

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

IN THE MATTER OF

UNITED GARMENT MANUFACTURING CO.—MICHIGAN
DIVISION ET AL.

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

Docket 8577. Complaint, June 19, 1963—Decision, Sept. 16, 1964

Order requiring two associated corporations with a manufacturing plant in Iron Mountain, Mich., engaged in manufacturing and selling sleeping bags, sporting goods and accessories, to cease and desist from misrepresenting the "cut" or size of their products, preticketing their merchandise with prices higher than usual prices generally prevailing in the trade area, using the word "scout" or other related words on their merchandise to imply endorsement by the Boy Scouts of America, furnishing other means to mislead the purchasing public, misrepresenting the time respondents have been in business, and using any words to imply that the respondents own or control any factory; and cease violating the Textile Fiber Products Identification Act by misbranding or falsely and deceptively advertising any of their textile fiber products, and failing in other respects to comply with labeling and advertising requirements of the Act.

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, having reason to believe that United Garment Manufacturing Co.—Michigan Division, a corporation, Lake-O-Woods Co., Inc., a corporation, and Edward Maslon, Dorothy Palluconi and Betty Maslon, individually and as officers of said corporations, Albert Maslon, individually and as an officer of United Garment Manufacturing Co., and Warren Barrett, individually and as an officer of Lake-O-Woods Co., Inc., hereinafter referred to as respondents, have violated the provisions of said Acts and the Rules and Regulations promulgated under the Textile Fiber Products Identification Act, and it appearing to the Commission that a proceeding by it in respect thereof would be in

Complaint

66 F.T.C.

the public interest, hereby issues its complaint, stating its charges in that respect as follows:

PARAGRAPH. 1. Respondent United Garment Manufacturing Co.—Michigan Division is a corporation organized, existing and doing business under and by virtue of the laws of the State of Minnesota. Respondent Lake-O-Woods Co., Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of Michigan. Said corporations have their office and principal place of business located at 100 W. Brown Street, Iron Mountain, Michigan.

Respondents Edward Maslon, Dorothy Palluconi and Betty Maslon are officers of both corporate respondents, whereas Albert Maslon is an officer of corporate respondent United Garment Manufacturing Co.—Michigan Division and Warren Barrett is an officer of corporate respondent Lake-O-Woods Co., Inc. They formulate, direct and control the acts and practices of the corporate respondents including the acts and practices hereinafter set forth. The address of Albert Maslon is 11228 Sunset Boulevard, Los Angeles, California and that of Warren Barrett is 241 Case Avenue, Kingsford, Michigan. The address of Edward Maslon, Dorothy Palluconi, and Betty Maslon is the same as that of corporate respondents.

Corporate respondent United Garment Manufacturing Co.—Michigan Division, formerly United Garment Manufacturing Co.—Chisholm Division, was originally located at 316 West Lake Street, Chisholm, Minnesota, and after qualifying to do business in the State of Michigan on February 13, 1957 has been located at 100 W. Brown Street, Iron Mountain, Michigan.

All of the aforesaid respondents cooperate and act together in carrying out the acts and practices hereinafter set forth.

PAR. 2. Respondents are now, and for some time last past have been, engaged in the manufacture, advertising, offering for sale, sale and distribution of sleeping bags, sporting goods and accessories 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 products, when sold, to be shipped from their place of business in the State of Michigan to retailers 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. Respondents, for the purpose of inducing the purchase of their products, have engaged in the practice of using fictitious prices, misrepresenting the size of said products, misrepresenting the endorse-

ment and approval of some of said products, misrepresenting the nature, size and locations of said business and the length of time in which they have been engaged in said business, by various methods and means, typical but not all inclusive of which are the following:

(a) By attaching, or causing to be attached tickets or tags to their said sleeping bags upon which a certain amount is printed and by distributing, or causing to be distributed, to retailers, catalogs describing, among other things, respondents' sleeping bags and containing a stated price for each, thereby representing, directly or by implication, that the amounts so stated are the usual and regular retail price of said sleeping bags. Among and typical of the statements on the price tickets or tags attached thereto are the following:

"\$15.00", "\$20.00", "\$25.00", "\$40.00", "\$45.00", and others; also listing a specified price after the words "List Price" on a price tag attached to the sleeping bag.

Among and typical of the statements contained in respondents' 1961 catalog:

"List \$10.50", "List \$11.50", "List \$13.50", "List \$14.50", "List \$18.00", "List \$19.00", "List \$40.00".

In the manner aforesaid, through stating a specified price and also by using the words "List" or "List Price" followed by a specified price on the tickets or tags attached to said products and in their catalogs, and otherwise, respondents represented, and now represent, that said amounts were and are the prices at which the merchandise referred to were and are usually and customarily sold at retail.

In truth and in fact, the amounts stated on the tickets or tags and those set out in connection with the words "List" or "List Price" on tickets or tags and in their catalogs, and otherwise, were not the prices at which the merchandise referred to was usually and customarily sold at retail in the trade areas where such representations were and are made, but are in excess of prices at which said merchandise generally sells at retail in some of the trade areas where the representations were and are made.

