

OXFORD HANDKERCHIEF CO., INC., ET AL.

ORDER, ETC., IN REGARD TO THE ALLEGED VIOLATION OF THE FEDERAL TRADE
COMMISSION AND THE TEXTILE FIBER PRODUCTS IDENTIFICATION ACTS

Docket 8464. Complaint, Jan. 30, 1962—Decision, Nov. 27, 1962

Order requiring New York City distributors to cease violating the Textile Fiber
Products Identification Act by failing to affix to handkerchiefs sold in com-
merce the required stamps, tags, labels, or other means of identification.

COMPLAINT

Pursuant to the provisions of the Federal Trade Commission Act
and the Textile Fiber Products Identification Act, and by virtue of
the authority vested in it by said Acts, the Federal Trade Commission,

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having reason to believe that Oxford Handkerchief Co., Inc., a corporation, and Lester K. Lipson, individually and as an officer of said corporation, hereinafter referred to as respondents, have violated the provisions of such Acts and the Rules and Regulations under the Textile Fiber Products Identification 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 Oxford Handkerchief Co., 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 51 Orchard Street, New York, N.Y.

Respondent Lester K. Lipson is an officer of said corporate respondent. He formulates, controls and directs the acts, practices and policies of the said corporate respondent, including the acts and practices complained of herein. His office and place of business is the same as that of the corporate respondent.

PAR. 2. Subsequent to the effective date of the Textile Fiber Products Identification Act on March 3, 1960, respondents have been and are now engaged in the introduction, delivery for introduction, sale, advertising and offering for sale in commerce, and in the transportation or causing to be transported in commerce, and in the importation into the United States, of textile fiber products; and have sold, offered for sale, advertised, delivered, transported and caused to be transported, textile fiber products, which have been advertised or offered for sale in commerce; and have sold, offered for sale, advertised, delivered, transported and caused to be transported, after shipment in commerce, textile fiber products, either in their original state or contained in other textile fiber products; as the terms "commerce" and "textile fiber product" are defined in the Textile Fiber Products Identification Act.

PAR. 3. Certain of said textile fiber products were misbranded by respondents in that they were not stamped, tagged, or labeled as required under the provisions of Section 4(b) of the Textile Fiber Products Identification Act, and in the manner and form prescribed by the Rules and Regulations promulgated thereunder.

Among such misbranded textile fiber products were handkerchiefs which had no stamp, tag, label or other means of identification on or affixed to such product.

PAR. 4. The acts and practices of respondents as set forth herein, were and are in violation of the Textile Fiber Products Identification Act and the Rules and Regulations 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. Bruce T. Fraser and *Mr. William H. Garber* supporting the complaint.

Mr. A. Harry Flescher, of New York, N.Y., for respondents.

INITIAL DECISION BY DONALD R. MOORE, HEARING EXAMINER

STATEMENT OF PROCEEDINGS

The Federal Trade Commission issued its complaint in this matter January 30, 1962, and it was duly served on both respondents. The complaint charges in effect the marketing in commerce of handkerchiefs that did not bear the labels required by the Textile Fiber Products Identification Act. In addition to charging violation of that Act, the complaint alleged that the practices also constituted unfair and deceptive acts and practices and unfair methods of competition in violation of the Federal Trade Commission Act.

After being served with the complaint, respondents appeared by counsel and filed answer denying generally any violation of law and advancing, as an affirmative defense, the allegation that any unlabeled products handled by them were acquired before the effective date of the Textile Act.

Hearings were held in New York, New York, April 30 and July 6, 1962. The latter hearing was held, on motion of respondents, to permit the introduction of additional evidence on behalf of respondents. The motion seeking reopening of the proceeding after the record had been closed for the reception of evidence presented, as an additional affirmative defense, the contention that any unlabeled textile products acquired by respondents after the effective date of the Textile Act had been manufactured prior to such date.

At the hearings, testimony and other evidence were offered in support of and in opposition to the allegations of the complaint, and this testimony and evidence were duly recorded and filed in the office of the Commission.

