

IN THE MATTER OF
PHIL H. GREEN TRADING AS PHILLIP'S FURS

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

Docket 6649. Complaint, Oct. 11, 1956—Decision, Feb. 28, 1957

Consent order requiring a furrier in Dallas, Texas, to cease violating the Fur Products Labeling Act by removing and mutilating required labels, deceptively identifying names of animals or naming other animals than those producing the fur in certain products, failing to label products, failing to include on labels the information required by the Act, and by invoicing which failed to use the term "secondhand used fur" where applicable and which failed in other respects to comply with the law.

Mr. S. F. House for the Commission.

Mr. Phil H. Green, of Dallas, Tex., *pro se*.

INITIAL DECISION AND ORDER BY LOREN H. LAUGHLIN,
HEARING EXAMINER

The Federal Trade Commission (hereinafter referred to as the Commission) on October 11, 1956, issued its complaint herein under the Federal Trade Commission Act, and the Fur Products Labeling Act against the above-named respondent Phil H. Green, an individual trading as Phillip's Furs. The complaint charges respondent with having violated in certain particulars the provisions of said Acts and the Rules and Regulations promulgated under the Fur Products Labeling Act. The respondent was duly served with process. Respondent being in default of answer or other pleading, however, the hearing examiner on December 5, 1956, set a hearing to be held in Washington, D.C., on December 18, 1956, in order to determine the form of order to be issued. But upon being later advised that Commission's counsel and the respondent had, on December 10, 1956, entered into an agreement for a consent cease and desist order pursuant to § 3.25 of the Commission's Rules of Practice for Adjudicative Proceedings, which was in due course to be submitted to the examiner for his approval, said hearing so set for December 18, 1956, was cancelled.

On December 20, 1956, there was filed with the hearing examiner of the Commission an "Agreement Containing Consent Order to Cease and Desist," which had been entered into by and between the said respondent and S. F. House, counsel supporting the complaint, under date of December 10, 1956, and subject to the approval by

the Bureau of Litigation of the Commission. Such agreement had been thereafter duly approved by the Director and Assistant Director of the Commission's Bureau of Litigation and on December 20, 1956, the same was submitted to the undersigned hearing examiner for his consideration and approval.

On due consideration of the said agreement containing consent order to cease and desist, the hearing examiner finds that said agreement both in form and content is in accord with § 3.25 of the Rules of Practice and Procedure of the Commission and that by said agreement the parties have specifically agreed that:

1. Respondent Phil H. Green is an individual trading as Phillip's Furs, with his office and principal place of business located at 1004 Elm Street in the City of Dallas, State of Texas.

2. Pursuant to the provisions of the Federal Trade Commission Act and the Fur Products Labeling Act, the Federal Trade Commission, on October 11, 1956, issued its complaint in this proceeding against respondent, and a true copy was thereafter duly served on respondent.

3. 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.

4. This agreement disposes of all of this proceeding as to all parties.

5. Respondent waives:

(a) Any further procedural steps before the hearing examiner and the Commission;

(b) The making of findings of fact or conclusions of law; and

(c) All of the rights he may have to challenge or contest the validity of the order to cease and desist entered in accordance with this agreement.

6. 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.

7. This agreement shall not become a part of the official record unless and until it becomes a part of the decision of the Commission.

8. This 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.

The parties have further specifically agreed that the proposed order to cease and desist included in said agreement may be entered in this proceeding by the Commission without further notice to

Order

53 F.T.C.

respondent; that when so entered it shall have the same force and effect as if entered after a full hearing; that it may be altered, modified or set aside in the manner provided for other orders; and that the complaint may be used in construing the terms of the order.

Upon due consideration of the complaint filed herein and the said "Agreement Containing Consent Order to Cease and Desist," the latter is hereby approved, accepted and ordered filed, the same not to become a part of the record herein, however, unless and until it becomes part of the decision of the Commission. The hearing examiner finds that the Commission has jurisdiction of the subject matter of this proceeding and of the person of the respondent herein; that the complaint states a legal cause for complaint under the Federal Trade Commission Act and the Fur Products Labeling Act and the Rules and Regulations promulgated by the Commission under the latter Act, against respondent both generally and in each of the particulars alleged therein; that this proceeding is in the interest of the public; that the following order as proposed in said agreement is appropriate for the just disposition of all of the issues in this proceeding, such order to become final only if and when it becomes the order of the Commission; and that said order therefore should be, and hereby is, entered as follows:

ORDER

It is ordered, That the respondent Phil H. Green, an individual trading as Phillip's Furs, or under any other trade name, and respondent's representatives, agents, 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 in whole or in part of fur which has 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:

1. Removing, or mutilating, or causing or participating in the removal or mutilation of, labels required to be affixed to fur products, prior to the time the fur products are sold and delivered to the ultimate purchaser of such products.

2. Misbranding fur products by:

- a. Falsely or deceptively labeling or otherwise identifying any such product as to the name of the animal or animals that produced the fur from which such product was manufactured.

b. Failing to affix labels to fur products showing:

(1) 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;

(2) That the fur product contains or is composed of used fur when such is a fact;

(3) That the fur product contains or is composed of bleached, dyed, or artificially colored fur when such is a fact;

(4) That the fur product is composed in whole or in substantial part of paws, tails, bellies, or waste fur when such is a fact;

(5) 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;

(6) The name of the country of origin of any imported furs used in the fur product;

c. Setting forth on labels attached to fur products the name or names of any animal or animals other than the name or names provided for in paragraph 2b(1) above.

d. Setting forth on labels attached to fur products:

(1) Required information which is abbreviated.

(2) Required information which is mingled with non-required information.

