

Complaint

52 F. T. C.

IN THE MATTER OF

DENNING-GOLDEN FURS, INC., ET AL.

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

Docket 6337. Complaint, Apr. 26, 1955—Decision, Nov. 10, 1955

Consent order requiring furriers in New York City to cease advertising in spurious liquidation sales, fictitious prices as the value of fur garments and sale prices as affording 40% to 80% savings off regular prices; and to disclose information in advertising, keep records as a basis for savings claims, and invoice products, all as required by the Fur Products Labeling Act.

Before *Mr. John Lewis*, hearing examiner.

Mr. John J. McNally for the Commission.

Mr. Benjamin Hauptman, 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 Denning-Golden Furs, Inc., a corporation, Denning, Inc., a corporation, Irving Golden, individually and as President of said corporations, and Bernard Golden, an individual, 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 Denning-Golden Furs, Inc., and Denning, Inc., are corporations, organized and existing under and by virtue of the laws of the State of New York, with their office and principal place of business located at 124 West 30th Street, New York, New York. Individual respondents Irving Golden and Bernard Golden are President and Manager, respectively, of said corporate respondents, and in such capacities formulate, direct and control the policies, acts and practices of said corporate respondents. Said individual respondents have the same office and principal place of business as said corporate respondents and have as their place of residence 7281-113th Street, Forest Hills, New York. Said individual respond-

ents have, from time to time, also traded as Golden's, in the City of Bridgeport, Connecticut; as Lizabeth Furs, in the City of Poughkeepsie, New York; and by various other trade names in other cities and States of the United States.

PAR. 2. Respondents, for several years last past, have been engaged in the sale and distribution of fur garments, including coats, stoles, capes, and other fur garments, to members of the purchasing public. Respondents cause and have caused the aforesaid fur garments to be transported from their place of business located in the State of New York and sold to the purchasers thereof located in various other States of the United States. Respondents maintain, and at all times herein mentioned have maintained, a substantial course of trade in said fur garments, in commerce, as "commerce" is defined in the Federal Trade Commission Act, among and between the various States of the United States.

PAR. 3. In the course and conduct of their business, respondents caused the dissemination of certain advertisements relating to the aforesaid fur garments, by means of newspapers and by various other means. Among said advertisements, but not limited thereto, were those published in various newspapers which contained the following statements:

In the "Bridgeport Telegram," issue of June 16, 1954:

LIQUIDATION!.....Quality furs and other articles.....
EVERYTHING MUST BE SOLD to raise immediate cash! Regardless of
cost or loss, GOLDEN'S has slashed and smashed every price to make
sure that EVERYTHING GOES!.....PUBLIC NOTICE.....
.....First come, first served. NO RESERVATIONS. CASH & CARRY
.....All Sales Final.....

In the "Poughkeepsie New Yorker," issue of September 8, 1954:

LIQUIDATION!.....LIZABETH FURS is opening with the most
sensational sale Poughkeepsie has ever seen. We can't mention the name
but a famous New York Furrier is giving up his entire stock of fine furs
regardless of cost or loss! Everything must be sold out! The entire stock
of this firm....furs, fixtures and equipment must be LIQUIDATED IM-
MEDIATELY TO RAISE CASH FOR CREDITORS.....Every-
thing goes! This is the end of every fur in the store.....PUBLIC
NOTICE.....No reservations. Cash and carry.....
FIXTURES FOR SALE.....ALL SALES FINAL.....

In the New York "Sunday News," issue of February 20, 1955:

.....PUBLIC NOTICE! Effective immediately, February 20, 1955, we
must liquidate to the public all furs, fur coats, fur scarves, fur jackets,
odds and ends to pay off our creditors!.....40% to 80% DIS-
COUNT!.....

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PAR. 4. By means of the aforesaid statements and through those statements set forth in Paragraph 6 hereof, incorporated herein by reference, and by means of advertisements of the same import and meaning published in other cities and States of the United States but not referred to or set forth specifically herein and by other means, respondents represented, in each of such instances, that they were conducting a bona fide liquidation of all of their stocks of fur garments.

PAR. 5. The aforesaid statements and representations were false, misleading and deceptive. In truth and in fact, in none of said instances did respondents conduct a bona fide liquidation of their stocks of fur garments. On the contrary, respondents' usual method of doing business was to conduct so-called liquidation sales. Respondents were not forced to, and did not, sell out all of their stocks of fur garments at such sales. On the contrary, such fur garments as were not sold by respondents in any particular sale were, in some instances, again reoffered in future so-called liquidation sales conducted by respondents in the same premises or, in other instances, were transported and distributed by respondents to other locations in other cities and States and were again offered in so-called liquidation sales, advertised and conducted as aforesaid by respondents, directly or through corporate or other devices.

