

IN THE MATTER OF
ALASKA FUR TRAPPERS, INC. AND MAX FRIEDMAN

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

Docket 5199. Complaint, Aug. 3, 1944—Decision, May 31, 1945

Where a corporation and its president, who formulated, directed and controlled its acts and practices, engaged in the interstate sale and distribution of fur products, and, principally, fur coats and neckpieces—

Represented through use of word "trappers" in its corporate and trade name, featured on letterheads and cards, invoices, circulars and other advertising material, and through word "manufacturing" in phrase "Manufacturing Furriers" in connection therewith, and word "wholesale" also, that they were engaged in the trapping of fur bearing animals, manufactured or produced the fur products sold by them, and were wholesalers of fur products;

The facts being they were neither trappers, manufacturers, nor wholesalers of fur products, with whom a substantial portion of the purchasing public prefer to deal directly as affording, in its belief, lower prices and superior quality, but were engaged exclusively in selling at retail to the consuming public fur products obtained by them from manufacturers or wholesalers thereof;

With tendency and capacity to mislead and deceive a substantial portion of the purchasing public with respect to their business identity and status and the origin of their products, and thereby cause it to purchase substantial quantities thereof:

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

Before *Mr. John W. Addison*, trial examiner.

Mr. B. G. Wilson for the Commission.

Herbstman & Bleyman, of New York City, for respondents.

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 Alaska Fur Trappers, Inc., a corporation, and Max Friedman, individually, and as president of said corporation, hereinafter referred to as respondents, have 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, Alaska Fur Trappers, Inc., is a corporation, organized, existing and doing business under and by virtue of the laws of the State of New York, with its office and principal place of business at 36 West 35th St., New York, N. Y.

Respondent, Max Friedman, is an individual, and president of the corporate respondent, Alaska Fur Trappers, Inc., with his office and principal place of business at 36 West 35th St., New York, N. Y.

Respondent, Max Friedman, controls, formulates, and directs the acts and practices of the corporate respondent.

PAR. 2. Respondents are now, and for several years last past have been, engaged in the business of offering for sale, sale and distribution of fur products, principally fur coats and neck pieces, in commerce between and among the various States of the United States and in the District of Columbia.

Respondents cause their said products, when sold, to be transported from their place of business in the State of New York to purchasers thereof located in various other States of the United States and in the District of Columbia.

Respondents maintain, and at all times mentioned herein have maintained, a course of trade in their said products, in commerce between and among the various States of the United States and in the District of Columbia.

PAR. 3. In the course and conduct of their aforesaid business, and for the purpose of inducing the purchase of their products, said respondents adopted as and for their corporate and trade name the words "Alaska Fur Trappers, Inc." under which to carry on their business, which corporate and trade name they have used continuously for several years last past and are now using in soliciting the sale of and selling their fur products.

Respondents have caused and now cause their said corporate and trade name "Alaska Fur Trappers, Inc." to appear on their letterheads, cards, invoices, circulars and other advertising matter.

In some advertisements in which said corporate name is used, respondents display the words "Alaska Fur Trappers" in very large and conspicuous type. The words "Wholesale" and "Manufacturing Furriers" appear in much smaller type directly thereunder. Among and typical of such also and misleading representations are the following:

ALASKA FUR TRAPPERS, Inc.		
Wholesale		Retail
	Manufacturing Furriers	
Fur Coats		Cloth Coats.
Wholesale & Retail		
London	—	Moscow
* * * Stores in		
Principal Cities	* * *	

PAR. 4. Through the use of the corporate name of said respondent corporation "Alaska Fur Trappers, Inc." in connection with the words "Wholesale" and "Manufacturing Furriers," together with other representations appearing on letterheads, cards, invoices, circulars and other advertising matter circulated among purchasers and prospective purchasers of fur products, the respondents represent that they are engaged in business as producers of Alaskan fur products or in the trapping of Alaskan and other animals for furs; that they make or manufacture the fur products which they offer for sale and sell; that they are wholesalers of fur products and that they have stores located in London, Moscow and other principal cities.

PAR. 5. The foregoing representations are false, misleading and deceptive. In truth and in fact, the respondents are not engaged in business as producers of fur products, nor are they engaged in the trapping of Alaskan or other animals for furs. Respondents do not own and operate or control,

and have not owned and operated or controlled a plant, factory, or machinery for the manufacture of fur products which they sell and distribute. The respondents fill orders for such articles of merchandise with products which are made or manufactured in a plant or factory which they neither own, operate, nor control. Respondents are not wholesalers of fur products, but are only retailers of said merchandise. Respondents do not have stores located in London, Moscow or in other principal cities in the United States or abroad, with the exception of New York City, New York.

