

IN THE MATTER OF
ANN H. HARTMAN DOING BUSINESS AS FASHION
ACADEMY ET AL.

CONSENT ORDER, ETC., IN REGARD TO THE ALLEGED VIOLATION OF THE
FEDERAL TRADE COMMISSION ACT

Docket 6194. Complaint, Mar. 12, 1954—Decision, Jan. 13, 1955

Consent order requiring the operator of a vocational school in New York City offering courses in fashion designing, to stop granting "Fashion Academy Gold Medal Awards" to manufacturers and distributors of various products which enabled the recipient to advertise falsely that his product had been granted a distinction as a result of a competitive contest.

Before *Mr. Earl J. Kolb*, hearing examiner.

Mr. Edward F. Downs for the Commission.

Mr. Charles Segal and *Mr. Maurice Knapp*, of New York City, for Ann H. Hartman.

Mr. Henry Steinberg, of New York City, for Alexander H. Cohen.

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 Ann H. Hartman, an individual doing business as Fashion Academy and Alexander H. Cohen, an individual doing business as Alexander H. Cohen and Associates, 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 Ann H. Hartman is an individual doing business under the name Fashion Academy with her principal office and place of business located at 812 Fifth Avenue, New York, New York. Fashion Academy is a vocational school offering courses in fashion designing and operated by this respondent.

Respondent Alexander H. Cohen is an individual doing business under the name Alexander H. Cohen and Associates with his office and principal place of business located at 598 Madison Avenue, New York, New York.

PAR. 2. Respondents Ann H. Hartman and Alexander H. Cohen, in cooperation with each other, are now and for more than one year last

past have been engaged in the practice of making so-called awards to manufacturers and distributors of various products. Said award is designated the "Fashion Academy Gold Medal Award" and it is designed and intended by respondents to be used by the recipients thereof in advertising the products for which it is granted.

PAR. 3. In the course of granting the aforesaid award respondents send and have sent said award, accompanying citation and other correspondence and information, and products submitted for consideration, at the request of respondents, from the State of New York to recipients and prospective recipients of said award who were and are located in the various other States of the United States.

Respondents also maintain and at all times mentioned herein have maintained a constant course of correspondence from their offices within the State of New York with recipients and prospective recipients of their said award who were and are located in the various other States of the United States.

The activities of respondents as herein described constitute acts and practices in commerce among and between the various States of the United States as "commerce" is defined in the Federal Trade Commission Act.

PAR. 4. By making or granting the aforesaid "award," and through the use of the name "Fashion Academy Gold Medal Award" in connection therewith, respondents represent directly or by implication, and place in the hands of others the means of representing directly or by implication:

(a) That products for which said "award" is or has been presented have been selected to receive it because they have been adjudged the most outstanding from the standpoint of design, quality or utility in their respective fields of competition, in a competitive contest in which a representative number of competing products were considered and in which all competitive products were afforded an equal opportunity to compete.

(b) That products receiving said "award" were selected by a group of impartial and qualified individuals representing the field of fashion design as a whole.

(c) That the purpose of said "award" is to encourage and give recognition to products of the most outstanding design in their respective fields of competition without regard to any financial reward inuring to the benefit of the grantors thereof.

PAR. 5. The aforesaid representations are false, misleading and deceptive. In truth and in fact:

(a) Products for which the aforesaid "award" is or has been granted have not been adjudged the most outstanding in their respective fields of competition because no competitive contests are or have been held in which a representative number of competing products were entered nor were all competitive products afforded an equal opportunity to be considered.

(b) Products receiving said "award" are not selected by a group of impartial and qualified individuals representing the field of fashion design as a whole, but are selected by respondent Hartman, or by her and others who are under her control, with the approval of respondent Cohen.

(c) The purpose of said "award" is not to encourage or give recognition to products of outstanding design in their respective fields of competition, but rather it is actually the essential element of a plan or scheme engaged in by respondents whereby they enrich themselves personally by (1) obtaining contributions from recipients of said "award" to a so-called scholarship fund which contributions inure to the benefit of respondent Hartman as the sole owner of Fashion Academy, (2) obtaining the employment of respondent Cohen as public relations counsellor, by recipients of the "award" to exploit its receipt, and (3) collecting a fee from recipients, allegedly to cover the "expenses" of making the "award," which fee is shared by respondents Hartman and Cohen.

