

Complaint

In the MATTER OF
SAMUEL GAILBAND, INC., ET AL.

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

Docket 6302. Complaint, Feb. 25, 1955—Decision, May 27, 1955

Consent order requiring a furrier in New York City with a branch in Los Angeles to cease violating the Fur Products Labeling Act and the Federal Trade Commission Act, by falsely invoicing furs as to the country of origin.

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 Samuel Gailband, Inc., a corporation, Irving Levine, individually and as president of said corporation, and Melvin Gladstone, individually and as vice president of said corporation, 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. Respondent Samuel Gailband, Inc., is a corporation organized and existing under the laws of the State of New York, with its office and principal place of business located at 372 Seventh Avenue, New York, New York, and with a branch store located at 635 South Hill Street, Los Angeles, California. Individual respondents Irving Levine and Melvin Gladstone are president and vice president, respectively, of said corporate respondent and in such capacities formulate, direct and control the acts, practices and policies of said corporate respondent. Individual respondent Irving Levine has the same office and principal place of business as corporate respondent and individual respondent Melvin Gladstone has the same office and principal place of business as the aforesaid branch store of corporate respondent.

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

PAR. 3. Certain of said fur was falsely and deceptively invoiced, in that it was not invoiced as required under the provisions of Section 5 (b) (1) of the Fur Products Labeling Act, and in the manner and form prescribed by the Rules and Regulations promulgated thereunder.

PAR. 4. Certain of said fur was falsely and deceptively invoiced in that respondents, on such invoices, misrepresented the name of the country of origin of such fur in violation of Section 5 (b) (2) of the Fur Products Labeling Act and the Rules and Regulations promulgated thereunder.

PAR. 5. The aforesaid acts and practices of 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 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 May 27, 1955, the initial decision in the instant matter of hearing examiner J. Earl Cox, as set out as follows, became on that date the decision of the Commission.

INITIAL DECISION BY J. EARL COX, HEARING EXAMINER

The charges contained in the complaint in this proceeding are that Samuel Gailband, Inc., a New York corporation with places of business at 372 Seventh Avenue, New York, New York, and 635 South Hill Street, Los Angeles, California, and Irving Levine and Melvin Gladstone, individually and as president and vice president respectively of said corporation, have violated the Fur Products Labeling Act and the Federal Trade Commission Act by falsely and deceptively invoicing furs which have been offered for sale and sold by them in commerce.

Following issuance and service of the complaint and prior to the filing of an answer, the respondents entered into a Stipulation For Consent Order with counsel supporting the complaint, which was approved by the Director and Assistant Director of the Bureau of Litigation and transmitted to the Hearing Examiner.

This stipulation provides, among other things, that respondents admit all the jurisdictional allegations set forth in the complaint and that the record herein may be taken as if findings of jurisdictional facts had been made in accordance with such allegations; that the stipulation, together with the complaint, shall constitute the entire record herein; that the complaint may be used in construing the order agreed upon, which may be altered, modified or set aside in the manner provided by the statute for orders of the Commission; that the signing of the 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; and that the order provided for in the stipulation and hereinafter included in this decision shall have the same force and effect as if made after a full hearing, presentation of evidence and findings and conclusions thereon.

All parties waive the filing of answer, hearings before a Hearing Examiner or the Commission, the making of findings of fact or conclusions of law by 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 respondents may be entitled under the Federal Trade Commission Act or the rules of the Commission, including any and all right, power or privilege to challenge or contest the validity of the order entered in accordance with the stipulation.

The order agreed upon conforms to the order contained in the notice accompanying the complaint, and disposes of all the issues raised in the complaint. The Stipulation For Consent Order is therefore accepted, this proceeding is found to be in the public interest, and the following order is issued:

It is ordered, That respondents Samuel Gailband, Inc., a corporation, and its officers, and Irving Levine and Melvin Gladstone, individually and as officers of said corporation, 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 any fur, as "commerce" and "fur" are defined in the Fur Products Labeling Act, do forthwith cease and desist from falsely or deceptively invoicing fur by:

1. Failing to furnish invoices which show:
 - (a) The name or names of the animal or animals producing the fur as set forth in the Fur Products Name Guide and as prescribed under the Rules and Regulations;
 - (b) The name and address of the person issuing such invoices;

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- (c) The name of the country of origin of any imported furs;
2. Using on invoices the name of any country other than the actual country of origin of furs, or furnishing invoices which contain any form of misrepresentation or deception, directly or by implication, with respect to such fur.

ORDER TO FILE REPORT OF COMPLIANCE

It is ordered, That respondents Samuel Gailband, Inc., a corporation, Irving Levine, individually and as president of said corporation, and Melvin Gladstone, individually and as vice president of said corporation, 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 May 27, 1955].

Complaint

IN THE MATTER OF

JONATHAN LOGAN, INC., ET AL.

CONSENT ORDER, ETC., IN REGARD TO THE ALLEGED VIOLATION OF SEC. 2 (d)
OF THE CLAYTON ACT AS AMENDED

Docket 6215. Complaint, June 22, 1954—Decision, May 29, 1955

Consent order requiring a dress manufacturer, with main office in Jersey City, N. J., and sales and show room in New York City, to cease making payments for promotional services to some customers—specifically to Best & Company for “reciprocal advertising” as charged—without making similar payments available to all their competitors, in violation of sec. 2(d) of the Clayton Act as amended.

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

Mr. Peter J. Dias and *Mr. Richard E. Ely* for the Commission.

Phillips, Nizer, Benjamin & Krim, of New York City, for respondents.

COMPLAINT

The Federal Trade Commission, having reason to believe that the parties respondent named in the caption hereof and hereinafter more particularly designated and described, have violated and are now violating the provisions of subsection (d) of Section 2 of the Clayton Act (U. S. C. Title 15, Sec. 13), as amended by the Robinson-Patman Act, approved June 19, 1936, hereby issues its complaint stating its charges with respect thereto as follows:

PARAGRAPH 1. Respondent Jonathan Logan, Inc., is a corporation, organized, existing and doing business under and by virtue of the laws of the State of New York, with its main office and principal place of business located at 83 Newark Avenue, Jersey City, New Jersey and a sales and showroom at 1407 Broadway, New York City, New York.

Respondent is now and for some years past has been engaged in the manufacture, sale and distribution of dresses. Said products are sold for resale at retail to many customers, with places of business located in many cities and towns throughout the United States, such as department stores, women's specialty shops and dress shops. All of said products are sold under the trade name “JONATHAN LOGAN” and gross sales are substantial having exceeded \$9,000,000 in each of the years 1949 and 1950. “JONATHAN LOGAN” dresses have been widely advertised and otherwise publicized to create a consumer demand therefor, and they are well known to purchasers of dresses buying for resale at retail.