PAR. 6. A substantial part of the consumer-user public has a preference for buying merchandise, including products sold by respondents and products similar thereto, directly from manufacturers and wholesalers, believing that by so doing a more uniform line of goods, superior quality, lower prices and other advantages can be obtained.

There has been and is a widespread belief among purchasers and prospective purchasers of fur garments that the fur of animals in Alaska and other northern countries and parts of the world is superior to that of animals living in milder or more temperate climates, and such persons have had and have a preference for the fur products of animals from such northern countries and parts of the world because of such belief in the superiority of the fur products from such animals over the fur products of animals obtained from more temperate climates.

PAR. 7. The use by respondents of the corporate name "Alaska Fur Trappers, Inc." had and has a capacity and tendency to, and did and does, deceive and mislead prospective purchasers and purchasers of fur products with respect to the nature and character of business operated by the said respondents.

PAR. 8. The aforesaid acts and practices and representations of the respondents have had and now have the tendency and capacity to deceive and mislead a substantial portion of the purchasing public into the erroneous and mistaken belief that the aforesaid false, misleading, and deceptive acts and practices, and representations are true, and into the purchase of substantial quantities of respondents' products because of such erroneous and mistaken belief so induced.

PAR. 9. The aforesaid acts and practices of the respondents, 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 August 3, 1944, issued and subsequently served its complaint in this proceeding upon the respondents, Alaska Fur Trappers, Inc., a corporation, and Max Friedman, individually, and as president of the corporation, charging them with the use of unfair and deceptive acts and practices in commerce in violation of the provisions of that act. In due course the respondents filed their answer to the complaint. Thereafter, at a hearing held before a trial examiner of the Commission theretofore duly designated by it, a stipulation of facts was entered into between the attorney for the Commission and the attorney for the respondents, which provided, among other things, that the facts set forth therein should be taken as the facts in this proceeding, and that the Commission might proceed upon such stipulation to make its findings as

to the facts and dispose of the proceeding, the parties reserving, however, the right to file briefs and argue the matter orally before the Commission. Subsequently, the proceeding regularly came on for final hearing before the Commission on the complaint, answer, stipulation of facts, and briefs in support of and in opposition to the complaint (oral argument having been waived); and the Commission, having duly considered the matter and being now fully advised in the premises, finds that this proceeding is in the interest of the public and makes this its findings as to the facts and its conclusion drawn therefrom.

FINDINGS AS TO THE FACTS

PARAGRAPH 1. Respondent, Alaska Fur Trappers, Inc., is a corporation, organized under the laws of the State of New York, with its office and place of business located at 36 West 35th Street, New York, N. Y.

Respondent, Max Friedman, an individual, is president, of the respondent corporation, and has his office and place of business at the same address as that of the corporation. Respondent, Friedman, formulates, directs, and controls the acts and practices of the corporation.

PAR. 2. The respondents are now, and for several years last past have been, engaged in the sale and distribution of fur products, principally fur coats and neckpieces, causing such products, when sold, to be transported from their place of business in the State of New York to purchasers thereof located in various other States of the United States and in the District of Columbia. Respondents maintain and have maintained a course of trade in their products in commerce among and between various States of the United States and in the District of Columbia.

PAR. 3. In the course and conduct of their business, respondents have distributed among members of the purchasing public letterheads, cards, invoices, circulars, and other advertising material upon which the respondents' corporate and trade name "Alaska Fur Trappers, Inc." was prominently displayed. In connection with such corporate and trade name, there also appeared the words "Manufacturing Furriers" and the word "Wholesale."

Through the use of the words "trappers" and "manufacturing," as set forth above, the respondents have represented that they are engaged in the trapping of fur bearing animals and that they manufacture or produce the fur products sold by them. Through the use of the word "wholesale," respondents have also represented that they are wholesalers of fur products.

PAR. 4. These representations are false and misleading. Respondents are not engaged in the trapping of fur bearing animals, nor are they manufacturers or wholesalers of fur products. Respondents are in fact engaged exclusively in the operation of a retail store, selling at retail to the consuming public fur products obtained by them from manufacturers or wholesalers of such products.

PAR. 5. There is a preference on the part of a substantial portion of the purchasing public for dealing directly with manufacturers and wholesalers of fur products, such preference being due in part to a belief that by purchasing from such sources lower prices and a superior quality of merchandise may be obtained.

