B. Falsely or deceptively advertising fur products through the use of any advertisement, representation, public announcement or notice which is intended to aid, promote or assist, directly or indirectly, in the sale or offering for sale of fur products, and which represents, directly or by implication, that the regular or usual price of any fur product is any amount which is in excess of the price at which respondents have usually and customarily sold such products in the recent regular course of their business;

C. Making pricing claims or representations in advertisements respecting comparative prices, percentage savings claims, or claims that prices are reduced from regular or usual prices, unless respondents maintain full and adequate records disclosing the facts upon which such claims or representations are based.

DECISION OF THE COMMISSION AND ORDER TO FILE REPORT OF COMPLIANCE

Pursuant to Section 3.21 of the Commission's Rules of Practice, the initial decision of the hearing examiner shall, on the 23rd day of January, 1960, become the decision of the Commission; and, accordingly:

It is ordered, That respondents Getsos & Gershman, Inc., a corporation, and Morris Gershman, individually and as an officer of said corporation, 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.

IN THE MATTER OF

G. SHERMAN CORPORATION ET AL.

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

Docket 7515. Complaint, June 10, 1959—Decision, Jan. 23, 1960

Order requiring a seller of men's suitings in New York City—the selling agent for a Plymouth, Mass., fabric manufacturer—to cease violating the Wool Products Labeling Act by misbranding as to wool content, swatches of various patterns it showed its customers and by failing to attach to such products labels showing fiber content.

Mr. Thomas A. Ziebarth for the Commission.

Silverstein & Levitt, by *Mr. Abraham Silverstein*, of New York, N.Y., for respondents.

INITIAL DECISION BY J. EARL COX, HEARING EXAMINER

Respondents are charged in the complaint as amended with having violated the Federal Trade Commission Act, the Wool Products Labeling Act of 1939, and the Rules and Regulations promulgated thereunder. The facts are as follows:

1. Respondent G. Sherman Corporation 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 40 East 34th Street, New York, New York.

2. Individual respondent George Sherman was president and treasurer of the corporate respondent until the date of his death on June 24, 1959. The proceeding is dismissed as to him. Hereinafter, whenever the term "respondent" is used, it will refer to the respondent corporation, which is engaged in the sale of substantial quantities of men's suitings, wool products under the Act, which have been and are distributed and transported in commerce from the state of manufacture or sale to customers located in various other states of the United States.

3. Respondent is selling agent for George Mabbett & Sons Company, of Plymouth, Massachusetts, and through its representatives participates in the designing of the various fabrics which it sells. The designers or stylists agree upon patterns, designs and colorings which they think will be merchantable. The manufacturing technicians then determine the specific weights and lay out a blanket draft—a blanket consists of a series of weavings produced to display the desired number of variations in any one pattern.

4. The blanket usually runs 80 sections long and 15 sections wide; each section measures approximately 14″ by 4″ and may include four or five different patterns in various colors. The wool content may vary from all wool in one section to as much as 89% wool and 11% rayon in another. The exact fiber content, however, is not known at this time, and is of little importance to the manufacturer and respondent, who wish only to test the comparative saleability of the various patterns. No labels as to fiber content are affixed to the blanket. The blanket thus made up is sent by the mill to the respondent's stylist, who "cull(s) it down to, say 100 selections" which are thought to be most saleable. These selections are shown to customers as they come in.

5. The stylist, believing particular fabrics and patterns may be popular, frequently makes up a second blanket, called a filling-tie blanket, in which the same pattern is repeated in a number of different colors, or may be repeated to show a series of variations in

wool and other fiber content. The sections in this blanket may be as much as 90″ long and 60″ wide. From the filling-tie blanket swatches are cut and sometimes labeled as to wool content based on estimates made by respondent. These swatches are shown to customers who come into respondent's place of business and to other customers who are visited by respondent's salesmen.

6. When enough customers have indicated a preference for a given pattern to make production of the fabric worth while, the mill is advised and sufficient yardage is manufactured to meet the estimated need. During the manufacturing process the exact fiber content of the product is determined and is put on the label attached to each bolt or piece of the material. At the same time respondent is sent a 2½ yard cut of the cloth, properly labeled, together with a cost sheet upon which the correct fiber content is stated. If there is a substantial variance between the fiber content shown on the original swatches and that shown on the mill's labels or cost sheets, it is respondent's custom to replace all incorrect labels with labels showing the exact fiber content as disclosed by the manufacturer, and to advise its customers by letter of the correct content.

7. Respondent's customers are garment manufacturers who, according to respondent's testimony, are familiar with industry practices and therefore know that the original swatches are labeled only as to probable fiber content. There was some testimony to the contrary, but the factual issue need not be determined. Giving respondent's testimony full credence, it affords little solace in this proceeding. That many of the swatches were improperly labeled is not disputed, nor is it disputed that they were used "to promote or effect sales of (such) wool products in commerce." Rule 22 of the Rules and Regulations under the Wood Products Labeling Act of 1939 specifically provides that such "samples, swatches or specimens * * * shall be labeled or marked to show their respective fiber contents and other information required by law."

8. The variance between actual fiber content and that which appeared on some of the labels exceeds the limitations prescribed by the Act. Swatches labeled "all wool except decoration" actually contained:

Wool	*Other*
94%	6%
92%	8%
90%	10%
89%	11%
88%	12%
83%	17%
80%	20%

The respondent has violated Rule 22, mentioned above, and §4(a)(1) and §4(a)(2)(A) of the Act, which state:

§4(a)(1):

"A wool product shall be misbranded if it is falsely or deceptively stamped, tagged, labeled, or otherwise identified";

§4(a)(2)(A):

"the percentage of the total fiber weight of the wool product, exclusive of ornamentation, not exceeding 5 percentum of said total fiber weight, of (1) wool * * *; (and) (4) each fiber other than wool if such percentage by weight of such fiber is 5 per centum or more"—must be shown.

