

Complaint

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IN THE MATTER OF
HARRY KAYE OF HACKENSACK, 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 6320. Complaint Apr. 1, 1955—Decision, July 27, 1955

Consent order requiring a furrier in Hackensack, N. J., to cease violating the Fur Products Labeling Act and the Federal Trade Commission Act through failing to disclose the names of animals producing the fur in certain fur products, the fact that certain furs were artificially colored, and the name of the country of origin of imported furs; through misrepresenting prices as reduced from "regular" prices which were in fact fictitious, the amount of savings possible to purchasers, values of certain products, and products as being the stock of a business in liquidation; and by failing to keep adequate records on which such claims of savings were purportedly based.

Before *Mr. Frank Hier*, hearing examiner.

Mr. John T. Walker for the Commission.

Mr. Robert G. Leff, of Newark, N. J., 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 Harry Kaye of Hackensack, Inc., a corporation, and Harry Kaplan, individually and as an officer 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, Harry Kaye of Hackensack, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of New Jersey. Respondent Harry Kaplan, an individual, is president of respondent, Harry Kaye of Hackensack, Inc., and in said capacity formulates and controls the policies and practices of said corporate respondent. The said corporate respondent and said individual respondent have their office and principal place of business located at 331 Main Street, Hackensack, New Jersey.

PAR. 2. Subsequent to the effective date of the Fur Products Labeling Act on August 9, 1952, respondents have been, and are now, engaged in the introduction into commerce, and in the sale, advertising

and offering for sale in commerce, and in the transportation and distribution in commerce, of fur products, and have sold, advertised, 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 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 aid and did aid, promote and assist, directly or indirectly, in the sale and offering for sale of said fur products.

PAR. 4. Among and including the advertisements as aforesaid, but not limited thereto, were advertisements of respondents which appeared in various issues of the "Bergen Evening Record," a newspaper published in Hackensack, New Jersey, and having wide circulation in said State and in various other States of the United States.

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

A. Failed to disclose the name or names of the animal or animals that produced the fur 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 contained in fur products was bleached, dyed or otherwise artificially colored fur, when such was the fact, in violation of Section 5 (a) (3) of the Fur Products Labeling Act.

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

D. Misrepresented prices of fur products as having been reduced from regular or usual prices, where the so-called regular or usual prices were in fact fictitious, in that they were not the prices at which said merchandise was usually sold by respondents, in the recent regular course of their business, in violation of Rule 44 (a) of the aforesaid Rules and Regulations.

E. Misrepresented, by means of comparative prices and percentage savings claims not based on current market values, the amount of

savings to be effectuated by purchasers of said fur products, in violation of Rule 44 (b) of the aforesaid Rules and Regulations.

F. Misrepresented the value of fur products, when such claims and representations were not true in fact, in violation of Rule 44 (d) of the aforesaid Rules and Regulations.

G. Misrepresented said fur products as being the stock of a business in a state of liquidation in violation of Rule 44 (g) of the aforesaid Rules and Regulations.

Respondents, in making the pricing claims and representations referred to in subparagraphs (D), (E) and (F) hereof, failed to maintain full and adequate records disclosing the facts upon which such claims and representations were purportedly based, in violation of Rule 44 (e) of said Rules and Regulations.

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 in commerce under the Federal Trade Commission Act.

INITIAL DECISION BY FRANK HIER, HEARING EXAMINER

Pursuant to the provisions of the Federal Trade Commission Act and the Fur Products Labeling Act, the Federal Trade Commission on April 1, 1955, issued and subsequently served its complaint on respondents herein. Harry Kaye of Hackensack, Inc., is a corporation organized under the laws of the State of New Jersey and Harry Kaplan, the other respondent, is president thereof. Both respondents have their office and principal place of business located at 331 Main Street, Hackensack, New Jersey, and are engaged thereat in the introduction into commerce, and in the sale, advertising and offering for sale in commerce, of fur products. Answer to the complaint herein was filed by them on May 9, 1955.

On June 9, 1955, there was submitted to the undersigned hearing examiner an agreement and stipulation between respondents and counsel in support of the complaint providing for entry of a consent order. By the terms thereof respondents admit all the jurisdictional allegations set forth in the complaint; agree that the answer heretofore filed in this matter be withdrawn; stipulate that the record herein may be taken as if the Commission had made findings of jurisdictional facts in accordance with allegations thereof in the complaint; expressly waive a hearing before the 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 or

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 Practice of the Commission. Respondents agree that the order hereinafter provided for shall have the same force and effect as if made after a full hearing, presentation of evidence and findings and conclusions thereon and specifically waive any and all right, power or privilege to challenge or contest the validity of the order entered in accordance with such stipulation.

