

Complaint

84 F.T.C.

*Appearances*For the Commission: *James Manos.*For the respondent: *Pro se.*

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 Leon Birnbaum, an individual trading as Jolie Knitwear, hereinafter referred to as respondent, has engaged in acts and practices that are not in conformance with the Commission's Trade Regulation Rule relating to the Care Labeling of Textile Wearing Apparel (16 C.F.R. §423) and by these and other means has violated the provisions of the Federal Trade Commission 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 Leon Birnbaum is an individual trading as Jolie Knitwear with his office and principal place of business located at 270 West 39th Street, New York, N. Y.

PAR. 2. Respondent is a manufacturer and distributor of textile products in the form of finished articles of wearing apparel as the terms "textile product" and "finished article of wearing apparel" are defined in the Commission's Trade Regulation Rule relating to the Care Labeling of Textile Wearing Apparel (16 C.F.R. §423). Among said articles of wearing apparel manufactured and distributed by the respondent are ladies' sweaters.

PAR. 3. In the course and conduct of respondent's business as aforesaid, respondent causes, and for some time last past has caused, his finished articles of wearing apparel, when sold, to be shipped from their state of origin or distribution to purchasers thereof located in various other States of the United States and in the District of Columbia, and respondent maintains, and at all times mentioned herein has maintained, a substantial course of trade in said products in commerce as "commerce" is defined in the Federal Trade Commission Act.

PAR. 4. On December 9, 1971, after due notice and hearing, the Commission promulgated, effective July 3, 1972, its Trade Regulation Rule relating to the Care Labeling of Textile Wearing Apparel (16 C.F.R. §423) requiring that certain finished articles of wearing apparel shall have a label or tag permanently affixed or attached thereto which fully informs the purchaser as to instructions for the regular care and maintenance of said articles.

PAR. 5. In the course and conduct of his aforesaid business, respondent has attached to his finished articles of wearing apparel labels with instructions for the care and maintenance of said apparel as follows:

MACHINE WASH WARM TUMBLE DRY MEDIUM.

PAR. 6. When the aforesaid articles of wearing apparel are washed and dried in accordance with the instructions described in "Paragraph Five" above, excessive shrinkage results and, further, when any of the aforesaid wearing apparel is washed with other articles, the dye in said apparel "runs" or "bleeds" onto, and stains the other articles. Through the failure of the respondent to provide instructions which when followed would prevent excessive shrinkage and which would inform purchasers to wash said wearing apparel separately respondent thereby has failed to affix labels which fully inform purchasers how to effect the regular care and maintenance of said apparel.

PAR. 7. The aforesaid acts and practices of respondent, as alleged, are not in conformance with the provisions and requirements of the Commission's Trade Regulation Rule relating to the Care Labeling of Textile Wearing Apparel (16 C.F.R. §423), and thereby constituted and now constitute unfair methods of competition, and unfair and deceptive acts and practices, in commerce, in violation 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 respondent named in the caption hereof, and the respondent 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 respondent with violation of the Federal Trade Commission Act; and

The respondent and counsel for the Commission having thereafter executed an agreement containing a consent order, an admission by the respondent 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 respondent 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 respondent has violated the said Act, 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 sixty (60) 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, Leon Birnbaum, is an individual trading as Jolie Knitwear, with his office and principal place of business located at 270 West 39th Street, New York, N. Y.

Respondent is engaged in the business of manufacturing and distributing textile products in the form of finished articles of wearing apparel including ladies' sweaters.

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

ORDER

It is ordered, That respondent, Leon Birnbaum, individually and trading as Jolie Knitwear or trading under any other name, his successors and assigns, and respondent's representatives, agents and employees, directly or through any corporation, subsidiary, division, or other device, in connection with the manufacturing, offering for sale, sale or distribution of any textile product in the form of a finished article of wearing apparel, as the terms "textile product" and "finished article of wearing apparel" are defined in the Federal Trade Commission's Trade Regulation Rule relating to the Care Labeling of Textile Wearing Apparel (16 C.F.R. §423), in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. Failing to provide, for any said article of wearing apparel, care instructions which when followed prevent excessive shrinkage of the article.

2. Failing to include the phrase "wash separately" in care instructions for the machine or hand washing of any said apparel whose dye would "run" or "bleed" onto, or stain other articles washed with said apparel.

3. Failing to provide instructions on a permanently affixed label which fully inform purchasers how to effect the regular care and maintenance of said apparel.

It is further ordered, That respondent notify by registered mail all of his customers who have purchased, or to whom have been delivered, the finished articles of wearing apparel which gave rise to this complaint of the excessive shrinkage and staining nature of said products, and effect the recall of said products from such customers.

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It is further ordered, That the respondent herein relabel said articles of wearing apparel to bring them into conformance with the requirements of the Federal Trade Commission's Trade Regulation Rule relating to the Care Labeling of Textile Wearing Apparel (16 C.F.R. §423).

It is further ordered, That in addition to the notification to customers required above, the respondent serve a copy of this order by registered mail, return receipt requested, on each customer who purchased the products which gave rise to this complaint.

It is further ordered, That the respondent 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 and address, 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 respondent shall, within sixty (60) days after service upon him of this order, file with the Commission a report in writing setting forth in detail the manner and form in which he has complied with the order to cease and desist contained herein.

IN THE MATTER OF

BROWN'S QUALITY FURNITURE, INC., ET AL.

CONSENT ORDER, ETC., IN REGARD TO ALLEGED VIOLATION OF
THE FEDERAL TRADE COMMISSION AND TRUTH IN LENDING ACTS

Docket C-2614. Complaint, Dec. 16, 1974—Decision, Dec. 16, 1974

Consent order requiring a Rochester, N.Y. furniture and appliance retailer, among other