

Decision

56 F.T.C.

IN THE MATTER OF

LUMAR, INC., ET AL.

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

Docket 7571. Complaint, Aug. 26, 1959—Decision, May 26, 1960

Consent order requiring a Dallas, Tex., manufacturer to cease violating the Wool Products Labeling Act and the Federal Trade Commission Act by labeling and invoicing as "100% reprocessed wool" and "70% reprocessed wool, 30% Man Made Fibers," interlining materials, the actual wool content of which was substantially less than so represented, and by failing in other respects to comply with labeling requirements of the Wool Act.

Mr. Charles W. O'Connell supporting the complaint.

Mr. Ellsworth A. Weinberg, of *Weinberg & Sandoloski*, of Dallas, Tex., for respondents.

INITIAL DECISION BY LEON R. GROSS, HEARING EXAMINER

On August 26, 1959, the Federal Trade Commission, pursuant to the provisions of the Federal Trade Commission Act and the Wool Products Labeling Act of 1939, issued its complaint against Lumar, Inc., a corporation, and Martin Rosenbaum, individually and as an officer of said corporation, charging said respondents with violating said Acts and the Rules and Regulations promulgated under the Wool Products Labeling Act, by misbranding certain of their wool products, and by the use on invoices and shipping memoranda of false, misleading and deceptive statements and representations as to the fiber content of said wool products. A true and correct copy of said complaint was served upon the respondents as required by law. After being served with the complaint, respondents appeared by counsel and entered into an agreement dated February 19, 1960, 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 the corporate respondent, its counsel, 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 as to all parties. On April 6, 1960, the said agreement was submitted to the above-named hearing examiner for his consideration, in accordance with §3.25 of the Commission's Rules of Practice for Adjudicative Proceedings.

In the said agreement, it is stated that individual respondent Martin Rosenbaum died on February 24, 1959, and for that reason, as set forth in an affidavit attached to and made by reference, a part of the agreement, all parties recommend that the complaint, in so far as it relates to Martin Rosenbaum, individually and as an officer of Lumar, Inc., be dismissed; and the order agreed upon so provides.

The corporate respondent, pursuant to the aforesaid agreement, has 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 the corporate respondent waives 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 it 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; and (4) that said agreement is for settlement purposes only and does not constitute an admission by the corporate respondent that it has 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 February 19, 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 February 19, 1960, is hereby accepted and ordered filed at the same time that this decision becomes the decision of the Federal Trade Commission pursuant to §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. The Federal Trade Commission has jurisdiction over the parties and the subject-matter of this proceeding.

Order

56 F.T.C.

2. Respondent Lumar, Inc., is a corporation organized, existing, and doing business under and by virtue of the laws of the State of Texas, with its office and principal place of business located at 2002 North Field Street, Dallas, Texas (incorrectly set forth in the complaint as 414 South Poydras Street, Dallas, Texas).

3. Respondent is engaged in commerce as "commerce" is defined in the Wool Products Labeling Act of 1939.

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

ORDER

It is ordered, That respondent Lumar, Inc., a corporation, and its officers, and respondent's 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 woollen interling 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 said products by:

1. Falsely or deceptively stamping, tagging, labeling, or otherwise 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 percentages of the total fiber weight of such wool product exclusive of ornamentation not exceeding 5 percentum of said total fiber weight, of (1) wool, (2) reprocessed wool, (3) reused wool, (4) each fiber other than wool where the 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 product of nonfibrous loading or adulterating matter;

(c) The name or 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.

It is further ordered, That Lumar, Inc., a corporation, and its officers, and respondent's representatives, agents, and employees, directly or through any corporate or other device in connection with the offering for sale, sale, or distribution of woolen interlining material or any other materials 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.

It is further ordered, That the complaint herein, in so far as it relates to respondent Martin Rosenbaum, individually and as an officer of Lumar, Inc., 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 26th day of May, 1960, become the decision of the Commission; and, accordingly:

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

IN THE MATTER OF

JAMES H. MARTIN, INC., ET AL.

CONSENT ORDER, ETC., IN REGARD TO THE ALLEGED VIOLATION OF THE