Both sides were represented by counsel, participated in the hearings, and were afforded full opportunity to be heard, to examine and cross-examine witnesses and to introduce evidence bearing on the issues.

At the close of all the evidence, counsel for respondents moved to dismiss the complaint as to all respondents for failure of proof. That motion was taken under advisement and decision deferred until the filing of this initial decision. That motion is now denied.

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Proposed findings of fact and conclusions of law and a proposed form of order were filed at the conclusion of all the evidence by counsel supporting the complaint. Counsel for respondents waived the filing of such proposals. Proposed findings not adopted, either in the form proposed or in substance, are rejected as not supported by the evidence or as involving immaterial matters.

After carefully reviewing the entire record in this proceeding, and the proposed findings, conclusions and order filed by counsel supporting the complaint, the hearing examiner finds that this proceeding is in the interest of the public, and based on the entire record and his observation of the witnesses, makes the following findings of fact and conclusions drawn therefrom, and issues the following order.

FINDINGS OF FACT

1. Respondent Oxford Handkerchief Co., 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 51 Orchard Street, New York, New York.

Respondent Lester K. Lipson is an officer of the corporate respondent. He formulates, controls and directs the acts, practices and policies of the corporate respondent, including the acts and practices complained of herein. His office and place of business is the same as that of the corporate respondent.

Respondents are handkerchief jobbers, buying handkerchiefs from manufacturers and reselling them to retail stores. The business of respondents is substantial, with annual sales of about \$100,000.

2. Subsequent to the effective date of the Textile Fiber Products Identification Act on March 3, 1960, respondents have been and are now engaged in the introduction, delivery for introduction, sale, advertising and offering for sale, in commerce, and in the transportation or causing to be transported in commerce, and in the importation into the United States, of textile fiber products; have sold, offered for sale, advertised, delivered, transported and caused to be transported, textile fiber products which have been advertised or offered for sale in commerce; and have sold, offered for sale, advertised, delivered, transported and caused to be transported, after shipment in commerce, textile fiber products, either in their original state or contained in other textile fiber products, as the terms "commerce" and "textile fiber product" are defined in the Textile Fiber Products Identification Act.

3. The findings set forth in the first two subparagraphs of paragraph 1 and in paragraph 2 are predicated primarily on the pleadings. Those findings correspond to the allegations of paragraphs 1

and 2 of the complaint. Although respondents filed answer denying the allegations of paragraphs 3 and 4 of the complaint, the answer neither admitted nor denied, nor otherwise referred to, the allegations of paragraphs 1 and 2.

Rule 4.5 of the Commission's Rules of Practice for Adjudicative Proceedings prescribes that an answer contesting the allegations of a complaint shall contain "Specific admission, denial, or explanation of each fact alleged in the complaint or, if the respondent is without knowledge thereof, a statement to that effect."

In this state of the record, it is appropriate to apply the established principle of law that material facts alleged in a complaint are taken as true where no responsive pleading is interposed by the party charged. As stated in 41 Am. Jur., Pleading § 198, "Admissions may arise by implication from a party's failure to plead or from his failure to deny. If the law requires him to file a pleading responsive to that of his adversary and he neglects or fails to do so, he may be taken as admitting the cause of action . . . stated in his adversary's pleading. Thus, the facts alleged in a petition, declaration, or complaint are generally taken as true where no responsive pleading is interposed by the defendant. . . .

"It is an established rule of pleading that where in the pleading of one party there is a material averment which is traversable but which is not denied by the other party, it stands admitted for purposes of the suit. . . . Hence, any well-pleaded averment of fact in the plaintiff's declaration, petition, or complaint which is not expressly denied in the plea or answer must be taken as true for the purposes of the action" See also *National Candy Company v. F.T.C.*, 104 Fed. 2d 999, 1003 (7th Cir. 1939), cert. denied 308 U.S. 610 [3 S. & D. 116].

Additionally, the testimony of respondent Lester K. Lipson establishes that he is president of the corporate respondent and controls and directs its acts and practices.

