

Complaint

IN THE MATTER OF

EASTLAND WOOLEN MILLS, INC., ET AL.

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

Docket 8410. Complaint, June 1, 1961—Decision, Sept. 28, 1961

Consent order requiring manufacturers with headquarters in Corinna, Maine, to cease violating the Wool Products Labeling Act and the Federal Trade Commission Act by labeling and invoicing as "50% Wool-50% Reprocessed Wool" and tagging as "100% Reprocessed Wool," fabrics which contained substantial quantities of non-woolen fibers, and by failing to disclose on fabric labels the true generic names and percentage of the constituent fibers.

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 Eastland Woolen Mills, Inc., a corporation, and Max Striar, Louis Striar and Bernard Striar, individually and as officers of said corporation, and as partners doing business as Striar Textile Mill and Ski-Land Woolen Mill, hereinafter referred to as respondents, have violated the provisions of said Acts and the Rules and Regulations promulgated under the Wool Products Labeling 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 Eastland Woolen Mills, Inc., is a corporation, organized, existing and doing business under and by virtue of the laws of the State of Maine. Individual respondents, Max Striar, Louis Striar and Bernard Striar are officers of the corporate respondent. Said individual respondents, formulate, direct and control the acts, policies and practices of the corporate respondent, including the acts and practices hereinafter referred to. All respondents have their office and principal place of business located in Corinna, Maine.

In addition thereto, individual respondents Max Striar, Louis Striar and Bernard Striar, as partners, do business as Striar Textile Mill, with a plant located in Orono, Maine, and as Ski-Land Woolen Mill, with a plant located in Clifton, Maine.

PAR. 2. Subsequent to the effective date of the Wool Products Labeling Act of 1939 and more especially since December 1958, respondents have manufactured for introduction into commerce, introduced into commerce, sold, transported, distributed, delivered for shipment and

offered for sale in commerce as "commerce" is defined in said Act, wool products as "wool products" are defined therein.

PAR. 3. Certain of said wool products were misbranded within the intent and meaning of Section 4(a)(1) of the said Wool Products Labeling Act and the Rules and Regulations promulgated thereunder in that they were falsely and deceptively labeled or tagged with respect to the character and amount of the constituent fibers contained therein.

Among such wool products were fabrics stamped or tagged as "50% wool—50% Reprocessed wool," and "100% Reprocessed Wool" whereas, in truth and in fact, said fabrics were not composed entirely of woolen fibers but contained substantial quantities of non-woolen fibers.

PAR. 4. Certain of said wool products were further misbranded by respondents in that they were not stamped, tagged and labeled as required under the provisions of Section 4(a)(2) of the Wool Products Labeling Act 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 fabrics with labels which failed: (1) to disclose the true generic names of the fibers present and (2) to disclose the percentages of such fibers.

PAR. 5. In the course and conduct of their business respondents are in competition, in commerce, with corporations, firms and individuals likewise engaged in the sale of woolen fabrics.

PAR. 6. The aforesaid acts and practices of respondents constituted misbranding of wool products and 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 methods of competition, in commerce, within the intent and meaning of the Federal Trade Commission Act.

PAR. 7. Respondents, in the course and conduct of their business, as aforesaid, invoiced some of their woolen fabrics as "50% Wool—50% Reprocessed Wool", whereas, in truth and in fact, said woolen fabrics were not composed entirely of woolen fibers but did contain substantial amounts of fibers other than wool.

PAR. 8. The acts and practices set out in Paragraph Seven have had and now have the tendency and capacity to mislead and deceive the purchasers of said products as to the true content thereof and to misbrand products manufactured by them in which said materials were used.

PAR. 9. The acts and practices of the respondents set out in Paragraph Seven were, and are, all to the prejudice and injury of the public and of respondents' competitors and constituted and now con-

stitute unfair and deceptive acts and practices and unfair methods of competition, in commerce, within the intent and meaning of the Federal Trade Commission Act.

Mr. Edward B. Finch for the Commission;
Mr. Louis J. Gribetz, New York, N.Y., for respondents.

INITIAL DECISION by LOREN H. LAUGHLIN, HEARING EXAMINER

The Federal Trade Commission (sometimes also hereinafter referred to as the Commission) on June 1, 1961, issued its complaint herein, charging the above-named respondents with having violated, in certain particulars, the provisions of the Federal Trade Commission Act, and of the Wool Products Labeling Act of 1939 and the Rules and Regulations promulgated thereunder; and respondents were duly served with process.

