

Complaint

IN THE MATTER OF

SIMON AND MOGILNER ET AL.

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

Docket C-1240. Complaint, June 30, 1967—Decision, June 30, 1967

Consent order requiring a Birmingham, Ala., manufacturer of children's clothing to cease misbranding and falsely guaranteeing its wool and textile fiber products and falsely advertising its textile fiber products.

COMPLAINT

Pursuant to the provisions of the Federal Trade Commission Act, the Wool Products Labeling Act of 1939 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 Simon and Mogilner, a partnership, and Isadore E. Simon, Emanuel Mogilner and Blair Simon, individually and as copartners trading as Simon and Mogilner, and Jerrold A. Simon, individually and as Director of Quality, Finishing and Packaging of Simon and Mogilner, and Max Friedman, individually and as Assistant General Manager of Simon and Mogilner, sometimes hereinafter referred to as respondents, have violated the provisions of said Acts and the Rules and Regulations promulgated under the Wool Products Labeling Act of 1939 and the Textile Fiber Products Identification 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 Simon and Mogilner is a partnership. Respondents Isadore E. Simon, Emanuel Mogilner and Blair Simon are individuals and copartners trading as Simon and Mogilner. Respondent Jerrold A. Simon, is an employee of Simon and Mogilner acting in the capacity of Director of Quality, Finishing and Packaging. Respondent Max Friedman, is an employee of Simon and Mogilner acting in the capacity of Assistant General Manager.

Respondents are engaged in the manufacture and sale of wool and textile fiber products, including children's clothing, with their

principal office and place of business located at 1420 14th Street, SW., city of Birmingham, State of Alabama.

PAR. 2. Respondents, now and for some time last past, 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 the Wool Products Labeling Act of 1939, 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 the constituent fibers contained therein.

Among such misbranded wool products, but not limited thereto, were quilted fabrics stamped, tagged, labeled, or otherwise identified by respondents as 90% Orlon Acrylic, 10% Other Fibers, whereas in truth and in fact, said products contained woolen fibers as well as substantially different fibers and amounts of fibers other than as represented.

PAR. 4. Certain of said wool products were further misbranded by respondents in that they were not stamped, labeled, tagged, 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, was a wool product with a label on or affixed thereto which failed to disclose the percentage of the total fiber weight of the said wool product, exclusive of ornamentation not exceeding 5% of the total fiber weight, of (1) wool; (2) reprocessed wool; (3) reused wool; (4) each fiber other than wool, when said percentage by weight of such fiber was 5% or more; and (5) the aggregate of all other fibers.

PAR. 5. The respondents furnished false guaranties that certain of their said wool products were not misbranded, when respondents in furnishing such guaranties had reason to believe that the wool products so falsely guaranteed might be introduced, sold, transported, or distributed in commerce, in violation of Section 9(b) of 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 methods of competition and unfair and deceptive acts and practices, in commerce within the meaning of the Federal Trade Commission Act.

PAR. 7. Respondents, are now and for some time last past, have been engaged in the introduction, delivery for introduction, manufacture for introduction, sale, advertising, and offering for sale, in commerce, and in the transportation or causing to be transported in commerce, and the importation into the United States, of textile fiber products; and have sold, offered for sale, advertised, delivered, transported and caused to be transported, textile fiber products, which had 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. 8. Certain of said textile fiber products were misbranded by respondents within the intent and meaning of Section 4(a) of the Textile Fiber Products Identification Act and the Rules and Regulations promulgated thereunder in that they were falsely and deceptively stamped, tagged, labeled, invoiced, advertised, or otherwise identified as to the name of the constituent fibers contained therein.

Among such misbranded textile fiber products, but not limited thereto, were quilted fabrics that were labeled as 70% Orlon Acrylic, 30% Other Fibers, whereas, in truth and in fact, such products contained substantially different fibers and amounts of fibers other than as represented.

PAR. 9. Certain of the textile fiber products were misbranded by respondents in that they were not stamped, tagged, labeled, or otherwise identified to show each element of information required to be disclosed by 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 quilted fabrics with labels which failed:

(1) To disclose the true percentage of the fibers present by weight; and

(2) To disclose the true generic names of the fibers present.

PAR. 10. 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 such textile fiber products, but not limited thereto, was children's clothing which was falsely and deceptively advertised in, among others, *The Women's Wear Daily*, a newspaper published in the city and State of New York and having an extensive interstate circulation. The aforesaid children's clothing was described by means of such terms, among others, as "Corduroy" and "Denim" and the true generic names of the fibers contained in such products were not set forth.

PAR. 11. Respondents have furnished false guaranties that their textile fiber products were not misbranded in violation of Section 10 of the Textile Fiber Products Identification Act.

PAR. 12. The acts and practices of respondents, as set forth in Paragraphs Eight, Nine, Ten and Eleven above were, and are, in violation of the Textile Fiber Products Identification Act and the Rules and Regulations promulgated thereunder, and constituted, and now constitute, unfair methods of competition and unfair and deceptive acts and practices in commerce under the Federal Trade Commission Act.