(b) By attaching, or causing to be attached, labels to their said sleeping bags stating the "cut size" of the sleeping bags, which is almost invariably larger than the actual size of the bag in question. The term "cut size" when used in the manner alleged above, is confusing and tends to indicate that such a description is the actual size of the finished product. In truth and in fact, this is almost never the case, as the actual size of the finished product is smaller than the sizes set out on the labels.

(c) By attaching, or causing to be attached labels on certain of their

Complaint

66 F.T.C.

sleeping bags stating "Scout Sleeping Bag" and picturing a boy dressed in what appears to be the official uniform of the Boy Scouts of America with arm extended pointing to a sleeping bag pictured thereon which is duly unpacked and set up for use with a sylvan setting; by describing said sleeping bag in their catalog as "THE SCOUT," "THE EAGLE SCOUT," "THE SCOUT DELUXE" and "CUB SCOUT," respondents have thereby represented, directly or by implication, that said products have been officially approved for use for the Boy Scouts of America.

In truth and in fact, said products are not and have never been officially approved for use for the Boy Scouts of America as a part of the equipment of members of said organization.

(d) By listing in their catalogs and other advertising media:

OUR TWO MANUFACTURING AND SHIPPING LOCATIONS—Los Angeles, Calif., Iron Mountain, Michigan.
High Sierra Brand Made in the West.
High Sierra Brand Made in Los Angeles, Calif.

Respondents have thereby represented that they own, operate and control two manufacturing plants, one of which is located in the West, and at Los Angeles, California.

In truth and in fact, respondents do not own, operate or control a manufacturing plant in Los Angeles, California, nor "in the West" where their products sold in the Western Region of the United States are manufactured. Respondents' said products are manufactured at Iron Mountain, Michigan and are shipped to Los Angeles, California for trans-shipment to customers in the Western Region of the United States and are using the Los Angeles, California location as a basing point only for shipment of said products.

(e) By attaching, or causing to be attached to certain of said products a label on which it is stated: "A GREAT Lake-O-Woods sleeping bag since 1901 Manufactured by UNITED GARMENT MANUFACTURING CO. of Minneapolis, Minnesota" and another label with the same wording except for listing thereon the words "Manufactured by Lako-O-Woods Manufacturing Co. of IRON MOUNTAIN, MICHIGAN" in lieu of "Manufactured by UNITED GARMENT MANUFACTURING CO. of MINNEAPOLIS, MINNESOTA," respondents have thereby represented that corporate respondents have been in business since 1901, and have manufactured sleeping bags since 1901; that those products on which are attached the label with the legend "Manufactured by United Garment Manufacturing Company of Minneapolis, Minnesota" were manufactured by respondents in a factory or manufacturing establishment at that location.

In truth and in fact, corporate respondents have not been in business

since 1901, nor in manufacturing sleeping bags since 1901; and corporate respondent United Garment Manufacturing Co. does not own, operate or control a factory wherein said products are made or manufactured in Minneapolis, Minnesota, nor do respondents have a place of business at Minneapolis, Minnesota. Corporate respondent Lake-O-Woods Manufacturing Co., Inc., was incorporated under the laws of the State of Michigan on November 7, 1960, and corporate respondent United Garment Manufacturing Co.—Michigan Division, was incorporated under the laws of the State of Minnesota on March 30, 1953, and, accordingly, have not been engaged in business since 1901.

Therefore, the statements and representations and acts and practices set forth above are false, misleading and deceptive.

PAR. 5. By the aforesaid statements, representations, acts and practices respondents place in the hands of the uninformed or unscrupulous retailers means and instrumentalities by and through which they may mislead the public as to the usual and regular price, the size, the endorsement or approval of said products, the nature, size, and locations of respondents' business establishments and the length of time respondents have been in said business.

PAR. 6. In the course and conduct of their said business, and at all times mentioned herein, respondents have been engaged in substantial competition in commerce with corporations, firms and individuals in the sale of 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 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.

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(a)(1) of the Federal Trade Commission Act.

PAR. 9. 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, manufacture for introduction, sale, advertising, and offering for sale, in commerce, and in the importation into the United States, of textile

Complaint

66 F.T.C.

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. 10. Certain of said textile fiber products were misbranded by respondents in that they were not stamped, tagged, labeled, or otherwise identified 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 under said Act.

Among such misbranded textile fiber products, but not limited thereto, were textile fiber products which were not labeled to show the words and figures plainly legible:

1. The true generic names of the constituent fibers present;
2. The percentage of each of said fibers present.

PAR. 11. Certain of said textile fiber products were further misbranded in violation of the Textile Fiber Products Identification Act in that they were not labeled in accordance with the Rules and Regulations promulgated thereunder in the following respects:

(a) Fiber trademarks were used on labels without a full and complete fiber content disclosure appearing on such labels, in violation of Rule 17(b) of the aforesaid Rules and Regulations.

(b) The required information as to fiber content was not set forth on the required label in such a manner as to separately show the fiber content of each section of textile fiber products containing two or more sections, in violation of Rule 25(b) of the aforesaid Rules and Regulations.

