

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

Docket C-2036. Complaint, Sept. 8, 1971—Decision, Sept. 8, 1971

Consent order requiring a New York City wholesaler of fabrics to cease misbranding its woolen 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 Eastern Textile Woolens, Inc., a corporation, formerly doing business as Eastern Textile Woolen Mills, Inc., and Morris Modlin (also known as Moe Modlin), Harry Isaac and Sylvia Modlin, 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 it appearing to the Com-

mission 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 Eastern Textile Woolens, Inc., 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 256 West 39th Street, New York, New York.

Respondents Morris Modlin (also known as Moe Modlin), Harry Isaac and Sylvia Modlin, are officers of said corporation. They formulate, direct and control the policies, acts and practices of said corporation, and their address is the same as that of the corporate respondent.

Respondents are engaged in the wholesaling of fabric. They ship and distribute fabric to various customers of the United States.

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 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 constituent fibers contained therein.

Among such misbranded wool products, but not limited thereto, were bolts of fabric which were stamped, tagged, labeled or otherwise identified by respondents as containing "100% wool" whereas, in truth and in fact, said wool products contained substantially different fibers and amounts of fibers than as represented.

PAR. 4. Certain of said wool products were further 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 use of the word "Mills" as part of the former corporate name, Eastern Textile Woolen Mills, Inc., thereby representing that respondents owned, operated or controlled a mill or mills in which, or a loom or looms on which, some or all of the various products sold by them were and are manufactured.

In truth and in fact, said representations were, and are, false, misleading and deceptive. Respondents at all times mentioned herein did

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not, and do not now, own, operate or control a mill in which, or a loom or looms on which, any of the products sold by them are manufactured.

PAR. 5. 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, namely bolts of fabric 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. 6. The acts and practices 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, under Section 5(a)(1) of the Federal Trade Commission Act.

PAR. 7. In the course and conduct of their business, respondents now cause, and for some time last past, have caused, their said products, including bolts of fabrics, when sold, to be shipped from their place of business in the State of New York to purchasers thereof located in various other States of the United States, and maintain, and at all times mentioned herein have maintained, a substantial course of trade in said products in commerce, as "commerce" is defined in the Federal Trade Commission Act.

PAR. 8. In the course and conduct of their business, at all times mentioned herein, respondents have been in substantial competition, in commerce, with corporations, firms and individuals in the sale of fabrics of the same general kind and nature as those sold by respondents.

PAR. 9. Respondents by and through the use of the word "mills" as part of the corporate name of respondent to wit: Eastern Textile Woolen Mills, Inc., and through said use of their former corporate name on letterheads, invoices and otherwise, thereby represented that they owned, operated or controlled a mill or mills in which, or a loom

or looms on which, some or all of the various products sold by them were and are manufactured.

PAR. 10. In truth and in fact, said representations were, and are, false, misleading and deceptive. Respondents at all times mentioned herein did not, and do not now, own, operate or control a mill in which, or a loom or looms on which, any of the products sold by them are manufactured.

PAR. 11. A substantial portion of the purchasing public in the United States have a preference for dealing directly with a mill, in the belief that savings and other advantages may accrue to them.

PAR. 12. The use by the respondents of the said false, misleading and deceptive representations and practices has had, and now has, the capacity and tendency to mislead members of the purchasing public into the erroneous belief that said representations were and are true and into the purchase of substantial quantities of respondents' products by reason of said erroneous and mistaken belief.

PAR. 13. The acts and practices of the respondents as herein alleged in Paragraphs Seven, Eight, Nine, Ten, Eleven and Twelve were, and are, all to the prejudice and injury of the public, and of respondents' competitors, and constituted, and now constitute, unfair and deceptive acts and practices and unfair methods of competition, in commerce, within the intent and meaning of Section 5 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 Consumer Protection 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 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 matters and having determined that it had reason to believe that the respondents had

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violated the said Acts, and that complaint should issue stating its charges in that respect, and having thereupon accepted the executed 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 Section 2.34(b) of its rules, the Commission hereby issues its complaint, makes the following jurisdictional findings, and enters the following order:

1. Respondent Eastern Textile Woolens, Inc., formerly doing business as Eastern Textile Woolen Mills, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of New York. Its office and principal place of business is located at 256 West 39th Street, New York, New York.

2. Respondents Morris Modlin (also known as Moe Modlin), Harry Isaac, and Sylvia Modlin, are officers of the corporate respondent. They formulate, direct and control the acts, practices and policies of the said corporate respondent including those hereinafter set forth.

Respondents are wholesalers of wool products, including, but not limited to fabrics which are sold to retail stores throughout the United States.

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

ORDER

It is ordered, That respondents Eastern Textile Woolens, Inc., a corporation, and its officers, and Morris Modlin (also known as Moe Modlin), Harry Isaac and Sylvia Modlin, 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, 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:

A. Misbranding such products by:

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. Falsely and deceptively stamping, tagging, labeling or otherwise identifying such wool products by using the word "Mills" or any other word of similar import or meaning in or as a part of the respondents' trade or corporate name,

or representing in any other manner, on such wool products that the respondents manufacture the wool products unless and until the respondents actually own and operate, or directly and absolutely control the manufacturing plant wherein said wool products are woven or made.

3. 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 Eastern Textile Woolens, Inc., a corporation and its officers, and Morris Modlin (also known as Moe Modlin), Harry Isaac and Sylvia Modlin, individually and as officers of said corporation, and respondents' representatives, agents and employees, directly or through any corporate or other device in connection with advertising, offering for sale, sale and distribution of fabrics in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from, directly or indirectly using the word "Mills" or any other word of similar import or meaning in or as part of respondents' trade or corporate name, or representing in any other manner whether on letterheads, invoices, sales memoranda, advertising or other media that respondents manufacture the fabric sold by them unless and until respondents actually own and operate, or directly and absolutely control, the manufacturing plant wherein said fabrics are woven or made.

It is further ordered, That respondents notify the Commission at least 30 days prior to any proposed change in the corporate respondent such as dissolution, assignment or sale resulting in the emergence of a successor corporation, the creation or dissolution of subsidiaries or any other change in the corporation which may affect compliance obligations arising out of the order.

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.

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IN THE MATTER OF

THE J. B. WILLIAMS COMPANY, INC., ET AL.

CONSENT ORDER, ETC., IN REGARD TO THE ALLEGED VIOLATION OF THE
FEDERAL TRADE COMMISSION ACT*Docket C-2037. Complaint, Sept. 9, 1971—Decision, Sept. 9, 1971**

Consent order requiring a New York City manufacturer and distributor of weight reduction wafers and a diet drink mix to cease representing falsely that any such product is effective for weight reduction unless caloric intake, exercise and diet are also mentioned, to affirmatively make a disclosure of the above in its advertising, and to cease making references to scientific and medical tests unless they actually have been made.

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 The J. B. Williams Company, Inc., a corporation, and Parkson Advertising Agency, Inc., a 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 The J. B. Williams Company, 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 767 Fifth Avenue in the city of New York, State of New York.

Respondent Parkson Advertising Agency, 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 767 Fifth Avenue in the city of New York, State of New York.

PAR. 2. Respondent The J. B. Williams Company, Inc., is now, and for some time last past has been engaged in the manufacture, sale and distribution of products for weight reduction designated "Proslim" or "Proslim 7-Day Reducing" wafers and diet drink mix which fall within the classification of "food," as said term is defined in the Federal Trade Commission Act. In conjunction with the use of said products, the said respondent, in a pamphlet enclosed in the product

*Reported as modified by Commission's order of November 11, 1971, by modifying the third paragraph of Article IV of the order.