

Complaint

IN THE MATTER OF
WEINSTEIN FUR COMPANY ET AL.CONSENT ORDER, ETC., IN REGARD TO THE ALLEGED VIOLATION OF THE
FEDERAL TRADE COMMISSION AND THE FUR PRODUCTS LABELING ACTS*Docket 6415. Complaint, Sept. 20, 1955—Decision, Dec. 8, 1955*

Consent order requiring a furrier in Union City, N. J., to cease violating the Fur Products Labeling Act by advertising in newspapers which failed to disclose the names of animals producing certain furs, the country of origin of imported furs, and the fact that fur products were composed of bleached, dyed, or otherwise artificially colored fur; and which misrepresented geographical origin of furs, prices, and value of fur products, and products as being from the stock of a liquidating business, among other things.

Before *Mr. Frank Hier*, 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 Weinstein Fur Company, a corporation, and Stanley W. Weinstein, individually and as Secretary and Manager 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 Weinstein Fur Company is a corporation organized under the laws of the State of New Jersey, with its office and principal place of business located at 4522 Bergenline Avenue, Union City, New Jersey. Individual respondent Stanley W. Weinstein is Secretary and Manager of said corporate respondent and formulates, directs and controls the acts and practices of said corporate respondent. Said individual respondent has the same office and principal place of business as corporate respondent.

PAR. 2. Subsequent to the effective date of the Fur Products Labeling Act on August 9, 1952, the respondents 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

Complaint

52 F. T. C.

received in commerce, as "commerce," "fur" and "fur product" 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 of certain advertisements concerning said products by means of newspapers, 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 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 various issues of the "Jersey Journal," the "Palisadian," and the "Hudson Dispatch"; publications having a wide circulation in the State of New Jersey.

PAR. 5. Certain of the aforesaid 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) 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 the aforesaid advertisements were in violation of the Fur Products Labeling Act and of the Rules and Regulations promulgated thereunder in that they falsely and deceptively:

(d) Set forth certain of the required information in abbreviated form, in violation of Rule 4 of the said Rules and Regulations.

(e) Used words or terms connoting a false geographical origin of furs contained in fur products, in violation of Rule 7 of the said Rules and Regulations.

(f) Misrepresented prices of fur products as having been reduced from regular or usual prices, where the 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 said Rules and Regulations.

(g) 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 said Rules and Regulations.

(h) Misrepresented the aggregate value of the fur products being offered for sale by respondents, in violation of Rules 44 (C) and 49 of the said Rules and Regulations.

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

PAR. 6. Respondents, in making the claims and representations as to value referred to in subparagraphs (f) through (h) inclusive of Paragraph 5 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. 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. The aforesaid acts and practices of respondents, as herein alleged, 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 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 September 20, 1955, issued and subsequently served its complaint in this proceeding against respondents Weinstein Fur Company, a New Jersey corporation with its office and principal place of business located at 4522 Bergenline Avenue, Union City, New Jersey, and Stanley W. Weinstein, individually and as Secretary and Manager of said corporation, whose office and principal place of business is the same as that of said corporate respondent and who formulates, directs and controls the acts and practices of the corporate respondent.

On October 24, 1955, there was submitted to the undersigned hearing examiner an agreement between respondents and counsel supporting the complaint providing for the entry of a consent order. By the terms of said agreement, respondents admit all the jurisdictional facts alleged in the complaint and agree that the record may be

Order

52 F. T. C.

taken as if findings of jurisdictional facts had been duly made in accordance with such allegations; waive any further procedural steps before the hearing examiner and the Commission; waive the making of findings of fact or conclusions of law; and waive all of the rights they may have to challenge or contest the validity of the order to cease and desist entered in accordance with this agreement. Such agreement further provides that it disposes of all of this proceeding as to all parties; that the record on which the initial decision and the decision of the Commission shall be based shall consist solely of the complaint and this agreement; that the latter shall not become a 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; and that the following order to cease and desist may be entered in this proceeding by the Commission without further notice to respondents and when so entered it shall have the same force and effect as if entered after a full hearing and may be altered, modified or set aside in the manner provided for other orders; and that the complaint may be used in construing the terms of the order.

The hearing examiner having considered the agreement and proposed order and being of the opinion that they provide an appropriate basis for settlement and disposition of this proceeding, the agreement is hereby accepted, the following jurisdictional findings made, and the following order issued:

1. Respondent Weinstein Fur Company is a corporation organized, existing and doing business under the laws of New Jersey, with its office and principal place of business located at 4522 Bergenline Avenue, Union City, New Jersey. Respondent Stanley W. Weinstein is Secretary and Manager of said corporation with his office and principal place of business located at the same address.

2. The Federal Trade Commission has jurisdiction of the subject matter of this proceeding and of the respondents, and the proceeding is in the public interest.

ORDER

It is ordered, That respondents, Weinstein Fur Company, a corporation, and Stanley W. Weinstein, 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 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:

(1) Misbranding fur products by 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 products, 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 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, 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;

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

(2) Falsely or deceptively advertising fur products through the use of any advertisements, 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:

(a) 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;

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

(c) Fails to disclose the name of the country of origin of imported furs contained in fur products;

(d) Sets forth required information in abbreviated form;

(e) Uses words or terms connoting a false geographical origin of furs contained in fur products;

(f) Represents, directly or by implication:

(1) That the regular or usual price of any fur product is any amount which is in excess of the price at which such product had been offered for sale in good faith or sold by respondents in the recent regular course of their business.

(2) That a sale price enables purchasers of fur products to effectuate any savings in excess of the difference between the said price

Decision

52 F. T. C.

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;

(3) That the aggregate value of fur products offered for sale is greater than is the fact;

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

(3) Makes the pricing claims or representations referred to in Paragraph (f), (1), (2) and (3), inclusive, above, unless there are 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.

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 8th day of December, 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.

Complaint

IN THE MATTER OF

D. STACK HUBBARD TRADING AS HALL-MARK STUDIOS

CONSENT ORDER, ETC., IN REGARD TO THE ALLEGED VIOLATION
OF THE FEDERAL TRADE COMMISSION ACT*Docket 6395. Complaint, Aug. 23, 1955—Decision, Dec. 21, 1955*

Consent order requiring a photographer in New York City to cease advertising on post cards a sham "Cutest Child Contest," with prizes, free portraits, etc., sponsored by "Mother and Child Magazine," in order to sell photographs to the children's parents.

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

Mr. William R. Tincher for the Commission.

Mr. Charles Gold, of New York City, 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 D. Stack Hubbard, an individual trading as Hall-Mark Studios, 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 D. Stack Hubbard, is an individual trading as Hall-Mark Studios. Respondent is now, and for more than one year last past has been, engaged in the promotion, sale and distribution of photographs. Respondent's office and principal place of business is located at 1947 Broadway, New York, New York. Said photographs are sold directly to purchasers by the respondent and by his agents in various States of the United States.

PAR. 2. In the course and conduct of his business, respondent causes and has caused said photographs, when sold, to be transported from his place of business in the State of New York to purchasers thereof located in various other States of the United States. Respondent maintains, and at all times mentioned herein has maintained, a substantial course of trade in commerce in said photographs.

PAR. 3. Respondent at all times mentioned herein has been in substantial competition, in commerce, with other persons and with corporations, firms and partnerships engaged in the sale of photographs.