IN THE MATTER OF

BEATRICE FOODS CO.

MODIFIED ORDER, OPINIONS, ETC., IN REGARD TO THE ALLEGED VIOLATION OF THE FEDERAL TRADE COMMISSION ACT AND SEC. 7 OF THE CLAYTON ACT

Docket 6653. Complaint, October 16, 1965—Decision, June 7, 1967

Order modifying a divesture order dated Dec. 10, 1965, 68 F.T.C. 1003, which required a major food processing corporation to divest certain acquired companies by further requiring the corporation, pursuant to a final decree of May 23, 1967, 8 S.&D. 495, by the Court of Appeals for the Ninth Circuit, to sell certain plants to a single purchaser to be approved in advance by the Commission.

STATEMENT OF THE COMMISSION

A majority of the Commission has agreed to present to the Ninth Circuit for its consideration a proposed consent settlement of the Commission's Section 7 proceeding against *Beatrice Foods Co.*, Dkt. No. 6653.

Complaint in this matter was filed October 16, 1956. Five of the 175 acquisitions [1] charged in the complaint as illegal were found by the hearing examiner to be in violation of Section 7. His decision, rendered on March 2, 1964, was sustained by the Commission in an opinion issued on April 26, 1965 [67 F.T.C. 473, 697]. The final order entered by the Commission on December 10, 1965 [68 F.T.C. 1003], required divestiture within 18 months of four of the five acquisitions found to have been illegal and prohibited Beatrice from making any further acquisitions of dairy companies without Commission approval for a period of 10 years.

This order and the Commission's decision, finding liability, is now on appeal to the Ninth Circuit. The printing of the record is not yet complete, final briefs have not been exchanged, and oral argument has not yet been scheduled.

The consent order now agreed to by the parties resulted from renewed negotiations instituted in February 1967 at the request of respondent's counsel and participated in by the Commission and its staff and Beatrice.

Under the consent offer now proposed Beatrice agrees to divest itself of plants and related facilities located in Pasadena, California; Cedar City, Utah; Las Vegas, Nevada; El Paso, Texas;

[1] Of these acquisitions 77 were challenged under Section 7 and the remaining 98 under Section 5, either because the companies were not corporations or were not in commerce.

Roswell and Albuquerque, New Mexico; and all operations in Arizona. These operations span a distribution area stretching across the Southwest United States and encompass West Texas, New Mexico, Arizona, southern California, southern Nevada and southern Utah. The settlement also calls for the divestiture of the acquired company in Morgantown, West Virginia, and prohibits Beatrice from acquiring any other dairy company without Commission approval for a 10-year period.[2] The properties subject to divestiture under this settlement, with the exception of the Morgantown operation, are contiguous and capable of being sold as a single property to a single company. The divestiture contemplated by the settlement accounts for approximately 24 percent of the total premerger sales challenged in the complaint and is thus roughly comparable to the consent settlements agreed to with Foremost, Borden and National Dairy which divestitures involved 36%, 25% and 32% respectively of premerger sales of acquired firms.[3] If the illegal acquisitions which Beatrice has already disposed of are taken into account, Beatrice will have eventually divested itself of 32% of the premerger sales acquired.

In considering any settlement proposal the Commission must seek to weigh the relative gains for the public interest between the certainty of immediate divestiture of named plants which the settlement achieves and the always uncertain contingency of court victory, the time which will elapse before final court decision and the possible effect which such delay will have on the continued viability—and indeed on the continued existence—of the properties which can reasonably be expected to be subject to an eventual court-ordered divestiture.[4]

In the view of a majority of the Commission the proposed consent settlement achieves in large measure the original objective of the complaint which was to prevent the disappearance from

[2] Under this consent order Beatrice agreed to sell off its plant in Morgantown, West Virginia instead of the acquired plant in Durham, North Carolina. Beatrice is also divesting the Valley Gold operations in New Mexico and the Las Vegas, Nevada and Glendale, Arizona facilities which were not under the December order, in place of its Idaho division and the remainder of the Utah division which were under the December order.