PAR. 6. Respondents by granting the aforesaid "Fashion Academy Gold Medal Award" to manufacturers and distributors, as hereinabove set forth, who use it in advertising the products for which it has been received, place and have placed in the hands of recipients the means and instrumentality whereby such recipients have been and are enabled to mislead and deceive members of the purchasing and consuming public as to the significance or nature of said "award."

PAR. 7. The acts and practices of respondents as aforesaid have had and now have the tendency and capacity to mislead and deceive a substantial portion of the purchasing and consuming public as to the significance or nature of the aforesaid "award" and as a result thereof have caused members of the public to purchase a substantial number of the products receiving said "award."

PAR. 8. The aforesaid acts and practices of 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.

DECISION OF THE COMMISSION

Pursuant to Rule XXII of the Commission's Rules of Practice, and as set forth in the Commission's "Decision of the Commission and Order to File Report of Compliance", dated January 13, 1955, the initial decision in the instant matter of hearing examiner Earl J. Kolb, as set out as follows, became on that date the decision of the Commission.

INITIAL DECISION BY EARL J. KOLB, HEARING EXAMINER

The complaint in this proceeding charges the respondents Ann H. Hartman, an individual doing business as Fashion Academy, and Alexander H. Cohen, an individual doing business as Alexander H. Cohen and Associates, with unfair and deceptive acts and practices in connection with the issuance of awards, to manufacturers and distributors of various products, known as the "Fashion Academy Gold Medal Award," in violation of the Federal Trade Commission Act. Answers were filed by said respondents and testimony and other evidence were introduced in support of the allegations of the complaint before the undersigned Hearing Examiner.

Before the taking of any testimony in opposition to the allegations of the complaint the respondent Alexander H. Cohen filed a motion to dismiss this proceeding as to him, which motion was supported by an affidavit to the effect that he had severed all connections with the Fashion Academy prior to the issuance of the complaint herein and that he will not engage in any of the practices charged in the complaint in the future.

Thereafter, respondent Ann H. Hartman entered into a stipulation for a consent order with counsel supporting the complaint dated November 22, 1954. By the terms of said stipulation said respondent Ann H. Hartman admitted all of the jurisdictional allegations set forth in the complaint and expressly withdrew the answer previously filed herein by her, waiving a hearing before the Hearing Examiner or the Commission, the making of findings of fact and conclusions of law before the Hearing Examiner or the Commission, the filing of exceptions and oral argument before the Commission, and all further and other procedure before the Hearing Examiner and the Commission to which she may be entitled under the Federal Trade Commission Act or the Rules of Practice of the Commission. In said stipulation said respondent further agreed that the order hereinafter set forth shall have the same force and effect as if made after a full hear-

Order

51 F. T. C.

ing, presentation of evidence and findings and conclusions thereon and specifically waived any and all right, power and privilege to challenge or contest the validity of said order. It was further provided in said stipulation that the complaint shall constitute the entire record herein as to said respondent Ann H. Hartman, and that said complaint may be used in construing the terms of the order and that the order may be altered, modified or set aside in the manner provided by statute for other orders of the Commission.

The Hearing Examiner having given consideration to said motion and affidavit filed in support thereof, and answer of counsel supporting complaint not opposing said motion, the stipulation for consent order hereinabove described, and being now duly advised in the premises hereby accepts said stipulation for consent order submitted by respondent Ann H. Hartman and issues the following order:

ORDER

It is ordered, That respondent Ann H. Hartman, individually and doing business as Fashion Academy, whether doing business under this name or any other name, her representatives, agents and employees, directly or through any corporate or other device, do forthwith cease and desist from:

Granting, making or presenting any award, citation or other such commendation, under the name "Fashion Academy Gold Metal Award" or under any other name, in commerce, as "commerce" is defined in the Federal Trade Commission Act, which represents directly or by implication, or placing in the hands of others the means or instrumentality whereby they are enabled to represent, directly or by implication, that competitive contests are or have been conducted by impartial and qualified individuals to determine the relative quality or merits of competing products or that any product has been presented with an award or other distinction as a result of a competitive contest, unless such a contest has actually been conducted in which a representative number of competing products were afforded an opportunity to compete.

It is further ordered, That the complaint herein be dismissed as to the respondent Alexander H. Cohen, an individual doing business as Alexander H. Cohen and Associates, without prejudice to the right of the Commission to institute further proceedings should other and future facts warrant.

