

IN THE MATTER OF

FRANK L. SINGER, TRADING AS FRANK L. SINGER FUR CO.

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

Docket 5288. Complaint, Mar. 5, 1945—Decision, Jan. 26, 1948

Where an individual engaged at Peekskill, N. Y., in the competitive interstate purchase of raw furs or skins from trappers throughout the United States, and in the resale thereof to fur manufacturers in other States, receiving about two-thirds of his shipments from reception points throughout the country, as below described, as compared with one-third shipped directly to his Peekskill office, largely from the northeastern part of the United States;

In soliciting the purchase and shipment of furs to himself under a plan whereby—having made arrangements, first with express company agents, and later with individuals at various points throughout the United States, to receive furs addressed to his concern at said points, advise the shipper that they had been received and that a check would be sent in a few days, consolidate shipments thus received over varying periods and forward them to his place of business at Peekskill—he (1) distributed to trappers and others having furs for sale, large numbers of price lists and circulars which stated "For Your Convenience we have a Receiving Depot at Sacramento, Calif. (for express and parcel post only). Use the enclosed tag and address package to the Frank L. Singer Fur Co., Sacramento, Calif.," and had printed thereon a map of the United States whereon were set forth, in addition to Peekskill, other cities as noted below, along with legend, "Ship to our Nearest Receiving Depot"; (2) distributed similar circulars and shipping tags to trappers located in and near, among other cities, Fort Madison, Iowa, Baker, Oreg., Philadelphia, Pa., Elkhart, Ind., Texarkana, Tex., and Colorado Springs, Colo.; and (3) made use of letterheads which displayed, in addition to his said trade name and words "Peekskill, New York," the names of aforesaid cities and others—

Misleadingly and deceptively represented thereby that he had or maintained branch offices or other places of business in cities so named as "receiving depots," at which fur skins were graded, priced, and paid for, whereby fur shippers were inconvenienced and their returns expedited;

The facts being that all correspondence concerned, except post card of acknowledgement, originated in and was handled from Peekskill, by him; none of his receiving agents graded furs, discussed or fixed prices, or made payment therefor; and all such matters were handled exclusively by him at and from Peekskill;

With capacity and tendency to mislead and deceive trappers and other sellers of furs into the mistaken belief that he maintained branch offices in various cities where transactions, including the purchase of raw furs and the payment therefor, were carried on, and to cause fur trappers and shippers to deliver furs to him in preference to his competitors, and with the result that, while his business in the areas adjacent to the reception and reshipment

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points above referred to had been declining prior to their establishment, it subsequent thereto had substantially increased and been so maintained:

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

Before *Mr. Andrew B. Duvall* and *Mr. Frank Hier*, trial examiners.
Mr. John W. Brookfield, Jr., for the Commission.

Mr. Louis H. Solomon, of New York City, for respondent.

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 as 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 thereto 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 trade name Frank L. Singer Fur Co., with his office and place of business located at Peekskill, N. Y. Respondent is now and has been for several years last past engaged in the purchasing of raw furs from trappers and others located in the various States of the United States, and in causing said furs to be shipped from said trappers at their various points of location in States other than the State of New York to respondent at his place of business in the State of New York, and when said furs are sold by him to be shipped to the purchasers thereof to their points of location in various States of the United States outside the State of New York. There is now and has been for several years last past a course of trade in said furs by respondent in commerce between and among the various States of the United States and in the District of Columbia. In the course and conduct of his business respondent is and has been in competition with other individuals and with corporations and firms engaged in the purchase and sale of furs in commerce between and among the various States of the United States and in the District of Columbia.

PAR. 2. In the course and conduct of his business as described in paragraph 1 hereof, respondent, in soliciting the purchase and shipment of furs to himself in commerce, has distributed by United States

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mails and otherwise to trappers and others having furs for sale, price lists and circulars bearing the following and other legends:

For Your Convenience

We have a Receiving Depot at Sacramento, California (for Express and Parcel Post only). Use the enclosed tag and address package to the Frank L. Singer Fur Co., Sacramento, California.

