

FEDERAL TRADE COMMISSION DECISIONS

FINDINGS AND ORDERS, JULY 1, 1958, TO JUNE 30, 1959

IN THE MATTER OF
JOSEPH A. BROWN TRADING AS
JOSEPH BROWN WOOL COMPANY, ETC.

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

Docket 7082. Complaint, Mar. 4, 1958—Decision, July 2, 1958

Consent order requiring sellers in Woonsocket, R. I., to cease violating the Wool Products Labeling Act by labeling as "cashmere 70% wool 30%," and invoicing as "70% cashmere waste 30% wool," bales of stock which contained only reprocessed cashmere and reprocessed cashmere waste, respectively, and by failing in other respects to comply with the labeling requirements of the Act.

Mr. Alvin D. Edelson supporting the complaint.
Respondents, unrepresented.

INITIAL DECISION OF JOHN LEWIS, HEARING EXAMINER

The Federal Trade Commission issued its complaint against the above-named respondents on March 4, 1958, charging them with having violated the Wool Products Labeling Act of 1939 and the Rules and Regulations promulgated thereunder, and the Federal Trade Commission Act, through the misbranding of certain wool products and falsely identifying the constituent fibers thereof in invoices. After being served with said complaint, respondents appeared and entered into an agreement containing consent order to cease and desist, dated May 3, 1958, purporting to dispose of all of this proceeding as to all parties. Said agreement, which has been signed by all respondents and by counsel supporting the complaint, and approved by the Director and Assistant Director of the Commission's Bureau of Litigation, has been submitted to the above-named hearing examiner for his

consideration, in accordance with Section 3.25 of the Commission's Rules of Practice for Adjudicative Proceedings.

Respondents, pursuant to the aforesaid agreement, have admitted all the jurisdictional facts alleged in the complaint, and have agreed that the record may be taken as if findings of jurisdictional facts had been duly made in accordance with such allegations. Said agreement further provides that respondents waive any further procedural steps before the hearing examiner and the Commission, the making of findings of fact or conclusions of law, and all of the rights they may have to challenge or contest the validity of the order to cease and desist entered in accordance with said agreement. It has been agreed that the order to cease and desist issued in accordance with said agreement shall have the same force and effect as if entered after a full hearing and that the complaint may be used in construing the terms of said order. It has also been agreed that the aforesaid agreement is for settlement purposes only and does not constitute an admission by respondents that they have violated the law as alleged in the complaint.

This proceeding having now come on for final consideration on the complaint and the aforesaid agreement containing consent order, and it appearing that the order provided for in said agreement covers all the allegations of the complaint and provides for an appropriate disposition of this proceeding as to all parties, said agreement is hereby accepted and is ordered filed upon this decision's becoming the decision of the Commission pursuant to Sections 3.21 and 3.25 of the Commission's Rules of Practice for Adjudicative Proceedings, and the hearing examiner, accordingly, makes the following jurisdictional findings and order.

1. Respondent Joseph A. Brown is an individual doing business as the Joseph Brown Wool Company and the Joseph A. Brown Company, and maintains his business address at 496 Rathbun Street, Woonsocket, R.I.

Respondents Samuel Pearlman and Yale Goldberg are individuals and partners in the firm of the Yale Wool Waste Company and maintain their business address at 176 Federal Street, Boston, Mass.

2. The Federal Trade Commission has jurisdiction of the subject matter of this proceeding and of the respondents hereinabove named. The complaint states a cause of action against said respondents under the Wool Products Labeling Act of 1939 and

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the Federal Trade Commission Act, and this proceeding is in the interest of the public.

ORDER

It is ordered, That the respondent, Joseph A. Brown, individually, and doing business as the Joseph Brown Wool Company, and the Joseph A. Brown Company, or under any other name, and Samuel Pearlman and Yale Goldberg, individually, and as partners doing business as the Yale Wool Waste Company, or under any other name, 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 or distribution in commerce, as "commerce" is defined in the Federal Trade Commission Act, and the Wool Products Labeling Act of 1939, of wool products, 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 securely affix to or place on each such product a stamp, tag, label or other means of identification showing in a clear and conspicuous manner:

(a) The percentage of the total fiber weight of such wool product, exclusive of ornamentation not exceeding five percentum of said total fiber weight, of (1) wool, (2) reprocessed wool, (3) re-used wool, (4) each fiber other than wool where said percentage by weight of such fiber is five percentum or more, and (5) the aggregate of all other fibers;

(b) The maximum percentage of the total weight of such wool products, of any nonfibrous loading, filling, or adulterating matter;

(c) The name or the registered identification number of the manufacturer of such wool product or of one or more persons engaged in introducing such wool product into commerce, or in the offering for sale, sale, transportation, distribution or delivery for shipment thereof in commerce, as "commerce" is defined in the Wool Products Labeling Act of 1939.

It is further ordered, That respondent, Joseph A. Brown, individually, and doing business as the Joseph Brown Wool Company, and the Joseph A. Brown Company, or under any other name, and Samuel Pearlman and Yale Goldberg, individually, and as partners doing business as the Yale Wool Waste Company,

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or under any other name, and respondents' representatives, agents and employees, directly or through any corporate or other device, in connection with the sale of wool products, or any other textile fabrics in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from misrepresenting on invoices, or through other means, the character of the constituent fibers of said wool products, or other textile products.

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 2d day of July 1958, become the decision of the Commission; and, accordingly:

It is 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 the order to cease and desist.

Decision

IN THE MATTER OF
RETAIL PAINT AND WALLPAPER DISTRIBUTORS
OF AMERICA, INC., ET AL.

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

Docket 6367. Complaint, June 24, 1955—Order, July 3, 1958

Order dismissing, as not sustained by the record, complaint charging associations of paint dealers with conspiring to force manufacturers to sell paint and allied products only to recognized independent dealers.

