

Decision

IN THE MATTER OF
SAMUEL GLASS TRADING AS SAMUEL GLASS

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

Docket 6874. Complaint, Aug. 23, 1957—Decision, Dec. 20, 1957

Consent order requiring a furrier in Philadelphia, Pa., to cease violating the Fur Products Labeling Act by failing to comply with its labeling and invoicing requirements.

Mr. S. F. House for the Commission.

Fox, Rothschild, O'Brien & Frankel, by *Mr. Nathan L. Posner*, of Philadelphia, Pa., for respondent.

INITIAL DECISION BY FRANK HIER, HEARING EXAMINER

Pursuant to the provisions of the Federal Trade Commission Act and the Fur Products Labeling Act, the Federal Trade Commission on August 23, 1957, issued and subsequently served its complaint in this proceeding against respondent Samuel Glass, an individual trading as Samuel Glass, with his office and principal place of business located at 128 S. 11th Street, Philadelphia, Pa.

On October 24, 1957, there was submitted to the undersigned hearing examiner an agreement between respondent and counsel supporting the complaint providing for the entry of a consent order. By the terms of said agreement, 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. By such agreement, respondent waives any further procedural steps before the hearing examiner and the Commission; the making of findings of fact and conclusions of law; and waives all of the rights he 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 record unless and until it becomes a part of the decision of the Commission; 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; and that the following order to cease and desist may be entered in this proceeding by the Commission without further notice to respondent, and, when so

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entered, it shall have the same force and effect as if entered after a full hearing, and 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.

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

1. Respondent Samuel Glass is an individual trading as Samuel Glass, with his office and principal place of business located at 128 S. 11th Street, in the city of Philadelphia, Pa.

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 the respondent Samuel Glass, an individual trading as Samuel Glass, 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, offering for sale, transportation or distribution of fur products in commerce, 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 products" are defined in the Fur Products Labeling Act, do forthwith cease and desist from:

1. Misbranding fur products by:

(a) 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 other wise 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

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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.

(b) Failing to show on labels attached to fur products the item numbers or marks assigned to fur products as required by rule 40 of the rules and regulations.

(c) Setting forth on labels affixed to fur products:

(1) Information required under section 4(2) of the Fur Products Labeling Act and the rules and regulations thereunder in abbreviated form;

(2) Information required under section 4(2) of the Fur Products Labeling Act and the rules and regulations thereunder which is intermingled with nonrequired information.

2. Falsely or deceptively invoicing fur products by:

(a) Failing to furnish invoices to purchasers of 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 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 invoices;

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

(b) Failing to show on invoices furnished purchasers the item numbers or marks assigned to fur products as required by rule 40 of the rules and regulations.

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 20th 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.

IN THE MATTER OF
PEPSI COLA CO.

ORDER, ETC., IN REGARD TO THE ALLEGED VIOLATION OF SEC. 2(d) OF
THE CLAYTON ACT

Docket 6593. Complaint, July 19, 1956—Decision, Dec. 21, 1957

Order dismissing without prejudice complaint charging a seller of carbonated beverages, with principal office in New York City, with violating section 2(d) of the Clayton Act by making payments to broadcasting companies for the benefit of certain customers—consisting of broadcasting time furnished the favored customers for their own advertising purposes—as compensation for promotional services in connection with the sale of respondent's products, while failing to make such payments available to its other customers.

Mr. J. Wallace Adair, Mr. William R. Tincher and Mr. Eugene Kaplan, for the Commission.

Appell, Austin & Gay, by Mr. Cyrus Austin, and Kaye, Scholer, Fierman & Hays, by Mr. Milton Handler, all of New York, N.Y., for respondent.

INITIAL DECISION BY ABNER E. LIPSCOMB, HEARING EXAMINER

THE COMPLAINT

The complaint in this proceeding charges the respondent with having paid money to three of the major broadcasting companies for the benefit of certain chain-store customers, thereby providing broadcasting time through such broadcasting companies to respondent's favored customers for their own advertising purposes. The payments thus made by respondent are alleged to have been made as compensation or in consideration for services or facilities furnished it by these favored customers in connection with the offering for sale and sale of respondent's products. It is further alleged that the benefits so furnished to some of respondent's customers were not made available to respondent's other customers on proportionally equal terms, in violation of the provision of subsection (d) of § 2 of the Clayton Act, as amended.

The complaint then describes in some detail the sales-promotion plans through which respondent favored certain of its customers.

THE ANSWER

Respondent in its answer admits that it is a corporation organized and doing business under the laws of the State of Delaware, with its principal office and place of business located at 3 W. 57th Street, New