(c) The term "New" was used as descriptive of textile fiber products when the product or part so described was not composed wholly of new or virgin fibers which had never been reclaimed from any spun, woven, knitted, felted, bonded, or similarly manufactured product, in violation of Rule 35 of the aforesaid Rules and Regulations.

PAR. 12. Certain of said textile fiber products were falsely and deceptively advertised in that respondents in making disclosures or implications as to the fiber content of such textile fiber products in written advertisements used to aid, promote, and assist directly or indirectly in the sale or offering for sale of said products, failed to set forth the required information as to fiber content as specified by Sec-

tion 4(c) of the Textile Fiber Products Identification Act, and in the manner and form prescribed by the Rules and Regulations promulgated under said Act.

Among the aforesaid disclosures or implications as to fiber content, but not limited thereto, were the terms "duck," "flannel," and "poplin."

Among such textile fiber products, but not limited thereto, were sleeping bags which were falsely and deceptively advertised by the means of catalogs, price lists, and other printed matter distributed by respondents throughout the United States, in that the true generic names of the fibers contained in such products were not set forth.

PAR. 13. Certain of said textile fiber products were further falsely and deceptively advertised in violation of the Textile Fiber Products Identification Act in that they were not advertised in accordance with the Rules and Regulations promulgated thereunder.

Among such textile fiber products, but not limited thereto, were sleeping bags which were falsely and deceptively advertised, by means of catalogs, price lists, and other printed matter distributed by respondents throughout the United States, in the following respects:

(a) The required information as to fiber content was not set forth in the required information in such a manner as to separately show the fiber content of each section of textile fiber products containing two or more sections, in violation of Rule 25(b) of the aforesaid Rules and Regulations.

(b) Fiber trademarks were used in advertising textile fiber products, namely sleeping bags, containing more than one fiber and such fiber trademarks did not appear in the required fiber content information in immediate proximity and conjunction with the generic names of the fibers in plainly legible type or lettering of equal size and conspicuousness, in violation of Rule 41(b) of the aforesaid Rules and Regulations.

PAR. 14. The aforesaid acts and practices of respondents, as herein alleged in the aforesaid Paragraphs Ten, Eleven, Twelve, and Thirteen, are in violation of the Textile Fiber Products Identification Act and the Rules and Regulations promulgated thereunder and along with the other 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(a)(1) of the Federal Trade Commission Act.

Mr. Aaron R. Fodiman supporting the complaint.

Initial Decision

66 F.T.C.

Respondents *Mrs. Dorothy Palluconi*, *Mr. Albert Maslon* and *Mr. Warren Barrett* appeared in person. All other respondents failed to appear either in person or by attorney.

INITIAL DECISION BY HERMAN TOCKER, HEARING EXAMINER

MAY 12, 1964

In a complaint dated June 19, 1963, issued June 24, 1963, the Federal Trade Commission charged the corporate respondents, United Garment Manufacturing Co.—Michigan Division and Lake-O-Woods Co., Inc., and the respondents Edward Maslon, Dorothy Palluconi and Betty Maslon, individually and as officers of said corporations, and the respondent Albert Maslon, individually and as an officer of United Garment Manufacturing Co.—Michigan Division, and the respondent Warren Barrett, individually and as an officer of Lake-O-Woods Co., Inc., with violations of the Federal Trade Commission Act and of the Textile Fiber Products Identification Act. The alleged violations were concerned with deceptive pricing practices and deceptive labeling practices in connection with the sale and distribution of sleeping bags. It was alleged, also, that respondents made it appear, contrary to the fact, that they owned, operated and controlled two manufacturing plants.

The corporate respondents, United Garment Manufacturing Co.—Michigan Division and Lake-O-Woods Co., Inc., were duly served with the complaint on October 8, 1963 and July 23, 1963. The service was effected on the former by delivery to Betty Maslon at 17547 Tuba Street, Northridge, California, in her capacity as an officer thereof, and on the latter by delivery to one Morley Burnett, in his capacity as General Manager, at 351 West 45th Avenue, Denver, Colorado, he having affirmed that that is the present office and place of business of said corporation [Rules of Practice, Section 4.4(a)(1)(ii) and (iii)]. The complaint was served on respondents Betty Maslon and Edward Maslon by delivery of copies thereof to her personally on October 8, 1963, for the purpose of effectuating service on her and on her husband, Edward Maslon, she having stated that 17547 Tuba Street, Northridge, California (the place where she was served) is the permanent place of residence of her and her husband, Edward Maslon [Rules of Practice, Section 4.4(a)(1)(ii) and (iii)]. The respondents Warren Barrett, Dorothy Palluconi and Albert Maslon also were duly served, but, as will appear below, the complaint is being dismissed against them.

