

IN THE MATTER OF
LARRY LEVINE, INC., ET AL.

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

Docket 8389. Complaint, May 5, 1961—Decision, Sept. 6, 1961

Consent order requiring a manufacturer in New York City to cease violating the Wool Products Labeling Act by failing to label ladies' and junior misses' wool coats as required; by setting forth required information on labels in abbreviated form; and by failing to set forth separately on labels the character and amount of constituent fibers contained in interlinings.

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 Larry Levine, Inc., a corporation, and Lawrence Levine, individually and as officer 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 Larry Levine, 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 office and place of business located at 252 West 37th Street, New York, New York. Individual respondent Lawrence Levine is President of the corporate respondent. Said individual respondent formulates, directs, and controls the acts, policies and practices of the corporate respondent, including the acts and practices hereinafter referred to. The office and principal place of business of the individual respondent 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 1, 1959, respondents have 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 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. 4. Certain of said wool products were misbranded in violation of the Wool Products Labeling Act in that they were not labeled in accordance with the Rules and Regulations promulgated thereunder in the following respects:

(a) In that the required information descriptive of the fiber content was set out on labels in abbreviated words or terms, in violation of Rule 9 of the Rules and Regulations as aforesaid.

(b) By failing to separately set forth on the required stamp, tag, label or other mark of identification the character and amount of constituent fibers contained in the interlinings of the said wool products, in violation of Rule 24 of the aforesaid Rules and Regulations.

PAR. 5. The respondents in the course and conduct of their business as aforesaid were, and are, in substantial competition in commerce with other corporations, firms, and individuals likewise engaged in

the manufacture and sale of wool products, including ladies and junior misses coats.

PAR. 6. The acts and practices of the respondents 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.

Mr. Charles S. Cox supporting the complaint.

Alexander Rothstein, New York, N.Y., for respondents.

INITIAL DECISION BY WALTER K. BENNETT, HEARING EXAMINER

The Federal Trade Commission issued its complaint in the above-entitled proceeding on May 5, 1961,* charging respondents with violation of the Federal Trade Commission Act, the Wool Products Labeling Act of 1939 and the Rules and Regulations promulgated under the latter Act. The complaint alleged that (1) certain wool products within the jurisdiction of the Commission were not stamped, tagged or labeled in accordance with Section 4(a)(2) of the Wool Products Act, and (2) that certain wool products were (a) labeled in abbreviated form and (b) labels, marks or stamps failed to disclose the character and amount of constituent fibers contained in interlinings. It was further alleged that these activities constituted unfair and deceptive acts and practices as well as violation of the Wool Products Act and Regulations.

On July 11, 1961, counsel supporting the complaint submitted to the hearing examiner an agreement, dated June 30, 1961, executed by respondents, their counsel and counsel supporting the complaint. The agreement provided for the disposition of the entire matter by the entry without further notice of a consent order to cease and desist the practices charged. Said agreement was duly approved by the Director of the Bureau of Deceptive Practices and by the Chief of the Division of General Deceptive Practices Number 2.

The hearing examiner finds that said agreement includes all of the provisions required by Section 3.25(b) of the Rules of the Commission, that is:

A. An admission by respondents of all jurisdictional facts alleged in the complaint.

B. Provisions that:

(1) The complaint may be used in construing the terms of the order;

*As amended.

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(2) The order shall have the same force and effect as if entered after a full hearing;

(3) The agreement shall not become a part of the official record of the proceeding unless and until it becomes a part of the decision of the Commission;

(4) The entire record on which any cease and desist order may be based shall consist solely of the complaint and the agreement;

(5) The order may be altered, modified, or set aside in the manner provided by statute for other orders.

C. Waivers of:

(1) The requirement that the decision must contain a statement of findings of fact and conclusions of law;

(2) Further procedural steps before the hearing examiner and the Commission;

(3) Any right to challenge or contest the validity of the order entered in accordance with the agreement.

In addition the agreement contains the following provision: A statement that the signing of said 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.

Having considered said agreement, including the proposed order, and being of the opinion that it provides an appropriate basis for settlement and disposition of this proceeding; the hearing examiner hereby accepts the agreement but orders that it shall not become a part of the official record unless and until it becomes a part of the decision of the Commission.

