

Syllabus

21 F. T. C.

IN THE MATTER OF
OAKLAND FUR DYEING, INC.

COMPLAINT AND ORDER IN REGARD TO THE ALLEGED VIOLATION OF SEC. 5
OF AN ACT OF CONGRESS APPROVED SEPT. 26, 1914

Docket 2127. Complaint, Nov. 9, 1933—Order, June 25, 1935¹

Complaint charged respondent corporation, engaged in dressing, dyeing, and trade-marking or otherwise marking and designating, among others, rabbit skins, at the instance and request of and in accordance with special agreements with the owner furriers or dealers who sell the same, thus dressed, dyed, marked, branded, or designated by it for them, to garment manufacturers, with misbranding or mislabeling in stamping on the backs of rabbit skins, so dressed and dyed by it as to cause the fur thereof to resemble the appearance of the much superior sealskin in pliability, durability, and wearing quality of the fur, the words "Oakland Seal" in large and conspicuous letters, together with the words "Dyed Cony" in small and inconspicuous letters, with full knowledge and in aid of sale in interstate commerce by said owners of such skins, thus dressed, dyed, and marked by it for them, and by the manufacturers of garments made therefrom under the designation "Sealines", on account of or by means of their resemblance to the dyed fur of genuine seal, resulting from its said agency or service and its aforesaid mark or brand, conspicuously displaying the words "Oakland Seal" ;

With capacity and tendency to mislead and deceive the public into the purchase of said skins and of garments made therefrom, from said owner and manufacturer vendors thereof, as and for seal, and the substantially more costly sealskin garments, respectively, and with effect of furnishing manufacturers and wholesale and retail dealers with the means enabling them to perpetrate a fraud upon the purchasing public by representing that said garments are made of genuine seal and by exhibiting to customers and prospective customers the words "Oakland Seal" stamped on the skins thereof in support of such false representation, and of aiding, assisting, and abetting sale in interstate commerce of rabbit skins thus dressed, etc., by it, and of garments therefrom, as and for seal, by the respective owners and manufacturers, and dealers therein in their various localities, and with capacity and tendency to divert trade to owners offering and selling in interstate commerce said skins, thus dyed, dressed and stamped by it for them, and to manufacturers of garments made thereof similarly offering the same, and to wholesale dealers therein and latter's retail dealer customers, from dealers or furriers selling skins of rabbit and other fur-bearing animals in such commerce, truthfully described and marked, and from manufacturers and wholesalers thus selling garments made of seal, rabbit, or skin of other fur-bearing animals, truthfully described and branded, and from their retail dealer customers; to the prejudice of the public and of competitors of the aforesaid owners and of said owners' vendees, the garment manufacturers, and to the prejudice of the competitors

¹ The order is published as modified as of that date. Original order, not printed, was made as of May 16, 1935.

of itself and of its principals, and those thus aided, assisted, and abetted by it in such practices.

Ordered, respondent consenting, that respondent, its officers, etc., in connection with the dyeing or dressing, sale, offer, or advertisement of dyed muskrat fur or dyed cony (rabbit) fur, in interstate commerce, cease and desist from describing fur other than by the use of the correct name of the fur as the last word in the designation thereof, and from the use of the word "seal" as designation thereof, subject to permitted use thereof in an adjective sense, together with such words as "dyed" or "blended", as in said order in detail set forth.

Mr. James M. Brinson for the Commission.

COMPLAINT

Acting in the public interest pursuant to the provisions of an act of Congress approved September 26, 1914, entitled "An Act to create a Federal Trade Commission, to define its powers and duties, and for other purposes", the Federal Trade Commission charges that Oakland Fur Dyeing, Inc., hereinafter designated respondent, has been and is using unfair methods of competition in interstate commerce in violation of the provisions of Section 5 of said Act, and states its charges in that respect as follows:

PARAGRAPH 1. Respondent, Oakland Fur Dyeing, Inc., is now, and for more than a year last past has been a corporation organized, existing, and doing business under the laws of the State of New York with its principal office and place of business in the city of Brooklyn, in said State, and engaged in the business of dressing, dyeing, and trade-marking or otherwise marking and designating rabbit skins and the skins of other fur-bearing animals for the owners thereof.