[3] Each of the cases was settled on consent. *Borden* (Dkt. 6652) [65 F.T.C. 296] and *National Dairy* [Dkt. 6651] on April 15, 1964 and January 30, 1963 [62 F.T.C. 120], respectively, prior to any hearings, and *Foremost* [Dkt. 6495] on March 5, 1965 [67 F.T.C. 282], after full hearings and an opinion by the Commission finding violation.

[4] In this connection we cannot ignore the fact that since complaint issued in this case, Beatrice has already sold off or closed the following facilities which were found to be acquired unlawfully: Hawaii Brewing; Rawley Frozen Foods; Bakersfield, California; Pasadena, California (retail); Valleymaid Ice Cream; Eckles Ice Cream Co.; and Dahl-Cro-Ma. These seven plants accounted for $11.4 million or 20% of the premerger sales of the companies affected by the December order. We know from experience with the dairy industry that the dynamics of this industry and the constant changes in dairy ownership underscore the importance of achieving divestiture as quickly as possible.

the dairy industry of viable regional dairy companies. The effect of the proposed settlement, if divestiture of the southwest plants can be effected to a single purchaser, will be the establishment of a substantial, viable regional dairy company with sales of $36 million and profits of $1,137,000 in what is reported by our staff to be one of the fastest growing areas in the continental United States. It can be anticipated that the establishment of such a medium-size regional competitor and the elimination of Beatrice from the southwestern area will re-establish the forces of potential competition in this region, since Beatrice remains in northern Utah and in northern California.

In the view of a majority of the Commission the relief secured through this consent settlement is effective and indeed is in some respects more effective than the divestiture which might be ordered by a court because of the immediacy with which it can be implemented.

DISSENTING STATEMENT

BY ELMAN, *Commissioner:*

There have been three recent Commission decisions designed to provide basic guidelines of law and policy in the field of conglomerate mergers: *Consolidated Foods Corp.*, Docket No. 7000 [62 F.T.C. 929], dealing with reciprocity; *Procter & Gamble-Clorox*, Docket No. 6901 [63 F.T.C. 1465], dealing with product-extension mergers; and *Beatrice Foods Co.*, Docket No. 6653, dealing with market-extension mergers. The first two went to the Supreme Court and resulted in affirmance of the Commission's decisions. The third is now terminated, while still pending for review in the Ninth Circuit, by acceptance of a consent order.

Today's action is taken by a vote of 2–1, with two members not participating. One of the two members of the Commission constituting the present majority did not participate in any way in the adjudicative proceedings before the Commission. In the recent *Proctor & Gamble-Folger* case (Docket C–1169, February 9, 1967) [p. 135 herein], where the Commission accepted a consent order simultaneously with the issuance of the complaint, that commissioner stated as follows [pp. 146–147 herein]:

> I do not believe that the Commission, having filed a complaint in which it had reason to believe that a challenged acquisition violated the law, should settle that complaint by consent unless the consent order adequately and fully removes the anticompetitive impact which the acquisition is believed to have engendered and provides the relief which the Commission could reasonably anticipate a court would direct. * * *

The law respecting the anticompetitive impact of conglomerate mergers has not yet been established. There is a great need to test and develop the case law in these areas. By its willingness to enter into consent orders and agreements, a majority of the Commission has prevented the development of case law dealing with such mergers that is so essential both to the law enforcement agency and to the businessman seeking to conform his conduct to the confines of the law.

Today's settlement does not come in advance of trial, before the allegations of the complaint have been tested, but after the case has already been fully tried and adjudicated by the Commission. This case—one of the most important ever brought in the merger field—involved a series of acquisitions made by respondent, the third largest dairy company in the United States, over an extended period of time. After proceedings lasting almost a decade, the Commission on April 26, 1965, determined, in a unanimous opinion, that a number of these acquisitions were illegal. When it announced its opinion, the Commission did not follow its usual procedure and issue a final order at the same time. Instead, because of the magnitude and complexity of the problems of relief, the Commission deferred entry of a final order pending receipt of the parties' views on the form and content of an appropriate order. On December 10, 1965, after full consideration of the proposals submitted by complaint counsel and respondent, the Commission issued a final order, accompanied by an opinion examining in detail all of the factors bearing on the scope of the order. That order is now set aside and replaced by a consent order having the approval of only two members of the Commission.

