

Decision

IN THE MATTER OF
HENRY FETTNER DOING BUSINESS AS FETTNER
FUR CO.

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

Docket 6828. Complaint, July 8, 1957—Decision, Dec. 18, 1957

Consent order requiring a furrier in Cincinnati, Ohio, to cease violating the Fur Products Labeling Act by removing from fur products the labels required to be affixed thereto, and by affixing to certain products labels stating falsely that they were composed of backs; by setting forth on invoices the names of animals other than those producing certain furs; by advertising which failed to disclose the names of animals producing certain furs, and that furs were artificially colored or composed of paws, waste fur, etc.; which misrepresented prices, and stated falsely that "all comparative prices have been registered with the Federal Trade Commission"; and by failing in other respects to comply with the labeling, invoicing, and advertising requirements of the law.

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

Goodman & Goodman by Sol Goodman of Cincinnati, Ohio, for respondent.

INITIAL DECISION BY WILLIAM L. PACK, HEARING EXAMINER

The complaint in this matter charges the respondent with violation of the Fur Products Labeling Act, and the rules and regulations promulgated thereunder, and the Federal Trade Commission Act, in connection with the advertising and sale of his fur products. An agreement has now been entered into by respondent and counsel supporting the complaint which provides, among other things, that respondent admits all of the jurisdictional allegations in the complaint; that the record on which the initial decision and the decision of the Commission shall be based shall consist solely of the complaint and agreement; that the inclusion of findings of fact and conclusions of law in the decision disposing of this matter is waived, together with any further procedural steps before the hearing examiner and the Commission; that the order hereinafter set forth may be entered in disposition of the proceeding, such order to have the same force and effect as if entered after a full hearing, respondent specifically waiving any and all rights to challenge or contest the validity of such order; that the order may be altered, modified, or set aside in the manner

Order

54 F.T.C.

provided for other orders of the Commission; that the complaint may be used in construing the terms of the order; and that the agreement is for settlement purposes only and does not constitute an admission by respondent that he has violated the law as alleged in the complaint.

The hearing examiner having considered the agreement and proposed order and being of the opinion that they provide an adequate basis for an appropriate disposition of the proceeding, the agreement is hereby accepted, the following jurisdictional findings made, and the following order issued:

1. Respondent Henry Fettner is an individual trading and doing business as Fettner Fur Co. with his office and principal place of business located at 23 W. 7th Street, Cincinnati, Ohio.
2. The Federal Trade Commission has jurisdiction of the subject matter of this proceeding and of the respondent, and the proceeding is in the public interest.

ORDER

It is ordered, That respondent, Henry Fettner, an individual, trading and doing business as Fettner Fur Co., or under any other name, and respondent's 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. Removing or mutilating, or causing or participating in the removal or mutilation of, prior to the time any fur product is sold and delivered to the ultimate consumer, any label required by the Fur Products Labeling Act, and the rules and regulations thereunder, to be affixed to such fur product except as provided in section 3(e) of said act.

B. 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.

2. Failing to affix labels to fur products which comply with the minimum size requirements as set forth in rule 27 of the rules and regulations.

3. Mingling nonrequired information with information which is required under section 4(2) of the Fur Products Labeling Act on labels;

4. Setting forth information which is required under section 4(2) of the Fur Products Labeling Act on labels in handwriting or by the use of pencils;

5. Falsely or deceptively identifying fur products as being composed in whole or in substantial part of backs or otherwise falsely or deceptively identifying the portion of the pelt of which the product is composed.

C. 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.

2. Setting forth on invoices the name of any animal or animals other than that which produced the fur;

3. Setting forth on invoices information required under section 5(b)(1) of the Fur Products Labeling Act and the rules and regulations thereunder in an abbreviated form.

D. 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:

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

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

2. Uses the name of, or in any way implies or represents that the Federal Trade Commission or any other governmental agency has in any way approved of or sanctioned any advertising or other practice;

3. Represents that fur products are sold at wholesale prices, at cost or below cost, unless such is the fact;

4. Represents the prices of fur products as having been reduced from regular or usual prices when the so-called regular or usual prices are in fact fictitious in that they are greater than the prices which said merchandise is usually sold in the recent, regular course of business;

5. Uses comparative prices which are not based on current market values or which fail to give a designated time of a bona fide compared price.

E. Making use of price reductions, comparative prices and percentage savings claims in advertising unless there are maintained by respondent full and adequate records disclosing the facts upon 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 18th day of December 1957, become the decision of the Commission; and, accordingly:

It is ordered, That the respondent herein 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.

Decision

IN THE MATTER OF
INSTO-GAS CORP.ORDER, ETC., IN REGARD TO THE ALLEGED VIOLATION OF SEC. 3 OF THE
CLAYTON ACT

Docket 5851. Complaint, Feb. 21, 1951—Decision, Dec. 19, 1957

Order dismissing for lack of proof, charges that one of the largest operators in the industry concerned, with principal office in Detroit, Mich., violated section 3 of the Clayton Act by tying the lease or sale of propane gas cylinders to the use of propane gas and equipment or appliances sold by it.

Mr. Rufus E. Wilson and Mr. Arthur Edgeworth supporting the complaint.

Fischer, Sprague, Franklin & Ford of Detroit, Mich., by *Mr. Richard Ford*, for respondent.

INITIAL DECISION BY JOSEPH CALLAWAY, HEARING EXAMINER

On February 21, 1951, the Commission issued its complaint charging respondent with the violation of section 3 of the Clayton Act in connection with its business of leasing or selling cylinders for containing compressed propane gas, selling propane gas for use in filling and refilling said cylinders and selling a line of equipment for use with said cylinders. The complaint further alleged that respondent was among the largest owners, lessors, or vendors of cylinders in the United States for containing compressed propane gas and vendors of such equipment as are used in connection therewith. The violation of section 3 was alleged to consist of tying the lease or sale of the cylinders to the use of propane gas and equipment or appliances sold by respondent.

Respondent's answer admitted the jurisdictional allegations of the complaint and the alleged conditions attached to the leasing of its cylinders, denied the allegations in regard to cylinder sales or appliance sales and also denied the other material allegations of the complaint. Further answering, respondent set up certain affirmative defenses which will be dealt with in the findings of fact.

Hearings were held before Hearing Examiner Webster Ballinger at which evidence in support of and in opposition to the allegations of the complaint was adduced. Upon completion of the hearings and after proposed findings of fact, conclusions of law and orders and the reasons therefor had been filed by both sides, the hearing examiner, on May 12, 1952, issued his initial decision including an order to cease and desist from the practices complained of.