

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 March, 1961, become the decision of the Commission; and, accordingly:

It is ordered, That the above-named respondents, 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
BERNARD SHAPIRO WOOLEN CORP. ET AL.

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

Docket 8219. Complaint, Dec. 9, 1960—Decision, Mar. 30, 1961

Consent order requiring New York City importers of wool products from Italy to cease violating the Wool Products Labeling Act by labeling as consisting of "Not less than 85% Reprocessed Wool and not more than 15% other fibres", fabrics which contained substantially less than 85% 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 Bernard Shapiro Woolen Corp., a corporation, and Morris J. Wolf, Samuel Applebaum, and Nathan Perlman, 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 Bernard Shapiro Woolen Corp., is a corporation organized, existing and doing business under and by virtue of the laws of the State of New York. Individual respondents Morris J. Wolf, Samuel Applebaum, and Nathan Perlman are officers of said corporate respondent. Said individual respondents formulate, direct and control the acts, policies, and practices of the corporate respondent, including the acts and practices hereinafter referred to.

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All respondents have their office and principal place of business at 271 West 38th Street, New York, New York.

PAR. 2. Subsequent to the effective date of the Wool Products Labeling Act of 1939, and more especially since January 1, 1959, respondents have imported from Italy and introduced into 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, namely woolen fabrics, were misbranded by respondents within the intent and meaning of Section 4(a)(1) of said 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 woolen products were woolen fabrics labeled or tagged by respondents as consisting of "Not less than 85% Reprocessed Wool and not more than 15% other fibres," whereas, in truth and in fact, said woolen fabrics in each instance contained substantially less woolen fibers than represented.

PAR. 4. Certain of said wool products were further misbranded by respondents 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 manner and form as prescribed by the Rules and Regulations promulgated under said Act.

PAR. 5. The respondents, in the course and conduct of their business, as aforesaid, were, and are, in substantial competition in commerce, with corporations, firms and individuals likewise engaged in the importation and sale of wool products of the same general nature as those sold by respondents.

PAR. 6. The acts and practices of the respondents, as set forth in Paragraphs 3 and 4 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.

Charles W. O'Connell, Esq., and Arthur Wolter, Jr., Esq., supporting the complaint.

Respondents, for themselves.

INITIAL DECISION BY LEON R. GROSS, HEARING EXAMINER

On December 9, 1960, the Federal Trade Commission issued a complaint against the above-named respondents, in which they were

charged with violating the Federal Trade Commission Act, and the Wool Products Labeling Act and the Rules and Regulations promulgated thereunder by falsely or deceptively labeling and tagging wool products sold by them in interstate commerce. The complaint alleges that respondents falsely and deceptively stamped, tagged, labeled or identified such wool products as to the character or amount of the constituent fibers contained therein; and failed to affix labels to such products showing each element of information required to be disclosed by §4(a)(2) of the Wool Products Labeling Act of 1939. A true and correct copy of the complaint was served upon the respondents and each and all of them as required by law.

Thereafter respondents appeared and agreed to dispose of this proceeding without a formal hearing pursuant to the terms of an agreement dated January 27, 1961, containing consent order to cease and desist. The agreement was submitted to the undersigned hearing examiner on February 1, 1961, in accordance with §3.25 of the Commission's Rules of Practice for Adjudicative Proceedings. The agreement purports to dispose of this proceeding as to the respondents and each and all of them and contains the form of a consent cease and desist order which the parties have represented is dispositive of the issues involved in this proceeding. The agreement has been signed by the corporate respondent by its president, by the individual respondents individually and as officers of said corporation, and by the counsel supporting the complaint, and has been approved by the Assistant Director, Acting Associate Director, and Director of the Bureau of Litigation of the Federal Trade Commission. In said agreement respondents admit all of the jurisdictional facts alleged in the complaint and agree that the record may be taken as if findings of jurisdictional facts had been made in accordance with such allegations. In the agreement the respondents waive: (a) any further procedural steps before the hearing examiner and the Commission; (b) the making of findings of fact or conclusions of law; and (c) all rights respondents may have to challenge or contest the validity of the order to cease and desist entered in accordance with the agreement.

The parties further agree, in said agreement, 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 Federal Trade Commission; that the order to cease and desist entered in this proceeding by the Commission may be entered without further notice to the respondents, and when so entered such order will have the same

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force and effect as if entered after a full hearing. Said order 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.

The parties have covenanted that the said agreement is for settlement purposes only and does not constitute an admission by the 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 January 27, 1961, containing consent order, and it appearing that the order which is approved in and by said agreement disposes of all the issues presented by the complaint as to all of the parties involved, said agreement is hereby accepted and approved as complying with §§3.21 and 3.25 of the Commission's Rules of Practice for Adjudicative Proceedings. 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 findings and issues the following order:

FINDINGS

1. The Federal Trade Commission has jurisdiction over the parties and the subject matter of this proceeding; and this proceeding is in the public interest;

2. Respondent Bernard Shapiro Woolen Corp. is a corporation organized, existing and doing business under and by virtue of the laws of the State of New York. Individual respondents Morris J. Wolf, Samuel Applebaum, and Nat Perlman are officers of said corporate respondent. Said individual respondents formulate, direct and control the acts, policies, and practices of the corporate respondent. All respondents have their office and principal place of business at 271 West 38th Street, New York, New York.

3. Respondents are engaged in commerce as "commerce" is defined in the pertinent statutes which are invoked by the complaint filed herein. Now, therefore,

It is ordered, That respondent Bernard Shapiro Woolen Corp., a corporation, and its officers, Morris J. Wolf, Samuel Applebaum, and Nat Perlman, 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

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1939, of woolen fabrics 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 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 contained therein;

2. Failing to affix labels on such products showing each element of information required to be disclosed by Section 4(a)(2) of 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 March, 1961, become the decision of the Commission; and, accordingly:

It is ordered, That the above-named respondents 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 in which they have complied with the order to cease and desist.
