

Complaint

59 F.T.C.

September 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

P & G TEXTILE CORPORATION ET AL.

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

Docket 8415. Complaint, June 1, 1961—Decision, Sept. 20, 1961

Consent order requiring a New York City distributor to cease violating the Wool Products Labeling Act by such practices as labeling as "100% Wool", pieces of fabric or remnants which contained substantially less wool than so represented, and failing to show on labels of wool products the true generic name and the percentage of the constituent fibers, the name of the manufacturer, 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 P & G Textile Corporation, a corporation, and Ben Perman, 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, 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 P & G Textile Corporation is a corporation organized, existing, and doing business under and by virtue of the laws of the State of New York. Individual respondent Ben Perman is president of the corporate respondent. He formulates, directs, and controls the acts, policies, and practices of the corporate respondent, including the acts and practices hereinafter referred to. Both respondents have their office and principal place of business at 33 Lispenard 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 1960, re-

spondents 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 misbranded wool products were pieces of fabric or remnants labeled or tagged by respondents as "100% Wool", whereas, in truth and in fact, said products contained substantially less woolen fibers than that 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 the manner and form as prescribed by the Rules and Regulations promulgated under said Act.

Among such misbranded wool products, but not limited thereto, were wool products with labels which failed: (1) to show the true generic names of the fibers present; (2) to show the percentage of such fibers; and (3) to show the name or registered identification number of the manufacturer or a person subject to Section 3 of the Wool Products Labeling Act.

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 sale of wool products, including pieces of fabric or remnants.

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. Michael P. Hughes supporting complaint.

Mr. Abraham Burstein of New York, N.Y., for respondents.

INITIAL DECISION BY JOHN LEWIS, HEARING EXAMINER

The Federal Trade Commission issued its complaint against the above-named respondents on June 1, 1961, charging them with having violated the Wool Products Labeling Act of 1939 and the Rules and Regulations promulgated thereunder, and the Federal Trade Com-

mission Act, through the misbranding of certain wool products. After being served with said complaint, respondents appeared by counsel and entered into an agreement containing consent order to cease and desist dated July 25, 1961, purporting to dispose of all of this proceeding as to all parties. Said agreement, which has been signed by all respondents, by counsel for said respondents and by counsel supporting the complaint, and approved by the Director and Assistant Director of the Commission's Bureau of Textiles and Furs and the Chief of the Division of Enforcement thereof, has been submitted to the above-named hearing examiner for his consideration, in accordance with Section 3.25 of the Commission's Rules of Practice for Adjudicative Proceedings.

Respondents, pursuant to the aforesaid agreement, have admitted all the jurisdictional facts alleged in the complaint, and have agreed that the record may be taken as if findings of jurisdictional facts had been duly made in accordance with such allegations. Said agreement further provides that respondents waive any further procedural steps before the hearing examiner and the Commission, the making of findings of fact or conclusions of law, and all of the rights they may have to challenge or contest the validity of the order to cease and desist entered in accordance with said agreement. It has been agreed that the order to cease and desist issued in accordance with said agreement shall have the same force and effect as if entered after a full hearing and that the complaint may be used in construing the terms of said order. It has also been agreed that the aforesaid 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.

This proceeding having now come on for final consideration on the complaint and the aforesaid agreement containing consent order, and it appearing that the order provided for in said agreement covers all of the allegations of the complaint and provides for an appropriate disposition of this proceeding as to all parties, said agreement is hereby accepted and is ordered filed upon this decision becoming the decision of the Commission pursuant to Sections 3.21 and 3.25 of the Commission's Rules of Practice for Adjudicative Proceedings, and the hearing examiner, accordingly, makes the following jurisdictional findings and order:

1. Respondent P & G Textile Corporation is a corporation 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 33 Lispenard Street, in the City of New York, State of New York.

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Decision

Individual respondent Ben Perman is an officer of said corporation. He formulates, directs, and controls the acts, policies, and practices of the corporate respondent. The address of the individual respondent is the same as that of the corporate respondent.

2. The Federal Trade Commission has jurisdiction of the subject matter of this proceeding and of the respondents hereinabove named. The complaint states a cause of action against said respondents under the Wool Products Labeling Act of 1939 and the Federal Trade Commission Act, and this proceeding is in the interest of the public.

ORDER

It is ordered, That respondents P & G Textile Corporation, a corporation, and its officers, and Ben Perman, 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 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 wool remnants 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.

DECISION OF THE COMMISSION AND ORDER TO FILE REPORT OF COMPLIANCE

Pursuant to Section 3.21 of the Commission's Rules of Practice, published May 6, 1955, as amended, the initial decision of the hearing examiner shall, on the 20th day of September 1961, become the decision of the Commission; and, accordingly:

It is ordered, That the 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.

Complaint

59 F.T.C.

IN THE MATTER OF

SERGEANT & NICHOLY, INC., ET AL.

CONSENT ORDER, ETC., IN REGARD TO THE ALLEGED VIOLATION OF SEC. 2(c)
OF THE CLAYTON ACT

Docket 8364. Complaint, Apr. 17, 1961—Decision, Sept. 21, 1961

Consent order requiring a corporate broker of canned and other food products, a corporate food wholesaler, and the individual controlling both, to cease accepting illegal brokerage payments from sellers on purchases by said broker for the account of said wholesaler, which amounted to the wholesaler's receiving brokerage on its own purchases for resale.

COMPLAINT

The Federal Trade Commission, having reason to believe that the parties respondent named in the caption hereof, and hereinafter more particularly described, have been and are now violating the provisions of subsection (c) of Section 2 of the Clayton Act, as amended (U.S.C. Title 15, Section 13), hereby issues its complaint, stating its charges with respect thereto as follows:

PARAGRAPH. 1. Respondent Sergeant & Nicholoy, Inc. is a corporation organized, existing and doing business under and by virtue of the laws of the State of Wisconsin, with its office and principal place of business located at N. 56th 13740 West Silver Spring Road, Butler, Wisconsin, with mailing address as Post Office Box 702, Butler, Wisconsin.

Respondent Little Farmer Foods, Inc. is a corporation organized, existing and doing business under and by virtue of the laws of the State of Wisconsin, with its office and principal place of business located at the same address as that of respondent Sergeant & Nicholoy, Inc. Respondent Little Farmer Foods, Inc. also has as its mailing address Post Office Box 702, Butler, Wisconsin.

Respondent Robert C. Engle is an individual and is President of respondent Sergeant & Nicholoy, Inc. and is Secretary and Treasurer of respondent Little Farmer Foods, Inc. Said individual respondent has the same business and mailing address as that of the corporate respondents. Respondent Robert C. Engle is also principal stockholder of both corporate respondents and at all times hereinafter mentioned has formulated, directed and controlled, and now formulates, directs and controls the policies, acts and practices of said corporate respondents, including the acts and practices hereinafter mentioned. Respondent Robert C. Engle and both corporate respondents are hereinafter sometimes collectively referred to as respondents.