

Complaint

52 F. T. C.

IN THE MATTER OF

DAVID BECKER ET AL. TRADING AS
BECKER & BURNS FURRIERSCONSENT ORDER, ETC., IN REGARD TO THE ALLEGED VIOLATIONS OF THE
FEDERAL TRADE COMMISSION AND THE FUR PRODUCTS LABELING ACTS*Docket 6483. Complaint, Jan. 10, 1956—Decision, May 9, 1956*

Consent order requiring furriers in Philadelphia, Pa., to cease violating the Fur Products Labeling Act by advertisements in circulars, handbills, etc., which failed to disclose the names of animals producing the furs in certain products; misrepresented prices as wholesale and less and reduced from purported regular prices which were in fact fictitious, and misrepresented savings possible to purchasers.

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

Mr. Floyd O. Collins for the Commission.

Fox, Rothschild, O'Brien & Frankel, of Philadelphia, Pa., 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 David Becker and Abraham Burns, individually and as copartners trading and doing business as Becker & Burns Furriers, 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 David Becker and Abraham Burns are individuals and copartners trading and doing business under the firm name of Becker & Burns Furriers, with their office and principal place of business located at 1211 Chestnut Street, Philadelphia, Pennsylvania. 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, 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, adver-

tised, 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 products were falsely and deceptively advertised in violation of the Fur Products Labeling Act in that the respondents caused the dissemination in commerce, as "commerce" is defined in said Act, of certain advertisements concerning said fur products by means of circulars, handbills, letters, 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 Rules and Regulations promulgated thereunder and which advertisements were intended to and did aid, promote and assist in the sale and offering for sale of said fur products.

PAR. 4. Among and included in the advertisements as aforesaid, but not limited thereto, were handbills, circulars and letters which the respondents caused to be disseminated through the United States mails to a substantial number of the general public.

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 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) Misrepresented the prices of fur products as wholesale and less than wholesale costs, in violation of Rule 44 (a) of the said Rules and Regulations.

(c) Misrepresented prices of fur products as having been reduced from regular or usual prices, when such regular or usual prices were in fact fictitious, in that they were not the prices at which said fur products were usually sold by respondents in the recent regular course of their business, in violation of Rule 44 (a) of said Rules and Regulations.

(d) Misrepresented, by means of comparative prices not based on current market values and not giving the time of such compared prices, the amount of savings to be effectuated by purchasers of said fur products, in violation of Rule 44 (b) of said Rules and Regulations.

PAR. 5. Respondents, in making the pricing claims and representations set forth in subparagraphs (b), (c) and (d) of Paragraph Four hereof, failed to maintain full and adequate records disclosing the facts upon which such claims and representations were purportedly

Decision

52 F. T. C.

based, in violation of Rule 44 (e) of the said Rules and Regulations.

PAR. 6. Certain of said products were misbranded in that they were falsely and deceptively labeled or otherwise falsely and deceptively identified with respect to the name or names of the animal or animals that produced the fur from which said fur products had been manufactured, in violation of Section 4 (1) of the Fur Products Labeling Act.

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 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 promulgated thereunder.

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 said Rules and Regulations.

PAR. 10. The aforesaid acts and practices of respondents were in violation of the Fur Products Labeling Act and of the Rules and Regulations promulgated thereunder, and as such constitute unfair and deceptive acts and practices in commerce under the Federal Trade Commission Act.

INITIAL DECISION BY EARL J. KOLB, HEARING EXAMINER

The complaint in this proceeding issued January 10, 1956, charged the respondents David Becker and Abraham Burns (also known as Al Burns), individually and as copartners trading as Becker & Burns Furriers, located at 1211 Chestnut Street, Philadelphia, Pennsylvania, with the use of unfair and deceptive acts and practices in interstate commerce in violation of the provisions of the Federal Trade Commission Act and the Fur Products Labeling Act and the rules and regulations promulgated thereunder.

After the issuance of said complaint and before the filing of their answer thereto, the respondents David Becker and Abraham Burns (also known as Al Burns), individually and as copartners trading as Becker & Burns Furriers, entered into an agreement for consent order with counsel in support of the complaint disposing of all the issues in this proceeding, which agreement was duly approved by the

1272

Order

Director and Assistant Director of the Bureau of Litigation. It was expressly provided in said agreement that the signing thereof is for settlement purposes only and does not constitute an admission by respondents that they have violated the law as alleged in the complaint.

By the terms of said agreement, the said respondents admitted all the jurisdictional facts alleged in 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.