I shall not discuss the merits of the consent order, except to note that it falls substantially short of the relief which the Commission, after the most extensive and careful consideration, on the basis of the findings of fact in the record, determined to be necessary in order to redress the violations found. There is no reason to anticipate that the Commission's decision and order would not be sustained on review. It is most regrettable that the opportunity for such review has now been foreclosed by the action of a bobtailed Commission. Businessmen and the bar, as well as the antitrust enforcement agencies, would have benefited from a Supreme Court decision in this test case, settling the rules of law applicable to market-extension mergers.

MODIFIED ORDER

Beatrice Foods Co., having filed in the United States Court of Appeals for the Ninth Circuit on February 9, 1966, a petition to

review and set aside the order of divestiture issued herein on December 10, 1965 [68 F.T.C. 1003]; and the Commission and Beatrice Foods Co., having subsequently agreed upon a plan of divestiture and upon the provisions of a final order modifying the order entered by the Commission on December 10, 1965; and the Court, on May 23, 1967 [8 S.&D. 495], having issued its final decree affirming and enforcing said order as submitted by the Commission and Beatrice Foods Co.;

Now, therefore, it is hereby ordered, That the order of December 10, 1965, be, and it hereby is, modified in accordance with the final decree of the Court to read as follows:

It is ordered, That:

I

Beatrice Foods Co. ("Beatrice"), within a period not exceeding eighteen (18) months from the effective date of this order, unless extended, shall divest itself absolutely and in good faith to a purchaser approved in advance by the Commission, of all plants which are owned in whole or in part by Beatrice or operated by Beatrice at Pasadena, California (two plants); Cedar City, Utah; El Paso, Texas; Roswell, New Mexico; Albuquerque, New Mexico; all locations in the State of Arizona; and Morgantown, West Virginia, and which are engaged in the manufacturing, processing or distribution of pasteurized and homogenized milks, buttermilks, skim milks, cream, half & half, sour cream, cottage cheese, ice cream, ice milk, mellorine-type products, sherbet, or water ices, together with all assets, properties and businesses which are or may be used or conducted by Beatrice at or in conjunction with said plants, or added to said plants or utilized in replacement of said plants by Beatrice, as may be necessary to restore the properties as competitive entities, all as hereinafter provided:

Provided, however, That this order does not require that the plant, assets, properties and businesses located at Morgantown, West Virginia, be sold to the purchaser of the other plants, assets, properties and businesses described above.

Provided further, however, That if, at the expiration of one year from the effective date of this order, Beatrice establishes that despite its good faith efforts it has been unable to dispose of the plants, assets, properties and businesses decribed above—other than those located at Morgantown, West Virginia—to a single purchaser, Beatrice may dispose of said plants, assets, properties and

businesses to two or more purchasers, approved in advance by the Commission.

As used in this order the term "assets, properties and businesses conducted by Beatrice at or in conjunction with said plants" shall include all dairy distribution stations and branches regardless of where located, which are owned in whole or in part by Beatrice or operated by Beatrice and supplied by any of said plants.

II

Such divestitures shall be effected subject to the following:

1. Upon the completion of such divestitures to the purchaser or purchasers (herein called the "transferee"), Beatrice, its officers, directors, agents, representatives, or employees shall not exercise any control or supervision over the policies, control, management, operation or acts of transferee, or any successor in interest to transferee: *Provided,* That where necessary for the successful operation of the business of the transferee, Beatrice may license for a limited period of time the use of any of its trademarks or trade names in the territory of the transferee subject to the prior approval by the Commission of each license and the terms thereof.

