

Order

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IN THE MATTER OF
WALKER-SCOTT CORPORATION DOING BUSINESS AS
WALKER-SCOTT COMPANY

Docket 6659. Complaint, Oct. 25, 1956—Decision, June 27, 1957;

MEIER & FRANK CO.

Docket 6661. Complaint, Oct. 25, 1956—Decision, June 27, 1957;

LIPMAN, WOLFE & COMPANY

Docket 6663. Complaint, Oct. 25, 1956—Decision, June 27, 1957;

HAROLD B. TOPLON DOING BUSINESS AS
URIST & TOPLON

Docket 6664. Complaint, Oct. 26, 1956—Decision, June 27, 1957.

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

Consent orders requiring an individual in Los Angeles, Calif., concessionaire and operator of the fur departments of the three corporate retailer-respondents located in San Diego, Calif., and Portland, Ore., and said retailers, to cease violating the Fur Products Labeling Act by fictitious pricing of fur products in advertising fur sales, failing to reveal in advertising and invoicing essential information, and failing in other respects to conform to requirements of the Act.

Mr. John J. McNally and Mr. George E. Steinmetz for the Commission.

McInnis, Hamilton and Fitzgerald by Mr. Thomas M. Hamilton, of San Diego, Calif., for Walker-Scott Corp.

Rosenberg, Swire & Coan by Mr. Abe Eugene Rosenberg, of Portland, Ore., for Meier & Frank Co.

Koerner, Young, McColloch & Dezendorf by Mr. W. F. Lubersky, of Portland, Ore., for Lipman, Wolfe & Co.

Mr. Irwin M. Fulop and Mr. Berne Rolston, of Beverly Hills, Calif., for Harold B. Toplon.

INITIAL DECISION BY WILLIAM L. PACK, HEARING EXAMINER

The complaints in these matters charge the several respondents with violation of the Fur Products Labeling Act and the Rules and Regulations promulgated thereunder, and the Federal Trade Commission Act. By order of the hearing examiner issued contemporaneously with this decision all of said matters have been consolidated. An agreement has now been entered into by counsel supporting

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the complaints and the several respondents, which provides, among other things, that respondents admit all of the jurisdictional allegations in the complaints; that the record on which the initial decision and the decision of the Commission shall be based shall consist solely of the complaints and the agreement; that the inclusion of findings of fact and conclusions of law in the decision disposing of these matters is waived, together with any further procedural steps before the hearing examiner and the Commission; that the orders hereinafter set forth may be entered in disposition of the several matters, such orders 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 orders; that such orders may be altered, modified or set aside in the manner provided for other orders of the Commission; that the complaints may be used in construing the terms of the orders; and that the agreement is for settlement purposes only and does not constitute an admission by any of the respondents that they have violated the law as alleged in the complaints.

Upon consideration of the agreement and proposed orders, the hearing examiner is of the view that they provide an adequate basis for appropriate disposition of the several matters. The agreement is therefore accepted, the following jurisdictional findings made, and the following orders issued:

1. (a) The individual respondent, Harold B. Toplon, doing business as Urist & Toplon, respondent in Docket No. 6664, has his office and principal place of business located at 706 South Hill Street, Los Angeles, California, and was, during all of the times mentioned in the several complaints herein, the lessee, concessionaire, and individual operator of the fur department of each of the three corporate respondents named herein. As such operator, lessee and concessionaire said Harold B. Toplon hired his own employees, purchased, invoiced, labeled, tagged and sold all merchandise, prepared all advertisements, and generally conducted said fur departments as if they were his own retail businesses, with full responsibility for the operation of said fur departments, subject, however, to compliance with said corporate respondent retailers' merchandising and other store policies and in said corporate respondents' names, as the lessee and concessionaire on each of the corporate respondents' premises.

(b) The respondent Walker-Scott Corporation, a corporation, doing business as Walker-Scott Company, respondent in Docket No. 6659, is a corporation existing and doing business under and by virtue of the laws of the State of California, with its office and principal place of business located at 1014 Fifth Avenue, San Diego, California.

