

FEDERAL TRADE COMMISSION, THE TEXTILE FIBER PRODUCTS IDENTI-
FICATION AND THE WOOL PRODUCTS LABELING ACTS

Docket C-2413. Complaint, June 8, 1973—Decision, June 8, 1973.

1784

Complaint

Consent order requiring three affiliated manufacturers of athletic and recreational apparel in New York City, and Hatillo, Puerto Rico, among other things to cease misrepresenting the fiber content of their products and to run a retraction in their catalogs concerning the garments that were deceptively advertised.

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 Felco Sports Products, Inc., a corporation, Felco Athletic Wear Company, Inc., a corporation, Hatillo Apparel Corporation, a corporation and Nathan Katz, individually and as an officer of said corporations hereinafter sometimes 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. Respondents Felco Sports Products, Inc., a corporation, and Felco Athletic Wear Company, Inc., a corporation, are organized, existing and doing business under and by virtue of the laws of the State of New York. Respondent Hatillo Apparel Corporation, a corporation, is organized, existing and doing business under and by virtue of the laws of the Commonwealth of Puerto Rico.

Respondent Nathan Katz is an officer of the corporate respondents. He formulates, directs and controls the acts, practices and policies of the said corporate respondents including those hereinafter set forth.

Respondents Felco Sports Products, Inc., and Felco Athletic Wear Company, Inc., are manufacturers of athletic and recreational apparel with their office and principal place of business located at 113-119 Fourth Avenue, New York, New York. Respondent Hatillo Apparel Corporation, is a manufacturer of athletic and recreational apparel with its office and principal place of business located in Hatillo, Puerto Rico.

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, 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 of such 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 Bermuda softball pants which were not labeled to show:

- (1) The true generic name of the fibers present; and
- (2) The true percentage of the fibers present by weight.

PAR. 4. Certain of said textile fiber products were misbranded in violation of the Textile Fiber Products Identification Act in that they were not labeled in accordance with the rules and regulations promulgated thereunder in the following respects.

1. Samples, swatches and specimens used to promote or effect sales of respondents' garments were not labeled to show information required by Section 4(b) of the Textile Fiber Products Identification Act and the rules and regulations promulgated thereunder, in violation of Rule 21(a) of the aforesaid rules and regulations.

2. The fiber content of linings, fillings and paddings incorporated in jackets for warmth rather than for structural purposes were not set forth separately and distinctly, in violation of Rule 22 of the aforesaid rules and regulations.

PAR. 5. 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. 6. 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 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 boys' jackets stamped, tagged, labeled or otherwise identified by respondents as "100% reprocessed wool body," whereas in truth and in fact, said products contained substantially different fibers and amounts of fiber than represented.

PAR. 7. 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 affixed thereto which failed to disclose the percentage of the total fiber weight of the said wool products, exclusive of ornamentation not exceeding 5 percent 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 percent or more; and (5) the aggregate of all other fibers.

PAR. 8. 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 intent and meaning of the Federal Trade Commission Act.

PAR. 9. Respondents are now and for some time last past have been engaged in the advertising, offering for sale, sale, and distribution of certain products, namely boys' jackets in commerce. In the course and conduct of their business, respondents now cause, and for some time last past have caused their said products, 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. 10. In the course and conduct of their business, and for the purpose of inducing the sale of their said products, namely boys' jackets, respondents have made certain statements in Felco's 1972 sales catalogue, No. 89 relative to the fiber content composition of the said jackets.

Among such statements in the Felco sales catalogue No. 89, are "all wool melton jackets" and "full wool quilted lined sleeves and body."

PAR. 11. By the use of the aforesaid statements the respondents represent, and have represented, directly that said jackets were composed entirely of "wool," whereas in truth and in fact, said products were not composed entirely of wool, but contained substantially different fibers and amounts of fibers than represented. In addition, the use of the aforementioned statements in respondents' catalogue No. 89 implied that the wool used in the advertised product was new wool while in fact such wool was reprocessed.

PAR. 12. The acts and practices of respondents as set forth in Paragraphs Ten and Eleven above, have the tendency and capacity to mislead and deceive the purchasers of said products as to the true content thereof.

PAR. 13. The aforesaid acts and practices of respondents, as herein alleged, 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 New York Regional Office 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, as amended and the Wool Products Labeling Act, as amended; and

The respondents and counsel for the Commission having thereafter executed an agreement containing a consent order, an admis-

sion 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 Section 2.34(b) of its rules, the Commission hereby issues its complaint, makes the following jurisdictional findings, and enters the following order.

