

for the consideration and approval of the Commission, its plans for compliance with this order, including the date within which compliance can be effected.

By the Commission, Commissioner Anderson concurring in the result and Commissioner MacIntyre not concurring.

IN THE MATTER OF
CONRICH, LTD., ET AL.

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

Docket 8583. Complaint, June 28, 1963—Decision, Jan. 18, 1964

Order requiring New York City jobbers of wool products to cease violating the Wool Products Labeling Act and the Federal Trade Commission Act by labeling and invoicing as "100% Cashmere", fabrics which contained substantially different fibers and quantities of fibers, and failing to disclose on fabric labels the true generic names of the fibers present and the percentage thereof.

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 Conrich, Ltd., a corporation, and Richard Weinstein, 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 Conrich, Ltd., is a corporation, organized, existing and doing business under and by virtue of the laws of the State of New York. Individual respondent Richard Weinstein, is an officer of the corporate respondent. Said individual respondent, formulates, directs and controls the acts, policies and practices of the corporate respondent, including the acts and practices hereinafter referred to. Respondents have their office and principal place of business located at 257 West 38th Street, New York, New York. Respondents are jobbers and distributors of wool products including fabrics.

PAR. 2. Subsequent to the effective date of the Wool Products Labeling Act of 1939 and more especially since December 1960, respondents have introduced into commerce, sold, transported, distributed, delivered for shipment, shipped, and offered for sale in commerce wool products as the terms "commerce" and "wool product" are defined in said Act.

PAR. 3. Certain of said wool products were misbranded within the intent and meaning of Section 4(a)(1) of the said 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 wool products were fabrics stamped or tagged as "100% Cashmere" whereas, in truth and in fact, said fabrics were not composed of 100% Cashmere but contained substantially different fibers and quantities of fibers.

PAR. 4. Certain of said wool products were further misbranded by respondents in that they were not stamped, tagged and 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 fabrics 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. The aforesaid acts and practices of respondents constituted misbranding of wool products and 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.

PAR. 6. Respondents are now, and for some time last past, have been engaged in the offering for sale, sale and distribution of certain products, namely fabrics, to manufacturers and jobbers. In the course of their business, respondents, now cause, and for some time last past have caused, their said products, when sold, to be shipped from their place of business in the State of New York to purchasers located in various other States of the United States, and maintain, and at all times mentioned herein, have maintained, a substantial course of trade in said products, in commerce, as "commerce" is defined in the Federal Trade Commission Act.

PAR. 7. Respondents in the course and conduct of their business, as aforesaid, have made statements on invoices and shipping memoranda to their customers misrepresenting the character and fiber content of certain of their said products. Among such misrepresentations, but not limited thereto, were statements representing certain fabrics to be "100% Cashmere", whereas said fabrics contained substantially different fibers and quantities of fibers than represented.

PAR. 8. The acts and practices set out in Paragraph 6 and 7 have had and now have the tendency and capacity to mislead and deceive the purchasers of said products as to the true content thereof and to cause said purchasers to misbrand products manufactured by them in which said materials were used.

PAR. 9. The acts and practices of the respondents set out in Paragraph 6 and 7 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, in commerce, within the intent and meaning of the Federal Trade Commission Act.

Mr. Michael P. Hughes for the Commission.

Schein & Lazarus, New York, N.Y., for the respondents.

INITIAL DECISION BY EDGAR A. BUTTLE, HEARING EXAMINER

DECEMBER 4, 1963

On June 28, 1963, the Federal Trade Commission issued a complaint charging respondents with violating the Federal Trade Commission Act and the Wool Products Labeling Act of 1939. The crux of the charge is that respondents' wool products were misbranded as "100% Cashmere", although they contained substantially different fibers and quantities of fibers.

Respondents filed an answer on July 31, 1963, dated July 29, 1963, which is essentially a general denial of the foregoing charges.

On August 29, 1963, Hearing Examiner John Lewis (to whom the case was assigned on June 28, 1963) was served with a request for a prehearing conference.

On September 4, 1963, Acting Director of Hearing Examiners Edward Creel issued an order substituting Hearing Examiner Edgar A. Buttle in this matter.

On September 5, 1963, the undersigned hearing examiner issued an order scheduling a prehearing conference for September 18, 1963, in Washington, D. C., and further ordered the initial hearing, scheduled for September 10, 1963, to be adjourned to a date to be fixed at the prehearing conference.

On September 9, 1963, counsel supporting complaint filed a motion for production of documents by respondents.

On September 13, 1963, respondents' attorney Lester A. Lazarus wrote directly to this examiner requesting an adjournment of said prehearing conference stating his reasons for said adjournment as follows:

The respondent, CONRICH LTD. has found itself unable financially to continue its business and to that extent is presently negotiating with a Committee of its creditors. At the present time, it does not appear likely that the business will continue, but this will not be known for several weeks.

In the event that the business will not continue but will be liquidated pursuant to 'An assignment for the benefit of creditors', then application will most likely be made for permission to consent to a CEASE AND DESIST ORDER. However, this is not yet known, and will not be known for several weeks.

