

Complaint

75 F.T.C.

IN THE MATTER OF

PLAZA NINE, LTD., ET AL.

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

Docket C-1538. Complaint, May 23, 1969—Decision, May 23, 1969

Consent order requiring a Wichita, Kans., seller of textile and wool fiber products to cease misbranding its merchandise and failing to keep required records.

COMPLAINT

Pursuant to the provisions of the Federal Trade Commission Act, the Textile Fiber Products Identification 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 Plaza Nine, Ltd., a corporation, and Shirley M. Zakas, individually and as an officer of said corporation, 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 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 Plaza Nine, Ltd., is a corporation organized, existing and doing business under and by virtue of the laws of the State of Kansas. Its office and principal place of business is located at 221 East William Street, Wichita, Kansas. Individual respondent Shirley M. Zakas is the principal officer of said corporation. She formulates, directs and controls the acts, practices and policies of said corporation. Her office and principal place of business is the same as said corporation.

Respondents are engaged in the sale of textile and wool fiber products, including but not limited to the sale of designer's samples of women's apparel.

PAR. 2. 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 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. 3. 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 designers' samples of women's apparel with labels which failed;

(1) To disclose the true generic names of the fibers present; and

(2) To disclose the true percentage of the fibers present by weight.

PAR. 4. 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 therefore labels conforming to Section 4 of said Act and in the manner prescribed by Section 5(b) of said Act.

PAR. 5. 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 whom such textile fiber products was received, in violation of Section 6(b) of the Textile Fiber Products Identification Act.

PAR. 6. The acts and practices of respondents, as set forth 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 or practices, in commerce, under the Federal Trade Commission Act.

PAR. 7. Respondents now and for sometime 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. 8. 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 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, namely designers' samples, 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 5 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 by weight of such fiber was 5 per centum or more; and (5) the aggregate of all other fibers.

PAR. 9. Respondents, subsequent to the effective date of the Wool Products Labeling Act of 1939, and with the intent of violating the provisions of said Act, 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 wool products subject to the provisions of such Act, prior to the time such wool products were sold and delivered to the ultimate consumer, without substituting therefor labels conforming to Section 4(a)(2) of said Act.

PAR. 10. The acts and practices of the respondents as set forth above were, and are, in violation of the Wool Products Labeling Act of 1939 and the Rules and Regulations promulgated thereunder, and constituted and now constitute unfair and deceptive acts and practices and unfair methods of competition in commerce, within the intent and meaning of the Federal Trade Commission Act.

DECISION AND ORDER

The 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 Textile Fiber Products Identification Act and the Wool Products Labeling Act of 1939; 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 Plaza Nine, Ltd., is a corporation organized, existing and doing business under and by virtue of the laws of the State of Kansas, with its office and principal place of business located at 221 East William Street, Wichita, Kansas.

Respondent Shirley M. Zakas is an officer of said corporation and her 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 Plaza Nine, Ltd., a corporation, and its officers, and Shirley M. Zakas, individually and as an officer of said corporation, and respondents' representatives, agents and employees, directly or through any corporate or other device, in connection with the introduction, 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 term "commerce" and "textile fiber product" are defined in the Textile Fiber Products Identification Act, do forthwith cease and desist from misbranding textile fiber products by failing to affix labels 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.

It is further ordered, That respondents Plaza Nine, Ltd., a corporation, and its officers, and Shirley M. Zakas, individually and as an officer 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 mutilating, 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 Plaza Nine, Ltd., a corporation, and its officers, and Shirley M. Zakas, individually and as an officer 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 will 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 respondents Plaza Nine, Ltd., a corporation, and its officers, and Shirley M. Zakas, individually and as an officer of said corporation, and respondents' representatives, agents and employees, directly or through any corporate or other device, in connection with the introduction, 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 failing to securely affix to or place on, each such product a stamp, tag, label or other means of identification 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.

It is further ordered, That respondents Plaza Nine, Ltd., a corporation, and its officers, and Shirley M. Zakas, individually and as an officer 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 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 wool product subject to the provisions of said Act 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 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.

Order

75 F.T.C.

IN THE MATTER OF

ISRAEL RETTINGER ET AL. DOING BUSINESS AS
RETTINGER RAINCOAT MFG. CO.

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

Docket 6534. Complaint, March 22, 1956—Decision, May 27, 1969

Order modifying a consent order dated August 17, 1956, 53 F.T.C. 132, which prohibited a manufacturer of rainwear from misusing the word "Goodyear" by permitting the successor respondent to use the term "Goodyear-Made By Rettinger" and similar words.

DISSENTING OPINION

MAY 27, 1969

BY DIXON, *Commissioner*:

Commissioner Dixon dissents from that part of the modified order which would permit respondents to use such statements as "Goodyear-By Rettinger" and "Goodyear-By Lucky Rainwear" to designate rainwear manufactured by a firm other than respondent corporation. Commissioner Dixon believes that such statements are wholly inadequate to inform purchasers that the rainwear is not made by respondent corporation, and, in themselves, constitute a false representation that the goods are so made.

ORDER REOPENING MATTER AND MODIFYING ORDER TO CEASE AND
DESIST

The parties named in the caption hereof having heretofore entered into an agreement containing consent order in this matter, which order became the order to cease and desist contained in the Commission's decision of August 17, 1956 [53 F.T.C. 132]; and

Respondent David Rettinger having, on August 5, 1968, filed a motion for a stay order, and subsequent thereto having reconsidered said motion and having desired to have the motion considered as withdrawn and to present for the Commission's consideration in lieu thereof an agreement entered into between said respondent, and the Rettinger Raincoat Mfg. Co., Inc., a corporation, and their attorney, and counsel for the Commission,