

mission a report in writing setting forth in detail the manner and form in which it has complied with this order.

IN THE MATTER OF
CLARISE INTERNATIONAL COMPANY, 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-729. Complaint, Mar. 26, 1964—Decision, Mar. 26, 1964

Consent order requiring New York City importer-wholesalers of wool products to cease violating the Wool Products Labeling Act by such practices as

Complaint

64 F.T.C.

tagging "93% Reprocessed Wool, 7% Nylon", wool products which contained substantially different amounts of fibers than thus represented and also contained other fibers; labeling as made in the United States, wool products which were manufactured and imported from Italy; labeling wool products as being made by "Skirts International" (their trade name) when they had no factories; and labeling wool products falsely as made of "Italy's Finest Wools."

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 Clarise International Company, Inc., a corporation, trading as Skirts International Corp., and Donald W. Jacobson and Maurice Russo, individually and as officers of said corporation hereinafter referred to as respondents have violated the provisions of the said Acts and the Rules and Regulations promulgated under the Wool Products Labeling Act of 1939 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 Clarise International Company, Inc., trading as Skirts International Corp. is a corporation, organized, existing and doing business under and by virtue of the laws of the State of New York.

Donald W. Jacobson and Maurice Russo said individual respondents formulate, direct and control the acts, policies and practices of said corporation including the acts and practices hereinafter referred to.

Respondents are importers and wholesalers of wool products with their office and principal place of business located at 141 West 36th Street, New York, New York.

PAR. 2. Subsequent to the effective date of the Wool Products Labeling Act of 1939, respondents have introduced into commerce, sold, transported and distributed, delivered for shipment and offered for sale in commerce as "commerce" is defined in said Act, wool products as "wool product" is 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 of 1939 and the Rules and Regulations promulgated thereunder in that they were falsely and deceptively stamped, tagged, labeled, or otherwise identified with respect

to the character and amount of constituent fibers contained therein.

Among such misbranded wool products, but not limited thereto, were certain wool products stamped, tagged or labeled as containing 93% Reprocessed Wool, 7% Nylon, whereas in truth and in fact said wool products contained substantially different amounts of fibers than represented and also contained fibers other than those indicated on said labels.

PAR. 4. 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 of 1939 and the Rules and Regulations promulgated thereunder in that they were falsely and deceptively stamped, tagged, labeled or otherwise identified with respect to the country in which said wool products were manufactured.

Among such misbranded wool products, but not limited thereto, were certain wool products stamped, tagged or labeled as being made in the U.S.A., whereas, in truth and in fact, said wool products were manufactured and imported from Italy.

PAR. 5. 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 of 1939 and the Rules and Regulations promulgated thereunder in that they were falsely and deceptively stamped, tagged, labeled or otherwise identified with respect to the manufacturer of said wool products.

Among such misbranded wool products but not limited thereto, were certain wool products stamped, tagged, or labeled as being made by Skirts International, whereas, in truth and in fact, respondents do not own, operate or control the factories where the wool products sold by them are manufactured.

PAR. 6. 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 of 1939 and the Rules and Regulations promulgated thereunder in that they were falsely and deceptively stamped, tagged, labeled, or otherwise identified with respect to the quality of the wool from which said wool products were manufactured.

Among such misbranded wool products, but not limited thereto, were certain wool products stamped, tagged, or labeled as being made of Italy's Finest Wools, whereas; in truth and in fact, said wool products were not manufactured from Italy's Finest wools.

PAR. 7. Certain of said wool products were further misbranded by respondents in that they were not stamped, tagged, labeled, or otherwise identified as required under the provisions of Section 4(a)(2) of the Wool Products Labeling Act of 1939 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 wool products with labels on or affixed thereto which failed to disclose:

1. The percentage of the total fiber weight of the wool product, exclusive of ornamentation, not exceeding five per centum of said total fiber weight of

- a. Woolen fibers.

- b. Each fiber other than wool if said percentage by weight of such fiber are five per centum or more.

- c. The aggregate of all other fibers.

2. The name of the manufacturer of the wool product or the name of one or more persons subject to Section 3 with respect to such wool product.

PAR. 8. 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.

