

## Decision

IN THE MATTER OF  
AMICALE YARNS, INC., ET AL.

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

*Docket 7170. Complaint, June 9, 1958—Decision, Dec. 2, 1958*

Consent order requiring distributors in New York City to cease violating the Wool Products Labeling Act by labeling and invoicing as "100% Cashmere," yarn which contained substantially less than 100% cashmere fibers, and by failing to label certain yarns as required.

*Mr. John J. Mathias* for the Commission.

*Rothstein & Korzenik*, by *Mr. Harold Korzenik*, of New York, N.Y., for respondents.

## INITIAL DECISION BY J. EARL COX, HEARING EXAMINER

The complaint charges respondents with misbranding certain of their wool products, and with the use of the false, misleading and deceptive statement, in sales invoices, that said products were composed of 100% cashmere fibers, in violation of the Wool Products Labeling Act of 1939 and the Rules and Regulations promulgated thereunder, and of the Federal Trade Commission Act.

After the issuance of the complaint, respondents, their counsel, and counsel supporting the complaint entered into an agreement containing consent order to cease and desist, which was approved by the director and an assistant director of the Commission's Bureau of Litigation, and thereafter transmitted to the hearing examiner for consideration.

The agreement states that respondent Amicale Yarns, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of New York, with its principal place of business located at 511 Fifth Avenue, New York, N.Y., and that individual respondent Gregory Schlomm is an officer of the corporate respondent and formulates, directs and controls the acts, practices and policies thereof, his address being the same as that of the corporate respondent.

All parties to the agreement recommend therein that the complaint, insofar as it relates to respondents Philip Brenner and Emanuel Mendelkern (erroneously referred to in the complaint as Emmanuel Mendelkern), be dismissed because their connection with the respondent corporation has been only in a professional

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capacity, and neither of said respondents has any participation or control in the formulation or direction of the corporate respondent.

The agreement further states that the practices charged in the complaint involve some woolen weaving yarn imported by respondents from Japan in 1955 and 1956.

The agreement provides, among other things, that respondents signatory thereto admit all the jurisdictional facts alleged in the complaint, and agree that the record may be taken as if findings of jurisdictional facts had been duly made in accordance with such allegations; that the record on which the initial decision and the decision of the Commission shall be based shall consist solely of the complaint and this 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 the complaint may be used in construing the terms of the order agreed upon, which may be altered, modified or set aside in the manner provided for other orders; that the 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; and that the order set forth in the agreement and hereinafter included in this decision shall have the same force and effect as if entered after a full hearing.

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 and desist entered in accordance with the agreement.

The order agreed upon fully disposes of all the issues raised in the complaint, and adequately prohibits the acts and practices charged therein as being in violation of the Wool Products Labeling Act of 1939 and the Rules and Regulations promulgated thereunder, and of the Federal Trade Commission Act. Accordingly, the hearing examiner finds this proceeding to be in the public interest, and accepts the agreement containing consent order to cease and desist as part of the record upon which this decision is based. Therefore,

*It is ordered,* That respondents Amicale Yarns, Inc., a corporation, and its officers, and Gregory Schlomm, individually and as an officer of said corporation, and respondents' agents, representatives and employees, directly or through any corporate or other device, in connection or through any corporate or other device, in connection with the introduction into commerce, or the

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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 yarn or other wool products, as such products are defined in and subject to the Wool Products Labeling Act of 1939, 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 included therein;

2. Failing to securely affix 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 fiber 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 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 respondents Amicale Yarns, Inc., a corporation, and its officers, and Gregory Schlomm, individually and as an officer 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 yarns or other merchandise, in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from misrepresenting, directly or indirectly, the fibers of which their products are composed, or the percentages or amounts thereof, in sales invoices, shipping memoranda, or in any other manner.

*It is further ordered*, That the complaint herein, insofar as it relates to respondents Philip Brenner and Emanuel Mendelkern, be, and the same hereby is, dismissed without prejudice to the

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right of the Commission to take such action in the future as the facts may then warrant.

DECISION OF THE COMMISSION AND ORDER TO FILE  
REPORT OF COMPLIANCE

The Commission having considered the hearing examiner's initial decision, filed October 17, 1958, accepting an agreement containing a consent order to cease and desist, theretofore executed by the respondents and counsel in support of the complaint, service of which was completed on November 30, 1958; and

The respondents, by motion filed November 5, 1958, having requested that the initial decision be amended to include a statement that the practices charged in the complaint involve some woolen weaving yarn imported by the respondents from Japan in 1955 and 1956; and

Counsel supporting the complaint having filed answer stating that he does not oppose such motion, and it appearing that said requested statement was included in the agreement of the parties as a material part thereof and that its omission from the initial decision results in an incomplete recitation of said agreement, and the Commission being of the opinion that the omission should be supplied:

*It is ordered*, That the initial decision be, and it hereby is, amended by inserting between the fourth and fifth paragraphs thereof the following:

"The agreement further states that the practices charged in the complaint involve some woolen weaving yarn imported by respondents from Japan in 1955 and 1956."

*It is further ordered*, That the initial decision as so amended shall, on the 2d day of December 1958, become the decision of the Commission.

*It is further ordered*, That the respondents, Amicale Yarns, Inc., a corporation, and Gregory Schlomm, individually and as an officer 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 contained in the aforesaid initial decision.

## Complaint

IN THE MATTER OF  
SIMON HAFNER DOING BUSINESS AS  
HAFNER COFFEE COMPANY

CONSENT ORDER, ETC., IN REGARD TO THE ALLEGED VIOLATION  
OF SEC. 2(d) OF THE CLAYTON ACT

*Docket 6961. Complaint, Nov. 26, 1957—Decision, Dec. 3, 1958*

Consent order requiring a Pittsburgh company preparing and selling coffee under some 1,000 different private brand names and its own trade name to grocery wholesalers and jobbers, with annual sales approximating \$3,000,000, to cease discriminating in price in violation of Sec. 2(d) of the Clayton Act by paying certain customers an allowance for advertising in connection with the sale of its coffee products while not making such payments available to their competitors on proportionally equal terms.

AMENDED COMPLAINT<sup>1</sup>

The Federal Trade Commission, having reason to believe that the party respondent named in the caption hereof, and hereinafter more particularly described, has violated the provisions of subsection (d) of Section 2 of the Clayton Act (U.S.C. Title 15, Sec. 13), as amended by the Robinson-Patman Act, hereby issues its complaint stating its charges with respect thereto as follows:

PARAGRAPH 1. Respondent Simon Hafner is an individual and does business under the trade style Hafner Coffee Company with his office and principal place of business located at Union Street, Etna, Pittsburgh, Pa.

PAR. 2. Respondent is now, and has been, engaged in the business of preparing and selling coffee. Respondent sells his coffee under approximately 1,000 different private brand names, and under his own trade name "Hafner." Respondent sells his products to grocery wholesalers and jobbers, and directly to customers who sell at retail, including chain store organizations. Sales made by respondent of his products are substantial amounting to approximately \$3,000,000 a year.

PAR. 3. In the course and conduct of his business respondent has engaged, and is now engaging, in commerce, as "commerce" is defined in the Clayton Act, as amended. Respondent ships his products, or causes them to be transported, from his principal

<sup>1</sup> Complaint is published as amended by order of July 25, 1958.