

Decision

IN THE MATTER OF
INDIANA FUR CO., INC., ET AL.CONSENT ORDER, ETC., IN REGARD TO THE ALLEGED VIOLATION OF THE
FEDERAL TRADE COMMISSION AND THE FUR PRODUCTS LABELING ACTS

Docket 6585. Complaint, July 9, 1956—Decision, Jan. 28, 1958

Consent order requiring a furrier in Indianapolis, Ind., to cease violating the Fur Products Labeling Act by labeling certain fur products falsely with respect to the names of animals producing the furs; by failing, in advertisements in newspapers, to disclose the names of animals producing certain furs and that the fur in some products was artificially colored, and to set forth the names of pieces of which fur products were composed; and by failing in other respects to comply with the labeling, invoicing, and advertising requirements of the act.

Mr. S. F. House for the Commission.

Ross, McCord, Ice & Miller, by *Mr. James V. Donadio* and *Mr. Willis H. Ellis*, of Indianapolis, Ind., for respondents.

INITIAL DECISION BY ABNER E. LIPSCOMB, HEARING EXAMINER

The complaint herein was issued on July 9, 1956, charging respondents with misbranding and falsely and deceptively invoicing and advertising their fur products, in violation of the Federal Trade Commission Act and of the Fur Products Labeling Act and the rules and regulations promulgated thereunder.

Thereafter, on November 21, 1957, respondents, their counsel, and counsel supporting the complaint herein entered into an agreement containing consent order to cease and desist, which was approved by the director and by the assistant director of the Commission's Bureau of Litigation, and thereafter submitted to the hearing examiner for consideration.

The agreement identifies Respondent Indiana Fur Co., Inc. as an Indiana corporation, with its office and principal place of business located at 114 E. Washington Street, Indianapolis, Ind., and Respondents Herbert Davidson, Fred Davidson, and Roy D. Dushman as president, secretary-treasurer, and comptroller thereof, respectively, their addresses being the same as that of the corporate respondent, whose acts, policies and practices they formulate, direct and control.

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.

Respondents waive any further procedure before the hearing ex-

aminer and the Commission; the making of findings of fact and conclusions of law; and all the rights they may have to challenge or contest the validity of the order to cease and desist entered in accordance with the agreement. All parties agree that the record on which the initial decision and the decision of the Commission shall be based shall consist solely of the complaint and the agreement; that the order to cease and desist, as contained in the agreement, 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; that the complaint herein may be used in construing the terms of said order; and that the agreement is for settlement purposes only and does not constitute an admission by the respondents that they have violated the law as alleged in the complaint.

After consideration of the allegations of the complaint and the provisions of the agreement and the proposed order, the hearing examiner is of the opinion that such order constitutes a satisfactory disposition of this proceeding. Accordingly, in consonance with the terms of the aforesaid agreement, the hearing examiner accepts the agreement containing consent order to cease and desist; finds that the Commission has jurisdiction over the respondents and over their acts and practices as alleged in the complaint; and finds that this proceeding is in the public interest. Therefore,

It is ordered, That respondents, Indiana Fur Co., Inc., a corporation, and its officers and Herbert Davidson, Fred Davidson, and Roy D. Dushman, 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, 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. Falsely or deceptively labeling or otherwise identifying any such product as to the name or names of the animal or animals that produced the fur from which such product was manufactured;

b. 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;

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(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, 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;

(6) The name of the country of origin of any imported furs used in the fur product;

c. Setting forth on labels attached to fur products:

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

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

(3) Information required under § 4(2) of the Fur Products Labeling Act and the rules and regulations thereunder in handwriting;

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 invoice;

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

b. Setting forth required information in abbreviated form;

3. 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:

a. Fails to disclose:

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(1) The name or names of the animal or animals which produced 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;

(2) That the fur product contains or is composed of bleached, dyed, or otherwise artificially colored fur, when such is the fact;

(3) The names of the pieces of which the fur products are composed;

b. Contains the name or names of an animal or animals other than the name or names provided for in paragraph 5(a)(1) of the Fur Products Labeling Act;

c. Sets forth required information in abbreviated form.

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 28th day of January 1958, become the decision of the Commission; and, accordingly:

It is ordered, That respondents Indiana Fur Co., Inc., a corporation; Herbert Davidson, individually and as president of said corporation; Fred Davidson, individually and as secretary-treasurer of said corporation; and Roy D. Dushman, individually and as comptroller 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.

Complaint

IN THE MATTER OF

JABIE S. HARDIN DOING BUSINESS AS JABIE
SALES CO.

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

Docket 6812. Complaint, June 3, 1957—Decision, Jan. 28, 1958

Consent order requiring a food broker in Memphis, Tenn., to cease collecting brokerage fees on food products sold to a corporate wholesale distributor of which he was president and virtually all of the stock of which he owned, and to its successor copartnership, of which he retained substantial control, which transactions had the same effect as if he were purchasing for his own account and receiving brokerage and were thus in violation of section 2(c) of the Robinson-Patman Act.

Mr. Frederick McManus for the Commission.

Arnall, Golden & Gregory, by *Mr. Ellis Arnall*, of Atlanta, Ga.,
for respondent.

COMPLAINT

The Federal Trade Commission, having reason to believe that the party respondent named in the caption hereof, and hereinafter more particularly designated and described, since September 1, 1955, has violated and is now violating the provisions of subsection (c) of section 2 of the Clayton Act (U.S.C. Title 15, sec. 13), as amended by the Robinson-Patman Act, approved June 19, 1936, hereby issues its complaint, stating its charges in that respect as follows:

PARAGRAPH 1. Respondent Jabie S. Hardin, an individual, doing business as Jabie Sales Co., is now and has been since September 1, 1955, engaged in the conduct of a food brokerage business, which business is located at 1184 Airways Boulevard, Memphis, Tenn. Respondent Jabie S. Hardin represents numerous manufacturers and suppliers of food products located outside the State of Tennessee in the sale and distribution of food products within said State of Tennessee.

PAR. 2. Helen E. Hardin and N. E. Hardin, copartners trading under the firm name of Hardin's Co., are engaged in the wholesale distribution and sale of food products. Helen E. Hardin is the wife and N. E. Hardin is the brother of respondent, Jabie S. Hardin. The place of business of Hardin's Co., is located at 1186 Airways Boulevard, Memphis, Tenn., immediately adjacent to the place of business of Jabie Sales Co.