Circulars bearing similar statements are and have been distributed to trappers located in and near, among other cities, Fort Madison, Iowa; Baker, Oreg.; Philadelphia, Pa.; Elkhart, Ind.; Texarkana, Tex.; and Colorado Springs, Colo. Respondent's circulars, as above distributed, also have printed upon them a map of the United States with the above cities listed thereon in addition to Peekskill, N. Y., and under said map appears the following legend: "Ship to our Nearest Receiving Depot."

Respondent also furnishes to trappers and other sellers of furs, shipping tags bearing the legend: "Frank L. Singer Fur Co., America's No. 1 Fur House, Sacramento, California." Similar tags are furnished shippers in the vicinity of the other above-mentioned cities. These tags are sent to trappers and shippers adjacent to each of the various cities named, and bear the address of respondent at these cities.

Respondent's letterheads mailed by him to trappers and other shippers bear the following statements:

FRANK L. SINGER FUR COMPANY

Peekskill, New York

Peekskill, New York
Tel. Peekskill 2003
Philadelphia, Pa.
Roanoke, Virginia
Raleigh, No. Carolina
Baker, Oregon

Elkhart, Indiana
Fort Madison, Iowa
Idaho Falls, Idaho
Colorado Springs, Col.
Dallas, Texas
Sacramento, Cal.

PAR. 3. By means of the above statements, respondent has represented that he maintains branch offices in Sacramento, Calif., and the above-mentioned cities where his business is carried on, and that trappers and other fur shippers are inconvenienced and their returns expedited by shipments to these locations.

PAR. 4. In truth and in fact, respondent does not maintain branch offices at Sacramento, Calif., or any of the other cities above mentioned, and furs sent to him at these addresses are merely consolidated in single shipments and forwarded by agents of the express company

or others to respondent at his only place of business, Peekskill, N. Y., from which all correspondence concerning said shipments originates and payment for said shipments of furs is made and sent from Peekskill, N. Y.

PAR. 5. There are many individuals, firms, and corporations engaged in the purchase of raw furs in commerce in competition with respondent who do not engage in the acts, practices, and representations above mentioned. The use by respondent of the aforesaid acts, practices, and representations, as above set out, has had and now has the capacity and tendency to and does deceive and mislead trappers and other sellers of furs into the mistaken and erroneous belief that all of said statements and representations are true and that respondent maintains branch offices in each of said cities where transactions, including the purchase of raw furs and the payment therefor, are carried on. As a result of said mistaken and erroneous beliefs caused by respondent's said acts and practices numerous fur trappers and shippers have shipped their furs to him in preference to shipping their furs to said competitors of respondent who do not engage in the acts and practices above alleged. The use of said methods by respondent has the tendency and capacity to unfairly divert trade in furs in commerce between and among the various States of the United States and in the District of Columbia to respondent from his said competitors who do not use the same or equivalent methods.

PAR. 6. The aforesaid acts and practices of respondent as herein alleged are all to the prejudice and injury of the public and of respondent's competitors and constitute unfair methods of competition in commerce and unfair 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 March 5, 1945, issued and subsequently served its complaint in this proceeding upon the respondent, Frank L. Singer, an individual, trading as Frank L. Singer Fur Co., charging him with the use of unfair methods of competition in commerce and unfair acts and practices in commerce in violation of the provisions of said act. After the issuance of said complaint and the filing of the answer of the respondent thereto, testimony and other evidence in support of and in opposition to the allegations of said complaint were taken before a trial examiner of the Commission there-

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tofore duly designated by it, and said testimony and other evidence were duly recorded and filed in the office of the Commission. Thereafter, this proceeding regularly came on for final hearing before the Commission upon said complaint, answer thereto, testimony and other evidence, recommended decision of the trial examiner, and briefs filed in support of and in opposition to the complaint; 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. The respondent, Frank L. Singer, is an individual trading and doing business under the trade name Frank L. Singer Fur Co., with his office and place of business located at Peekskill, N. Y. Respondent is engaged in the purchase of raw furs or skins from trappers throughout the United States and in their resale from his stock to fur manufacturers.

