

Docket C-1954. Complaint, June 29, 1971—Decision, June 29, 1971

Consent order requiring a Bridgeport, Conn., manufacturer of ladies' coats to cease misbranding its textile fiber products and wool products and failing to maintain adequate 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 be-

Complaint

78 F.T.C.

lieve that Orange Coat Company, a partnership, and Bernhardt M. Wolfson, Irving Applebaum and Harry Schwartz, individually and as copartners trading as Orange Coat Company, hereinafter referred to as respondents, have violated the provisions of said Acts and the Rules and Regulations promulgated under the aforesaid Acts 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 Orange Coat Company is a partnership existing and doing business under and by virtue of the laws of the State of Connecticut with its office and principal place of business located at 40 Cowles Street, Bridgeport, Connecticut.

Respondents Bernhardt M. Wolfson, Irving Applebaum and Harry Schwartz are individuals and copartners trading as Orange Coat Company. Their address is the same as that of said partnership.

Respondents are manufacturers of ladies' coats.

PAR. 2. 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 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. 3. Certain 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 or amounts of the constituent fibers contained therein.

Among such misbranded textile fiber products, but not limited thereto, were garments with dual labels showing conflicting amounts of constituent fibers therein.

PAR. 4. Certain of the textile fiber products were misbranded by the 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 under said Act.

Among such misbranded textile products were garments with labels which failed to disclose the true generic names of the fibers present.

PAR. 5. Respondents have failed to maintain and preserve proper records showing the fiber content of the textile fiber products manufactured by them, in violation of Section 6(a) of the Textile Fiber Products Identification Act and Rule 39 of the Regulations promulgated thereunder.

PAR. 6. The acts and practices of the 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 some time last past, have introduced into commerce, manufactured for introduction 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. 8. 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 ladies' coats made of a woolen fabric containing a polyester foam backing. The backing was not disclosed on the required label and this failure to disclose a material fact had the tendency and capacity to mislead consumers as to the character and amount of constituent fibers contained in the aforesaid ladies' coats.

PAR. 9. Certain of said wool products were further 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 with labels on or affixed thereto which failed to disclose the percentage of total fiber weight of the wool product, 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 by weight of such fiber was five per centum or more; and (5) the aggregate of all other fibers.

PAR. 10. The acts and practices of the respondents as set forth in Paragraphs Eight and Nine 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 intent and meaning of the Federal Trade Commission Act.

PAR. 11. Respondents for some time last past have been engaged in the advertising, offering for sale, sale and distribution of products, namely ladies' coats, among others in commerce. The respondents maintained and at all times mentioned herein have maintained a substantial course of trade in said products in commerce as "commerce" in defined in the Federal Trade Commission Act.

PAR. 12. Respondents in the course and conduct of their business as aforesaid have manufactured ladies' coats out of textile fabrics to which were affixed a polyester foam backing. In selling and distributing the aforesaid coats, respondents did not disclose the presence of the foam backing. This failure to disclose a material fact had the tendency and capacity to mislead and deceive consumers as to the quality of respondents' products.

PAR. 13. The acts and practices set out in Paragraph Eleven and Twelve were and are all to the prejudice and injury of the public and constituted, and now constitute, unfair and deceptive acts and practices, 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 Division of Textiles and Furs, Bureau of Consumer Protection proposed to present to the Commission for its consideration and which, if issued by the Com-

mission, 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 Orange Coat Company is a partnership existing and doing business under and by virtue of the laws of the State of Connecticut with its office and principal place of business located at 40 Cowles Street, Bridgeport, Connecticut.

Respondents Bernhardt M. Wolfson, Irving Applebaum and Harry Schwartz are individuals and copartners trading as Orange Coat Company. Their address is the same as that of said partnership.

Respondents are manufacturers of ladies' coats.

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 Orange Coat Company, a partnership, and Bernhardt M. Wolfson, Irving Applebaum and Harry Schwartz, individually and as copartners trading as Orange Coat Company or under any other name or names, 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 "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. Falsely or deceptively stamping, tagging, labeling, invoicing, advertising, or otherwise identifying such products as to the name or amount of the constituent fibers contained therein.

2. 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.

B. Failing to maintain and preserve for at least three years proper records showing the fiber content of textile fiber products manufactured by them, as required by Section 6(a) of the Textile Fiber Products Identification Act and Rule 39 of the Rules and Regulations promulgated thereunder.

It is further ordered, That respondents Orange Coat Company, a partnership, and Bernhardt M. Wolfson, Irving Applebaum and Harry Schwartz, individually and as copartners trading as Orange Coat Company or under any other name or names, 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:

1. Falsely or 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 re-

1331

Complaint

quired to be disclosed by Section 4(a) (2) of the Wool Products Labeling Act of 1939.

It is further ordered, That respondents Orange Coat Company, a partnership, and Bernhardt M. Wolfson, Irving Applebaum and Harry Schwartz, individually and as copartners trading as Orange Coat Company or under any other name or names, and respondents' representatives, agents and employees, directly or through any corporate or other device, in connection with the advertising, offering for sale, sale and distribution of ladies' coats or any other products do forthwith cease and desist from failing to disclose the presence of a foam backing or of any other substance or material in the said coats or products which might tend to mislead a purchaser as to the weight of the outer or shell fabric of the coats or products.

It is further ordered, That 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.

IN THE MATTER OF

KANDEL KNITTING MILLS, INC., ET AL.

CONSENT ORDER, ETC., IN REGARD TO THE ALLEGED VIOLATION OF