Although, by Section 3.5 of the Rules of Practice, an answer

to the complaint must be served 30 days after service of the complaint, none of the respondents, corporate or individual, except Warren Barrett, has served, within the time provided, any answer or any motion addressed thereto. No notice of appearance within the meaning of Section 4.1(c) of the Rules of Practice has been filed with the Secretary. The respondents, other than Dorothy Palluconi, Albert Maslon and Warren Barrett are hereby ruled to be in default and to have waived their right to appear and contest the allegations of the complaint. The hearing examiner will, therefore, as provided in Section 3.5(c) of the Rules, find the facts to be as alleged in the complaint and enter this initial decision containing such findings, appropriate conclusions and order.

By ruling dated February 28, 1964, in response to a motion by counsel supporting the complaint, the hearing examiner held that the complaint should be dismissed as to the respondents Dorothy Palluconi and Albert Maslon. The basis for this ruling is to be found in sworn statements by these individuals to the effect that they had nothing to do with respect to, and had had no connection with, any of the practices alleged in the complaint. The sworn statements were supported by the certification of counsel supporting the complaint that he had concluded these respondents improperly had been made parties. He says that there is no evidence in the files of the Commission which would contradict the allegations set forth in the affidavits to the effect that Dorothy Palluconi and Albert Maslon had not in any way directed, controlled or formulated the acts, practices and policies of which complaint had been made.

The default procedure being followed in this decision was initiated by Commission counsel's motion requesting that the same be invoked against United Garment Manufacturing Co.—Michigan Division, Lake-O-Woods Co., Inc., Edward Maslon, Betty Maslon and Warren Barrett. This was filed on March 12, 1964, and served March 13, 1964. On March 19, 1964, while the application for default was pending, Commission counsel transmitted to the hearing examiner a letter presumably written by or on behalf of Warren Barrett, in which were set forth allegations suggesting that Barrett ought not to be held as a respondent in this proceeding. The hearing examiner was of the opinion that the form in which the Barrett communication had been submitted was not adequate to justify consideration by him other than to allow a reasonable time within which Barrett might make an application for the opening of his default. An order to this effect was entered on March 19, 1964. Barrett then submitted an affidavit dated March 25, 1964. This, although inartificially drawn, was regarded by

the hearing examiner as both an application for the opening of Barrett's default and for an order dismissing the complaint as to him. By document filed April 27, 1964, served April 28, 1964, entitled "Motion for Dismissal of Respondent Warren Barrett from the Complaint," Commission counsel moved that the charges against Warren Barrett, individually and as an officer of Lake-O-Woods Co., Inc., be dismissed on the ground that he improperly had been made a party-respondent to this proceeding. This document, filed by Commission counsel, is being regarded not only as a motion for dismissal but also as a consent to Barrett's motion for similar relief. Commission counsel states that he agrees that Barrett "had nothing to do with promotion, labeling, pricing, or catalogue designing of the corporate respondents"; that Barrett was a subordinate employee who received orders from and had to follow strictly orders given by respondent Edward Maslon; and that Barrett had severed all relations with Lake-O-Woods and Edward Maslon on September 19, 1962. Commission counsel states that the averments by Barrett in his application "are meritorious." From this the hearing examiner concludes that, as to Barrett, the situation is similar to that of respondents Dorothy Palluconi and Albert Maslon, and that there is no evidence in the files of the Commission which would contradict Barrett's allegations as to his activities in and position with the corporate respondents. The hearing examiner concludes, therefore, that the complaint ought also to be dismissed as respects the respondent Warren Barrett, individually and as an officer of Lake-O-Woods Co., Inc.

Now, therefore, in accordance with the Rules of Practice of the Federal Trade Commission, the hearing examiner makes the following

FINDINGS OF FACT

1. United Garment Manufacturing Co.—Michigan Division is a corporation organized, existing and doing business under and by virtue of the laws of the State of Minnesota. Lake-O-Woods Co., Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of Michigan.

2. Lake-O-Woods Co., Inc., although it formerly had its office and principal place of business at 100 W. Brown Street, Iron Mountain, Michigan, now operates its business from and at 351 West 45th Avenue, Denver, Colorado. The record is not clear as to the present activities of United Garment Manufacturing Co.—Michigan Division, but, in view of the continued association of respondent Edward Maslon as an officer thereof, it is assumed that it, too, operates from and at 351 West 45th Avenue, Denver, Colorado.

3. Edward Maslon and Betty Maslon are officers of both corporate respondents. Edward Maslon and Betty Maslon are husband and wife, and they reside at 17547 Tuba Street, Northridge, California. They formulated, directed and controlled the acts and practices of the corporate respondents, including the acts and practices hereinafter set forth.

4. United Garment Manufacturing Co.—Michigan Division was formerly United Garment Manufacturing Co.—Chisholm Division, and, prior to engaging in business in Michigan, had conducted its business from 316 West Lake Street, Chisholm, Minnesota.

5. All said respondents cooperated and acted together in carrying out the acts and practices hereinafter set forth.

6. They are now, and for some time past have been, engaged in the manufacture, advertising, offering for sale, sale and distribution of sleeping bags, sporting goods and accessories to retailers for resale to the public.

