

Decision

IN THE MATTER OF
KATTEN & MARENGO, INC., ET AL.

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

Docket 6958. Complaint, Nov. 25, 1957—Decision, Apr. 17, 1958

Consent order requiring a department store in Stockton, Calif., and the furrier leasing the store's fur department, to cease violating the Fur Products Labeling Act by removing or mutilating labels required to be affixed to fur products; by labeling which set forth the name of an animal other than that producing a particular fur; by labeling and invoicing which failed to set forth information as required; and by advertising which failed to disclose that certain fur products were artificially colored.

Mr. John J. McNally for the Commission.

Respondents, of Stockton, Calif., for themselves.

INITIAL DECISION BY ABNER E. LIPSCOMB, HEARING EXAMINER

The complaint herein was issued on November 25, 1957, charging respondents with misbranding and falsely and deceptively invoicing and advertising certain of 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 February 6, 1958, respondents and counsel supporting the complaint herein entered into an agreement containing consent order to cease and desist, which was approved by the Director and the Assistant Director of the Commission's Bureau of Litigation, and thereafter submitted to the hearing examiner for consideration.

The agreement identifies respondent Katten & Marengo, Inc., as a California corporation, operating a retail department store in Stockton, Calif., under the name Katten & Marengo, Uptown; respondent Freeman Fine Furs, Inc., as a California corporation which leases the fur department in said department store; and respondent Samuel Freeman as an individual who is president of the corporate respondent, Freeman Fine Furs, Inc.; all respondents having their office and principal place of business at 500 East Main Street, Stockton, Calif.

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 examiner and the Commission; the making of findings of fact or con-

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clusions of law; and all of 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, when it shall have become a part of the decision of the Commission, 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.

Having considered 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 Katten & Marengo, Inc., a corporation, and its officers; Freeman Fine Furs, Inc., a corporation, and its officers; and Samuel Freeman, individually and as an officer of corporate respondent Freeman Fine Furs, Inc.; 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 product" are defined in the Fur Products Labeling Act, do forthwith cease and desist from:

A. Removing or participating in the removal of labels required by the Fur Products Labeling Act to be affixed to fur products, prior to the time any fur product is sold and delivered to the ultimate consumer;

B. Misbranding fur products by:

1. Failing to affix labels to fur products showing:

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(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 used in the fur product;

2. Setting forth, on labels attached to fur products, the name or names of any animal or animals other than the name provided for in paragraph B.1(a) above;

3. Setting forth, on labels attached to fur products, the information required by section 4(2) of the Fur Products Labeling Act:

(a) In abbreviated form;

(b) Mingled with nonrequired information;

(c) In handwriting;

4. Setting forth such required information on labels which do not meet the minimum size required by rule 27 of the rules and regulations;

5. Failing to set forth all of such required information on one side of labels attached to fur products as required by rule 29(a) of the rules and regulations;

6. Failing to separately set forth all of the required information on labels attached to fur products composed of two or more sections containing different animal furs, as required by rule 36 of the rules and regulations;

C. Falsely or deceptively invoicing fur products by:

1. Failure 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;

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(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 fur contained in a fur product;

2. Failing to set forth on invoices an item number or mark assigned to fur products as required by rule 40 of the rules and regulations;

D. 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 fails to disclose that such fur products contained or were composed of bleached, dyed, or otherwise artificially colored fur, when such is the fact.

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 did, on the 17th day of April 1958, become the decision of the Commission; and, accordingly:

It is ordered, That respondents Katten & Marengo, Inc., a corporation, Freeman Fine Furs, Inc., a corporation, and Samuel Freeman, individually and as an officer of Freeman Fine Furs, Inc., 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

FARWEST FISHERMAN, INC., ET AL.

CONSENT ORDER, ETC., IN REGARD TO THE ALLEGED VIOLATION OF
SEC. 2 (c) OF THE CLAYTON ACT*Docket 6905. Complaint, Oct. 7, 1957—Decision, Apr. 19, 1958*

Consent order requiring a packer of canned salmon and other seafood in Anacortes, Wash.—making sales generally through both primary and field brokers, each of whom received brokerage at the rate of 2½ percent of the selling price—to cease paying illegal brokerage in violation of section 2(c) of the Clayton Act by (1) granting a reduction of 2½ percent of the price to certain buyers when either a primary or a field broker was not used; (2) selling through primary brokers at a net price below that shown by the broker, who absorbed the difference out of brokerage; and (3) granting reductions in price in transactions where either the primary or the field broker took a reduction in brokerage.

Mr. Cecil G. Miles and Mr. John J. McNally for the Commission.
Bogle, Bogle & Gates, by *Mr. Robert W. Graham*, of Seattle, Wash.,
for respondents.

COMPLAINT

The Federal Trade Commission, having reason to believe that the parties respondent named in the caption hereof, and hereinafter more particularly designated and described, have been and are now violating the provisions of subsection (c) of section 2 of the Clayton Act (U.S.C., title 15 section 13), as amended by the Robinson-Patman Act approved June 19, 1936, hereby issues its complaint, stating its charges with respect thereto as follows:

PARAGRAPH 1. Respondent Farwest Fishermen, Inc., hereinafter sometimes referred to as respondent corporation, is a corporation organized, existing, and doing business under and by virtue of the laws of the State of Washington, with its principal office and place of business located at Anacortes, Wash. For several years respondent corporation has been, and is now, engaged in packing, selling and distributing canned salmon, tuna, and other seafood products. Its mailing address is Post Office Box 111, Anacortes, Wash.

PAR. 2. Respondent Sam Rubenstein, hereinafter sometimes referred to as individual respondent, is president of, and owns a controlling interest in, respondent corporation. As an officer and as an owner of respondent corporation said individual respondent has exercised, and at the present time is exercising, authority and control