

Decision

IN THE MATTER OF
NUSSBAUM AND DONNENFELD, INC., ET AL.

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

Docket 6782. Complaint, Apr. 18, 1957—Decision, Aug. 27, 1957

Consent order requiring a furrier in New York City to comply with the labeling and invoicing requirements of the Fur Products Labeling Act.

Mr. Michael J. Vitale and Mr. Thomas A. Ziebarth for the Commission.

Mr. Milton Horowitz, of New York, N.Y., for respondents.

INITIAL DECISION BY ABNER E. LIPSCOMB, HEARING EXAMINER

The complaint herein was issued on April 18, 1957, charging Respondents with misbranding and falsely and deceptively invoicing their fur products, in violation of § 4(2) and § 5(b)(1) of the Fur Products Labeling Act, Rule 40(a) of the Rules and Regulations promulgated thereunder, and the Federal Trade Commission Act.

On June 18, 1957, Respondents, their counsel, and counsel supporting the complaint entered into an Agreement Containing Consent Order To Cease And Desist, which was approved by the Director and the Assistant Director of the Commission's Bureau of Litigation, and thereafter submitted to the Hearing Examiner for consideration.

Respondent Nussbaum and Donnenfeld, Inc. is identified in the agreement as a New York corporation, with its office and principal place of business located at 135 West 29th Street, New York, New York, and individual Respondents Harry Nussbaum and Max Donnenfeld, respectively, as president and treasurer thereof, having the same address.

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.

Respondents, in the agreement, waive any further procedure before the Hearing Examiner and the Commission; the making of findings of fact or conclusions of law; and all the rights they may have to challenge or contest the validity of the order to cease and desist entered in accordance with the agreement. All parties agree that the record on which the initial decision and the decision of the Com-

Order

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mission shall be based consist solely of the complaint and the agreement; that the order to cease and desist as contained in the agreement 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; that the complaint herein may be used in construing the terms of said order; and that the 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.

After consideration of the allegations of the complaint and the provisions of the agreement and the proposed order, the Hearing Examiner is of the opinion that such order constitutes a satisfactory disposition of this proceeding. Accordingly, in consonance with the terms of the aforesaid agreement, the Hearing Examiner accepts the Agreement Containing Consent Order To Cease And Desist; finds that the Commission has jurisdiction over the Respondents and over their acts and practices as alleged in the complaint; and finds that this proceeding is in the public interest. Therefore,

It is ordered, That Nussbaum and Donnenfeld, Inc., a corporation, and its officers, and Harry Nussbaum and Max Donnenfeld, 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 or manufacture for introduction into commerce, or the sale, advertising, or offering for sale in commerce, or the transportation or distribution in commerce, of any fur product, or in connection with the manufacture for sale, sale, advertising, offering for sale, transportation, or distribution of any fur product which has 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 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;

(g) The item numbers or marks assigned to the fur products as required under Rule 40(a) of the Rules and Regulations;

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 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 invoices;

(f) The name of the country of origin of any imported furs contained in the fur product;

(g) The item numbers or marks assigned to fur products as required under Rule 40(a) of the Rules and Regulations.

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 August, 1957, become the decision of the Commission; and, accordingly:

It is ordered, That respondents Nussbaum and Donnenfeld, Inc., a corporation, and Harry Nussbaum and Max Donnenfeld, individually and as officers of said corporation, 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.

IN THE MATTER OF

ALLEN WAUGH TRADING AS ALLEN WAUGH

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

Docket 6777. Complaint, Apr. 16, 1957—Decision, Aug. 28, 1957

Order requiring a furrier in San Francisco, Calif., to cease violating the Fur Products Labeling Act by falsely identifying furs in advertising and labeling with respect to the animals producing them, and failing to conform to labeling and invoicing requirements of the Act; by advertising which failed to disclose the names of animals producing certain furs or that certain products were composed of used or artificially colored fur, and which falsely represented prices as reduced and misrepresented percentage savings; and by failing to maintain adequate records on which the pricing claims were based.

Daniel J. Murphy, Esq., for the Commission.
Respondent, *pro se*.

INITIAL DECISION BY ROBERT L. PIPER, HEARING EXAMINER

STATEMENT OF THE CASE

On April 16, 1957, the Federal Trade Commission issued its complaint against Allen Waugh (hereinafter called respondent), charging him with misbranding and falsely and deceptively invoicing and advertising certain fur products in violation of the provisions of the Fur Products Labeling Act (hereinafter called the Fur Act), 15 U.S.C. 69(a), *et seq.*, and the Federal Trade Commission Act (hereinafter called the Act), 15 U.S.C. 41, *et seq.* Copies of said complaint, together with a notice of hearing, were duly served upon respondent.

Thereafter, pursuant to the provisions of Sec. 3.7(a)(2) of the Commission's Rules and Regulations promulgated under the Act and also set forth in the complaint, respondent filed an answer admitting all the material allegations of the complaint and waiving hearing, but reserving the right to submit proposed findings and conclusions and to appeal from the initial decision under § 3.22 of said Rules.

Pursuant to leave granted, proposed findings of fact, conclusions of law, order and reasons in support thereof were received from counsel supporting the complaint but not from respondent.¹

¹ All of the findings and conclusions proposed by counsel supporting the complaint have been adopted herein. 5 U.S.C. § 1007(b).