

IN THE MATTER OF
FURS BY KENT ET AL.

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

Docket 6645. Complaint, Oct. 8, 1956—Decision, Feb. 13, 1957

Consent order requiring two furriers in York, Pa., to cease violating the Fur Products Labeling Act by misrepresenting the quality and price of certain fur products on tags, labels and invoices, and in newspaper advertisements; and by failing in other respects to comply with requirements of the Act.

Mr. S. F. House for the Commission.

Macleay, Lynch & MacDonald, of Washington, D.C., for P. Wiest's Sons.

INITIAL DECISION BY JAMES A. PURCELL, HEARING EXAMINER

The complaint in this proceeding, issued October 8, 1956, charges the respondents with violation of the provisions of the Fur Products Labeling Act and of the Federal Trade Commission Act, the respondents being Furs by Kent, a corporation, organized, existing and doing business under and by virtue of the laws of the State of Maryland, with its office and principal place of business located at 221 North Howard Street, Baltimore, Maryland; P. Wiest's Sons, a corporation, organized, existing and doing business under and by virtue of the laws of the Commonwealth of Pennsylvania, with its principal place of business located at No. 14-20 Market Street, York, Pennsylvania; and Meyer Kimmelman and Anthony DeRito, individually and as officers of Furs by Kent, being respectively the President and Secretary-Treasurer of said corporation. The address of the individuals is No. 221 North Howard Street, Baltimore, Maryland.

After issuance and service of said complaint, all parties respondent entered into an Agreement for a Consent Order with counsel in support of the complaint disposing of all of 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 respondents admitted all the jurisdictional allegations of the complaint and agreed that the record herein may be taken as if the Commission had made findings of

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jurisdictional facts in accordance with such allegations. By said agreement the parties expressly waived a hearing before the hearing examiner or the Commission; the making of findings of fact or conclusions of law by the hearing examiner or by the Commission; the filing of exceptions and oral argument before the Commission; and all further and other procedure before the hearing examiner and the Commission to which the respondents may be entitled under the Federal Trade Commission Act or the Rules of Practice of the Commission.

By said 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, presentation of evidence and findings and conclusions thereon, and specifically waived any and all right, power or privilege to challenge or contest the validity of such order.

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 that the said order may be altered, modified or set aside in the manner provided by 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 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 consonant 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, and that this proceeding is in the interest of the public, and issues the following order:

ORDER

It is ordered, That respondents, Furs by Kent, a corporation, and its officers, P. Wiest's Sons, a corporation, and its officers, and Meyer Kimmelman and Anthony DeRito, individually and as officers of Furs by Kent, and respondents' agents, representatives, and employees, directly or through any corporate or other device, in connection with the introduction into commerce, or the sale, advertising, offering for sale, transportation or distribution of fur products in commerce, or in connection with the sale, advertising, offering for sale, transportation or distribution of fur products which have been made

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in whole or in part of fur which had been shipped and received in commerce, as "commerce", "fur", and "fur products" are defined in the Fur Products Labeling Act, do forthwith cease and desist from:

A. Misbranding fur products by:

1. Representing on labels attached to fur products, or in any other manner, that certain amounts are the regular and usual prices of fur products when such amounts are in excess of the prices at which such products are usually and customarily sold by respondents in the recent regular course of their business.

2. 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;

3. 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 the fact;

c. That the fur product contains or is composed of bleached, dyed, or artificially colored fur, when such is the 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 it in commerce;

f. The name of the country of origin of any imported furs used in the fur product.

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.

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 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 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. Setting forth required information in abbreviated form.

3. Failing to show the item number or mark of fur products on the invoices pertaining to such products, as required by Rule 40 of the Rules and Regulations.

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

2. 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 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 prices are wholesale prices or below wholesale prices, when such is not a fact.

3. Makes use of comparative prices or percentage savings claims unless such compared prices or claims are based upon the current market value of the fur products or upon a bona fide compared price at a designated time.

4. Makes representations and pricing claims of the nature referred to in C2 hereof, unless full and adequate records disclosing the facts upon which claims and representations are based are maintained.

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 13th day

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of February, 1957, 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.

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IN THE MATTER OF
THE MONTAMOWER COMPANY ET AL.

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

Docket 6667. Complaint, Oct. 29, 1956—Decision, Feb. 14, 1957

Consent order requiring the distributor in Traverse City, Mich., of a grass-cutting device designated "MontaMower", to cease representing falsely in advertisements in magazines, newspapers, etc., often accompanied by misleading pictures, the effectiveness in use and results obtainable from the device, its weed-controlling qualities, comparative merits, the price, savings available to purchasers, and that all the machines were new and made of new and unused parts and materials.

The proceeding as to the manufacturer respondents was terminated by a similar consent order dated March 7, 1957, p. 764, following.

Mr. Donald R. Moore for the Commission.

Mr. Earl Waring Dunn, of Grand Rapids, Mich., for Herbert B. Montague.

INITIAL DECISION BY JOSEPH CALLAWAY, HEARING EXAMINER

The Federal Trade Commission issued its complaint against the above-named respondents on October 29, 1956, charging them with violation of the Federal Trade Commission Act as set forth in said complaint. After being served with the complaint, respondent Herbert B. Montague, an individual trading as MontaMower Distributing Company and his attorney entered into an agreement with counsel supporting the complaint for a consent order to cease and desist from the practices complained of which agreement purports to dispose of all the issues in this proceeding against him without hearing. The agreement does not purport to dispose of this proceeding or any of the issues insofar as they concern the other respondents, The MontaMower Company, a corporation and Hubert H. Montague, Gerald T. Montague and Velma Montague, individually and as officers of said corporation. The 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 Section 3.25 of the Rules of Practice of the Commission.

Respondent Herbert B. Montague, an individual trading as MontaMower Distributing Company in the aforesaid agreement has