2. By these divestitures no interest shall be sold or transferred, directly or indirectly, to anyone who is at the time of the divestiture an officer, director, employee or agent of, or directly or indirectly under the control or direction of Beatrice or any of Beatrice's divisions, subsidiaries or affiliated corporations, or who owns or controls, directly or indirectly, more than one (1) percent of the outstanding shares of common stock of Beatrice without the prior approval of the Commission.

III

Beatrice shall cease and desist, for a period of ten (10) years from the effective date of this order from acquiring, directly or indirectly, any interest in any firm, corporate or non-corporate, engaged principally or as one of its major commodity lines at the time of such acquisition in any State of the United States or in the District of Columbia in the business of manufacturing, processing or distributing at wholesale or on retail milk routes any of the products described in Paragraph I of this order, without the prior approval of the Commission.

IV

Beatrice shall submit to the Commission every ninety (90) days a report in writing setting forth its efforts and progress in carrying out the divestiture requirements of this order until all assets have been divested with the approval of the Commission; and Beatrice shall submit to the Commission on the first day of each calendar year a report in writing setting forth its compliance with the cease and desist provisions of this order.

V

Beatrice shall notify the Commission of the names and addresses of all persons, firms or corporations who shall express to Beatrice any interest in purchasing the plants, assets, properties or businesses to be divested under the terms of this order, within thirty (30) days after having been informed of such interest.

Commissioner Elman not concurring, and Commissioners MacIntyre and Reilly not participating.

IN THE MATTER OF

QUILTED TEXTILES CORPORATION, INC., ET AL.

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

Docket C-1213. Complaint, June 8, 1967—Decision, June 8, 1967

Consent order requiring a Rossville, Ga., manufacturer of wool and textile products, including quilted fabrics and batting, to cease misbranding and falsely guaranteeing its wool and textile fiber products, and failing to keep required records.

COMPLAINT

Pursuant to the provisions of the Federal Trade Commission Act, the Wool Products Labeling Act of 1939 and the Textile Fiber Products Identification Act, and by virtue of the authority vested in it by said Acts, the Federal Trade Commission, having reason to believe that Quilted Textiles Corporation, Inc., a corporation, and Glenn H. Plumlee, individually and as an officer 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 the

Textile Fiber Products Identification 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 Quilted Textiles Corporation, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of Georgia.

Respondent Glenn H. Plumlee is an officer of said corporate respondent. He controls the acts and practices of said corporate respondent.

Respondents are engaged in the manufacture and sale of wool and textile fiber products, including quilted fabrics and batting, with their office and principal place of business located at McFarland Avenue, Rossville, Georgia.

PAR. 2. Respondents, now and for some time last past, 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 the Wool Products Labeling Act of 1939, 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 quilted fabrics stamped, tagged, labeled, or otherwise identified by respondents as 70% Reprocessed Wool, 30% Man-Made Fibers, whereas in truth and in fact, said products contained substantially different fibers and amounts of fibers other than as represented.

PAR. 4. Certain of said wool products were further misbranded by respondents in that they were not stamped, labeled, tagged, 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, was a wool product with a label on or affixed thereto which failed to disclose 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, when said percentage by weight of such fiber was 5% or more; and (5) the aggregate of all other fibers.

PAR. 5. Respondents have furnished false guaranties that their wool products were not misbranded in violation of Section 9(b) of the Wool Products Labeling Act of 1939.

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

PAR. 7. Respondents are now, and for some time last past have been, engaged in the introduction, delivery for introduction, manufacture for introduction, sale, advertising, and offering for sale, in commerce, and in the transportation or causing to be transported in commerce, and the importation into the United States, of textile fiber products; and have sold, offered for sale, advertised, delivered, transported and caused to be transported, textile fiber products, which had been advertised or offered for sale in commerce; and have sold, offered for sale, advertised, delivered, transported and caused to be transported, after shipment in commerce, textile fiber products, either in their original state or contained in other textile fiber products; as the terms "commerce" and "textile fiber product" are defined in the Textile Fiber Products Identification Act.