The jurisdictional findings in paragraph 2 are supported not only by the admissions implied from respondents' failure to deny, but also by uncontroverted evidence of the actual shipment of unlabeled textile fiber products in commerce. Also, the record shows that the unlabeled handkerchiefs were obtained from the regular stock of respondents which was offered for sale and made available to the public in general, including out-of-state purchasers. On the basis of this fact, coupled with proof of actual sales in commerce, it may be and is inferred that all the respondents' handkerchiefs in stock were being offered for sale in commerce.

Furthermore, the record specifically supports a finding that a sub-

stantial portion of the handkerchiefs here involved were manufactured from textile fiber products shipped in commerce.

4. Certain of the textile fiber products referred to in paragraph 2 were misbranded by respondents in that they were not stamped, tagged, or labeled as required under the provisions of Section 4(b) of the Textile Fiber Products Identification Act, and in the manner and form prescribed by the Rules and Regulations promulgated thereunder.

Among such misbranded textile fiber products were handkerchiefs which had no stamp, tag, label or other means of identification on or affixed to such product.

5. There really is no dispute that certain of respondents' handkerchiefs did not bear the required stamps, tags or labels, although respondent Lipson seemed to raise some question as to the extent of the stock misbranded. However, the Commission attorney who inspected respondents' place of business testified that, on the basis of random sampling, he had found a "substantial portion" of respondents' stock that bore no labels whatever. In fact, he testified that there were in the store no handkerchiefs of domestic origin that were labeled. The only handkerchiefs he observed to be labeled were of foreign origin. The uncontroverted evidence is to the effect that Commission Exhibits 1, 2, 3, 5 and 6 were misbranded in that the label required by the statute was not affixed. The exhibits obtained at the respondents' place of business (CX 1-3) were obtained by random sampling and were typical of the handkerchiefs constituting respondents' stock in trade.

Respondents' own evidence is that all the satin-stripe handkerchiefs in stock (exemplified by CX 3) were unlabeled.

In addition to the evidence cited regarding respondents' stock, the record contains a stipulation to the effect that in November 1960, respondents shipped to an Atlanta, Georgia, department store some thirty dozen handkerchiefs which bore no labels or marks to disclose fiber content.

The substantiality of the business is indicated by the fact that respondents' stock is ordinarily composed of approximately 20,000 to 25,000 dozen handkerchiefs.*

6. Respondents did not establish by records or other competent means that the unlabeled textile fiber products described in paragraphs 4 and 5 (above) were entitled to exception from the labeling requirements of the Act under Section 15 as having been acquired prior to the effective date of the Act on March 3, 1960. Such textile

*Respondents' witnesses simply said 20,000 or 25,000 (Tr. 25, 63), but the dollar value indicates that they were referring to dozens (Tr. 29, 68, 75).

fiber products are therefore not entitled to the exception referred to in Section 15 of the Act as products acquired prior to its effective date.

7. Although respondents originally contended that all handkerchiefs purchased by them since the effective date of the Act (March 3, 1960) were labeled in accordance with the law, the ground of defense later shifted. In addition to claiming, at the first hearing, that unlabeled goods had been purchased prior to the effective date of the statute, they also contended, at a second hearing, that unlabeled goods, even though "subsequently acquired," were "manufactured prior to such date or certified to the respondents by their suppliers to have been manufactured prior to such date. . . ."

Conceding in effect that handkerchiefs sold and offered for sale by them after the effective date of the Act were not labeled, respondents thus took the position that any such unlabeled handkerchiefs were either *purchased* by them prior to the effective date of the statute or *manufactured* before that date. Although the record had been closed for the reception of evidence, it was reopened to give respondents an opportunity to present proof in support of their defense that unlabeled goods had been manufactured before March 3, 1960.

Respondents' defense was based on Section 15 of the Textile Fiber Products Identification Act, providing that "The Commission shall provide for the exception of any textile fiber product acquired prior to the effective date of this Act."