7. In the course and conduct of their business, they now cause, and for some time past have caused, their said products, when sold, to be shipped from the state in which they conduct their business to retailers located in various other States of the United States, and they 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.

8. For the purpose of inducing the purchase of their products, they have engaged in the practice of using fictitious prices, misrepresenting the size of said products, misrepresenting the endorsement and approval of some of said products, misrepresenting the nature, size and locations of their business and the length of time in which they have been engaged in it, by various methods and means, typical but not all inclusive of which are the following:

(a) By attaching, or causing to be attached tickets or tags to sleeping bags upon which a certain amount is printed and by distributing, or causing to be distributed, to retailers, catalogs describing, among other things, respondents' sleeping bags, and containing a stated price for each, thereby representing, directly or by implication, that the amounts so stated are the usual and regular retail price thereof. Among and typical of the statements on the price tickets or tags attached thereto are the following:

"\$15.00", "\$20.00", "\$25.00", "\$40.00", "\$45.00", and others; also listing a specified price after the words "List Price" on a price tag attached to the sleeping bag.

Among and typical of the statements contained in respondents' 1961 catalog are:

Initial Decision

66 F.T.C.

"List \$10.50", "List \$11.50", "List \$13.50", "List \$14.50", "List \$18.00", "List \$19.00", "List \$40.00".

In the manner aforesaid, by stating a specified price and also by using the words "List" or "List Price" followed as a specified price on the tickets or tags attached to said products and in their catalogs, and otherwise, respondents represented, and now represent, that said amounts were and are the prices at which the merchandise referred to were and are usually and customarily sold at retail.

(b) By attaching, or causing to be attached, labels to their said sleeping bags stating the "cut size" of the sleeping bags, which is almost invariably larger than the actual size of the bag in question. The term "cut size," when used in the manner alleged above, is confusing and tends to indicate that such a description is the actual size of the finished product.

(c) By attaching, or causing to be attached, labels on certain of their sleeping bags stating "Scout Sleeping Bag" and picturing a boy dressed in what appears to be the official uniform of the Boy Scouts of America with arm extended pointing to a sleeping bag pictured unpacked and set up for use with a sylvan setting; and by describing said sleeping bags in their catalog as "THE SCOUT," "THE EAGLE SCOUT," "THE SCOUT DELUXE" and "CUB SCOUT," respondents have thereby represented, directly or by implication, that said products have been approved officially for use for the Boy Scouts of America.

(d) By listing in their catalogs and other advertising media:

OUR TWO MANUFACTURING AND SHIPPING LOCATIONS—Los Angeles, Calif., Iron Mountain, Michigan.

High Sierra Brand Made in the West.

High Sierra Brand Made in Los Angeles, Calif.

respondents have thereby represented that they own, operate and control two manufacturing plants, one of which is located in the "West," and at Los Angeles, California, and one at Iron Mountain, Michigan.

(e) By attaching, or causing to be attached to certain of said products a label on which it is stated: "A GREAT Lake-O-Woods sleeping bag since 1901 Manufactured by UNITED GARMENT MAUFACTURING CO. of Minneapolis, Minnesota" and another label with the same wording except for listing thereon the words "Manufactured by Lake-O-Woods Manufacturing Co. of IRON MOUNTAIN, MICHIGAN" in lieu of "Manufactured by UNITED GARMENT MAUFACTURING CO. OF MINNEAPOLIS, MINNESOTA," respondents have thereby represented that said corporation has been in business since 1901, and has manufactured sleeping bags since 1901:

that those products on which are attached the label with the legend "Manufactured by United Garment Manufacturing Company of Minneapolis, Minnesota" were manufactured by respondents in a factory or manufacturing establishment at that location.

These representations were false because:

(a) In truth and in fact, the amounts stated on the tickets or tags and those set out in connection with the words "List" or "List Price" on tickets or tags and in their catalogs, and otherwise, as found in finding 8(a), were not and are not the prices at which the merchandise referred to was and is usually and customarily sold at retail in the trade areas where such representations were and are made, but were and are in excess of prices at which said merchandise generally sold and sells at retail in some of the trade areas where the representations were and are made.

(b) In truth and in fact, the actual size of the finished product to which reference is made in finding 8(b) is smaller than the size set out on the label.

(c) In truth and in fact, the products to which reference is made in finding 8(c) are not and have never been approved officially for use for the Boy Scouts of America as a part of the equipment of members of said organization.

(d) In truth and in fact, respondents do not own, operate or control a manufacturing plant in Los Angeles, California, nor "in the West" where their products sold in the Western Region of the United States are manufactured, as found to be represented in finding 8(d). Respondents' said products are or were manufactured at Iron Mountain, Michigan and are or were shipped to Los Angeles, California for transshipment to customers in the Western Region of the United States. They used the Los Angeles, California location as a basing point only for shipment of said products.

