

IN THE MATTER OF
HARBOR HILLS SPORTSWEAR, INC., ET AL.

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

Docket 7253. Complaint, Sept. 11, 1958—Decision, Dec. 3, 1958

Consent order requiring manufacturers in New York City to cease violating the Wool Products Labeling Act by falsely labeling and invoicing as "silk and worsted" or "Made in Italy," men's slacks made of cloth which contained other fibers than silk and wool or contained no wool at all, and were manufactured in the United States; by failing to conform to other labeling requirements of the Act; and by furnishing false guaranties that their wool products were not misbranded.

Mr. Thomas F. Howder for the Commission.

Mr. Francis M. DeCaro, 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, furnishing false guaranties that said products were not misbranded, and making false and misleading statements concerning such products on sales invoices and shipping memoranda, representing that said products were composed of silk and wool, and were made in Italy, 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 Harbor Hills Sportswear, 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 928 Broadway, New York, N.Y., and that individual respondents David Platoff and Herbert Platoff are president and vice president, respectively, of said corporate respondent and are located at the same address.

The agreement provides, among other things, that respondents

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 Harbor Hills Sportswear, Inc., a corporation, and its officers, and David Platoff and Herbert Platoff, 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 men's slacks or other "wool products" as such products are defined in said Wool Products Labeling Act, do forthwith cease and desist from:

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A. 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. Falsely or deceptively identifying such products or the fabric thereof as being made or manufactured in or imported from Italy or any other foreign country, or otherwise stamping, tagging, labeling, marking, or representing such product in a manner which is false, misleading, or deceptive in any respect;

3. 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 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 product into commerce, or in the offering for sale, sale, or distribution or delivery for shipment thereof in commerce, as "commerce" is defined in the Wool Products Labeling Act of 1939;

4. Furnishing false guaranties that said men's slacks or other wool products are not misbranded under the provisions of said Wool Products Labeling Act, when there is reason to believe that the wool products so guaranteed may be introduced, sold, transported, or distributed in commerce as "commerce" is defined in said Act.

It is further ordered, That respondent Harbor Hills Sportswear, Inc., a corporation, and its officers, and David Platoff and Herbert Platoff, 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 men's slacks or any other such products in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

A. Misrepresenting the character or amount of the constituent

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fibers contained in such products on invoices or shipping memoranda applicable thereto or in any other manner;

B. Misrepresenting the country of origin of such products or the fabric thereof on invoices or shipping memoranda applicable thereto 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 3d day of December 1958, become the decision of the Commission; and, accordingly:

It is ordered, That respondents Harbor Hills Sportswear, Inc., a corporation, and David Platoff and Herbert Platoff, 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
THE ATLAS MFG. & SALES CORP. ET AL.

ORDER, ETC., IN REGARD TO THE ALLEGED VIOLATION OF
THE FEDERAL TRADE COMMISSION ACT

Docket 6902. Complaint, Oct. 2, 1957—Decision, Dec. 4, 1958

Order requiring three affiliated Cleveland concerns selling vending machines and supplies therefor, to cease representing falsely in "bait" advertising placed in the classified columns of newspapers to obtain leads to purchasers, that employment was offered to selected person with opportunities for exceptional profits, that buyers' investment was working capital secured by inventory with no risk of loss, that the business was permanent and depression proof, etc.; and that the respondents were agents of Hershey Chocolate Corporation.

Mr. Terral A. Jordan for the Commission.

Mr. Wallace A. Jenkins, Jr., of Parma, Ohio, for respondents.

INITIAL DECISION BY LOREN H. LAUGHLIN, HEARING EXAMINER

This proceeding, in substance, involves numerous charges that respondents have violated the Federal Trade Commission Act by advertising, soliciting and selling commercially in interstate commerce bulk vending machines and the candy or other products to be used therein and sold therefrom to the public. It is alleged that respondents, by means of false and misleading advertising and promotional material, sold substantial quantities of said vending machines and supplies therefor in the course and conduct of their business. Respondents in their respective answers admit certain allegations but deny others, and in substance each denies that it or he has violated the Act in any way. This initial decision finds generally that the allegations of the complaint are amply substantiated upon the whole record by a preponderance of the reliable, probative and substantial evidence as required by Section 7(c) of the Administrative Procedure Act and the Commission's Rules of Practice for Adjudicative Proceedings adopted pursuant thereto and that respondents have violated the Federal Trade Commission Act in each of several particulars, except one which is not pressed by Commission's counsel, lacks evidence to support it, and is therefore dismissed. A cease and desist order is issued herein appropriate to the findings and conclusions which are hereinafter set forth.