

Complaint

52 F. T. C.

IN THE MATTER OF

MAX FEUER ET AL. TRADING AS FEUER FUR COMPANY

CONSENT ORDER, ETC., IN REGARD TO THE ALLEGED VIOLATION OF THE
FEDERAL TRADE COMMISSION AND THE FUR PRODUCTS LABELING ACTS*Docket 6296. Complaint, Feb. 25, 1955—Decision, Sept. 16, 1955*

Consent order requiring Chicago furriers to cease misbranding, false advertising, and false invoicing of fur products in violation of the Fur Products Labeling Act.

Before *Mr. Frank Hier*, hearing examiner.

Mr. John J. McNalley and *Mr. Daniel J. Murphy* for the Commission.

Kirkland, Fleming, Green, Martin & Ellis, of Chicago, Ill. and Washington, D. C., 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 Max Feuer and Sue Feuer, individually and as copartners trading and doing business as Feuer Fur Company, 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, Max Feuer and Sue Feuer, individually and as copartners trading and doing business as Feuer Fur Company, formulate, direct and control the acts, policies and practices of the said company, with their office and principal place of business located at 7 West Madison Street in the city of Chicago, State of Illinois.

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, advertised, offered for sale, transported and distributed fur products in commerce, and have manufactured for sale, 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 product" are defined in the Fur Products Labeling

Act. Certain of said fur products have been misbranded, falsely advertised and falsely invoiced in violation of the Fur Products Labeling Act and of the Rules and Regulations promulgated thereunder.

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 the said Act, and which advertisements were intended to, and did, aid, promote, and assist, directly and 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 the February 25, 1954, issue of the "Chicago Daily Tribune"; in the July 25, 1954, September 12, 1954, and October 17, 1954 issues of the "Chicago Sunday Tribune," publications having wide circulation in the State of Illinois and in various other States of the United States. Certain, but not all, of said advertisements are set forth and described in Paragraphs Fifteen through Seventeen hereof and are incorporated herein by reference.

By means of the aforesaid advertisements, and through others of the same 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 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 a fur product is bleached, dyed or otherwise artificially colored, when such is the fact, in violation of Section 5 (a) (3) of the Fur Products Labeling Act.

(c) Abbreviated words or terms of required information, and failed to state in type of equal size all parts of the required information in violation of Rules 4 and 38 (a) respectively of the aforesaid Rules and Regulations.

(d) Misrepresented, by means of comparative prices and percentage savings claims not based upon 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.

(e) Misrepresented that they manufacture and design fur products which actually have been manufactured and designed by other firms and that they are "Chicago's Largest Exclusive Furrier," contrary to

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the fact, in violation of Rules 42 and 49 of the aforesaid Rules and Regulations.

PAR. 5. Respondents, in making the pricing claims and representations referred to in subparagraph (d) of Paragraph 4 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 the aforesaid Rules and Regulations.

PAR. 6. Respondents in substituting their own labels for those of the manufacturer on fur products failed to maintain full and adequate records in violation of Sections 3 (e) and 5 (d) of the Fur Products Labeling Act and Rules 40 and 41 of the aforesaid Rules and Regulations.

PAR. 7. 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. 8. Certain of said fur products were misbranded in that respondents, on labels attached thereto, set forth the name of an animal other than the animal producing the fur contained in the fur product in violation of Section 4 (3) of the Fur Products Labeling Act.

PAR. 9. Certain of said fur products were misbranded in violation of the Fur Products Labeling Act in that they were not labeled in accordance with the Rules and Regulations promulgated thereunder in that required information was mingled with non-required information in violation of Rule 29 (a) of the aforesaid Rules and Regulations.

PAR. 10. 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. 11. Certain of said fur products were falsely and deceptively invoiced in that respondents, on invoices furnished to purchasers of said fur products, set forth the name of an animal other than the animal producing the fur contained in the fur product in violation of Section 5 (b) (2) of the Fur Products Labeling Act.

PAR. 12. Certain of said fur products were falsely and deceptively invoiced in violation of the Fur Products Labeling Act, in that they were not invoiced in accordance with the Rules and Regulations promulgated thereunder in that required information on invoices was abbreviated in violation of Rule 4 of the aforesaid Rules and Regulations.

PAR. 13. The aforesaid acts and practices of respondents, as alleged in Paragraphs 1 through 12 hereof, 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.

PAR. 14. In the course and conduct of their business, respondents have, for several years last past been, and are now, engaged in the purchase, sale and distribution of fur products to members of the purchasing public. Respondents cause and have caused the aforesaid fur products to be transported from their place of business in the State of Illinois, to the purchasers thereof located in various other States of the United States. Respondents maintain, and at all times mentioned herein have maintained, a course of trade in said fur products in commerce, among and between the various States of the United States.