Under that statutory provision, the Commission adopted and published, on June 1, 1959, a policy reading in pertinent part as follows:

The exception provided by Sec. 15 of the Act shall apply to textile fiber products acquired prior to the effective date of the Act (March 3, 1960) where such products are marketed or handled on or after March 3, 1960, in the same basic form as that in which they were acquired, but shall not apply to textile fiber products manufactured or processed on or after March 3, 1960, from other textile fiber products acquired prior to that date where such manufacturing or processing changes the basic form of the textile fiber product to the extent that it becomes a different type of product. * * *

On or after March 3, 1960, any person who desires to claim the exception provided by Sec. 15 of the Act must be able to establish by records or other competent means that the products as to which he claims the exception were acquired in the same basic form prior to March 3, 1960, and that he is entitled to the exception claimed.¹

¹ 24 *Federal Register* 4480. Despite a possible ambiguity in Sec. 15 and the Commission's policy statement, the examiner interprets both to mean that the exception is available to a marketer even though he himself did not acquire the goods prior to March 3, 1960. In other words, if a product is excepted because it was "acquired"—e.g., manufactured—by a supplier before the crucial date, the exception is applicable to the product in the hands of subsequent purchasers—even though their acquisition was after such date. It would appear that the exception attaches *in rem*, not *in personam*.

8. However, the evidence presented by respondents does not measure up to a valid defense. They had no records to establish with any degree of certainty their *acquisition* of the unlabeled goods before March 3, 1960, and no records whatever to establish the *manufacture* of the unlabeled goods before that date.

The question remains whether they established by "other competent means" that the goods were excepted from the labeling requirements by virtue of either or both of the circumstances alleged. To resolve this question necessitates examination and analysis of the testimony offered by respondents, as well as their pre-complaint statements to the Commission's investigating attorney.

9. Until the close of the initial—and presumably, the only—hearing in this matter, respondents consistently maintained that any unlabeled goods were purchased before March 3, 1960. This is what respondent Lipson told the Commission's investigating attorney in November 1960, and this is what he swore to at the hearing in April 1962.²

It is true that despite his firm statements on direct examination that all goods purchased after March 3, 1960, were labeled, Mr. Lipson did finally retreat, on cross-examination, to the contention that they "must have been" labeled by respondents' suppliers.

The significant point is that when he was insisting that all handkerchiefs purchased after March 3, 1960, were or must have been labeled, Mr. Lipson made no suggestion that any manufacturer was shipping unlabeled goods subsequent to the effective date of the Act.³

It was not until cross-examination had demonstrated that they could not establish their pre-Act acquisition of the unlabeled goods that respondents moved for reopening of the record and advanced the inconsistent claim that some of the unlabeled goods were *purchased* after the cutoff date but had been *manufactured* prior to that date.

10. Mr. Lipson produced invoices dated prior to March 3, 1960,

² Mr. Lipson testified positively and unequivocally on direct examination that all unlabeled goods handled by respondents were purchased before the March 3, 1960, deadline:

Q. Tell me, all merchandise that you have purchased since the effective date of the Act on March 3rd, 1960, did they come into your place labeled?

A. Yes, they did.

Q. Were they labeled?

A. Yes (Tr. 26-27).

Q. Mr. Lipson, did you add any tags or do they come tagged from your manufacturers, your suppliers?

A. We don't add anything. However they come from our manufacturers, that's how they are sold.

Q. And they are tagged ever since the Act went into effect?

A. Yes.

Q. All merchandise bought by you since March 3, 1960, have they been tagged or not?

A. Yes. (Tr. 33)

³ As a matter of fact, Mr. Lipson did not again take the stand, and his testimony stands unretracted except by virtue of the contradictory testimony of his employee.

that he testified covered purchases of the sample handkerchiefs in the record.

Despite his positive identification, on direct examination by defense counsel, of these invoices as covering the handkerchiefs in question, Mr. Lipson, on cross-examination, conceded that he had no way to link any particular handkerchief to any particular purchase invoice.

