

It is ordered, That the respondent herein shall within sixty (60) days after service upon him of this order, file with the Commission a report in writing setting forth in detail the manner and form in which he has complied with the order to cease and desist.

IN THE MATTER OF

JACOB B. TENZER ET AL. TRADING AS
J. B. TENZER HOSIERY COMPANY

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

Docket 7564. Complaint, Aug. 6, 1959—Decision, Dec. 17, 1959

Consent order requiring New York City distributors to cease violating the Wool Products Labeling Act by labeling as "100% wool sole cushioning," men's hosiery, the soles of which contained a substantial quantity of other than wool fibers, and by failing in other respects to comply with labeling requirements.

Mr. Frederick McManus supporting the complaint.

Respondent, *pro se*.

INITIAL DECISION BY LEON R. GROSS, HEARING EXAMINER

On August 6, 1959, pursuant to the provisions of the Federal Trade Commission Act and the Wool Products Labeling Act, the Federal Trade Commission caused to be issued its complaint in this proceeding to which the above-named parties were respondents. A true copy of said complaint was served upon respondents as required by law. The complaint charges respondents with violating the provisions of the Wool Products Labeling Act of 1939 and the Rules and Regulations promulgated thereunder by misbranding wool products, including hosiery, which were sold in commerce, by misrepresenting the percentage of wool fibers in said products, failing to stamp, tag, or label such products as required under the provisions of the Wool Products Labeling Act, and failing to disclose by sections, which are recognizably distinct, the fiber content or fiber composition of each section. After being served with said complaint, respondents entered into an agreement dated October 16, 1959, which purports to dispose of all of this proceeding as to all parties without the necessity of conducting a hearing. The agreement has been signed by all of the respondents, and by counsel supporting the complaint; and has been approved by the Director and the Assistant Director

of the Bureau of Litigation of this Commission. Said agreement contains the form of a consent cease and desist order which the parties have agreed is dispositive of the issues involved in this proceeding. On October 21, 1959, the said agreement was submitted to the above-named hearing examiner for his consideration, in accordance with Section 3.25 of the Commission's Rules of Practice for Adjudicative Proceedings.

Respondents, pursuant to the aforesaid agreement, have 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. Said agreement further provides that 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 such agreement. The parties have, *inter alia*, by such agreement agreed: (1) 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; (2) the complaint may be used in construing the terms of said order; (3) the record herein shall consist solely of the complaint and said agreement; (4) 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.

This proceeding having now come on for final consideration on the complaint and the aforesaid agreement of October 16, 1959, containing consent order, and it appearing that the order provided for in said agreement covers all of the allegations of the complaint and provides for an appropriate disposition of this proceeding as to all parties; the agreement of October 16, 1959, is hereby accepted and ordered filed at the same time that this decision becomes the decision of the Federal Trade Commission pursuant to Sections 3.21 and 3.25 of the Commission's Rules of Practice for Adjudicative Proceedings; and

The undersigned hearing examiner having considered the agreement and proposed order and being of the opinion that the acceptance thereof will be in the public interest, hereby accepts such agreement, makes the following jurisdictional findings, and issues the following order:

JURISDICTIONAL FINDINGS

1. That the Federal Trade Commission has jurisdiction over the parties and the subject matter of this proceeding;

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2. Respondents Jacob B. Tenzer and Jesse A. Tenzer are individuals trading as co-partners under the firm name of J. B. Tenzer Hosiery Company with their main office and principal place of business located at 320 Fifth Avenue in the City of New York, State of New York.

3. Respondents are engaged in commerce as "commerce" is defined in the Federal Trade Commission Act;

4. The complaint herein states a cause of action against said respondents under the Wool Products Labeling Act of 1939, and this proceeding is in the public interest.

ORDER

It is ordered. That the respondents Jacob B. Tenzer and Jesse A. Tenzer, individually and as co-partners trading as J. B. Tenzer Hosiery Company, or under any other name or names, and respondents' representatives, agents or 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 hosiery or other wool products, do forthwith cease and desist from:

1. Misbranding such products by falsely and deceptively stamping, tagging or labeling or otherwise falsely 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, 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 percentages of the total weight of such wool product of any non-fibrous 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, transportation, distribution, or delivery for shipment thereof in commerce, as "commerce" is defined in the Wool Products Labeling Act of 1939.

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3. Misbranding wool products by failing to set forth on stamps, tags, labels or other means of identification attached to such products the information required under Section 4(a)(2)(A) of the Wool Products Labeling Act with respect to each specifically designated section of a wool product composed of two or more sections where such sections are of a different fiber composition and are recognizably distinct.

4. Falsely or deceptively designating the character or amount of the fibers contained in any section of a wool product composed of two or more sections which are recognizably distinct in violation of Rule 23 of the Rules and Regulations promulgated pursuant to the Wool Products Labeling Act of 1939.

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 17th day of December, 1959, become the decision of the Commission; and, accordingly:

It is ordered. That the respondents herein 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.