

IN THE MATTER OF

RICHARD B. PALLACK, INC., ET AL.

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

Docket C-3333. Complaint, June 24, 1991—Decision, June 24, 1991

This consent order prohibits, among other things, a California retailer of men's clothing and accessories, and an officer of the corporation, from importing, transporting, distributing, delivering, or selling wool products that are misbranded; from removing or mutilating any stamp, tag, label or other identification required by the Wool Products Labeling Act, prior to the time the wool product is sold/delivered; and from misrepresenting the country of origin of such products. In addition, the respondents are required to distribute a copy of the order to all present and future personnel.

Appearances

For the Commission: *Paul R. Roark.*

For the respondents: *Ralph F. Hirschmann, Hennigan and Mercer,*
Los Angeles, CA.

COMPLAINT

Pursuant to the provisions of the Federal Trade Commission Act, 15 U.S.C. 41 *et seq.*, and the Wool Products Labeling Act of 1939, 15 U.S.C. 68 *et seq.*, (hereinafter "Wool Act") and by virtue of the authority vested in it by said Acts, the Federal Trade Commission, having reason to believe that Richard B. Pallack, Inc., a corporation, and Richard B. Pallack, individually and as an officer of said corporation, hereinafter sometimes referred to as respondents, have violated the provisions of said Acts, 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 Richard B. Pallack, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of California, with its office and principal place of business located at 4554 Sherman Oaks Avenue, Sherman Oaks, CA.

Respondent Richard B. Pallack is sole shareholder, President, Vice President, and Secretary of the corporate respondent named herein. He formulates, directs and controls the acts and practices of said corporate respondent, including the acts and practices hereinafter set forth. His office and principal place of business are the same as that of respondent Richard B. Pallack, Inc.

PAR. 2. Respondents are engaged in, among other things, the retail sale of wool products including, but not limited to, men's suits, sport coats, and other clothing and accessories that were imported into the United States.

PAR. 3. Respondents, now and for some time last past, have imported into commerce, introduced into commerce, transported, distributed, delivered for shipment, shipped, offered for sale, or 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 in that they were not stamped, tagged, labeled, or otherwise identified as required under the provisions of Sections 4(a)(2)(D) and 4(f) of the Wool Act and the rules and regulations promulgated under said Act. Respondents have, therefore, violated Section 3 of the Wool Act.

Among such misbranded wool products, but not limited thereto, were men's suits, sport coats, and other clothing which, when offered for sale and sold by respondents, did not have on or affixed thereto, on the inside center of the neck or elsewhere, a stamp, tag, label, or other means of identification showing the name of the country where processed or manufactured.

PAR. 5. Respondents have also caused or participated in the removal or mutilation of stamps, tags, labels or other means of identifying the countries where wool products were processed or manufactured, with intent to violate the provisions of the Wool Act. Pursuant to Section 5(b) of the Wool Act, such removals and mutilations are unfair methods of competition, and unfair and deceptive acts or practices, in commerce within the meaning of the Federal Trade Commission Act.

PAR. 6. The acts and practices of respondents as set forth in paragraphs 4 and 5 were, and are, in violation of the Wool Act and the Rules and Regulations promulgated thereunder, and constituted, and now constitute, unfair methods of competition, and unfair and deceptive acts or practices, in or affecting commerce, within the meaning of the Federal Trade Commission Act, as amended.

PAR. 7. In the course and conduct of their business, and at all times

mentioned herein, respondents have been, and now are, in substantial competition in or affecting commerce with corporations, firms and individuals engaged in the sale of merchandise of the same general kind and nature as merchandise sold by respondents.

PAR. 8. The acts and practices of respondents, as herein alleged, were and are to the prejudice and injury of the public and respondents' competitors. The acts and practices of respondents, as herein alleged, may recur in the absence of the relief herein requested.

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 Los Angeles 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; and

The respondents, their attorney, 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 Act, 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, and having duly considered the comments filed thereafter by interested persons pursuant to Section 2.34 of its Rules, 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 Richard B. Pallack, Inc., is a corporation organized, existing, and doing business under and by virtue of the laws of the

State of California, with its office and principal place of business located at 4554 Sherman Oaks Avenue, Sherman Oaks, CA.

Respondent Richard B. Pallack is an officer of said corporation. He formulates, directs and controls the policies, acts and practices of said corporation, and his principal office and place of business is located at the above stated address.

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

I.