Respondent has rendered and renders such service for owners of rabbit skins, at their instance and request and in pursuance of and in accordance with special agreements therefor. Such owners have been and are furriers or dealers engaged in the business of selling rabbit skins or the skins of other fur-bearing animals in commerce among and between the various States of the United States. It has been and is the practice of said owners of rabbit skins dressed, dyed, marked, branded, or designated for them by respondent, to sell them with the full knowledge of respondent to manufacturers of fur garments, having their places of business in the city and State of New York or elsewhere in said State, and in the various other States of the United States, and such manufacturers have offered for sale and sold garments made from rabbit skins so dressed, dyed, marked, branded, or designated in commerce among and between the various States of the United States, causing them when sold to be trans-

Complaint

21 F. T. C.

ported from their several places of business to purchasers located in various other States of the United States than the State or States wherein are situated such places of business.

It has been and is the practice of respondent to render such services in dressing, dyeing, marking, branding, or designating rabbit skins for their owners with the full knowledge, expectation, purpose, and intent that such skins or garments made therefrom will be offered for sale and sold in interstate commerce, and the acts and practices of respondent hereinafter described in paragraph 2 hereof have been and are directly related to and in furtherance of such business by the owners of such skins and the manufacturers of garments therefrom.

In the course and conduct of its business respondent has been and is engaged in competition with other individuals, partnerships, and corporations, dressing, dyeing, marking, branding, or designating rabbit skins or the skins of other fur-bearing animals for the owners thereof for sale in interstate commerce or for sale to manufacturers to be made into fur garments to be sold in such commerce. The owners of rabbit skins, dressed, dyed, marked, branded, or designated by respondent, and the manufacturers of garments therefrom have been and are in competition with individuals, partnerships, and corporations engaged in the sale of similar or competitive products in like commerce.

PAR. 2. The respondent uses and has used, a process for dressing and dyeing rabbit skins which causes the fur of such skins to resemble in appearance the fur of genuine sealskins, and thereupon respondent stamps or causes to be stamped on the back of each of the skins so treated by it in large and conspicuous letters the words "Oakland Seal". Below the words "Oakland Seal" respondent causes to be stamped the words "Dyed Cony" in small and inconspicuous letters.

Garments made from rabbit skins so dyed, marked, branded, or designated by respondent resemble garments made from dyed sealskins but in appearance only. Dyed rabbit skins are greatly inferior to the skins of seals in pliability and durability of the leather and in wearing quality and luster of the fur, and garments made from sealskins command prices far in excess of or substantially greater than the prices commanded by garments made from rabbit skins.

PAR. 3. It requires approximately fifty rabbit skins for the construction of coats for women, while it requires only seven sealskins for such purpose, and large quantities of rabbit skins are dressed, dyed, stamped, marked, branded, or designated by respondent, as described in paragraph 2 hereof, for manufacture into coats or

other fur garments for women. Such garments bearing the aforesaid mark, brand, or designation of respondent on the back of the skins from which they have been and are made, have been and are sold by manufacturers thereof in the course of their business among and between the various States of the United States, under the name of or described as "Sealines" on account or by means of their resemblance to the dyed furs of genuine seals resulting from the agency or service of respondent and its mark, brand or designation conspicuously displaying the words "Oakland Seal" as described in paragraph 2 hereof.

PAR. 4. There are now and have been for many years last past competitors of respondent dressing and dyeing rabbit skins or skins of other fur-bearing animals, including the skins of muskrats and seals for their owners, to be sold in interstate commerce, to furriers or dealers or to manufacturers to be made into fur garments for sale in interstate commerce, whose practice has been and is either to stamp or mark such skins so as clearly to indicate their kind or character, or to omit any such stamp, mark, or designation. Skins so dressed and dyed by such competitors of respondent with or without stamp or other designation thereon, respecting the kind or character of the skins, and garments made from them have been and are offered for sale and sold in interstate commerce by furriers or dealers or manufacturers who have been and are competitors of the individuals, partnerships, and corporations for whom respondent performs and has performed the aforesaid service of dressing, dyeing, stamping, and branding such rabbit skins.