(e) In truth and in fact, said corporate respondents have not been in business since 1901, nor in manufacturing sleeping bags since 1901; and do not own, operate or control a factory wherein said products are made or manufactured in Minneapolis, Minnesota, nor do respondents have a place of business at Minneapolis, Minnesota. Corporate respondent Lake-O-Woods Manufacturing Co., Inc., was incorporated under the laws of the State of Michigan on November 7, 1960, and corporate respondent United Garment Manufacturing Co.—Michigan Division, was incorporated under the laws of the State of Minnesota on March 30, 1953. Accordingly, they have not been engaged in business since 1901.

10. 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, manufacture for introduction, sale, advertising, and offering for sale, in commerce, and in the importation into the United States, of textile fiber products; and have sold, offered for sale, advertised, delivered, transported and cause 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.

11. Certain of said textile fiber products were misbranded by respondents in that they were not stamped, tagged, labeled, or otherwise identified 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 under said Act.

Among such misbranded textile fiber products, but not limited thereto, were textile fiber products which were not labeled to show in words and figures plainly legible:

- a. The true generic names of the constituent fibers present;
- b. The percentage of each of said fibers present.

12. Certain of said textile fiber products were further misbranded in violation of the Textile Fiber Products Identification Act in that they were not labeled in accordance with the Rules and Regulations promulgated thereunder in the following respects:

(a) Fiber trademarks were used on labels without a full and complete fiber content disclosure appearing on such labels, in violation of Rule 17(b) of the aforesaid Rules and Regulations.

(b) The required information as to fiber content was not set forth on the required label in such a manner as to separately show the fiber content of each section of textile fiber products containing two or more sections, in violation of Rule 25(b) of the aforesaid Rules and Regulations.

(c) The term "New" was used as descriptive of textile fiber products when the product or part so described was not composed wholly of new or virgin fibers which had never been reclaimed from any spun, woven, knitted, felted, bonded, or similarly manufactured product, in violation of Rule 35 of the aforesaid Rules and Regulations.

13. Certain of said textile fiber products were falsely and deceptively advertised in that respondents, in making disclosures or implications as to the fiber content of such textile fiber products in written advertisements used to aid, promote, and assist directly or indirectly

in the sale or offering for sale of said products, failed to set forth the required information as to fiber content as specified by Section 4(c) of the Textile Fiber Products Identification Act, and in the manner and form prescribed by the Rules and Regulations promulgated under said Act.

Among the aforesaid disclosures or implications as to fiber content, but not limited thereto, were the terms "duck," "flannel," and "poplin."

Among such textile fiber products, but not limited thereto, were sleeping bags which were falsely and deceptively advertised by the means of catalogs, price lists, and other printed matter distributed by respondents throughout the United States, in that the true generic names of the fibers contained in such products were not set forth.

14. Certain of said textile fiber products were further falsely and deceptively advertised in violation of the Textile Fiber Products Identification Act in that they were not advertised in accordance with the Rules and Regulations promulgated thereunder.

Among such textile fiber products, but not limited thereto, were sleeping bags which were falsely and deceptively advertised, by means of catalogs, price lists, and other printed matter distributed by respondents throughout the United States, in the following respects:

(a) The required information as to fiber content was not set forth in such a manner as to separately show the fiber content of each section of textile fiber products containing two or more sections, in violation of Rule 25(b) of the aforesaid Rules and Regulations.

(b) Fiber trademarks were used in advertising textile fiber products, namely sleeping bags, containing more than one fiber and such fiber trademarks did not appear in the required fiber content information in immediate proximity and conjunction with the generic names of the fibers in plainly legible type or lettering of equal size and conspicuousness, in violation of Rule 41(b) of the aforesaid Rules and Regulations.

CONCLUSIONS

A. By the statements, representations, acts and practices set forth in finding of fact numbered 8, respondents United Garment Manufacturing Co.—Michigan Division, Lake-O-Woods Co., Inc., Edward Maslon and Betty Maslon place in the hands of uninformed or unscrupulous retailers means and instrumentalities by and through which they may mislead the public as to the usual and regular price, the size, the endorsement or approval of said products, the nature, size and locations of respondents' business establishments and the length of time respondents have been in said business.

B. In the course and conduct of their said business, and at all times

Initial Decision

66 F.T.C.

mentioned herein, said respondents have been engaged in substantial competition in commerce with corporations, firms and individuals in the sale of products of the same general kind and nature as those sold by them.

C. The use by said 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.

D. The acts and practices of said respondents, as set forth in findings of fact numbered 10, 11, 12, 13 and 14, are in violation of the Textile Fiber Products Identification Act and the Rules and Regulations promulgated thereunder.

E. All the aforesaid acts and practices of said respondents 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(a) (1) of the Federal Trade Commission Act.

ORDER

It is ordered, That respondents United Garment Manufacturing Co.—Michigan Division, a corporation, Lake-O-Woods Co., Inc., a corporation, Edward Maslon and Betty Maslon, individually and as officers of said corporations, their officers, agents, representatives, and employees, directly or through any corporate or other device, in connection with the manufacture, offering for sale, sale or distribution of sleeping bags or other merchandise in commerce as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. Advertising, labeling, representing in a catalog or otherwise representing the "cut," "cut size" or dimensions of material used in their construction, unless such representation is accompanied by a description of the finished or actual size, with the latter description being given at least equal prominence;
2. Misrepresenting the size of such products on labels or in any other manner;
3. Utilizing the act or practice of preticketing merchandise at an indicated retail price, or otherwise setting forth an indicated retail price as to merchandise in any material disseminated or

intended for dissemination to the public, when the indicated retail price is in excess of the generally prevailing retail price for such merchandise in the trade area or when there is no generally prevailing retail price for such merchandise in the trade area.

