

IN THE MATTER OF  
FRED BENIOFF CO., ET AL.

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

*Docket 6587. Complaint, July 9, 1956—Decision, Nov. 7, 1956*

Consent order requiring a San Francisco furrier to cease violating the Fur Products Labeling Act through false and deceptive labeling, invoicing and advertising which, variously, identified furs by names of animals other than those producing them; failed to disclose names of animals producing other furs, or that certain products were composed of artificially colored fur or cheap or waste fur; misrepresented prices as reduced from regular prices which were in fact fictitious; deceptively used claims of comparative and percentage savings, and failed to maintain adequate records as a basis for such claims; and failed in other respects to conform to the requirements of the Act.

*Mr. George E. Steinmetz* for the Commission.

*Jaffa & Sumski* by *Mr. Edmund M. Jaffa*, of San Francisco, Calif., for respondents.

INITIAL DECISION BY EARL J. KOLB, HEARING EXAMINER

The complaint in this proceeding issued July 9, 1956, charged the respondents Fred Benioff Co., a corporation, and Homer Harris, individually and as an officer of said corporation, located at 166 Grant Avenue, San Francisco, California, with 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 the complaint and the filing of their answer thereto, the respondents Fred Benioff Co., a corporation, and Homer Harris, individually and as an officer of said corporation, entered into an agreement containing consent order to cease and desist with counsel in support of the complaint, disposing of all the issues in this proceeding, which agreement was duly approved by the 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 the allegations.

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By said agreement, the answer theretofore filed by respondents was withdrawn and 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 the 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, that this proceeding is in the interest of the public, and issues the following order:

## ORDER

*It is ordered*, That respondent, Fred Benioff Co., a corporation, and its officers, and respondent Homer Harris, 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, in 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. 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.

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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 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.
3. Setting forth on labels attached to fur products:
  - a. Non-required information mingled with required information;
  - 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 invoices;
      - f. The name of the country of origin of any imported furs contained in the fur product.
    2. Failing to set forth on invoices the item number of the fur product.
    3. Setting forth on invoices the name or names of an animal or animals other than the name or names provided for in paragraph B(1)(a).
  - 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 in-

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

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

2. Uses the name or names of any animal or animals other than the name or names set forth in the Name Guide and as permitted by the Rules and Regulations in violation of Section 5(a)(5) of the Act.

3. Represents 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.

D. Making use of comparative prices and percentage savings 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.

E. Making pricing claims or representations referred to in Paragraphs C(3) and D above, unless there is maintained and preserved 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 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 7th day of November, 1956, become the decision of the Commission; and, accordingly:

*It is ordered*, That the respondents 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.

IN THE MATTER OF  
THE BROTHERHOOD OF GOOD SAMARITANS  
TO VICTIMS OF ARTHRITIS

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

*Docket 6092. Complaint, Apr. 14, 1953<sup>1</sup>—Decision, Nov. 17, 1956*

Order requiring Atlantic City, N.J., distributors of untreated alfalfa seed and vitamin tablets composed of alfalfa leaf meal under the designation of "Al-Fal-Fay Seed and Vitamin Health Food" to cease advertising falsely in newspapers, periodicals, etc., that said products constituted an effective treatment for and would cure arthritis; would relieve the pains and discomforts due thereto; and would prevent recurrence of attacks.

*Mr. Michael J. Vitale* for the Commission.

*Lesser, Goding & Nappo* by *Mr. James B. Goding*, of Washington, D.C., for respondents.

INITIAL DECISION BY EARL J. KOLB, HEARING EXAMINER

This proceeding is before the undersigned hearing examiner for final consideration of the complaint, as amended, answer thereto, testimony and other evidence, and proposed findings as to the facts and conclusions presented by counsel. The hearing examiner has given consideration to the proposed findings as to the facts and conclusions submitted by both parties, and all findings of fact and conclusions of law proposed by the parties respectively, not hereinafter specifically found or concluded, are herewith rejected, and the hearing examiner having considered the record herein and being now fully advised in the premises makes the following findings as to the facts and conclusions drawn therefrom and order:

1. Respondent The Brotherhood of Good Samaritans to Victims of Arthritis is a New Jersey corporation located at 2305 Kuehnle Avenue, Atlantic City, New Jersey. Respondent U. G. Robinson located at the same address is an individual and is president of corporate respondent and directs and controls the advertising, sales activities and policies of said corporate respondent with respect to the acts and practices hereinafter set forth.

2. For several years last past the respondents have been engaged in the sale and distribution in interstate commerce of untreated alfalfa seed and vitamin tablets composed of alfalfa leaf meal under the designation of "Al-Fal-Fay Seed and Vitamin Health Food," which are recommended by them for treatment of arthritis.

<sup>1</sup> Amended Apr. 25, 1955.