

IN THE MATTER OF

LYDIA KESSLER, LTD., 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-1497. Complaint, Feb. 20, 1969—Decision, Feb. 20, 1969

Consent order requiring a New York City retailer of ladies' ready-to-wear garments to cease misbranding its wool and textile fiber products, and failing to maintain required records.

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 Lydia Kessler, Ltd., a corporation, and Lydia Kessler and Frances Van Blarcom, individually and as officers of said corporation, 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 Lydia Kessler, Ltd., is a corporation organized, existing and doing business under and by virtue of the laws of the State of New York.

Individual respondents Lydia Kessler and Frances Van Blarcom are officers of said corporation. They formulate, direct and control the policies, acts and practices of said corporation.

Respondents are retailers of ladies' ready-to-wear garments, both wool and textile, with their office and principal place of business located at 711 Madison Avenue, New York, New York.

PAR. 2. Respondents, now and for some time last past, have introduced into commerce, sold, transported, distributed, delivered for shipment, shipped, and offered for sale, in commerce, as "commerce" is defined in said Wool Products Labeling Act of 1939, wool products as "wool product" is defined therein.

PAR. 3. Certain of said wool products were misbranded by respondents in that they were not stamped, tagged, labeled, or otherwise identified as required under the provisions of Section 4(a) (2) of the Wool Products Labeling Act of 1939 and in the manner and form as prescribed by the Rules and Regulations promulgated under said Act.

Among such misbranded wool products, but not limited thereto, were wool products without labels, or with labels on or affixed thereto, which failed to disclose the percentage of the total fiber weight of the said wool products, exclusive of ornamentation not exceeding five per centum of said total fiber weight, of (1) wool; (2) reprocessed wool; (3) reused wool; (4) each fiber other than wool, when said percentage of weight of such fiber was five per centum or more; and (5) the aggregate of all other fibers.

PAR. 4. Respondents, now and for some time last past, and with the intent of violating the provisions of the Wool Products Labeling Act of 1939, after shipment to them in commerce of wool products, have, in violation of Section 5 of said Act, removed or caused or participated in the removal of the stamp, tag, label or other identification required by said Act to be affixed to such wool products, prior to the time such wool products were sold and delivered to the ultimate consumer, without sub-

stituting therefor labels conforming to Section 4(a) (2) of said Act.

PAR. 5. The acts and practices of the respondents as set forth above were, and are, in violation of the Wool Products Labeling Act of 1939 and the Rules and Regulations promulgated thereunder, and constituted, and now constitute, unfair and deceptive acts and practices and unfair methods of competition in commerce, within the intent and meaning of the Federal Trade Commission Act.

PAR. 6. Respondents are now and for some time last past have been engaged in the introduction, delivery for introduction, sale, advertising, and offering for sale, in commerce, and in the transportation or causing to be transported in commerce, and in 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 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. 7. 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 as prescribed by the Rules promulgated under said Act.

PAR. 8. Respondents, in violation of Section 5(a) of the Textile Fiber Products Identification Act have caused and participated in the removal of, prior to the time textile fiber products subject to the provisions of the Textile Fiber Products Identification Act were sold and delivered to the ultimate consumer, labels required by the Textile Fiber Products Identification Act to be affixed to such products, without substituting therefor labels conforming to Section 4 of said Act and in the manner prescribed by Section 5(b) of said Act.

PAR. 9. Respondents in substituting a stamp, tag, label or other identification pursuant to Section 5(b) have not kept such records as would show the information set forth on the stamp, tag, label or other identification that was removed and the name or names of the person or persons from which such textile fiber

product was received, in violation of Section 6(b) of the Textile Fiber Products Identification Act.

PAR. 10. The aforesaid acts and practices of respondents as set forth in Paragraphs Seven through Nine 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 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 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 respondents that the law has been violated as alleged in such complaint, and waivers and other provisions as required by the Commission's Rules; and

The Commission having thereafter considered the matter and having determined that it had reason to believe that the respondents have violated the said Acts, and that complaint should issue stating its charges in that respect, and having thereupon accepted the executed consent agreement and placed such agreement on the public record for a period of thirty (30) days, now in further conformity with the procedure prescribed in § 2.34(b) of its Rules, the Commission hereby issues its complaint, makes the following jurisdictional findings, and enters the following order:

1. Respondent Lydia Kessler, Ltd., 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 711 Madison Avenue, New York, New York.

Respondent Lydia Kessler and Frances Van Blarcom are officers of said corporation and their address is the same as that of said corporation.

2. The Federal Trade Commission has jurisdiction of the subject matter of this proceeding and of the respondents, and the proceeding is in the public interest.

ORDER

It is ordered, That respondents Lydia Kessler, Ltd., a corporation, and its officers, and Lydia Kessler and Frances Van Blarcom, individually and as officers of said corporation, and respondents' representatives, agents and employees, directly or through any corporate or other device, in connection with the introduction into commerce, or 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 wool products by 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 Lydia Kessler, Ltd., a corporation, and its officers, and Lydia Kessler and Frances Van Blarcom, individually and as officers of said corporation, and respondents' agents, representatives, and employees, directly or through any corporate or other device, do forthwith cease and desist from removing, or causing or participating in the removal of the stamp, tag, label or other identification required by the Wool Products Labeling Act of 1939 to be affixed to wool products subject to the provisions of such Act, prior to the time any such wool product is sold and delivered to the ultimate consumer, without substituting therefor labels conforming to Section 4(a)(2) of said Act.

It is further ordered, That respondents Lydia Kessler, Ltd., a corporation, and its officers, and Lydia Kessler and Frances Van Blarcom, individually and as officers of said corporation, and respondents' representatives, agents and employees, directly or through any corporate or other device, in connection with the introduction, delivery 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 misbranding such textile fiber products by failing to affix a stamp, tag, label, or other means of identification to each such textile fiber 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.

It is further ordered, That respondents Lydia Kessler, Ltd., a corporation, and its officers, and Lydia Kessler and Frances Van Blarcom, individually and as officers of said corporation, and respondents' representatives, agents and employees, directly or through any corporate or other device, do forthwith cease and desist from removing or causing or participating in the removal or mutilation of the stamp, tag, label or other identification required by the Textile Fiber Products Identification Act to be affixed to any textile fiber product, after such textile fiber product has been shipped in commerce and prior to the time such textile fiber product is sold and delivered to the ultimate consumer, without substituting therefor labels conforming to Section 4 of said Act and the Rules and Regulations promulgated thereunder and in the manner prescribed by Section 5(b) of said Act.

It is further ordered, That respondents Lydia Kessler, Ltd., a corporation, and its officers, and Lydia Kessler and Frances Van Blarcom, individually and as officers of said corporation, and respondents' representatives, agents and employees, directly or through any corporate or other device, do forthwith cease and desist from failing to keep such records when substituting a stamp, tag, label, or other identification pursuant to Section 5(b) as would show the information set forth on the stamp, tag, label, or other identification that was removed, and the name or names of the person or persons from whom such textile fiber product was received.

It is further ordered, That the respondent corporation shall

forthwith distribute a copy of this order to each of its operating divisions.

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.
