

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).

Upon the entire record in the case, the undersigned makes the following:

FINDINGS OF FACT

Respondent is an individual trading as Allen Waugh, with his office and principal place of business located at 51 Grant Avenue, San Francisco, California.

Subsequent to the effective date of the Fur Act on August 9, 1952, respondent has been and is now engaged in the introduction into commerce, and in the sale, advertising, and offering for sale, in commerce, and in the transportation and distribution in commerce, of fur products; and has sold, advertised, offered for sale, transported and distributed fur products which were made in whole or in part of fur which had been shipped and received in commerce, as the terms "commerce," "fur" and "fur products" are defined in the Fur Act.

Certain of said fur products were misbranded in that they were falsely and deceptively labeled or otherwise falsely and deceptively identified with respect to the name or names of the animal or animals that produced the fur from which said fur products had been manufactured, in violation of § 4(1) of the Fur Act.

Certain of said fur products were misbranded in that they were not labeled as required under the provisions of § 4(2) of the Fur Act, and in the manner and form prescribed by the Rules and Regulations promulgated thereunder.

Certain of said fur products were misbranded in violation of the Fur Act in that they were not labeled in accordance with the Rules and Regulations promulgated thereunder in the following respects:

(a) Information required under § 4(2) of the Fur Act and the Rules and Regulations thereunder was set forth in abbreviated form in violation of Rule 4 of the aforesaid Rules and Regulations.

(b) Respondent affixed labels to fur products which did not comply with the minimum size requirements of $1\frac{3}{4} \times 2\frac{3}{4}$ inches in violation of Rule 27 of the aforesaid Rules and Regulations.

(c) Information required under § 4(2) of the Fur Act and the Rules and Regulations thereunder was mingled with non-required information in violation of Rule 29(a) of the aforesaid Rules and Regulations.

(d) Information required under § 4(2) of the Fur Act and the Rules and Regulations thereunder was not completely set forth on one side of the labels in violation of Rule 29(a) of the aforesaid Rules and Regulations.

(e) Information required under § 4(2) of the Fur Act and the Rules and Regulations thereunder was set forth in handwriting on

labels in violation of Rule 29(b) of the aforesaid Rules and Regulations.

(f) An item number was not set out on the label of each fur product, in violation of Rule 40 of the aforesaid Rules and Regulations.

Certain of said fur products were misbranded in violation of § 3(e) of the Fur Act in that respondent, following receipt thereof in commerce, removed the original manufacturer's label and thereafter substituted his own, which substituted labels were false and deceptive in that they failed to include all of the information required by § 4(2) of the said Act.

Certain of said fur products were falsely and deceptively invoiced by the respondent in that they were not invoiced as required by § 5(b)(1) of the Fur Act and in the manner and form prescribed by the Rules and Regulations thereunder.

Certain of said fur products were falsely and deceptively invoiced in that respondent on invoices, furnished to purchasers of said fur products, set forth the name of an animal other than the name of the animal that produced the fur, in violation of § 5(b)(2) of the Fur Act and the Rules and Regulations thereunder.

Certain of said fur products were falsely and deceptively invoiced in violation of the Fur Act in that they were not invoiced in accordance with the Rules and Regulations thereunder in that:

(a) Information required under § 5(b)(1) of the Fur Act and the Rules and Regulations thereunder was set forth in abbreviated form, in violation of Rule 4 of the aforesaid Rules and Regulations.

(b) The term "blended" was used as part of the required information to describe the pointing, bleaching, dyeing or tip-dyeing of furs, in violation of Rule 19 of the aforesaid Rules and Regulations.

Certain of said fur products were falsely and deceptively advertised in violation of the Fur Act in that respondent caused the dissemination in commerce, as "commerce" is defined in said Act, of certain newspaper advertisements, concerning said products, which were not in accordance with the provisions of § 5(a) of the said Act and the Rules and Regulations promulgated thereunder; and which advertisements were intended to aid and did aid, promote and assist, directly and indirectly, in the sale and offering for sale of said fur products.

Among and included in said advertisements, but not limited thereto, were advertisements of the respondent published in the January 18 and March 25, 1956 issues of the Oakland Tribune, a newspaper

published in the City of Oakland, State of California and having a substantial circulation in said State and various other States of the United States.

By means of said advertisements, as well as others of similar import not specifically referred to herein, respondent falsely and deceptively advertised his fur products in that said advertisements:

(a) Failed to disclose 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, in violation of § 5(a)(1) of the Fur Act;

(b) Failed to disclose that fur products were composed of used fur when such was the fact, in violation of § 5(a)(2) of the Fur Act;

(c) Failed to disclose that certain fur products contained or were composed of bleached, dyed, or otherwise artificially colored fur, when such was the fact, in violation of § 5(a)(3) of the Fur Act;

(d) Contained the name or names of an animal or animals other than those producing the fur contained in the fur product, in violation of § 5(a)(5) of the Fur Act;

(e) Failed to use the term "secondhand used fur," where applicable, in violation of Rules 21 and 23 of the Rules and Regulations;

(f) Represented prices of fur products as having been reduced from regular or usual prices, where the so-called regular or usual prices were in fact fictitious in that they were not the prices at which said merchandise was usually sold by respondent in the recent regular course of his business, in violation of § 5(a)(5) of the Fur Act and Rule 44(a) of the Rules and Regulations promulgated thereunder;

(g) Used comparative prices and percentage savings claims which were not based on current market values and which failed to give a designated time of a *bona fide* compared price, in violation of § 5(a)(5) of the Fur Act and Rule 44(b) of the Rules and Regulations thereunder;

(h) Represented "\$100,000 of furs now priced at \$50,000" when such representation was not true in fact, in violation of § 5(a)(5) of the Fur Act and Rule 44(d) of the Rules and Regulations promulgated thereunder.

