

J. D. BRUMBACH DOING BUSINESS AS J. D. BRUMBACH
QUILTING MILL

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

Docket 7823. Complaint, Mar. 11, 1960—Decision, July 16, 1960

Consent order requiring a manufacturer in Reading, Pa., to cease violating the
Wool Products Labeling Act by such practices as labeling as "wool" and

Complaint

57 F.T.C.

invoicing as "Reproc. Wool", quilted woolen lining and interlining materials which contained a substantial quantity of non-woolen fibers, and by failing in other respects to comply with labeling requirements.

COMPLAINT

Pursuant to the provisions of the Federal Trade Commission Act and the Wool Products Labeling Act of 1939, and by virtue of the authority vested in it by said Acts, the Federal Trade Commission, having reason to believe that J. D. Brumbach, an individual doing business as J. D. Brumbach Quilting Mill, hereinafter referred to as the respondent, has violated the provisions of said Acts and the Rules and Regulations promulgated under said Wool Products Labeling Act, and it appearing to the Commission that a proceeding by it in respect thereof would be in the public interest, hereby issues its complaint stating its charges in that respect as follows:

PARAGRAPH 1. Respondent J. D. Brumbach is an individual doing business under the firm name, J. D. Brumbach Quilting Mill. His office and place of business is located at 921 Douglas Street, Reading, Pa.

PAR. 2. Subsequent to the effective date of the Wool Products Labeling Act of 1939, and more especially since January 1, 1959, respondent has 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 said Act, wool products as "wool products" are defined therein.

PAR. 3. Certain of said wool products were misbranded by the respondent 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 misbranded wool products were quilted woolen lining and interlining materials labeled or tagged by the respondent as "wool", whereas, in truth and in fact said products contained a substantial quantity of fibers other than wool.

PAR. 4. Certain of said wool products were further misbranded by respondent in that they were not stamped, tagged or labeled as required under the provisions of Section 4(a)(2) of the Wool Products Labeling Act and in the form and manner as prescribed by the Rules and Regulations promulgated under said Act.

PAR. 5. The respondent in the course and conduct of his business, as aforesaid, was and is in substantial competition with corporations, firms and other individuals in the manufacture and sale of wool products, including quilted woolen lining and interlining materials.

PAR. 6. The acts and practices of the respondent as set forth above were, and are, in violation of the Wool Products Labeling Act of 1939 and the Rules and Regulations promulgated thereunder, and constituted, and now 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.

PAR. 7. In the course and conduct of his business, as aforesaid, respondent has made various statements concerning his wool products on sales invoices. Among and typical, but not all inclusive, of such statements was the term "Reproc. Wool".

PAR. 8. The aforesaid statement as to fiber content was false, misleading and deceptive, since, in truth and in fact, said quilted lining and interlining materials were not composed exclusively of reprocessed wool but contained substantially less woolen fiber than represented on said invoices.

PAR. 9. The practice of respondent of selling his misbranded wool products to manufacturers of garments and of furnishing false invoices to such manufacturers has the tendency and capacity to cause such manufacturers to misbrand the garments in which said products are used.

PAR. 10. The acts and practices of respondent as alleged in paragraph 7, were and are to the prejudice and injury of the public and of the respondent's competitors and constituted, and now 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.

Mr. Harry E. Middleton, Jr., supporting the complaint.

DeLong, Dry & Binder, of Reading, Pa., for respondent. *Mr. John W. Dry* of Counsel.

INITIAL DECISION BY LEON R. GROSS, HEARING EXAMINER

On March 11, 1960, the Federal Trade Commission issued a complaint against the above-named respondent charging him with: Misbranding certain products sold by him in interstate commerce, in contravention of the requirements of Section 4(a)(1) of the Wool Products Labeling Act and the Rules and Regulations promulgated thereunder; failing to stamp, tag or label certain products sold by respondent in interstate commerce as required under the provisions of Section 4(a)(2) of the Wool Products Labeling Act and the Rules and Regulations issued thereunder. A true and correct copy of the complaint was served upon respondent as required by law. Respondent appeared in this proceeding by counsel and thereafter entered into an Agreement Containing Consent Order to Cease and

Desist which is dated May 4, 1960. The agreement has been signed by respondent and his attorney. It has also been signed by counsel supporting the complaint, and approved by the Director, Associate Director and Assistant Director of the Bureau of Litigation of the Federal Trade Commission. The agreement provides that it is to be a definitive disposition of all issues in this proceeding, as to all of the parties herein involved. On May 12, 1960, the agreement was submitted to the undersigned hearing examiner.

In the agreement of May 4, 1960, respondent admits all the jurisdictional facts alleged in the complaint and agrees that the record may be taken as if findings of jurisdictional facts had been duly made in accordance with such allegations.

In said agreement respondent waives (a) any further procedural steps before the hearing examiner and the Federal Trade Commission; (b) the making of findings of fact or conclusions of law; (c) all rights respondent may have to challenge or contest the validity of the cease and desist order entered pursuant to the agreement. The parties to the agreement of May 4, 1960, agree further 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. The agreement provides further that the order to cease and desist entered in accordance with its provisions may be entered without further notice to the respondent; that the order, when so entered shall have the same force and effect as if entered after a full hearing; that the order may be altered, modified or set aside in the manner provided for other orders; and that the complaint may be used in construing the terms of the order. The agreement provides that it is for settlement purposes only and does not constitute an admission by respondent that he 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 May 4, 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 May 4, 1960, is hereby accepted, approved 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 ac-

131

Order

ceptance 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. Respondent J. D. Brumbach is an individual with his office and principal place of business located at 921 Douglas Street, Reading, Pennsylvania, where he does business as J. D. Brumbach Quilting Mill.
3. Respondent is engaged in commerce as "commerce" is defined in the Federal Trade Commission Act.
4. The complaint herein states a cause of action against said respondent 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 respondent J. D. Brumbach, an individual doing business as J. D. Brumbach Quilting Mill, or under any other name, 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 interlinings or other wool products, as "wool products" are defined in and subject to the Wool Products Labeling Act, do forthwith cease and desist from misbranding such products by:

1. Falsely or deceptively stamping, tagging, labeling or identifying such products as to the character or amount of the constituent fibers contained therein.
2. Failing to affix labels to such 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 respondent J. D. Brumbach, an individual, doing business as J. D. Brumbach Quilting Mill or under any other name, 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 his products, in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from misrepresenting the constituent fiber of which his products are composed or the per-

Complaint

57 F.T.C.

centages of amounts thereof in sales, invoices, shipping memoranda or in any other manner.

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 16th day of July 1960, become the decision of the Commission; and, accordingly:

It is ordered, That the respondent herein shall within sixty (60)