Order

ORDER TO FILE REPORT OF COMPLIANCE

It is ordered, That the respondent Ann H. Hartman, an individual doing business as Fashion Academy, shall, within sixty (60) days after service upon her of this order, file with the Commission a report in writing setting forth in detail the manner and form in which she has complied with the order to cease and desist [as required by said declaratory decision and order of January 13, 1955].

IN THE MATTER OF
NATHAN FARBER ET AL. DOING BUSINESS AS S. FARBER
AND SONS

CONSENT ORDER, ETC., IN REGARD TO THE ALLEGED VIOLATION OF THE
FEDERAL TRADE COMMISSION ACT AND OF THE FUR PRODUCTS LABELING
ACT

Docket 6234. Complaint, Sept. 17, 1954—Decision, Jan. 16, 1955

Consent order requiring a furrier in New York City to cease violating the Fur Products Labeling Act by invoicing which failed to show clearly the name of the animal producing certain fur and the country of origin of imported furs; and by using descriptive terms which denoted false geographical origin.

Before *Mr. Loren H. Laughlin*, hearing examiner.

Mr. John J. McNally for the Commission.

Mr. Leonard Feldman, of New York City, for respondents.

COMPLAINT

Pursuant to the provisions of the Federal Trade Commission Act and the Fur Products Labeling Act, and by virtue of the authority vested in it by said Acts, the Federal Trade Commission having reason to believe that Nathan Farber, Jack Farber, Samuel Farber and Max Farber, individuals and copartners doing business as S. Farber and Sons, hereinafter referred to as respondents, have violated the provisions of said Acts and the Rules and Regulations promulgated under the Fur Products Labeling 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. Respondents Nathan Farber, Jack Farber, Samuel Farber and Max Farber are individuals and copartners trading as S. Farber and Sons with their principal office and place of business located at 345 Seventh Avenue, New York, New York.

PAR. 2. Subsequent to the effective date of the Fur Products Labeling Act on August 9, 1952, respondents have introduced into commerce, sold and offered for sale in commerce, and have transported and distributed in commerce, as "commerce" is defined in the Fur Products Labeling Act, fur, as "fur" is defined in said Act.

PAR. 3. Certain of said fur was falsely or deceptively invoiced in that:

(a) the respondents did not invoice such fur to show:

(1) the name or names of the animal producing the fur, as set forth in the Fur Products Name Guide and as permitted under the Rules and Regulations.

(2) the name of the country of origin of imported fur.

(b) the respondents used certain terms on invoices descriptive of the breed, species, strain or coloring of an animal which connoted a false geographical origin of the animal. Exemplifying said practice, but not limited thereto, is respondents' use of the term "Aleutian Mink," in violation of the Fur Products Labeling Act and Rule 7 of the Rules and Regulations promulgated thereunder.

PAR. 4. The acts and practices of the respondents, as herein alleged, were in violation of the Fur Products Labeling Act and the Rules and Regulations promulgated thereunder, and constituted unfair and deceptive acts and practices and unfair methods of competition in commerce under the Federal Trade Commission Act.

DECISION OF THE COMMISSION

Pursuant to Rule XXII of the Commission's Rules of Practice, and as set forth in the Commission's "Decision of the Commission and Order to File Report of Compliance," dated January 16, 1955, the initial decision in the instant matter of hearing examiner Loren H. Laughlin, as set out as follows, became on that date the decision of the Commission.

INITIAL DECISION BY LOREN H. LAUGHLIN, HEARING EXAMINER

The Federal Trade Commission (hereinafter referred to as the Commission) on September 17, 1954, issued its complaint herein under the Federal Trade Commission Act, and the Fur Products Labeling Act against the above-named respondents, charging them in certain particulars with having violated the provisions of said Acts and the Rules and Regulations promulgated by the Commission under the Fur Products Labeling Act. The respondents were duly served with process and thereafter requested and obtained time from the Hearing Examiner in which to file answer, which time was last extended to December 8, 1954.

On November 23, 1954, the respondents, however, stipulated in writing with counsel supporting the complaint, therein waiving the filing of an answer and agreeing that a consent order against the respondents be entered herein in terms identical with those contained in the notice issued and served on respondents as a part of the com-

plaint herein. Such written stipulation was approved in writing by the Director and Assistant Director of the Commission's Bureau of Litigation.

