

Decision

IN THE MATTER OF

SAMUEL BARTH DOING BUSINESS AS AMERICAN FURRIERS; BERNARD AXELORD DOING BUSINESS AS BERNARD AXELROD & COMPANY; AND MORRIS MILLER

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. 20, 1957

Consent order requiring a furrier in New York City 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.

The proceeding as to two other respondents named in the complaint was disposed of by consent order dated April 6, 1957, p. 811, herein.

Mr. S. F. House supporting the Complaint.

Mr. Jonas H. Bernstein, of New York City, for respondent Morris Miller.

INITIAL DECISION AS TO RESPONDENT MORRIS MILLER BY
JOSEPH CALLAWAY, HEARING EXAMINER

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, respondents Bernard Axelrod and Morris Miller filed answer to the complaint. Subsequently respondents Bernard Axelrod and Samuel Barth entered into agreements with counsel supporting the complaint containing consent orders to cease and desist which agreements were the basis of an initial decision by the hearing examiner, filed February 25, 1957. That initial decision left the issues pending as to respondent Morris Miller.

On February 27, 1957, respondent Morris Miller and his attorney entered into an agreement with counsel supporting the complaint for a consent order to cease and desist from the practice complained of, which agreement purports to dispose of all the issues in this pro-

ceeding as to this remaining respondent without hearing. This agreement has been duly approved by the Assistant Director and 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 Commission's Rules of Practice.

In said last mentioned agreement, respondent Morris Miller has admitted all the jurisdictional facts alleged in the complaint and has agreed that the record may be taken as if findings of jurisdictional facts had been made in accordance with such allegations. The agreement further provides that said respondent waives all further procedural steps before the hearing examiner and the Commission including the making of findings of fact or conclusions of law and the right to challenge or contest the validity of the order to cease and desist entered in accordance with the agreement. It has also been agreed by said respondent 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 now come on for final consideration on the complaint and the aforesaid agreement of respondent Morris Miller containing the consent order, it appears that the agreement and order cover all the allegations of the complaint as to said respondent and provides for an appropriate disposition of the proceeding as to all parties except Bernard Axelrod and Samuel Barth. The proceedings as to them was disposed of in the former initial decision. The order and the agreement are therefore accepted and ordered filed upon becoming a part of the Commission's decision, pursuant to Section 3.21 and 3.25 of the Commission's Rules of Practice and the hearing examiner accordingly makes the following findings for jurisdictional purposes, and order.

1. Respondent Morris Miller is an individual with his office and principal place of business located at 363 Seventh Avenue, New York, New York.

2. The Federal Trade Commission has jurisdiction of the subject matter of this proceeding and of the respondent named in the last

preceding paragraph. The complaint states a cause of action against said respondent under the Federal Trade Commission Act, and under the Fur Products Labeling Act and the Rules and Regulations promulgated thereunder. This proceeding is in the public interest.

ORDER

It is ordered, That respondent Morris Miller, an individual, 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 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

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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 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.

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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 20th day of April, 1957, become the decision of the Commission; and, accordingly:

It is ordered, That respondent Morris Miller, an individual, 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**.

IN THE MATTER OF
VENDIT, INC., ET AL.

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

Docket 6955. Complaint, Dec. 18, 1956—Decision, Apr. 20, 1957

Consent order requiring a company in Cleveland, Ohio, engaged in the promotion, sale, and distribution of vending machines and vending machine supplies, to cease representing falsely in "bait" advertisements placed in the "Help Wanted" section of newspapers to obtain leads to purchasers, that employment with opportunities for exceptional profits was offered to selected persons, that money invested was completely safe, that respondents assisted in locating vending machines, etc.

Mr. William A. Somers for the Commission.

Mr. Don C. Miller, of Cleveland, Ohio, for respondents.

INITIAL DECISION BY JOHN B. POINDEXTER, HEARING EXAMINER

The complaint in this proceeding charges the respondents with violation of the Federal Trade Commission Act through the making of certain representations in connection with the sale of vending machines and supplies therefor.

An agreement has been entered into between respondents, their counsel, and counsel supporting the complaint which provides, among other things, the following: Respondents admit all jurisdictional facts; the complaint may be used in construing the terms of the order; the order shall have the same force and effect as if entered after a full hearing and said agreement shall not become a part of the official record of the proceeding unless and until it becomes a part of the decision of the Commission; respondents waive the requirement that the decision must contain a statement of findings of fact and conclusions of law; respondents waive further procedural steps before the Hearing Examiner and the Commission, and the order may be altered, modified, or set aside in the manner provided by statute for other orders; respondents waive any right to challenge or contest the validity of the order entered in accordance with the agreement; and the signing of said 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 the acceptance of the agreement will be in the public interest, hereby accepts such agree-