

IN THE MATTER OF

TEXORA INTERNATIONAL CORPORATION, ET AL.

MODIFYING ORDER IN REGARD TO ALLEGED VIOLATION OF SEC.
5 OF THE FEDERAL TRADE COMMISSION ACT AND THE WOOL
PRODUCTS LABELING ACT OF 1939

Docket C-2794. Decision, Feb. 23, 1976—Modifying Order, April 22, 1981

This order reopens the proceeding and modifies the Commission order issued on Feb. 23, 1976 (41 F.R. 11817, 87 F.T.C. 273), by deleting the first "IT IS FURTHER ORDERED" paragraph which required respondents to file a special performance bond with the Secretary of the Treasury and replacing it with one requiring respondents to provide for fiber content testing and relabeling of misbranded wool products.

ORDER MODIFYING CEASE AND DESIST ORDER

In their request filed on January 23, 1981, and their amended request filed on February 12, 1981, the respondents petitioned the Commission, pursuant to Section 2.51 of its Rules of Practice, to reopen the proceedings and modify the order of February 23, 1976, entered in Docket No. C-2794. Respondents ask that the first "*It is further ordered*" paragraph be deleted from the order and that a new paragraph be inserted in the order in lieu of that paragraph. The paragraph requested to be deleted from the order reads as follows:

It is further ordered, That respondents Texora International Corp., a corporation, its successors and assigns, and its officers, and Max Kovner, individually and as an officer of Texora International Corp., and respondents' 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.

The paragraph which respondents requested be inserted in the order to replace the paragraph deleted, as amended by their amended petition and further revised by agreement with staff reflected in their letters dated March 17, 1981, and March 24, 1981, is as follows:

It is further ordered, That respondents Texora International Corp., a corporation, its successors and assigns, and its officers, and Max Kovner, individually and as an officer of Texora International Corp., and respondents' representatives, agents and employees, directly or

through any corporation, subsidiary, division, or other device, shall cause such fiber content tests to be performed on each style or quality of their imported wool products as may be necessary to determine the minimum percentage by weight of the total fiber weight of each fiber present in such style or quality. If said fiber content tests reveal that the percentage of any fiber in any style or quality is misstated by more than three percent (3%) on the labels attached or affixed to such style or quality, such style or quality shall be relabeled to set forth on said labels the lowest percentage revealed by such tests of (1) wool, (2) recycled wool, (3) each fiber other than wool if the percentage of such fiber is five percent (5%) or more of the total fiber weight and (4) the aggregate of all other fibers. If said fiber content tests reveal that the percentages of fibers in such style or quality are, for practical purposes, undeterminable, then such style or quality shall be relabeled in accordance with rules 28 or 29 of the rules and regulations promulgated under the Wool Products Labeling Act of 1939, as for example:

- (i) made of miscellaneous fibers including acrylic, cotton and polyester, and with a minimum of 20% recycled wool, or
- (ii) 20% recycled wool
 - 20% acrylic
 - 20% cotton
 - 40% unknown reclaimed fibers

(1) The requirement that fiber content tests be performed on each style or quality of respondents' imported wool products shall not be applicable to any style or quality of wool products imported during any calendar year, the amount of which does not exceed one thousand (1,000) yards, and which is used solely for samples or swatches to promote the sale of such style or quality and is not sold or offered for sale.

(2) The fiber content tests required by this paragraph shall be performed by an independent fiber content testing laboratory approved for testing wool products by the Department of Defense, United States Government.

(3) As used herein, the terms "style" or "quality" shall mean wool products which are represented to have the same unit weight, fiber content and weave and are manufactured by the same foreign supplier.

(4) As used herein, the terms "imported" and "importation" shall mean entered for consumption when wool products enter the United States on a consumption entry and withdrawn for consumption when wool products enter the United States on a warehouse entry.

In support of their request, the respondents have 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 their request. They stated that, soon after the order became final, they instituted a program of testing the fiber content of imported fabrics and relabeling those found by these tests to be misbranded. They have agreed to continue their program of fiber content testing and relabeling of misbranded wool products under the terms of a paragraph of the order that they requested the Commission to place in the order in lieu of the paragraph requiring the filing with the Secretary of the Treasury of a special performance bond. They stated further that the high costs of premiums charged by sureties on the bond have exceeded their profits. They cited as a competitive disadvantage the fact that many of their competitors are not subject to the bonding requirement and that bonds have not appeared in recent Commission orders and court judgments under the Wool Products Labeling Act of 1939.

Having considered the request, the Commission has concluded that the order should be modified to delete the bond paragraph and to insert in the order, in lieu thereof, a paragraph providing for fiber content testing and relabeling of misbranded wool products and that the modification will safeguard the public interest. Therefore,

It is ordered, That the proceeding be, and it hereby is, reopened.

It is further ordered, That the first "*It is ordered*" paragraph of the order to cease and desist of February 23, 1976, entered in Docket No. C-2794, be, and it hereby is, deleted and replaced by the paragraph requested by respondents as set forth above.

Complaint

—97 F.T.C.

IN THE MATTER OF

THE PILLSBURY COMPANY, ET AL.

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

Docket C-3065. Complaint, April 28, 1981—Decision, April 28, 1981

This consent order requires, among other things, that a Minneapolis, Minnesota manufacturer of refrigerated bakery dough ("RBD") products and its major distributor, Kraft, Inc., cease from entering into or enforcing any agreement which bars either party from freely dealing with competitive firms. The order further requires that a prescribed amendment eliminating exclusive dealing requirements be incorporated into the companies' current distribution contract relating to RBD products.

Appearances

For the Commission: *James C. Egan, Jr.*, and *Debra Simmons*.

For the respondent: *Edward C. Stringer*, General Counsel, The Pillsbury Company, *John D. French*, *Faegre & Benson*, Minneapolis, Minn., *O. E. Swain*, Kraft, Inc., *C. Lee Cook, Jr.*, *Chadwell, Kayser, Ruggles, McGee & Hastings, Ltd.*, Chicago, Ill.

COMPLAINT

Pursuant to the provisions of the Federal Trade Commission Act and in the exercise of authority vested in it by the Act, the Federal Trade Commission, having reason to believe that the above-named respondents have violated Section 5 of the Federal Trade Commission Act (15 U.S.C. 45), and that a proceeding in respect thereof would be in the public interest, hereby issues this complaint charging as follows:

I. DEFINITION

PARAGRAPH 1. For the purpose of this complaint the following definition shall apply:

Refrigerated dough bakery products (RDB) means dough-based, unbaked, packaged food products that are chemically leavened. Such products require refrigeration during distribution and storage, and must be heated before consumption to fully activate the chemical leavening.