

Decision

IN THE MATTER OF

DAVID ROTH TRADING AS ROTEX PRODUCTS

ORDER, ETC., IN REGARD TO THE ALLEGED VIOLATION OF THE
FEDERAL TRADE COMMISSION ACT*Docket 6602. Complaint, July 30, 1956—Decision, Dec. 1, 1956*

Consent order requiring an individual engaged in New York City in purchasing fur scrap, the fibers of which he processed and blended with other fibers, and sold to fabric manufacturers, to cease invoicing as "Beaver Fur Products" fibers which contained substantially less than 100% beaver fur, and as "25% Vicuna, 75% Other Fur Fibers," fibers which contained substantially less than 25% vicuna or none at all.

Mr. John T. Walker and *Mr. S. F. House* for the Commission.
Respondent appearing for himself.

INITIAL DECISION BY JOSEPH CALLAWAY, HEARING EXAMINER

The Federal Trade Commission issued its complaint against the above-named respondent on July 30, 1956 charging him with violation of the Federal Trade Commission Act in connection with his business of selling fur fibers. After service of the complaint, respondent by letter dated August 24, 1956, treated as an answer, replied to the charges. Subsequently, on September 26, 1956 respondent entered into an agreement for a consent order to cease and desist from the practices complained of which agreement disposes of all the issues in this proceeding without hearing. The agreement has been duly approved by the Assistant Director and 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. It is noted that the address of respondent as originally written on the typewriter on the first sheet of the agreement has been changed in pen and ink to read "257 W. 30th Street." This corrected address corresponds to the address of respondent under his signature on the last sheet of the agreement. It is also noted that the first sentence of paragraph Numbered 6, at the top of page two of the agreement as originally written on the typewriter is stricken out, presumably by respondent, as his initials are beside it. Such changes have evidently been agreed to by Counsel supporting the Complaint and approved by the Assistant Director and Director of the Bureau of Litigation and hence do not invalidate the agreement.

Respondent in the aforesaid agreement has admitted all the jurisdictional facts alleged in the complaint and has agreed that the record may be taken as if findings of jurisdictional facts had been made in accordance with such allegations. Said agreement provides further that respondent waives 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 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 respondent that he has 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 agreement and the order 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 a 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. Respondent David Roth is an individual trading and doing business as Rotex Products with his office and principal place of business located at 257 W. 30th Street, in the City of New York, State of New York.

2. The Federal Trade Commission has jurisdiction of the subject matter of this proceeding and of the respondent herein. The complaint states a cause of action against respondent under the Federal Trade Commission Act. This proceeding is in the public interest.

ORDER

It is ordered, That respondent David Roth, an individual trading as Rotex Products, or under any other name, and respondent's representatives, agents and employees, directly or through any corporate or other device, in connection with the offering for sale, sale or distribution of fur fiber products, or any other products, in com-

511

Decision

merce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

Misrepresenting the constituent fibers of which his products are composed, or the percentage or amounts thereof, in sales invoices or in any other manner.

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 1st day of December, 1956, become the decision of the Commission; and, accordingly:

It is ordered, That the respondent herein shall within sixty (60) days after service upon him of this order, file with the Commission a report in writing setting forth in detail the manner and form in which he has complied with the order to cease and desist.

Complaint

53 F.T.C.

IN THE MATTER OF

E. A. AARON & BROS., INC., ET AL.

ORDER, ETC., IN REGARD TO THE ALLEGED VIOLATION OF SEC. 2(C)
OF THE CLAYTON ACT

Docket 6606. Complaint, July 31, 1956—Decision, Dec. 5, 1956

Consent order requiring three frozen food concerns—buyer, seller, and broker—to cease engaging in illegal brokerage transactions in violation of sec. 2(c) of the Clayton Act as amended, in the course of which a Chicago wholesaler received through its wholly-owned brokerage firm commissions of from 2¼ to 3%, and on one brand 4¢ per dozen, on purchases for its own account from a packer-seller in New Jersey.

Before *Mr. James A. Purcell*, hearing examiner.

Mr. Cecil G. Miles for the Commission.

Hopkins, Sutter, Owen, Mulray & Wentz, by *Mr. Daniel Walker*, of Chicago, Ill., for E. A. Aaron & Bros., Inc. and Mid-States Frozen Food Marketers, Inc.

Dorsey, Burke & Keber, by *Mr. Peter Keber*, of New York City, for Seabrook Farms Co.

COMPLAINT

The Federal Trade Commission having reason to believe that the parties respondent named in the caption hereof, and hereinafter more particularly designated and described, have been and are now violating the provisions of subsection (c) of Section 2 of the Clayton Act (U.S.C., Title 15, Sec. 13), as amended by the Robinson-Patman Act approved June 19, 1936, hereby issues its complaint stating its charges with respect thereto as follows:

PARAGRAPH 1. Respondent E. A. Aaron & Bros., Inc., hereinafter sometimes referred to as buyer respondent or as Aaron, is a corporation organized, existing and doing business under and by virtue of the laws of the State of Delaware, with its principal office and place of business located at 4220 S. Kildare Avenue, Chicago, Illinois, with a branch office located at 46 South Water Market, Chicago, Illinois. Respondent Aaron is engaged in the wholesale distribution of frozen fruits and vegetables selling principally to independent grocers and food merchants and to various institutions in and around Chicago, Illinois.

Respondent purchases such food products from a number of sellers located in various states other than the state in which the buyer respondent is located, which sellers ship such food products across state lines to the buyer respondent at its place of business in Illinois,