PAR. 6. Respondents have also caused the dissemination of other advertisements, including but not limited to the following:

In the New York "Sunday News," issue of November 21, 1954:

GOING OUT OF BUSINESS!!

Sale held pursuant to New York City License No. 462000 * * * **SELLING OUT TO THE BARE WALLS!** Regardless of cost or loss! We **SLASHED AND SMASHED EVERY PRICE** so we could walk away from the store when we are finished. **WE ARE CLOSING FOREVER * * *** **SELLING OUT \$300,000 STOCK OF FURS AT 40% to 80% SAVINGS!**

(The above advertisement continues with a listing of some 80 items and depictions of six particular fur garments. Each of such items and garments has two prices; the higher price being preceded by the statement "MADE TO SELL FOR * * *" and the lower price being preceded by the statement "NOW * * *")

In the New York "Sunday News," issue of January 16, 1955:

SALE * * * By order of **LIQUIDATOR!**

Irving Golden of Denning-Golden Furs, Inc., 124 West 30th St. has bought up the **ENTIRE STOCK** of Denning, Inc., who has **GONE OUT OF BUSINESS!** The tremendous stock of **QUALITY FURS** formerly belonging to Denning, Inc., must be sold regardless of cost or loss! Effective immediately we must **LIQUIDATE** to the public all furs, fur coats, fur

scarves, fur jackets, odds and ends to pay off our creditors. EVERYTHING GOES! THIS IS IT! WE MUST raise CASH immediately * * *

(The above advertisement continues with depictions of six fur garments and a listing of some 50 fur items. The said depictions and many of said items are identical to those offered in the "Sunday News" advertisement of November 21, 1954, set forth above, and to those depictions and listings in various other issues of that and other publications, which advertisements contain substantially the same statements and representations.) The said advertisement continues as follows:

* * * 40% to 80% DISCOUNTS! Unbelievable bargains! Many items below m'frs. cost! * * * FIRST COME—FIRST SERVED! All sales final * * * no refunds, exchanges! * * * We reserve the right to limit quantities! * * * DENNING GOLDEN FURS * * *

PAR. 7. By means of the aforesaid statements, and by others of similar import and meaning not set forth specifically herein, respondents falsely and deceptively represented:

(a) That the higher prices stated in such advertisements were the current value of, or the usual prices charged by respondents for, such fur garments during the recent regular course of their business.

(b) That purchasers of said fur garments would effectuate savings of from 40% to 80% off the usual prices charged by respondents for such articles during the recent regular course of their business.

PAR. 8. The aforesaid statements and representations were false, misleading, and deceptive. In truth and in fact:

(a) The higher prices stated in such advertisements were not the current value of, nor were they the usual prices charged by respondents for, such fur garments during the recent regular course of their business.

(b) Purchasers of said fur garments would not effectuate savings of from 40% to 80% off the usual prices charged by respondents for such articles during the recent regular course of their business.

PAR. 9. Respondents, in the course and conduct of their business of selling fur garments, are in substantial competition in commerce with other firms, corporations, copartners and individuals also engaged in the sale of fur garments to members of the purchasing public.

PAR. 10. The use by the respondents of the aforesaid false or misleading statements and representations 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 in fact true and into the purchase of substantial quantities of respondents' fur garments by reason of such erroneous and mistaken belief.

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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. 11. The aforesaid acts and practices of respondents, as herein alleged, 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.

PAR. 12. Subsequent to the effective date of the Fur Products Labeling Act on August 9, 1952, the respondents have introduced, sold, advertised, offered for sale, transported and distributed fur products in commerce, 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 product" are defined in the Fur Products Labeling Act.

PAR. 13. 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 of certain advertisements concerning said products, and have caused the dissemination of certain advertisements concerning fur products made in whole or in part of fur which has been shipped and received in commerce, as "commerce" is defined in said Act, 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. 14. Among and including the advertisements, as aforesaid, but not limited thereto, were advertisements of respondents which appeared in various issues of the "Bridgeport Telegram" and the Bridgeport "Sunday Herald"; publications circulated in the State of Connecticut and in other States of the United States. Other advertisements of respondents appeared in the New York "Sunday News" and in the "Poughkeepsie New Yorker"; publications circulated in the State of New York and in other States of the United States. Certain but not all of said advertisements are referred to and described in Paragraphs 3 through 8 hereof and are incorporated herein by reference.

