

Complaint

88 F.T.C.

IN THE MATTER OF

SHINYEI COMPANY, INC., ET AL.

CONSENT ORDER, ETC., IN REGARD TO ALLEGED VIOLATION OF
THE FEDERAL TRADE COMMISSION AND WOOL PRODUCTS
LABELING ACTS*Docket C-2847. Complaint, Oct. 21, 1976 — Decision, Oct. 21, 1976*

Consent order requiring a New York City importer and distributor of fabrics and wearing apparel, among other things to cease violating the Wool Products Labeling Act by mislabeling products as to their wool and fiber content, and failing to firmly affix identification tags. Further, respondents are required to mail a copy of this order to affected customers, notifying them that the products they purchased had been mislabeled.

Appearances

For the Commission: *Jerry R. McDonald* and *James M. Cox*.

For the respondents: *Semel, Patrusky & Buchsbaum*, New York City.

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 Shinyei Company, Inc., a corporation, Exx-Calibre Gentlemen's Apparel, Inc., a corporation, Yoshijiro Ochiai, individually and as an officer of said corporations, and Peter Held, individually and as an officer of Exx-Calibre Gentlemen's Apparel, Inc., 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:

PAR. 1. Respondents Shinyei Company, Inc., and Exx-Calibre Gentlemen's Apparel, Inc., are corporations organized, existing and doing business under and by virtue of the laws of the State of New York. The principal office and place of business of respondent Shinyei Company, Inc., is located at 260 Madison Ave., New York, New York. The principal office and place of business of respondent Exx-Calibre Gentlemen's Apparel, Inc., is located at 873 Broadway, New York, New York.

Respondent Yoshijiro Ochiai is an officer of the corporate respondents. He formulates, directs and controls the acts and practices of

respondent Shinyei Company, Inc., and participates with respondent Peter Held in the formulation, direction and control of the acts and practices of respondent Exx-Calibre Gentlemen's Apparel, Inc., including the acts and practices hereinafter set forth. His address is the same as that of respondent Shinyei Company, Inc.

Respondent Peter Held is an officer of respondent Exx-Calibre Gentlemen's Apparel, Inc. He participates with respondent Yoshijiro Ochiai in the formulation, direction, and control of the acts and practices of said corporate respondent, including the acts and practices hereinafter set forth. His address is the same as that of said corporate respondent.

PAR. 2. Respondent Shinyei Company, Inc., is engaged in the business of importing from the Orient and distributing in the United States various products including wool blend men's suits and slacks.

Respondent Exx-Calibre Gentlemen's Apparel, Inc., is a wholesale distributor of men's clothing imported from the Orient by respondent Shinyei Company, Inc. Respondent Shinyei Company, Inc., owns controlling stock of respondent Exx-Calibre Gentlemen's Apparel, Inc.

PAR. 3. 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 sold in commerce as "commerce" is defined in the Wool Products Labeling Act of 1939, wool products as "wool product" is defined therein.

PAR. 4. 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 wool blend men's suits and slacks stamped, tagged, labeled, or otherwise identified by respondents as 45% reprocessed wool, 55% polyester and 70% wool, 30% polyester whereas, in truth and in fact, said products contained substantially different fibers and amounts of fibers than represented.

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, wool blend men's slacks and suits 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 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, as amended.

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 by Section 2.34 of its Rules, the Commission hereby issues its complaint, makes the following jurisdictional finding, and enters the following order:

1. Respondent Shinyei Company, Inc. and Exx-Calibre Gentlemen's Apparel, Inc. are corporations organized, existing and doing business under and by virtue of the laws of the State of New York. The principal office and place of business of respondent Shinyei Company, Inc., is located at 260 Madison Ave., New York, New York. The principal office

and place of business of respondent Exx-Calibre Gentlemen's Apparel, Inc., is located at 873 Broadway, New York, New York.

Respondent Yoshijiro Ochiai is an officer of the corporate respondents. He formulates, directs and controls the acts and practices of respondent Shinyei Company, Inc., and participates with respondent Peter Held in the formulation, direction and control of the acts and practices of respondent Exx-Calibre Gentlemen's Apparel, Inc., and his address is the same as that of corporate respondent Shinyei Company, Inc.

Respondent Peter Held is an officer of respondent Exx-Calibre Gentlemen's Apparel, Inc. He participates with respondent Yoshijiro Ochiai in the formulation, direction and control of the acts and practices of said corporate respondent, and his address is the same as that of said corporate respondent.

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 Shinyei Company, Inc., a corporation, Exx-Calibre Gentlemen's Apparel, Inc., a corporation, their successors and assigns, and their officers, and Yoshijiro Ochiai, individually and as an officer of said corporations, and Peter Held, individually and as an officer of respondent Exx-Calibre Gentlemen's Apparel, Inc., and respondents' representatives, agents, and employees, directly or through any corporation, subsidiary, division, or any other device, in connection with the introduction, or importing 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 respondent Exx-Calibre Gentlemen's Apparel, Inc., mail a copy of this order, by registered mail, to each of its customers that purchased the wool products which gave rise to this complaint.

It is further ordered, That the individual respondents named herein

promptly notify the Commission of each change in business or employment status, which includes discontinuance of their present business or employment and each affiliation with a new business or employment, for ten (10) years following the effective date of this order. Such notice shall include respondents' current business address and a description of the business or employment in which they are engaged as well as a description of their duties and responsibilities. The expiration of the notice provision of this paragraph shall not affect any other obligations arising under 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 respondents notify the Commission at least thirty (30) days prior to any proposed change in the corporate respondents such as dissolution, assignment, or sale resulting in the emergence of successor corporations, the creation or dissolution of subsidiaries or any other change in the corporations 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.

Commissioner Dole did not participate by reason of absence.

IN THE MATTER OF
JOSEPH CORN & SON, INC., ET AL.

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

Docket C-2848. Complaint, Oct. 21, 1976 — Decision, Oct. 21, 1976

Consent order requiring a New York City manufacturer of fur products, among other things, to cease misbranding and deceptively invoicing their fur products by failing to set forth on labels and invoices information and disclosures mandated by the Fur Products Labeling Act.

Appearances

For the Commission: *Jerry R. McDonald.*

For the respondents: *Michael M. Maloney, New York City.*

COMPLAINT

Pursuant to the provisions of the Federal Trade Commission Act, as amended, and the Fur Products Labeling Act, and by virtue of the authority vested in it by said Acts, the Federal Trade Commission, having reason to believe that Joseph Corn & Son, Inc., a corporation, and Milton Corn, 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 Fur Products Labeling 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 Joseph Corn & Son, 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 141 West 28th St., New York, New York.

Respondent Milton Corn is an officer of the corporate respondent. He formulates, directs and controls the policies, 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 wholesalers and retailers of fur products including items of wearing apparel.

PAR. 2. Respondents are now and for some time last past have been engaged in the introduction into commerce, and in the manufacture for introduction into commerce, and in the sale, and offering for sale in commerce, and in the transportation and distribution in commerce, of fur products; and have manufactured for sale, sold, offered for sale,