4. Furnishing to others any means or instrumentality by or through which the public may be misled as to the usual and regular retail price of, the size of or endorsement or approval of respondents' merchandise;

5. Putting any plan into operation through the use of which retailers or others may misrepresent the usual and regular retail price of, the size of or endorsement or approval of respondents' merchandise;

6. Using the words or terms "List," "List Price," or any other words or terms of similar import, to refer to price of merchandise unless such amounts are the prices at which the merchandise is usually and customarily sold in the trade area in which such representations are made, or otherwise misrepresenting the usual and customary retail price or prices of respondents' merchandise in any trade area.

7. Using the words "scout," "eagle scout," "cub scout" or "the scout deluxe" or any other word or words of similar import or meaning, to designate, describe or refer to respondents' sleeping bags or other products, or otherwise representing that said sleeping bags or other products are sponsored, endorsed, or approved by the organization known as the Boy Scouts of America or that said sleeping bags or other products form a part of the equipment of members of said organization.

8. Misrepresenting the length of time respondents have actually been engaged in the business of manufacturing sleeping bags, or in any other business.

9. Representing in any manner that corporate respondents Lake-O-Woods Co., Inc., United Garment Manufacturing Co.—Michigan Division, or any other corporation have been engaged in business for any period of time prior to the date of the incorporation of same.

10. Using the words "High Sierra Brand Made in the West," "High Sierra Brand Made in Los Angeles, Calif.," "Manufactured by" or "Made by United Garment Manufacturing Co. of Minneapolis, Minnesota" or any other word or combination of words, so as to represent that they, or any of them, own, operate or control a plant or factory wherein such products are manufactured at the location stated, when such is not the fact.

11. Representing that they have a factory or manufacturing plant in which their said products are made in any location other than at its actual location.

It is further ordered, That respondents United Garment Manufacturing Co.—Michigan Division, a corporation, Lake-O-Woods Co., Inc., a corporation, Edward Maslon and Betty Maslon, individually and as officers of said corporations, their officers, agents, representatives, and employees, directly or through any corporate or other device, in connection with the introduction, delivery for introduction, manufacture 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, whether 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:

A. Misbranding textile fiber products by:

1. Failing to affix labels to such textile fiber products showing in a clear, legible and conspicuous manner each element of information required to be disclosed by Section 4(b) of the Textile Fiber Products Identification Act.

2. Using a generic name or fiber trademark on any label, whether required or non-required, without making a full and complete fiber content disclosure on such label in accordance with the Act and Regulations the first time such generic name or fiber trademark appears on the label.

3. Failing to separately set forth the required information as to fiber content on the required label in such a manner as to separately show the fiber content of the separate sections of textile fiber products containing two or more sections where such form of marking is necessary to avoid deception.

4. Using the terms “New” or “Virgin” as descriptive of a textile fiber product, or any fiber or part thereof, where the product or part so described is not composed wholly of new or virgin fiber which has never been reclaimed from any spun, woven, knitted, felted, bonded or similarly manufactured product.

B. Falsely and deceptively advertising textile fiber products by:

1. Making any representations, by disclosure or by implication, as to the fiber contents of any textile fiber product in any written advertisement which is used to aid, promote, or assist, directly or indirectly, in the sale or offering for sale of such textile fiber products, unless the same information required to be shown on the stamp, tag, label or other means of identification under Sections 4(b) (1) and (2) of the Textile Fiber Products Identification Act is contained in the said advertisement, except that the percentages of the fibers present in the textile fiber product need not be stated.

2. Failing to separately set forth the information as to fiber content in the required fiber content disclosure in such a manner as to separately show the fiber content of the separate sections of textile fiber products containing two or more sections where such form of marking is necessary to avoid deception.

3. Using a fiber trademark in advertising textile fiber products containing more than one fiber without such fiber trademark appearing in the required fiber content information in immediate proximity and conjunction with the generic name of the fiber in plainly legible type or lettering of equal size and conspicuousness.

And it is further ordered. That the complaint be, and the same hereby is, dismissed as to the respondents Dorothy Palluconi, Albert Maslon and Warren Barrett, without prejudice to any further action on the part of the Federal Trade Commission should it be made to appear that remedial action against them is or will become necessary.

