

the distribution or resale of such products are informed, in writing, of (1) the terms and conditions of the promotional program or plan under which such payments are made, including the services or facilities to be furnished therefor; (2) the availability of such payments on proportionally equal terms to all such customers; and (3) if it would not be economically feasible for all such competing customers to furnish such services or facilities, alternative services or facilities such customers can furnish and be paid for on proportionally equal terms.

It is further ordered, That respondent House of Lord's, Inc., 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.

Commissioners Reilly and Jones concurred and have filed a separate concurring statement. Commissioner Elman dissented and has filed a dissenting opinion.

IN THE MATTER OF

B & M SPORTSWEAR, INC., ET AL.

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

Docket C-1033. Complaint, Jan. 18, 1966—Decision, Jan. 18, 1966

Consent order requiring a Massachusetts manufacturer of men's wool athletic jackets to cease misbranding its jackets and interlinings by failing to disclose on labels their true fiber composition.

COMPLAINT

Pursuant to the provisions of the Federal Trade Commission Act 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 B & M Sportswear, Inc., a corporation, and Norman Berris and Morris Berris, individually and as officers of said corporation, hereinafter 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 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 B & M Sportswear, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the Commonwealth of Massachusetts.

Respondents Norman Berris and Morris Berris are officers of the corporate respondent and formulate, direct and control the acts, practices and policies of the said corporate respondent including those hereinafter set forth.

Respondents are manufacturers of men's wool athletic jackets with their office and principal place of business located at 80 Border Street, East Boston, Commonwealth of Massachusetts.

PAR. 2. Subsequent to the effective date of the Wool Products Labeling Act of 1939, respondents have manufactured for introduction into commerce, introduced into commerce, sold, transported, distributed, delivered for shipment, shipped, and offered for sale in commerce, as "commerce" is defined in said Act, wool products as "wool product" is defined therein.

PAR. 3. 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 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 men's athletic jackets stamped, tagged, labeled, or otherwise identified by respondents as "100% reprocessed wool" whereas in truth and in fact, said products contained substantially different fibers and amounts of fibers than represented.

PAR. 4. 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 with labels on or affixed thereto which failed to disclose:

(a) The percentage of the total fiber weight of the said wool product, exclusive of ornamentation not exceeding 5% of the total fiber weight, of (1) wool; (2) reprocessed wool; (3) reused wool; (4) each fiber other than wool, present in the wool product when said percentage by weight of such fiber was 5% or more; and (5) the aggregate of all other fibers.

Also among such misbranded wool products, but not limited thereto, were wool products without labels setting forth the information required by the Wool Products Labeling Act of 1939 and the Rules and Regulations promulgated thereunder.

PAR. 5. Certain of said wool products were misbranded in violation of the Wool Products Labeling Act of 1939 in that they were not labeled in accordance with the Rules and Regulations promulgated thereunder in the following respects:

(a) Certain wool products composed of two or more sections which were recognizably distinct and of different fiber composition, were not labeled in such a manner as to disclose the fiber composition of each section, thereof, in violation of Rule 23(b) of the aforesaid Rules and Regulations.

(b) The fiber content of the interlining contained in garments was not set forth separately and distinctly as a part of the required information on the stamps, tags, labels or other marks of identification, in violation of Rule 24(b) of the aforesaid Rules and Regulations.

PAR. 6. The acts and practices of the respondents as set forth above 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.

DECISION AND ORDER

The Commission having heretofore determined to issue its complaint charging the respondents named in the caption hereof with violation of the Wool Products Labeling Act of 1939 and the Federal Trade Commission Act, and the respondents having been served with notice of said determination and with a copy of the complaint the Commission intended to issue, together with a proposed form of order, and

The respondents and counsel for the Commission having thereafter executed an agreement containing a consent order, an ad-

124

Order

mission by respondents of all the jurisdictional facts set forth in the complaint to issue herein, 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 set forth in such complaint, and waivers and provisions as required by the Commission's rules; and

The Commission, having considered the agreement, hereby accepts same, issues its complaint in the form contemplated by said agreement, makes the following jurisdictional findings, and enters the following order:

1. Respondent B. & M Sportswear, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the Commonwealth of Massachusetts, with its office and principal place of business located at 80 Border Street, East Boston, Commonwealth of Massachusetts.

Respondents Norman Berris and Morris Berris are officers of the said corporation and their address is the same as that of the said corporation.