PAR. 9. The aforesaid acts and practices of respondents as herein alleged were and are all to the prejudice and injury of the public and of respondents' competitors and constituted and now constitute unfair methods of competition in commerce, and unfair and deceptive acts and practices 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 Wool Products Labeling Act of 1939 and the Federal Trade Commission Act, 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 respondents of all the jurisdictional facts set forth in the complaint to issue herein, 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

1411

Decision and Order

in such 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, Clarise International Company, Inc. trading as Skirts International Corp. 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 141 West 36th Street, in the city of New York, State of New York.

Respondents Donald W. Jacobson and Maurice Russo are officers of 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 respondents Clarise International Company, Inc., a corporation, and its officers, trading as Skirts International Corp., or under any other trade name, and Donald W. Jacobson and Maurice Russo, 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 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 such products by:

1. Falsely and deceptively stamping, tagging, labeling or otherwise identifying such products as to the character or amount of constituent fibers contained therein.

2. Falsely and deceptively stamping, tagging, labeling or otherwise identifying such products as to the country in which such wool products are manufactured.

3. Falsely and deceptively stamping, tagging, labeling or otherwise identifying such products as to the identity of the manufacturer of said products.

4. Falsely and deceptively stamping, tagging, labeling or otherwise identifying such products as to the quality of constituent fibers contained therein.

Complaint

64 F.T.C.

5. Failing to securely affix to or place on each such product a stamp, tag, 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.

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.

IN THE MATTER OF

FRIESTAN PRODUCTS, INC., ET AL.

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

Docket 8592. Complaint, Aug. 26, 1963—Decision, Mar. 27, 1964

Order requiring Philadelphia sellers of home improvement materials to the public to cease representing in newspaper and other advertising and by statements of their salesmen, that they were offering storm-screen windows at bargain prices when the purported offers were not bona fide but were made to obtain leads to prospects who were then pressured to purchase different and more expensive storm-screen windows.

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 Friestan Products, Inc., a corporation, trading as Friestan Products, and Friestan Distributors, and Morris Friedman and Edwin Hass, individually and as officers 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 Friestan Products, Inc., is a corporation organized, existing and doing business under and by virtue of the

laws of the State of Pennsylvania, with its principal office and place of business located at 52 North Front Street in the city of Philadelphia, State of Pennsylvania. Said corporate respondent also trades under the names of Friestan Distributors and Friestan Products in connection with said business.

Respondents Morris Friedman and Edwin Hass are officers of the corporate respondent. They formulate, direct and control the acts and practices of the corporate respondent, including the acts and practices hereinafter set forth. Their 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 of home improvement materials, including storm-screen windows 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 products, when sold, to be shipped from their place of business in the State of Pennsylvania to purchasers thereof 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. 4. In the course and conduct of their business, and for the purpose of inducing the purchase of their products, respondents and their salesmen and representatives, have made certain statements and representations with respect thereto in advertisements inserted in newspapers, and by other media, of which the following are typical:

A.

		6 COUNT 'EM 6
		(picture of six storm-screen windows)
		Self Storing Triple Track
		2 glass, 1 screen
		ALUMINUM
		combination screen-storm
		WINDOWS
all 6		*Alcoa aluminum
low	\$41.50	*Custom made
as		*Draft free
		*No installation charge
*	*	* * *

Complaint

64 F.T.C.

B.

6 Triple Track
storm windows
installed

(picture of six screen-storm windows)

ALUMINUM

*Genuine Alcoa
*Triple Track
*Top and bottom ventilation
*E-Z slide type
*Opens in any position

ALL 6 FOR AS
LOW AS
\$39.95

PAR. 5. By and through the use of the aforesaid statements and representations, and others of similar import and meaning but not specifically set out herein, and through oral statements made by their salesmen and representatives, respondents have represented, directly or by implication, that they were making a bona fide offer to sell 6 aluminum, triple track storm-screen windows at a price of \$39.95 or \$41.50, said price to include cost of installation.

PAR. 6. In truth and in fact, the offers to sell 6 aluminum triple track storm-screen windows for \$39.95 or \$41.50, including installation, were not genuine or bona fide offers but were made for the purpose of obtaining leads as to persons interested in purchasing storm-screen windows. After obtaining such leads, respondents or their salesmen and representatives called upon such persons at their homes or waited upon them at respondents' place of business. At such times and places, respondents and their salesmen and representatives would disparage the advertised storm-screen windows and would then attempt to sell and did sell different and more expensive storm-screen windows.