The following jurisdictional findings are made and the following order issued:

1. Respondent Larry Levine, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of New York, with its office and principal place of business located at 252 West 37th Street, in the City of New York, State of New York.

2. Individual respondent Lawrence Levine is President of the corporate respondent. Said individual respondent formulates, directs, and controls the acts, policies and practices of the corporate respondent. His office and principal place of business is the same as that of the corporate respondent.

3. The Federal Trade Commission has jurisdiction of the subject matter of this proceeding and of the respondents.

ORDER

It is ordered. That respondent Larry Levine, Inc., a corporation, and its officers, and Lawrence Levine, individually and as an officer of said

corporation, and respondents' representatives, agents and employees, directly or through any corporate or other device, in connection with the manufacture for introduction or 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 in the Wool Products Labeling Act of 1939, of coats or other "wool products," as such products are defined in and subject to the Wool Products Labeling Act, do forthwith cease and desist from misbranding such products by:

1. Failing to affix labels to wool products showing each element of information required to be disclosed by Section 4(a) (2) of the Wool Products Labeling Act of 1939.

2. Setting forth information required under Section 4(a) (2) of the Wool Products Labeling Act of 1939 in abbreviated form.

3. Failing to separately set forth on the required stamp, tag, label or other means of identification, the character and amount of the constituent fibers contained in the interlinings of said wool products.

AMENDED DECISION OF THE COMMISSION AND ORDER TO FILE REPORT
OF COMPLIANCE

The Commission having considered the hearing examiner's initial decision, filed July 20, 1961, accepting an agreement containing a consent order theretofore executed by respondents and by counsel in support of the complaint; and

It appearing that through inadvertence the date "June 30, 1961" is given in the initial decision as the date on which complaint issued; and

The Commission being of the opinion that this error should be corrected:

It is ordered, That the initial decision be, and it hereby is, amended by striking the date "June 30, 1961" as it appears in the second line of the first paragraph of said decision and substituting therefor the date "May 5, 1961".

It is further ordered, That the initial decision, as so amended, shall, on the 6th day of September 1961, become the decision of the Commission.

It is further ordered, That respondents Larry Levine, Inc., a corporation, and Lawrence Levine individually and as an officer of said corporation, 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.

Complaint

IN THE MATTER OF

SEDAQUIL, INC., ET AL.

CONSENT ORDER, ETC., IN REGARD TO THE ALLEGED VIOLATION OF THE
FEDERAL TRADE COMMISSION ACT*Docket 8400. Complaint, May 16, 1961—Decision, Sept. 6, 1961*

Consent order requiring Bedford, Ohio, distributors of their drug preparation designated "Sedaquil" or "Sedaquilin" to cease representing falsely in newspaper advertising and otherwise that their said product was a new medical or scientific discovery and was absolutely harmless and safe to take.

COMPLAINT

Pursuant to the provisions of the Federal Trade Commission Act and by virtue of the authority vested in it by said Act, the Federal Trade Commission, having reason to believe that Sedaquil, Inc., a corporation, and William K. Kutler, Gertrude K. Kutler and William J. Kraus, individually and as officers of said corporation, hereinafter referred to as respondents, have violated the provisions of said 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 Sedaquil, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of Ohio, with its principal office and place of business located in Bedford, Ohio.

Respondents William K. Kutler, Gertrude K. Kutler and William J. Kraus are officers of the corporate respondent. These individuals formulate, direct and control the policies, acts and practices of the corporate respondent. The mailing address of all respondents is Box 97, Bedford, Ohio.

PAR. 2. Respondents are now, and for some time last past have been, engaged in the advertising, offering for sale, sale and distribution of a drug preparation designated "Sedaquil" or "Sedaquilin", which preparation contains ingredients which come within the classification of drugs as the term "drug" is defined in the Federal Trade Commission Act. The formula and directions for use of said preparation are as follows:

Formula:

Salicylamide	3.0 gr.
Acetophenetidin	2.5 gr.
Atropine Sulfate	0.02 mg.
Hyoscyamine Sulfate	0.1 mg.
Hyoscyne Hydrobromide	0.008 mg.
Methapyrilene Hydrochloride	10 mg.