

IN THE MATTER OF
RELIANCE WOOL & QUILTING PRODUCTS, INC., ET AL.

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

Docket 7165. Complaint, May 28, 1958—Decision, Nov. 20, 1959

Order requiring manufacturers in Bronx, N.Y., to cease violating the Wool Products Labeling Act by such practices as labeling and invoicing as "100% Reprocessed Wool," etc., quilted interlining materials which contained substantial quantities of non-woolen fibers, and by failing to label said wool products as required.

Mr. John T. Walker for the Commission.

Mr. Sol H. Sleppin, of New York, N.Y., and *Shipley, Akerman & Pickett*, of Washington, D.C., by *Mr. Alex. Akerman, Jr.* for respondents.

INITIAL DECISION BY WILLIAM L. PACK, HEARING EXAMINER

1. The complaint in this matter charges the respondents with violation of the Wool Products Labeling Act of 1939 and the Rules and Regulations promulgated thereunder, and the Federal Trade Commission Act. A stipulation has now been entered into between counsel supporting the complaint and counsel for respondents which provides, among other things, that respondents admit all of the material allegations of facts in the complaint and that the hearing examiner may proceed upon the stipulation to issue his initial decision in the proceeding, all intervening procedure being waived.

2. Respondent Reliance Wool & Quilting Products, Inc., is a corporation organized and existing by virtue of the laws of the State of New York, with its principal place of business located at 40 Canal Street, West, Bronx, New York.

Respondents Idel Greenfeld, Jacob Hoffman, Sam Cymbrowitz, and Morris Volman are president, vice president, secretary, and treasurer, respectively, of the corporation, and formulate, direct, and control its acts and practices.

3. Subsequent to the effective date of the Wool Products Labeling Act of 1939, and more especially since January 1956, respondents have manufactured for introduction into commerce, introduced into commerce, sold, transported, distributed, delivered for shipment and offered for sale in commerce, as "commerce" is defined in that Act, wool products, as "wool products" are defined therein.

4. Certain of such wool products were misbranded by respondents within the intent and meaning of Section 4(a)(1) of the Wool Products Labeling Act and the Rules and Regulations promulgated thereunder in that they were falsely and deceptively labeled or tagged with respect to the character and amount of the constituent fibers contained therein.

Among such wool products were quilted interlining materials stamped or tagged as "100% Reprocessed Wool," whereas in truth and in fact such interlining material was not composed of 100% reprocessed wool, but contained substantial quantities of non-woolen fibers.

5. Such wool products were further misbranded by respondents in that they were not stamped, tagged or labeled as required under

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the provisions of Section 4(a)(2) of the Wool Products Labeling Act of 1939 and the Rules and Regulations promulgated thereunder. The wool products contained fibers in various amounts which were not set forth on the fiber content tags attached to such products.

6. In the course and conduct of their business, respondents are in competition, in commerce, with corporations, firms and individuals likewise engaged in the sale of interlining materials.

7. The acts and practices of respondents constitute misbranding of wool products and are in violation of the Wool Products Labeling Act of 1939 and the Rules and Regulations promulgated thereunder, and constitute unfair and deceptive acts and practices and unfair methods of competition, in commerce, within the intent and meaning of the Federal Trade Commission Act.

8. In the course and conduct of their business respondents invoiced their interlining materials as "100% Reprocessed Wool," "100% Reprocessed Wool Exclusive of Ornamentation," and "80/20," meaning 80% reprocessed wool, 20% other fibers, whereas in truth and in fact such materials contained substantial amounts of fibers other than 100% reprocessed wool, 100% reprocessed wool exclusive of ornamentation, and 80% reprocessed wool and 20% other fibers, respectively.

9. The acts and practices set out in paragraph 8 have the tendency and capacity to mislead and deceive purchasers of such products as to the true fiber content thereof, and to cause such purchasers to misbrand products manufactured by them in which such materials are used.

10. The acts and practices of respondents set out in paragraph 8 are to the prejudice of the public and of respondents' competitors and constitute unfair and deceptive acts and practices and unfair methods of competition in commerce, within the intent and meaning of the Federal Trade Commission Act.

11. The proceeding is in the public interest.

ORDER

It is ordered. That the respondents, Reliance Wool & Quilting Products, Inc., a corporation, and its officers, and Idel Greenfeld, Jacob Hoffman, Sam Cymbrowitz, and Morris Volman, 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 interlining materials 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 affix labels to wool products showing each element of information required to be disclosed by Section 4(a)(2) of the Wool Products Labeling Act of 1939.

It is further ordered, That the respondents, Reliance Wool & Quilting Products, Inc., a corporation, and its officers, and Idel Greenfeld, Jacob Hoffman, Sam Cymbrowitz, and Morris Volman, 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 interlining materials, or any other materials, in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from misrepresenting the constituent fibers thereof on invoices or other shipping memoranda or in any other manner.

OPINION OF THE COMMISSION

By ANDERSON, *Commissioner*:

In the initial decision filed by him, the hearing examiner found that the respondents had engaged in misbranding violative of Sections 4(a)(1) and 4(a)(2) of the Wool Products Labeling Act and that they had misrepresented the constituent fibers of their interlining materials on invoices in violation of the Federal Trade Commission Act. Respondents have filed appeal. Such appeal does not except to the findings as to the facts contained in the initial decision but contends error respecting the scope of the order to cease and desist.

