

Decision

IN THE MATTER OF
HARRY H. TOLCHINSKY TRADING AS
TOLCHINSKY'S FUR SHOP

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

Docket 6739. Complaint, Mar. 8, 1957—Decision, Sept. 13, 1957

Consent order requiring a furrier in Providence, R.I., to cease violating the Fur Products Labeling Act by affixing to fur products labels bearing fictitious prices and misrepresenting their value, and falsely identifying the animal producing certain furs; failing in newspaper advertisements to disclose the names of animals producing furs and that certain furs were artificially colored, and representing usual prices falsely as reduced; and failing in other respects to conform to the labeling, invoicing, and advertising requirements of the Act.

Mr. S. F. House for the Commission.

Rosenstein & Jacques, by *Mr. Aram K. Berberian*, of Providence, R.I., for respondent.

INITIAL DECISION BY J. EARL COX, HEARING EXAMINER

The complaint charges respondent with violation of the Federal Trade Commission Act and of the Fur Products Labeling Act and the Rules and Regulations promulgated thereunder, by misbranding and by falsely and deceptively advertising and invoicing fur products.

After the issuance of the complaint, respondent, his 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 transmitted to the Hearing Examiner for consideration.

The agreement identifies respondent Harry H. Tolchinsky as an individual trading as Tolchinsky's Fur Shop, with his office and principal place of business located at 450 Winchester Street, Providence, Rhode Island.

The agreement provides, among other things, that respondent admits all the jurisdictional facts alleged in the complaint and agrees that the record may be taken as if findings of jurisdictional facts had been duly made in accordance with such allegations; that the record on which the initial decision and the decision of the Commission shall be based shall consist solely of the complaint and this agreement; that the agreement shall not become a part of the official record unless and until it becomes a part of the decision of the Commission; that the complaint may be used in construing the terms

of the order agreed upon, which may be altered, modified or set aside in the manner provided for other orders; that the agreement is for settlement purposes only and does not constitute an admission by the respondent that he has violated the law as alleged in the complaint; and that the order set forth in the agreement and hereinafter included in this decision shall have the same force and effect as if entered after a full hearing.

Respondent waives any further procedural steps before the Hearing Examiner and the Commission; the making of findings of fact or conclusions of law; and all of the rights he may have to challenge or contest the validity of the order to cease and desist entered in accordance with the agreement.

The order agreed upon fully disposes of all the issues raised in the complaint, and adequately prohibits the acts and practices charged therein as being in violation of the Federal Trade Commission Act, the Fur Products Labeling Act and the Rules and Regulations promulgated thereunder. Accordingly, the Hearing Examiner finds this proceeding to be in the public interest and accepts the agreement containing consent order to cease and desist as part of the record upon which this decision is based. Therefore,

It is ordered, That the respondent Harry H. Tolchinsky, an individual trading as Tolchinsky's Fur Shop, or trading under any other name or names, 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 offering for sale, sale, advertising, 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 products" are defined in the Fur Products Labeling Act, do forthwith cease and desist from:

1. Misbranding fur products by:

(a) Setting forth on labels attached thereto fictitious prices or any misrepresentations as to the value of such fur products, either directly or by implication;

(b) Falsely or deceptively labeling or otherwise identifying any such product as to the name of the animal or animals that produced the fur from which such product was manufactured;

(c) Failing to affix labels to fur products showing:

(1) 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;

(2) That the fur product contains or is composed of used fur, when such is the fact;

(3) That the fur product contains or is composed of bleached, dyed, or artificially colored fur, when such is the fact;

(4) That the fur product is composed in whole or in substantial part of paws, tails, bellies, or waste fur, when such is the fact;

(5) 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;

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

(d) Setting forth on labels attached to fur products:

(1) Information required under § 4(2) of the Fur Products Labeling Act and the Rules and Regulations thereunder in abbreviated form;

(2) Information required under § 4(2) of the Fur Products Labeling Act and the Rules and Regulations thereunder which is intermingled with non-required information;

(3) Information required under § 4(2) of the Fur Products Labeling Act and the Rules and Regulations thereunder which is in handwriting;