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(c) The respondent Meier & Frank Co., respondent in Docket No. 6661, is a corporation existing and doing business under and by virtue of the laws of the State of Oregon, with its office and principal place of business located at 621 S. W. Fifth Avenue, Portland, Oregon.

(d) The respondent Lipman, Wolfe & Company (now named Liwoco Corporation), respondent in Docket No. 6663, is a corporation existing and doing business under and by virtue of the laws of the State of Oregon, with its office and principal place of business located at 521 S. W. Fifth Avenue, Portland, Oregon. On September 6, 1956, said corporate respondent sold its assets and business and in connection with said sale filed in the office of the Corporation Commissioner of the State of Oregon, an amendment to its Articles of Incorporation changing its name from Lipman, Wolfe & Company to Liwoco Corporation.

2. The Federal Trade Commission has jurisdiction of the subject matter of the several proceedings and of the respondents, and the proceedings are in the public interest.

ORDER AS TO THE RESPONDENT

WALKER-SCOTT CORPORATION, A CORPORATION,
DOING BUSINESS AS WALKER-SCOTT COMPANY
(Respondent in Docket No. 6659)

It is ordered, That respondent Walker-Scott Corporation, a corporation trading as Walker-Scott Company, or under any other trade name or names, and respondent's representatives, agents and employees, directly or through any corporate or other device, lease, assignment, or agreement, in connection with the introduction into commerce, or the sale, advertisement, offer for sale, transportation, or distribution in commerce of any fur product, or in connection with the sale, advertisement, offer 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) 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;

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(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.

2. Setting forth on invoices required information in abbreviated form.

3. Failing to set forth on invoices an item number or mark assigned to fur products.

(B) 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:

1. Fails to disclose the name or names of any animal or animals producing the fur or furs contained in 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 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 business;

3. Makes use of comparative prices or percentage savings claims unless such compared prices or savings claims are based upon current market values or upon a bona fide compared price which was in effect during a period of time designated in such advertisement;

4. Makes use of any pricing or savings claims or representations of the types referred to in Paragraph (B) 2 and 3 above, unless there are maintained by respondent full and adequate records disclosing the facts upon which such claims or representations are based.

ORDER AS TO THE RESPONDENT

MEIER & FRANK CO., A CORPORATION

(Respondent in Docket No. 6661)

It is ordered, That respondent Meier & Frank Co., a corporation, and its officers, and respondent's representatives, agents and employees, directly or through any corporate or other device, lease, assignment, or agreement, in connection with the introduction into commerce, or the sale, advertisement, offer for sale, transportation, or distribution in commerce of any fur product, or in connection with the sale, advertisement, offer for sale, transportation, or dis-

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tribution 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) 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.

2. Setting forth required information in abbreviated form.

(B) 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:

1. Fails to disclose:

(a) The name or names of any animal or animals producing the fur or furs contained in 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 the fact.

2. Contains the name or names of any animal or animals other than the name or names specified in Paragraph (B)1(a) above.

3. Represents directly or by implication 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 business.

4. Makes use of comparative prices or percentage savings claims unless such compared prices or savings claims are based upon current market values or upon a bona fide compared price which was in effect during a period of time designated in such advertisement.

5. Makes use of any pricing or savings claims or representations

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of the types referred to in Paragraphs (B) 3 and 4 above, unless there are maintained by respondent full and adequate records disclosing the facts upon which such claims or representations are based.

ORDER AS TO THE RESPONDENT

LIPMAN, WOLFE & COMPANY, A CORPORATION
(Respondent in Docket No. 6663)

It is ordered, That respondent Lipman, Wolfe & Company, a corporation, and respondent's representatives, agents and employees, directly or through any corporate or other device, lease, assignment, or agreement, in connection with the introduction into commerce, or the sale, advertisement, offer for sale, transportation, or distribution in commerce of any fur product, or in connection with the sale, advertisement, offer 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) 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 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;

(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) Required information in abbreviated form.

(b) Required information mingled with non-required information.

(c) Required information in improper sequence.

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(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 fur contained in a fur product.