PAR. 15. Certain of said fur products were falsely and deceptively advertised in that certain of the aforesaid advertisements failed to set forth the information required by Section 5 (a) of the Fur

Products Labeling Act and in the manner and form prescribed by the Rules and Regulations promulgated thereunder.

Certain of said advertisements falsely and deceptively failed 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, in violation of Section 5 (a) (1) of the Fur Products Labeling Act;

(b) That fur products contained or were composed of 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) That fur products were composed, in whole or in substantial part, of bellies, when such was the fact, in violation of Section 5 (a) (4) of the Fur Products Labeling Act;

(d) 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.

Certain of said advertisements also falsely and deceptively:

(e) Contained the name or names of animals other than the name set forth in the Fur Products Name Guide and as prescribed under the Rules and Regulations, in violation of Section 5 (a) (5) of the Fur Products Labeling Act;

(f) Set forth certain of the required information in abbreviated form in violation of the Fur Products Labeling Act and of Rule 4 of the Rules and Regulations promulgated thereunder;

(g) Misrepresented, by means of 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 the Fur Products Labeling Act and Rule 44 (b) of the Rules and Regulations promulgated thereunder;

(h) Misrepresented, by means of statements such as "made to sell for * * *" and by other statements, the value and usual price of their fur products, in violation of the Fur Products Labeling Act and of Rule 44 (c) of the Rules and Regulations promulgated thereunder;

(i) Misrepresented, in violation of the Fur Products Labeling Act and of Rule 44 (g) of the Rules and Regulations promulgated thereunder, fur products as being from the stock of a business in a state of liquidation, contrary to the fact.

Respondents, in making the claims as to value referred to in subparagraphs (g) and (h) hereof, have failed to maintain full and adequate records disclosing the facts upon which such claims and representations were purportedly based, in violation of the Fur Products

Labeling Act and of Rule 44 (e) of the Rules and Regulations promulgated thereunder.

PAR. 16. 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. 17. 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 name of the animal that produced the fur, in violation of Section 5 (b) (2) of the Fur Products Labeling Act and the Rules and Regulations promulgated thereunder.

PAR. 18. 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 the following respects:

(a) Required information was set forth in abbreviated form in violation of Rule 4 of the aforesaid Rules and Regulations;

(b) Respondents failed to set forth an item number or mark assigned to fur products in violation of Rule 40 (a) of the aforesaid Rules and Regulations.

PAR. 19. The aforesaid acts and practices of respondents, alleged in Paragraphs 12 through 18 hereof, were in violation of the Fur Products Labeling Act and of the Rules and Regulations promulgated thereunder and constituted unfair and deceptive acts and practices under the Federal Trade Commission Act.

INITIAL DECISION BY JOHN LEWIS, HEARING EXAMINER

Pursuant to the provisions of the Federal Trade Commission Act and the Fur Products Labeling Act, the Federal Trade Commission on April 26, 1955, issued and subsequently served its complaint in this proceeding upon the respondents named in the caption hereof, charging them with having violated said Acts and the Rules and Regulations promulgated under the Fur Products Labeling Act. Said respondents failed to file answer to said complaint, but appeared by counsel at the hearing held, pursuant to notice, on June 28, 1955, at New York, New York. After the opening of said hearing, but before the taking of testimony, counsel advised the undersigned hearing examiner that agreement had been reached on a consent settlement of this proceeding, and the hearing was accordingly adjourned without date. Thereafter there was submitted to the hearing examiner, in

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accordance with Section 3.25 of the Commission's Rules of Practice, an agreement for consent order dated June 29, 1955, signed by counsel supporting the complaint and by all respondents, and approved by the Director of the Commission's Bureau of Litigation.

Respondents, pursuant to the aforesaid agreement, 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 agreement further provides 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 agreement for consent order 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. It has been further agreed that the complaint herein may be used in construing the terms of the order provided for in said agreement, and that the signing of said 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.