On August 9, 1961, there was submitted to the undersigned hearing examiner of the Commission, for his consideration and approval, an "Agreement Containing Consent Order To Cease and Desist", which had been entered into by and between respondents and counsel for both parties, under date of August 8, 1961, subject to the approval of the Commission's Bureau of Textiles and Furs, which had subsequently duly approved the same.

After due consideration thereof, the hearing examiner finds that said agreement, both in form and in content, is in accord with § 3.25 of the Commission's Rules of Practice for Adjudicative Proceedings, and that by said agreement the parties have specifically agreed to the following matters:

1. Eastland Woolen Mills, Inc., is a corporation, and Max Striar, Louis Striar and Bernard Striar are individuals and officers of said corporation, with their principal place of business located in Corinna, Maine. Individual respondents Max Striar, Louis Striar and Bernard Striar, as partners, do business as Striar Textile Mill, with a plant located in Orono, Maine, and as Ski-Land Woolen Mill, with a plant located in Clifton, Maine.

2. Respondents admit all the jurisdictional facts alleged in the complaint and agree that the record may be taken as if findings of jurisdictional facts had been duly made in accordance with such allegations.

3. This agreement disposes of all of this proceeding as to all parties.

4. Respondents waive:

- (a) Any further procedural steps before the hearing examiner and the Commission;

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(b) The making of findings of fact or conclusions of law; and
(c) All of the rights they may have to challenge or contest the validity of the order to cease and desist entered in accordance with this agreement.

5. The record on which the initial decision and the decision of the Commission shall be based shall consist solely of the complaint and this agreement.

6. This agreement shall not become a part of the official record unless and until it becomes a part of the decision of the Commission.

7. This 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.

8. The following order to cease and desist may be entered in this proceeding by the Commission without further notice to respondents. When so entered it shall have the same force and effect as if entered after a full hearing. It may be altered, modified or set aside in the manner provided for other orders. The complaint may be used in construing the terms of the order.

Upon due consideration of the complaint filed herein and the said "Agreement Containing Consent Order To Cease And Desist", the hearing examiner approves and accepts this agreement; finds that the Commission has jurisdiction of the subject matter of this proceeding and of the respondents herein; that the complaint states a legal cause for complaint under the Federal Trade Commission Act and the Wool Products Labeling Act of 1939, against the respondents, both generally and in each of the particulars alleged therein; that this proceeding is in the interest of the public; that the order proposed in said agreement is appropriate for the just disposition of all the issues in this proceeding as to all of the parties hereto; and that said order therefore should be, and hereby is, entered as follows:

It is ordered, That respondents Eastland Woolen Mills, Inc., a corporation, and Max Striar, Louis Striar and Bernard Striar, individually, and as officers of said corporation, and, as partners, doing business as Striar Textile Mill and Ski-Land Woolen Mill, or under any other name or names, 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 woolen fabrics or other "wool products"; as such products are defined in and subject to said 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 included 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 each element of information required to be disclosed by § 4(a) (2) of the Wool Products Labeling Act of 1939.

It is further ordered, That respondents Eastland Woolen Mills, Inc., a corporation, and Max Striar, Louis Striar and Bernard Striar, individually and as officers of said corporation, and as partners doing business as Striar Textile Mill and Ski-Land Woolen Mill, or under any other name or names, and respondents' representatives, agents and employees, directly or through any corporate or other device, in connection with the offering for sale, sale, or distribution of fabrics or other products in commerce, as "commerce" is defined in the Federal Trade Commission Act, forthwith cease and desist from:

Misbranding such products by misrepresenting the character or amount of constituent fibers contained in such products on invoices or shipping memoranda applicable thereto or in any other manner.

DECISION OF THE COMMISSION AND ORDER TO FILE REPORT OF COMPLIANCE

Pursuant to Section 3.21 of the Commission's Rules of Practice, published May 6, 1955, as amended, the initial decision of the hearing examiner shall, on the 28th day of September 1961, become the decision of the Commission; and, accordingly:

It is ordered, That the above-named respondents 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

RICHARD B. YANKEE ET AL. DOING BUSINESS AS
YANKEE BROKERAGE COMPANY

CONSENT ORDER, ETC., IN REGARD TO THE ALLEGED VIOLATION OF
SEC. 2(c) OF THE CLAYTON ACT

Docket 8084. Complaint, Aug. 19, 1960—Decision, Sept. 29, 1961

Consent order requiring Kansas City, Mo., brokers of citrus fruit and produce to cease violating Sec. 2(c) of the Clayton Act by accepting from Florida suppliers unlawful brokerage on their own purchases for resale, such as a discount at the rate of 10 cents per 1 $\frac{3}{4}$ bushel box, or equivalent, or a lower price reflecting such commission.