2. Setting forth required information in abbreviated form.

(C) 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:

1. Fails to disclose:

(a) That the fur products contain or are composed of bleached, dyed or otherwise artificially colored fur, when such is the fact.

(b) That the fur products are composed in whole or in substantial part of paws, tails, bellies, or waste fur, when such is the fact.

2. Represents directly or by implication that fur products are being offered at prices which are at or below wholesale prices or 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 business.

3. Makes use of comparative prices or percentage savings claims unless such compared prices or savings claims are based upon current market values or upon a bona fide compared price which was in effect during a period of time designated in such advertisement.

4. Represents fur products as being clearance stock, or a special purchase at closeout prices, or as being from the stock of another who is leaving the fur business, where contrary to the fact.

5. Makes use of any pricing or savings claims or representations of the types referred to in Paragraphs (C) 2 and 3 above, unless there are maintained by respondent full and adequate records dis-

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closing the facts upon which such claims or representations are based.

ORDER AS TO THE RESPONDENT

HAROLD B. TOPLON, AN INDIVIDUAL
DOING BUSINESS AS URIST & TOPLON
(Respondent in Docket No. 6664)

It is ordered, That respondent Harold B. Toplon, an individual doing business as Urist & Toplon or under any other trade name or names, and respondent's representatives, agents and employees, directly or through any corporate or other device, lease, assignment, or agreement, in connection with the introduction into commerce, or the sale, advertisement, offer for sale, transportation, or distribution in commerce of any fur product, or in connection with the sale, advertisement, offer 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) 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.

2. Setting forth on invoices required information in abbreviated form.

3. Failing to set forth on invoices an item number or mark assigned to fur products.

(B) 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:

1. Fails to disclose:

(a) The name or names of any animal or animals producing the fur or furs contained in 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 the fact;

(c) That the fur products are composed in whole or in substantial part of paws, tails, bellies, or waste fur, when such is the fact.

2. Contains the name or names of any animal or animals other than the name or names specified in Paragraph (B)1(a) above.

3. Represents directly or by implication that fur products are being offered at prices which are at or below wholesale prices or 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 business.

4. Makes use of comparative prices or percentage savings claims unless such compared prices or savings claims are based upon current market values or upon a bona fide compared price which was in effect during a period of time designated in such advertisement.

5. Represents fur products as being clearance stock or a special purchase at closeout prices, or as being from the stock of another who is leaving the fur business, where contrary to the fact.

6. Makes use of any pricing or savings claims or representations of the type referred to in Paragraphs (B) 3 and 4 above, unless there are 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 27th day of June, 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.

Decision

IN THE MATTER OF
GENERAL MOTORS CORPORATION

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

Docket 6477. Complaint, Dec. 8, 1955—Order, June 28, 1957

Order denying appeal of complaint counsel from the initial decision and dismissing for failure of proof, complaint charging the manufacturer of Chevrolet automobiles with advertising falsely that all the automotive replacement parts it sold were designed and manufactured exclusively by or for it, were identical to the parts used in Chevrolet automobiles at the factory, and superior to all other available replacement parts, and that such other parts were inferior.

Edward F. Downs, Esq., for the Commission.

William Simon, Henry M. Hogan and L. H. Bridenstine, Esqs.,
for respondent.

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 December 8, 1955, issue its complaint against respondent, General Motors Corporation, a corporation organized and doing business under and by virtue of the laws of the State of Delaware, having its principal office and place of business located at No. 3044 West Grand Boulevard, Detroit, Michigan.

Said complaint alleges that respondent is engaged in the distribution and sale of automotive replacement parts, some of which are manufactured by it and some of which are manufactured by others and purchased by respondent, which parts are for use in the repair of Chevrolet automobiles; that respondent causes said parts to be sold in commerce as "commerce" is defined in the Act; that in so doing, respondent engages in substantial competition with others likewise engaged in the manufacture, sale and distribution of automotive replacement parts used in the repair of automobiles manufactured by respondent.

That in the course of its business respondent, through use of the term "Genuine Chevrolet Parts" in conjunction with other statements and pictorial representations contained in advertisements in newspapers and magazines, and in other types of advertising ma-