PAR. 5. The acts and practices of the owners of rabbit skins so dressed, dyed, and branded for them by respondent at their instance and request, in offering for sale and selling such skins in interstate commerce, and the acts and practices of manufacturers of fur garments in offering for sale and selling in interstate commerce garments made from rabbit skins dyed to resemble sealskins and bearing the aforesaid brand of "Oakland Seal", have had and have and each of them has had and has the capacity and tendency to mislead and deceive the public into the purchase of such skins as and for sealskins, and into the purchase of garments made from such skins as and for garments made from sealskins. Such acts and practices have furnished manufacturers and dealers, wholesale and retail, with the means by which they have been and are enabled to perpetrate a fraud upon the purchasing public by representing that garments made from such skins are made from genuine seal fur, and by exhibiting to customers and prospective customers stamped on such skins the words "Oakland Seal" to support their false representations that such garments are made from genuine seal fur.

Order

21 F. T. C.

Such acts and practices by owners of rabbit skins so dressed, dyed, and stamped by respondent and by their vendees, the manufacturers of fur garments from such skins, have had and have and each of them has had and has the capacity and tendency to divert trade to the owners of rabbit skins so dyed, dressed, and stamped by respondent, who have offered for sale and sold them in interstate commerce, and to manufacturers of garments made from such skins and wholesale dealers offering for sale and selling the same in interstate commerce, and to their customers, the retail dealers, from dealers or furriers selling the skins of rabbits, and of other fur-bearing animals in interstate commerce, truthfully described and marked, and from manufacturers and wholesalers selling in interstate commerce garments made from sealskins, rabbit skins, and the skins of other fur-bearing animals truthfully branded and described, and from their customers, the retail dealers.

Such acts and practices by respondent, Oakland Fur Dyeing, Inc., described in paragraph 2 hereof, have aided, assisted, and abetted, and aid, assist, and abet the sale in commerce among and between the various States of the United States, by the owners of rabbit skins dressed, dyed, marked, branded, or designated for them by respondent, of such skins, as and for sealskins, and the sale in such commerce by manufacturers and wholesale dealers and the sale by dealers in the various States of the United States in their various localities, of garments made from such skins as and for garments made from sealskins.

PAR. 6. The above and foregoing practices of the owners of rabbit skins, dressed, dyed, and stamped by respondent and of their vendees, including the manufacturers of garments from such skins, have been and are to the prejudice of the public and of their competitors and the above and foregoing practices of respondent have been and are to the prejudice of the public and of respondent's competitors, and the competitors of respondent's principals, and those it has aided, assisted, and abetted in such practices in interstate commerce, which practices have been and are unfair methods of competition in interstate commerce in violation of the provisions of Section 5 of an Act entitled "An Act to create a Federal Trade Commission, to define its powers and duties, and for other purposes."

ORDER TO CEASE AND DESIST ²

Pursuant to the provisions of an Act of Congress approved September 26, 1914, entitled "An Act to create a Federal Trade Com-

² Published as modified.

mission, to define its powers and duties, and for other purposes", the Federal Trade Commission, on the 9th day of November 1933, issued its complaint against Oakland Fur Dyeing, Inc., a corporation, respondent herein, and caused the same to be served upon said respondent as required by law, in which complaint it is alleged that respondent has been and is using unfair methods of competition in commerce in violation of the provisions of Section 5 of said Act.

On May 16, 1934, respondent filed an answer to said complaint, in which it consented that the Commission may make, enter, and serve upon it an order to cease and desist from the violations of law alleged in the complaint, in accordance with the provisions of Section (b) of Rule V of the Rules of Practice of the Commission; and the Commission having accepted said answer, issued an order to cease and desist on May 16, 1935, and thereafter, on to wit, the 17th day of June 1935, the Commission, being now fully advised in the premises, modifies the said order to cease and desist, and

It is now ordered, That respondent, Oakland Fur Dyeing, Inc., its officers, agents, representatives and employees, in connection with the dyeing or dressing, sale, offering for sale, or advertising of dyed muskrat fur or dyed cony (rabbit) fur, cease and desist from:

1. Describing furs in any other way than by the use of the correct name of the fur as the last word of the description, and when any dye or blend is used simulating another fur the true name of the fur appearing as the last word of the description must be immediately preceded by the word "dyed", or "blended", compounded with the name of the simulated fur.

