

Decision

IN THE MATTER OF

ELI PERLO ET AL. TRADING AS S. PERLO & SONS

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

Docket 7623. Complaint, Oct. 22, 1959—Decision, Apr. 14, 1960

Consent order requiring New York City distributors to cease violating the Wool Products Labeling Act by labeling and invoicing as "100% Re-processed Wool," interlining materials which contained substantially less than 100% wool.

Mr. Thomas A. Ziebarth supporting the complaint.

Mr. Louis K. Bleecker, of New York, N.Y. for respondents.

INITIAL DECISION BY LEON R. GROSS, HEARING EXAMINER

On October 22, 1959, the Federal Trade Commission, pursuant to authority granted to it by the Federal Trade Commission Act and the Wool Products Labeling Act, caused a complaint to be issued against the above respondents, charging them with violations of the Wool Products Labeling Act and the Rules and Regulations promulgated by the Commission pursuant to the provisions of said Act. A true copy of said complaint was duly served upon respondents, as required by law. The complaint charges respondents with misbranding wool products sold by respondents in commerce within the intent and meaning of §4(a)(1) of the Wool Products Labeling Act, and with failure to stamp, tag and label wool products sold in commerce as required by §4(a)(2) of the Wool Products Labeling Act, and in the manner and form prescribed by the Rules and Regulations promulgated under said Act.

After being served with the complaint, respondents appeared by counsel. Thereafter respondents entered into an agreement dated January 25, 1960, which purports to dispose of all this proceeding as to all parties without the necessity of conducting a formal hearing. Accompanying the January 25, 1960 agreement is an affidavit of Louis K. Bleecker, counsel for respondent that Hinda R. Perlo, one of the named respondents is deceased, and the Hearing Examiner is therefore dismissing her as a respondent as agreed to in the cease and desist order set forth in the January 25, 1960 agreement. The hearing examiner finds such disposition of this proceeding as to Hinda R. Perlo not to be inimical to the public interest, and to these proceedings.

The agreement of January 25, 1960, has been signed by all the respondents except Hinda R. Perlo, their counsel, by counsel supporting the complaint, and has been approved by the Director and the Assistant Director of the Bureau of Litigation of the Federal Trade Commission. In said agreement, respondents, except Hinda R. Perlo, admit all the jurisdictional facts alleged in the complaint and agree that the record may be taken as if findings of jurisdictional facts are duly made in accordance with such allegations. In such agreement the respondents who signed the same waive: any further procedural steps before the hearing examiner and the Commission; the making of findings of fact or conclusions of law; and all 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 agreement further provides that the record upon 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 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; that the cease and desist order provided for in said agreement may be entered in this proceeding without further notice to the respondents; and that, when so entered, such cease and desist order 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. The complaint may be used in construing the terms of the order.

This proceeding having now come on for final consideration on the complaint and the aforesaid agreement of January 25, 1960, 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 January 25, 1960, 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, 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;
2. Respondents Eli Perlo and Leon Perlo are individuals and co-partners trading as S. Perlo & Sons. Respondents' office and principal place of business is located at 313-321 West 37th Street, New York, 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 Federal Trade Commission Act, and the Wool Products Labeling Act, and this proceeding is in the public interest.

ORDER

It is ordered, That respondents Eli Perlo and Leon Perlo, individually and as copartners trading as S. Perlo & Sons, or under any other name, and respondents' representatives, agents and employees, direct or through any corporate or other device, in connection with the 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 interlining materials or other "wool products," as such products are defined in and subject to said Wool Products Labeling Act, 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 Eli Perlo and Leon Perlo, individually and as copartners trading as S. Perlo & Sons, or under any other name, 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 wool interlining materials, or any other products, in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

Misrepresenting the character or amount of the constituent fibers contained in such products on invoices or shipping memoranda applicable thereto or in any other manner.

It is further ordered, That the complaint herein, insofar as it relates to individual respondent, Hinda R. Perlo, be and the same hereby is dismissed.

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 14th day of April, 1960, become the decision of the Commission; and, accordingly:

It is ordered, That respondents Eli Perlo and Leon Perlo, individuals and co-partners trading as S. Perlo & Sons 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.