11. As to the red bandanas exemplified by CX 1 and the cotton cord handkerchiefs exemplified by CX 2, 5 and 6, his position in effect was that he had checked his invoices, and the only relevant purchases of those handkerchiefs up to November 1960 (when the Commission's inspection was made) were dated before March 3, 1960. This testimony was not specifically refuted, but in the context of the whole record, its probative force is blunted.⁴

12. In the case of the satin-stripe handkerchiefs (CX 3), both Mr. Lipson and his employee, Abe Weinberg, admitted the purchase of some 8,000 dozen such handkerchiefs between March 3, 1960, and October 20, 1960. All the purchases referred to were from Rose Handkerchief Works, although Mr. Lipson stated he bought such handkerchiefs from other suppliers as well.

13. Mr. Lipson first agreed "positively" that none of the satin-stripe handkerchiefs in stock November 25, 1960, were labeled, because they were "all purchased before that date [March 3, 1960]." But he then receded to a position that some "could have been" labeled (Tr. 45), while Mr. Weinberg testified later that in fact, none were labeled (Tr. 69).

14. On direct examination, Mr. Lipson took the position that all the unlabeled satin-stripe handkerchiefs found in his stock in November 1960 had been purchased on March 1, 1960, and he produced an invoice (RX 3) showing the purchase of 1,520 dozen from Rose Handkerchief Works on that date. When confronted with invoices showing the purchase of some 8,000 dozen satin-stripe handkerchiefs between that date and October 20, 1960, he finally conceded he had

⁴ On cross-examination, Mr. Lipson admitted purchasing other red bandanas besides those shown on the invoice (RX 1) he produced dated March 11, 1959. As to whether or not he had purchased any since that date, his testimony was equivocal. He first said he didn't recollect; that it was possible he had done so; that he didn't order any in 1959 or 1960 other than those shown on the invoice; that he didn't believe he had, but he might have (Tr. 34-35).

The key to this testimony is his frank statement that he "didn't find any invoices while looking through, but it could have been mislaid." He gave no other basis for his belief that the unlabeled red bandana handkerchief was from the March 11, 1959, shipment.

Referring to the unlabeled cotton cord handkerchiefs (CX 2, 5 and 6), Mr. Lipson stated they came from a shipment covered by an invoice dated January 18, 1960 (RX 2) and denied any other purchases of that type of handkerchief from the same supplier subsequent to that date (Tr. 36).

See also par. 15, *infra*.

no way of tying the unlabeled handkerchiefs to the shipment of March 1, 1960.

Mr. Lipson conceded also that there was no distinguishing characteristic to distinguish one manufacturer's handkerchiefs from another. His position that CX 3 was from a shipment purchased from Rose March 1, 1960, was based on his knowledge that he was buying that type of handkerchief from Rose at that time.⁵ However, he could not establish that the unlabeled satin-stripe handkerchiefs in question were part of the March 1, 1960, shipment from Rose.

Then, after an objection by counsel (as to which Mr. Lipson was constrained to deny that counsel was putting words in his mouth), he retreated to the contention that any goods purchased by respondents after March 3, 1960, "must have been" labeled by the manufacturer before shipment.

15. Statements by Mr. Lipson, both on the stand and during the pre-complaint investigation, provide a shaky foundation for the claims of pre-Act acquisition of the unlabeled handkerchiefs—and also for the claim of pre-Act manufacture.

On direct examination by his own counsel, Mr. Lipson was asked whether he told the Commission's investigating attorney when the unlabeled handkerchiefs were acquired. He answered: "I couldn't possibly tell him," except that "if they were not labeled they were acquired before the Act" (Tr. 26).

