

IN THE MATTER OF
KAYE-BEN COMPANY, INC., ET AL.

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

Docket 6683. Complaint, Dec. 3, 1956—Decision, June 1, 1957

Consent order requiring two furriers in Houston, Tex., to cease violating the Fur Products Labeling Act by mutilating labels attached to fur products and by failing to label certain products as required; by false invoicing; and by false advertising in newspapers which failed to give the correct name of the animal producing certain furs and to disclose when furs were artificially colored, and which represented falsely that fur products were from a liquidating business.

Mr. Brockman Horne for the Commission.

Mr. Sam W. Levy, of Houston, Tex., for respondent.

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

The Federal Trade Commission (hereinafter referred to as the Commission) on December 3, 1956, issued its complaint herein under the Federal Trade Commission Act, and the Fur Products Labeling Act against the above-named respondents Kaye-Ben Company, Inc., a corporation, Richard I. Kaye, individually and as president of said corporation, Zusman Bensky, individually and as vice president of said corporation, and Alex Segall, individually and as secretary-treasurer of said corporation; and Isadore Bergman and Harry Bergman, individually and as copartners trading as Forman's Fine Furriers. The complaint charges respondents with having violated in certain particulars the provisions of said Acts and the Rules and Regulations promulgated under the Fur Products Labeling Act. The respondents were duly served with process. Upon being advised that Commission's counsel and the respondents were negotiating an agreement for a consent cease and desist order pursuant to § 3.25 of the Commission's Rules of Practice for Adjudicative Proceedings, the times for answer and for initial hearing were postponed several times by appropriate orders, pending the negotiation of such an agreement.

On March 20, 1957, there was submitted to the undersigned hearing examiner of the Commission for his consideration and approval an "Agreement Containing Consent Order to Cease and Desist," which had been entered into by and between each of the said respondents

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and their attorney, Sam W. Levy, and Brockman Horne, counsel supporting the complaint, under date of February 27, 1957, and subject to the approval of the Bureau of Litigation of the Commission. Such agreement had been thereafter duly approved by the Acting Director of the Commission's Bureau of Litigation.

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 Kaye-Ben Company, Inc., is a corporation existing and doing business under and by virtue of the laws of the State of Texas, with its office and principal place of business located at 606 Main Street, Houston, Texas. Respondents Richard I. Kaye, Zushman Bensky, and Alex Segall are President, Vice-President, and Secretary-Treasurer, respectively, of said corporation and formulate, direct, and control its policies, acts, and practices. Their address is the same as that of the corporation. Respondents Isadore Bergman and Harry Bergman are individuals and were copartners doing business as Forman's Fine Furriers prior to March 5, 1956. The present address of Isadore Bergman is 5114 Grantwood, Houston, Texas, and that of Harry Bergman is 1002 Bomar, Houston, Texas.

2. Pursuant to the provisions of the Federal Trade Commission Act and the Fur Products Labeling Act, the Federal Trade Commission, on December 3, 1956, issued its complaint in this proceeding against respondents, and a true copy was thereafter duly served on respondents.

3. Respondents admit all the jurisdictional facts alleged in the complaint and agree 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. Respondents waive:

(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 they 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 respondents that they have 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 respondents; 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 from the complaint and the said "Agreement Containing Consent Order to Cease and Desist" that the Commission has jurisdiction of the subject matter of this proceeding and of the persons of each of the respondents 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 each of the respondents 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 respondents Kaye-Ben Company, Inc., a corporation, and its officers, and Richard I. Kaye, Zusman Bensky, and Alex Segall, individually and as officers of said corporation, and Isadore Bergman and Harry Bergman, individually and as copartners trading as Forman's Fine Furriers, or trading under any other 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, advertising, or offering for sale in commerce, or the transportation or distribution in com-

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merce, of any fur product, 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 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) Mutilating, or causing the mutilation, or participating in the mutilation of labels required to be affixed to fur products, prior to the time fur products are sold and delivered to the ultimate purchaser of such products.

(B) Misbranding fur products by 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 or flanks, 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;

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

(C) 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 fur contained in a fur product.

(D) 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 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.

(E) Represents directly or indirectly that any fur products are from the stock of a business in a state of liquidation, contrary to fact.

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 1st day of June, 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

YALE BELT CORPORATION ET AL.

CONSENT ORDER, ETC., IN REGARD TO THE ALLEGED VIOLATION OF
THE FEDERAL TRADE COMMISSION ACT*Docket 6722. Complaint, Feb. 11, 1957—Decision, June 1, 1957*

Consent order requiring a manufacturer in New York City to cease preticketing ladies', men's, and boys' belts with exaggerated and fictitious price figures or making use of any other plan enabling retailers to misrepresent the usual retail price of merchandise.

Mr. Harry E. Middleton, Jr., for the Commission.

Mr. Abbott Gould, of New York City, for respondents.

INITIAL DECISION BY JOHN B. POINDEXTER, HEARING EXAMINER

The complaint in this proceeding charges the respondents with using fictitious pre-ticketing in the sale of ladies' and men's belts.

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 the 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 agreement, makes the following jurisdictional findings, and issues the following order:

1. Respondent, Yale Belt Corporation, is a corporation organized and doing business under the laws of the State of New York, with its office and principal place of business located at 183 Wooster