

Decision

IN THE MATTER OF
R. H. MACY & COMPANY, INC.

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

Docket 6568. Complaint, June 12, 1956—Decision, Dec. 12, 1956

Consent order requiring a furrier in New York City to cease violating the Fur Products Labeling Act by newspaper and other advertising which failed to disclose the names of animals producing certain furs; misrepresented prices of fur products as reduced from regular prices which were in fact fictitious; used percentage savings claims and comparative prices not based on current market values; and misrepresented the values of fur products.

Mr. John T. Walker for the Commission.

Mr. Donald B. Smiley and *Mr. William J. O'Donnell*, Office of the General Attorney, R. H. Macy & Co., Inc., of New York City, for respondent.

INITIAL DECISION BY J. EARL COX, HEARING EXAMINER

The complaint charges respondent with violation of the provisions of the Federal Trade Commission Act and the Fur Products Labeling Act and the Rules and Regulations promulgated thereunder, by falsely and deceptively advertising certain of its fur products offered for sale, sold, advertised, transported and distributed in commerce, subsequent to August 9, 1952, the effective date of the Fur Products Labeling Act.

After the issuance of the complaint, to which no answer was filed, counsel supporting the complaint submitted a motion citing agreement reached at a prehearing conference held September 19, 1956; stating that the evidence was insufficient to support the charge contained in the subparagraph immediately following Paragraph 4D of the complaint, which subparagraph reads as follows:

In making the pricing claims and representations referred to in subparagraphs B, C and D hereof, respondent failed to maintain full and adequate records disclosing the facts upon which such claims and representations were purportedly based, in violation of Rule 44(e) of said Rules and Regulations; and requesting that said charge be dismissed from the complaint. This motion was thereafter granted, and said charge dismissed.

As to the remainder of the complaint, respondent, its counsel, and counsel supporting the complaint entered into an Agreement Containing Consent Order To Cease And Desist, which was ap-

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proved by the Director and the Assistant Director, Bureau of Litigation of the Commission, and thereafter transmitted to the Hearing Examiner for consideration.

The agreement states that respondent R. H. Macy & Company, 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 151 West 34th Street, New York, New York.

The agreement provides, among other things, that respondent admits all the jurisdictional facts alleged in the complaint and agrees that the record may be taken as if findings of jurisdictional facts had been duly made in accordance with such allegations; 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 respondent that it has 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.

Respondent waives any 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 it 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 not heretofore disposed of, and adequately prohibits the remaining 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 respondent, R. H. Macy & Company, Inc., a corporation, and its officers, 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

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in commerce, of any fur products, or in connection with the sale, advertising, offering for sale, transportation, or distribution of any 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. 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 the fur products as set forth in the Fur Products Name Guide and as prescribed under the rules and regulations;

2. Represents, directly or by implication:

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

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

B. Making use of comparative prices or percentage savings claims in advertising 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.

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 12th day of December, 1956, become the decision of the Commission; and, accordingly:

It is ordered, That respondent R. H. Macy & Company, Inc., a corporation, shall, within sixty (60) days after service upon it of this order, file with the Commission a report in writing setting forth in detail the manner and form in which it has complied with the order to cease and desist.

IN THE MATTER OF
JAY'S MANUFACTURING COMPANY, INC., ET AL.

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

Docket 6591. Complaint, July 19, 1956—Decision, Dec. 12, 1956

Consent order requiring a manufacturer and its agent, in New York City and Hoboken, N.J., respectively, to cease violating the Wool Products Labeling Act through misbranding as "all wool," ladies' skirts which did not contain all wool; failing to label certain wool products as required; and falsely guaranteeing as not misbranded wool products manufactured by them.

Mr. R. D. Young, Jr. for the Commission.

Mr. Moses M. Cohen, of New York City, for respondents.

INITIAL DECISION BY JOSEPH CALLAWAY, HEARING EXAMINER

The Federal Trade Commission issued its complaint against the above-named respondents on July 19, 1956 charging them with violation of the Federal Trade Commission Act and the Wool Products Labeling Act of 1939 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 all of the respondents, on September 24, 1956, 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. This agreement has been duly approved by the Assistant Director and 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.

By said agreement, respondents have admitted all of the jurisdictional facts alleged in 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 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 the agreement. It has also been agreed that the answer of respondents to the complaint shall be considered as having