By said stipulation, among other things, respondents have admitted all the jurisdictional allegations of the complaint and agreed that the record herein may be taken as if the Commission had made findings of jurisdictional facts in accordance with such allegations; that the parties expressly waive a hearing before the Hearing Examiner or the Commission and all further and other procedure to which the respondents may be entitled under the Federal Trade Commission Act or the Rules of Practice of the Commission; and that the order to cease and desist issued in accordance with said stipulation shall have the same force and effect as if made after a full hearing, the parties having waived specifically therein any and all right, power or privilege to challenge or contest the validity of said order. It was also stipulated and agreed therein that the complaint herein may be used in construing the terms of the order provided for in said stipulation, and, further, that the signing of said stipulation is for settlement purposes only and does not constitute an admission by respondents that they have violated the law as alleged in the complaint.

The aforesaid stipulation for consent order as so approved was submitted on November 30, 1954, to the above-named hearing examiner for his consideration in accordance with Rule V of the Commission's Rules of Practice. And upon due consideration of the complaint and the stipulation for consent order, which is hereby accepted and ordered filed as part of the record herein, it having been stipulated they shall be the entire record herein on which such order may be entered, the hearing examiner finds that the Commission has jurisdiction of the subject matter of this proceeding and of each and all of the parties respondent herein; that the complaint states a legal cause for complaint under the Federal Trade Commission Act, and the Fur Products Labeling Act, and the Rules and Regulations promulgated by the Commission under the latter Act against the respondents as a whole and in each of the particulars alleged therein; that this proceeding is in the interest of the public; that the following order as proposed in said stipulation is appropriate for the disposition of this proceeding, the same to become final when it becomes the order of the Commission; and that said order therefore should be, and hereby is, entered as follows:

598

Order

ORDER

It is ordered, That respondents Nathan Farber, Jack Farber, Samuel Farber, and Max Farber, as individuals and as copartners trading as S. Farber and Sons, or under any other name, and respondents' representatives, agents, and employees, directly or through any corporate or other device, in connection with the introduction into commerce, or the sale, or offering for sale in commerce, or the transportation or distribution in commerce, of fur, as "commerce" and "fur" are defined in the Fur Products Labeling Act, do forthwith cease and desist from:

(1) Failing to invoice furs to show in a clear and conspicuous manner:

(a) the name or names of the animal or animals producing the fur as set forth in the Fur Products Name Guide and as permitted under the Rules and Regulations.

(b) the name of the country of origin of imported furs.

(2) Using terms descriptive of the breed, species, strain, or coloring of an animal which connotes a false geographical origin of the animal.

ORDER TO FILE REPORT OF COMPLIANCE

It is ordered, That the respondents herein shall within sixty (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 the order to cease and desist [as required by said declaratory decision and order of January 16, 1955].

IN THE MATTER OF
SAM SMITH SHOE CORPORATION TRADING AS THE
YANKEE SHOEMAKERS

CONSENT ORDER, ETC., IN REGARD TO THE ALLEGED VIOLATION OF THE
FEDERAL TRADE COMMISSION ACT

Docket 6206. Complaint, May 17, 1954—Decision, Jan. 18, 1955

Consent order requiring a dealer in Newmarket, N. H., to cease representing on labels and in advertising that his "Little Yankee Shoes", etc., for children were designed and constructed to prevent foot troubles and had orthopedic qualities generally.

Before *Mr. James A. Purcell*, hearing examiner.

Mr. Michael J. Vitale for the Commission.

Lourie & Cutler, of Boston, Mass., 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 Sam Smith Shoe Corporation, a corporation, 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, Sam Smith Shoe Corporation, is a corporation organized and existing under and by virtue of the laws of the State of New Hampshire. Its office and principal place of business is located in Newmarket, New Hampshire. It trades and does business under the name of The Yankee Shoemakers.

PAR. 2. The respondent is now, and has been for several years last past, engaged in the sale and distribution of children's shoes designated by it as "Little Yankee Shoes," "Little Yankee Normal-Izers" and "Little Yankee Toddler" shoes.

PAR. 3. Respondent causes, and has caused, said shoes, when sold, to be transported from its place of business in the State of New Hampshire to purchasers thereof located in various other States of the United States, and maintains, and at all times mentioned herein has maintained, a course of trade in its said shoes in commerce between and among the various States of the United States. Respondent's volume