PAR. 6. The use by the respondents of the false and misleading representations herein set forth has the tendency and capacity to mislead and

deceive a substantial portion of the purchasing public with respect to respondents' business identity and status and with respect to the origin of respondents' products, and the tendency and capacity to cause such portion of the public to purchase substantial quantities of such products as a result of the erroneous and mistaken belief so engendered.

CONCLUSION

The acts and practices of the respondents, as herein found, are all to the prejudice 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 respondents, a stipulation of facts entered into between the attorney for the Commission and the attorney for the respondents, and briefs in support of and in opposition to the complaint (oral argument having been waived); and the Commission having made its findings as to the facts and its conclusion that the respondents have violated the provisions of the Federal Trade Commission Act:

It is ordered, That the respondents, Alaska Fur Trappers, Inc., a corporation, its officers, and Max Friedman, individually, and as an officer of said corporation, and respondents' agents, representatives, and employees, directly or through any corporate or other device, in connection with the offering for sale, sale, and distribution of fur products in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. Using the word "Trappers," or any word of similar import, as a part of respondents' corporate or trade name; or otherwise representing, directly or by implication, that respondents are engaged in the trapping of fur bearing animals.

2. Using the word "Manufacturing," or any word of similar import, either alone or in conjunction with other words, to designate, describe, or refer to respondents' business; or otherwise representing, directly or by implication, that respondents manufacture the products sold by them.

3. Using the word "Wholesale," or any word of similar import, either alone or in conjunction with other words, to designate, describe, or refer to respondents' business; or otherwise representing, directly or by implication, that respondents are wholesalers.

It is further ordered, That the respondents shall, within 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.

Order

IN THE MATTER OF
ULTRA-VIOLET PRODUCTS, INC.

MODIFIED ORDER TO CEASE AND DESIST

Docket 4407. Order, June 7, 1945

Modified order, in accordance with decree below referred to, in proceeding in question, in which original order issued on June 8, 1942, 34 F. T. C. 1325, and in which the Circuit Court of Appeals for the Ninth Circuit on June 30, 1944, in *Ultra-Violet Products, Inc. v. Federal Trade Commission*, 143 F. (2d) 814, 38 F. T. C. 923, rendered its opinion, and on January 24, 1945 issued its decree modifying the aforesaid order in certain respects and affirming the same as therein modified—

Requiring respondent, its officers, etc., in connection with offer, etc., in commerce, of its therapeutic "Life Lite" lamp, to cease and desist from disseminating any advertisements, etc., which misrepresent the nature or benefits of said lamp, or qualities or properties thereof with respect to various ailments, or which fail to make certain disclosures with respect to use thereof, as in said order specified.

MODIFIED ORDER TO CEASE AND DESIST

This proceeding coming on for further hearing before the Federal Trade Commission and it appearing that on June 8, 1942, the Commission made its findings as to the facts herein and concluded therefrom that the respondent, Ultra-Violet Products, Inc., a corporation, had violated the provisions of the Federal Trade Commission Act, and on June 8, 1942, issued and subsequently served its order to cease and desist upon said respondent; and it further appearing that on January 24, 1945, the United States Circuit Court of Appeals for the Ninth Circuit issued its decree modifying the aforesaid order in certain respects and affirming said order as therein modified.

Now, therefore, Pursuant to the provisions of the Federal Trade Commission Act, the Commission issues this its modified order to cease and desist in conformity with said decree:

It is ordered, That said respondent, Ultra-Violet Products, Inc., a corporation, and its officers, agents, representatives and employees, directly or through any corporate or other device, in connection with the offering for sale, sale or distribution of respondent's therapeutic lamp designated as "Life Lite," or any other lamp of substantially similar construction, whether sold under the same name or any other name, do forthwith cease and desist from, directly or indirectly:

1. Disseminating or causing to be disseminated any advertisement by means of the United States mails or by any means in commerce, as "commerce" is defined in the Federal Trade Commission Act, which represents, directly or by implication,

(a) that said lamp is a sun lamp; or that it affords benefits to the user comparable to those afforded by natural sunlight, other than the benefits resulting from the production of vitamin D, the benefits resulting from the bactericidal action of said lamp upon bacteria existing at the surface or outer layers of the skin, and the benefits resulting from the stimulation or irritation of the skin;

(b) that said lamp constitutes a cure or remedy or a competent or adequate treatment for barber's itch, ringworm, athlete's foot, acne, eczema, psoriasis, shingles, or erysipelas;