1. Respondents Felco Sports Products, Inc., and Felco Athletic Wear Company, Inc., are corporations organized, existing and doing business under and by virtue of the laws of the State of New York.

Respondent Hatillo Apparel Corporation is a corporation organized, existing and doing business under and by virtue of the laws of the Commonwealth of Puerto Rico.

Respondent Nathan Katz, is an officer of said corporations. He formulates, directs and controls the policies, acts and practices of said corporations.

Respondents Felco Sports Products, Inc., and Felco Athletic Wear Company, Inc., are manufacturers of wool and textile products with their office and principal place of business located at 113-119 Fourth Avenue, New York, New York. Respondent Hatillo Apparel Corporation, is a manufacturer of athletic and recreational apparel with its office and principal place of business located in Hatillo, Puerto Rico.

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 Felco Sports Products, Inc., a corporation, Felco Athletic Wear Company, Inc., a corporation, and Hatillo Apparel Corporation, a corporation, their successors and assigns, and their officers, and Nathan Katz, individually and

as an officer of said corporations, and respondents' representatives, agents, and employees, directly or through any corporation, subsidiary, division or any 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 product, which has been advertised or offered for sale in commerce; and 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. 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.

2. Failing to affix labels showing the respective fiber content and other required information to samples, swatches or specimens of textile fiber products subject to the aforementioned Act which are used to promote or effect sales of such textile fiber products.

3. Failing to set forth separately and distinctly the fiber content of any linings, interlinings, fillings or paddings if incorporated in the textile fiber products for warmth rather than for structural purposes, or if any express or implied representations are made as to their fiber content.

B. Failing to maintain and preserve proper records of fiber content of textile fiber products manufactured by respondents, as required by Section 6(a) of the Textile Fiber Products Identification Act and Rule 39 of the regulations promulgated thereunder.

It is further ordered, That respondents Felco Sports Products, Inc., a corporation, Felco Athletic Wear Company, Inc., a corporation, Hatillo Apparel Corporation, a corporation their successors and assigns, and their officers, and Nathan Katz, individually and as an officer of said corporations, and respondents' representa-

tives, agents, and employees, directly or through any corporation, subsidiary, division or other device, in connection with the introduction, 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 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 Felco Sports Products, Inc., a corporation, Felco Athletic Wear Company, Inc., a corporation, Hatillo Apparel Corporation, a corporation, their successors and assigns, and their officers, and Nathan Katz, individually and as an officer of said corporations, and respondents' representatives, agents and employees, directly or through any corporation, subsidiary, division or other device, in connection with the advertising, offering for sale, sale or distribution of coats, or other products, in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from falsely and deceptively advertising or misrepresenting in any manner, or by any means the character or amount of constituent fibers contained in such products.

It is further ordered, That respondents shall publish in their catalogs distributed over the twelve-month period from the effective date of this order a retraction on the same pages, or in the same portions of the catalogs as will appear the textile fiber products previously deceptively advertised in the catalogs, or if the previously deceptively advertised textile fiber products do not appear in said catalogs then the retraction shall appear on the same pages or in the same portions of the catalogs as are advertised similar products as that of the previously deceptively advertised textile fiber products, or if no similar products are advertised then in a part or portion of the catalogs of at least equal prominence to the part or section of the catalogs where the deceptively advertised textile fiber products had been previously deceptively adver-

tised, in print of equal size and prominence as that of the original false, misleading and deceptive advertisements; and said retraction shall include a statement that identifies the deceptively advertised fiber products, sets forth that these fiber products were previously misleading and deceptively advertised by the respondents as all wool or as all wool melton, and accurately describes what the true fiber content of these products were at the time they were misleadingly and deceptively advertised.

It is further ordered, That respondents shall send by registered mail a copy of this order to each of their customers who have purchased any of the above misleadingly and deceptively advertised fiber products during the three year period prior to the effective date of this order.

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 this order.

It is further ordered, That the respondent corporations shall forthwith distribute a copy of this order to each of their operating divisions.

It is further ordered, That the individual respondent named herein promptly notify the Commission of the discontinuance of his present business or employment and of his affiliation with a new business or employment. Such notice shall include respondent's current business address and a statement as to the nature of the business or employment in which he is engaged as well as a description of his duties and responsibilities.

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.

IN THE MATTER OF
THE HEARST CORPORATION, ET AL.
CONSENT ORDER, ETC., IN REGARD TO THE ALLEGED VIOLATION OF THE
FEDERAL TRADE COMMISSION ACT

Docket 8832. Complaint, January 15, 1971—Decision, June 19, 1973.*

* Complaint reported on page 218 herein.