

Decision

IN THE MATTER OF

MARCUS & SMITH BROS., INC., ET AL.

CONSENT ORDER, ETC., IN REGARD TO THE ALLEGED VIOLATION OF
THE FEDERAL TRADE COMMISSION AND THE FUR PRODUCTS LABELING ACTS*Docket 6714. Complaint, Jan. 22, 1957—Decision, June 19, 1957*

Consent order requiring a furrier in New York City to cease violating the Fur Products Labeling Act by failing to comply with its requirements in branding and invoicing fur products.

Mr. Ross D. Young for the Commission.

Mr. Manfred H. Benedek, of New York City, for respondents.

INITIAL DECISION BY JOHN B. POINDEXTER, HEARING EXAMINER

The complaint in this proceeding charges that Marcus & Smith Bros., Inc., Ben Smith and Barney Marcus, hereinafter called respondents, have violated the provisions of the Federal Trade Commission Act, the Fur Products Labeling Act, and the rules and regulations promulgated thereunder, in stated particulars.

After issuance and service of the complaint, the respondents, their counsel, and counsel supporting the complaint entered into an agreement for a consent order which will dispose of all of the issues in the proceeding. This agreement has been approved by the Director and Assistant Director of the Bureau of Litigation.

The pertinent provisions of said agreement are as follows: The 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; 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.

Order

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JURISDICTIONAL FINDINGS

1. The respondent Marcus & Smith Bros., Inc., 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 345 Seventh Avenue, New York, New York. The individual respondents Ben Smith and Barney Marcus are officers of said corporation and their office and principal place of business is the same as that of the corporation.

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 respondents Marcus & Smith Bros., Inc., a corporation, and its officers, and Ben Smith and Barney Marcus, individually and as officers of said corporation, and respondents' representatives, agents and employees, directly or through any corporate or other device, in connection with the introduction into commerce, or the sale, offering for sale, transportation or distribution of fur products in commerce, or in connection with the manufacture for sale, sale, 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. 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 products 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.

2. Setting forth on labels attached to fur products:

(a) Non-required information mingled with required information;

(b) Required information in abbreviated form or in handwriting.

B. Falsely or deceptively invoicing fur products by:

1. Failing to furnish invoices 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 persons issuing such invoices;

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

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 19th 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.

Complaint

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IN THE MATTER OF
HASKINS CANNING CORPORATION

CONSENT ORDER, ETC., IN REGARD TO THE ALLEGED VIOLATION
OF SEC. 2 (c) OF THE CLAYTON ACT

Docket 6720. Complaint, Feb. 5, 1957—Decision, June 19, 1957

Consent order requiring a sardine cannery in Lubec, Me., to cease, in selling through brokers, allowing certain customers a 5% discount from list or market price on their purchases of canned sardines and paying its brokers in those cases 10¢ per case, which was less than its brokerage fee of 3% or 5% of the purchase price—thus allowing those customers a discount in lieu of brokerage in an amount equal to the difference between the percentage discount and the 10¢ per case—in violation of sec. 2(c) of the Clayton Act.

Mr. Cecil G. Miles and Mrs. Lewis F. Depro for the Commission.
Mr. Oscar Hartman, President, Haskins Canning Corporation,
Lubec, Me., for respondent.

COMPLAINT

The Federal Trade Commission, having reason to believe that the party respondent named in the caption hereof, and hereinafter more particularly designated and described, has violated and is now violating the provisions of subsection (c) of Section 2 of the Clayton Act (U.S.C. Title 15, Sec. 13), as amended by the Robinson-Patman Act, approved June 19, 1936, hereby issues its complaint, stating its charges with respect thereto as follows:

PARAGRAPH 1. Respondent, Haskins Canning Corporation, is a corporation organized and existing under and by virtue of the laws of the State of Maine, with its principal office and place of business located at Lubec, Maine.

PAR. 2. Respondent is engaged in the business of selling and distributing sardines, packed, processed and canned at its canning plant, located in the City of Lubec, State of Maine.

PAR. 3. In the course and conduct of its said business, since January 1, 1954, respondent has shipped and transported its sardines or causes them to be shipped or transported from the State of Maine to destinations in other states of the United States. There has been at all times mentioned herein a continuous course of trade in commerce, as "commerce" is defined in the aforesaid Clayton Act in said sardines across state lines between respondent and the purchasers of its sardines. Said sardines are sold and distributed for use, consumption or resale within the various states of the United States.