

Complaint

IN THE MATTER OF
A. J. EINBENDER ET AL. TRADING AS EINBENDERS AND
THE VOGUE

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

Docket 6300. Complaint, Feb. 25, 1955—Decision, July 16, 1955

Consent order requiring furriers in St. Joseph, Mo., to cease false advertising, false invoicing, and misbranding of fur products, and otherwise failing to comply with requirements of the Fur Products Labeling Act.

Before *Mr. Everett F. Haycraft*, hearing examiner.

Mr. John J. McNally and *Mr. Joseph Callaway* for the Commission.

Lyon, Wilmer & Bergson, of Washington, D. C., and *Mr. Louis Kranitz*, of St. Joseph, Mo., 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 A. J. Einbender, Sylvia B. Einbender, Lester L. Einbender, and Edwin I. Einbender, individually and as copartners trading and doing business under the firm names of Einbenders and The Vogue, 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 A. J. Einbender, Sylvia B. Einbender, Lester L. Einbender, and Edwin I. Einbender are individuals and copartners trading and doing business under the firm names of Einbenders and The Vogue, with their office and principal place of business located at 701 S. Eighth Street, St. Joseph, Missouri, and a branch store located at 724 Felix Street in the same city. Said individual respondents formulate, direct, and control the acts, practices, and policies of the said business.

PAR. 2. Subsequent to the effective date of the Fur Products Labeling Act on August 9, 1952, the respondents have been, and are now, engaged in the introduction into commerce, and in the sale, advertising, and offering for sale in commerce, and the transportation and distribution in commerce, of fur products, and have sold, advertised,

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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, as "commerce," "fur," and "fur products" are defined in the Fur Products Labeling Act.

PAR. 3. Certain of said fur products were misbranded in that they were not labeled as required under the provisions of Section 4 (2) 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 products were misbranded in that, on labels attached thereto, respondents set forth the name of an animal other than the name of the animal that produced the fur contained in the fur product, in violation of Section 4 (3) of the Fur Products Labeling Act and the Rules and Regulations thereunder.

PAR. 5. Certain of said fur products were misbranded in that respondents, on labels attached to fur products, mingled non-required information with required information and used handwriting in setting forth parts of the required information, in violation of the Fur Products Labeling Act and Rule 29 of the Regulations thereunder.

PAR. 6. Certain of said fur products were falsely and deceptively invoiced in that they were 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. 7. Certain of said fur products were falsely and deceptively advertised, in violation of the Fur Products Labeling Act, in that respondents caused the dissemination in commerce, as "commerce" is defined in said Act, of certain advertisements concerning said fur products by means of newspapers and by various other means, which advertisements were not in accordance with the provisions of Section 5 (a) of the Fur Products Labeling Act and of the Rules and Regulations promulgated under said Act, and which advertisements were intended to and did aid, promote, and assist, directly or indirectly, in the sale and offering for sale of said fur products.

PAR. 8. Among and including the advertisements as aforesaid, but not limited thereto, were advertisements of respondents which appeared in various issues of the "St. Joseph News-Press" and the "St. Joseph Times-Review," publications having wide circulation in the State of Missouri and in the adjacent areas of other States of the United States.

By means of the aforesaid advertisements, and through others of similar import and meaning, not specifically referred to herein, the respondents falsely and deceptively:

(a) Failed to disclose the name or names of the animal or animals producing the fur or furs contained in the fur products as set forth in the Fur Products Name Guide, in violation of Section 5 (a) (1) of the Fur Products Labeling Act;

(b) Failed to disclose that fur products contained or were composed of bleached, dyed or otherwise artificially colored fur, when such is the fact, in violation of Section 5 (a) (3) of the Fur Products Labeling Act;

(c) Contained the name or names of an animal or animals other than those producing the fur contained in the fur product, in violation of Section 5 (a) (5) of the Fur Products Labeling Act;

(d) Failed to disclose the name of the country of origin of imported furs contained in such fur products, in violation of Section 5 (a) (6) of the Fur Products Labeling Act.

