

Complaint

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IN THE MATTER OF

MARCHESSA OF ITALY, 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-736. Complaint, Apr. 24, 1964—Decision, Apr. 24, 1964

Consent order requiring New York City manufacturers of wool products to cease violating the Wool Products Labeling Act by such practices as labeling as "50% mohair, 45% wool, 5% nylon", sweaters which contain substantially different fibers and amounts than so represented; by failing to disclose on sweater labels the percentage of the total fiber weight of wool and other fibers and the manufacturer, and using the word "mohair" in place of the word "wool".

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 Marchessa of Italy, Inc., a corporation, and Irving Rosenthal, individually and as an officer 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 Marchessa of Italy, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of New York.

Individual respondent Irving Rosenthal is an officer of the said corporation and cooperates in formulating, directing and controlling the acts, policies and practices of the corporate respondent including the acts and practices hereinafter referred to.

Respondents are manufacturers of wool products with their office and principal place of business located at 519 Eighth Avenue, New York, New York.

PAR. 2. Subsequent to the effective date of the Wool Products Labeling Act of 1939, respondents have manufactured for introduction into commerce, introduced into commerce, sold, transported, distributed, delivered for shipment, shipped 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 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 the constituent fibers contained therein.

Among such misbranded wool products, but not limited thereto, were sweaters stamped, tagged, labeled or otherwise identified as containing 50% mohair, 45% wool, 5% nylon, whereas in truth and in fact, said sweaters contained substantially different fibers and amounts of fibers than represented.

PAR. 4. 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 certain sweaters 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 5 percentum of said total fiber weight of, (1) woolen fibers; (2) each fiber other than wool if said percentage by weight of such fiber is 5 percentum or more; (3) 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. 5. Certain of said wool products were misbranded in violation of the Wool Products Labeling Act of 1939, in that they were not labeled in accordance with the Rules and Regulations promulgated thereunder, in that the term "mohair" was used in lieu of the word "wool" in setting forth the required fiber content information on labels affixed to wool products without setting forth the correct percentage of the mohair present, in violation of Rule 19 of the Rules and Regulations under the Wool Products Labeling Act of 1939.

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 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 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, Marchessa of Italy, 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 519 8th Avenue, New York, New York.

Respondent, Irving Rosenthal is an officer of said corporation and his 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 Marchessa of Italy, Inc., a corporation, and its officers, and Irving Rosenthal, 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 or manufacture for introduction into commerce, or the offering for sale, sale, transportation, distribution or delivery for shipment, or shipment in commerce, of sweaters or other 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 the constituent fibers contained 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. Using the term "mohair" in lieu of the word "Wool" in setting forth the required information on labels affixed to wool products without setting forth the correct percentage present.

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

LEO MERVIS ET AL. DOING BUSINESS AS SOUTHERN
SIDING COMPANY, ETC.

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

Docket C-737. Complaint, Apr. 24, 1964—Decision, Apr. 24, 1964

Consent order requiring New Orleans sellers to the public of aluminum and insulated siding products to cease representing falsely, through their salesmen, that they would promote the houses of purchasers as models for the demonstration of their products, that purchasers would receive commissions from sales resulting from such use of their houses, and that the commissions would offset all or a substantial amount of the cost of installation of the siding.

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 Leo Mervis and Celia Mervis, individually and as copartners, trading and doing business as Southern Siding Company and as Housecraft, 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. Respondents Leo Mervis and Celia Mervis are individuals and copartners, trading and doing business as Southern Siding Company and as Housecraft, with their principal office and place of business located at 3601 Pine Street, New Orleans, Louisiana.

PAR. 2. Respondents are now, and for some time last past have been, engaged in the advertising, offering for sale, sale and distribution of aluminum and insulated siding products 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 Louisiana 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 siding products, respondents, through their salesmen and representatives, have represented, directly or by implication, that respondents would establish and promote the houses of purchasers as models for the demonstration and advertising of respondents' products; that purchasers would receive commissions from sales resulting from the use of such houses as models, and that such commissions would offset all or a substantial part of the cost of installation of such siding.

PAR. 5. In truth and in fact, respondents did not establish and promote the houses of purchasers as models for the demonstration and advertising of their products and made no efforts to utilize the houses of purchasers to sell their products to others. As a result, purchasers did not receive commissions to offset any part of the cost of the installation of respondents' siding.

Therefore, the statements and representations set forth in Paragraph Four above, were and are false, misleading and deceptive.

PAR. 6. 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 aluminum and insulated siding products of the same general kind and nature as those sold by respondents.

PAR. 7. 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 state-

ments and representations were and are true and into the purchase of substantial quantities of respondents' products by reason of said erroneous and mistaken belief.

PAR. 8. 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.

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 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 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. Respondents, Leo Mervis and Celia Mervis, are individuals and copartners trading and doing business as Southern Siding Company and as Housecraft, with their office and principal place of business located at 3601 Pine Street, New Orleans, Louisiana.

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 Leo Mervis and Celia Mervis, individually and as copartners, trading and doing business as Southern Siding Company and as Housecraft, or under any other name or names, and respondents' agents, representatives and employees, directly or through any corporate or other device, in connection with

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the offering for sale, sale and distribution of aluminum and insulating siding products, or other products, in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. Representing, directly or by implication, that respondents will use the house or building of any purchaser as a model for demonstration or advertising purposes.

2. Representing, directly or by implication, that purchasers will receive commissions from sales made as a result of the use of their houses or buildings as models or for demonstration or advertising purposes.

3. Misrepresenting, in any manner, the amount of compensation or other financial benefits which will be realized by or is being afforded to any purchaser of respondents' products for cooperating with or assisting them in the resale of such products.

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.