PAR. 8. Certain of said textile fiber products were misbranded by respondents within the intent and meaning of Section 4(a) of the Textile Fiber Products Identification Act and the Rules and Regulations promulgated thereunder in that they were falsely and deceptively stamped, tagged, labeled, invoiced, advertised, or otherwise identified as to the name or amount of the constituent fibers contained therein.

Among such misbranded textile fiber products, but not limited thereto, were quilted fabrics that were labeled as 50% Acetate, 50% Other Fiber, whereas, in truth and in fact, such products contained substantially different fibers and amounts of fibers other than as represented.

PAR. 9. Certain of the textile fiber products were misbranded by respondents in that they were not stamped, tagged, labeled, or otherwise identified to show each element of information required to be disclosed by Section 4(b) of the Textile Fiber Products

Identification Act, and in the manner and form prescribed by the Rules and Regulations promulgated under said Act.

Among such misbranded textile fiber products, but not limited thereto, were quilted fabrics with labels which failed:

(1) To disclose the true percentage of the fibers present by weight; and

(2) To disclose the true generic names of the fibers present.

PAR. 10. Respondents have failed to maintain proper records showing the fiber content of the textile fiber products manufactured by them, in violation of Section 6 of the Textile Fiber Products Identification Act and Rule 39 of the Regulations promulgated thereunder.

PAR. 11. Respondents have furnished false guaranties that their textile fiber products were not misbranded in violation of Section 10 of the Textile Fiber Products Identification Act.

PAR. 12. The acts and practices of respondents, as set forth in Paragraphs Eight, Nine, Ten and Eleven above were, and are, in violation of the Textile Fiber Products Identification Act and the Rules and Regulations promulgated thereunder, and constituted, and now constitute, unfair methods of competition and unfair and deceptive acts and practices in commerce under the Federal Trade Commission Act.

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 Bureau of Textiles and Furs 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, the Wool Products Labeling Act of 1939 and the Textile Fiber Products Identification Act; and

The respondents 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 the respondents that the law has been violated as alleged in such complaint, and waivers and provisions as required by the Commission's rules; and

The Commission, having reason to believe that the respondents have violated the said Acts, and having determined that complaint

should issue stating its charges in that respect, hereby issues its complaint, accepts said agreement, makes the following jurisdictional findings, and enters the following order:

1. Respondent Quilted Textiles Corporation, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of Georgia, with its office and principal place of business located at McFarland Avenue, Rossville, Georgia.

Respondent Glenn H. Plumlee is an officer of said corporation and his address is the same as that of 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 Quilted Textiles Corporation, Inc., a corporation, and its officers, and Glenn H. Plumlee, individually and as an officer 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, distribution, delivery for shipment or shipment, in commerce, of wool products, as "commerce" and "wool product" 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 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 each element of information required to be disclosed by Section 4(a) (2) of the Wool Products Labeling Act of 1939.

It is further ordered, That Quilted Textiles Corporation, Inc., and its officers, and Glenn H. Plumlee, individually and as an officer of said corporation, and respondents' representatives, agents and employees, directly or through any corporate or other device, do forthwith cease and desist from furnishing a false guaranty that any wool product is not misbranded, under the Wool Products Labeling Act of 1939, and the Rules and Regulations promulgated thereunder, when there is reason to believe that any wool product so guaranteed may be introduced, sold, transported or distributed in commerce.

It is further ordered, That respondents Quilted Textiles Corporation, Inc., a corporation, and its officers, and Glenn H. Plumlee, individually and as an officer of said corporation, and respondents' representatives, agents and employees, directly or through any corporate or other device, in connection with the introduction, delivery for introduction, manufacture for introduction, sale, advertising, or offering for sale, in commerce, or the transportation or causing to be transported in commerce, or the importation into the United States, of any textile fiber product; or in connection with the sale, offering for sale, advertising, delivery, transportation, or causing to be transported, of any textile fiber product which has been advertised or offered for sale in commerce; or in connection with the sale, offering for sale, advertising, delivery, transportation, or causing to be transported, after shipment in commerce, of any textile fiber product, whether in its original state or contained in other textile fiber products, as the terms "commerce" and "textile fiber product" are defined in the Textile Fiber Products Identification Act, do forthwith cease and desist from:

A. Misbranding textile fiber products by:

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

2. Failing to affix a stamp, tag, label, or other means of identification to each such product showing in a clear, legible and conspicuous manner each element of information required to be disclosed by Section 4(b) of the Textile Fiber Products Identification Act.