PAR. 9. 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 in commerce under the Federal Trade Commission Act.

INITIAL DECISION BY EVERETT F. HAYCRAFT, HEARING EXAMINER

The Federal Trade Commission issued its complaint against the above-named respondents on February 25, 1955, charging them with the use of unfair methods of competition and unfair acts and practices in commerce, in violation of the provisions of the Federal Trade Commission Act, the Fur Products Labeling Act, and the Rules and Regulations promulgated under the Fur Products Labeling Act. After being duly served with said complaint and after answering said complaint, the respondents entered into a stipulation with counsel supporting the complaint, dated May 11, 1955, providing for the entry of a consent order disposing of all the issues in this proceeding. Said stipulation has been submitted to the above-named hearing examiner, heretofore duly designated by the Commission, for his consideration in accordance with Rule V of the Commission's Rules of Practice.

Respondents, pursuant to the aforesaid stipulation, 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. Said stipulation further provides that the answer heretofore filed in this proceeding by respondents be withdrawn and that all 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. Respondents have also agreed 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, and specifically waive any and all right, power, or privilege to challenge or contest the validity of said order. Respondents have also agreed that the said stipulation, together with the complaint, shall constitute the whole record herein. It has been further stipulated and agreed that the complaint herein may be used in construing the terms of the order provided for in said stipulation; 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; and that said stipulation is subject to approval in accordance with Rules V and XXII of the Commission's Rules of Practice, and that said order shall have no force and effect unless and until it becomes the order of the Commission.

Counsel supporting the complaint in transmitting said stipulation to the hearing examiner has stated that it is his belief that the said respondents do not own and operate "The Vogue" as a branch store of "Einbenders" in the sale of fur garments, as alleged in the complaint, and as a consequence, the order in the said stipulation does not contain the name of "The Vogue." However, in his opinion, the said order includes within its purview any possible violation of the Fur Act by any of respondents under any name including "The Vogue."

This proceeding having now come on for final consideration by the hearing examiner on the complaint and the aforesaid stipulation for consent order, and it appearing that said stipulation provides for an appropriate disposition of this proceeding, the same is hereby accepted and ordered filed as part of the record herein by the hearing examiner, who allows the respondents to withdraw their said answer and makes the following findings, for jurisdictional purposes, and order:

1. Respondents A. J. Einbender, Sylvia B. Einbender, Lester L. Einbender, and Edwin I. Einbender, are individuals and copartners trading as Einbenders, with their office and principal place of business located at 701 S. Eighth Street, St. Joseph, Missouri.
2. The Federal Trade Commission has jurisdiction of the subject matter of this proceeding and of the respondents hereinabove named. The complaint states a cause of action against said respondents under the Federal Trade Commission Act and the Fur Products Labeling Act, and this proceeding is in the interest of the public.

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Order

ORDER

It is ordered, That respondents A. J. Einbender, Sylvia B. Einbender, Lester L. Einbender, and Edwin I. Einbender, individually and as copartners trading and doing business under the firm name of Einbenders, or under any other trade name or names, and respondents' representatives, agents, and employees, directly or through any corporate or other device, in connection with the introduction into commerce, or the sale, advertising, or offering for sale in commerce, or the transportation or distribution in commerce, of fur products, or in connection with the offering for sale, sale, advertising, transportation, or distribution of fur products which have been made in whole or in part of fur which had 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 fur products by:

(1) Failing to affix labels to fur products showing:

a. The name or names of the animal or animals producing the fur or furs contained in the fur product as set forth in the Fur Products Name Guide and as prescribed under the Rules and Regulations;

b. That the fur product contains or is composed of used fur, when such is the fact;

c. That the fur product contains or is composed of bleached, dyed, or otherwise artificially colored fur, when such is the fact;

d. That the fur product is composed in whole or in substantial part of paws, tails, bellies, or waste fur, when such is the fact;

e. The name, or other identification issued and registered by the Commission, of one or more persons who manufactured such fur product for introduction into commerce, introduced it into commerce, sold it in commerce, advertised or offered it for sale in commerce, or transported or distributed it in commerce;

f. The name of the country of origin of any imported furs used in the fur product.