(e) Failing to affix labels to fur products showing item numbers required under Rule 40 of the Rules and Regulations;

(f) Failing to use the terms "secondhand" and "used" fur when applicable as required by Rules 21 and 23 of the aforesaid Rules and Regulations;

2. Falsely or deceptively invoicing fur products by:

(a) Failing to show:

(1) The name or names (as set forth in the Fur Products Name Guide) of the animal or animals that produced the fur and such qualifying statements as may be required pursuant to § 7(c) of the Fur Products Labeling Act;

(2) That the fur product contains or is composed of used fur, when such is the fact;

(3) That the fur product contains or is composed of bleached, dyed or otherwise artificially colored fur, when such is the fact;

(4) That the fur product is composed in whole or in substantial part of paws, tails, bellies, or waste fur, when such is the fact;

(5) The name and address of the person issuing such invoice;

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

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

3. 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:

(a) Fails to disclose:

(1) The name or names of the animal or animals which produced the fur or furs contained in the fur products as set forth in the Fur Products Name Guide;

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

(b) Uses the name or names of an animal or animals other than the name or names specified in the Fur Products Name Guide or prescribed by the Rules and Regulations;

(c) Fails to use the term "secondhand" and "used" fur where applicable, as required by Rules 21 and 23 of the said Rules and Regulations;

(d) Represents directly or by implication:

(1) 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 product in the recent regular course of his business;

4. Making use of comparative prices or percentage savings claims in advertising unless such compared prices or claims are based upon the current market value of the fur product or upon a *bona fide* compared price at a designated time;

5. Making price claims or representations of the type referred to in paragraphs 3(d) (1) and 4 above unless there is maintained by respondent full and adequate records disclosing the facts on 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 shall, on the 13th day of September, 1957, become the decision of the Commission; and, accordingly:

It is ordered, That respondent Harry H. Tolchinsky, an individual trading as Tolchinsky's Fur Shop, shall, within sixty (60) days after service upon him of this order, file with the Commission a report in writing setting forth in detail the manner and form in which he has complied with the order to cease and desist.

Complaint

IN THE MATTER OF
LEAF BRANDS, INC.CONSENT ORDER, ETC., IN REGARD TO THE ALLGED VIOLATION OF
SECS. 2(a), (c), AND (d) OF THE CLAYTON ACT

Docket 6749. Complaint, Mar. 26, 1957—Decision, Sept. 13, 1957

Consent order requiring a manufacturer of candy and chewing gum in Chicago to cease discriminating in price in violation of Sec. 2(d) of the Clayton Act as amended by paying sums of money as compensation or allowance for advertising furnished by one chain store customer while not offering comparable allowances to all its competitors; and dismissing Counts I and II of the complaint charging violation of Secs. 2(a) and (c) of the Act.

Before *Mr. William L. Pack*, hearing examiner.

Mr. Frederic T. Suss for the Commission.

Bell, Boyd, Marshall & Lloyd, by *Mr. Mark S. Massel*, of Chicago, Ill., for respondent.

COMPLAINT

The Federal Trade Commission, having reason to believe that Leaf Brands, Inc., is violating and has violated the provisions of subsections (a), (c) and (d) of Section 2 of the Clayton Act, as amended by the Robinson-Patman Act, approved June 19, 1936 (U.S.C. Title 15, Section 13), hereby issues its complaint stating its charges with respect thereto as follows:

COUNT I

Charging violation of subsection (a) of Section 2 of the Clayton Act, as amended, the Commission alleges:

PARAGRAPH 1. Respondent Leaf Brands, Inc., hereinafter referred to as respondent, is a corporation organized, existing and doing business under and by virtue of the laws of the State of Illinois, with its principal office and place of business located at 1155 North Cicero Avenue, Chicago, Illinois.

PAR. 2. Respondent is now and since 1946 has been engaged in the manufacture and sale of various candy and chewing gum products. Respondent sells said candy and chewing gum products through brokers to different purchasers, including jobbers and retailers located in the various States of the United States and the District of Columbia. Respondent pays to each such broker a five percent brokerage fee on all sales to customers located in the areas assigned to him by respondent.