

Modifying Order

96 F.T.C.

IN THE MATTER OF

C. ITOH & CO. (AMERICA), INC.

MODIFYING ORDER IN REGARD TO ALLEGED VIOLATION OF THE
FEDERAL TRADE COMMISSION AND WOOL PRODUCTS LABELING
ACTS*Docket C-2586. Decision, Oct. 22, 1974—Modifying Order, July 7, 1980*

This order modifies a previous order to cease and desist issued October 22, 1974 against a New York City importer and distributor of fabrics (84 F.T.C. 1187, 40 FR 6482). The Commission has modified the order by limiting the bond provision to recycled wool products only. The order previously required posting of a bond on all wool products imported.

ORDER MODIFYING CEASE AND DESIST ORDER

In its request filed on April 30, 1980, the respondent petitioned the Commission, pursuant to Section 2.51 of its Rules of Practice, to reopen the proceedings and modify the order of October 22, 1974, entered in Docket C-2586. Respondent asks that the second "*It is further ordered*" paragraph be deleted from the order. The paragraph in question reads as follows:

It is further ordered, That respondent, C. Itoh & Co. (America), Inc., a corporation, its successors and assigns, and its officers, and respondent's representatives, agents, and employees, directly or through any corporation, subsidiary, division, or other device, do forthwith cease and desist from importing or participating in the importation of wool products into the United States except upon filing bond with the Secretary of the Treasury in a sum double the value of said wool products and any duty thereon, conditioned upon compliance with the provisions of the Wool Products Labeling Act of 1939.

In support of its request, the respondent has advanced a number of considerations intended to show changed conditions of fact since the order was issued and to show that the public interest will best be served by granting its request. It states that it has ensured that its imported wool products are correctly labeled by investigating the reputations of its overseas suppliers and purchasing only from those with an established record of exercising proper care and diligence in determining the fiber content of their merchandise and labeling it properly. As the result of its self-policing, it states that there have been no complaints with regard to the labeling of any of its importations of wool products in the five and one-half years that the order has been in effect. The respondent advised Commission staff, by letter dated May 5, 1980, that it is no longer importing the

reprocessed or reused wool products which gave rise to the complaint and is now importing wool and wool blend products.¹ It states further, that due to the high costs of the premiums charged by sureties on the bond, it can no longer hope to profitably continue to sell wool products. It cites as a competitive disadvantage the fact that many of its competitors are not subject to the bonding requirement and that bonds have not appeared in recent Commission orders under the Wool Products Labeling Act of 1939.

By letter dated May 28, 1980, the respondent advised staff that it will agree to a modification of the order to limit the bonding requirement to the wool products that gave rise to the complaint, recycled wool products. If the respondent resumes importing such products, the bond will be applicable. It will not, however, be required to continue to bear the financial burden of paying premiums to sureties on the wool and wool blend products that it is now importing.

Having considered the request, the Commission has concluded that the order should be modified to limit the bond provision to recycled wool products and that the modification will safeguard the public interest. Therefore,

It is ordered, That the second *It is further ordered* paragraph of the order, set forth above, be replaced by the following new paragraph:

It is further ordered, That respondent, C. Itoh & Co. (America), Inc., a corporation, its successors and assigns, and its officers, and respondent's representatives, agents, and employees, directly or through any corporation, subsidiary, division, or other device, do forthwith cease and desist from importing or participating in the importation of recycled wool products into the United States except upon filing bond with the Secretary of the Treasury in a sum double the value of said recycled wool products and any duty thereon, conditioned upon compliance with the provisions of the Wool Products Labeling Act of 1939.

It is further ordered, That the foregoing modification shall become effective upon service of this order.

¹ The Wool Products Labeling Act of 1939 has been amended to substitute the word "recycled" for the words "reprocessed" and "reused" (Pub. Law 96-242, 94 Stat. 344, May 5, 1980, eff. July 4, 1980).

Complaint

96 F.T.C.

IN THE MATTER OF
NATIONAL TEA COMPANY, ET AL.

CONSENT ORDER, ETC., IN REGARD TO ALLEGED VIOLATION OF
SEC. 5 OF THE FEDERAL TRADE COMMISSION ACT AND SEC. 7 OF
THE CLAYTON ACT

Docket 9126. Complaint, April 17, 1979—Decision, July 23, 1980

This consent order dismisses the complaint against Applebaums' Food Markets, Inc., and requires, among other things, a Rosemont, Ill. operator of a retail grocery store chain to divest itself, within six months from the effective date of the order, of all its right, title and interest in seven specified retail grocery stores in the Minneapolis-St. Paul area, to a Commission-approved acquirer. Further, for a ten-year period, the company (with certain minor exceptions) is prohibited from acquiring any retail grocery store business located in designated geographic areas without prior Commission approval.

Appearances

For the Commission: *Joseph Tasker, Jr., Richard K. Kudo and Chauncey Hopkins.*

For the respondents: *James T. Halverson, Sherman & Sterling, New York City and Victor S. Friedman, Fried, Frank, Harris, Shriver & Jacobson, New York City.*

COMPLAINT

The Federal Trade Commission, having reason to believe that the above-named respondents have entered into an agreement which, if consummated, would result in a violation of Section 7 of the Clayton Act, as amended, (15 U.S.C.18), and Section 5 of the Federal Trade Commission Act, as amended, (15 U.S.C. 45), and that said agreement therefore constitutes a violation of Section 5(a)(1) of the Federal Trade Commission Act, as amended, (15 U.S.C.45 (a)(1)), and having found that a proceeding with respect to said violation is in the public interest, issues its complaint stating its charges as follows:

Definitions

1. For the purposes of this complaint, the following definitions shall apply:

(a) "retail food stores" are defined as retail establishments primarily engaged in selling food for home preparation and consumption;