

Decision

IN THE MATTER OF
LESTER CONKLIN FURS

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

Docket 6881. Complaint, Aug. 30, 1957—Decision, Jan. 23, 1958

Consent order requiring a furrier in Reno, Nev., to cease violating the Fur Products Labeling Act by labeling fur products falsely with respect to the names of animals producing the fur; by failing in other respects to comply with invoicing and labeling requirements of the act; and in newspaper advertising failing to disclose the names of animals producing certain furs and that certain products were composed of artificially colored fur, and using comparative prices and representing that selling prices were reduced without maintaining the required records as a basis for such pricing claims.

Morton Nesmith and *John J. Mathias*, Esqs., in support of the complaint.

F.R. Breen, Esq., of Reno, Nev., for respondent.

INITIAL DECISION BY JAMES A. PURCELL, HEARING EXAMINER

The complaint in this proceeding, issued August 30, 1957, charges the respondent above-named with violation of the provisions of the Federal Trade Commission Act, the Fur Products Labeling Act and the rules and regulations promulgated under the last-named act, in connection with the sale, advertising and offering for sale, transportation and distribution, shipping and receiving in commerce, of fur and fur products, as the designations "commerce," "fur," and "fur products" are defined in the Fur Products Labeling Act.

After issuance and service of said complaint, the respondent entered into an agreement for a consent order with counsel in support of the complaint, disposing of all of the issues in this proceeding, which agreement was duly approved by the director and assistant director of the Bureau of Litigation. It was provided in said agreement that the signing thereof is for settlement purposes only and does not constitute an admission by respondent that he has violated the law as alleged in the complaint.

By the terms of said agreement, the respondent admitted all the jurisdictional allegations of the complaint, and agreed that the record herein may be taken as though the Commission had made findings of jurisdictional facts in accordance with such allegations. By said agreement the parties expressly waived a hearing before the hearing examiner or the Commission, the making of findings of fact or

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conclusions of law by the hearing examiner or the Commission, the filing of exceptions and oral argument before the Commission, and all further and other procedure before the hearing examiner and the Commission to which respondent may be entitled under the Federal Trade Commission Act or the rules of practice of the Commission.

By said agreement, respondent further agreed that the order to cease and desist issued in accordance with said agreement shall have the same force and effect as if made after a full hearing, presentation of evidence and findings and conclusions thereon, and specifically waived any and all right, power or privilege to challenge or contest the validity of such order.

It was further provided that said agreement, together with the complaint, shall constitute the entire record herein; that the complaint herein may be used in construing the terms of the order issued pursuant to said agreement; and that the said order may be altered, modified or set aside in the manner provided by statute for other orders of the Commission.

Said agreement recites that respondent Lester Conklin is an individual trading as Lester Conklin Furs, with his office and principal place of business located at 46 W. First Street, Reno, Nev.

The hearing examiner has considered such agreement and the order therein contained, and, it appearing that said agreement and order provides for an appropriate disposition of this proceeding, the same is hereby accepted and, without further notice to respondent, 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 finds that the Federal Trade Commission has jurisdiction of the subject matter of this proceeding and of the respondent named herein, and that this proceeding is in the interest of the public, and issues the following order:

ORDER

It is ordered, That respondent Lester Conklin, an individual trading as Lester Conklin Furs or under any other trade name, 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, 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 and received in commerce,

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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 fur product as to the name or names of the animal or animals that produced the fur from which such fur product was manufactured.

2. 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, or transported or distributed it in commerce.

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

(g) That the fur product contains or is composed of secondhand fur, when such is the fact.

3. 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 thereunder mingled with nonrequired information.

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

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 invoice.

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

2. Abbreviating on invoices information required under section 5(b)(1) of the Fur Products Labeling Act and the rules and regulations promulgated thereunder.

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 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 bleached, dyed, or otherwise artificially colored fur, when such is the fact.

2. Makes pricing claims or representations in advertisements respecting reduced prices, comparative prices, value or quality of furs or fur products, unless there is maintained by respondent full and adequate records disclosing the facts upon which such claims or 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 23d day of January 1958, 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.

Complaint

IN THE MATTER OF
REED CANDY CO.

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

Docket 6461. Complaint, Nov. 21, 1955—Decision, Jan. 28, 1958

Consent order requiring a candy manufacturer in Chicago, Ill., with annual sales approximating \$3,250,000, to cease making payments to some of its customers—such as the payment of \$100 to the Giant Food Shopping Center, Inc., of Washington, D.C., and of \$800 to Food Fair Stores, Inc., of Philadelphia, Pa.,—as compensation for advertising its products without making such payments available on proportionally equal terms to all their competitors.

Mr. Andrew C. Goodhope and Mr. Fredric T. Suss for the Commission.

Mr. David A. Canel, of Chicago, Ill., for respondent.

COMPLAINT

The Federal Trade Commission, having reason to believe that the party respondent named in the caption hereof and hereinafter more particularly described has violated the provisions of subsection (d) of section 2 of the Clayton Act (U.S.C. Title 15, sec. 13), as amended by the Robinson-Patman Act, hereby issues its complaint stating its charges with respect thereto as follows:

PARAGRAPH 1. Respondent, Reed Candy Co., is a corporation organized, existing and doing business under and by virtue of the laws of the State of Illinois with its office and principal place of business located at 1245 Fletcher Street, Chicago, Ill.

PAR. 2. Respondent, Reed Candy Co., is now, and has been, engaged in the manufacture, sale and distribution of candy products sold under the trade name "Reed's". Respondent sells its products through its own salesmen and brokers who sell to candy jobbers and retail stores including retail chain store organizations. Sales by respondent of its products are substantial, amounting approximately to \$3,250,000 annually.

PAR. 3. In the course and conduct of its business respondent has engaged and is now engaging in commerce as "commerce" is defined in the Clayton Act as amended. Respondent sells and causes its products to be transported from its principal place of business located in the State of Illinois to customers located in states other than the State of Illinois and in the District of Columbia.