

Decision

IN THE MATTER OF
NAN DUSKIN, INC., ET AL.CONSENT ORDER, ETC., IN REGARD TO THE ALLEGED VIOLATION OF THE
FEDERAL TRADE COMMISSION AND THE FUR PRODUCTS LABELING ACTS*Docket 6845. Complaint, July 22, 1957—Decision, Jan. 15, 1958*

Consent order requiring furriers in Philadelphia, Pa., to cease violating the Fur Products Labeling Act by removing from fur products the original manufacturer's labels and substituting labels which failed to include all the required information; by failing to conform to the labeling and invoicing requirements; and, in newspaper advertisements, failing to disclose the names of animals producing certain furs, the fact that certain furs were artificially colored, and the name of the country of origin of imported furs, and using comparative price and savings claims not based on current market values.

Mr. Charles W. O'Connell for the Commission

Mr. Burton Caine, of Philadelphia, Pa., for respondents.

INITIAL DECISION BY LOREN H. LAUGHLIN, HEARING EXAMINER

The Federal Trade Commission (hereinafter referred to as the Commission) issued its complaint herein, charging the respondents with having violated the Federal Trade Commission Act and the Fur Products Labeling Act as well as the rules and regulations promulgated under the latter act by the Commission. Each of the respondents was duly served with process and time of respondents to file answer was extended and the initial hearing canceled pending negotiations of counsel for a consent agreement.

On November 27, 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 counsel supporting the complaint and the respondents and Burton Caine, their counsel, under date of November 19, 1957, subject to the approval of the Bureau of Litigation of the Commission. Such agreement had been thereafter duly approved by that Bureau. It appears from said agreement that respondent Anne D. Lincoln was erroneously referred to in the complaint as Mrs. August A. Lincoln and that the respondent Milton Schneidman was erroneously referred to in the complaint as

Milton Schneidman, but said respondents, Anne D. Lincoln and Milton Schneidman, have each, both individually and as officers of the respondent Nan Duskin, Inc., a corporation, duly executed said agreement by their true names.

On due consideration of 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 Nan Duskin, Inc., is a corporation existing and doing business under and by virtue of the laws of the State of Pennsylvania, with its office and principal place of business located at 1729 Walnut Street, in the city of Philadelphia, State of Pennsylvania.

Respondents Anne D. Lincoln, Milton Schneidman, and August A. Lincoln are president, secretary, and vice president-treasurer, respectively, of said Nan Duskin, Inc., and their office and place of business is the same as that of the corporate respondent.

2. Pursuant to the provisions of the Federal Trade Commission Act and the Fur Products Labeling Act, the Federal Trade Commission on July 22, 1957, issued its complaint in this proceeding against respondents, and a true copy was thereafter duly served on respondents.

3. Respondents admit all the jurisdictional facts alleged in the complaint and agree that the record may be taken as if findings of jurisdictional facts had been duly made in accordance with such allegations.

4. This agreement disposes of all of this proceeding as to all parties.

5. Respondents waive:

(a) Any further procedural steps before the hearing examiner and the Commission;

(b) The making of findings of fact or conclusions of law; and

(c) 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.

6. 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.

7. This agreement shall not become a part of the official record unless and until it becomes a part of the decision of the Commission.

8. This agreement is for settlement purposes only and does not

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constitute an admission by respondents that they have violated the law as alleged in the complaint.

Upon due consideration of the complaint filed herein, and the said "Agreement containing consent order to cease and desist," the latter is hereby approved, accepted and ordered filed, the same not to become a part of the record herein, unless and until it becomes a part of the decision of the Commission. The hearing examiner finds from the complaint and the said "Agreement containing consent order to cease and desist" that the Commission has jurisdiction of the subject matter of this proceeding and of the persons of respondent; that the complaint states a legal cause for complaint under the Federal Trade Commission Act and under the Fur Products Labeling Act and the rules and regulations thereunder; both generally and in each of the particular charges alleged therein; that this proceeding is in the interest of the public; that the following order as proposed in said agreement is appropriate for the full disposition of all the issues in this proceeding, such order to become final only if and when it becomes the order of the Commission; and the said order, therefore, should be, and hereby is, entered as follows:

ORDER

It is ordered, That respondent Nan Duskin, Inc., a corporation, and its officers and respondents Anne D. Lincoln, Milton Schneidman, and August A. Lincoln, individually and as officers of said corporation, and respondents' 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 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:

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.

2. Setting forth on labels attached to fur products:

(a) Information required under section 4(2) of the Fur Products Labeling Act and the rules and regulations promulgated thereunder mingled with nonrequired information;

(b) Information required under section 4(2) of the Fur Products Labeling Act and the rules and regulations.

3. Failing to show on labels attached to fur products all of the information required under section 4(2) of the Fur Products Labeling Act and the rules and regulations promulgated thereunder on one side of such labels.

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.

2. Using the term "blended" to describe the pointing, bleaching, dyeing, or tip-dyeing of furs.

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:

(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 Prod-

ucts Name Guide and as prescribed under the rules and regulations;

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

(c) The name of the country of origin of any imported furs contained in fur products.

2. Makes use of comparative prices or percentage savings claims unless such compared prices or percentage savings claims are based upon current market values or unless a bona fide price at a designated time is stated.

3. Making pricing claims and representations of the types referred to in subparagraph 2 above, unless there is maintained by respondents full and adequate records disclosing the facts upon which such claims or representations are based as required by rule 44(e) of the rules and regulations.

It is further ordered, That in connection with the substitution of labels by respondents affixed to fur products which have been shipped to and received by respondents in commerce, that respondents do forthwith cease and desist from misbranding such products in any of the respects set forth in paragraph A1 of this order.

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 15th day of January 1958, become the decision of the Commission; and, accordingly:

It is ordered, That respondent Nan Duskin, Inc., a corporation, and its officers, and respondents Anne D. Lincoln (erroneously referred to in the complaint as Mrs. August A. Lincoln), Milton Schneidman (erroneously referred to in the complaint as Milton Schneiderman), and August A. Lincoln, individually and as officers of said corporation, 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
E. REGENSBURG & SONS ALSO TRADING AS S. FERNAN-
DEZ & CO. ET AL.

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

Docket 6854. Complaint, July 26, 1957—Decision, Jan. 15, 1958

Consent order requiring cigar manufacturers in New York City to cease using on cigar boxes a "guarantee" stamp so closely resembling the official customs stamp in lettering, design, and placement on boxes as to lead customers to believe that they were buying cigars made under Government bond.

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

Paskus, Gordon & Hyman by *Mr. Charles H. Lieb*, of New York, N.Y., for respondents.

INITIAL DECISION BY JOHN B. POINDEXTER, HEARING EXAMINER

The complaint in this proceeding charges that the respondents, E. Regensburg & Sons, a corporation, trading and doing business under its own name and as S. Fernandez & Co. and Edward J. Regensburg, Charles P. Regensburg, Edward B. Regensburg, and Jeannette Regensburg, individually and as officers of said corporation, hereinafter called respondents, have violated the provisions of the Federal Trade Commission Act by making misleading representations by affixing a stamp to each of the boxes containing their cigars which simulates the United States customs stamp required by the Tariff Act of 1930.

After issuance and service of the complaint, the respondents, their counsel, and counsel supporting the complaint entered into an agreement for a consent order. The order disposes of all of the matters complained about. The agreement has been approved by the director and the assistant director of the Bureau of Litigation.

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; the record herein shall consist solely of the complaint and the agreement; respondents waive the requirement that the decision must contain a statement of findings of fact and conclusion of law; re-