

Decision

IN THE MATTER OF

JULIUS BERMAN ET AL. TRADING AS
BERMAN BROTHERS

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

Docket 6863. Complaint, Aug. 14, 1957—Decision, Nov. 22, 1957

Consent order requiring a New York City furrier to cease violating the Fur Products Labeling Act by failing to label certain products as required and by invoicing which showed the United States as the country of origin of furs which were in fact imported.

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

Mr. Julius Berman, Mr. Max Berman, and Mr. William Berman,
pro se.

INITIAL DECISION BY EVERETT F. HAYCRAFT, HEARING EXAMINER

The Federal Trade Commission issued its complaint against the above-named respondents on August 14, 1957, charging them with the use of unfair and deceptive acts and practices in commerce in violation of the provisions of the Federal Trade Commission Act, the Fur Products Labeling Act and the Rules and Regulations promulgated under the Fur Products Labeling Act. In lieu of submitting answer to said complaint, all of the respondents on September 20, 1957, entered into an agreement for consent order with counsel supporting the complaint disposing of all the issues in this proceeding in accordance with Section 3.25 of the Rules of Practice and Procedure of the Commission, which agreement has been duly approved by the Director and the Assistant Director of the Bureau of Litigation.

By the terms of said agreement, the respondents admitted all the jurisdictional facts alleged in the complaint and agreed 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 expressly waived 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 they may have to challenge or contest the validity of the order to cease and desist entered in accordance with this agreement. It was further provided that said agreement, together with the complaint, shall constitute the entire record herein; 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 said agreement is for settlement purposes only and does not constitute an admission by the respondents that

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they have violated the law as alleged in the complaint. The agreement also provided that the order to cease and desist issued in accordance with said agreement shall have the same force and effect as if entered after a full hearing; that it may be altered, modified or set aside in the manner provided for other orders; and that the complaint may be used in construing the terms of the order.

This proceeding having now come on for final consideration by the hearing examiner on the complaint and the aforesaid agreement for consent order, and it appearing that said agreement provides for an appropriate disposition of this proceeding, the aforesaid agreement 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; and in consonance with the terms of said agreement, the hearing examiner makes the following jurisdictional findings and order:

1. Respondents are Julius Berman, Max Berman, and William Berman, individuals and copartners trading as Berman Brothers, with their office and place of business located at 305 Seventh Avenue, in the City of New York, State of New York.

2. The Federal Trade Commission has jurisdiction of the subject matter of this proceeding and of the respondents hereinabove named. The complaint states a cause of action against said respondents under the Federal Trade Commission Act and the Fur Products Labeling Act, and this proceeding is in the interest of the public.

ORDER

It is ordered, That respondents Julius Berman, Max Berman, and William Berman, as individuals and as copartners trading as Berman Brothers, or under any other name, 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 in the transportation and 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 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.

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 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 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 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 22nd day of November, 1957, become the decision of the Commission; and, accordingly:

It is ordered, That respondents Julius Berman, Max Berman, and William Berman, individually and as copartners trading as Berman Brothers, 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
SOUTHERN PIANO COMPANY, INC., ET AL.

CONSENT ORDER, ETC., IN REGARD TO THE ALLEGED VIOLATION
OF THE FEDERAL TRADE COMMISSION ACT

Docket 6839. Complaint, July 15, 1957—Decision, Nov. 23, 1957

Consent order requiring sellers in Salisbury, N.C., to cease advertising new pianos falsely as bargain repossessed instruments previously sold at prices substantially higher than those at which they were presently offered.

Mr. Brockman Horne for the Commission.

Mr. Graham M. Carlton, of Salisbury, N.C., for respondents.

INITIAL DECISION BY LOREN H. LAUGHLIN, HEARING EXAMINER

The Federal Trade Commission (sometimes also hereinafter referred to as the Commission) issued its complaint herein charging the above-named respondents, Southern Piano Company, Inc., a corporation, and Thomas W. Willis, Mildred Ellen Willis and Dan Miller Nicholas, individually and as officers of said corporation, with having violated the provisions of the Federal Trade Commission Act in certain particulars. The respondents were duly served with process. The initial hearing and subsequent hearings ordered by the hearing examiner were canceled pending negotiations of counsel for a consent agreement.

On October 2, 1957, there was submitted to the undersigned hearing examiner of the Commission for his consideration and approval an "Agreement Containing Consent Order To Cease And Desist," which had been entered into by and between said respondents and by its attorney and Brockman Horne, counsel supporting the complaint, under date of October 1, 1957, and subject to the approval of the Bureau of Litigation of the Commission. Such agreement had been thereafter duly approved by that Bureau.

On due consideration of the said "Agreement Containing Consent Order To Cease And Desist," the hearing examiner finds that said agreement, both in form and in content, is in accord with Section 3.25 of the Commission's Rules of Practice for Adjudicative Proceedings and that by said agreement the parties have specifically agreed that:

1. Respondent Southern Piano Company, Inc., is a corporation existing and doing business under and by virtue of the laws of the State of North Carolina, with its office and principal place of business located at 128 East Council Street, Salisbury, North Carolina.