

IN THE MATTER OF
HANG UPS SPORTSWEAR LTD., ET AL.

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

Docket C-2818. Complaint, May 13, 1976—Decision, May 13, 1976

Consent order requiring a New York City importer of fabrics and manufacturer of women's sportswear, among other things to cease violating the Wool Products Labeling Act by falsely and deceptively labeling and misbranding products; and failing to securely affix labels and/or other means of product identification. The order further requires that purchasers of the misbranded products be informed of the deceptions.

Appearances

For the Commission: *Jerry R. McDonald.*

For the respondents: *Pro se.*

COMPLAINT

Pursuant to the provisions of the Federal Trade Commission Act, as amended, 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 Hang Ups Sportswear Ltd., a corporation, and Bernard Berkoff, Nicholas Lambo, and Robert Berkoff, individually and as officers of said corporation, and Elliot Morris, individually and as a former officer of said corporation, hereinafter sometimes 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 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 Hang Ups Sportswear Ltd. 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 229 West 36th St., New York, New York.

Respondents Bernard Berkoff, Nicholas Lambo, and Robert Berkoff are officers and Elliot Morris is a former officer of Hang Ups Sportswear Ltd. At all times relevant to the acts and practices hereinafter set forth they formulated, directed and controlled the acts and practices of the corporate respondent. Their business address is the same as that of the corporate respondent.

Respondents are engaged in the business of importing wool products

into the United States, manufacturing clothing from said wool products and selling such clothing to their customers in the various 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 the 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 the constituent fibers contained therein.

Among such misbranded wool products, but not limited thereto, were certain garments stamped, tagged, labeled, or otherwise identified by respondents as "55% polyester, 45% wool" whereas, in truth and in fact, said garments contained substantially different fibers and amounts of fibers than represented.

PAR. 4. 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 garments 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. 5. The acts and practices of 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, under 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, as amended, 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 sixty (60) days, now in further conformity with the procedure prescribed in Section 2.34 of its Rules, the Commission hereby issues its complaint, makes the following jurisdictional findings, and enters the following order:

1. Respondent Hang Ups Sportswear Ltd. 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 229 West 36th St., New York, New York.

Proposed respondents Bernard Berkoff, Nicholas Lambo, and Robert Berkoff are officers and Elliot Morris is a former officer of said corporation. At all times relevant to the allegations in the complaint, they formulated, directed and controlled the policies, acts and practices of said corporation, and their address was 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 Hang Ups Sportswear Ltd., a corporation, its successors and assigns, and its officers, and Bernard Berkoff, Nicholas Lambo, and Robert Berkoff, individually and as officers of said corporation, and Elliot Morris, individually and as a former officer of said corporation, and respondents' representatives, agents and employees, directly or through any corporation, subsidiary,

division or any 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 and deceptively stamping, tagging, labeling or otherwise identifying such products.

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 notify, by delivery of a copy of this order by registered mail, each of their customers that purchased the wool products which gave rise to this complaint of the fact that such products were misbranded.

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

It is further ordered, That each of the individual respondents named herein promptly notify the Commission of the discontinuance of his present business or employment and his affiliation with a new business or employment. Such notice shall include each individual 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 respondents notify the Commission at least thirty (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 respondents 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 the order to cease and desist contained herein.

IN THE MATTER OF
BOVERMAN FABRICS, INC., ET AL.

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

Docket 9036. Complaint, June 24, 1975—Decision, May 17, 1976

Consent order requiring a New York City importer and distributor of fabrics, among other things to cease misrepresenting the wool content of wool blend fabrics; and to notify its customers that the fabrics they have purchased were misbranded.

Appearances

For the Commission: *Jerry R. McDonald* and *Herbert S. Forsmith*.
For the respondents: *Pro se*.

COMPLAINT

Pursuant to the provisions of the Federal Trade Commission Act, as amended, 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 Boverman Fabrics, Inc., a corporation, and Milton Boverman, individually and as an officer of said corporation, hereinafter sometimes 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 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 Boverman Fabrics, 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 252 West 38th St., New York, New York.

Respondent Milton Boverman is an officer of the corporate respondent. He formulates, directs, and controls the acts and practices of the corporate respondent including the acts and practices hereinafter set forth. His address is the same as that of the corporate respondent.

Respondents are now, and for some time last past, have been engaged in the importation and sale of fabrics including but not limited to wool products.

PAR. 2. Respondents, now and for some time last past, have imported for introduction into commerce, introduced into commerce, transported, distributed, delivered for shipment, shipped, offered for sale, and