(2) Setting forth, on labels attached to fur products, the name or names of any animal or animals other than the name or names provided for in Paragraph A (1) (a) above.

(3) Setting forth on labels attached to fur products:

a. Non-required information mingled with required information;

b. Required information in handwriting.

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B. Falsely or deceptively invoicing fur products by:

(1) Failing to furnish invoices to purchasers of fur products showing:

a. The name or names of the animal or animals producing the fur or furs contained in the fur product, as set forth in the Fur Products Name Guide and as prescribed under the Rules and Regulations;

b. That the fur product contains or is composed of used fur, when such is the fact;

c. That the fur product contains or is composed of bleached, dyed, or otherwise artificially colored fur, when such is the fact;

d. That the fur product is composed in whole or in substantial part of paws, tails, bellies, or waste fur, when such is the fact;

e. The name and address of the person issuing such invoices;

f. The name of the country of origin of any imported furs contained in the fur product.

C. Falsely or deceptively advertising fur products, through the use of any advertisement, representation, public announcement, or notice which is intended to aid, promote, or assist, directly or indirectly, in the sale or offering for sale of fur products, and which:

(1) Fails to disclose:

a. The name or names of the animal or animals producing the fur or furs contained in the fur products as set forth in the Fur Products Name Guide and as prescribed under the Rules and Regulations;

b. That the fur products contain or are composed of bleached, dyed, or otherwise artificially colored fur, when such is the fact;

c. The name of the country of origin of any imported furs contained in fur products.

(2) Contains the name or names of any animal or animals other than the name or names provided for in Paragraph C (1) (a) above.

DECISION OF THE COMMISSION AND ORDER TO FILE
REPORT OF COMPLIANCE

Pursuant to Sec. 3.21 of the Commission's Rules of Practice, the initial decision of the hearing examiner shall, on the 16th day of July, 1955, become the decision of the Commission; and, accordingly:

It is ordered, That respondents A. J. Einbender, Sylvia B. Einbender, Lester L. Einbender, and Edwin I. Einbender, individually and as copartners trading as Einbenders, 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.

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IN THE MATTER OF

ROBERT L. KNIFFEN TRADING AS NATIONAL SALES
AND SERVICE COMPANY AND AS GRECO MANUFACTURING
COMPANYCONSENT ORDER, ETC., IN REGARD TO THE ALLEGED VIOLATION OF THE
FEDERAL TRADE COMMISSION ACT

Docket 6315. Complaint, Mar. 22, 1955—Decision, July 21, 1955

Consent order requiring a seller in Fort Wayne, Ind., to cease use of "bait" advertising in newspapers purportedly seeking employees but actually designed to sell his vending machines and supplies, which made false representations as to qualifications and requirements for prospects, opportunities, possible profits, etc.

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

*Mr. William R. Tinch*er for the Commission.

Mr. Edwin R. Thomas, of Fort Wayne, Ind., 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 Robert L. Kniffen, an individual, trading as National Sales and Service Company, and as Greco Manufacturing Company, 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. Respondent Robert L. Kniffen is an individual trading as National Sales and Service Company and as Greco Manufacturing Company. Respondent is now, and for more than one year last past has been, engaged in the promotion, sale and distribution of vending machines, vending machine supplies, greeting card display equipment and greeting cards. Respondent's office and principal place of business is located at 3406 South Monroe Street, Fort Wayne, Indiana. Said products are sold directly to purchasers through the respondent and through salesmen who travel in various States of the United States.

PAR. 2. In the course and conduct of his business, respondent now causes and has caused said products, when sold, to be transported from his place of business in the State of Indiana to purchasers thereof