

IN THE MATTER OF
FLENDER AND BERGER, INC., ET AL.

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

Docket 6619. Complaint, Aug. 23, 1956—Decision, Dec. 14, 1956

Consent order requiring a furrier in New York City to cease violating the Fur Products Labeling Act by falsely identifying certain fur products on labels and invoices with respect to the names of animals producing the fur, and otherwise failing to conform to labeling and invoicing requirements.

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

Mr. Bernard Flender and *Mr. Irving Berger*, of New York City, for themselves and for the Corporate respondent.

INITIAL DECISION BY J. EARL COX, HEARING EXAMINER

The complaint charges respondents with violation of the provisions of the Federal Trade Commission Act and of the Fur Products Labeling Act and the Rules and Regulations promulgated thereunder, by misbranding and falsely and deceptively invoicing certain of their fur products manufactured and 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, respondents and counsel supporting the complaint entered into an Agreement Containing Consent Order To Cease And Desist, which was approved 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 Flender and Berger, Inc. is a corporation organized and existing under and by virtue of the laws of the State of New York; that individual respondents Bernard Flender and Irving Berger are, respectively, President and Secretary of said corporate respondent; and that such individual respondents formulate, direct and control the acts, practices and policies of the corporate respondent; all the respondents having their office and principal place of business located at 259 West 30th Street, New York, New York.

The agreement provides, among other things, that respondents admit all the jurisdictional facts alleged in the complaint and agree

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 respondents that they have 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.

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 the agreement.

The order agreed upon fully disposes of all the issues raised in the complaint, and adequately prohibits the 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, Flender and Berger, Inc., a corporation, and its officers, and respondents Bernard Flender and Irving Berger individually and as officers of said corporation, and respondents' representatives, agents and employees, directly or through any corporate or other device, in connection with the introduction, manufacture for introduction, 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, manufacture for 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 produce 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 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;

g. The item number of such fur product;

3. Setting forth on labels attached to fur products required information in abbreviated form;

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. Abbreviating required information on invoices;

3. Failing to set forth on invoices the item number of the fur product;

4. Failing to set forth on invoices the name or names of the animal or animals producing the fur contained in the fur products.

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Decision

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 14th day of December, 1956, become the decision of the Commission; and, accordingly:

It is ordered, That respondents Flender and Berger, Inc., a corporation, and Bernard Flender and Irving Berger, individually and as officers 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.

IN THE MATTER OF
UNITED FISHERMEN OF ALASKA ET AL.¹

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

Docket 6368. Complaint, June 27, 1955—Decision, Dec. 17, 1956

Orders requiring a union of workers in the king crab fishing industry in the waters adjacent to Kodiak, Alaska—including fishermen and “shore” workers in canneries, etc.—a cooperative association of boat owners and captains, and a canner of crab meat, to cease agreeing on and fixing the price of king crab and king crab meat; requiring the union and association to cease coercing buyers or sellers to maintain fixed prices and preventing any person from accepting or retaining employment in a competing cannery which did not maintain their fixed prices; and requiring the cannery to cease authorizing any union or association to negotiate as to the prices of king crab meat.

Mr. Fletcher G. Cohn, Mr. Lewis F. Depro, and Mr. John J. McNally for the Commission.

Bassett, Geisness & Vance, of Seattle, Wash., for United Fishermen of Alaska and Kodiak Fish Producers Ass’n, and various officers thereof.

INITIAL DECISION BY WILLIAM L. PACK, HEARING EXAMINER

1. The complaint in this case charges a combination in restraint of trade in the king crab fishing industry in the Kodiak, Alaska, area. The respondents include a labor union and a fishermen’s cooperative and their respective officers and members, and three business concerns engaged in processing, canning and selling king crab meat. As to two of these concerns, the case has already been disposed of by means of a consent order. The third has failed to answer the complaint or to appear at any of the hearings, and a decision based upon such default is being issued as to this respondent contemporaneously with the present decision. With respect to the remaining respondents (the union and cooperative and their officers and members) hearings have been held and evidence received both in support of and in opposition to the complaint. Proposed findings and conclusions have been filed and the case is now before the hearing examiner for final consideration.

2. (a) Respondent United Fishermen of Alaska (hereinafter frequently referred to as the “Union”) is an unincorporated association

¹ A consent order was entered on May 3, 1956, disposing of the case as to the other two canners, i.e., Island Seafoods, Inc., and King Crab, Inc., 52 F.T.C. 1240.