

and Frank Ochman, as an officer of said corporations, and William Tizer, doing business under the name of Royal Tile Co. of Coatsville, Pennsylvania, Royal Tile Co. of Eastern Pennsylvania, and Royal Tile Co. of Wilkes-Barre, Pennsylvania, 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

A. E. NELSON AND COMPANY, INC., ET AL.

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

Docket 8376. Complaint, Apr. 25, 1961—Decision, Sept. 7, 1961

Consent order requiring a Wilkes-Barre, Pa., clothing manufacturer to cease violating the Wool Products Labeling Act by tagging as "95% wool, 5% Nylon", boys' trousers which contained substantially less wool than thus represented, and by failing to label wool products as required; and to cease making the same false statement as to fiber content in catalogs, and stating also that the domestically manufactured trousers were "Manufactured and Styled in Italy * * *", "Imported from Italy", etc.

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 A. E. Nelson and Company, Inc., a corporation, and Alfred E. Nelson, individually and as an 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 of 1939, 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 A. E. Nelson and Company, Inc. is a corporation organized and existing and doing business under and by virtue of the laws of the Commonwealth of Pennsylvania.

Individual respondent Alfred E. Nelson is President and Treasurer of the corporate respondent. Said individual respondent formulates,

directs and controls the acts, practices and policies of said corporate respondent. Respondents' office and place of business is located at 38 Baltimore Street, Wilkes-Barre, Pennsylvania.

PAR. 2. Subsequent to the effective date of the Wool Products Labeling Act of 1939, and more especially since 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 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 men's and/or boys' trousers labeled or tagged as 95% wool, 5% Nylon, whereas, in truth and in fact, said products contained substantially less woolen fibers than represented.

PAR. 4. Certain of said wool products were further misbranded by the 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 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 sale of wool products, including men's and/or boys' trousers.

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, and for the purpose of inducing the sale of their trousers, respondents set forth a depiction of a label which indicates the garments have been imported, and have made certain statements with respect to the wool content, the place of manufacture, and the styling of their trousers in catalogs mailed to the retail trade in the United States.

Among and typical of the statements contained in said catalogs are the following:

95% wool—5% Nylon

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Depicted is the reproduction of a label that states:

Manufactured and Styled

in Italy by

Lanisa

Imported from Italy

Under the depicted label is the following:

Each pair in No. 3670 Range

carries this Imported Label

PAR. 8. Such statements and depictions are false, misleading and deceptive. In truth and in fact, the garments contain substantially less wool than indicated; the garments were not manufactured or styled in Italy or imported from Italy, but, in truth and in fact, were manufactured by the respondents in the United States.

PAR. 9. The use by the respondents of the aforesaid false, misleading and deceptive statements and depictions has had, and now has, the capacity and tendency to lead prospective purchasers into the erroneous and mistaken belief that said statements and depictions were and are true and thus to induce prospective purchasers to buy substantial quantities of respondents' product by reason of said erroneous and mistaken belief. As a consequence thereof, substantial trade in commerce has been unfairly diverted to respondents from their competitors and substantial injury has been, and is being, done to competition in commerce.

PAR. 10. The acts and practices of said respondents, as hereinabove alleged, were, and are, all to the prejudice and injury of the public and of respondents' 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. Michael P. Hughes supporting the complaint.

Mr. Thomas E. Roberts and *Mr. Nathan Hyman* of Wilkes-Barre, Pa., for respondent.

INITIAL DECISION BY JOHN B. POINDEXTER, HEARING EXAMINER

On April 25, 1961, the Federal Trade Commission issued a complaint charging that the above-named respondents, in the course and conduct of their business, and for the purpose of inducing the sale of certain woolen products, had violated the Wool Products Labeling Act of 1939 and the Rules and Regulations promulgated thereunder and the Federal Trade Commission Act.

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After issuance and service of the complaint, A. E. Nelson and Company, Inc., a corporation, its attorneys, and counsel supporting the complaint entered into an agreement for a consent order. The agreement has been approved by the [Acting] Director and the [Assistant] Director of the Bureau of Litigation and disposes of the matters complained about as to all parties except as to Alfred E. Nelson. Reliable information has been presented to the Commission which discloses the fact that the individual respondent Alfred E. Nelson is deceased and the complaint insofar as it concerns Alfred E. Nelson is hereby dismissed.

The pertinent provisions of said agreement are as follows: Respondent admits all jurisdictional facts; the complaint may be used in construing the terms of the order; the order shall have the same force and effect as if entered after a full hearing and the said 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; the record herein shall consist solely of the complaint and the agreement; respondent waives the requirement that the decision must contain a statement of findings of fact and conclusions of law; respondent waives further procedural steps before the hearing examiner and the Commission, and the order may be altered, modified, or set aside in the manner provided by statute for other orders; respondent waives any right to challenge or contest the validity of the order entered in accordance with the agreement and the signing of said agreement is for settlement purposes only and does not constitute an admission by respondent that it has violated the law as alleged in the complaint.

The undersigned hearing examiner having considered the agreement and proposed order, hereby accepts such agreement, makes the following jurisdictional findings, and issues the following order:

JURISDICTIONAL FINDINGS

1. Respondent A. E. Nelson and Company, Inc. is a corporation existing and doing business under and by virtue of the laws of the Commonwealth of Pennsylvania, with its office and principal place of business located at 38 S. Baltimore Street, in the City of Wilkes-Barre, State of Pennsylvania.

2. The Federal Trade Commission has jurisdiction of the subject matter of this proceeding and of respondent A. E. Nelson and Company, Inc., a corporation, and the proceeding is in the public interest.

ORDER

It is ordered, That respondent A. E. Nelson and Company, Inc., a corporation, and its officers, 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 1939, of trousers 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.

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 A. E. Nelson and Company, Inc., a corporation, and its officers, 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 trousers, or any other product, in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from misrepresenting, directly or by implication, in any manner, the fiber content, place of manufacture and styling of their garments or of any other products.

It is further ordered, That the complaint insofar as it concerns Alfred E. Nelson, be dismissed and the same is hereby dismissed.

DECISION OF THE COMMISSION AND ORDER TO FILE REPORT OF COMPLIANCE

The Commission having considered the initial decision of the hearing examiner filed July 21, 1961, wherein he accepted an agreement containing a consent order to cease and desist executed by the respondent, A. E. Nelson and Company, Inc., and counsel in support of the complaint; and

It appearing that the initial decision erroneously states that the consent agreement was approved by the "Director and the Acting Director of the Bureau of Litigation" when, in fact, the agreement was approved by the Acting Director and Assistant Director of that Bureau; and

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

It is ordered, That the initial decision be, and hereby is, modified by striking the words "Director and the Acting Director" from line five of the second paragraph thereof and substituting therefor the words "Acting Director and Assistant Director".

It is further ordered, That the initial decision, as so modified, shall,

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on the 7th day of September 1961, become the decision of the Commission.

It is further 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.

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 8th day of September 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