9. The charges of the complaint as amended, that the respondent has violated §4(a)(1) and §4(a)(2) of the Act and Rules and Regulations thereunder, have been established by substantial, reliable, probative evidence.

10. There is another charge in the complaint—that the respondent, for the purpose of inducing the sale of its products, has made false, misleading and deceptive statements, in correspondence and otherwise, to the effect that the fiber content of its fabrics was "All wool except decorations," whereas said fabrics actually contained a substantial amount of other fibers over and above the 5 percentum of total fiber weight allowed under the Act.

11. This charge has likewise been established. The labels were incorrect, and in some instances letters were written to customers by respondent, in which the wool content of its products was misstated, and orders were taken which contained false statements as to wool and fiber content of the fabric for which the orders were given.

12. In the content of its business at all times mentioned herein, respondent has been in substantial competition in commerce with corporations, firms and individuals in the sale of woolen fabrics.

13. The acts and practices of respondent, as hereinabove set forth, 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 and deceptive acts and practices and unfair methods of competition in commerce within the intent and meaning of the Federal Trade Commission Act.

14. The use by respondent of the aforesaid false, misleading and deceptive statements, representations and practices has had, and now has, the capacity and tendency to mislead members of the purchasing public into the erroneous and mistaken belief that said statements and representations were and are true, and into the purchase of substantial quantities of the respondent's products by reason of said erroneous and mistaken belief. As a consequence thereof, substan-

tial trade in commerce has been, and is being, unfairly diverted to respondent from its competitors, and substantial injury has thereby been, and is being, done to competition in commerce.

The Hearing Examiner, having considered the entire record herein, finds that the Federal Trade Commission has jurisdiction in this matter, and that this proceeding is in the public interest. Therefore,

It is ordered, That respondent G. Sherman Corporation, a corporation, and its officers, and respondent's representatives, agents, and employees, directly or through any corporate or other device, in connection with the introduction into commerce or the offering for sale, sale, transportation, or distribution in commerce, as "commerce" is defined in the Wool Products Labeling Act of 1939, of fabrics or other "wool products," as such products are defined in and subject to the Wool Products Labeling Act of 1939, do forthwith cease and desist from misbranding such products by:

1. Falsely or deceptively stamping, tagging, labeling, or otherwise identifying such products as to the character or amount of the constituent fibers contained therein;

2. Failing to affix labels to such products showing each element of the information required to be disclosed by §4(a)(2) of the Wool Products Labeling Act of 1939;

3. Failing to stamp, tag or label samples, swatches or specimens of wool products, which are used to promote or effect sales of such wool products in commerce, with the information required under paragraph 2 hereof, as provided by Rule 22 of the Rules and Regulations promulgated under the Wool Products Labeling Act of 1939.

It is further ordered, That respondent G. Sherman Corporation, a corporation, and its officers, and respondent's representatives, agents, and employees, directly or through any corporate or other device, in connection with the sale or distribution of fabrics or other products in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from, directly or indirectly, misrepresenting the constituent fibers of which their products are composed or the percentages thereof orally, on order forms, in correspondence, or in any other manner.

It is further ordered, That the complaint herein, insofar as it relates to individual respondent George Sherman, be, and the same hereby is, dismissed.

DECISION OF THE COMMISSION AND ORDER TO FILE REPORT OF COMPLIANCE

Pursuant to Section 3.21 of the Commission's Rules of Practice, the initial decision of the hearing examiner shall, on the 23rd day of

January, 1960, become the decision of the Commission; and, accordingly:

It is ordered, That respondent G. Sherman Corporation, a corporation, shall, within sixty (60) days after service upon it of this order, file with the Commission a report in writing, setting forth in detail the manner and form in which it has complied with the order to cease and desist.

IN THE MATTER OF

ALEXANDER'S DEPARTMENT STORES, INC., ET AL.

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

Docket 7585. Complaint, Sept. 16, 1959—Decision, Jan. 27, 1960

Consent order requiring sellers of fur products in Bronx, N.Y., to cease violating the Fur Products Labeling Act by failing to comply with invoicing and labeling requirements; by advertising in newspapers which contained comparative prices for fur products without giving a designated time of a bona fide compared price; and by failing to keep adequate records disclosing the facts on which such pricing claims were based.

Mr. Garland S. Ferguson supporting the complaint.

Mr. James P. Durante of *Lewis, Durante & Bartel*, of New York, N.Y., for respondent.

INITIAL DECISION BY LEON R. GROSS, HEARING EXAMINER

On September 16, 1959, pursuant to the provisions of the Fur Products Labeling Act and the Federal Trade Commission Act, the Federal Trade Commission issued its complaint in this proceeding in which the above-named parties were named as respondents. A true copy of the complaint was served upon respondents as required by law. The complaint charges respondents with violating the provisions of the Fur Products Labeling Act by misbranding certain fur products by failure to label them properly; failing to invoice certain fur products as required by the aforesaid Act; by falsely and deceptively invoicing fur products in violation of the aforesaid Act; using comparative prices in respondents' advertising of said fur products in violation of the said Act and the Rules and Regulations promulgated thereunder; and in making pricing and savings claims and representations which violated the Rules and Regulations under the Fur Products Labeling Act promulgated by the Federal Trade Commission. After being served with said complaint, respondents