

IN THE MATTER OF
GOULD'S, INC., ET AL.

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

Docket 6481. Complaint, Jan. 10, 1956—Decision, July 14, 1956

Consent order requiring a Minneapolis furrier to cease violating the Fur Products Labeling Act by failing to disclose in advertisements in newspapers the true names of animals producing the fur and that certain fur products contained or were composed of artificially colored fur; by failing to maintain adequate records disclosing the facts on which comparative and percentage price claims were made; and by failing to comply with labeling and invoicing requirements.

Mr. William A. Somers for the Commission.

Mr. Robert A. Levitt, of Minneapolis, Minn., for respondents.

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 in commerce, and 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, certain of which fur products were misrepresented and 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 May 12, 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 Gould's, Inc., as a corporation existing and doing business under and by virtue of the laws of the State of South Dakota, and respondents William L. Gould, Freda M. Gould and Clyde M. Gould, respectively, as President, Treasurer, and Secretary thereof, with their office and principal

place of business located at 829 Nicollet Avenue, Minneapolis, Minnesota.

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 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 disposes of 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 Gould's, Inc., a corporation, and its officers, and William L. Gould, Freda M. Gould and Clyde M. Gould, individually and as officers of said corporation, and their agents, representatives and employees, directly or through any corporate or other device, in connection with the introduction, or the sale, advertisement, offer for sale, transportation or distribution of fur products 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

products" are defined in the Fur Products Labeling Act, do forthwith cease and desist from:

A. 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 fur products as set forth in the Fur Products Name Guide 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. Contains the name or names of any animal or animals other than the name or names specified in Paragraph A(1) above;

4. Makes comparative or percentage pricing claims, 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;

B. 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 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. 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 B(1)(a) above;

3. Setting forth on labels attached to fur products:

- (a) Required information in abbreviated form;

- (b) Non-required information mingled with required information;
- (c) Required information in handwriting;
- (d) The term "blended" as a part of the required information to describe the pointing, bleaching, dyeing or tip-dyeing of furs, in violation of Rule 19(e) of the Rules and Regulations;

C. 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 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 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. Setting forth, on invoices pertaining to fur products, required information in abbreviated form;

3. Using the term "blended" on invoices as a part of the required information to describe the pointing, bleaching, dyeing or tip-dyeing of furs, in violation of Rule 19(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 14th day of July, 1956, become the decision of the Commission; and, accordingly:

It is ordered, That respondents Gould's, Inc., a corporation, and William L. Gould, Freda M. Gould and Clyde M. Gould, individually and as officers 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.

IN THE MATTER OF
FARM JOURNAL, INC.

ORDER, ETC., IN REGARD TO THE ALLEGED VIOLATION OF SEC. 7
OF THE CLAYTON ACT

Docket 6388. Complaint, June 30, 1955—Decision, July 17, 1956

Order requiring the publisher of the country's largest agricultural magazine, which had acquired the assets of its leading rival, the oldest and second largest magazine in the field, to divest itself of the right to use the names and lists of subscribers and advertisers of the acquired magazines.

Mr. John T. Walker, Mr. Raymond L. Hays and Mr. Philip R. Melancton, Jr., for the Commission.

Moffett, Frye & Leopold and Mr. George M. Brodhead, of Philadelphia, Pa., for respondent.

INITIAL DECISION BY FRANK HIER, HEARING EXAMINER

Complaint herein issued June 30, 1955, charging respondent with violation of section 7 of the Clayton Act (15 U.S.C. 18) as amended December 29, 1950, in that it acquired a substantially competitive farm publication, the Country Gentleman—Better Farming, thereby substantially lessening actual and potential competition or tending toward a monopoly in any line of commerce in which both were engaged. The answer of respondent admitted most of the descriptive, statistical, and acquisitional facts pleaded, and denied the conclusions of competitive effect and lines of commerce as asserted in the complaint. Pretrial conferences were held October 25 and 26, 1955, and thereafter 20 hearings for evidence reception began on October 31, 1955, and ended February 2, 1956, resulting in 2,260 pages of transcript, 400 exhibits offered by counsel in support of the complaint, and 276 by respondent. The reception of evidence was closed February 2, 1956, and thereafter proposed findings of fact and conclusions, and brief in support thereof, were submitted by counsel in support of the complaint on March 16, 1956. The same in opposition thereto were filed by respondent's counsel on April 27, 1956. Reply brief of counsel for complaint was filed May 23, 1956. Upon consideration thereof, and the entire record herein, the hearing examiner makes the following:

FINDINGS OF FACT

1. Respondent Farm Journal, Inc., is a corporation under the laws of the State of Pennsylvania with its principal office located at 230 West Washington Square, Philadelphia 5, Pennsylvania. It