

Syllabus

IN THE MATTER OF
FRANK L. SINGER, TRADING AND DOING BUSINESS AS
FRANK L. SINGER FUR COMPANY

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

Docket 4189. Complaint, July 16, 1940—Decision, Apr. 16, 1941

Where an individual dealer engaged in interstate purchase and sale of raw furs, by means of price lists similar in form to those of his principal competitors, and by circulars, folders, and booklets disseminated among trappers and dealers in the various States, in which were set forth his method of purchasing raw furs, the quality, grading classification of furs and the high prices and average prices paid therefor, all prices to be subject to market changes and buyer's classification—

(a) Represented that he would purchase the average or ordinary grade of furs at the prices offered for the highest quality or grade thereof, by emphasizing the highest price in the upper grades through such statements as "The Golden Rules has been my rule in buying furs all my life. It will be my rule in dealing with you," and "Beaver \$33.00-\$30.00 for extra large No. 1 down to \$12.00-\$7.00 for small No. 1," and others of similar tenor, with varying prices for other furs, including mink, skunk, raccoon, and muskrat; when in fact specimens of a character to be graded in the higher ranges of the top grades are rare, bulk of furs offered being of medium or low average, and said dealer had no intention of paying any higher sum than strict grading would require, but expected to pay trappers and dealers prices approximating those in the lower medium grades indicated in his said advertising matter;

Whereby trappers not skilled in fur grading technique were induced to ship to him, believing mistakenly that they would receive payment at highest prices quoted, but in fact received from him, frequently, prices substantially less than they might have obtained elsewhere; and

(b) Made misleading statements and representations therein relating to market conditions and the demand for certain grades and types of furs which he desired to purchase;

With effect of misleading and deceiving trappers and dealers in furs into the erroneous belief that aforesaid misrepresentations were true, and with result, because of such mistaken belief, that many trappers and dealers in furs, thereby depriving themselves of trading with other outlets, were induced to ship and sell to him substantial quantities of furs:

Held, That such acts and practices under the circumstances set forth, were all to the prejudice and injury of the public, and constituted unfair and deceptive acts and practices in commerce.

Mr. B. C. Wilson for the Commission.

Wise, Corlett & Canfield, of New York City, for respondent.

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COMPLAINT

Pursuant to the provisions of the Federal Trade Commission Act, and by virtue of the authority vested in it by said act, the Federal Trade Commission, having reason to believe that Frank L. Singer, an individual trading and doing business under the name Frank L. Singer Fur Co., hereinafter referred to as respondent, has violated the provisions of said 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 Frank L. Singer is an individual trading and doing business under the name Frank L. Singer Fur Co., with his principal office and place of business located in the city of Peekskill, State of New York. Respondent is now, and for more than two years last past has been, engaged as a dealer in the purchase and sale of raw furs in commerce between and among the various States of the United States and in the District of Columbia. Respondent purchases said furs from trappers and dealers located at various points in the United States of America and causes same to be shipped and transported to him at his said place of business in the State of New York. Respondent causes his said products, when sold, to be transported from his place of business in the State of New York to the purchasers thereof located in various other States of the United States and in the District of Columbia. Respondent maintains and at all times mentioned herein has maintained a course of trade in said commerce between and among the various States of the United States and in the District of Columbia in said furs.

PAR. 2. In the course and conduct of his business in said commerce, as aforesaid, the respondent, by means of price lists, circulars, folders, and booklets disseminated among trappers and dealers located in the various States of the United States, represents to such trappers and dealers that he will pay certain specified prices for designated grades and qualities of furs and that certain market conditions exist as to particular kinds of furs.

Among and typical of the statements and representations so made and used are the following:

The Golden Rule has been my rule in buying furs all my life. It will be my rule in dealing with you.

Beaver \$33.00-\$30.00 for extra large No. 1 down to \$12.00-\$7.00 for small No. 1. Mink \$20.00-\$18.00 for extra large No. 1 down to \$7.00-\$5.00 for No. 2 size and quality.

Skunk \$3.00-\$2.50 for extra large No. 1 down to .80-.15 for No. 2 size and quality.

Raccoon \$9.00-\$7.00 for extra large No. 1 down to \$5.00-\$1.00 for No. 2 size and quality.

Muskrat \$2.00-\$1.75 for extra large No. 1 down to \$1.40-.40 for No. 2 size and quality.

