

IN THE MATTER OF
ORSI, INC., ET AL.

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

Docket 7958. Complaint, June 17, 1960—Decision, Oct. 18, 1960

Consent order requiring a New York City distributor to cease violating the Wool Products Labeling Act by labeling as "100% Re-used wool", fabrics which contained substantially less than 100% woolen fibers, and by failing to label certain fabrics as required.

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 Orsi, Inc., a corporation, and Domenico Orsi and Richard F. C. Bemporad, individually and as officers of

said corporation, hereinafter referred to as respondents, have violated the provisions of said Acts and the Rules and Regulations promulgated under the 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 Orsi, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of New York, with its principal place of business located at 11 East 33d Street, New York, New York.

Individual respondents Domenico Orsi and Richard F. C. Bemporad are president and secretary-treasurer, respectively, of said corporate respondent. These individuals control the acts, practices and policies of the corporate respondent. The office and principal place of business of the individual respondents is the same as that of the corporate respondent.

PAR. 2. Subsequent to the effective date of the Wool Products Labeling Act of 1939, and more especially since January 1959, respondents introduced into commerce, sold, transported, distributed, delivered for shipment and offered for sale in commerce, as "commerce" is defined in the Wool Products Labeling Act of 1939, wool products, as "wool products" are defined therein.

PAR. 3. Certain of said wool products were misbranded by the respondents, 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 products were fabrics labeled or tagged by respondents as "100% Re-used wool", whereas, in truth and in fact, said fabrics contained substantially less than 100% woolen fibers.

PAR. 4. Certain of said wool products were misbranded by respondents in that they were not stamped, tagged or labeled as required under the provisions of Sections 4(a)(2) of the Wool Products Labeling Act of 1939, and in the manner and form as prescribed by the Rules and Regulations promulgated under said Act.

PAR. 5. Respondents in the course and conduct of their business, as aforesaid, were and are in substantial competition with corporations, firms and individuals likewise engaged in the sale of wool products, including woolen fabrics.

PAR. 6. The acts and practices of the respondents as set forth above are in violation of the Wool Products Labeling Act and the

Rules and Regulations thereunder, and constitute unfair methods of competition and unfair and deceptive acts and practices in commerce within the intent and meaning of the Federal Trade Commission Act.

PAR. 7. Respondents in the course and conduct of their business of selling woolen fabrics, in commerce, have invoiced such fabrics, for example, as "100% Re-Used Wool", whereas, in truth and in fact, said fabrics contained substantially less than 100% woolen fibers.

PAR. 8. The practice of respondents as set out in Paragraph Seven of falsely identifying the constituent fibers of their wool fabrics has had, and now has, the tendency and capacity to mislead and deceive purchasers of said products as to the true fiber content thereof and to misbrand products manufactured by them in which said fabrics were used.

PAR. 9. The acts and practices of the respondents set out in Paragraph Seven were all to the prejudice and injury of the public and of respondents' competitors and constituted, and now constitute, unfair methods of competition and unfair and deceptive acts and practices in commerce within the intent and meaning of the Federal Trade Commission Act.

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

Mr. Alfred R. McCauley, and *Mr. James R. Sharp*, of *Sharp & Bogan*, of Washington, D.C., for respondents.

INITIAL DECISION BY LEON R. GROSS, HEARING EXAMINER

On June 17, 1960, pursuant to the provisions of the Federal Trade Commission Act and the Wool Products Labeling Act and the Rules and Regulations promulgated thereunder, the Federal Trade Commission issued its complaint in this proceeding against the above-named respondents. A true copy of the complaint was served upon respondents as required by law. The complaint charges respondents with violating the Wool Products Labeling Act and the Rules and Regulations promulgated thereunder 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.

After being served with the complaint respondents appeared by counsel. Thereafter respondents entered into an agreement dated July 28, 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 respondents, their counsel, and by counsel supporting the complaint, and has been approved by the

Director, Acting Associate Director, and Assistant Director of the Commission's Bureau of Litigation. Said agreement contains the form of a consent cease and desist order which the parties have agreed may be entered by the Hearing Examiner and which has been represented to be dispositive of the issues involved in this proceeding. On August 11, 1960, the said agreement was submitted to the undersigned Hearing Examiner for his consideration in accordance with Section 3.25 of the Commission's Rules of Practice for Adjudicative Proceedings.

Respondents, pursuant to said 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 Federal Trade Commission; the makings 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 the agreement.

The parties to the agreement have, inter alia, by such agreement agreed:

(1) The order to cease and desist issued in accordance with said agreement will be entered in this proceeding by the Commission without further notice to the respondents, and, when so entered, such cease and desist order 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 on which the initial decision and the decision of the Commission shall be based shall consist solely of the complaint and the agreement; and (4) 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.

This proceeding having now come on for final consideration on the complaint and the aforesaid agreement of July 28, 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 July 28, 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 accept-

ance 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 Orsi, Inc. is a corporation organized, existing and doing business under and by virtue of the laws of the State of New York, with its principal place of business located at 11 East 33rd Street, New York, New York.

Respondents Domenico Orsi and Richard F. C. Bemporad are officers of the corporate respondent. They formulate, direct and control the acts and practices of the corporate respondent. Their address is the same as that of the corporate respondent.

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 Orsi, Inc., a corporation, and its officers, and Domenico Orsi and Richard F. C. Bemporad, 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 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 wool fabrics 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 respondents Orsi, Inc. a corporation, and its officers, and Domenico Orsi and Richard F. C. Bemporad, individually and as officers of said corporation, and respondents' representatives, agents and employees, directly or through any cor-

Complaint

57 F.T.C.

porate or other device, in connection with the offering for sale, sale or distribution of their products in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from misrepresenting the constituent fibers of which their products are composed or the percentage or amount thereof in sales invoices, shipping memorandum or 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 18th day of October 1960, become the decision of the Commission; and, accordingly:

It is ordered, That 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