

Complaint

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IN THE MATTER OF
BUCKSPAN'S ET AL.

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

Docket 6514. Complaint, Feb. 17, 1956—Decision, May 30, 1956

Consent order requiring furriers in Dallas, Tex., to cease violating the Fur Products Labeling Act by labeling and invoicing which failed to disclose that certain fur products were composed of flanks, and failed to set forth information as required; and by advertising in newspapers which failed to disclose the names of animals producing the fur, the country of origin, the fact that fur contained in the products was artificially colored, consisted of paws, tails, bellies or waste fur, or of flanks; which abbreviated required information; and which misrepresented prices and values.

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

Mr. William R. Kearney for the Commission.

Passman & Jones, of Dallas, Tex., for respondents.

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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 Buckspan's, a corporation, and H. M. Buckspan, 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, Buckspan's, is a corporation organized, existing and doing business under and by virtue of the laws of the State of Texas. Respondent H. M. Buckspan, an individual, is president of respondent, Buckspan's, and 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 1619 Main Street, Dallas, Texas.

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

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in commerce, as "commerce," "fur," and "fur products" are defined in the Fur Products Labeling Act.

PAR. 3. 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. 4. 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 the following respects:

(a) Failure to disclose that certain fur products were composed in whole or in substantial part of flanks in violation of Rule 20 of the aforesaid Rules and Regulations.

(b) Required information was mingled with nonrequired information on labels, in violation of Rule 29 (a) of the aforesaid Rules and Regulations.

(c) Required information was set forth in handwriting on labels, in violation of Rule 29 (b) of the aforesaid Rules and Regulations.

PAR. 5. 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. 6. 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:

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

(b) Respondents failed to disclose that certain fur products were composed in whole or in substantial part of flanks in violation of Rule 20 of the aforesaid Rules and Regulations.

PAR. 7. 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.

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PAR. 8. Among and including the advertisements as aforesaid, but not limited thereto, were advertisements of respondents which appeared in issues of the "Dallas Morning News," a newspaper published in Dallas, Texas, 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 that fur products were composed in whole or in substantial part of paws, tails, bellies or waste fur when such was the fact and in violation of Section 5 (a) (4) of the Fur Products Labeling Act.

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

(e) Set forth required information in advertisements in abbreviated form in violation of Rule 4 of the aforesaid Rules and Regulations.

(f) Failed to disclose that fur products were composed in whole or in substantial part of flanks when such was the fact in violation of Rule 20 of the aforesaid Rules and Regulations:

(g) 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.

(h) Misrepresented, by means of comparative prices 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.

Respondents, in making the pricing claims and representations referred to in subparagraphs (g) and (h) 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. 9. 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 J. EARL COX, HEARING EXAMINER

The complaint charges that respondents, subsequent to the effective date of the Fur Products Labeling Act on August 9, 1952, have advertised, offered for sale, sold, 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," some of which were misbranded in violation of the Federal Trade Commission Act, and of the Fur Products Labeling Act and the Rules and Regulations promulgated thereunder. Respondents filed an answer thereto which, in general, denied the allegations of the complaint, but thereafter, on April 2, 1956, they and their counsel entered into an agreement with counsel supporting the complaint, in which they consented to the issuance of an order to cease and desist. This agreement was approved by the Director and Assistant Director, Bureau of Litigation of the Commission, and thereafter transmitted to the Hearing Examiner for consideration.

The agreement identifies respondent Buckspan's as a corporation existing and doing business under and by virtue of the laws of the State of Texas, with its office and principal place of business located at 1619 Main Street, Dallas, Texas, and sets forth that individual respondent H. M. Buckspan is president of said corporate respondent and has the same address.

The agreement provides, among other things, that 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 duly made in accordance with such allegations; that respondents' answer to the complaint shall be considered as having been withdrawn, and 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 agreement shall not become a part of the official record unless and until it becomes a part of the decision of the Commission; that the complaint may be used in construing the terms of the order agreed upon, which may be altered, modified, or set aside in the manner provided for other orders; that the agreement is for settlement purposes only and does not constitute an admission by respondents that they have violated the law as

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alleged in the complaint; and that the order set forth in the agreement and hereinafter included in this decision shall have the same force and effect as if entered after a full hearing.