The Commission's attorney was told inventory records were not maintained and were not in existence (Tr. 18); that the questioned handkerchiefs "could not be traced to specific purchase invoices" (Tr. 20); that many manufacturers produce the same types of handkerchiefs (Tr. 19); and that there was no distinguishing characteristic to distinguish one manufacturer's handkerchiefs from another's (Tr. 41).⁶

16. The testimony and exhibits (RX 1, 2) presented by respondents relating to unlabeled red bandana handkerchiefs (CX 1) and un-

⁵ Mr. Lipson stated, during the pre-complaint investigation, that he "believed that these handkerchiefs were either purchased from Rose Handkerchief Company . . . or Standard Handkerchief Company," but "he was not certain which company they were purchased from" (Tr. 12).

⁶ On cross-examination, Mr. Lipson was asked:

"How do you handle your stock? Do you sell the first things that come in first, or in what order?"

He replied:

"No. I just put it in. Sometimes the last thing could go out first. I mean, I just don't keep—if you follow my business, it's just a two-man business, myself and the boy who works for me.

"When merchandise comes in, we check it off and put it on the shelves and when customers come in and buy it we just take it out of the shelves and we sell it to them. I don't

labeled cotton cord handkerchiefs (CX 2, 5, 6) indicate that they might have been purchased before March 3, 1960.

However, in the light of the whole record, and particularly in view of the inconsistencies in the statements of Mr. Lipson, together with the record-keeping deficiencies testified to, it is found that respondents have not carried their burden of proving the goods come within the statutory exception as having been acquired before March 3, 1960.

17. Regarding the unlabeled satin-stripe handkerchiefs, it must be and is found that respondents failed to prove that they were acquired by respondents prior to March 3, 1960.

18. In support of the belatedly offered defense that some of the handkerchiefs were manufactured before March 3, 1960, although acquired subsequently by respondents, respondents presented the testimony of their employee, Abe Weinberg, and of Howard Osher, owner of Rose Handkerchief Works.

These two witnesses were in agreement that for a period of some months after March 3, 1960, Rose shipped to respondents unlabeled satin-stripe handkerchiefs, and that Osher told Weinberg by telephone that they had been manufactured before March 3, 1960. They differed, however, on the duration of Rose's shipments of unlabeled goods. Mr. Weinberg specifically stated that unlabeled goods were received from Rose as late as October 1960, and indicated that the practice continued until as late as July 1961.

Mr. Osher, on the other hand, was insistent that he had disposed of his unlabeled goods by the middle of 1960; that his August 1960 shipments were "probably labeled"; and that those in September and October 1960 definitely were. He said Mr. Weinberg was mistaken in his positive statements of checking with him by phone as to the August, September and October shipments.

19. At the most, then, respondents have shown that it is *possible* that the unlabeled handkerchiefs were either manufactured or purchased before March 3, 1960. But the evidence does not compel any

keep any permanent inventory or any particular inventory of what I have. It's from looking around and checking it physically that I know it.

"We don't keep any inventory sheets or anything of that style, so it's hard to say—like, I will give you an example:

"When Mr. Turiel was in, he said 'Where did you get this handkerchief?' Offhand, I can't say if it was Rose's or Norfolk or ten or twenty other manufacturers. They all make the same handkerchief. . . ." (Tr. 40-41).

Witness also the following statement.

"I am talking about this particular item [CX 3]. If the item is labeled or not, I don't know which one it was, so I can't answer that to you, because this could have been the merchandise that was bought prior or it could be merchandise they labeled and it was bought afterwards and it was still in the same shelves" (Tr. 48).

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such inference. Conflicts in the testimony, coupled with respondents' obvious inability to identify with reasonable certainty the source and acquisition date of any particular merchandise, raise serious doubts as to whether all or any of the unlabeled goods were either acquired or manufactured before the applicable date.

While the record indicates that one supplier (Rose) furnished to respondents, subsequent to March 3, 1960, unlabeled handkerchiefs that were represented as having been manufactured before the cutoff date, respondents neither established that the unlabeled goods came from that source, nor did they present any evidence, by records or otherwise, to corroborate the supplier's statement as to pre-Act manufacture.⁷

In any event, their acceptance of telephoned assurances that the unlabeled goods had been made before the cutoff date does not demonstrate that degree of diligence on their part to establish that respondents are "entitled" to the statutory exception.⁸

It seems obvious that if such evidence as was offered here were to be accepted to defeat a charge of misbranding, the requirements of the statute would become a nullity.