PAR. 15. In the course and conduct of their business, respondents caused the dissemination of certain advertisements relating to their aforesaid fur products. Among and included in said advertisements, but not limited thereto, were the following:

In the "Chicago Sunday Tribune," issue of July 25, 1954:

(Listing of 13 groups of capes, jackets, stoles, etc. at a selling price of \$100)
.....Save 30% to 50%.....

In the "Chicago Sunday Tribune," issue of September 12, 1954:

Max Feuer, the master furrier, who buys, designs, styles and even cuts and sews fur for these many years, emphasizes the values that have made him Chicago's Largest Exclusive Furrier.....Formerly Priced from \$175 to \$275 now \$100.....

Natural Ranch Capes.....	\$100
Natural Sheared Beaver Jackets.....	100
Moonglow Dyed Muskrat Jackets.....	100
Dyed Sheared Raccoon Side Jackets.....	100
Dyed Broadtail Proc. Lamb Jackets.....	100
Mahogany Dyed Muskrat Coats.....	100
Natural Grey Kid Coats.....	100
.....	

In the "Chicago Sunday Tribune," issue of October 17, 1954:

MORE FOR YOUR MONEY FROM CHICAGO'S LARGEST

EXCLUSIVE FURRIER

NORMAL RETAIL PRICE \$175 to \$500..... \$120...

	<i>Price Market</i>	<i>Price Sale</i>
Sheared Canadian Beaver Jackets.....	\$400	*\$120
Blond Dyed Sheared Raccoon Coats.....	400	* 120
Genuine Spotted Cat Coats.....	325	* 120
Silver Blue Mink Shrug Capes.....	325	* 120
Black Dyed Persian Lamb Coats.....	500	* 120
.....		

*Plus new low 10% fed. ex. tax.

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PAR. 16. By means of the aforesaid statements and others of the same import and meaning, but not specifically set forth herein, respondents represented, directly or by implication:

(a) That said fur products were being offered during such sales at prices from 30 to 50% less than the usual prices charged by respondents for such products during the recent regular course of their business;

(b) That the higher prices stated therein were the usual prices charged by respondents for such products during the recent regular course of their business;

(c) That respondents are the manufacturer of such fur products;

(d) That respondents are the largest exclusive furrier in the city of Chicago.

PAR. 17. The aforesaid statements and representations were false, misleading and deceptive. In truth and in fact:

(a) Said fur products were not being offered by respondents during such sale at from 30 to 50% less than the usual prices charged by respondents for such products during the recent regular course of their business;

(b) The higher prices stated therein were not the usual prices charged by respondents for such products during the recent regular course of their business;

(c) In the main, the furs advertised and sold by respondents as aforesaid were manufactured by individuals, firms and corporations other than respondents;

(d) Respondents are not the largest exclusive furriers in the city of Chicago.

PAR. 18. Respondents in the course and conduct of their business have been and now are engaged in commerce as "commerce" is defined in the Federal Trade Commission Act, and are in substantial competition in commerce with other firms, corporations, copartnerships and individuals also engaged in the sale of fur products to members of the purchasing public.

PAR. 19. The use by the respondents of the aforesaid false, misleading and deceptive statements and representations as alleged in Paragraphs 15 through 17 hereof has had and now has the tendency and capacity to mislead and deceive a substantial portion of the purchasing public into the erroneous and mistaken belief that said statements and representations were and are in fact true and into the purchase of substantial quantities of respondents' fur products by reason of such erroneous and mistaken belief. As a result thereof substantial trade in commerce has been unfairly diverted to respondents from

their competitors and substantial injury has been and is being done to competition in commerce.

PAR. 20. The aforesaid acts and practices of respondents, as alleged in Paragraphs 14 through 19 hereof, are all to the prejudice and injury of the public and of respondents' competitors, and constitute unfair and deceptive acts and practices and unfair methods of competition in commerce within the intent and meaning of 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 February 25, 1955, issued and subsequently served its complaint on respondents herein who are individuals and copartners trading as Feuer Fur Company with their office and principal place of business located at 7 West Madison Street in the City of Chicago, State of Illinois, and are engaged thereat in the introduction into commerce, and in the sale, advertising and offering for sale in commerce, of fur products.

On July 27, 1955, there was submitted to the undersigned hearing examiner an agreement between respondents and counsel and counsel in support of the complaint providing for the entry of a consent order. By the terms thereof respondents admit all the jurisdictional facts alleged in the complaint and agree that the record may be taken as if findings of jurisdictional facts had been made in accordance with such allegations and expressly waive any further procedural steps before the hearing examiner and the Commission, the making of findings of facts and conclusions of law by either, and all the rights respondents may have to challenge or contest the validity of the order to cease and desist entered in accordance with the agreement. Said agreement further stipulates that the record, on which the initial decision and the decision of the Commission shall be based, shall consist solely of the complaint and the agreement; that the agreement shall not become part of the official record unless and until it becomes a part of the decision of the Commission; that the agreement is for settlement purposes only and does not constitute an admission by respondents that they have violated the law as alleged in the complaint. Said agreement further provides that all portions of the complaint which charge that respondents have misrepresented that they are "Chicago's Largest Exclusive Furriers" as alleged in Paragraphs Four (e) and Seventeen (d) be dismissed for lack of proof and that the agreement disposes of the proceeding as to all parties.

