

Complaint

IN THE MATTER OF

THE SUPER MART TRADING AS
SUPER YARN MARKETS, ETC.

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

Docket C-899. Complaint, May 21, 1965—Decision, May 21, 1965

Consent order requiring Los Angeles, Calif., retailers of wool yarn and other wool products to cease misrepresenting the fiber content of its wool yarn by falsely labeling and advertising certain yarns as composed of 100% Mohair when such yarns contained less Mohair than represented and other woolen fibers, and failing to disclose the total fiber weight of its wool products.

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 The Super Mart, a corporation, trading as Super Yarn Markets, Super Yarn & Fabric Markets, and Super Yarn Mart, and Irving Hershey Gold, individually and as an officer of the Super Mart, 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 The Super Mart, is a corporation organized, existing and doing business under and by virtue of the laws of the State of California, and trades as Super Yarn Markets, Super Yarn & Fabric Markets, and Super Yarn Mart. Its office and principal place of business is located at 1233 South San Pedro Street, Los Angeles, California.

Individual respondent Irving Hershey Gold, is an officer of said corporate respondent and formulates, directs and controls the acts, policies and practices of said corporation. His address is the same as that of said corporation.

Respondents are retailers of wool products and maintain thirteen (13) branch outlets in addition to the above stated principal office.

PAR. 2. Subsequent to the effective date of the Wool Products Labeling Act of 1939, respondents have introduced into commerce, sold, transported, distributed, delivered for shipment and offered for

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sale in commerce as "commence" is defined in said Act, wool products as "wool product" is defined therein.

PAR. 3. Certain of said wool products were misbranded 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 certain yarns stamped, tagged or labeled as containing 100% Mohair, whereas in truth and in fact, said yarns contained substantially less Mohair than represented and in addition contained a substantial amount of other woolen fibers.

PAR. 4. Certain of said wool products were further misbranded 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 yarns with labels on or affixed thereto which failed to disclose the percentage of the total fiber weight of the wool product, exclusive of ornamentation not exceeding 5 per centum 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 per centum or more; and (3) the aggregate of all other fibers.

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 the following respects:

(a) The respective common generic names of fibers present in wool products were not used in naming such fibers in required information, in violation of Rule 8(a) of the aforesaid Rules and Regulations.

Among such misbranded wool products, but not limited thereto, were certain yarns with labels on or affixed thereto which described a portion of the fiber content as "Orlon" without using the common generic name of said fiber, "acrylic."

(b) 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 when certain of the fibers so described were not

entitled to such designation, in violation of Rule 19 of the aforesaid Rules and Regulations.

PAR. 6. The acts and practices of the respondents as set forth above were in violation of the Wool Products Labeling Act of 1939 and the Rules and Regulations promulgated thereunder, and constituted 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. 7. Respondents are now, and for some time last past have been, engaged in the advertising, offering for sale and sale of textile products to the general public. In the course and conduct of their business respondents now cause and have caused their said textile products to be offered for sale in issues of the Los Angeles Times, a newspaper published in the city of Los Angeles, State of California and distributed in interstate commerce, which advertisements are intended to induce the sale of said yarn, and have maintained a substantial course of trade in commerce, as "commerce" is defined in the Federal Trade Commission Act.

PAR. 8. Among and typical of the statements and representations contained in the aforesaid newspaper advertisements, but not all inclusive thereof, is the following:

100% Italian Mohair Yarn.

PAR. 9. By and through the use of the aforesaid statements and representations of respondents, respondents represented directly or by implication, that the aforesaid yarn was composed of 100% Mohair, whereas in truth and in fact the yarn contained fibers other than Mohair fibers.

Therefore, the statements and representations as set forth in Paragraphs Seven and Eight, were and are false, misleading and deceptive.

PAR. 10. The use by respondents of the aforesaid false, misleading and deceptive statements, representations and practices has had 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 mistaken belief.

PAR. 11. The aforesaid acts and practices of respondents as herein alleged, were all to the prejudice and injury of the public and of respondents' competitors and constituted unfair and deceptive acts

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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 Federal Trade Commission Act and the Wool Products Labeling Act of 1939, 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 The Super Mart is a corporation organized, existing and doing business under and by virtue of the laws of the State of California, and trades as Super Yarn Markets, Super Yarn & Fabric Markets, and Super Yarn Mart, with its office and principal place of business located at 1233 South San Pedro Street, Los Angeles, California.

Respondent Irving Hershey Gold 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 The Super Mart, a corporation, trading as Super Yarn Markets, Super Yarn & Fabric Markets, and Super Yarn Mart, or under any other trade name or names, and its

officers and Irving Hershey Gold, individually and as an officer of The Super Mart, and respondents' representatives, agents and employees, directly or through any corporate or other device, do forthwith cease and desist from introducing into commerce, or offering for sale, selling, transporting, distributing or delivering for shipment in commerce, wool yarn or other wool products, as "commerce" and "wool product" are defined in the Wool Products Labeling Act of 1939:

1. Which are falsely or deceptively stamped, tagged, labeled or otherwise identified as to the character or amount of the constituent fibers contained therein.
2. Unless such product has securely affixed thereto or placed thereon a stamp, tag, label or other means of identification;
 - (a) Correctly 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.
 - (b) Setting forth the common generic name of fibers in the required information on labels, tags or other means of identification attached to wool products.
3. Which has affixed thereto a label which uses the term "mohair" in lieu of the word "wool" in setting forth the required information on labels affixed to wool products unless the fibers described as mohair are entitled to such designation and are present in at least the amount stated.

It is further ordered, That respondents The Super Mart, a corporation, trading as Super Yarn Markets, Super Yarn & Fabric Markets, and Super Yarn Mart, or under any other trade name or names, and its officers, and Irving Hershey Gold, individually and as an officer of The Super Mart, and respondents' representatives, agents and employees directly or through any corporate or other device, in connection with the offering for sale, sale or distribution of yarn or any other textile products in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from misrepresenting the character or amount of constituent fibers contained in yarn or any other textile products in advertisements applicable thereto or in any other manner.

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.

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IN THE MATTER OF

WHITEHILL SYSTEMS, INC., ET AL.

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

Docket C-900. Complaint, May 26, 1965—Decision, May 26, 1965

Consent order requiring New York City sellers of business record keeping systems and tax services for small businesses through franchised distributors, to cease misrepresenting in advertisements in newspapers and in brochures, to induce the purchase of distributorships, the earnings and profits, permanency of ownerships, recovery of initial investment, training expenses, and the nature of business opportunity being offered.

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 Whitehill Systems, Inc., a corporation, and Louis Weisberg, individually and as an officer of said corporation, hereinafter referred to as respondents, have violated the provisions of said Act, and it appearing to the Commission that a proceeding by it in respect thereof would be in the public interest, hereby issues its complaint stating its charges in that respect as follows:

PARAGRAPH 1. Respondent Whitehill Systems, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of New York, with its principal office and place of business located at 71 Fifth Avenue, New York 3, New York.

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

PAR. 2. Respondents are now, and for some time last past have been, engaged in the advertising, offering for sale, sale and distribution through franchised distributors, of a bookkeeping system and tax service for small businesses. The record keeping system consists of a loose leaf binder called "Whitehill Taxkeeping Systems" which contains forms and instructions for keeping records of the business. The tax service undertakes to furnish purchasers with income tax bulletins, answers their inquiries regarding income taxes and, upon request, prepares the purchaser's income tax return at the end of the year from a summary of figures furnished by him. The