

Decision

IN THE MATTER OF
MARTIN GHERSTEIN ET AL. TRADING AS
M. GERSTEIN & SONS

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

Docket 6643. Complaint, Sept. 28, 1956—Decision, Mar. 7, 1957

Consent order requiring a furrier in New York City to cease violating the Fur Products Labeling Act by failing to disclose on labels that certain fur products were dyed, and by failing in other respects to comply with labeling requirements; by invoicing artificially colored fur as natural; and by furnishing false guaranties that certain of their fur products were not misbranded, falsely invoiced, and falsely advertised.

Mr. S. F. House for the Commission.

Mr. Martin Gherstein and *Mr. Daniel Harris*, of New York, N. Y.,
pro se.

INITIAL DECISION BY WILLIAM L. PACK, HEARING EXAMINER

The complaint in this matter charges the respondents with certain violations of the Fur Products Labeling Act and the Rules and Regulations promulgated thereunder, and the Federal Trade Commission Act. An agreement has now been entered into by respondents and counsel supporting the complaint which provides, among other things, that respondents admit all of the jurisdictional allegations in the complaint; that the record on which the initial decision and the decision of the Commission shall be based shall consist solely of the complaint and agreement; that the inclusion of findings of fact and conclusions of law in the decision disposing of this matter is waived, together with any further procedural steps before the hearing examiner and the Commission; that the order hereinafter set forth may be entered in disposition of the proceeding, such order to have the same force and effect as if entered after a full hearing, respondents specifically waiving any and all rights to challenge or contest the validity of such order; that the order may be altered, modified, or set aside in the manner provided for other orders of the Commission; and 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.

The hearing examiner having considered the agreement and proposed order and being of the opinion that they provide an adequate basis for an appropriate disposition of the proceeding, the agree-

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ment is hereby accepted, the following jurisdictional findings made, and the following order issued:

1. Respondents Martin Gherstein (erroneously referred to in the complaint as Martin Gerstein) and Daniel Harris are copartners trading as M. Gerstein & Sons, with their office and principal place of business located at 146 West 29th Street, New York, New York.

2. The Federal Trade Commission has jurisdiction of the subject matter of this proceeding and of the respondents, and the proceeding is in the public interest.

ORDER

It is ordered, That the respondents, Martin Gherstein (erroneously referred to in the complaint as Martin Gerstein) and Daniel Harris, individually and as copartners trading as M. Gerstein & Sons, or under any other trade name, and respondents' representatives, agents, and employees, directly or through any corporate or other device, in connection with the introduction into commerce, or the sale or advertising or offering for sale in commerce, or the transportation or distribution in commerce, of any fur products, or in connection with the sale, advertising, offering for sale, transportation, or distribution of any fur product which is made in whole or in part of fur which had 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 by failing to disclose that the fur product is dyed;

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;

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

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 invoice;

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

2. Furnishing invoices which contain the name or names of any animal or animals other than the name or names as required in paragraph B, 1(a) above, or contain any form of misrepresentation or deception, directly or by implication, with respect to such fur product or fur.

C. Furnishing false guaranties that fur products or fur are not misbranded, falsely advertised or falsely invoiced under the provisions of the Fur Products Labeling Act, when there is reason to believe that the fur products or fur falsely guaranteed may be introduced into or sold, transported or distributed in commerce.

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 7th day of March, 1957, become the decision of the Commission; and, accordingly:

It is ordered, That 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.

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, Mar. 7, 1957

Consent order requiring the manufacturer in Traverse City, Mich., of a grass-cutting device designated "MontaMower" to cease representing that lawn mowers which were used or reconditioned or which contained secondhand parts were new or unused, and to cease advertising or selling used lawn mowers without disclosing the fact by a clear and conspicuous statement. A consent order disposing of the issues as to the distributor respondent was entered February 14, 1957, *supra*, page 697.

Mr. Donald R. Moore for the Commission.

The MontaMower Co., Hubert H. Montague, Gerald T. Montague and Velma Montague appearing without counsel.

INITIAL DECISION BY JOSEPH CALLAWAY, HEARING EXAMINER

As to respondents The MontaMower Company, a corporation; Hubert H. Montague, Gerald T. Montague, and Velma Montague, individually and as officers of said corporation

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 alleged in the complaint. After being served with the complaint, respondent Herbert B. Montague entered into an agreement, with counsel supporting the complaint, containing a consent order to cease and desist which was the basis of an initial decision by the hearing examiner, filed January 2, 1957. That initial decision left the issues pending as to respondents The MontaMower Company, a corporation, Hubert H. Montague, Gerald T. Montague and Velma Montague, individually and as officers of said corporation.

On January 18, 1957, respondents, The MontaMower Company, a corporation, Hubert H. Montague, Gerald T. Montague and Velma Montague, individually and as officers of said corporation 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 as to their remaining respondents without hearing. The agreement has been duly approved by the Acting Director of the