

IN THE MATTER OF

JACK FIELD

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

Docket 5485. Complaint, Mar. 6, 1947—Decision, May 25, 1948

Where an individual engaged in the interstate sale and distribution of furs and fur garments—

Falsely represented wearing apparel made of black Arabian kidskins as "Black Bombay Lamb" in invoices, tags, labels, and in various other advertising;
With tendency and capacity to mislead and deceive a substantial portion of the purchasing public and thereby induce it to purchase said merchandise as and for garments made of the superior, preferred, and higher-priced black Bombay lambskins, and with effect of placing in the hands of purchasers of his said merchandise for resale a means and instrumentality whereby they might and did mislead and deceive the purchasing public as aforesaid:
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. DeWitt T. Puckett for the Commission.

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 Jack Field, an individual, 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. The respondent, Jack Field, is an individual doing business at 721 Southwest Sixth Avenue (Portland Hotel), in the city of Portland, Oreg. He is now and for more than 1 year last past has been engaged in the sale and distribution of furs and fur garments.

Respondent causes and has caused the aforesaid products, when sold, to be transported from his aforesaid place of business in the State of Oregon to purchasers thereof at their respective points of location in various States of the United States other than the State of Oregon, and in the District of Columbia. Respondent maintains and at all times mentioned herein has maintained a course of trade in said products in commerce among and between the various States of the United States and in the District of Columbia.

PAR. 2. In the course and conduct of his aforesaid business, and for the purpose of inducing the purchase of his said merchandise, respond-

ent has made false, misleading, and deceptive statements and representations with reference to his said products. Such statements and representations appeared in invoices, on tabs attached to said products and in various other ways, which statements and representations have been circulated among purchasers and prospective purchasers located in States other than the State of Oregon.

PAR. 3. In the course and conduct of his aforesaid business, the respondent offered for sale and sold articles of wearing apparel made of black Arabian kidskins, labeled, invoiced, and otherwise advertised as "Black Bombay Lamb."

PAR. 4. There is a marked difference in quality and price between garments made of black Bombay lambskins and those made of black Arabian kidskins, the garments made of black Bombay lambskins being superior in quality and higher in price than those made of black Arabian kidskins, and there is a purchaser preference for garments made of black Bombay lambskins.

PAR. 5. The use by the respondent of the foregoing false, misleading, and deceptive statements and representations, as aforesaid, has had and now has the tendency and capacity to mislead and deceive and has misled and deceived the purchasing public into the erroneous and mistaken belief that such representations and statements were true, and has caused the purchasing public, because of such erroneous and mistaken belief, to purchase respondent's said merchandise. By said acts and practices respondent has also placed in the hands of purchasers of said merchandise for resale a means and instrumentality whereby they may and have misled and deceived the purchasing public as to the true facts in regard to said respondent's merchandise.

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 or deceptive acts or 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 6, 1947, issued and subsequently served its complaint in this proceeding upon the respondent Jack Field, an individual, charging him with the use of unfair and deceptive acts and practices in commerce in violation of the provisions of said act. On February 11, 1948, respondent filed his answer in which he admitted all the material allegations of fact set forth in said complaint and waived all intervening procedure and further hearing

Findings

44 F. T. C.

as to said facts. Thereafter, the proceeding regularly came on for final hearing before the Commission upon said complaint and the answer thereto; 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, Jack Field, is an individual with his principal place of business located at 721 Southwest Sixth Avenue (Portland Hotel), Portland, Oreg. He is now, and for more than 1 year last past has been, engaged in the sale and distribution of furs and fur garments, among which are articles of wearing apparel made of black Arabian kidskins.

PAR. 2. In the course and conduct of his aforesaid business respondent causes his said merchandise, when sold, to be transported from his place of business in the State of Oregon to purchasers thereof at their respective points of location in various other States of the United States and in the District of Columbia, and maintains, and at all times mentioned herein has maintained, a course of trade in said products in commerce among and between the various States of the United States and in the District of Columbia.

PAR. 3. In connection with the offering for sale, sale, and distribution of his aforesaid merchandise, including that made from black Arabian kidskins, and for the purpose of inducing its purchase, respondent invoices, tags, labels, and in various other ways advertises and represents said garments made from black Arabian kidskins as "Black Bombay Lamb," which advertisements and representations respondent has circulated and distributed, or has caused to be circulated and distributed, among purchasers or prospective purchasers located in States other than the State of Oregon.