Therefore, the advertisements, statements and representations referred to in Paragraphs Four and Five were and are false, misleading and deceptive.

PAR. 7. In the conduct of their business, at all times mentioned herein, respondents have been in substantial competition, in commerce, with corporations, firms and individuals in the sale of home improvement materials, including storm-screen windows, of the same general kind and nature as that sold by the respondents.

PAR. 8. The use by respondents of the aforesaid false, misleading and deceptive statements, representations and practices has had, and now has, the capacity and tendency to mislead members of the purchasing public into the erroneous and mistaken belief that said statements and representations were and are true and into the purchase of substantial quantities of respondents' products by reason of said erroneous and mistaken belief.

1416

Initial Decision

PAR. 9. The aforesaid acts and practices of respondents, as herein alleged, were and are all to the prejudice and injury of the public and of respondents' competitors and constituted, and now constitute, unfair methods of competition in commerce and unfair and deceptive acts and practices in commerce, in violation of Section 5 of the Federal Trade Commission Act.

Mr. Steven John Fellman, and *Mr. David J. Eden* supporting the complaint.

Mr. Robert S. Hass, of Philadelphia, Pa., for respondents.

INITIAL DECISION BY ELDON P. SCHRUP, HEARING EXAMINER

STATEMENT OF PROCEEDINGS

The Federal Trade Commission on August 26, 1963, issued its complaint charging the respondents named in the caption hereof with violation of Section 5 of the Federal Trade Commission Act. The complaint, consisting of nine paragraphs, alleges the respondents to have used various false, misleading and deceptive statements, representations and practices in connection with the interstate sale of home improvement materials, including storm-screen windows, and to have thereby misled the public into the purchase of substantial quantities of the said products, to the prejudice and injury of both the public and respondents' competitors. Included in the notice attached to the complaint was the form of order to cease and desist stated to be that which the Commission had reason to believe should issue if the facts were found to be as alleged in the complaint.

Respondents filed answer admitting and denying the various allegations of the complaint on October 2, 1963. By agreement of respective counsel, the hearing scheduled in the complaint for October 30, 1963, was cancelled and a prehearing conference was set to be held in Washington, D.C. on November 19, 1963. Following the prehearing conference, a hearing for the purpose of taking testimony and other evidence in support of the allegations of the complaint and in opposition thereto was set to commence in Philadelphia, Pennsylvania on January 14, 1964.

Pursuant to respondents' motion filed December 30, 1963, the hearing set for Philadelphia, Pennsylvania was cancelled, and, by agreement between respective counsel, reset for January 14, 1964, in Washington, D.C. Respondents did not appear at said latter hearing but submitted instead, by letter motion directed to the Hearing Examiner, an enclosed amended answer. Said amended answer admits paragraphs one through nine of the complaint and does not, as

Initial Decision

64 F.T.C.

is provided for in Section 3.5(2) of the Commission's Rules of Practice, reserve the right to submit proposed findings and conclusions and the right to submit proposed findings and conclusions and the right to appeal the Initial Decision to the Commission under Section 3.22 of the said Rules.

There being no opposition made by complaint counsel to said motion and amended answer, respondents' amended answer to the complaint was accepted and directed to be duly filed. The hearing was then closed on the record and the following Findings of Fact, Conclusions and appropriate Order are accordingly herewith now made and issued, as provided for under Section 3.5(2) of the Commission's Rules of Practice.

FINDINGS OF FACT

1. Respondent Friestan Products, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of Pennsylvania, with its principal office and place of business located at 52 North Front Street in the city of Philadelphia, State of Pennsylvania. Said corporate respondent also trades under the names of Friestan Distributors and Friestan Products in connection with said business.

Respondents Morris Friedman and Edwin Hass are officers of the corporate respondent. They formulate, direct and control the acts and practices of the corporate respondent, including the acts and practices hereinafter set forth. Their address is the same as that of the corporate respondent.¹

2. Respondents are now, and for some time last past have been, engaged in the advertising, offering for sale, sale and distribution of home improvement materials, including storm-screen windows to the public.²

3. In the course and conduct 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 Pennsylvania to purchasers thereof 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.³

4. In the course and conduct of their business, and for the purpose of inducing the purchase of their products, respondents and their

¹ Admitted, respondents' amended answer.

