

Decision

IN THE MATTER OF
THE MAYDAY CORPORATION ET AL.

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

Docket 6785. Complaint, Apr. 26, 1957—Decision, Sept. 21, 1957

Consent order requiring a Cleveland, Ohio, furrier to cease violating the Fur Products Labeling Act by failing to comply with the labeling and invoicing requirements; by advertising which failed to disclose that certain fur products were composed of artificially colored fur, which contained the names of animals other than those producing certain fur, and which misrepresented prices and values; and by failing to maintain adequate records as a basis for such pricing claims.

Mr. Harry E. Middleton, Jr., for the Commission.

Mr. Wm. R. Brunn, of *Halle, Haber, Berick & McNulty*, of Cleveland, Ohio, for respondents.

INITIAL DECISION BY JOHN B. POINDEXTER, HEARING EXAMINER

The complaint in this proceeding charges that The Mayday Corporation, a corporation, doing business as K. B. Company, David G. Kangesser, and May Kangesser, erroneously referred to in the complaint as Mae Kangesser, hereinafter called respondents, have violated the provisions of the Federal Trade Commission Act, the Fur Products Labeling Act, and the Rules and Regulations promulgated thereunder in the sale, advertising and distribution, in commerce, of fur products.

After issuance and service of the complaint, counsel supporting the complaint, respondents, and their counsel, entered into an agreement for a consent order. The agreement has been approved by the Director and Assistant Director of the Bureau of Litigation. The order corrects the misspelling of the respondent May Kangesser's name and disposes of the matters complained about.

The material provisions of said agreement are as follows: Respondents admit all jurisdictional facts; the complaint may be used in construing the terms of the order; the order shall have the same force and effect as if entered after a full hearing and the said agreement shall not become a part of the official record of the proceeding unless and until it becomes a part of the decision of the Commission; respondents waive the requirement that the decision must contain a statement of findings of fact and conclusion of law; respondents waive further procedural steps before the hearing examiner and the Commission, and the order may be altered, modified, or set aside

Order

54 F.T.C.

in the manner provided by statute for other orders; respondents waive any right to challenge or contest the validity of the order entered in accordance with the agreement; and the signing of said 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.

The hearing examiner having considered the agreement and proposed order and being of the opinion that the acceptance thereof will be in the public interest, hereby accepts such agreement, makes the following jurisdictional findings, and issues the following order:

JURISDICTIONAL FINDINGS

1. The respondent, The Mayday Corporation, is a corporation organized and doing business under the laws of the State of Ohio, with its office and principal place of business located at 239 Euclid Avenue, Cleveland, Ohio. Said corporation does business as K. B. Company. The respondents David G. Kangesser and May Kangesser are individuals and officers of said corporation and their office and principal place of business is the same as that of the corporation.

2. The Federal Trade Commission has jurisdiction of the subject matter of this proceeding and of the respondents, and the proceeding is in the public interest.

ORDER

It is ordered, That respondent The Mayday Corporation, a corporation, doing business under its own name; as K. B. Company or under any other name; and its officers; and David G. Kangesser and May Kangesser, individually and as officers of said corporation and respondents' agents, representatives 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 product, or in connection with the sale, advertising, offering for sale, transportation or distribution of any fur product which is made in whole or in part of fur which has been shipped or 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. Falsely or deceptively labeling or otherwise 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 labels to fur products showing:

385

Order

(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.

3. Setting forth on the labels attached to fur products the name or names of any animal or animals other than the name or names provided for in Paragraph A(2)(a) above;

4. Setting forth on labels attached to fur products:

(a) Nonrequired information mingled with required information;

(b) Required information in handwriting;

(c) Required information in abbreviated form.

5. Failing to affix labels to fur products showing item numbers required under Rule 40 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 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;

Decision

54 F.T.C.

2. Abbreviating required information on invoices;
3. Failing to set forth on invoices the item number of the fur product;
4. Setting forth on invoices the name or names of any animal or animals other than the name or names provided for in Paragraph B(1)(a) above.

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 that the fur products contain or are composed of bleached, dyed, or otherwise artificially colored fur, when such is the fact.
2. Uses the name or names of an animal or animals to describe the fur of an animal other than those producing the fur in the fur product.
3. Makes use of comparative prices and percentage savings claims unless such compared prices or claims are based upon a bona fide compared price at a designated time, and full and adequate records disclosing the facts upon which such prices and claims 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 21st day of September, 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.

Decision

IN THE MATTER OF
TIDEWATER PAINT & OIL COMPANY, INC., ET AL.CONSENT ORDER, ETC., IN REGARD TO THE ALLEGED VIOLATION
OF THE FEDERAL TRADE COMMISSION ACT

Docket 6744. Complaint, Mar. 18, 1957—Decision, Sept. 26, 1957

Consent order requiring a Norfolk, Va., seller of paints under its labels of "Tidewater Marine Outside Paint" and "Tidewater Quality Exterior White" to shipyards and small industries, but mostly to farmers, tobacco growers, and other rural dwellers, to cease representing falsely in letters and advertising literature mailed to prospective purchasers that a limited quantity of its paint was available in the prospect's vicinity and was being offered for sale at a special reduced price, saving the purchaser \$2 per gallon, that it was high-quality all-purpose paint suitable for marine use, "guaranteed for many years outdoor exposure on every type of surface," and equal in durability to national brand paints; and to cease furthering such false representations by use in the brand names of the words "Marine" and "Quality."

Mr. Garland S. Ferguson for the Commission.

Breeden, Howard & MacMillen, by *Mr. Edward L. Breeden, Jr.*,
Norfolk, Va., for respondents.

INITIAL DECISION BY J. EARL COX, HEARING EXAMINER

The complaint charges respondents with violation of the Federal Trade Commission Act by falsely and deceptively advertising paint and allied products which they sell and distribute in commerce.

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

The agreement identifies respondent Tidewater Paint & Oil Company, Inc. as a Virginia corporation, with its office and principal place of business located at the Flatiron Building, Norfolk, Virginia; and respondents Stanley D. Legum, Esther S. Legum and Alvin Legum as individuals and officers of said corporation, who formulate, direct and control the policies and practices of the corporate respondent. All individual respondents have their office and principal place of business at the same location as that of the corporate respondent.

The agreement provides, among other things, that respondents admit all the jurisdictional facts alleged in the complaint and agree