This proceeding having now come on for final consideration by the undersigned hearing examiner, heretofore duly designated to act herein, upon the complaint and the aforesaid agreement for consent order, and it appearing that said agreement provides for an appropriate disposition of this proceeding, the same is hereby accepted and is ordered filed upon becoming part of the Commission's decision in accordance with Sections 3.21 and 3.25 of the Rules of Practice, and the hearing examiner makes the following jurisdictional findings and order:

1. Respondents Denning-Golden Furs, Inc., and Denning, Inc., are now and have been at all times mentioned herein corporations organized under and existing by virtue of the laws of the State of New York, with their office and principal places of business located at 124 W. 30th Street, New York, New York. Individual respondent Irving Golden is president of said corporate respondents. Individual respondent Bernard Golden is manager of said corporate respondents. Said individual respondents have the same office and principal place of business as said corporate respondents and have as their place of residence 7281 - 113th Street, Forest Hills, New York. Said individual respondents have, from time to time, also traded as Golden's in the city of Bridgeport, Connecticut; as Lizabeth Furs in the city of Pough-

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keepsie, New York, and by various other trade names in other cities and States of the United States.

2. The Federal Trade Commission has jurisdiction of the subject matter of this proceeding and of the respondents named in paragraph 1 above. 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.

ORDER

It is ordered, That respondents Denning-Golden Furs, Inc., a corporation, and its officers; Denning, Inc., a corporation, and its officers; Irving Golden, individually and as an officer of said corporations; and Bernard Golden, individually; and respondents' representatives, agents and employees, directly or through any corporate or other device, in connection with the introduction, or the sale, advertising or offering for sale, or the transportation or distribution of any fur product in commerce; or in connection with the sale, advertising, offering 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. Falsely or deceptively invoicing fur products by:

1. Failing to furnish invoices showing:

(a) The name or names of the animal 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 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 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.

2. Using on invoices the name or names of any animal or animals other than the name or names provided for in Paragraph A (1) (a) above, or setting forth thereon any form of misrepresentation or deception, directly or by implication, with respect to such fur products.

3. Setting forth required information in abbreviated form.

4. Failing to show the item number or mark of fur products on the invoices pertaining to such products, as required by Rule 40 of the Rules and Regulations.

B. 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) That fur products are composed, in whole or in substantial part, of paws, tails, bellies or waste fur when such is the fact;

(d) The name of the country of origin of 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 B (1) (a) above.

3. Sets forth required information in abbreviated form.

4. Represents that any of such fur products are from the stock of a business in a state of liquidation, contrary to the fact.

5. Represents that a sales 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.

6. Represents that an amount set forth, relating or referring to fur products, is the value of the usual price at which said fur products had been customarily sold by respondents in the recent regular course of their business, contrary to the fact.

7. Makes pricing claims or representations of the type referred to in Paragraph B (5) and (6) 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.

It is further ordered, That Denning-Golden Furs, Inc., a corporation, and its officers; Denning, Inc., a corporation, and its officers; Irving Golden, individually, and as officer of said corporations; and Bernard Golden, individually; and respondents' representatives, agents and employees, directly or through any corporate or other

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device, in connection with the offering for sale, sale and distribution of fur garments 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 B (4) through (6), inclusive, of this order.

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 10th day of November, 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

EDWARD ROSEMAN ET AL. TRADING AS ROSEMAN
ENTERPRISES COMPANY, ETC.CONSENT ORDER, ETC., IN REGARD TO THE ALLEGED VIOLATION OF THE
FEDERAL TRADE COMMISSION ACT*Docket 6358. Complaint, June 6, 1955—Decision, Nov. 10, 1955*

Consent order requiring sellers in New York City to cease advertising falsely that the "Dunhall" and "Pennant" watches which they sold to jobbers and dealers for resale had "Jeweled Movement" and were "Guaranteed For One Year."

Before *Mr. James A. Purcell*, hearing examiner.

Mr. Frederick McManus for the Commission.

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 Edward Roseman, Arthur Roseman and Herman Roseman, as individuals and copartners trading as Roseman Enterprises Company, Dunhall Imports Company, Sorjine Continental Watch Company and Brooks Products Company, 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 in that respect as follows:

PARAGRAPH 1. Respondents Edward Roseman, Arthur Roseman and Herman Roseman are individuals and copartners trading as Roseman Enterprises Company, Dunhall Imports Company, Sorjine Continental Watch Company and Brooks Products Company, with their office and principal place of business located at 92 Liberty Street, New York 6, New York.

Respondents are now, and for more than two years last past have been, engaged in the sale and distribution of watches. Said watches, under the brand names of "Dunhall" and "Pennant," are sold and distributed to jobbers and dealers for resale to the purchasing public.

PAR. 2. In the course and conduct of their business, respondents now cause, and for more than two years last past have caused, their watches, when sold, to be transported from their place of business in the State of New York to jobbers and dealers, for resale to the gen-