PAR. 3. Through the use of the aforesaid statements and representations and others of similar import and meaning not herein set forth, respondent represents and implies to trappers and dealers in furs that he will pay approximately the sums indicated for the various grades and qualities of furs named and listed on such price lists and in said circulars, folders, and booklets. In truth and in fact, the sums quoted by the respondent in his advertising matter as the prices he will pay for designated furs are fictitious and are false, misleading, and deceptive for no such sums are paid to or realized by shippers of furs to the respondent. Respondent quotes such fictitious prices only for the purpose of inducing trappers and dealers to ship their furs to him, and without any intention or expectation of paying to such shippers the prices mentioned in said advertising matter, or any sums approximating such prices, but with the view and expectation that said shippers will dispose of their furs to him for only a portion, small in most instances, of the prices advertised by respondent because of the difficulty and expense incident to securing a return of the furs shipped to the respondent.

In many instances, trappers and dealers are induced to ship their furs to the respondent as a result of the fictitious prices quoted by him. Sales are made to the respondent by such shippers at prices much less than those quoted by the respondent and at prices less than such shippers could, in many instances, secure through other sources and which they would secure but for their having been misled and deceived by the fictitious prices quoted by the respondent.

PAR. 4. In addition to showing the purported prices which respondent represents in said advertising matter will be paid for various grades and qualities of furs, the respondent also makes many statements therein relating to market conditions and the demand for certain of the several grades and types of furs he desires to purchase. Many of the statements and representations made and used by respondent with respect to market conditions and the demand for certain grades and types of furs are false, misleading, and deceptive, and do not in any sense reflect the true market condition or the true demand for the grades and types of furs mentioned. As a result of the false, misleading, and deceptive statements and representations as to market conditions and the demand for certain grades and types of furs so made and used by the respondent, many trappers and dealers in furs

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are induced to ship, and do ship, furs to the respondent and accept therefor sums less than they would realize from other sources and less than the sums quoted in the price lists used and circulated by the respondent.

PAR. 5. The use by the respondent of the practices and methods hereinabove set forth has had, and now has, the capacity and tendency to, and does, mislead and deceive a substantial portion of the trappers and dealers in furs into the erroneous and mistaken belief that the prices quoted in said advertising material are the approximate prices which will be paid by the respondent for furs shipped to him, and that the statements and representations made with respect to market conditions and the demand for certain grades and types of furs are true. As a result of such erroneous and mistaken belief engendered as aforesaid, many trappers and dealers in furs are induced to ship and sell to the respondent substantial quantities of furs.

PAR. 6. The aforesaid acts and practices of the respondent as herein alleged are all to the prejudice and injury of the public and constitute unfair and deceptive acts and practices in commerce within the intent and meaning of the Federal Trade Commission Act.

REPORT, FINDINGS AS TO THE FACTS, AND ORDER

Pursuant to the provisions of the Federal Trade Commission Act, the Federal Trade Commission on the 16th day of July 1940, issued and subsequently served its complaint in this proceeding upon said respondent, Frank L. Singer, an individual trading and doing business under the name of Frank L. Singer Fur Co., charging him with unfair and deceptive acts and practices in commerce in violation of the provisions of said act. On August 23, 1940, the respondent filed his answer in this proceeding. Thereafter a stipulation was entered into whereby it was stipulated and agreed that a statement of facts signed and executed by Wise, Corlett & Canfield, counsel for the respondent, and W. T. Kelley, Chief Counsel for the Federal Trade Commission, subject to the approval of the Commission, may be taken as the facts in this proceeding and in lieu of testimony in support of the charges stated in the complaint, or in opposition thereto, and that the said Commission may proceed upon said statement of facts to make its report, stating its findings as to the facts and its conclusion based thereon and enter its order disposing of the proceeding without the presentation of argument or the filing of briefs. Thereafter, this proceeding regularly came on for final hearing before the Commission on said complaint, answer and stipulation, said stipulation having been

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approved, accepted and filed, and the Commission having duly considered the same and being now fully advised in the premises, finds that this proceeding is in the interest of the public and makes its findings as to the facts and its conclusion drawn therefrom.

FINDINGS AS TO THE FACTS

PARAGRAPH 1. Respondent Frank L. Singer is an individual trading and doing business under the name Frank L. Singer Fur Co., with his office and principal place of business located in the city of Peekskill, State of New York. Respondent is now, and for more than two years last past has been, engaged as a dealer in the purchase and sale of raw furs in commerce between and among the various States of the United States and in the District of Columbia. Respondent purchases said furs from trappers and dealers located at various points in the United States of America and causes same to be shipped and transported to him at his said place of business in the State of New York. Respondent causes said products, when sold, to be transported from his place of business in the State of New York to the purchasers thereof located in various other States of the United States and in the District of Columbia. Respondent maintains and at all times mentioned herein has maintained, a course of trade in said raw furs in commerce between and among the various States of the United States and in the District of Columbia in said furs.

