

Complaint

IN THE MATTER OF

LESTER SLAMOWITZ ET AL. TRADING AS LEMAR FURS

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

Docket 6233. Complaint, Sept. 16, 1954—Decision, Feb. 18, 1955

Consent order requiring a furrier in New York City to cease misbranding fur products in violation of the Fur Products Labeling Act.

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 Lester Slamowitz and Marvin Imberman, as individuals and copartners trading as Lemar Furs, 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 Lester Slamowitz and Marvin Imberman are individuals and copartners trading as Lemar Furs 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, the respondents have introduced, manufactured for introduction, sold, offered for sale, transported, and distributed in commerce as "commerce" is defined in the Fur Products Labeling Act, fur products, as that term is defined in said Act, and have manufactured for sale, sold, offered for sale, transported, and distributed fur products which have been made in whole or in part of fur, as that term is defined in said Act, which have been shipped and received in commerce.

PAR. 3. Among the fur products referred to above were stoles. Exemplifying respondents' practice of violating the Fur Products Labeling Act and the Rules and Regulations thereunder is their

(A) Misbranding and false invoicing of such fur products by:

(1) Failing to affix labels to fur products and failing to furnish invoices to purchasers of fur products showing:

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

(b) that the fur products contain or are composed of bleached, dyed or otherwise artificially colored fur;

(c) the name of the country of origin of any imported furs used in fur products.

(2) Falsely and deceptively representing on labels and invoices that their fur products were "Natural Mink," when they were in fact tip-dyed.

(B) Further misbranding their fur products by:

(1) Falsely or deceptively labeling and otherwise falsely or deceptively identifying said fur products;

(2) Mingling non-required information with required information in violation of the Fur Products Labeling Act and Rule 29 of the Regulations;

(3) Failing to set forth on labels the name or other identification issued and recorded by the Commission of one or more persons who manufactured such fur products for introduction into commerce, introduced it in commerce, sold it in commerce, advertised or offered it for sale in commerce, or transported or distributed it in commerce.

PAR. 4. The aforesaid acts and practices of respondents 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 February 18, 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 16, 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 2, 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 complaint 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 10, 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

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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:

ORDER

It is ordered, That respondents Lester Slamowitz and Marvin Imberman, as individuals and as copartners trading as Lemar Furs or under any other trade name, and respondents' representatives, agents and employees, directly or through any corporate or other device, in connection with the introduction or manufacture for introduction into commerce, or the sale, or offering for sale in commerce, or the transportation or distribution in commerce of any fur product; or in connection with the manufacturing for sale, sale, offering for sale, transportation or distribution of any fur product which is made in whole or in part of fur which has been shipped and received in commerce, as "commerce," "fur" and "fur product" are defined in the Fur Products Labeling Act, do forthwith cease and desist from:

(A) Misbranding and falsely invoicing fur products by:

(1) Failing to affix labels to fur products and failing to furnish invoices to purchasers of fur products, showing:

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

(b) that the fur product contains or is composed of used fur, when such is a fact;

(c) that the fur product contains or is composed of bleached, dyed or otherwise artificially colored fur, when such is a fact;

(d) that the fur product is composed in whole or in substantial part of paws, tails, bellies or waste fur, when such is a fact;

(e) the name of the country of origin of any imported furs used in a fur product;

(2) Using on labels attached to fur products and on invoices of fur products, the name of another animal in addition to the name of the animal actually producing the fur contained in the fur product.

(3) Falsely and deceptively, representing on labels and invoices that their fur products are "Natural" when they are in fact tip-dyed.

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(B) Misbranding their fur products by:

(1) Falsely or deceptively labeling or otherwise falsely or deceptively identifying said fur products, or using labels affixed to such fur products which contain any form of misrepresentation or deception with respect to such fur products;

(2) Setting out on labels attached to fur products non-required information with required information;

(3) Failing to set forth on required labels attached to fur products the name or other identification issued and registered by the Commission of one or more persons who manufactured such fur products for introduction into commerce, introduced it in commerce, sold it in commerce, advertised or offered it for sale in commerce, or transported or distributed it in commerce.

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 February 18, 1955].

IN THE MATTER OF
JOSEPH BAUM

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

Docket 6265. Complaint, Nov. 26, 1954—Decision, Feb. 22, 1955

Consent order requiring a furrier in New York City to cease misbranding and false
invoicing of fur products in violation of the Fur Products Labeling Act.

Before *Mr. J. Earl Cox*, hearing examiner.
Mr. John J. McNally for the Commission.

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 Joseph Baum, an individual, hereinafter referred to as respondent, has 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. Respondent Joseph Baum is an individual with his principal office and place of business located at 214 West 28th Street, New York, New York.

PAR. 2. Subsequent to the effective date of the Fur Products Labeling Act on August 9, 1952, the respondent has introduced, manufactured for introduction, sold, offered for sale, transported, and distributed, in commerce, as "commerce" is defined in the Fur Products Labeling Act, fur products and furs, as those terms are defined in said Act, and has manufactured for sale, sold, offered for sale, transported, and distributed, fur products, which have been made in whole or in part of fur which had been shipped and received in commerce. Among such furs and fur products were trimmings, scarves and stoles.

PAR. 3. Certain of said fur products were misbranded in that they were falsely and deceptively labeled or otherwise falsely and deceptively identified with respect to the name or names of the animal or animals that produced the fur from which said fur products had been manufactured, in violation of Section 4 (1) of the Fur Products Labeling Act.