B. Failing to maintain and preserve proper records showing the fiber content of the textile fiber products manufactured by said respondents, as required by Section 6 of the Textile Fiber Products Identification Act and Rule 39 of the Regulations promulgated thereunder.

It is further ordered, That respondents Quilted Textiles Corporation, Inc., a corporation, and its officers, and Glenn H. Plumlee, individually and as an officer of said corporation, and respondents' representatives, agents and employees, directly or through any corporate or other device, do forthwith cease and desist from furnishing a false guaranty that any textile fiber product is not misbranded or falsely invoiced under the provisions of the Textile Fiber Products Identification Act.

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

CORNET & MORGENSTERN, INC., ET AL.

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

Docket C-1214. Complaint, June 12, 1967—Decision, June 12, 1967

Consent order requiring a New York City manufacturer of fur and wool products to cease misbranding and falsely invoicing its merchandise.

COMPLAINT

Pursuant to the provisions of the Federal Trade Commission Act, the Fur Products Labeling 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 Cornet & Morgenstern, Inc., a corporation, and William Morgenstern and William Cornet, 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 Fur Products Labeling Act and 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 Cornet & Morgenstern, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of New York.

Respondents William Morgenstern and William Cornet are officers of the corporate respondent. They formulate, direct and control the acts, practices and policies of the corporate respondent including those hereinafter set forth.

Respondents are manufacturers of fur products and wool products with their office and principal place of business located at 240 West 37th Street, New York, New York.

PAR. 2. Respondents are now, and for some time last past have

been, engaged in the introduction into commerce, and in the manufacture for introduction into commerce, and in the sale, advertising, and offering for sale in commerce, and in the transportation and distribution in commerce, of fur products; and have manufactured for sale, sold, advertised, offered for sale, transported and distributed fur products which have been made in whole or in part of furs which have been shipped and received in commerce, as the terms "commerce," "fur" and "fur product" are defined in the Fur Products Labeling Act.

PAR. 3. Certain of said fur products were misbranded in that they were falsely and deceptively labeled or otherwise falsely or deceptively identified with respect to the name or the country of origin of furs contained in such fur products, in violation of Section 4(1) of the Fur Products Labeling Act.

Among such misbranded fur products, but not limited thereto, were fur products labeled to show the country of origin of furs used in such fur products as Australia when the country of origin of such furs was, in fact, Sweden.

PAR. 4. Certain of said fur products were misbranded in that they were falsely and deceptively labeled or otherwise falsely or deceptively identified with respect to the name or designation of the animal or animals that produced the fur from which the said fur products had been manufactured, in violation of Section 4(1) of the Fur Products Labeling Act.

Among such misbranded fur products, but not limited thereto, were fur products which were labeled as "Opossum" when fur contained in such fur products was, in fact "Blue Fox."

PAR. 5. Certain of said fur products were misbranded in that they were falsely and deceptively labeled to show that fur contained therein was natural, when in fact such fur was pointed, bleached, dyed, tip-dyed, or otherwise artificially colored, in violation of Section 4(1) of the Fur Products Labeling Act.

PAR. 6. Certain of said fur products were misbranded in that they were not labeled as required under the provisions of Section 4(2) of the Fur Products Labeling Act and in the manner and form prescribed by the Rules and Regulations promulgated thereunder.

Among such misbranded fur products, but not limited thereto, were fur products with labels which failed:

1. To show the true animal name of the fur used in any such fur product.

2. To disclose that the fur contained in the fur products was