

Decision

55 F.T.C.

IN THE MATTER OF
DERRY FIBRE MILLS, INC., ET AL.

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

Docket 7275. Complaint, Oct. 8, 1958—Decision, Feb. 11, 1959

Consent order requiring a manufacturer in Derry, N.H., to cease violating the Wool Products Labeling Act by failing to label woolen stocks as required by the Act, and by invoicing the stocks falsely as "all wool," "100% wool," and "100% all wool stock."

Mr. Garland S. Ferguson for the Commission.
Respondents, for themselves.

INITIAL DECISION BY ABNER E. LIPSCOMB, HEARING EXAMINER

The complaint herein was issued on October 8, 1958, charging respondents with misbranding and falsely and deceptively invoicing certain of their wool products, in violation of the Federal Trade Commission Act and of the Wool Products Labeling Act of 1939 and the Rules and Regulations promulgated thereunder.

Thereafter, on December 12, 1958, respondents and counsel supporting the complaint herein entered into an Agreement Containing Consent Order to Cease and Desist, which was approved by the acting director and an assistant director of the Commission's Bureau of Litigation, and thereafter submitted to the hearing examiner for consideration.

The agreement identifies respondent Derry Fibre Mills, Inc. as a New Hampshire corporation, with its office and principal place of business located at Derry, N.H., and individual respondent Harry Flagler as an officer of said corporation, in which capacity he formulates, directs, and controls the policies and practices of the corporate respondent, his address being the same as that of the corporate respondent.

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.

Respondents waive any further procedure 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 chal-

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lenge or contest the validity of the order to cease and desist entered in accordance with the agreement. All parties agree 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 agreement; that the order to cease and desist, as contained in the agreement, when it shall have become a part of the decision of the Commission, 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; that the complaint herein may be used in construing the terms of said order; and that the agreement is for settlement purposes only, and does not constitute an admission by the respondents that they have violated the law as alleged in the complaint.

Having considered the allegations of the complaint and the provisions of the agreement and the proposed order, the hearing examiner is of the opinion that such order constitutes a satisfactory disposition of this proceeding. Accordingly, in consonance with the terms of the aforesaid agreement, the hearing examiner accepts the Agreement Containing Consent Order to Cease and Desist; finds that the Commission has jurisdiction over the respondents and over their acts and practices as alleged in the complaint; and finds that this proceeding is in the public interest. Therefore,

It is ordered, That Respondents Derry Fibre Mills, Inc., a corporation, and its officers, and Harry Flagler, 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 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 stocks or other "wool products" as such products are defined in and subject to said Wool Products Labeling Act, do forthwith cease and desist from:

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 five per centum of said total fiber weight, of (1) wool, (2) reprocessed wool, (3) reused wool, (4) each fiber other than wool where said percent-

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age by weight of such fiber is five per centum 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 respondents Derry Fibre Mills, Inc., a corporation, and its officers, and Harry Flagler, 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 sale or distribution of woolen stocks or any other products in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from, directly or indirectly:

Misrepresenting the constituent fibers of which their 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 11th day of February 1959, become the decision of the Commission; and, accordingly:

It is ordered, That respondents Derry Fibre Mills, Inc., a corporation, and Harry Flagler, 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 to cease and desist.

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IN THE MATTER OF
RUTH ELENOWITZ, ET AL.
DOING BUSINESS AS MARK TRADING

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

Docket 7281. Complaint, Oct. 17, 1958—Decision, Feb. 11, 1959

Consent order requiring a concern in Maspeth, N.Y., to cease misrepresenting domestic perfumes as French imports through use of the brand name "LaVie En Rose" and advertising them as "The favorite of fashionable Paris," etc.; and to cease advertising that fictitious prices ranging from \$10 to \$27.50 were regular retail prices of the perfumes, that they were nationally advertised at such prices, and were sold in well-known department stores.

Mr. S. F. House for the Commission.

Mr. Martin J. Forgang, of New York, N.Y., for respondents.

INITIAL DECISION BY ABNER E. LIPSCOMB, HEARING EXAMINER

On October 17, 1958, the complaint herein was issued, charging respondents with the use of false, misleading and deceptive representations in connection with the advertising, sale and distribution in commerce of perfume products, which are "cosmetics" as that term is defined in the Federal Trade Commission Act; which representations constitute unfair and deceptive acts and practices in commerce, in violation of said Act.

Thereafter, on December 5, 1958, respondents, their counsel, and counsel supporting the complaint entered into an Agreement Containing Consent Order to Cease and Desist, which was approved by the acting director and an assistant director of the Commission's Bureau of Litigation, and thereafter submitted to the hearing examiner for consideration.

Respondents Ruth Elenowitz and Irving Elenowitz are identified in the agreement as individuals doing business under the trade name of Mark Trading, with their office and principal place of business located at 62-15 Fifty Third Avenue, Maspeth 78, N.Y. It is stated in the agreement that Ruth Elenowitz is also known as Ruth Weidenbaum.

Respondents admit all the jurisdictional facts alleged in the complaint, and agree that the record may be taken as if find-