It is ordered, That respondents Richard B. Pallack, Inc., a corporation, its successors and assigns, and its officers, and Richard B. Pallack, individually and an officer of said corporation, and respondents' representatives, agents and employees, directly or through any corporation, subsidiary, division or any other device, in connection with wool products, as "wool products" are defined in the Wool Products Labeling Act of 1939, as amended, (hereinafter "Wool Act") do forthwith cease and desist from importing or introducing into commerce, transporting, distributing, delivering for shipment, shipping, offering for sale, or selling in commerce, as "commerce" is defined in the Wool Act, wool products that are misbranded in that they:

A. Are falsely or deceptively stamped, tagged, labeled or otherwise identified;

B. Do not have securely affixed to, or placed on, each such product in the location, manner, and form required by the Wool Act, a stamp, tag, label or other means of identification correctly showing, in a clear and conspicuous manner, each element of information required to be disclosed by Section 4(a)(2) of the Wool Act.

II.

It is further ordered, That respondents Richard B. Pallack, Inc., a corporation, its successors and assigns, and its officers, and Richard B. Pallack, individually and as an officer of said corporation, and respondents' representatives, agents and employees, directly or

through any corporation, subsidiary, division or any other device, in connection with wool products, as "wool products" are defined in the Wool Act, do forthwith cease and desist from removing or mutilating, or causing or participating in the removal or mutilation of, any stamp, tag, label or other identification required by the Wool Act to be affixed to wool products, prior to the time any such wool product is sold and delivered to the ultimate consumer, without substituting therefor labels conforming to Section 4(a)(2) of the Wool Act.

III.

It is further ordered, That respondents Richard B. Pallack, Inc., a corporation, its successors and assigns, and its officers, and Richard B. Pallack, individually and as an 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 purchasing, advertising, offering for sale, sale and distribution of any product in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act, as amended, do forthwith cease and desist from misrepresenting in any manner, the country of origin of any such product.

IV.

It is further ordered, That respondents distribute a copy of this order to all present or future personnel, agents or representatives having sales, advertising, or policy responsibilities with respect to the subject matter of this order and that respondents secure from each such person a signed statement acknowledging receipt of said order.

V.

It is further ordered, That, whenever a stamp, tag, label or other form of identification which shows information required by the Wool Act is substituted or otherwise removed, respondents shall keep records for a period of three years sufficient to show the information set forth on the removed stamp, tag, label, or other form of identification, as well as the name or names of the person or persons from whom such product was received.

VI.

It is further ordered, That respondents shall, for a period of five (5) years after this order becomes final, maintain and, upon reasonable notice, make available to the Federal Trade Commission for inspection and copying all documents that relate to the manner and form in which respondents have complied with this order.

VII.

It is further ordered, That respondents shall, for a period of ten (10) years from the date of this order, notify the Federal Trade Commission at least thirty (30) days prior to any proposed change in Richard B. Pallack, Inc., 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 that may affect compliance obligations arising out of this order. The expiration of the notice provision of this paragraph shall not affect any other obligation arising under this order.

VIII.

It is further ordered, That the individual respondent named herein shall, for a period of ten (10) years from the date of this order, promptly notify the Commission of the discontinuance of his present business or employment and 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 respondent's 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.

IX.

It is further ordered, That respondents shall, within sixty (60) days after the date of service of this order, submit a report, in writing, to the Federal Trade Commission setting forth in detail the manner and form in which they have complied with this order.

IN THE MATTER OF
FAY'S INCORPORATED

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

Docket 9227. Complaint, April 19, 1989—Decision, June 25, 1991*

This consent order prohibits, among other things, a pharmaceutical firm from organizing or entering into any agreement among pharmacy firms to withdraw from or refuse to enter into a third-party payer prescription drug plan; for ten years, from stating or communicating to any pharmacy firm the intent to enter into or refuse to enter into any third-party payer prescription drug plan; and for eight years, from providing comments or advice to any pharmacist or pharmacy firm on the desirability or appropriateness of entering into or refusing to enter into any third-party payer prescription drug plan.

Appearances

For the Commission: *Karen G. Bokat* and *Michael D. McNeeley*.

For the respondent: *Paul J. Curtin, Jr., Law Offices of C. Daniel Shulman*, Syracuse, N.Y.

DECISION AND ORDER

The commission having heretofore issued its complaint charging the respondent Fay's Drug Company, Inc. with a violation of Section 5 of the Federal Trade Commission Act, as amended, and the respondent having been served with a copy of that complaint, together with a notice of the contemplated relief; and

The respondent, its attorney, and counsel for the Commission having thereafter executed an agreement containing a consent order, an admission by the respondent of all the jurisdictional facts set forth in the complaint, a statement that the signing of said agreement is for settlement purposes only and does not constitute an admission by respondent 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 Secretary of the Commission having thereafter withdrawn this

*Order amending complaint to reflect changed name of respondent issued August 17, 1990 (113 FTC 762). Complaint previously published at 114 FTC 327.