Respondents waive further procedural steps before the Hearing Examiner and the Commission, the making of findings of fact or conclusions of law, and all of the rights they may have to challenge or contest the validity of the order to cease and desist entered in accordance with the agreement.

The order agreed upon fully covers all the issues raised in the complaint, and adequately prohibits the acts and practices charged therein as being in violation of the Federal Trade Commission Act and of the Fur Products Labeling Act and the Rules and Regulations promulgated thereunder. Accordingly, the Hearing Examiner finds this proceeding to be in the public interest and accepts the Agreement Containing Consent Order To Cease And Desist as part of the record upon which this decision is based. Therefore,

It is ordered, That respondents, Buckspan's, a corporation, and its officers, and H. M. Buckspan, 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, offering 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:

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 used fur 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 com-

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merce, sold it in commerce, advertised or offered it 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. Setting forth on labels attached to fur products:

(a) Nonrequired information mingled with required information;

(b) Required information in handwriting;

3. Failing to show on labels attached to fur products that the fur products are composed in whole or substantial parts of flanks when such is the fact;

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 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 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 invoice;

(f) The name of the country of origin of any imported fur contained in a fur product;

2. Setting forth required information in abbreviated form;

3. Failing to set forth on invoices pertaining to fur products that the fur products are composed in whole or in substantial part of flanks, when such is the fact;

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:

(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 products contain or are composed of bleached, dyed, or otherwise artificially colored fur when such is a fact;

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

(d) The country of origin of imported furs as required by the Fur Products Labeling Act or in the manner and form permitted by

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Rule 38 (b) of the Rules and Regulations promulgated thereunder;

(e) Setting forth required information in abbreviated form;

(f) That fur products are composed in whole or substantial part of flanks, when such is the fact;

2. Represents, directly or by implication, 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;

3. Makes use of comparative prices or percentage savings claims unless such compared prices or claims are based upon current market value of the fur product or upon a bona fide compared price at a designated time;

4. Makes pricing claims or representations of the type referred to in Paragraphs C 2 and C 3 above, unless there is maintained by respondents an adequate record disclosing the facts upon which such claims or representations are based.

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 30th day of May 1956, become the decision of the Commission; and, accordingly:

It is ordered, That respondents Buckspan's, a corporation, and H. M. Buckspan, individually and as an officer of said corporation, 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

FUR & WOOL MILLS, INC., ET AL.

CONSENT ORDER, ETC., IN REGARD TO THE ALLEGED VIOLATION OF
THE FEDERAL TRADE COMMISSION ACT*Docket 6505. Complaint, Feb. 13, 1956—Decision, May 31, 1956*

Consent order requiring three corporations occupying the same premises at Danbury, Conn., and closely related by stock ownership, common officers, and business relationships, to cease violating the Federal Trade Commission Act through invoicing fur fibers to mills and other purchasers as "Natural Guanaco," "Guanaco Fur Blend," "Mink Fur Blend," and "Beaver Fur Blend," when the predominant fiber in the product so described was not "guanaco," "mink," or "beaver," respectively.

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

Mr. Frederick McManus for the Commission.

Mr. Jacob Landau, of New York City, 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 Fur & Wool Mills, Inc., a corporation, Platt Wool Corporation, a corporation, Richard Becker and William Mond, individually and as officers of said corporations, S. Rosenfelder & Son, Inc., a corporation, and William Mond, individually and as an officer 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 in that respect as follows:

PARAGRAPH 1. Respondent Fur & Wool Mills, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of Delaware, with its office and principal place of business on Chestnut Street in the City of Danbury, State of Connecticut. Individual respondents Richard Becker and William Mond are now and were, at all times hereinafter mentioned, officers of this corporate respondent. These individuals formulate, direct and control the policies, acts and practices of said corporate respondent and have their office and principal place of business at the same place as the corporate respondent.

PAR. 2. Respondent Platt Wool Corporation is a corporation organized, existing and doing business under and by virtue of the laws of the State of New York, with its office and principal place of business on Chestnut Street in the City of Danbury, State of Connecticut.