

IN THE MATTER OF
EVANS FUR COMPANY ET AL.

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

Docket 6439. Complaint, Nov. 8, 1955—Decision, Sept. 8, 1956

Consent order requiring two Chicago furriers to cease violating the Fur Products Labeling Act by labeling fur products falsely, failing to label them with the information required by the Act, invoicing them deceptively, and advertising them falsely in newspapers and radio and TV.

Mr. William A. Somers for the Commission.

Thompson, Raymond, Mayer, Jenner & Bloomstein, of Chicago, Ill., for respondents.

INITIAL DECISION BY JOSEPH CALLAWAY, HEARING EXAMINER

The Federal Trade Commission issued its complaint against the above-named respondents on November 8, 1955, charging them with violation of the Federal Trade Commission Act, and the Fur Products Labeling Act and the Rules and Regulations promulgated under the last mentioned Act as set forth in said complaint. After the issuance of the complaint and the filing of their answer thereto, respondents Evans Fur Company a corporation, Evans Apparel Company a corporation and Abraham L. Meltzer and Herman H. Meltzer individually and as officers of said corporate respondents on June 21, 1956, entered into an agreement for a consent order to cease and desist from the practices complained of, which agreement disposes of all of the issues in this proceeding as to said respondents without hearing. The agreement has been duly approved by the Director of the Bureau of Litigation and has been submitted to the undersigned, heretofore designated to act as hearing examiner herein, for his consideration in accordance with Rule 3.25 of the Rules of Practice of the Commission. In addition, counsel supporting the complaint has moved to dismiss as to the respondent Minerva M. Meltzer, individually and as an officer of both corporate respondents. The motion to dismiss sets forth that said respondent through her attorney states that she has had nothing to do with the formulation, direction or control of the policies, practices or acts of either of the corporate respondents, individually or officially, and counsel supporting the complaint admits in the motion that there is no available evidence to the contrary. Said motion was duly

served on respondents and the time for answering has expired without answer being filed. Upon consideration the motion is granted.

Respondents Evans Fur Company, a corporation, Evans Apparel Company, a corporation and Abraham L. Meltzer and Herman H. Meltzer, individually and as officers of said corporate respondents, in the aforesaid agreement have admitted all of the jurisdictional allegations of the complaint and have agreed that the record may be taken as if findings of jurisdictional facts had been duly made in accordance with such allegations. Said agreement provides further that those respondents waive all further procedural steps before the hearing examiner or the Commission, including the making of findings of fact or conclusions of law and the right to challenge or contest the validity of the order to cease and desist entered in accordance with such agreement. It has also been agreed that the answer of said respondents to the complaint shall be considered as having been withdrawn and that the record herein shall consist solely of the complaint and said 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 said agreement is for settlement purposes only and does not constitute an admission by said respondents that they have violated the law as alleged in the complaint, that said order to cease and desist 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 of the Commission and that the complaint may be used in construing the terms of the order.

This proceeding having now come on for final consideration on the complaint and the aforesaid agreement containing the consent order, and it appearing that the order and the agreement, together with the aforesaid motion to dismiss cover all the allegations of the complaint and provide for appropriate disposition of this proceeding, the order and the agreement are hereby accepted and ordered filed upon becoming part of the Commission's decision pursuant to Sections 3.21 and 3.25 of the Rules of Practice, and the hearing examiner accordingly makes the following findings for jurisdictional purposes and order:

1. Respondents Evans Fur Company, and Evans Apparel Company, are both corporations having their offices and principal place of business at 36 South State Street, Chicago, Illinois. Respondents Abraham L. Meltzer and Herman H. Meltzer are individuals and officers of the corporate respondents who individually and in their corporate capacities formulate and control the policies, acts and practices of both corporate respondents.

Order

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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 Federal Trade Commission Act and under the Fur Products Labeling Act and the Rules and Regulations promulgated thereunder. This proceeding is in the public interest.

ORDER

It is ordered, That respondents Evans Fur Company, a corporation, and Evans Apparel Company, a corporation, and their officers, and Abraham L. Meltzer and Herman H. Meltzer, individually and as officers of said corporations, 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 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 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 product was manufactured.

2. 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 bleached, dyed or otherwise artificially colored fur, when such is a fact;

(c) That the fur product is composed in whole or in substantial part of paws, tails or flanks, when such is a fact;

(d) 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;

(e) 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:
 - (a) Required information in abbreviated form;
 - (b) Non-required information mingled with required information;
 - (c) Required information in handwriting;
 - (d) Required information in a sequence different from that required by Rule 30(a) of the Rules and Regulations.

