
IN THE MATTER OF
L. W. FOSTER SPORTSWEAR CO., INC., ET AL.

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

Docket 8390. Complaint, May 5, 1961—Decision, Sept. 13, 1961

Consent order requiring Philadelphia manufacturers to cease violating the Wool Products Labeling Act by such practices as labeling men's jackets as "Shell 50% Wool, 40% Rep. Wool, 10% Nylon", when the jackets contained substantially less wool than so indicated; failing to set forth the ratio between the respective percentages of fibers in the face and back of pile fabrics; describing a portion of the fiber content on labels as "orlon" instead of using the common generic name; failing to label specimens or samples of wool products with required information; and failing in other respects to comply with requirements.

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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 L. W. Foster Sportswear Co., Inc., a corporation, and Louis W. Foster and Howard S. Foster, 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 L. W. Foster Sportswear Co., Inc. is a corporation organized, existing and doing business under and by virtue of the laws of the State of Pennsylvania.

Respondents Louis W. Foster and Howard S. Foster are officers of the corporate respondent. They 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 offices and principal place of business at Hancock & Westmoreland Streets, Philadelphia 40, Pennsylvania.

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, 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 misbranded wool products were men's jackets labeled or tagged by respondents as "Shell 50% Wool, 40% Rep. Wool, 10% Nylon," whereas in truth and in fact such section of said products contained substantially less wool than represented. Among other of such misbranded wool products were men's jackets labeled or tagged by respondents as "Shell 85% Wool, 5% Rayon, 10% Nylon," whereas in truth and in fact said section of said product contained reprocessed wool.

PAR. 4. Certain of said wool products were further misbranded by respondents in that they were not stamped, tagged or labeled as re-

quired 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. 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 required information descriptive of the fiber content was set out on labels in abbreviated form in violation of Rule 9 of said Rules and Regulations.

(b) In that the ratio between the respective percentages of fibers in the face and back of pile fabrics was not set forth, in violation of Rule 26 of said Rules and Regulations.

(c) In that the labels or tags attached to the wool products described a portion of the fiber content as "orlon" instead of using the common generic name of said fiber, in violation of Rule 8 of the aforesaid Rules and Regulations.

(d) In that specimens or samples of wool products which were used to promote or effect sales of such wool products in commerce were not labeled or marked to show the information required under Section 4(a) (2) of the Wool Products Labeling Act and the Rules and Regulations thereunder, in violation of Rule 22 of the aforesaid Rules and Regulations.

PAR. 6. 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 pile lined coats.

PAR. 7. 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 W. O'Connell for the commission;

Lodge and Goldman, by *Mr. Erwin Lodge*, Philadelphia, Pa., for respondents.

INITIAL DECISION BY LOREN H. LAUGHLIN, HEARING EXAMINER

The Federal Trade Commission (sometimes also hereinafter referred to as the Commission) on May 5, 1961, issued its complaint herein, charging the above-named respondents with having violated the provisions of the Federal Trade Commission Act, and of the Wool

Products Labeling Act of 1939 and the Rules and Regulations promulgated thereunder, in certain particulars, and respondents were duly served with process.

On July 10, 1961, there was submitted to the undersigned hearing examiner of the Commission, for his consideration and approval, an "Agreement Containing Consent Order To Cease And Desist," which had been entered into by and between respondents and counsel for both parties, under date of July 5, 1961, subject to the approval of the Bureau of Litigation of the Commission, which had subsequently duly approved the same.

On due consideration of such agreement and the complaint herein, the hearing examiner finds that said agreement, both in form and in content, is in accord with § 3.25 of the Commission's Rules of Practice for Adjudicative Proceedings, and that by said agreement the parties have specifically agreed to the following matters:

1. Respondent L. W. Foster Sportswear Co., Inc., is a corporation existing and doing business under and by virtue of the laws of the State of Pennsylvania, with its office and principal place of business located at Hancock and Westmoreland Street, in the city of Philadelphia, State of Pennsylvania. Respondents Louis W. Foster and Howard S. Foster are officers of the corporate respondent. Their address is the same as that of the corporate respondent.

2. Respondents admit all the jurisdictional facts alleged in the complaint and agree that the record may be taken as if findings of jurisdictional facts had been duly made in accordance with such allegations.

3. This agreement disposes of all of this proceeding as to all parties.

4. 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;

- (c) All of the rights they may have to challenge or contest the validity of the order to cease and desist entered in accordance with this agreement.

5. The record on which the initial decision and the decision of the Commission shall be based shall consist solely of the complaint and this agreement.

6. This agreement shall not become a part of the official record unless and until it becomes a part of the decision of the Commission.

7. This 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.

8. The following order to cease and desist may be entered in this proceeding by the Commission without further notice to respondents.

When so entered, it shall have the same force and effect as if entered after a full hearing. It 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.

Upon due consideration of the complaint filed herein and the said "Agreement Containing Consent Order To Cease and Desist," the hearing examiner approves and accepts this agreement, and finds that the Commission has jurisdiction of the subject matter of this proceeding and of the respondents herein; that the complaint states a legal cause for complaint under the Federal Trade Commission Act, and under the Wool Products Labeling Act of 1939 and the Rules and Regulations promulgated thereunder, against the respondents, both generally and in each of the particulars alleged therein; that this proceeding is in the interest of the public; that the order proposed in said agreement is appropriate for the just disposition of all the issues in this proceeding as to all of the parties hereto; and that said order therefore should be, and hereby is, entered as follows:

It is ordered, That respondents L. W. Foster Sportswear Co., Inc., a corporation, and its officers, and Louis W. Foster and Howard S. Foster, 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 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 the Wool Products Labeling Act of 1939, of jackets 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. 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 wool products showing each element of information required to be disclosed by § 4(a) (2) of the Wool Products Labeling Act of 1939;
3. Using abbreviated words or terms descriptive of fiber content on stamps, tags, labels or other means of identification attached to said wool products;
4. Failing to set forth on tags, labels or other means of identification attached to pile fabrics or products made thereof the ratio between the respective percentages of fibers in the face and in the back of said fabric;
5. Failing to set forth the common generic name of fibers in the

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required information on labels, tags, or other means of identification attached to wool products;

6. Failing to label or mark samples of wool products used to promote or effect sales of such wool products in commerce with the information required under the Wool Products Labeling Act and the Rules and Regulations thereunder.

DECISION OF THE COMMISSION AND ORDER TO FILE REPORT OF COMPLIANCE

This matter having come on to be heard by the Commission upon its review of the initial decision filed by the hearing examiner on July 14, 1961, and the Commission having determined that said initial decision is adequate and appropriate in all respects to dispose of this proceeding:

It is ordered, That the aforesaid initial decision be, and it hereby is, adopted as the decision of the Commission.

It is further 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.