PAR. 2. In the course and conduct of his business, respondent causes and has caused the raw furs or skins to be shipped from trappers at their various points of location in States other than the State of New York to respondent at his place of business in the State of New York and when said furs are sold by him, to be shipped to the purchasers thereof to their points of location in various States of the United States outside the State of New York. Respondent maintains and has maintained a course of trade in said furs in commerce among and between the various States of the United States and in the District of Columbia.

PAR. 3. In the purchase and sale of such furs, respondent is and has been in substantial competition with other individuals, firms, and corporations engaged in the purchase and sale of furs in commerce among and between the various States of the United States and in the District of Columbia.

PAR. 4. In the course and conduct of his said business, respondent in soliciting the purchase and shipment of furs to himself in commerce has distributed by United States mails and otherwise to trappers and others having furs for sale, to the extent of 100,000 annually, price lists, and circulars bearing the following and other legends:

For Your Convenience

We have a Receiving Depot at Sacramento, California (for Express and Parcel Post only). Use the enclosed tag and address package to Frank L. Singer Fur Co., Sacramento, California.

Circulars bearing similar statements are and have been distributed to trappers located in and near, among other cities, Fort Madison, Iowa; Baker, Oreg.; Philadelphia, Pa.; Elkhart, Ind.; Texarkana, Tex.; and Colorado Springs, Colo. Respondent's circulars, as above distributed, also have printed upon them a map of the United States with the above cities listed thereon in addition to Peekskill, N. Y., and upon said map appears the following legend: "Ship to our Nearest Receiving Depot."

Respondent also furnishes to trappers and other sellers of furs, shipping tags bearing the legend: "Frank L. Singer Fur Co., America's No. 1 Fur House, Sacramento, California." Similar tags are furnished shippers in the vicinity of the other above-mentioned cities with the city name immediately following respondent's trade name. These tags are sent to trappers and shippers adjacent to each of the cities named.

Respondent's letterheads mailed by him to trappers and other shippers bear the following statements:

FRANK L. SINGER FUR COMPANY

Peekskill, New York

Peekskill, New York
Tel. Peekskill 2003
Philadelphia, Pa.
Roanoke, Virginia
Raleigh, No. Carolina
Baker, Oregon

Elkhart, Indiana
Fort Madison, Iowa
Idaho Falls, Idaho
Colorado Springs, Col.
Dallas, Texas
Sacramento, Cal.

PAR. 5. The above representations of respondent are misleading and deceptive in that they have caused and do cause trappers and other fur shippers to believe and expect that respondent maintains branch offices in the various cities named in his circulars and price lists as receiving depots; that their fur skins are graded, priced, and paid for from there; and that they are inconvenienced and their returns expedited by shipment to these locations.

PAR. 6. Respondent does not maintain branch offices at any of the cities above mentioned or in any other place than in Peekskill, N. Y. From 1938 to 1941 he has had arrangements with express company agents and since 1941 he has had arrangements with individuals resident in Philadelphia, Pa.; Texarkana, Tex.; Fort Madison, Iowa; Elkhart, Ind.; Colorado Springs, Colo.; and Sacramento, Calif., to receive furs addressed to the Frank L. Singer Fur Co. in the States of their residence, to send the shipper a post card stating that the furs

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have been received and that a check will be forwarded in a few days to consolidate shipments so received over varying periods into single shipments and to forward these shipments to respondent at his only place of business at Peekskill, N. Y., sending therewith a list of all shipments so received and so consolidated and reshipped. All correspondence concerning said shipments, except the post card of acknowledgment of receipt of the shipment, originates in and is handled from Peekskill, N. Y., by respondent. None of respondent's receiving agents grade furs, discuss or fix prices therefor, or make payment therefor. All of the latter matters are handled exclusively by respondent at and from Peekskill, N. Y.

PAR. 7. Before establishment by respondent of these reception and reshipment points, his business in the areas adjacent to such points was declining. Since establishment of such arrangements, his business has substantially increased and such increase has been maintained. Only about a third of the furs which respondent buys are shipped directly to his office at Peekskill, N. Y., and these shipments come largely from the northeastern part of the United States. The remainder of his purchases are received by him at his receiving depots from trappers and fur shippers in their vicinity and reshipped to him at Peekskill, N. Y.