(3) Required information in handwriting.

e. Failing to set forth on labels the information required by Rule 36 of the Rules and Regulations promulgated under the Fur Products Labeling Act, when a fur product is composed of two or more sections containing different animal furs.

f. Failing to affix labels to fur products showing item numbers required under Rule 40 of the Rules and Regulations.

g. Failing to affix labels to fur products to comply with the minimum size requirement of $1\frac{3}{4}'' \times 2\frac{3}{4}''$, as required by Rule 27 of the said Rules and Regulations.

3. Falsely or deceptively invoicing fur products by:

a. Failing to show:

(1) The name or names (as set forth in the Fur Products Name Guide) of the animal or animals that produced the fur and such qualifying statements as may be required pursuant to Section 7(c);

(2) That the fur product contains or is composed of used fur, when such is a fact;

Order

53 F.T.C.

(3) That the fur product contains or is composed of bleached, dyed, or otherwise artificially colored fur, when such is the fact;

(4) That the fur product is composed in whole or in substantial part of the paws, tails, bellies, or waste fur, when such is the fact;

(5) The name and address of the person issuing such invoice;

(6) The name of the country of origin of any imported furs contained in a fur product.

b. Setting forth required information in abbreviated form.

c. Failing to use the term "second hand used fur" where applicable, as required by Rules 21 and 23 of the aforesaid Rules and Regulations.

d. Failing to show the item number or mark of a fur product on an invoice pertaining to such product, as required by Rule 40 of the Rules and Regulations.

4. Falsely or deceptively advertising fur products through the use of any advertisement, 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:

a. Fails to disclose;

(1) The name or names of animal or animals which produced the fur or furs contained in the fur products as set forth in the Fur Products Name Guide.

(2) That the fur products are composed of used fur when such is the fact.

(3) That the fur products contain or are composed of bleached, dyed, or otherwise artificially colored fur when such is the fact.

b. Uses the name or names of an animal or animals other than the name or names specified in the Fur Products Name Guide or prescribed by the rules and regulations.

c. Fails to use the term "second hand used" fur where applicable, as required by Rules 21 and 23 of the said rules and regulations.

d. Represents directly or by implication:

(1) That the regular or usual price of any fur product is any amount which is in excess of the price at which the respondent has usually and customarily sold such product in the recent regular course of his business.

(2) The value of fur products, when such claims and representations are not true in fact.

(3) That stock of a business is in a state of liquidation when such is not the fact.

5. Making use of comparative prices or percentage savings claims in advertising unless such compared prices or claims are based upon

738

Order

the current market value of the fur product or upon a bona fide compared price at a designated time.

6. Making price claims or representations of the type referred to in paragraphs 4d (1) and (2) and 5 above unless there are maintained by respondent full and adequate records disclosing the facts on which such claims or representations are based.

DECISION OF THE COMMISSION AND ORDER TO FILE REPORT OF COMPLIANCE

The Commission having considered the initial decision of the hearing examiner in this proceeding, filed January 17, 1957, which initial decision was based on an agreement for consent order executed by the respondent and counsel in support of the complaint on December 10, 1956; and

It appearing that the order to cease and desist contained therein, through inadvertent reception of the words "which has been made in whole or in part of fur" in the opening paragraph thereof, varies from the order to cease and desist agreed upon by the parties; and

The Commission being of the opinion that this clerical error should be corrected to conform the order in the initial decision with the form of order contained in the agreement of the parties:

It is ordered, That the initial decision of the hearing examiner be, and it hereby is, modified by deleting the words "which has been made in whole or in part of fur" from the tenth line of the opening paragraph of the order contained therein.

It is further ordered, That the initial decision as so modified shall, on the 28th day of February, 1957, become the decision of the Commission.

It is further ordered, That the respondent, Phil H. Green, 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 contained in the aforesaid initial decision.

IN THE MATTER OF
DISTINCTIVE EMBLEM & UNIFORM CORP. ET AL.

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

Docket 6647. Complaint, Oct. 11, 1956—Decision, Mar. 1, 1957

Consent order requiring a corporation engaged in East Orange, N.J., in the sale of military uniforms and other military clothing which it purchased from others, to cease representing falsely through use of flyers, circulars, post cards, brochures, and letters circulated particularly among U.S. Air Force personnel, that it was a manufacturer of military clothing, a Quartermaster-authorized manufacturer of uniforms and other military clothing for the U.S. Air Force, that it specialized in custom-made military uniforms and other clothing, and that its "Shade No. 193 Air Force Uniforms" were made of fabrics approved by the U.S. Air Force.

Mr. Floyd O. Collins for the Commission.

Mr. William Furst, of Newark, N.J., for respondents.

INITIAL DECISION BY J. EARL COX, HEARING EXAMINER

The complaint charges respondents with violation of the Federal Trade Commission Act by falsely and deceptively advertising their products, which consist of uniforms, pants, shirts, caps and other military clothing, which respondents advertise, sell and distribute in commerce.

After the issuance of the complaint, respondents, their counsel, and counsel supporting the complaint entered into an agreement containing consent order to cease and desist, which was approved by the Director and Assistant Director of the Commission's Bureau of Litigation, and thereafter transmitted to the Hearing Examiner for consideration.

The agreement identifies respondent Distinctive Emblem & Uniform Corp. as a New Jersey corporation, with its office and principal place of business located at 188 Main Street, East Orange, New Jersey; respondent Sidney M. Stern as an individual, now president of respondent corporation, who directs and controls the acts and practices of the respondent corporation; and respondent Seymour Hindman as an individual who was, at the time the complaint was filed, president of respondent corporation. Both individual respondents have their office and principal place of business at the same location as that of the corporate respondent.

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