2. Using the word "seal" alone or in connection, combination, or conjunction with any other word or words to describe or designate dyed cony, unless and until the word "seal" is compounded with the word "dyed" and such compounded word is immediately followed by the word "cony", as "seal-dyed cony".

3. Using the word "seal" or the words "Hudson Seal" standing alone or in connection, combination, or conjunction with any other word or words to describe or designate dyed muskrat unless and until the word "seal" or the words "Hudson Seal" are compounded with the word "dyed" and such word or words so compounded are immediately followed by the word or words signifying or designating the true name of the fur, as "seal-dyed muskrat" or "Hudson Seal-dyed muskrat".

4. Using the word "seal" or the words "Hudson Seal" standing alone or in connection, combination, or conjunction with any other word or words (regardless of corporate name, trade name, or trade mark), except that the word "seal" may be used as an adjective to

Order

21 F. T. C.

denote or describe the color or character of the dye of muskrat or cony fur, as "seal-dyed muskrat" or "seal-dyed cony", and except that the words "Hudson Seal" may be used as an adjective to denote or describe the color or character of the dye of muskrat fur, as "Hudson Seal-dyed muskrat".

5. Using the word "Hudson" standing alone or in connection, combination, or conjunction with any other word or words to describe or designate dyed cony (rabbit) fur.

It is further ordered, That the respondent shall, within 90 days from the date of the service upon it of the order herein, file with the Commission a report in writing, setting forth in detail the manner and form of its compliance with this order.

Syllabus

IN THE MATTER OF

PHILIP A. SINGER & BRO., INC.

COMPLAINT AND ORDER IN REGARD TO THE ALLEGED VIOLATION OF SEC. 5
OF AN ACT OF CONGRESS APPROVED SEPT. 28, 1914

Docket 2128. Complaint, Nov. 9, 1933—Order, June 25, 1935.¹

Complaint charged respondent corporation, engaged in dressing, dyeing, and trade-marking or otherwise marking and designating, among others, rabbit skins, at the instance and request of and in accordance with special agreements with the owner furriers or dealers, who sell the same, thus dressed, dyed, and trade-marked by it for them, to garment manufacturers, with misbranding or mislabeling, in stamping upon the backs of rabbit skins, so dressed and dyed as to cause the fur thereof to resemble the appearance of the much superior seal with its greater pliability, durability, and wearing quality and luster, its registered trade mark containing in large and conspicuous letters, the words "Baltic Seal", together with the words, below, in small and inconspicuous letters, "Dyed Cony", and with furnishing said owners with garment labels containing said words printed as hereinabove set forth, with full knowledge and in aid of sale in interstate commerce by such owners and manufacturers, respectively, of such skins, thus dressed, dyed, and trade-marked by it, and garments made therefrom, under the name of or described as "Sealines", on account of their resemblance to the dyed fur of genuine seal, resulting from its aforesaid service and trade mark conspicuously displaying said words "Baltic Seal", as hereinabove set forth;

With effect of furnishing retail dealers in garments made from skins dyed by it to resemble and imitate seal and trade-marked as above set forth, the means of perpetrating a fraud upon the purchasing public by representing said garments as made of "Baltic Seal", and exhibiting to customers and prospective customers said mark stamped on the skins composing the same in support of such false representations, and of aiding, assisting, and abetting sale in interstate commerce of rabbit skins as and for seal, and of garments made thereof as and for the substantially more costly seal-skin product, and with capacity and tendency to divert trade to the aforesaid owners of such skins, thus dressed, dyed, and trade-marked by it for them, offering and selling the same in interstate commerce, and to manufacturers of garments thereof or wholesale dealers therein, similarly offering and selling the same, and to their retail dealer customers, from dealer-furriers selling skins of rabbit, seal and other fur-bearing animals in interstate commerce, truthfully described and marked, and from manufacturers or wholesale dealers selling in such commerce, garments made from seal or other skins as hereinabove set forth, truthfully branded and described, and from their retail dealer customers; to the prejudice of the public and of its competitors and those of its principals, thus aided, assisted, and abetted by it in such practices.

Ordered, respondent consenting, that respondent, its officers, etc., in connection with the dyeing or dressing, sale, offer or advertisement of dyed muskrat

¹ The order is published as modified as of that date. Original order, not printed, was made as of May 16, 1935.