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 B & M Sportswear, Inc., a corporation, and its officers, and Norman Berris and Morris Berris, individually and as officers of said corporation, and respondents' representatives, agents and employees, directly or through any corporate or other device, in connection with the introduction or manufacture for introduction into commerce, or the offering for sale, sale, transportation, delivery for shipment or distribution in commerce, of woolen athletic jackets or other wool products, as "commerce" and "wool products" are defined in the Wool Products Labeling Act of 1939, do forthwith cease and desist from misbranding such products by:

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

2. Failing to securely affix to, or place on, each such wool 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.

Complaint

69 F.T.C.

3. Failing to disclose by sections and to separately set forth on the required stamps, tags, labels or other marks of identification affixed to wool products composed of two or more sections of different fiber content, the character and amount of the constituent fibers contained in each section of such wool products.

4. Failing to set forth the fiber content of interlinings contained in garments separately and distinctly as part of the required information on the stamps, tags, labels or other marks of identification of such garments.

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

NATHANIEL FEIT DOING BUSINESS AS DURABLE HAT
COMPANY ET AL.

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

Docket C-1034. Complaint, Jan. 20, 1966—Decision, Jan. 20, 1966

Consent order requiring a New York City manufacturer engaged in the manufacture of men's hats from previously used or worn hat bodies to disclose affirmatively on the hats the true nature of their origin and composition and to cease falsely representing that the hat bodies were originally made by any particular manufacturer.

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 Nathaniel Feit, an individual trading as Durable Hat Company, and Natco Hat Company, a partnership, and Nathaniel Feit and N. Courtman, individually and as partners therein, hereinafter referred to as respondents, have violated the provisions of said Act, 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 Nathaniel Feit is an individual trading as Durable Hat Company. Respondent Natco Hat Company is a partnership composed of respondent Nathaniel Feit and respondent N. Courtman who are individuals and partners therein and formulate, direct and control the acts, practices and policies of said partnership including those hereinafter set forth. The office and principal place of business of each respondent is located at 23 Waverly Place, New York City, New York.

PAR. 2. Respondent Nathaniel Feit, trading and doing business as Durable Hat Company, is engaged in the manufacture of men's hats from hat bodies which have been previously used or worn. Said hats when manufactured are sold to respondent Natco Hat Company which is engaged in the offering for sale, sale and distribution of said hats to wholesalers, jobbers and retailers for resale to the public. The respondents cooperate and act together in carrying out the acts and practices herein alleged.

PAR. 3. In the course and conduct of their business, respondents cause, and for some time last past have caused, their products, when sold, to be shipped from their places of business in the State of New York to purchasers thereof 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 commerce, as "commerce" is defined in the Federal Trade Commission Act.

PAR. 4. In the course and conduct of their business, respondents recondition or make over men's hats, using in the process, hat bodies which have been previously used or worn. Respondents place various labels on the exposed surface of the sweat bands of their finished hats.

Typical and illustrative, but not all inclusive of such is the following:

This is a Renovated
JOHN B. STETSON
HAT

PAR. 5. By and through the use of labels such as those illustrated in Paragraph Four hereof, respondents represent, directly or by implication, that:

(1) Each of the hats so labeled was originally manufactured by the John B. Stetson Co., a long-established and well-known manufacturer of men's hats, whose products are widely accepted by the purchasing public; and

(2) Each of the hats so labeled was made entirely from new

and unused materials which have not previously been sold to and worn by consumers.

PAR. 6. In truth and in fact:

(1) Each of the hats so labeled was not originally manufactured by the John B. Stetson Co. Among the hats so labeled may be some that were originally manufactured by the John B. Stetson Co. However, respondents also make over previously used or worn hats originally produced by other manufacturers and respondents do not in their manufacturing process preserve the identity of the original manufacturer of their made over hats.

(2) Each of the hats so labeled was not made entirely from new and unused materials which had not been previously sold to and worn by consumers. All of the hats so labeled are made over from hats which have been previously used or worn by consumers.

Therefore, the statements and representations as set forth in Paragraphs Four and Five hereof were and are false, misleading and deceptive.

PAR. 7. By the use of the word "renovated" in the labels as illustrated in Paragraph Four hereof and through the absence of words or wording clearly disclosing that their hats are made over from previously used and worn hat bodies, respondents fail to disclose adequately that their hats are made from previously used and worn hat bodies as distinguished from hats made entirely from new and unused materials which have not previously been sold to consumers.

When made over, the hats sold by respondents have the appearance of hats made entirely of new and unused materials which have not previously been sold to consumers and, in the absence of an adequate disclosure that such hats are made from previously used and worn hat bodies, such hats are understood to be and are readily accepted by the purchasing public as being made entirely from new and unused materials which have not previously been sold to and worn by consumers, facts of which the Commission takes official notice. This understanding and acceptance by the public is further enhanced by respondents' use of the John B. Stetson name in their labeling coupled with the absence of any disclosure that such hats are respondents' products.

PAR. 8. There is a preference on the part of the purchasing public for products, including men's hats, produced or manufactured by long-established and well-known business firms, a fact of which the Commission takes official notice.