By said agreement the parties expressly waived any further procedural steps before the hearing examiner and the Commission; the making of findings of fact or conclusions of law; and all the rights they may have to challenge or contest the validity of the order to cease and desist entered in accordance with the agreement.

Respondents further agreed that the order to cease and desist, issued in accordance with said agreement, shall have the same force and effect as if made after a full hearing.

It was further provided that said agreement, together with the complaint, shall constitute the entire record herein, that the complaint herein may be used in construing the terms of the order issued pursuant to said agreement, and that said order may be altered, modified or set aside in the manner prescribed by the statute for orders of the Commission.

The hearing examiner has considered such agreement and the order therein contained, and, it appearing that said agreement and order 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, in consonance with the terms of said agreement, the hearing examiner finds that the Federal Trade Commission has jurisdiction of the subject matter of this proceeding and of the respondents named herein, and that this proceeding is in the interest of the public, and issues the following order:

ORDER

It is ordered, That respondents David Becker and Abraham Burns (also known as Al Burns), individually and as copartners trading as Becker & Burns Furriers, 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 into commerce, or the sale, advertising, or offering for sale in commerce, or the transportation or distribution in commerce, of any fur products, or in connection with the sale, advertising, offering for sale, transportation, or distribution of any fur product which is

Order

52 F. T. C.

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. Falsely or deceptively labeling or otherwise identifying any such product as to the name or names of the animal or animals that produced the fur from which such garment was manufactured.

2. Failing to affix labels to fur products showing:

(a) The name or names of the animal or animals producing 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 furs when such is a fact.

(c) That the fur product contains or is composed of bleached, dyed, or 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.

3. 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 (2) (a) above.

4. Setting forth on labels attached to fur products non-required information mingled with required information.

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 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 by the Rules and Regulations.

2. Represents directly or by implication:

(a) That the prices at which said fur products are being offered for sale are as low or less than wholesale cost, when such is not a fact;

(b) 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

1272

Decision

usually and customarily sold such products in the recent regular course of their business;

(c) That comparative prices are other than current market values, unless the time of such compared price is given, as provided in Rule 44 (b) of the Rules and Regulations.

3. Makes pricing claims or representations of the type referred to in paragraph B (2) 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 Section 3.21 of the Commission's Rules of Practice, the initial decision of the hearing examiner shall, on the 9th day of May, 1956, become the decision of the Commission; and, accordingly:

It is ordered, That respondents David Becker and Abraham Burns (also known as Al Burns) individually and as copartners 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

52 F. T. C.

IN THE MATTER OF

UNION BAG & PAPER CORPORATION ET AL.

CONSENT ORDER, ETC., IN REGARD TO THE ALLEGED VIOLATION OF THE
FEDERAL TRADE COMMISSION ACT AND OF SECS. 7 AND 8 OF THE
CLAYTON ACT

Docket 6391. Complaint, June 30, 1955—Decision, May 10, 1956

Consent order requiring two manufacturers of corrugated boxes and sheets—one manufacturing container board in excess of its own requirements and the other mainly a converter and dependent on a limited number of manufacturers for its supply, with sales in 1954 of \$105,000,000 and \$24,000,000, respectively—to cease violating the merger and interlocking directorates sections of the Clayton Act through entering into contracts which provided that the larger, Union, buy a substantial amount of common stock in the smaller, Hankins, and that Hankins' controlling stockholders vote for election to its board of directors of a director of Union; which provided further that Union not acquire stock of any substantial competitor of Hankins having plants in the latter's territory, and that Hankins restrict its production of container board and, with certain exceptions, confine its purchases thereof to Union.

Before *Mr. John Lewis*, hearing examiner.

Mr. Fletcher G. Cohn and *Mr. Paul R. Dixon* for the Commission.

Mr. Walter C. Taylor, Jr. and *Mr. Carney W. Mimms*, of New York City, for Union Bag & Paper Corp.

Mr. Philip E. Hoffman, of New York City, for Hankins Container Co.

COMPLAINT

The Federal Trade Commission, having reason to believe that the corporations named as respondents in the caption hereof, and hereinafter more particularly designated and described, have violated, and are now violating, the provisions of Section 5 of the Federal Trade Commission Act (15 U. S. C. Sec. 45), and the provisions of Section 7 of the Clayton Act (15 U. S. C. Sec. 18) as amended and approved December 29, 1950, and Section 8 of the Clayton Act (15 U. S. C. Sec. 19) as amended, 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:

COUNT I

PARAGRAPH 1. Respondent Union Bag & Paper Corporation, hereinafter referred to as "respondent Union," is a corporation organized