

are maintained by respondent and adequate record keeping the facts upon which such claims and representations are based.

It is further ordered, That the respondent herein shall, within sixty (60) days after service upon him of this order, file with the Commission a report in writing setting forth in detail the manner and form in which he has complied with this order.

IN THE MATTER OF

SMOLOWITZ & BENKEL, INC., ET AL.

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

Docket C-10. Complaint, Oct. 23, 1961—Decision, Oct. 23, 1961

Consent order requiring New York City manufacturers to cease violating the Wool Products Labeling Act by labeling as "50% wool, 50% reprocessed wool", men's and boys' caps which contained a substantial quantity of non-woolen fibers; failing to disclose on labels the true generic names of fibers present in such caps, and the percentage thereof; failing to disclose the fiber composition of knitted ear covers of different fiber composition from the caps themselves; and failing in other respects to comply with requirements of the Act.

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 Smolowitz & Benkel, Inc., a corporation, and Nathan Smolowitz and Samuel Small, 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 Smolowitz & Benkel, Inc. is a corporation organized, existing and doing business under and by virtue of the laws of the State of New York. Individual respondents Nathan Smolowitz and Samuel Small are president and secretary-treasurer, respectively, 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 584 Broadway in New York, New York.

PAR. 2. Subsequent to the effective date of the Wool Products Labeling Act of 1939 and more especially since 1950, 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 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 and boys' caps labeled or tagged by the respondent as "50% wool, 50% reprocessed wool", whereas in truth and in fact said products contained a substantial quantity of non-woolen fibers.

PAR. 4. Certain of said wool products were further misbranded by the 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.

Among such misbranded wool products, but not limited thereto, were men's and boys' caps with labels which failed: (1) to disclose the true generic names of the fibers present and (2) to disclose the percentage of such fibers.

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) The required information contained on the labels or tags attached to the wool products was obscure and inconspicuous and so placed as to be unseen or unnoticed by purchasers and purchaser-

consumers, in violation of Rule 11 of the aforesaid Rules and Regulations.

(b) Certain wool products composed of two or more sections which were recognizably distinct and of different fiber composition, were not labeled in such a manner as to disclose the fiber composition of each section thereof, in violation of Rule 23(b) of the aforesaid Rules and Regulations.

Among such misbranded wool products were men's and boys' caps containing knitted ear covers of different fiber composition from the remainder of the caps which were not labeled to disclose the fiber composition of the aforesaid knitted ear covers.

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.

DECISION AND ORDER

The Commission having heretofore determined to issue its complaint charging the respondents named in the caption hereof with violation of the Federal Trade Commission Act and the Wool Products Labeling Act of 1939, and the respondents having been served with notice of said determination and with a copy of the complaint the Commission intended to issue, together with a proposed form of order; and

The respondents and counsel for the Commission having thereafter executed an agreement containing a consent order, an admission by the respondents of all the jurisdictional facts set forth in the complaint, a statement that the signing of said agreement is for settlement purposes only and does not constitute an admission by respondents that the law has been violated as set forth in the complaint, and waivers and provisions as required by the Commission's rules; and

The Commission, having considered the agreement, hereby accepts same, issues its complaint in the form contemplated by said agreement, makes the following jurisdictional findings, and enters the following order:

1. Respondent Smolowitz & Benkel, 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 584 Broadway, in the city of New York, State of New York.

Respondents Nathan Smolowitz and Samuel Small are officers of

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said corporation and their address is the same as that of said corporation.

2. The Federal Trade Commission has jurisdiction of the subject matter of this proceeding and of the respondents, and the proceeding is in the public interest.

ORDER

It is ordered, That Smolowitz & Benkel, Inc., a corporation, Nathan Smolowitz and Samuel Small individually and as officers of the said corporation, and respondents' 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, distribution, or delivery for shipment, in commerce, of wool products, as "commerce" and "wool products" are defined in the Wool Products Labeling Act of 1939, do forthwith cease and desist from misbranding wool 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 securely affix to, or place on, each such product a stamp, tag, label or other means of identification showing in a clear and conspicuous manner each element of information required to be disclosed by Section 4(a)(2) of the Wool Products Labeling Act of 1939.

3. Failing to disclose by sections and 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 each section of such wool products as required by Rule 23(b) of the Rules and Regulations promulgated under the aforesaid Wool Products Labeling Act of 1939.

It is further 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 this order.

Decision

IN THE MATTER OF
ELLIOT KNITWEAR, INC., ET AL.ORDER, ETC., IN REGARD TO THE ALLEGED VIOLATION OF THE FEDERAL TRADE
COMMISSION AND THE WOOL PRODUCTS LABELING ACTS*Docket 6637. Complaint, Sept. 17, 1956*—Decision, Oct. 24, 1961*

Order—following remand of a review proceeding by the Court of Appeals for the Second Circuit for additional evidence to support a finding that “the label as a whole is deceptive”**—requiring New York City distributors of wool products, including sweaters, to cease violating the Wool Products Labeling Act by using the word “Cashmora” on labels, etc., attached to any wool product containing no cashmere but permitting its use on woolens containing a substantial amount of cashmere if accompanied by clear disclosure of the percentage of cashmere content.

Messrs. S. F. House and Charles W. O’Connell supporting the complaint.

Golenbock & Barell, by Mr. Martin C. Barell, of New York, N.Y., for respondents.

SUPPLEMENTAL INITIAL DECISION ON REMAND OF PROCEEDING BEFORE
JOHN LEWIS, HEARING EXAMINER

STATEMENT OF PROCEEDINGS

This proceeding is before the hearing examiner for decision on a remand from the United States Court of Appeals, for the Second Circuit. The complaint herein was issued September 17, 1956, and charged respondents with various acts of misbranding of wool products in violation of the Wool Products Labeling Act of 1939, the Rules and Regulations promulgated thereunder and the Federal Trade Commission Act. All of the charges, except one, were disposed of by an agreement containing a consent order which was embodied in an initial decision of this hearing examiner, filed May 17, 1957, said decision becoming the decision of the Commission by order issued June 25, 1957. The remaining charge, involving respondents’ use of the word “Cashmora” on tags, stamps or labels attached to certain of their products, was the subject of hearings at which evidence was offered in support of and in opposition to the allegations of the complaint. An initial decision disposing of this charge was filed by the examiner on October 17, 1957, in which respondents were found to have violated the law as charged and were ordered to cease and desist therefrom.

*Amended Sept. 8, 1960. Charges in the original complaint were disposed of by two separate orders—53 F.T.C. 1185 and 54 F.T.C. 1398.

**266 F. 2d 787, 6 S. & D. 566.