

initial decision of the hearing examiner shall on the 12th day of April 1961, become the decision of the Commission; and, accordingly:

It is ordered, That the respondent herein 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
ASHEVILLE TEXTILES CORP. ET AL.

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

Docket 8233. Complaint, Dec. 27, 1960—Decision, Apr. 12, 1961

Consent order requiring New York City distributors to cease violating the Wool Products Labeling Act by tagging as "30% wool, 70% other fibers", woolen fabrics which contained nylon and acetate, each in excess of 5% of the total fiber weight, and by failing to label certain other of their products 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 Asheville Textiles Corp., a corporation, and Lawrence Herman and Max Kovner, 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 Asheville Textiles Corp. is a corporation organized, existing and doing business under and by virtue of the laws of the State of New York. Individual respondents Lawrence Herman and Max Kovner are officers of the corporate respondent. Said individual respondents cooperate in formulating, directing and controlling the acts, policies and practices of the corporate respondent, including the acts and practices hereinafter referred to. All respondents have their office and principal place of business at 450 Seventh Avenue in New York, New York.

PAR. 2 Subsequent to the effective date of the Wool Products Labeling Act of 1939, and more especially since 1958, respondents have 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 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 products were woolen fabrics labeled or tagged by respondents as "30% wool, 70% other fibers," whereas said fabrics contained nylon and acetate, each in excess of 5% of the total fiber weight.

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 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. In the course and conduct of their business, respondents were and are in substantial competition, in commerce, with corporations, firms and individuals likewise engaged in the sale of woolen fabrics.

PAR. 6. The acts and practices of the respondents, as set forth above, were and are in violation of the Wool Products Labeling Act 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 their business, respondents have made certain statements with respect to the fibers of which their wool products were composed on invoices covering the shipment of said fabrics, among which the following is typical:

95% Reprocessed Wool—5% Nylon

whereas, in truth and in fact, said fabrics contained substantially less woolen fibers than that set forth on the said invoices.

PAR. 8. The acts and practices set out in Paragraph Seven had and now have 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 products were used.

PAR. 9. The acts and practices of the respondents, as set forth in Paragraph Seven 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. DeWitt T. Puckett for the Commission.

Mr. Ruben Schwartz, of New York, N.Y., for respondents.

INITIAL DECISION BY HERMAN TOCKER, HEARING EXAMINER

The complaint in this proceeding, issued December 27, 1960, charged the respondents, Asheville Textiles Corp., a New York corporation, located at 450 Seventh Avenue, New York 1, New York, and Lawrence Herman and Max Kovner, individually and as officers of said corporation, and located at the same address as the corporate respondent, with violation of the provisions of the Federal Trade Commission Act, and the Wool Products Labeling Act of 1939 and the Rules and Regulations made pursuant thereto, by misbranding certain wool products manufactured by them for introduction into commerce.

After the issuance of the complaint, respondents entered into an agreement containing consent order to cease and desist with counsel in support of the complaint, disposing of all the issues as to all parties in this proceeding.

It was expressly provided in said agreement that the signing thereof is for settlement purposes only and does not constitute an admission by respondents that they have violated the law as alleged in the complaint.

By the terms of said agreement, the respondents admitted all the jurisdictional facts alleged in the complaint and agreed that the

record herein may be taken as if the Commission had made findings of jurisdictional facts in accordance with the allegations.

By said agreement, the parties expressly waived any further procedural steps before the hearing examiner and the Commission; the making of findings of fact or conclusions of law; and all rights they may have to challenge or contest the validity of the order to cease and desist entered in accordance with the agreement.

Respondents further agreed that the order to cease and desist, issued in accordance with said agreement, shall have the same force and effect as if made after a full hearing.

It was further provided that said agreement, together with the complaint, shall constitute the entire record herein; that the complaint herein may be used in construing the terms of the order issued pursuant to said agreement; and that said order may be altered, modified or set aside in the manner prescribed by the statute for orders of the Commission.

The hearing examiner has considered such agreement and the order therein contained, and, it appearing that said agreement and order provide for an appropriate disposition of this proceeding, the same is hereby accepted and, upon becoming part of the Commission's decision in accordance with Sections 3.21 and 3.25 of the Rules of Practice, shall be filed; and, in consonance with the terms thereof, the hearing examiner finds that the Federal Trade Commission has jurisdiction of the subject matter of this proceeding and of the respondents named herein, and that this proceeding is in the interest of the public, and issues the following order:

ORDER

It is ordered, That respondents Asheville Textiles Corp., a corporation, and its officers, and Lawrence Herman and Max Kovner, 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 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 included therein;

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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 Asheville Textiles Corp., a corporation, and its officers, and Lawrence Herman and Max Kovner, 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 offering for sale, sale or distribution of fabrics or any other product 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 percentages thereof, on 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 12th day of April 1961, 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 which they have complied with the order to cease and desist.