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COMPLAINT

The Federal Trade Commission, having reason to believe that the parties respondent named in the caption hereof, and hereinafter more particularly described, have been and are now violating the provisions of subsection (c) of Section 2 of the Clayton Act, as amended (U.S.C. Title 15, Section 13), hereby issues its complaint, stating its charges with respect thereto as follows:

PARAGRAPH 1. Respondents Richard B. Yankee and Beulah M. Yankee are individuals and copartners doing business as Yankee Brokerage Company, under and by virtue of the laws of the State of Missouri, with their offices and principal place of business located at 205-07 Merchants Produce Bank Building, Kansas City, Missouri. These individual respondents formulate, direct and control the business, acts and practices of the partnership, Yankee Brokerage Company, including its purchase, sale and distribution policies.

PAR. 2. Respondents are now, and for the past several years have been, engaged primarily in the brokerage business, representing a number of packer-principals located in various sections of the United States in the sale and distribution of citrus fruit and produce, as well as other food products, all of which are hereinafter sometimes referred to as food products. In particular, respondents have represented, and now represent, a number of citrus fruit packers located in the State of Florida in the sale and distribution of their citrus fruit, for which respondents were and are paid for their services in connection therewith a brokerage or commission, usually at the rate of 10 cents per 1 $\frac{3}{4}$ bushel box, or equivalent. In many instances respondents have also purchased citrus fruit and other food products for their own account for resale.

PAR. 3. In the course and conduct of their business for the past several years, in representing their packer-principals, as well as when purchasing for their own account, respondents have, directly or indirectly, caused such food products, when sold or purchased, to be shipped and transported from various packers' packing plants or places of business located in many States of the United States other than the State of Missouri to respondents, or to respondents' customers located in Missouri and in other states. Thus, for the past several years, respondents have been, and are now, engaged in a continuous course of trade in commerce, as "commerce" is defined in the aforesaid Clayton Act, as amended.

PAR. 4. In the course and conduct of their business in commerce, as aforesaid, during the past several years, but more particularly since July 1, 1956, to the present time, respondents have made, and are now making, numerous and substantial purchases of food products for

their own account for resale from various packers or sellers, on which purchases they have received and accepted, and are now receiving and accepting, directly or indirectly, something of value as a commission, brokerage, or other compensation, or an allowance or discount in lieu thereof, in connection therewith.

For example, respondents make substantial purchases of citrus fruit for their own account from a number of packers located in the State of Florida and receive from the packers on said purchases, a brokerage or commission, or a discount in lieu thereof, usually at the rate of 10 cents per 1 $\frac{3}{4}$ bushel box, or equivalent. In many instances, respondents receive a lower price from the packer which reflects said brokerage or commission.

PAR. 5. The acts and practices of respondents in receiving and accepting a brokerage or commission, or an allowance or discount in lieu thereof, on their own purchases, as herein alleged and described, are in violation of subsection (c) of Section 2 of the Clayton Act, as amended (U.S.C. Title 15, Section 13).

DECISION AND ORDER

This matter having come on to be heard by the Commission upon a record consisting of the Commission's complaint charging the respondents named in the caption hereof with violation of subsection (c) of Section 2 of the Clayton Act, as amended, and an agreement by and between respondents and counsel supporting the complaint, which agreement contains an order to cease and desist, an admission by the respondents of all the jurisdictional facts alleged in the complaint, a statement that the signing of said 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, and waivers and provisions as required by the Commission's rules; and

The Commission having considered the agreement and order contained therein and being of the opinion that the agreement provides an adequate basis for appropriate disposition of the proceeding, the agreement is hereby accepted, the following jurisdictional findings are made, and the following order is entered:

1. Respondents Richard B. Yankee and Beulah M. Yankee are individuals and are copartners doing business as Yankee Brokerage Company under and by virtue of the laws of the State of Missouri, with their office and principal place of business located at 205-07 Merchants Produce Bank Building, in the City of Kansas City, State of Missouri.

2. The Federal Trade Commission has jurisdiction of the subject matter of this proceeding and of the respondents.