The burden was on respondents to "establish by records or other competent means" that the products in question came within the exception. This they have not done.

CONCLUSIONS OF LAW

1. The Federal Trade Commission has jurisdiction of the subject matter of this proceeding and of the respondents.
2. The complaint herein states a cause of action, and this proceeding is in the public interest.
3. The acts and practices of respondents as set forth herein were and are in violation of the Textile Fiber Products Identification Act and the Rules and Regulations 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.
4. Respondents have not established by records or other competent means that the unlabeled products here involved were acquired prior to the effective date of the Textile Fiber Products Identification Act, nor that they are entitled to the exception provided for by Section 15 of the Act.

⁷ It is not without significance in this connection that the supplier showed himself blatantly hostile to the purposes and requirements of the Act (Tr. 78-79, 81).

⁸ It was testified that Mr. Osher offered to furnish a certificate of pre-Act manufacture, but it was declined.

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Decision and Order

ORDER

It is ordered, That respondents Oxford Handkerchief Co., Inc., a corporation, and Lester K. Lipson, individually and as an officer of such corporation, and respondents' representatives, agents and employees, directly or through any corporate or other device, in connection with the introduction, delivery for introduction, sale, advertising, or offering for sale, in commerce, or the transportation or causing to be transported, in commerce, or the importation into the United States of any textile fiber product; or in connection with the sale, offering for sale, advertising, delivery, transportation, or causing to be transported, of any textile fiber product which has been advertised or offered for sale in commerce; or in connection with the sale, offering for sale, advertising, delivery, transportation, or causing to be transported, after shipment in commerce, of any textile fiber product either in its original state or contained in other textile fiber products; as the terms "commerce" and "textile fiber product" are defined in the Textile Fiber Products Identification Act, do forthwith cease and desist from:

Misbranding textile fiber products by failing to affix labels to such products showing each element of information required to be disclosed by Section 4(b) of the Textile Fiber Products Identification Act.

DECISION OF THE COMMISSION AND ORDER TO
FILE REPORT OF COMPLIANCE

Pursuant to Section 4.19 of the Commission's Rules of Practice, effective June 1, 1962, the initial decision of the hearing examiner shall on the 27th day of November 1962, 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 in writing setting forth in detail the manner and form in which they have complied with the order to cease and desist.

Complaint

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IN THE MATTER OF
COUNTRY TWEEDS, INC., ET AL.

ORDER, ETC., IN REGARD TO THE ALLEGED VIOLATION OF THE FEDERAL
TRADE COMMISSION ACT

Docket 8085. Complaint Aug. 24, 1960—Decision, Nov. 29, 1962

Order requiring a New York City manufacturer of ladies' coats, to cease misrepresenting the quality of the cashmere fabric in many coats by such practices as distorting a testing company's test report on the comparative qualities of the "Best Quality Cashmere Produced to Date", which it had used until the time of a business quarrel with the manufacturer, and "Country Tweeds El Elegant" cashmere which it had used since that time; and to cease furnishing its dealers with means to misrepresent its coats by giving them the altered report.

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 Country Tweeds, Inc., a corporation, and Marcus Weisman, individually and as an officer 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 Country Tweeds, 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 250 West 39th Street in the city of New York, State of New York.

Respondent Marcus Weisman is an officer of the corporate respondent. He formulates, directs and controls the acts, practices and policies of the corporate respondent, including those hereinafter set forth. His address is the same as that of the corporate respondent.

PAR. 2. Respondents are now, and for some time last past have been, engaged in the advertising, offering for sale, sale and distribution, among other things, of ladies' cashmere coats to retailers for resale to the public.

PAR. 3. In the course and conduct of their business, respondents now cause, and for some time last past have caused, their said product, when sold, to be shipped from their place of business in the State of New York to purchasers thereof located in various other States of