PAR. 2. In the course and conduct of his business in said commerce, as aforesaid, respondent disseminated price lists, circulars, folders, and booklets among trappers and dealers located in the various States of the United States, setting forth his method of purchasing raw furs from said trappers and dealers, the quality, grading, classification of furs, and the high prices and the average prices paid for such stated grades and classifications. All prices so named in such publication are indicated to be subject to market changes and subject to buyer's classification. The form and style of the said price lists are similar to that generally employed by respondent's principal competitors. Among and typical of the statements and representations so made and used by the respondent in said price lists, circulars, folders, and booklets are the following:

The Golden Rule has been my rule in buying furs all my life. It will be my rule in dealing with you.

Beaver \$33.00-\$30.00 for extra large No. 1 down to \$12.00-\$7.00 for small No. 1.

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Mink \$20.00-\$18.00 for extra large No. 1 down to \$7.00-\$5.00 for No. 2 size and quality.

Skunk 3.00-2.50 for extra large No. 1 down to .80-.15 for No. 2 size and quality.

Raccoon 9.00-7.00 for extra large No. 1 down to 5.00-1.00 for No. 2 size and quality.

Muskrat 2.00-1.75 for extra large No. 1 down to 1.40-.40 for No. 2 size and quality.

PAR. 3. Through the use of the aforesaid statements and representations and others of similar import and meaning respondent represents to trappers and dealers in furs that he will pay approximately the sums indicated for the various grades and quality of furs named and listed on such price lists and in said circulars, folders, and booklets. In truth and in fact, the prices quoted by the respondent in his advertising matter as the prices he will pay for designated furs are so displayed as to create the misleading impression that the sums that will be paid to or realized by shippers of furs to the respondent will approximate the high prices in the upper grades, whereas specimens of a character to be graded in said higher ranges of the top grades are in truth and in fact rare, the bulk of furs offered being of medium or low average. Respondent presents the advertising matter in this manner for the purpose of inducing trappers and dealers to ship their furs to him, and without any intention or expectation of paying to such shippers any higher sum than strict grading would require, but with the view and expectation that said shippers will dispose of their furs to him for prices which will approximate the average prices in the low or medium grades indicated on the said advertising matter.

Trappers not skilled in fur grading technique are induced to ship their furs to the respondent as the result of the emphasis respondent placed on the higher grades and prices quoted by him. After furs are shipped to the respondent by trappers under the mistaken belief that they will receive payment for them at the highest prices quoted, sales are made to the respondent by such shippers at prices lower than the highest prices quoted by the respondent. Shippers receive from respondent, in many instances, prices substantially less than they might have secured from other sources, but for their having been misled and deceived by respondent's said advertising matter into the erroneous and mistaken belief that they would receive the higher prices displayed and emphasized in said price lists for furs, regardless of grade or quality.

PAR. 4. In addition to emphasizing the highest price in the upper grades quoted by the respondent in said advertising matter, the

respondent also makes statements therein relating to market conditions and the demand for certain of the several grades and types of furs he desires to purchase. Many of the statements and representations made and used by the respondent do not truly reflect the market condition or the true demand for the grades and types of furs mentioned. As a result of the misleading statements and representations as to market conditions and the demand for certain grades and types of furs so made and used by the respondent, many trappers and dealers in furs are induced to ship, and do ship, furs to the respondent and deprive themselves of the opportunity of trading with other outlets.

PAR. 5. The use by the respondent of the practices and methods hereinabove set forth has had, and now has, the capacity and tendency to, and does, mislead and deceive trappers and dealers in furs into the erroneous and mistaken belief that the highest prices quoted in the said advertising material are the approximate prices which will be paid for furs shipped to respondent, that the statements and representations made with respect to market conditions and the demand for certain grades and types of furs are true. As a result of such erroneous and mistaken belief engendered as aforesaid, many trappers and dealers in furs are induced to ship and sell to the respondent substantial quantities of furs.

CONCLUSION

The aforesaid acts and practices of the respondent, as herein found, are all to the prejudice and injury of the public and constitute unfair and deceptive acts and practices in commerce within the intent and meaning of the Federal Trade Commission Act.