² Admitted, respondents' amended answer.

³ Admitted, respondents' amended answer.

1416

Initial Decision

salesmen and representatives, have made certain statements and representations with respect thereto in advertisements inserted in newspapers, and by other media, of which the following are typical:

A.

		6 COUNT 'EM 6
		(picture of six storm-screen windows)
		Self Storing Triple Track
		2 glass, 1 screen
		ALUMINUM
		combination screen-storm
		WINDOWS
		* Alcoa aluminum
all 6		* Custom made
low	\$41.50	* Draft free
as		* No installation charge
		* * * * *

B.

	6 Triple Track
	storm windows
	installed
	(picture of six screen-storm windows)
	ALUMINUM
*Genuine Alcoa	
*Triple Track	ALL 6 FOR AS
*Top and bottom ventilation	LOW AS
*E-Z slide type	\$39.95
*Opens in any position *	

5. By and through the use of the aforesaid statements and representations, and others of similar import and meaning but not specifically set out herein, and through oral statements made by their salesmen and representatives, respondents have represented, directly or by implication, that they were making a bona fide offer to sell 6 aluminum, triple track storm-screen windows at a price of \$39.95 or \$41.50, said price to include cost of installation.⁵

6. In truth and in fact, the offers to sell 6 aluminum triple track storm-screen windows for \$39.95 or \$41.50, including installation, were not genuine or bona fide offers but were made for the purpose of obtaining leads as to persons interested in purchasing storm-screen windows. After obtaining such leads, respondents or their salesmen and representatives called upon such persons at their homes or waited upon them at respondents' place of business. At such times and places, respondents and their salesmen and representatives would disparage the advertised storm-screen windows and would then attempt to sell and did sell different and more expensive storm-screen windows.

⁴ Admitted, respondents' amended answer.

⁵ Admitted, respondents' amended answer.

Therefore, the advertisements, statements and representations referred to in findings 4 and 5 were and are false, misleading and deceptive.⁶

7. In the conduct of their business, at all times mentioned herein, respondents have been in substantial competition, in commerce, with corporations, firms and individuals in the sale of home improvement materials, including storm-screen windows, of the same general kind and nature as that sold by the respondents.⁷

8. The use by respondents of the aforesaid false, misleading and deceptive statements, representations and practices has had, and now has, the capacity and tendency to mislead members of the purchasing public into the erroneous and mistaken belief that said statements and representations were and are true and into the purchase of substantial quantities of respondents' products by reason of said erroneous and mistaken belief.⁸

9. The aforesaid acts and practices of respondents were and are all to the prejudice and injury of the public and of respondents' competitors and constituted, and now constitute, unfair methods of competition in commerce and unfair and deceptive acts and practices in commerce, in violation of Section 5 of the Federal Trade Commission Act.⁹

CONCLUSIONS

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 aforesaid acts and practices of respondents, as herein found in the foregoing Findings of Fact, were, and are, all to the prejudice and injury of the public and of respondents' competitors and constituted, and now constitute, unfair methods of competition in commerce and unfair and deceptive acts and practices in commerce, in violation of Section 5 of the Federal Trade Commission Act.

ORDER ¹⁰

It is ordered, That respondent Friestan Products, Inc., a corporation, trading as Friestan Products, and Friestan Distributors, or under any other name or names, and its officers, and Morris Friedman and Edwin Hass, individually and as officers of said corpora-

⁶ Admitted, respondents' amended answer.

⁷ Admitted, respondents' amended answer.

⁸ Admitted, respondents' amended answer.

⁹ Admitted, respondents' amended answer.

¹⁰ The form of order contained in notice attached to the instant complaint.

tion, and respondents' agents, representatives and employees, directly or through any corporate or other device, in connection with the offering for sale, sale or distribution of storm-screen windows, or any other merchandise in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. Using in any manner, a sales plan, scheme or device where-in false, misleading or deceptive statements or representations are made in order to obtain leads or prospects for the sale of merchandise or services.
2. Discouraging the purchase of, or disparaging, any merchandise or services which are advertised or offered for sale.
3. Representing, directly or indirectly, that any merchandise or services are offered for sale when such offer is not a bona fide offer to sell said merchandise or services.

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 shall on the 27th day of March 1964, 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.
