

IN THE MATTER OF
METROPOLITAN FIBRE BATTING CORP. ET AL.

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

Docket 7023. Complaint, Jan. 9, 1958—Decision, May 21, 1958

Consent order requiring manufacturers with place of business in Glendale, Long Island, N.Y., to cease violating the Wool Products Labeling Act by labeling as "70% Reprocessed Wool," "80% Reused Wool," and "100% Reprocessed Wool" wool battings which contained substantially less reprocessed or reused wool than the percentages thus represented; by making similar false statements on sales invoices and shipping memoranda; and by failing to comply with other labeling requirements of the act.

Mr. Thomas A. Ziebarth for the Commission.

Mr. Nathan Lieberman, pro se, and for Metropolitan Fibre Batting Corp., and Celina Lieberman.

INITIAL DECISION BY EVERETT F. HAYCRAFT, HEARING EXAMINER

On January 9, 1958, the Federal Trade Commission issued its complaint against Metropolitan Fibre Batting Corp., a corporation, and Nathan Lieberman and "Celina" Lieberman, erroneously referred to in the complaint as "Calina" Lieberman, individually and as officers of said corporation, charging them with the use of unfair and deceptive acts and practices in commerce in violation of the provisions of the Federal Trade Commission Act, the Wool Products Labeling Act of 1939 and the rules and regulations promulgated under said Wool Products Labeling Act. After the issuance of said complaint and the filing of their answer thereto, the respondents on March 10, 1958, entered into an agreement for consent order with counsel supporting the complaint disposing of all the issues in this proceeding in accordance with section 3.25 of the rules of practice and procedure of the Commission, which agreement has been duly approved by the Bureau of Litigation.

By the terms of said agreement, the respondents admitted all the jurisdictional facts alleged in the complaint and agreed that the record may be taken as if findings of jurisdictional facts had been duly made in accordance with such allegations. Respondents in the agreement 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 of the rights they may have to challenge or

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contest the validity of the order to cease and desist entered in accordance with this agreement.

It was further provided in said agreement that the record on which the initial decision and the decision of the Commission shall be based shall consist solely of the complaint and the said agreement. It was further agreed 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, and 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. The agreement also provided 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; that it 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 by the hearing examiner on the complaint and the aforesaid agreement for consent order, and it appearing that said agreement provides for an appropriate disposition of this proceeding, the aforesaid agreement is hereby accepted and 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 makes the following jurisdictional findings and order:

1. Respondent Metropolitan Fibre Batting Corp., is a corporation organized, 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 79-30 71st Avenue, Glendale, Long Island, N.Y.

Individual respondents Nathan Lieberman and Celina Lieberman are president and secretary-vice president, respectively, 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 Federal Trade Commission Act and the Wool Products Labeling Act of 1939, and this proceeding is in the interest of the public.

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It is ordered, That respondents Metropolitan Fibre Batting Corp., a corporation, and its officers, and Nathan Lieberman and Celina

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Lieberman, 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 woolen battings or other "wool products" as such products are defined in and subject to, said Wool Products Labeling Act, do forthwith cease and desist from:

A. Misbranding such products by:

1. Falsely or deceptively 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, or 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 5 percent 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 5 percent 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 or the registered identification number of the manufacturer of such wool product or 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 Metropolitan Fibre Batting Corp., a corporation, and its officers, and Nathan Lieberman and Celina Lieberman, 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 woolen battings or any other products in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

Misrepresenting the character or amount of the constituent fibers contained in such products on invoices or shipping memoranda applicable thereto or in any other manner.

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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 21st day of May 1958, become the decision of the Commission; and, accordingly:

It is ordered, That respondents Metropolitan Fibre Batting Corp., a corporation, and Nathan Lieberman and "Celina" Lieberman, erroneously referred to in the complaint as "Calina" Lieberman, individually and as officers of said corporation, 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

NATIONWIDE CLOTHIERS, INC., ET AL.

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

Docket 7038. Complaint, Jan. 15, 1958—Decision, May 21, 1958

Consent order requiring a manufacturer of men's and boys' clothing, operating a national chain of some 30 retail stores and with main offices in Brooklyn and New York City, to cease violating the Wool Products Labeling Act by labeling as "100% All Wool," men's sport coats which contained a substantial percentage of nonwool fibers, by failing in other respects to comply with the labeling requirements of the act, and by making fictitious pricing claims for their garments in newspaper advertising.

Mr. Michael J. Vitale and Mr. Alvin D. Edelson for the Commission.
Mr. Morris K. Bauer, of New York, N.Y., for respondents.

INITIAL DECISION BY LOREN H. LAUGHLIN, HEARING EXAMINER

The Federal Trade Commission (hereinafter referred to as the Commission) on January 15, 1958, issued its complaint herein under the Federal Trade Commission Act and the Wool Products Labeling Act of 1939 against the above-named respondents, Nationwide Clothiers, Inc., a corporation; A. B. Joffe Co., Inc., a corporation; and Albert B. Joffe and Julius Blankstein, individually and as officers of said corporations. The complaint charges respondents with having violated in certain particulars the provisions of said acts. The respondents were duly served with process.

On March 27, 1958, there was submitted to the undersigned hearing examiner of the Commission for his consideration and approval an "agreement containing consent order to cease and desist," which had been entered into by and between respondents, their counsel, and counsel supporting the complaint, under date of March 20, 1958, and subject to the approval of the Bureau of Litigation of the Commission. Such agreement had been thereafter duly approved by the Director and an Assistant Director of that Bureau.

On due consideration of the said "agreement containing consent order to cease and desist," the hearing examiner finds that said agreement, both in form and in content, is in accord with section 3.25 of the Commission's rules of practice for adjudicative proceedings, and that by said agreement the parties have specifically agreed that:

1. Respondent Nationwide Clothiers, Inc. is a corporation, organized and existing under and by virtue of the laws of the State of