ORDER TO CEASE AND DESIST

This proceeding having been heard by the Federal Trade Commission upon the complaint of the Commission, the answer of the respondent, and a stipulation as to the facts entered into between Wise, Corlett & Canfield, counsel for the respondent herein, and W. T. Kelley, Chief Counsel for the Commission, which provides among other things that without further evidence or other intervening procedure the Commission may issue and serve upon the respondent herein findings as to the facts and conclusion based thereon and an order disposing of the proceeding, and the Commission having made its findings as to the facts and conclusion that said respondent has violated the provisions of the Federal Trade Commission Act;

Order

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It is ordered, That the respondent, Frank L. Singer, an individual trading and doing business under the name of Frank L. Singer Fur Co., or trading under any other name, his representatives, agents, and employees, directly or through any corporate or other device, in connection with the purchase of raw furs or the sale or distribution of raw furs in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. Representing by means of price lists, circulars, folders, booklets, or by any other methods that respondent will pay to trappers or dealers in furs the sums indicated for the various grades of furs named and listed on such price lists and in said circulars, folders, and booklets, unless the respondent actually pays shippers of furs substantially the sums indicated for the various grades of furs named and listed on such price lists and other advertising matter.

2. Representing, through the use of price lists in which the prices offered for the highest quality or grade of furs are featured, emphasized, or stressed, or in any manner, that, the average or ordinary grade of furs will be purchased at the prices offered by respondent for the highest quality or grade of furs.

3. Representing to trappers or dealers in furs that market conditions or other causes have created an unusual demand for certain types and grades of furs, and have caused or will cause an increase in prices paid to trappers and dealers for said types or grades of furs, when such market conditions or demand do not, in fact, exist.

4. Using price lists, or any other publication containing prices offered for furs, which feature, emphasize, or stress the prices offered by respondent for the finest grade or quality of furs in such a manner as to import or imply that such prices are paid by the respondent for the average or ordinary grades of furs.

It is further ordered, That the respondent shall, within 60 days after service upon him of this order, file with the Commission a report in writing setting forth in detail the manner and form in which he has complied with this order.

Syllabus

IN THE MATTER OF
CARLTON MILLS CO., INC.COMPLAINT, FINDINGS, AND ORDER IN REGARD TO THE ALLEGED VIOLATION
OF SEC. 5 OF AN ACT OF CONGRESS APPROVED SEPT. 26, 1914*Docket 4341. Complaint, Oct. 9, 1940—Decision, Apr. 17, 1941*

Where a corporation engaged in manufacture of fabrics simulating various furs and wool materials, and in interstate sale and distribution thereof, and in supplying to garment manufacturers and retailers various labels to be attached to coats and other garments made from its said products—

- (a) Represented that its fabrics, made to resemble and simulate the color, pattern, and texture of genuine Persian lamb, Karakul and Caracul peltries, and the garments manufactured therefrom, were made from such peltries or from wool taken from such animals, through setting forth on various labels supplied as aforesaid, together with depictions of one or more lambs, trade names "Genuine Babelamm," "Karagora," "Peikara," "Bashkara Lamm," and "Kosva-Lam," and through setting forth on other labels names "Persian Royal," "Rivalamm," "Volgalam," "Persia-laine," "Lam Kurl Persian," "Aristo Kurl," "Russkara," "Kurl Kohvar," and "Galykurl";

When in fact said fabrics and garments were composed of various combinations of ordinary wool, cotton, and rayon and were not, as indicated, composed of the peltries of Persian lamb, Karakul or Caracul, nor of wool taken therefrom, coats or other garments of which are markedly preferred by a substantial portion of the purchasing public over those made from wool or wool mixture; and

- (b) Sold and distributed fabrics containing a substantial percentage of rayon, and supplied labels, as above indicated, to be attached to garments made therefrom, without disclosing presence of rayon, which chemically manufactured fiber or fabric, when so made as to simulate peltries aforesaid or wool thereof, is by the purchasing public practically indistinguishable therefrom, and is believed and accepted thereby as being such peltries or wool;

With result of placing in the hands of uninformed and unscrupulous manufacturers, jobbers, and retail dealers a means whereby they were enabled to mislead members of purchasing public, and with effect of deceiving a substantial portion of such public into the erroneous belief that its said products and garments manufactured therefrom were made from the peltries of certain animals or from wool taken therefrom, when such was not the fact, and of inducing said public, because of such mistaken belief, to purchase substantial quantities of its products:

Held, That such acts and practices, under the circumstances set forth, were all to the prejudice and injury of the public, and constituted unfair and deceptive acts and practices in commerce.

Before *Mr. Miles J. Furnas*, trial examiner.

Mr. Robert Mathis, Jr., for the Commission.

Mr. I. Arnold Humber, of New York City, for respondent.