It was further stipulated and agreed that such stipulation, together with the complaint, shall constitute the entire record herein and should be filed with the hearing examiner for his consideration in accordance with Section 3.21 of the Commission's Rules of Practice; that the signing of the stipulation was for settlement purposes only and does not constitute an admission by respondents that they have violated the law as alleged in the complaint; that the complaint herein may be used in construing the terms of the order hereinafter entered, which order may be altered, modified or set aside in the manner provided by the statute for orders of the Commission; that the stipulation is subject to approval in accordance with Sections 3.21 and 3.25 of the Commission's Rules of Practice and that the order shall have no force and effect until and unless it becomes the order of the Commission.

On the basis of the foregoing, the undersigned hearing examiner concludes that this proceeding is in the public interest; that it is an appropriate disposition of the proceeding and in accordance with the action contemplated and agreed upon, makes the following order:

ORDER

It is ordered, That respondents Harry Kaye of Hackensack, Inc., a corporation, and its officers, and Harry Kaplan, individually and as an officer 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, advertising, or offering for sale in commerce, or the transportation or distribution in commerce, of fur products, or in connection with the sale, advertising, offer for sale, transportation, or distribution of fur products which have been 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 falsely or deceptively advertising fur products through the use of any advertisement, representation, public

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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 a fact.

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

2. Represents, directly or by implication:

(a) That the regular or usual price of any fur product is any amount which is in excess of the price at which the respondents have usually and customarily sold such products in the recent regular course of their business.

(b) That a sale price enables purchasers of fur products to effectuate any savings in excess of the difference between the said price and the price at which comparable products were sold by respondents during the time specified or, if no time is specified, in excess of the difference between said price and the current price at which comparable products are sold by respondents.

(c) The value of fur products, when such claims and representations were not true in fact.

(d) That any of such products were the stock of a business in a state of liquidation, contrary to fact.

3. Makes pricing claims or representations of the type referred to in Paragraph 2 (a), (b) and (c) above, unless there is maintained by respondents full and adequate records disclosing the facts upon which such claims or representations are based, as required by Rule 44 (e) of the Rules and Regulations.

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 27th day of July, 1955, become the decision of the Commission; and, accordingly:

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.

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IN THE MATTER OF

L. H. KELLOGG CHEMICAL COMPANY ET AL.

CONSENT ORDER, ETC., IN REGARD TO THE ALLEGED VIOLATION OF THE
FEDERAL TRADE COMMISSION ACT*Docket 6287. Complaint, Jan. 17, 1955—Decision, July 28, 1955*

Consent order requiring sellers in Minneapolis, Minn., to cease representing falsely in advertising that they were manufacturing analytical chemists, operating laboratories in which they manufactured their embalming fluids, and representing falsely the unique character, bactericidal and germicidal potency, and blood-coagulating properties of their said fluids, and making other unfounded claims.

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

Mr. Ames W. Williams for the Commission.

Sachs, Karlins, Grossman & Karlins, of Minneapolis, Minn., for respondents.

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 L. H. Kellogg Chemical Company, a corporation, and Leo A. Hodroff, William Hodroff and Ruth Abry, individually and as officers of said corporation, 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 as follows:

PARAGRAPH 1. Respondent L. H. Kellogg Chemical Company is a corporation organized, existing and doing business under and by virtue of the laws of the State of Minnesota, with its office located at 1401 3rd Avenue South, Minneapolis, Minnesota. Respondents Leo A. Hodroff, William Hodroff and Ruth Abry are president and treasurer, vice president and secretary, respectively, of said corporate respondent. These individuals formulate and direct the policies, acts, practices and business affairs of said corporate respondent, including the acts and practices hereinafter set out.

PAR. 2. Respondents are now, and for more than one year last past have been, engaged in the sale and distribution, among other things, of embalming fluids, a line of which is designated as "Kelco Scientists Series Fluids." Respondents have caused and now cause their said embalming fluids, when sold, to be transported from the place of manufacture thereof in the State of Minnesota to purchasers