5. Failure to show on labels attached to fur products: An item number or mark assigned to fur products in violation of Rule 40(a) of the Rules and Regulations.

6. Failure to affix labels in a conspicuous place on fur products in violation of Rule 27 of the Rules and Regulations.

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 bleached, dyed, or artificially colored fur, when such is a fact;

(c) That the fur product is composed in whole or in substantial part of paws, tails or flanks, when such is a fact;

(d) The name and address of the person issuing such invoices;

(e) The name of the country of origin of any imported furs contained in the 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:

1. Fails 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;

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

(c) The name of the country of origin of imported furs contained in fur products or the statement permitted by Rule 38(b) of the Regulations if applicable.

2. Makes use of comparative prices or percentage saving claims unless such compared prices or claims are based upon the current

market value of the fur product or upon a bona fide compared price at a designated time.

3. Represents directly or by implication:

(a) That respondents' regular price of any fur product is any amount which is in excess of the price at which the respondents have regularly or customarily sold or offered for sale in good faith fur products of like grade and quality in the recent regular course of their business;

(b) That fur products are of a certain value or quality unless such representations or claims are true in fact;

(c) That any such product is of a higher grade, quality, or value than is the fact, by means of illustrations or depictions of higher priced or more valuable products than those actually available for sale at the advertised selling price;

(d) That any of such products are:

1. Manufactured by respondents when in truth and in fact said fur products are not so manufactured;

2. Unique or otherwise unavailable to purchasers when in truth and in fact similar fur products of like grade and quality can be purchased from reputable retail outlets;

3. Composed of furs from pedigreed animals when in truth and in fact such claims and representations are untrue and false;

4. That fur products are not being carried over from season to season when in truth and in fact such claims and representations are untrue and false.

It is further ordered, That the complaint as to respondent Minerva M. Meltzer individually and as an officer of respondents Evans Fur Company and Evans Apparel Company, be and hereby is dismissed.

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 8th day of September, 1956, become the decision of the Commission; and, accordingly:

It is ordered, That respondents Evans Fur Company, a corporation, Evans Apparel Company, a corporation, Abraham L. Meltzer, and Herman H. Meltzer, individually and as officers of said corporations, 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.

Commissioners Gwynne and Mason not participating.

Decision

IN THE MATTER OF
JACOB HAUPTMAN TRADING AS
AMERICAN BROADLOOM CARPET COMPANY, ETC.

ORDER, ETC., IN REGARD TO THE ALLEGED VIOLATION OF THE
FEDERAL TRADE COMMISSION ACT

Docket 6271. Complaint, Dec. 22, 1954—Decision, Sept. 10, 1956

Order requiring a Philadelphia retailer of rugs and carpets to cease advertising falsely that certain carpetings had been "Woven to sell" at prices greatly in excess of his usual prices for the merchandise and that such advertised prices provided a substantial saving to purchasers; and representing falsely through use of the words "Mills Outlet" in one of his trade names and otherwise that he had been especially selected by manufacturers to dispose of their rugs and carpets at greatly reduced prices.

Mr. Frederick McManus for the Commission.

Dennis, Rotman, Cohen & Dennis, of Philadelphia, Pa., for respondent.

INITIAL DECISION BY JAMES A. PURCELL, HEARING EXAMINER

PRELIMINARY STATEMENT

The complaint in this matter, which was issued on December 22, 1954, charges the respondent, Jacob Hauptman, an individual trading as American Broadloom Carpet Company, American Floor Covering Company and American Mills Outlet Co., whose principal place of business was stated as No. 211 Chestnut Street, Philadelphia, Pennsylvania (the respondent later moving to, and now occupying premises No. 235 Chestnut Street in said city) with violation of the Federal Trade Commission Act in the sale of floor rugs and carpeting in interstate commerce as "commerce" is defined in the Act.

The specific acts complained of comprised numerous false representations with respect to the prices and alleged value of his merchandise, the savings afforded purchasers thereof and the nature of his business, all appearing in advertisements inserted in newspapers, periodicals and in other advertising media.

Respondent filed answer to the complaint and thereafter testimony and evidence were received in support of the complaint, all of which was duly recorded in the office of the Federal Trade Commission in Washington, D.C.

From time to time during the course of the proceedings delays were granted the respondent upon various grounds, all of which appear of record herein. On May 10, 1955, counsel in support of