It would be in the interest of everybody concerned if the pre-trial hearing conference is adjourned to some day after October 15, 1963, and I respectfully submit that such adjournment will not prejudice either party, and may ultimately save both the Commission and the respondent a considerable amount of time, effort, and money.

On September 16, 1963, the examiner treated respondents' letter of September 13, 1963, as a motion for adjournment and denied same.

Following a decision to liquidate and go out of business, respondents made a motion, filed on October 7, 1963, to withdraw their prior answer and to file a substitute answer. By order of the hearing examiner withdrawal and substitution were authorized.

On October 7, 1963, the respondents filed the following substitute answer:

COMES NOW the respondents Conrich, Ltd. and Richard Weinstein, individually and as an officer of said corporation and answering the complaint in this proceeding states:

That said respondents elect not to further contest the allegations of fact set forth in the complaint, and that in accordance with Section 3.5(b)(2) of the Federal Trade Commission's Rules of Practice respondents admit

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all of the material allegations of the complaint to be true. Respondents further waive any rights of hearings as to the facts alleged in the complaint and agree that this answer together with the complaint will provide a record basis on which the hearing examiner may file an initial decision containing appropriate findings and conclusions and an appropriate order disposing of the proceeding. Respondents further waive the right to submit proposed findings and conclusions and the right to appeal the initial decision to the Commission under §3.22.

The hearing examiner has carefully considered the proposed findings of fact and conclusions submitted by counsel in support of the complaint (submission of proposed findings having been waived by respondents) and has found such proposed findings consistent with the uncontested allegations of the complaint.

Upon the entire record in the case, the hearing examiner therefore makes the following findings of facts and conclusions:

FINDINGS OF FACT

1. Respondent Conrich, Ltd., is a corporation organized, existing and doing business under and by virtue of the laws of the State of New York. Individual respondent Richard Weinstein is an officer of the corporate respondent. Said individual respondent formulates, directs and controls the acts, policies and practices of the corporate respondent, including the acts and practices hereinafter referred to. Respondents have their office and principal place of business located at 257 West 38th Street, New York, New York. Respondents are jobbers and distributors of wool products, including fabrics.

2. Subsequent to the effective date of the Wool Products Labeling Act of 1939, and more especially since December 1960, respondents have introduced into commerce, sold, transported, delivered for shipment, shipped, and offered for sale in commerce, wool products as the terms "commerce" and "wool product" are defined in said act.

3. Certain of said wool products were misbranded within the intent and meaning of Section 4(a)(1) of the said 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 wool products were fabrics stamped or tagged as "100% Cashmere" whereas, in truth and in fact, said fabrics were not composed of 100% Cashmere but contained substantially different fibers and quantities of fibers.

4. Certain of said wool products were further misbranded by respondents in that they were not stamped, tagged and 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 fabrics with labels which failed: (1) to disclose the true generic names of the fibers present and (2) to disclose the percentage of such fibers.

5. The aforesaid acts and practices of respondents constituted misbranding of wool products and 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.

6. Respondents are now, and for some time last past have been, engaged in the offering for sale, sale and distribution of certain products, namely fabrics, to manufacturers and jobbers. In the course of their business respondents now cause, and for some time last past have caused, their said products, when sold, to be shipped from their place of business in the State of New York to purchasers located in various other States of the United States, and maintain, and at all times mentioned herein have maintained, a substantial course of trade in said products in commerce, as "commerce" is defined in the Federal Trade Commission Act.

7. Respondents in the course and conduct of their business, as aforesaid, have made statements on invoices and shipping memoranda to their customers misrepresenting the character and fiber content of certain of their said products. Among such misrepresentations, but not limited thereto, were statements representing certain fabrics to be "100% Cashmere", whereas said fabrics contained substantially different fibers and quantities of fibers than represented.

CONCLUSIONS

1. The acts and practices of the respondents set out in Paragraphs 6 and 7 of the complaint have had, and now have, the tendency and capacity to mislead and deceive the purchasers of said products as to the true content thereof and to cause said purchasers to misbrand products manufactured by them in which said materials were used.

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2. The acts and practices of the respondents set out in Paragraphs 6 and 7 of the complaint 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 in commerce within the intent and meaning of the Federal Trade Commission Act. Accordingly, it is

ORDER

Ordered, That respondent Conrich, Ltd., a corporation, and its officers, and Richard Weinstein, 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, distribution, or delivery for shipment in commerce of wool products, as "commerce" and "wool product" 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, and, it is

Further ordered, That respondents Conrich, Ltd., a corporation, and its officers, and Richard Weinstein, 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 offering for sale, sale, or distribution of fabrics or other products in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from misrepresenting the character or amount of constituent fibers contained in such products on invoices or shipping memoranda applicable thereto, or in any other manner.

DECISION OF THE COMMISSION AND ORDER TO FILE REPORT
OF COMPLIANCE

Pursuant to Section 3.21 of the Commission's Rules of Practice effective August 1, 1963, the initial decision of the hearing examiner

EXQUISITE FORM BRASSIERE, INC.

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shall, on the 18th day of January, 1964, become the decision of the Commission; and, accordingly:

It is ordered, That respondents Conrich, Ltd., a corporation, and Richard Weinstein, individually and as an officer of said corporation,