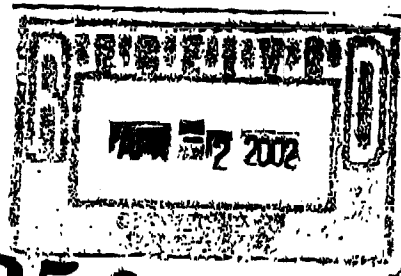


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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

02 CV

2507

UNITED STATES OF AMERICA,

Plaintiff,

-v.-

JONES APPAREL GROUP, INC.,
a corporation,

Defendant.

COMPLAINT

02 Civ



COMPLAINT FOR CIVIL PENALTIES,
INJUNCTIVE, AND OTHER RELIEF

Plaintiff, the United States of America, acting upon notification and authorization to the Attorney General by the Federal Trade Commission ("Commission"), for its complaint alleges that:

1. Plaintiff brings this action under Sections 5(a)(1), 5(m)(1)(A), 13(b), and 16(a) of the Federal Trade Commission Act ("FTC Act"), 15 U.S.C. §§ 45(a)(1), 45(m)(1)(A), 53(b), and 56(a), to obtain monetary civil penalties and injunctive and other relief for defendant's violations of the Commission's Trade

Regulation Rule Concerning the Care Labeling of Textile Wearing Apparel, 16 C.F.R. Part 423 ("Care Labeling Rule").

JURISDICTION AND VENUE

2. The Court has jurisdiction over this matter under 28 U.S.C. §§ 1331, 1337(a), 1345, and 1355 and under 15 U.S.C. §§ 45(m)(1)(A), 53(b), and 56(a). This action arises under 15 U.S.C. § 45(a)(1).

3. Venue in the Southern District of New York is proper under 15 U.S.C. § 53(b) and under 28 U.S.C. §§ 1391(b-c) and 1395(a).

DEFENDANT

4. Defendant Jones Apparel Group, Inc. is a Pennsylvania corporation with its office and principal place of business located within the Southern District of New York at 1411 Broadway, New York, New York 10018. Defendant Jones Apparel Group, Inc. resides and transacts business in the Southern District of New York.

THE CARE LABELING RULE

5. The Care Labeling Rule, promulgated by the Commission on December 9, 1971, was amended by the Commission in 1983 and 2000 under Section 18 of the FTC Act, 15 U.S.C. § 57a. These amendments became effective on January 2, 1984, and September 1, 2000, respectively. Since January 2, 1984, the Rule has remained in full force and effect.

VIOLATIONS OF THE CARE LABELING RULE

6. At all times during which the acts or practices complained of herein occurred, defendant Jones Apparel Group, Inc. was engaged in the business of designing and importing "textile wearing apparel" (as that term is defined in Section 423.1 of the Care Labeling Rule), 16 C.F.R. § 423.1, and offering for sale and selling such apparel throughout the United States, in or affecting commerce, as "commerce" is defined in Section 4 of the FTC Act, 15 U.S.C. § 44.

7. In numerous instances in the five years preceding the date of the filing of this complaint, in connection with the sale of textile wearing apparel in or affecting commerce, as "commerce" is defined in Section 4 of the FTC Act, 15 U.S.C. § 44, defendant has failed to state on the "care label" (as that term is defined in Section 423.1 of the Care Labeling Rule, 16 C.F.R. § 423.1) a regular care procedure needed for the ordinary use of the product, thereby violating Section 423.6(b) of the Care Labeling Rule, 16 C.F.R. § 423.6(b). In particular, in numerous instances the care label recommended dry cleaning but did not state at least one type of solvent that could be used without damage, as required by section 423.6(b)(2)(i) of the Care Labeling Rule, 16 C.F.R. § 423.6(b)(2)(i), and dry cleaning resulted in damage to the flocking design attached to the garment. In other instances, the care label recommended dry

cleaning but did not state at least one type of solvent that could be used without damage, and dry cleaning resulted in color loss.

8. In numerous instances in the five years preceding the date of the filing of this complaint, in connection with the sale of textile wearing apparel in or affecting commerce, defendant has failed to possess, prior to sale, a reasonable basis for all care information disclosed to purchasers on the care labels, thereby violating Section 423.6(c) of the Care Labeling Rule, 16 C.F.R. 423.6(c). In particular, defendant lacked a reasonable basis for the care instructions described in Paragraph 7 above. In other instances, the care label recommended "Dry Clean Only" on cashmere sweaters when defendant had no reasonable basis for warning that the garments could not be hand washed.

UNFAIR OR DECEPTIVE ACTS OR PRACTICES
IN VIOLATION OF THE FTC ACT

9. Section 5(a)(1) of the FTC Act, 15 U.S.C. § 45(a)(1), provides that "unfair or deceptive acts or practices in or affecting commerce, are hereby declared unlawful."

10. Pursuant to Section 18(d)(3) of the FTC Act, 15 U.S.C. § 57a(d)(3), a violation of the Care Labeling Rule constitutes an unfair or deceptive act or practice in violation of Section 5(a)(1) of the FTC Act, 15 U.S.C. § 45(a)(1).

11. By engaging in the acts and practices described in Paragraphs 7 and 8 above, defendant has violated Section 5(a)(1) of the FTC Act, 15 U.S.C. § 45(a)(1).

CIVIL PENALTIES AND INJUNCTION

12. Defendant has violated the Care Labeling Rule as described above with knowledge as set forth in Section 5(m)(1)(A) of the FTC Act, 15 U.S.C. § 45(m)(1)(A).

13. Each sale or attempted sale, during the five years preceding the filing of this complaint, of a garment for which defendant has violated the Care Labeling Rule in one or more of the ways described above constitutes a separate violation for which plaintiff seeks monetary civil penalties.

14. Section 5(m)(1)(A) of the FTC Act, 15 U.S.C. § 45(m)(1)(A), as modified by Section 4 of the Federal Civil Penalties Adjustment Act of 1990, 28 U.S.C. § 2461, and Section 1.98(c) of the FTC Rules of Practice, 16 C.F.R. § 1.98(c), authorizes this Court to award monetary civil penalties of not more than \$10,000 for each such violation of the Care Labeling Rule that occurred prior to November 20, 1996, and monetary civil penalties of not more than \$11,000 for each such violation of the Care Labeling Rule that occurred after November 20, 1996.

15. Under Section 13(b) of the FTC Act, 15 U.S.C. § 53(b), this Court is authorized to issue a permanent injunction against

defendant's violating the FTC Act, as well as such ancillary relief as may be just and proper.

PRAYER

WHEREFORE, plaintiff requests that this Court, pursuant to 15 U.S.C. §§ 45(a)(1), 45(m)(1)(A), and 53(b) and the Court's own equity powers:

(1) Enter judgment against defendant and in favor of plaintiff for each violation alleged in this complaint;

(2) Award plaintiff monetary civil penalties from defendant for each violation of the Care Labeling Rule alleged in this complaint;

(3) Enjoin defendant from violating the Care Labeling Rule;

(4) Order defendant to retain adequate records of the care instructions on each item of textile wearing apparel sold by defendant, adequate records of the reasonable basis for each such care instruction, and other records relating to the adequacy of the care instructions, for a period of five years from the last date on which the item was shipped to a retail store; and


(5) Award plaintiff such additional relief as the Court may deem just and proper.

DATED: April 2, 2002

FOR THE UNITED STATES OF AMERICA:

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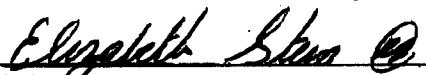
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