PAR. 8. The use by the respondent of the acts and practices hereinabove described has the capacity and tendency to mislead and deceive trappers and other sellers of furs into the mistaken and erroneous belief that respondent maintains branch offices in various cities where transactions, including the purchase of raw furs and the payment therefor, are carried on, and to cause fur trappers and shippers to deliver furs to the respondent in preference to shipping their furs to competitors of the respondent because of such erroneous and mistaken belief.

CONCLUSION

The acts and practices of respondent as herein found are all to the prejudice and injury of the public and of respondent's competitors and constitute unfair methods of competition in commerce and unfair acts and practices in commerce within the intent and meaning of the Federal Trade Commission Act.

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ORDER TO CEASE AND DESIST

This proceeding having been heard by the Federal Trade Commission on the complaint of the Commission, answer of the respondent, testimony, and other evidence in support of and in opposition to the allegations of said complaint taken before a trial examiner of the Commission theretofore duly designated by it, recommended decision of the trial examiner, and briefs filed in support of the complaint and in opposition thereto, and the Commission having made its findings as to the facts and its conclusion that the respondent has violated the provisions of the Federal Trade Commission Act:

It is ordered, That the respondent, Frank L. Singer, individually and trading as Frank L. Singer Fur Co. or trading under any other name, and his representatives, agents, and employees, directly or through any corporate or other device in connection with the offering to purchase, purchase, and shipment of fur skins, furs, or fur products in commerce as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

Representing, directly or by implication, that respondent has or maintains receiving depots or other places of business, however designated, anywhere in the United States other than at Peekskill, N. Y., unless it is clearly stated in immediate connection with such representation that all grading of, pricing of, and payment for furs is done exclusively by respondent at his office and place of business at Peekskill, N. Y., and that such other places are not branch offices thereof.

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.

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IN THE MATTER OF

GENERAL MOTORS CORP.

COMPLAINT, FINDINGS, AND ORDER IN REGARD TO THE ALLEGED VIOLATION
OF SEC. 5 OF AN ACT OF CONGRESS APPROVED SEPT. 26, 1914*Docket 4724. Complaint, Mar. 6, 1942—Decision, Jan. 27, 1948*

Where a corporation engaged through its operating and manufacturing divisions and its wholly owned subsidiary corporations in the manufacture and assembly, and interstate and foreign distribution and sale of motor vehicles, parts, accessories and equipment therefor, including "fog lamps," some of which were made by it through purchase of the sealed optical units and the assembling thereof within a housing, and others of which were purchased from its competitors, and all of which had molded into the glass on the lens the descriptive term "fog"—

Represented in an advertisement relating to passing lamps and fog lamps and devices in connection therewith, in the "Chevrolet Dealer News" (a monthly periodical not associated with it), that such "fog lamps" would penetrate fog, cut under all fogs, and enable the driver to see clearly under all adverse weather conditions, through statement that "powerful flat-top beam of amber light penetrates, cuts under fog, and is not reflected back into the driver's eyes," etc.;

The facts being that, while said lights, properly mounted, might assist the driver of a car to drive through fog, and would afford greater visibility than ordinary lamps under many circumstances, said lamps would not penetrate fog, nor cut under all fogs, nor enable driver to see clearly under all adverse weather conditions; and while, when properly designed, mounted, and aimed, said lamps would reduce reflected extraneous light to a much greater degree, and because of their low, flat-top beams, afford greater visibility in adverse weather conditions, than ordinary headlamps, use thereof would not prevent all light being reflected into the driver's eyes;

With capacity to mislead and deceive a substantial portion of the purchasing public into the erroneous belief that said representations were true under all conditions, and thereby cause said public to buy substantial quantities thereof:

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. John W. Brookfield, Jr., for the Commission.

Mr. Henry M. Hogan, of Detroit, Mich., for respondent.

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 General Motors Corp., a corporation, hereinafter referred to as respondent, has violated the