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On the basis of the foregoing, the undersigned hearing examiner concludes that this proceeding is in the public interest; that such agreement 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, Max Feuer and Sue Feuer, individually and as copartners trading as Feuer Fur Company, 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 the manufacture for introduction, or the sale, advertisement, offer for sale, transportation or distribution of fur products in commerce, or in connection with the manufacture for sale, sale, advertising, offer for sale, 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 bleached, dyed, or artificially colored fur when such is a fact;

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

(d) 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 for sale in commerce, or transported or distributed it in commerce.

(e) 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, non-required information mingled with required information.

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 bleached, dyed, or artificially colored fur when such is a fact;

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

(d) The name and address of the person issuing such invoices;

(e) The name of the country of origin of any imported furs contained in the fur product.

2. Using on invoices the name or names of any animal or animals other than the name or names provided for in Paragraph B (1) (a) above.

3. Setting forth on invoices pertaining to fur products required information in abbreviated form.

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 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;

2. Fails to disclose that fur products contain or are composed of bleached, dyed, or otherwise artificially colored fur when such is the fact;

3. Uses abbreviated words or terms of required information or which, if printed, fails to state in type of equal size all parts of the required information;

4. Represents, directly or by implication:

(a) 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 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;

(b) That any fur products were manufactured or designed by respondents, when such is contrary to the fact.

5. Makes the pricing claims or representations referred to in Paragraph C (4) (a) above, unless there is maintained by respondents full and adequate records disclosing the facts upon which such claims

and representations are based, as required by Rule 44 (e) of the Rules and Regulations.

D. Failing to maintain and preserve full and adequate records, in the manner and form required by Rules 40 and 41 of the Rules and Regulations, showing the information set forth on labels which respondents have removed from fur products and in lieu thereof substituted and affixed respondents' labels thereto.

It is further ordered, That respondents Max Feuer and Sue Feuer, individually and as copartners trading as Feuer Fur Company, or under any other trade name, and respondents' representatives, agents and employees, directly or through any corporate or other device, in connection with the offering for sale, sale, and distribution of fur products in commerce, as "commerce" is defined in the Federal Trade Commission Act, do further cease and desist from making, directly or by implication, any of the representations prohibited by Paragraph C (4) of this order.

It is further ordered, That all other charges contained in the complaint not specifically covered in the above order are herewith dismissed as to both respondents.

DECISION OF THE COMMISSION AND ORDER TO FILE REPORT OF COMPLIANCE

Pursuant to Section 3.21 of the Commission's Rules of Practice, the initial decision of the hearing examiner shall, on the 16th day of September, 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

MACKVINE CORPORATION ET AL.

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

Docket 6332. Complaint, Apr. 20, 1955—Decision, Sept. 17, 1955

Consent order requiring manufacturers in New Haven, Conn., to cease violating the Wool Products Labeling Act through misrepresenting the constituent fibers of certain batts and battings on labels and sales invoices.

Before *Mr. John Lewis*, hearing examiner.

Mr. R. D. Young, Jr. and *Mr. George E. Steinmetz* for the Commission.

Spiro & Levine, of Danbury, Conn., for respondents.

COMPLAINT

Pursuant to the provisions of the Federal Trade Commission Act and Wool Products Labeling Act of 1939, and by virtue of the authority vested in it by said Acts, the Federal Trade Commission, having reason to believe that Mackvine Corporation, a corporation; and Edward Levine, David Levine, and Bernard E. Levine, individually and as officers of said corporation, hereinafter referred to as respondents, have violated the provisions of said Acts, 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, Mackvine Corporation, is a corporation organized and existing under and by virtue of the laws of the State of Connecticut, with its principal place of business located at 54 Eddy Street, New Haven, Connecticut.

The individual respondents, Edward Levine, David Levine and Bernard E. Levine are President, Treasurer and Secretary, respectively, of the corporate respondent, Mackvine Corporation. Said individuals formulate, direct and control the acts, policies and practices of said corporate respondent. Said individual respondents have their business offices at the same address as corporate respondent.

PAR. 2. Subsequent to the effective date of the Wool Products Labeling Act of 1939 and more especially since January, 1954, respondents have manufactured for introduction into commerce, introduced into commerce, sold, transported, distributed, delivered for shipment and