The respondents named in the complaint as parties to this proceeding are a corporation and four individuals serving as its officers, such individuals being joined in their representative capacities as officers and also as individuals. The order to cease and desist contained in the initial decision, which requires cessation of the acts and practices found unlawful, similarly names those respondent individuals both as officers and as individuals. Respondents do not object to being held in the order as officers, but contend that their inclusion

as individuals was erroneous and that such provision conflicts with our decision in *Kay Jewelry Stores, Inc., et al.*¹

In that decision, we held that certain admissions in the answer by the individuals there named respecting their serving as officers and directing the acts and practices of the corporate respondents, did not constitute adequate showing of necessity that they be joined in the order in their capacities as individuals. After duly considering the testimony and other evidence presented in support of and in opposition to additional allegations in that complaint which were not admitted, we further held that there was no showing that joining them in their individual capacities was required in the public interest. The factual situation there differs from that presented in the instant case, however.

Here, a stipulation as to the facts in lieu of other evidence was entered into whereby the respondents admitted all material allegations of fact contained in the complaint. The complaint herein alleges, the stipulation as to the facts therefore has admitted, and the hearing examiner duly found, that certain of the wool products "were misbranded by respondents within the intent and meaning of Section 4(a) (1) of the Wool Products Labeling Act" in the manner there specified; and it was similarly alleged, admitted and found that such products "were further misbranded by respondents" because not stamped or labeled as required under Section 4(a) (2) and that respondents had invoiced their interlining materials as being of designated fiber contents when, in fact, they contained substantial amounts of other fibers. We think the record clearly supports inferences of roles of prime responsibility and active personal participation by the respondent individuals in the acts and practices found unlawful. In these circumstances, the provision of the order joining the respondent individuals in their personal capacities is appropriate.

The hearing examiner having found misbranding in violation of Section 4(a) (2), the initial decision's order requires that respondents affix labels containing the information prescribed by that section of the Act. Under such section, an article subject to the Act is misbranded unless a label is attached showing (1) the identity and percentages of the constituent fibers of the product in the manner specified in subsection (A); (2) the percentage of any nonfibrous loading, filling or adulterating materials present as required by subsection (B); and (3) the name of the manufacturer or other persons designated in the Act as prescribed by subsection (C). The evidentiary

¹ In the matter of *Kay Jewelry Stores, Inc., et al.*, Docket No. 6445 (decided November 12, 1957).

matters relating to violations of Section 4(a)(2) which are recited in the aforementioned stipulation are limited to failure to correctly show fiber constituents as required by subsection (A). There accordingly is no evidentiary showing of prior failure by respondents to supply the labeling information prescribed by the companion subsections. In excepting to the order, respondents argue that its requirement that the label contain the information prescribed by subsections (B) and (C) contravenes principles applied by the Supreme Court² in a recent decision passing on the validity of an order issued by the Commission in a proceeding instituted under the Fur Products Labeling Act. The Court there expressly approved an order comparable in scope to the one here attacked.

Although the information contained in the instant record does not permit precise arithmetical tabulations of respondents' prior acts of misbranding, it does not follow that the scope of the order is improper. The stipulation contains no reservational language expressly identifying respondents' statutory infractions as few in number or concerned only with limited quantities of merchandise. Under the allegations of paragraph 3 of the complaint, the wool products misbranded as to the character and amount of their constituent fibers in violation of Section 4(a)(1) included, but were not specifically limited to, those falsely stamped as solely composed of reprocessed wool. Respondents' violations thus are comprised in the aggregate of those noted above, their violations of Section 4(a)(2), and those violative of the Federal Trade Commission Act resulting from the various categories of false and deceptive invoicing engaged in by them with respect to fiber constituents. Hence, the record clearly supports inferences of extensive and substantial misbranding and other statutory violations by respondents incident to a defined practice of supplying false fiber information respecting products subject to the Act; and the incidents of failure to comply with the requirements of Section 4(a)(2) have been integral facets of that over-all program. In these circumstances, a requirement that respondents' future labels supply all of the information made mandatory by Section 4(a)(2) has sound basis in law and public policy. Respondents' contentions to the contrary are rejected.

In the light of the previously mentioned decision in *Mandel Brothers, Inc.*, we agree that the form of the order, though not its substance, should be revised. To the extent that the appeal requests such revision, it will be granted but the appeal is otherwise denied.

The initial decision, thus modified, is being adopted as the decision of the Commission.

² *Federal Trade Commission v. Mandel Brothers, Inc.*, 359 U.S. 385 (decided May 4, 1959).

FINAL ORDER

This matter having been heard by the Commission upon the appeal filed by the respondents from the initial decision of the hearing examiner; and the Commission having rendered its decision denying the appeal in part and granting it in part and having determined, for reasons stated in the accompanying opinion, that the initial decision should be modified:

It is ordered, That the order to cease and desist contained in the initial decision be, and it hereby is, modified to read as follows:

It is ordered, That the respondents, Reliance Wool & Quilting Products, Inc., a corporation, and its officers, and Idel Greenfeld, Jacob Hoffman, Sam Cymbrowitz, and Morris Volman, 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 interlining materials 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 affix labels to wool products showing each element of information required to be disclosed by Section 4(a)(2) of the Wool Products Labeling Act of 1939.

It is further ordered, That the respondents, Reliance Wool & Quilting Products, Inc., a corporation, and its officers, and Idel Greenfeld, Jacob Hoffman, Sam Cymbrowitz, and Morris Volman, 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 interlining materials, or any other materials, in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from misrepresenting the constituent fibers thereof on invoices or other shipping memoranda or in any other manner.

It is further ordered, That the initial decision, as modified herein, be, and it hereby is, adopted as the decision of the Commission.

It is further ordered, That the respondents named in the preamble of the order to cease and desist shall, within sixty (60) days

