

Decision

IN THE MATTER OF

SAMUEL BARTH DOING BUSINESS AS AMERICAN FURRIERS;
BERNARD AXELROD DOING BUSINESS AS
BERNARD AXELROD & COMPANY ET AL.

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

Docket 6657. Complaint, Oct. 18, 1956—Decision, Apr. 6, 1957

Consent order requiring two associated furriers in Hartford, Conn., and New York City, respectively, to cease violating the Fur Products Labeling Act by preticketing fur products with fictitious prices, deceptively naming the animal producing the fur in certain products, and otherwise failing to conform to labeling requirements; by invoicing products falsely; by advertising which failed to disclose the name of animals producing the fur and misrepresented prices, savings, and values; and by failing to maintain adequate records as a basis for such pricing claims.

A third respondent consented to a similar order dated April 20, 1957, p. 905 herein.

Mr. S. F. House for the Commission.

Mr. Harvey E. Nair, of Hartford, Conn., for Samuel Barth.

Mr. Jules Aronson, of New York City, for Bernard Axelrod.

INITIAL DECISION BY JOSEPH CALLAWAY, HEARING EXAMINER

As to respondents Samuel Barth, an individual doing business as American Furriers; Bernard Axelrod, an individual doing business as Bernard Axelrod & Co.

The Federal Trade Commission issued its complaint against the respondents named in the caption to this proceeding on October 18, 1956, charging them with violation of the Federal Trade Commission Act, the Fur Products Labeling Act and the Rules and Regulations promulgated under the last mentioned Act, as alleged in the complaint. After service of the complaint, respondent Bernard Axelrod, doing business as Bernard Axelrod & Company filed answer thereto on December 17, 1956, and respondent Morris Miller filed answer thereto on November 16, 1956. On January 3, 1957, respondent Samuel Barth doing business as American Furriers 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 as to that respondent. On January 17, 1957, respondent Bernard Axelrod doing business as Bernard Axelrod & Company,

and his attorney entered into a separate 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 that respondent. Neither of these agreements purport to dispose of any of the issues as to the respondent Morris Miller. Both of the above-mentioned agreements have been duly approved by the Assistant Director and the Director of the Bureau of Litigation and were on February 5, 1957, submitted to the undersigned, heretofore designated to act as hearing examiner herein for his consideration in accordance with Section 3.25 of the Commission's Rules of Practice.

In the agreements above mentioned, respondents Samuel Barth and Bernard Axelrod have admitted all the jurisdictional facts alleged in the complaint and have agreed that the record may be taken as if findings of jurisdictional facts had been made in accordance with such allegations. The agreements further provide that said respondents waive all further procedural steps before the hearing examiner and the Commission including the making of findings of fact and conclusions of law and the right to challenge or contest the validity of the order to cease and desist entered in accordance with the agreements. It has also been agreed by each of said respondents and counsel supporting the complaint that the record shall consist solely of the complaint and said 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 said agreement is for settlement purposes only and does not constitute an admission by said respondent that he has violated the law as alleged in the complaint, that said order to cease and desist shall have the same force and effect as if entered after a full hearing and may be altered, modified or set aside in the manner provided for other orders of the Commission and that the complaint may be used in construing the terms of the order.

This proceeding having come on for final consideration on the complaint and the aforesaid agreements containing the consent orders it appears that the agreements and orders cover all the allegations of the complaint as to said respondents and provide for an appropriate disposition of this proceeding as to all parties except the respondent Morris Miller. It appears further that the orders in the two agreements are identical except for the names of the respondents. The orders and the agreements are therefore accepted and ordered filed upon becoming a part of the Commission's decision, pursuant to Sections 3.21 and 3.25 of the Commission's Rules of Practice and the

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hearing examiner accordingly makes the following findings for jurisdictional purposes, and order.

1. Respondent Samuel Barth is an individual doing business as American Furriers with his office and principal place of business located at 26 Allyn Street, Hartford, Connecticut.

2. Respondent Bernard Axelrod is an individual doing business as Bernard Axelrod & Company, with his office and principal place of business located at 363 Seventh Avenue in the City of New York, State of New York.

3. The Federal Trade Commission has jurisdiction of the subject matter of this proceeding and of the respondents named in the last two preceding paragraphs. The complaint states a cause of action against said respondents under the Federal Trade Commission Act, the Fur Products Labeling Act and the Rules and Regulations promulgated under the last mentioned Act. This proceeding is in the public interest.

ORDER

It is ordered, That respondent Bernard Axelrod, an individual trading as Bernard Axelrod & Company or under any other name or names, and respondent Samuel Barth an individual trading as American Furriers or under any other name or names and respondents' 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, or the transportation or distribution of any fur product 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 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 produced 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 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 the 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.

3. Setting forth on labels attached to fur products:

a. Non-required information mingled with required information;

b. Required information in handwriting;

c. Prices represented to be the regular or usual price of any fur products which are amounts in excess of the prices at which the respondent has usually or customarily sold such fur products in the recent regular course of his business.

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 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 the 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.

C. 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:

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 the regular or usual price of any fur product is any amount which is in excess of the price at which the respondent has

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usually and customarily sold such products in the recent regular course of his business.

b. The value of fur products, when such claims and representations are not true in 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 product or upon a bona fide compared price at a designated time.

4. Makes price claims and representations of the type referred to in sub-paragraphs a and b and paragraph 3 above, unless there is maintained by respondent full and adequate records disclosing the facts upon which such claims or representations are based.

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 6th day of April, 1957, become the decision of the Commission; and, accordingly:

It is ordered, That respondent Samuel Barth, doing business as American Furriers and Bernard Axelrod, doing business as Bernard Axelrod & Company, 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
ABBEY BRUSH CORPORATION ET AL.

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

Docket 5802. Complaint, Sept. 1, 1950—Decision, Apr. 8, 1957

Order requiring a manufacturer in New York City to cease stamping the handles of brushes which contained various quantities of horsehair with the words "Pure Bristle", thereby representing falsely that the material composing the brushes consisted entirely of the much higher priced bristle of swine.

R. P. Bellinger, Esq., attorney for the Commission.

Schwager, Landau & Krantz, and *Hamilton Lieb, Esq.*, New York, N.Y., for respondents.

INITIAL DECISION BY JAMES A. PURCELL, HEARING EXAMINER

THE PROCEEDING

The Federal Trade Commission, by virtue of authority vested in it pursuant to the provisions of the Federal Trade Commission Act, did, on September 1, 1950, issue its complaint against respondents, Abbey Brush Corporation, a corporation organized and doing business under and by virtue of the laws of the State of New York, and its officers, individually and in their representative capacities, as noted: Henry Greenberg, President, Max Gartner, Vice President, and Joseph Sheldon, Treasurer, the office and principal place of business of all respondents being then located at No. 262 Mott Street, New York, New York. During the course of the proceedings the business addresses of the corporate and individual respondents have changed as follows: respondent Abbey Brush Corporation is located at No. 198 Avenue C, New York, New York; Max Gartner and Henry Greenberg, No. 198 Avenue C, New York, New York, and Joseph Sheldon, No. 810 Pennsylvania Avenue, Brooklyn, New York.

The complaint charges respondents with false and misleading representations that paint and varnish brushes manufactured and sold by them were composed of bristles, meaning and importing thereby, the hair derived from the swine or hog, for which bristles there is a decided preference on the part of the purchasing public; that such representations were in fact false in that respondents caused the fiber content of said brushes to be adulterated with cheaper and inferior products, to wit, horsehair and wood or vegetable fibers.