DECISION OF THE COMMISSION AND ORDER TO FILE REPORT OF
COMPLIANCE

The hearing examiner having filed his initial decision in this matter on May 12, 1964, and the Commission by order of June 16, 1964, having stayed the effective date thereof; and

The Commission having determined that the order to cease and desist contained in the initial decision should be modified and that the initial decision as so modified should be adopted as the decision of the Commission:

It is ordered. That the following order be, and it hereby is, substituted for the order contained in the initial decision:

It is ordered, That respondents United Garment Manufacturing Co.—Michigan Division, a corporation, Lake-O-Woods Co., Inc., a corporation, Edward Maslon and Betty Maslon, individually and as officers of said corporations, their officers, agents, representatives, and employees, directly or through any corporate or other device, in connection with the manufacture, offering for sale, sale or distribution of sleeping bags or other merchandise in commerce as “commerce” is defined in the Federal Trade Commission Act, do forthwith cease and desist from :

1. Advertising, labeling, representing in a catalog or otherwise representing the “cut,” “cut size” or dimensions of material used in their construction, unless such representation is accompanied by a description of the finished or actual size, with the latter description being given at least equal prominence;

2. Misrepresenting the size of such products on labels or in any other manner;

3. Preticketing said merchandise with any amount or price in excess of the price at which said merchandise is being offered for sale, or otherwise representing in advertising or labeling that said merchandise is being offered at retail at a reduction from a higher price, when the preticketed amount or represented higher price appreciably exceeds the highest retail price at which substantial sales of the merchandise are being made in the trade area in which respondents are doing business;

4. Using the words “scout,” eagle scout,” “cub scout” or “the scout deluxe” or any other word or words of similar import or meaning, to designate, describe or refer to respondents’ sleeping bags or other products, or otherwise representing that said sleeping bags or other products are sponsored, endorsed, or approved by the organization known as the Boy Scouts of America or that said sleeping bags or other products form a part of the equipment of members of said organization;

5. Furnishing to others any means or instrumentality by or through which the public may be misled as to the prevailing retail price of respondents’ merchandise or as to the size, endorsement, or approval of said merchandise;

6. Misrepresenting the length of time respondents have actually been engaged in the business of manufacturing sleeping bags, or in any other business;

7. Using the words “High Sierra Brand Made in the West,” “High Sierra Brand Made in Los Angeles, Calif.,” “Manufactured

by” or “Made by United Garment Manufacturing Co. of Minneapolis, Minnesota” or otherwise representing that they own, operate or control a plant or factory wherein such products are manufactured at the stated locations;

8. Representing that they have a factory or manufacturing plant at any place other than the place in which a factory or plant owned, operated or controlled by them is located.

It is further ordered, That respondents United Garment Manufacturing Co.—Michigan Division, a corporation, Lake-O-Woods Co., Inc., a corporation, Edward Maslon and Betty Maslon, individually and as officers of said corporations, their officers, agents, representatives, and employees, directly or through any corporate or other device, in connection with the introduction, delivery for introduction, manufacture 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, whether 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:

A. Misbranding textile fiber products by:

1. Failing to affix labels to such textile fiber products showing in a clear, legible and conspicuous manner each element of information required to be disclosed by Section 4(b) of the Textile Fiber Products Identification Act.

2. Using a generic name or fiber trademark on any label, whether required or non-required, without making a full and complete fiber content disclosure on such label in accordance with the Act and Regulations the first time such generic name or fiber trademark appears on the label.

3. Failing to separately set forth the required information as to fiber content on the required label in such a manner as to separately show the fiber content of the separate sections of textile fiber products containing two or more sections where such form of marking is necessary to avoid deception.

4. Using the terms "New" or "Virgin" as descriptive of a textile fiber product, or any fiber or part thereof, where the product or part so described is not composed wholly of new or virgin fiber which has never been reclaimed from any spun, woven, knitted, felted, bonded or similarly manufactured product.

B. Falsely and deceptively advertising textile fiber products by:

1. Making any representations, by disclosure or by implication, as to the fiber contents of any textile fiber product in any written advertisement which is used to aid, promote, or assist, directly or indirectly, in the sale or offering for sale of such textile fiber products, unless the same information required to be shown on the stamp, tag, label or other means of identification under Sections 4(b)(1) and (2) of the Textile Fiber Products Identification Act is contained in the said advertisement, except that the percentages of the fibers present in the textile fiber product need not be stated.

2. Failing to separately set forth the information as to fiber content in the required fiber content disclosure in such a manner as to separately show the fiber content of the separate sections of textile fiber products containing two or more sections where such form of marking is necessary to avoid deception.

3. Using a fiber trademark in advertising textile fiber products containing more than one fiber without such fiber trademark appearing in the required fiber content information in immediate proximity and conjunction with the generic name of the fiber in plainly legible type or lettering of equal size and conspicuousness.

It is further ordered, That the complaint be, and the same hereby is, dismissed as to the respondents Dorothy Palluconi, Albert Maslon and Warren Barrett, without prejudice to any further action on the part of the Federal Trade Commission should it be made to appear that remedial action against them is or will become necessary.

It is further ordered, That the hearing examiner's initial decision as modified herein be, and it hereby is, adopted as the decision of the Commission.

It is further ordered, That respondents United Garment Manufacturing Co.—Michigan Division, Lake-O-Woods Co., Inc., Edward Maslon, and Betty Maslon shall within sixty (60) days after service

