

Decision

IN THE MATTER OF
SIBERIAN FUR SHOP, INC., ET AL.

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

Docket 6775. Complaint, Apr. 11, 1957—Decision, Aug. 7, 1957

Consent order requiring a furrier in Greenfield, Mass., to cease violating the Fur Products Labeling Act by advertising in newspapers and by radio which failed to disclose names of animals producing certain furs and to state when furs were artificially colored, and which represented falsely that certain furs were "stock of a business in a state of liquidation"; and by failing in other respects to comply with the advertising, labeling, and invoicing requirements of the Act, and to keep adequate records as a basis for comparative prices and percentage savings claims.

Michael J. Vitale and Thomas A. Ziebarth, Esqs., in support of the complaint.

Levy & Winer, by Burton Winer, Esq., of Greenfield, Mass., for respondents.

INITIAL DECISION BY JAMES A. PURCELL, HEARING EXAMINER

The complaint in this proceeding, issued April 11, 1957, charges the respondents, Siberian Fur Shop, Inc., a corporation, and Abraham J. Levinsky, individually and as an officer of the corporate respondent, with violation of the provisions of the Federal Trade Commission Act and of the Fur Products Labeling Act, in connection with the sale, advertising and offering for sale, transportation and distribution, shipping and receiving in commerce, of fur and fur products, as "commerce," "fur" and "fur products" are defined in the Fur Products Labeling Act.

After the issuance and service of said complaint the respondents, on May 16, 1957, filed answer thereto which answer, it was agreed between the parties, should be withdrawn of record because of subsequent developments hereinafter set forth, and permission is hereby granted that said answer be withdrawn and held for naught.

Thereafter, on June 6, 1957, both respondents entered into an agreement with counsel in support of the complaint for a consent order (filed in the proceeding June 18, 1957), disposing of all of the issues in this proceeding, which agreement was duly approved by the Director and Assistant Director of the Bureau of Litigation of the Federal Trade Commission. It was expressly provided in said agreement that the signing thereof is for settlement purposes

only and does not constitute an admission by respondents that they have violated the law as alleged in the complaint.

By the terms of said agreement, the respondents admitted all of the jurisdictional allegations of the complaint and agreed that the record herein may be taken as though the Commission had made findings of jurisdictional facts in accordance with such allegations. By said agreement the parties expressly waived a hearing before the Hearing Examiner or the Commission, the making of findings of fact or conclusions of law by the Hearing Examiner or the Commission, the filing of exceptions and oral argument before the Commission, and all further and other procedure before the Hearing Examiner and the Commission to which the respondents may otherwise, but for the execution of said agreement, be entitled under the Federal Trade Commission Act or the Rules of Practice of the Commission.

By said agreement, respondents further agreed that the order to cease and desist issued in accordance with said agreement shall have the same force and effect as though made after a full hearing, presentation of evidence and findings and conclusions thereon, and specifically waived any and all right, power or privilege to challenge or contest the validity of such order.

It was further provided that said agreement, together with the complaint, shall constitute the entire record herein; that the complaint herein may be used in construing the terms of the order issued pursuant to said agreement; and that the said order may be altered, modified or set aside in the manner provided by statute for other orders of the Commission.

Said agreement recites that respondent, Siberian Fur Shop, Inc., is a corporation existing and doing business under and by virtue of the laws of the State of Massachusetts, with its office and principal place of business located at No. 53 Hayward Street, in the City of Greenfield, State of Massachusetts; that the individual respondent, Abraham J. Levinsky, is President and Treasurer of respondent corporation, and that the address of the individual respondent is the same as that of the corporate respondent.

The Hearing Examiner has considered such agreement and the order therein contained, and, it appearing that said agreement and order provides for an appropriate disposition of this proceeding, the same is hereby accepted and is ordered filed upon becoming part of the Commission's decision in accordance with Sections 3.21 and 3.25 of the Rules of Practice.

Consonant with the express terms and provisions of said agreement, the Hearing Examiner finds that the Federal Trade Commis-

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sion has jurisdiction of the subject matter of this proceeding and of both respondents named herein, and that this proceeding is in the interest of the public, wherefore he issues the following order:

ORDER

It is ordered, That respondent Siberian Fur Shop, Inc., a corporation, and its officers, and Abraham J. Levinsky individually and as an officer 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, advertising, or offering for sale in commerce, or the transportation or distribution in commerce, of any fur products, or in connection with the sale, advertising, offering for sale, transportation, or distribution of any 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 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 otherwise 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.

2. Setting forth on labels attached to fur products:

(a) Non-required information mingled with information that is required under Section 4(2) of the Act and the Rules and Regulations thereunder;

(b) Information required under Section 4(2) of the Act and the Rules and Regulations thereunder in abbreviated form or in handwriting.

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 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 the fact;

(c) That the fur product contains or is composed of bleached, dyed, or otherwise 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. Failing to set forth on invoices the item number of the fur product;

3. Setting forth on invoices information required under Section 5(b)(1) of the Act and the Rules and Regulations thereunder 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) 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 fur products contain or are composed of bleached, dyed, or otherwise artificially colored fur, when such is the fact.

2. Sets forth information required under Section 5(a) of the Act and the Rules and Regulations thereunder in abbreviated form;

3. Represents that fur products are being offered for sale from stock of a business in a state of liquidation, when such is not the fact.

D. Making use of price reductions, comparative prices and percentage savings claims in advertising unless there are maintained by respondents full and adequate records disclosing the facts upon which such claims and 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 did, on the 7th day of August, 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
THE BEST FOODS, INC.

MODIFIED ORDER, ETC., IN REGARD TO THE ALLEGED VIOLATION OF THE
FEDERAL TRADE COMMISSION ACT AND THE OLEOMARGARINE AMENDMENT
TO SAID ACT

Docket 6380. Modified order, Aug. 8, 1957

Order modifying the order to cease and desist of Nov. 8, 1955 (52 F.T.C. 446), to conform to the modification requested by the Commission and approved on Jan. 18, 1956, by the Court of Appeals, Third Circuit, in the *Reddi-Spread* case, 229 F. 2d 557.

Before *Mr. Everett F. Haycraft*, hearing examiner.
Mr. Morton Nesmith for the Commission.
Davis & Gilbert, of New York City, for respondent.

MODIFIED ORDER TO CEASE AND DESIST

The hearing examiner's initial decision entered herein on September 29, 1955, having become the decision of the Commission on November 8, 1955, pursuant to § 3.21 of the Commission's Rules of Practice; and

Counsel in support of the complaint, on July 17, 1957, having filed with the Commission a motion to reopen the proceeding and modify the order to cease and desist contained in said decision; and

The Commission having issued its order granting said motion and directing the issuance of a modified order to cease and desist in conformity therewith:

It is ordered, That the respondent, The Best Foods, Inc., a corporation, and its officers, agents, representatives and employees, directly or through any corporate or other device, in connection with the offering for sale, sale or distribution of oleomargarine or margarine, do forthwith cease and desist from, directly or indirectly:

1. Disseminating or causing to be disseminated by means of the United States mails or by any means in commerce, as "commerce" is defined in the Federal Trade Commission Act, any advertisement which contains any statement, word, grade designation, design, device, symbol, sound or any combination thereof which represents or suggests that said product is a dairy product;

Provided, however, That nothing contained in this order shall prevent the use in advertisements of a truthful, accurate and full statement of all of the ingredients contained in said product.