Respondent in making the pricing claims and representations, referred to in subparagraphs (f), (g) and (h) of the foregoing paragraph herein, failed to maintain full and adequate records disclosing the facts upon which such claims and representations were purportedly based, in violation of Rule 44(e) of the aforesaid Rules and Regulations.

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CONCLUSIONS OF LAW

1. Respondent is engaged in commerce, and engaged in the above-found acts and practices in the course and conduct of his business in commerce, as "commerce" is defined in the Fur Act.

2. The acts and practices of respondent hereinabove found are in violation of the Fur Act and the Rules and Regulations promulgated thereunder, and constitute unfair and deceptive acts and practices in commerce under the Act.

3. This proceeding is in the public interest, and an order to cease and desist the above-found unlawful practices should issue against respondent.

ORDER

It is ordered, That respondent Allen Waugh, an individual doing business as Allen Waugh or under any other name, and respondent's 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 fur products, or in connection with the sale, advertising, 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 Act, do forthwith cease and desist from:

A. Misbranding fur products by:

1. Falsely or deceptively labeling or identifying any such product as to the name or names of the animal or animals that produced the fur from which such product was manufactured;

2. Failing to affix labeling 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

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commerce, sold it in commerce, advertised or offered it for sale, or transported or distributed it in commerce;

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

3. Setting forth on labels attached to fur products:

(a) Information required under § 4(2) of the Fur Act and the Rules and Regulations thereunder in abbreviated form or in handwriting;

(b) Information required under § 4(2) of the Fur Act and the Rules and Regulations thereunder mingled with non-required information;

4. Affixing labels to fur products which do not comply with the minimum size requirements of 1¾ inches by 2¾ inches;

5. Failure to show on labels attached to fur products all of the information required under § 4(2) of the Fur Act and the Rules and Regulations thereunder on one side of such labels;

6. Failure to set forth on labels pertaining to fur products an item number or mark assigned to such products;

B. Falsely or deceptively invoicing fur products by:

1. Failure 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 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 invoice;

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

2. Setting forth information required under § 5(b)(1) of the Fur Act and the Rules and Regulations thereunder in abbreviated form;

3. Using the term "blended" to describe the pointing, bleaching, dyeing or tip-dyeing of furs;

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:

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1. Fails to disclose:

(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 of "secondhand used fur," when such is the fact;

2. Contains the name or names of any animal or animals other than the name or names provided for in Paragraph 5(a)(1) of the Fur Act;

3. Represents directly or by implication:

(a) That the regular or usual price of any fur product is any amount which is in excess of the price at which such products were sold in the recent regular course of his business;

(b) The value of fur products when such claims and representations are not true in fact;

4. Makes use of comparative prices or percentage savings claims unless such compared prices or percentage savings are based upon current market values or unless a *bona fide* price at a designated time is stated;

5. Makes pricing claims and representations of the types referred to in subparagraphs 3(a) and (b) and 4 above, unless there are maintained by respondent full and adequate records disclosing the facts upon which such claims or representations are based, as required by Rule 44(e) of the Rules and Regulations;

D. In substituting labels affixed to fur products which have been shipped to and received by respondent in commerce, misbranding such products in any of the respects set forth in Paragraph A of this Order.

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 28th day of August, 1957, become the decision of the Commission; and, accordingly:

It is ordered. That the respondent herein shall within sixty (60) days after service upon it of this order, file with the Commission a report in writing setting forth in detail the manner and form in which it has complied with the order to cease and desist.

Decision

IN THE MATTER OF
THE CARL COMPANY ET AL.CONSENT ORDER, ETC., IN REGARD TO THE ALLEGED VIOLATION
OF THE FEDERAL TRADE COMMISSION ACT*Docket 6787. Complaint, Apr. 30, 1957—Decision, Sept. 3, 1957*

Consent order requiring sellers in Lisbon, Ohio, of printed matter for use by creditors and collection agencies, to cease using forms or letters which did not clearly state that their purpose was to obtain information concerning delinquent debtors, using the name "Meridian Reserve Fund" to describe their business, and representing falsely that money was being held for persons concerning whom information was sought.

Mr. C. W. O'Connell for the Commission.

INITIAL DECISION BY FRANK HIER, HEARING EXAMINER

Pursuant to the provisions of the Federal Trade Commission Act, the Federal Trade Commission on April 30, 1957, issued and subsequently served its complaint in this proceeding against respondents The Carl Company, a corporation existing and doing business under and by virtue of the laws of the State of Ohio, Joyce L. Tuseck and Frank J. Tuseck, individually and as president and secretary-treasurer, respectively, of the corporate respondent. The office and principal place of business of said corporate respondent and said individual respondents is located at 108 West Washington Street, Lisbon, Ohio.

On July 10, 1957, there was submitted to the undersigned hearing examiner an agreement between respondents and counsel supporting the complaint providing for the entry of a consent order. By the terms of said agreement, 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. By such agreement, respondents waive any further procedural steps before the hearing examiner and the Commission; waive the making of findings of fact and conclusions of law; and waive 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. Such agreement further provides that it disposes of all of this proceeding as to all parties; that the record on which this initial decision and the decision of the Commission shall be based shall consist solely of the complaint and this agreement; that the latter shall not become a part of the official