

IN THE MATTER OF
FURS BY KODA, INC., ET AL

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

Docket 6846. Complaint, July 22, 1957—Decision, Apr. 4, 1958

Consent order requiring a furrier in New York City to cease violating the Fur Products Labeling Act by failing to label certain fur products as required, and by invoicing which did not set forth the terms "second-hand" and "used fur" where applicable, and which failed in other respects to conform to requirements of the Act.

Mr. John T. Walker for the Commission.

Mr. Jack Siskel, of New York, N.Y., for respondents.

INITIAL DECISION BY LOREN H. LAUGHLIN, HEARING EXAMINER

The Federal Trade Commission (hereinafter referred to as the Commission) on July 22, 1957, issued its complaint herein under the Federal Trade Commission Act, and the Fur Products Labeling Act against the above-named respondents Furs by Koda, Inc., a corporation, and Albert Gershberg, individually and as president of said corporation. The complaint charges respondents with having violated in certain particulars the provisions of said acts and the rules and regulations promulgated under the Fur Products Labeling Act. The respondents were duly served with process.

On February 7, 1958, 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 respondents, their counsel, and counsel supporting the complaint, under date of February 1, 1958, and subject to the approval of the Bureau of Litigation of the Commission. Such agreement had been thereafter duly approved by the director and assistant director of that Bureau.

On due consideration of the 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 §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 Furs by Koda, Inc., is a corporation existing and doing business under and by virtue of the laws of the State of New

York, with its office and principal place of business located at 111 West 29th Street, New York, N.Y.

Respondent Albert Gershberg is president of said corporate respondent. His office and principal place of business is 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 laws; 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 constitute an admission by respondents that they have violated the law as alleged in the complaint.

The parties have further specifically agreed that the proposed order to cease and desist included in said agreement may be entered in this proceeding by the Commission without further notice to respondents; that when so entered it shall have the same force and effect as if entered after a full hearing; that it 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.

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, however, unless and until it becomes part of the decision of the Commission. The hearing examiner finds

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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 each of the respondents herein; that the complaint states a legal cause for complaint under the Federal Trade Commission Act and the Fur Products Labeling Act and the rules and regulations promulgated by the Commission under the latter act, against each of the respondents both generally and in each of the particulars 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 just disposition of all of the issues in this proceeding, such order to become final only if and when it becomes the order of the Commission; and that said order therefore should be, and hereby is, entered as follows:

ORDER

It is ordered, That Furs by Koda, Inc., a corporation, and its officers and Albert Gershberg, individually and as an officer of said corporation, and their representatives, agents and employees, directly or through any corporate or other device, in connection with the introduction into commerce, or manufacture for introduction into commerce, or the sale, or offering for sale, in commerce, or the transportation or distribution in commerce of any fur product, or in connection with the manufacture for sale, 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 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. 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,

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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 used in the fur product.

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 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 and address of the persons issuing such invoice.

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

(g) That the fur products contain secondhand used fur when such is the fact.

(h) The item number or mark assigned to a fur product.

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 4th day of April 1958, become the decision of the Commission; and, accordingly:

It is ordered, That Furs by Koda, Inc., a corporation, and its officers and Albert Gershberg, individually and as an officer 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
ROYAL OIL CORP. ET AL.

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

Docket 6702. Complaint, Jan. 8, 1957—Decision, Apr. 7, 1958

Order requiring a concern in Baltimore, Md., engaged in reclaiming used oil obtained from drainings of motor crankcases and in selling it, as such or blended with new oil, to dealers for resale to the purchasing public in containers similar to those used for new oil with the single word "Re-Processed" to indicate its nature, to cease selling reclaimed oil without disclosing such prior use in advertising and sales promotional material and by a clear and conspicuous statement on the containers.

Mr. John W. Brookfield, Jr., supporting the complaint.

Mr. Harry D. Kaufman and Mr. Joseph S. Kaufman of Baltimore, Md., for respondents.

INITIAL DECISION BY JOSEPH CALLAWAY, HEARING EXAMINER

Commission complaint, issued January 8, 1957, charged respondents with the violation of the Federal Trade Commission Act through the sale of reclaimed used motor oil without disclosure that the oil had been previously used. The complaint further alleges that the oil is sold in containers of the same general size, kind and appearance as those used for new oil; that while the containers are labeled "Re-Processed" the use of this term does not constitute a disclosure that the oil is reclaimed, used oil.

The answer admits the corporate setup and that the corporate respondent is engaged in "commerce" in the sale and distribution of used reprocessed lubricating oil. Little else is admitted.

Hearings were held in Baltimore, Md., Raleigh and Salisbury, N.C., for the purpose of hearing evidence in support of the allegations of the complaint. Counsel supporting the complaint rested his case-in-chief at the end of the hearing in Salisbury. Respondents then filed motion to dismiss with supporting brief, which was opposed by counsel supporting the complaint who filed answering brief. The motion to dismiss was denied. Respondents then rested their case without offering any additional evidence. The matter is now before the hearing examiner for an initial decision upon the record including proposed findings as to the facts, conclusions of law and order filed by both sides. All proposed findings and conclusions not found or adopted herein are hereby specifically rejected.

FINDINGS OF FACT AND CONCLUSIONS

1. Respondent Royal Oil Corp. is a corporation organized and existing under the laws of the State of Maryland and having its