INITIAL DECISION DISMISSING COMPLAINT

By *Earl J. Kolb*, hearing examiner.

Mr. Floyd O. Collins for the Commission.

Mr. Don O. Russell, of St. Louis, Mo., for Retail Paint and Wallpaper Distributors of America, Inc.;

Mr. Ephraim J. Faber, of New York, N.Y., for Paint Dealers Institute and Paint Dealers Association, Inc.;

Mr. Morton Sokol, of White Plains, N.Y., for Westchester Paint & Wallpaper Dealers Association, Inc.;

Mr. Theodore Schwartz, of Hoboken, N.J., for Paint Distributors Association of Long Island, Inc., and Hudson-Bergen County Paint Dealers Association; and

Mr. Harold Hochman, of Newark, N.J., for North Jersey Paint & Wallpaper Dealers Association, Inc.

This proceeding is before the undersigned hearing examiner for final consideration upon the complaint, answers thereto, testimony and other evidence, and proposed findings as to the facts and conclusions and briefs presented by counsel. The hearing examiner has given consideration to the proposed findings of fact and conclusions, and briefs in support thereof, submitted by all parties, and all findings of fact and conclusions of law proposed by the parties, respectively, not hereinafter specifically found or concluded are herewith rejected, and the hearing examiner having considered the record herein, and being now duly advised in the premises, makes the following findings of fact and conclusions drawn therefrom and order:

1. Respondent Retail Paint and Wallpaper Distributors of America, Inc., a corporation, (sometimes hereinafter referred to as R.P.W.D.A.) is a trade association of members located at

34 North Brentwood Boulevard, St. Louis, Mo. It is composed of approximately 2,500 individuals, partnerships and corporations located throughout the United States, who are primarily engaged in the distribution of paint, wallpaper and kindred lines of merchandise at wholesale and at retail. Some of these paint and wallpaper dealers hold direct memberships in respondent R.P.W.D.A., while others are affiliated through other local dealer associations. There are approximately 27 such local dealer associations affiliated with said respondent. Its purposes being, among others: (a) Elimination of evils and bad or unethical practices existing in the trade, and encouraging uniformity of trade practices; (b) Promoting, encouraging, fostering and safeguarding the welfare and friendly relations of all segments of the industry, and the bringing about of closer cooperation between the dealer and distributor with the manufacturer, salesman, jobber, painting contractor and painter; (c) Diffusing and exchanging information regarding all matters pertaining to the industry, and encouraging, fostering and promoting modern methods of advertising; and (d) Encouraging the formation of local dealer associations in order that modern and intelligent merchandising methods may be advanced and equitable and fair practices followed.

2. Respondent Paint Dealers Institute (sometimes hereinafter referred to as PDI) is an unincorporated trade association located at 103 East 125th Street, New York, N.Y. Its purpose and objectives are similar to those of R.P.W.D.A. Its membership is composed of the six trade associations organized for the purpose of exchanging information regarding all matters pertaining to the industry; promoting equitable and fair trade practices; encouraging and promoting modern and intelligent merchandising methods; promoting, encouraging, fostering and safeguarding the welfare and friendly relations of all segments of the industry in order that there might be closer cooperation between the manufacturer, distributor, wholesaler, dealer and customer. The membership of each of these trade associations is composed of individuals, partnerships and corporations, which are principally engaged in the distribution of paint, wallpaper and allied products at retail and at wholesale. The associations which are members of respondent Paint Dealers Institute are as follows:

(a) Respondent, Paint Dealers Association, Inc., a corporation, (sometimes hereinafter referred to as PDA) located at 103 East 125th Street, New York, N.Y. The membership of this association

is located in the Boroughs of Bronx and Manhattan in New York City.

(b) Respondent Paint Distributors Association of Long Island, Inc., (sometimes hereinafter referred to as the Long Island Association) located at 166 Montague Street, Brooklyn, N.Y. The membership of this association is located on Long Island, N.Y.

(c) Respondent Westchester Paint & Wallpaper Dealers Association, Inc., (sometimes hereinafter referred to as the Westchester Association) located at 175 Main Street, White Plains, N.Y. The membership of this association is located in Westchester County, N.Y.

(d) Respondent Hudson-Bergen County Paint Dealers Association (sometimes hereinafter referred to as the Hudson-Bergen Association) located at 95 River Street, Hoboken, N.J. The membership of this association is located in Hudson and Bergen Counties in the State of New Jersey.

(e) Respondent North Jersey Paint & Wallpaper Dealers Association, Inc., (sometimes hereinafter referred to as North Jersey Association) is located at 786 Broad Street, Newark, N.J. The membership of this association is located in New Jersey.

(f) The Brooklyn Paint and Wallpaper Dealers Association, Inc., is located at 166 Montague Street, Brooklyn, N.Y. The membership of this association is located in Brooklyn, N.Y. This association and its members were not made parties respondent in this proceeding due to the fact that prior to the issuance of the complaint herein the Federal Trade Commission issued its order to cease and desist in Docket No. 6224, prohibiting the Brooklyn Paint and Wallpaper Dealers Association, Inc., and its members from engaging in acts and practices substantially similar to those charged in the present complaint.

3. The issue to be determined in this proceeding is whether or not the activities of the respondents were such as to constitute a combination and conspiracy or planned common course of action to induce or attempt to induce manufacturers and suppliers of paint, wallpaper and allied products to discontinue selling to certain retailers located in the New York Metropolitan Area who were not recognized by respondents as independent paint and wallpaper dealers.

4. One of the standing committees of respondent Retail Paint and Wallpaper Distributors of America, Inc., was the Trade Sales Committee which was organized to deal with unfair trade practices within the industry, and to eliminate practices detrimental

