
IN THE MATTER OF
METRO CAP COMPANY, INC., ET AL.

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

Docket 7561. Complaint, Aug. 6, 1959—Decision, Jan. 30, 1960

Consent order requiring manufacturers in New York City to cease violating the Wool Products Labeling Act by labeling as 100% wool, men's caps which contained a substantial amount of other fibers; by falsely labeling caps with respect to the name of the mill producing the cloth used therein; and by failing in other respects to comply with requirements of the Act.

Mr. Frederick McManus for the Commission.

Mr. David Perlow, of New York, N.Y., for Metro Cap Co., Inc.,
Max Bachurski, Isidore Avnet and Sam Cohen.

Mr. James J. Pillinger, of New York, N.Y., for Sportswear Industries, Inc., David Telson and Arnold Gray.

INITIAL DECISION BY J. EARL COX, HEARING EXAMINER

Respondents are manufacturers of wool products, including men's caps, which they have introduced, distributed and sold in commerce in competition with others engaged in the manufacture and sale of similar products. They are charged with having violated the Wool Products Labeling Act of 1939, the Rules and Regulations promulgated thereunder, and the Federal Trade Commission Act, by misbranding their products (a) through falsely and deceptively labeling such products as to the character and amount of the constituent fibers contained and as to the name of the mill producing the cloth used therein, within the intent and meaning of §4(a) (1), and (b) by failing to stamp, tag, or label such products in conformity with the prescriptions of §4(a) (2), of the Wool Products Labeling Act and the said Rules and Regulations.

After service of the complaint, respondents Sportswear Industries, Inc., David Telson and Arnold Gray, their counsel, and counsel supporting the complaint, on October 9, 1959, entered into an agreement containing a consent order to cease and desist. On November 24, 1959, respondents Metro Cap Company, Inc., Max Bachurski, Isidore Avnet and Sam Cohen, their counsel, and counsel supporting the complaint entered into a similar agreement. Except as to the identity of the parties signatory thereto, the two agreements are identical. Both agreements were 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 first agreement states that respondent Sportswear Industries, Inc., is a corporation existing and doing business under and by virtue of the laws of the State of New York; that individual respondents David Telson and Arnold Gray are, respectively, president and secretary of said corporate respondent; that said individual respondents cooperate in formulating, directing, and controlling the acts, policies, and practices of the said corporate respondent; and that all the foregoing respondents have their office and principal place of business at 588 Broadway, New York, New York.

The second agreement states that respondent Metro Cap Company, Inc., is a corporation existing and doing business under and by virtue of the laws of the State of New York; that individual respondents Max Bachurski and Isidore Avnet are president and secretary-treasurer, respectively, of said corporate respondent, and

individual respondent Sam Cohen is an employee thereof, and was erroneously named as a stockholder therein in the complaint; that said individual respondents cooperate in formulating, directing and controlling the acts, policies, and practices of the said corporate respondent; and that all said respondents have their office and principal place of business at 48 Canal Street, in the City of New York, State of New York.

Both agreements provide, 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 the 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 signatory thereto 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 signatory to each agreement 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 orders set forth in the respective agreements fully dispose of all the issues raised in the complaint, and adequately prohibit 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 two agreements containing consent order to cease and desist as part of the record upon which this decision is based. Therefore,

It is ordered. That the respondents, Sportswear Industries, Inc., a corporation, and its officers, and David Telson and Arnold Gray, 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 manu-

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facture 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 caps or other wool products, do forthwith cease and desist from misbranding said products by:

1. Falsely or deceptively stamping, tagging, labeling or otherwise identifying such products as to character or amount of the constituent fibers included therein;

2. Falsely or deceptively stamping, tagging, or labeling or otherwise identifying such products as to the name of the manufacturer of the fabric used in such products;

3. 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 products, exclusive of ornamentation not exceeding five percentum of said total fiber weight of (1) wool, (2) reprocessed wool, (3) re-used 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 products 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 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 ordered. That the respondents, Metro Cap Company, Inc., a corporation, and its officers, and Max Bachurski and Isidore Avnet, individually and as officers of said corporation, and Sam Cohen, individually and as an employee 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 caps or other wool products, do forthwith cease and desist from misbranding such products by:

1. Falsely or deceptively stamping, tagging, labeling or otherwise identifying such products as to character or amount of the constituent fibers included therein;

2. Falsely or deceptively stamping, tagging, or labeling or otherwise identifying such products as to the name of the manufacturer of the fabric used in such products;

3. 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 products, 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 products of any non-fibrous loading, filling, or adulterating matter; and

(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.

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 30th day of January, 1960, become the decision of the Commission; and, accordingly:

It is ordered that the respondents named in the caption hereof 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

M. BENKEL & SONS, INC., ET AL.

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