

Decision

IN THE MATTER OF
N. L. KAPLAN, INC., ET AL.

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

Docket 6530. Complaint, Mar. 21, 1956—Decision, Aug. 2, 1956

Consent order requiring furriers in Buffalo, N.Y., to cease violating the Fur Products Labeling Act through failing to comply with the labeling requirements; invoicing products falsely; and by advertising which failed to show the names of animals which produced certain fur and represented prices as reduced and the products as of greater value than the sale price without maintaining adequate records as basis for such claims.

Mr. Terral A. Jordan for the Commission.

Saperston, McNaughtan & Saperston, of Buffalo, N.Y., for respondents.

INITIAL DECISION BY JOHN LEWIS, HEARING EXAMINER

The Federal Trade Commission issued its complaint against the above-named respondents on March 21, 1956, charging them with having violated the Fur Products Labeling Act and the rules and regulations issued thereunder, and the Federal Trade Commission Act. After being served with said complaint, respondents appeared by counsel and entered into an agreement, dated May 16, 1956, containing a consent order to cease and desist, purporting to dispose of all of this proceeding as to all parties without hearing. Said agreement for consent order, which has been signed by counsel supporting the complaint, by counsel for respondents and by all respondents except Nathan L. Kaplan, and approved by the Director and Assistant Director of the Bureau of Litigation, has been submitted to the above-named hearing examiner for his consideration, in accordance with Section 3.25 of the Commission's Rules of Practice and Procedure.

The agreement for consent order recites that the individual respondent Nathan L. Kaplan is now deceased and is not included in the term "respondents" as used in said agreement. Submitted with said agreement is a photostatic copy of certificate of death of the New York State Department of Health, attesting to the decease of said individual. Respondents, pursuant to the aforesaid agreement, have admitted all the jurisdictional allegations of the complaint and agreed that the record may be taken as if findings of jurisdictional facts had been duly made in accordance with such

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allegations. Said agreement further provides that respondents waive 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 such agreement. It has been agreed that said order may be entered without further notice, that when so entered it shall have the same force and effect as if entered after a full hearing, and that the complaint may be used in construing the terms of said order. It has also been agreed that the record herein shall consist solely of the complaint and said agreement, and that 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 on the complaint and the aforesaid agreement containing consent order, and it appearing that the order provided for in said agreement covers all the allegations of the complaint and provides for an appropriate disposition of this proceeding as to all parties, the said agreement is hereby accepted and is ordered filed upon becoming part of the Commission's decision pursuant to Sections 3.21 and 3.25 of the Rules of Practice and Procedure, and the hearing examiner, accordingly, makes the following jurisdictional findings and order:

1. Respondent N. L. Kaplan, Inc., is a corporation 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 located at Room 528, Brisbane Building, 403 Main Street, Buffalo, New York. Respondent Ann R. Kaplan is an individual and is vice president of the corporate respondent. Her address is the same as that of the said corporate respondent. The individual respondent Nathan L. Kaplan is now deceased and is not included in the term "respondents" as used herein.

2. The Federal Trade Commission has jurisdiction of the subject matter of this proceeding and of the respondents hereinabove named. The complaint states a cause of action against said respondents under the Fur Products Labeling Act and the Federal Trade Commission Act, and this proceeding is in the interest of the public.

ORDER

It is ordered, That respondents N. L. Kaplan, Inc., a corporation, and its officers, and Ann R. Kaplan, individually and as an officer

of said corporation, and respondents' agents, representatives and employees, directly or through any corporate or other device in connection with the sale, advertising, or offering for sale in commerce, or the transportation or distribution in commerce, of any fur product, or in connection with the sale, advertising, offering for sale, transportation or distribution of any fur product which is made in whole or in part of fur which has been shipped or 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 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 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) Required information in abbreviated form or in handwriting;

(b) Non-required information mingled with required information.

3. Failing to set forth on labels attached to fur products an item number or mark assigned to such products.

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 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 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.

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 fails to show the name or names of the 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.

D. Making price claims or representations in advertisements respecting the wholesale prices, manufacturers' cost, reduced prices, comparative prices, percentage savings, value or quality of fur or fur products, unless there is maintained by respondents an adequate record disclosing the facts upon which such claims or representations are based.

It is further ordered, That the complaint be, and it hereby is dismissed as to respondent Nathan L. Kaplan.

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 2nd day of August, 1956, become the decision of the Commission; and, accordingly:

It is ordered, That the respondent N. L. Kaplan, Inc., a corporation, and its officers, and Ann R. Kaplan, 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.

Commissioner Anderson not participating.

Decision

IN THE MATTER OF

WILLIAM D. COPE DOING BUSINESS AS
THE BUSINESS OPPORTUNITIES COMPANYORDER, ETC., IN REGARD TO THE ALLEGED VIOLATION OF THE
FEDERAL TRADE COMMISSION ACT*Docket 6553. Complaint, May 14, 1956—Decision, Aug. 4, 1956*

Consent order requiring an individual engaged in Evanston, Ill., in publishing a monthly "Business Brokers Bulletin" listing businesses and properties for sale in various States, and in selling advertising therein, to cease representing his private business falsely as a cooperative or corporation; and representing falsely in his advertising matter, on forms furnished property owners and other printed matter, and by oral statements including long distance telephone calls made to prospects by himself and his agents, that he had in his employ, or under contract or was associated with, 2,000 licensed real estate and business brokers and 5,000 of their subagents in 48 States with whom a non-exclusive open listing of prospects' properties would be made; that purchasers of their properties were immediately available; and that upon payment of money for advertising or traveling expenses, sales would be consummated within a short stipulated period.

Mr. Morton Nesmith for the Commission.

Marks, Marks & Kaplan, of Chicago, Ill., for respondent.

INITIAL DECISION BY FRANK HIER, HEARING EXAMINER

Pursuant to the provisions of the Federal Trade Commission Act, the Federal Trade Commission on May 14, 1956, issued and subsequently served its complaint in this proceeding against respondent William D. Cope, an individual trading and doing business as The Business Opportunities Company, with his office and principal place of business located at 317 Howard Street, Evanston, Illinois.

Before time for filing answer and on June 21, 1956, there was submitted to the undersigned hearing examiner an agreement between respondent and counsel supporting the complaint providing for the entry of a consent order. By the terms of said agreement, respondent admits all the jurisdictional facts alleged in the complaint; agrees that the record may be taken as if findings of jurisdictional facts had been duly made in accordance with such allegations; waives any further procedural steps before the hearing examiner and the Commission; waives the making of findings of fact and conclusions of law; and waives all of the rights it 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