed that the order to cease and desist issued in accordance with said agreement shall have the same force and effect as though made after a full hearing, presentation of evidence and findings and conclusions thereon, and specifically waived any and all right, power or privilege to challenge or contest the validity of such order.

It was further provided that said agreement, together with the complaint, shall constitute the entire record herein; that the complaint herein may be used in construing the terms of the order issued pursuant to said agreement; and that the said order may be altered, modified or set aside in the manner provided by statute for other orders of the Commission.

Said agreement recites that respondent Eli Meyrich is an individual trading and doing business as Meyrich Textile Co., with his office and principal place of business located at No. 302 West 37th Street, New York, N.Y.

The hearing examiner has considered such agreement and the order therein contained, and, it appearing that said agreement and order provides for an appropriate disposition of this proceeding, the same is hereby accepted and, without further notice to respondent is ordered filed upon becoming part of the Commission's decision in accordance with sections 3.21 and 3.25 of the rules of practice, and in consonance with the terms of said agreement, the hearing examiner finds that the Federal Trade Commission has jurisdiction of the subject matter of this proceeding and of the respondent named herein, and that this proceeding is in the interest of the public, wherefore he issues the following order:

ORDER

It is ordered, That the respondent Eli Meyrich, trading as Meyrich Textile Co., or under any other name, and respondent's 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 interlinings or other "wool products" as "wool products" are defined

in and subject to the Wool Products Labeling Act do forthwith cease and desist from:

A. Misbranding such product by:

1. Falsely or deceptively stamping, tagging, labeling or 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 the 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 nonfibrous loading, filling or adulterating matter:

(c) The name of 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.

It is further ordered, That respondent Eli Meyrich, trading as Meyrich Textile Co., or under any other name, and respondent's representatives, agents and employees, directly or through any corporate or other device, in connection with the offering for sale, sale or distribution of his products, in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from misrepresenting the constituent fibers of which his products are composed, or the percentages or amounts thereof, in sales invoices, shipping memoranda or in any other manner.

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 26th day of April 1958, become the decision of the Commission; and, accordingly:

It is ordered, That the respondent herein shall, within sixty (60) days after service upon him of this order, file with the Commission a report in writing setting forth in detail the manner and form in which he has complied with the order to cease and desist.

Decision

IN THE MATTER OF
BLACK & CO., INC., ET AL.ORDER, ETC., IN REGARD TO THE ALLEGED VIOLATION OF THE FEDERAL TRADE
COMMISSION ACT*Docket 6913. Complaint, Oct. 9, 1957—Decision, Apr. 29, 1958*

Order requiring two associated mail order sellers of general merchandise in Rockville Center, Long Island, N.Y., to cease representing falsely in advertising that they had in stock the merchandise advertised or that it was readily available and that they would deliver it within a reasonable time; that when it was out of stock and unobtainable, the customer's check would be returned promptly or the payment promptly refunded with complete satisfaction to the customer in all cases.

Mr. Charles S. Cox supporting the complaint.

Respondents appearing without Counsel.

INITIAL DECISION BY JOSEPH CALLAWAY, HEARING EXAMINER

On October 9, 1957, the Federal Trade Commission issued its complaint against the above-named respondents charging them with violation of the Federal Trade Commission Act as set forth in said complaint. From the record it appears that service of the complaint and of the order designating the undersigned as hearing examiner herein was obtained on December 3, 4, and 5, 1957.

On December 6, 1957, the hearing examiner, upon examination of the record found that no proof of service had been filed and cancelled the hearing set in the notice portion of the complaint for New York on December 19, 1957. Later on December 19, 1957, proof of the service obtained on December 3, 4, and 5, 1957 being in the record, the hearing examiner issued an order setting the initial hearing herein for 10 a.m. on January 13, 1958 in room 511-C, United States Court House, Foley Square, New York, N.Y.

The hearing was held at the time and place mentioned and respondents Leslie F. Black, Hans Jensen and John M. Zwicki (erroneously called Swicki in the complaint) appeared in person at said hearing in response to subpoenas served on them. None of the respondents were represented by counsel at said hearing.

At said hearing each of said individual respondents stated on the record that they admitted all the material allegations of the complaint. Subsequent to said hearing, it was ascertained that no service had ever been obtained on any of the respondents of the hearing examiner's