PAR. 4. The aforesaid statements and representations are false, deceptive, and misleading. The garments and wearing apparel which respondent represents and advertises as "Black Bombay Lamb" are not made from the skins of black Bombay lamb, but in truth and in fact are made of black Arabian kidskin.

PAR. 5. There is a marked difference in quality and price between garments made of black Bombay lambskins and those made of black Arabian kidskins. Garments made of black Bombay lambskins are

878

Order

superior in quality and higher in price than those made of black Arabian kidskins, and there is a purchaser preference for the former.

PAR. 6. The use by respondent of the aforesaid false, deceptive, and misleading statements and representations has had, and now has, the tendency and capacity to mislead and deceive a substantial portion of the purchasing public into the erroneous and mistaken belief that the statements and representations are true, and causes a substantial portion of said public because of such erroneous and mistaken belief, to purchase respondent's merchandise. Said acts and practices of respondent also place in the hands of purchasers of said merchandise for resale a means and instrumentality whereby they may, and do, mislead and deceive the purchasing public as to the true facts in regard to said merchandise.

CONCLUSION

The acts and practices of 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 and the answer of the respondent, in which answer respondent admitted all the material allegations of fact set forth in said complaint and waived all intervening procedure and further hearing as to said facts, 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, Jack Field, an individual trading under his own name or under any other name or names, his agents, representatives, and employees, directly or through any corporate or other device, in connection with the offering for sale, sale, and distribution of furs and fur garments in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from directly or indirectly:

Using the words "Bombay Lamb," either alone or in conjunction with any other word or words, to designate furs or fur garments made from the skins of Arabian kid, or designating or describing fur

Order

44 F. T. C.

or fur garments in any way other than by the use of the true name of the fur as the last word of the designation or description: *Provided*, That if a fur is so dyed or processed as to simulate another fur, and the name of the animal whose fur is so simulated be given, such name shall be immediately followed by and compounded with the words "dyed" or "processed," together with the true name of the animal producing the fur as the last word of the description, and all words of such designation shall be equally conspicuous.

It is further ordered, That the respondent shall, within 60 days after the 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

ARTRA COSMETICS, INC., AND OSCAR C. OLIN AND
EUGENE A. KOVENKO

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

Docket 4930. Complaint, Mar. 17, 1943—Decision, May 26, 1948

Where a corporation engaged in the interstate sale and distribution of certain cosmetic preparations, including its "Imra" depilatory; and its "Sutra" sunburn protector; through broadcasts, advertisements in newspapers and periodicals, and circulars, leaflets, pamphlets, and other advertising literature distributed through the mails and otherwise—

Erroneously, misleadingly, and falsely represented that said "Imra" was entirely safe for use and that it would not irritate a normal skin; the facts being that the product was only reasonably or comparatively safe, and then only if directions were followed; and there was evidence of a substantial number of instances involving a painful and rather serious injuries, some of which necessitated treatment by a physician, and in at least some of which the user's skin was normal and directions were followed;

With tendency and capacity to mislead and deceive a substantial portion of the purchasing public, and thereby cause it to purchase substantial quantities of aforesaid product:

Held, That such 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.

In said proceeding in which it was alleged that respondent falsely and misleadingly advertised that its "Sutra" preparation, when applied to the skin, acted as a selective sun filter, effectively preventing sunburn while permitting tanning, but not interfering with the absorption by the skin of the beneficial vitamin D-producing rays, and in which proceeding it was undisputed that the product did effectively protect the skin while permitting contact by those rays which cause tanning, leaving, as the issue, the question as to whether the product, while shutting out the sunburn rays, permitted contact by the vitamin D-producing rays; i. e., whether the exclusion of the former simultaneously resulted in the exclusion of the other, with respect to which the testimony of two experts was sharply divergent:

The Commission found it unnecessary to decide said scientific controversy, since the record showed that all advertising of the type concerned; that is, all vitamin D advertising, was discontinued by respondent some 6 years ago, prior to the issuance of the complaint, and there was good reason to assume that it would not be resumed in the future; and was of the view under the circumstances that said portion of the case should be closed without prejudice to the right of the Commission to resume it in the future should circumstances so require.

In said proceeding in which the complaint also charged that respondent falsely and misleadingly represented that there was a significant difference in the