

745

Complaint

IN THE MATTER OF

TOWNSMAN-CENCO INTERNATIONAL, LTD., ET AL.

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

Docket C-2920. Complaint, April 25, 1978 — Decision, April 25, 1978

This consent order, among other things, requires a New York City importer, manufacturer and distributor of clothing products to cease misrepresenting or failing to properly identify the wool and fiber content of their products.

Appearances

For the Commission: *Martin D. Gorman.*

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 Townsman-Cenco International, Ltd., and Newcastle Imports, Ltd., corporations, and Seymour Hertling and George Center, individually and as officers of said corporations, 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 now 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 Townsman-Cenco International, 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 105 Fifth Ave., New York, New York.

Respondent Newcastle Imports, 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 276 Park Ave. South, New York, New York.

Respondents Seymour Hertling and George Center are officers of Townsman-Cenco International, Ltd. and Newcastle Imports, Ltd. They formulate, direct, and control the policies, acts and practices of the corporate respondents including those hereinafter set forth. Their office and principal place of business is the same as that of respondent Townsman-Cenco International, Ltd.

PAR. 2. Respondent Townsman-Cenco International, Ltd., is engaged in the business of manufacturing and distributing various products including wool blend men's suits. Respondent Townsman-Cenco International, Ltd. is also a wholesale distributor of men's clothing imported by respondent Newcastle Imports, Ltd.

Respondent Newcastle Imports, Ltd. is engaged in the importation of various products including wool blend men's slacks, distributed by respondent Townsman-Cenco International, Ltd.

PAR. 3. Respondents, now and for some time last past, have manufactured for introduction into commerce, 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 wool blend men's slacks, stamped, tagged, labeled or otherwise identified by respondents as "45% wool, 55% polyester" and as "40% wool, 60% 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 suits and slacks, 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 in Paragraphs Four and Five were, and are, in violation of the Wool Products Labeling Act of 1939 and the rules and regulations

methods of competition and unfair and deceptive acts and practices, in or affecting commerce, under the Federal Trade Commission Act, as amended.

PAR. 7. Respondents are now and for some time past have been engaged in the importation, offering for sale, sale, and distribution of certain products, namely men's suits and slacks. In the course and conduct of their business as aforesaid, respondents now cause and for some time last past, have caused their said products, when sold, to be shipped from their places of business in the State of New York to purchasers 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 or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act, as amended.

PAR. 8. Respondents in the course and conduct of their business have made statements on invoices to their customers misrepresenting the fiber content of certain of their products.

Among such misrepresentations, but not limited thereto, were statements setting forth the fiber content thereof as "55% polyester, 45% wool," "60% polyester, 40% wool" whereas, in truth and in fact, said products contained substantially different fibers and amounts of fibers than represented.

PAR. 9. The acts and practices set out in Paragraph Eight have the tendency and capacity to mislead and deceive the purchasers of said products as to the true content thereof.

PAR. 10. The aforesaid acts and practices of the respondents as herein alleged in Paragraph Eight were, and are, all to the prejudice and injury of the public, and constituted, and now constitute, unfair and deceptive acts or practices in or affecting commerce, within the intent and meaning of 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 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 Townsman-Cenco International, 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 105 Fifth Ave., New York, New York.

Respondent Newcastle Imports, 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 276 Park Ave. South, New York, New York.

Respondents Seymour Hertling and George Center are officers of said corporations. They formulate, direct and control the policies, acts and practices of said corporations, and their address is 105 Fifth Ave., New York, New York.

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 Townsman-Cenco International, Ltd., a corporation, Newcastle Imports, Ltd., a corporation, their successors and assigns, and their officers, and Seymour Hertling and George Center, individually and as officers 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, 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

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 Townsman-Cenco International, Ltd., a corporation, Newcastle Imports, Ltd., a corporation, their successors and assigns, and their officers, and Seymour Hertling and George Center, individually and as officers of said corporations, and respondents' representatives, agents and employees, directly or through any corporate or other device, in connection with the importing, advertising, offering for sale, sale or distribution of clothing in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act, as amended, do forthwith cease and desist from misrepresenting such products on invoices or shipping memoranda applicable thereto, or in any other manner.

It is further ordered, That respondents mail a copy of this order by registered mail to each of their customers that purchased the wool products described in this complaint.

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 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 each 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. In addition, for a period of ten years from the effective date of this order, each respondent shall promptly notify the Commission of each affiliation with a new business or employment. Each such notice shall include the respondent's new business address and a statement of the nature of the business or employment in which the respondent is newly engaged as well as a description of respondents' duties and responsibilities in connection with the business or employment. The expiration of the notice provision of this paragraph shall not affect any other obligation arising under this order.

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
JAY NORRIS CORP., ET AL.

ORDER, OPINION, ETC., IN REGARD TO ALLEGED VIOLATION OF
THE FEDERAL TRADE COMMISSION ACT

Docket 9054. Complaint, Sept. 3, 1975—Final Order, May 2, 1978

This order, among other things, requires a Freeport, L.I., N.Y. mail-order house to cease misrepresenting, in the advertising and sale of consumer products, that dissatisfied customers will receive prompt refunds; and that exchanges and refunds are expeditiously processed; that all parcels are insured against loss or damage; and that non-delivery is caused by the United States Postal Service. The order requires that purchases be shipped within time periods specified, and in the event of shipping delays, customers must be offered the option of consenting to the delays or cancelling their transactions. The firm is further obligated to honor such cancellations and to make proper refunds in a timely manner. The order further prohibits the company from making false or unsubstantiated claims regarding the characteristics, efficacy, performance, safety, and value of its consumer products. Additionally, the order requires the corporation and the Pan-Am Car Distributors Corp., both engaged in the advertising and sale of used motor vehicles, to cease misrepresenting that their vehicles have been inspected and repaired in preparation for delivery to purchasers; or that they are in a safe mechanical and operation condition and will render normal, adequate and satisfactory service.

Allegations of the complaint are dismissed as to Federated Nationwide Wholesalers Service, Garydean Corp., t/a Nationwide Wholesalers Service, and P-N Publishing Company, Inc.

Appearances

For the Commission: *Irving C. Koch and Sol Grand.*

For the respondent: *Robert Ullman, Bass, Ullman & Lustigman,*
New York City.

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 Jay Norris Corp., Federated Nationwide Wholesalers Service, Garydean Corp., a corporation trading as Nationwide Wholesalers Service, P-N Publishing Company, Inc., a corporation, Pan-Am Car Distributors Corp., a corporation and Joel Jacobs, Mortimer Williams and Kenneth Mann, individually and as officers of said corporations, hereinafter referred to as the respondents, have violated the provisions of said Act, and it appearing to the Commission that a proceeding by it in