DECISION AND ORDER

The Federal Trade Commission having initiated an investigation of certain acts and practices of the respondents named in the caption hereof, and the respondents having been furnished thereafter with a copy of a draft of complaint which the Bureau of Textiles and Furs proposed to present to the Commission for its consideration and which, if issued by the Commission, would charge respondents with violation of the Federal Trade Commission Act, the Wool Products Labeling Act of 1939 and the Textile Fiber Products Identification Act; and

The respondents and counsel for the Commission having thereafter executed an agreement containing a consent order, an admission by the respondents of all the jurisdictional facts set forth in the aforesaid draft of complaint, a statement that the signing of

said agreement is for settlement purposes only and does not constitute an admission by the respondents that the law has been violated as alleged in such complaint, and waivers and provisions as required by the Commission's rules; and

The Commission, having reason to believe that the respondents have violated said Acts, and having determined that complaint should issue stating its charges in that respect, hereby issues its complaint, accepts said agreement, makes the following jurisdictional findings, and enters the following order:

1. Respondent Simon and Mogilner is a partnership trading as Simon and Mogilner. Respondents Isadore E. Simon, Emanuel Mogilner and Blair Simon are individuals and copartners trading as Simon and Mogilner, with their office and principal place of business located at 1420 14th Street, SW., city of Birmingham, State of Alabama.

Respondent Jerrold A. Simon is an individual acting in the capacity of Director of Quality, Finishing and Packaging of Simon and Mogilner and his address is the same as that of said partnership.

Respondent Max Friedman is an individual acting in the capacity of Assistant General Manager of Simon and Mogilner and his address is the same as that of said partnership.

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 Simon and Mogilner, a partnership, and Isadore E. Simon, Emanuel Mogilner and Blair Simon, individually and as copartners trading as Simon and Mogilner, or any other name, and Jerrold A. Simon, individually and as Director of Quality, Finishing and Packaging of Simon and Mogilner, and Max Friedman, individually and as Assistant General Manager of Simon and Mogilner, 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, delivery for shipment or 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:

Order

71 F.T.C.

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.

It is further ordered, That respondents Simon and Mogilner, a partnership, and Isadore E. Simon, Emanuel Mogilner and Blair Simon, individually and as copartners trading as Simon and Mogilner, or any other name, and Jerrold A. Simon, individually and as Director of Quality, Finishing and Packaging of Simon and Mogilner, and Max Friedman, individually and as Assistant General Manager of Simon and Mogilner, and respondents' representatives, agents and employees, directly or through any corporate or other device, do forthwith cease and desist from furnishing a false guaranty that any wool product is not misbranded under the Wool Products Labeling Act of 1939 and the Rules and Regulations promulgated thereunder when there is reason to believe that any wool product so guaranteed may be introduced, sold, transported or distributed, in commerce as the term "commerce" is defined in the aforesaid Act.

It is further ordered, That respondents Simon and Mogilner, a partnership, and Isadore E. Simon, Emanuel Mogilner and Blair Simon, individually and as copartners trading as Simon and Mogilner, or any other name, and Jerrold A. Simon, individually and as Director of Quality, Finishing and Packaging of Simon and Mogilner, and Max Friedman, individually and as Assistant General Manager of Simon and Mogilner, and respondents' representatives, agents 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 "com-

merce" 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. Falsely or deceptively stamping, tagging, labeling, invoicing, advertising, or otherwise identifying such products as to the name or amount of constituent fibers contained therein.

2. Failing to affix a stamp, tag, label, or other means of identification to each such product 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.

B. Falsely and deceptively advertising textile fiber products by making any representations, by disclosure or by implication, as to fiber content 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 Section 4(b) (1) and (2) of the Textile Fiber Products Identification Act is contained in the said advertisement, except that the percentages of a fiber present in the textile fiber product need not be stated.

It is further ordered, That respondents Simon and Mogilner, a partnership, and Isadore E. Simon, Emanuel Mogilner and Blair Simon, individually and as copartners, trading as Simon and Mogilner, or any other name, and Jerrold A. Simon, individually and as Director of Quality, Finishing and Packaging of Simon and Mogilner, and Max Friedman, individually and as Assistant General Manager of Simon and Mogilner, and respondents' representatives, agents and employees, directly or through any corporate or other device, do forthwith cease and desist from furnishing a false guaranty that any textile fiber product is not misbranded or falsely invoiced under the provisions of the Textile Fiber Products Identification Act.

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.

Complaint

71 F.T.C.

IN THE MATTER OF

DAVID HOFFMAN TRADING AS HOFFMAN & SON

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

Docket C-1241. Complaint, June 30, 1967—Decision, June 30, 1967

Consent order requiring a Worcester, Mass., producer of wool fiber stock to cease misrepresenting the fiber content of wool products on invoices, misbranding woolens, and furnishing false guarantees on textile fiber products.

COMPLAINT

Pursuant to the provisions of the Federal Trade Commission Act, the Wool Products Labeling Act of 1939 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 David Hoffman, an individual trading as Hoffman & Son, sometimes hereinafter referred to as respondent, has violated the provisions of said Acts and the Rules and Regulations promulgated under the Wool Products Labeling Act of 1939 and the Textile Fiber Products Identification 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 David Hoffman is an individual trading as Hoffman & Son. Respondent is engaged in the production and sale of wool fiber stock with his office and principal place of business located at 41 Sutton Lane, Worcester, Massachusetts.

PAR. 2. Respondent, now and for some time last past, has 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 the Wool Products Labeling Act of 1939, wool products as "wool product" is defined therein.

PAR. 3. Certain of said wool products were misbranded by the respondent within the intent and meaning of Section 4(a)(1) of the Wool Products Labeling Act of 1939 and 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.