

Decision

IN THE MATTER OF

CARL'S

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

Docket 6946. Complaint, Nov. 19, 1957—Decision, May 1, 1958

Consent order requiring a furrier in San Antonio, Tex., to cease violating the Fur Products Labeling Act by failing to comply with the invoicing and labeling requirements; and by advertising in newspapers which failed to disclose the names of animals producing certain furs or named other animals, failed to disclose that certain products were artificially colored or composed of cheap or waste fur, and to disclose the country of origin of imported furs and to set forth other information as required; and in such advertising, representing fictitious prices as the usual prices and sale prices as reduced without maintaining the required records as basis for such pricing claims.

Mr. John T. Walker supporting the complaint.

Respondent, pro se.

INITIAL DECISION BY JOHN B. POINDEXTER, HEARING EXAMINER

On November 19, 1957, the Federal Trade Commission issued a complaint charging Carl's, a corporation, hereinafter called respondent, with misbranding and falsely and deceptively invoicing and advertising fur products in violation of the Federal Trade Commission Act and the Fur Products Labeling Act.

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

The pertinent provisions of said agreement are as follows: Respondent admits 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; respondent waives the requirement that the decision must contain a statement of findings of fact and conclusion of law; respondent waives further procedural steps before

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the hearing examiner and the Commission, and the order may be altered, modified, or set aside in the manner provided by statute for other orders; respondent waives any right to challenge or contest the validity of the order entered in accordance with the agreement and the signing of said agreement is for settlement purposes only and does not constitute an admission by respondent that it has violated the law as alleged in the complaint.

The undersigned hearing examiner having considered the agreement and proposed order and being of the opinion that the acceptance thereof will be in the public interest, hereby accepts such agreement, makes the following jurisdictional findings, and issues the following order:

JURISDICTIONAL FINDINGS

1. Respondent Carl's is a corporation existing and doing business under and by virtue of the laws of the State of Texas, with its office and principal place of business located at 221 East Houston Street, San Antonio, Tex.

2. The Federal Trade Commission has jurisdiction of the subject matter of this proceeding and of the respondent and the proceeding is in the public interest.

ORDER

It is ordered, That respondent, Carl's, a corporation, its officers, representatives, agents, and employees, directly or indirectly 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 offering for sale, sale, advertising, transportation or distribution of fur products which have been made in whole or in part of fur which had 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;

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(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.

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 artificially colored fur, when such is a fact;

(d) That the fur product is composed in whole or in substantial part of paws, tails, bellies, or waste fur, when such is a 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.

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

C. Falsely or deceptively advertising fur products through the use of any notice, advertisement, representation or public announcement 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 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. Fails to disclose that fur products contain or are composed of bleached, dyed, or otherwise artificially colored fur when such is the fact;

3. Fails to disclose that fur products are composed in whole or in substantial part of paws, tails, bellies, or waste fur, when such is the fact;

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4. Contains the name or names of any animal or animals other than the name or names of the animal or animals that produced the fur from which the fur product was manufactured;

5. Represents through comparative pricing claims that the regular or usual retail prices charged by respondents for fur products of similar grade and quality in the recent regular course of their business are the prices designated as the regular or usual prices when such is not the fact.

6. Fails to disclose the name of the country of origin of the imported furs contained in fur products.

7. Fails to set forth all the information required under section 5(a) of the Fur Products Labeling Act and the rules and regulations thereunder in type of equal size and conspicuousness and in close proximity with each other.

D. Makes price claims or representations in advertisements respecting comparative prices and reduced prices of furs or fur products unless there is maintained by respondents 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 1st day of May 1958, become the decision of the Commission; and, accordingly:

It is ordered, That the respondent herein shall within sixty (60) days after service upon it of this order, file with the Commission a report in writing setting forth in detail the manner and form in which it has complied with the order to cease and desist.

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IN THE MATTER OF
OMEGA CHEMICAL CO., INC.CONSENT ORDER, ETC., IN REGARD TO THE ALLEGED VIOLATION OF THE
FEDERAL TRADE COMMISSION ACT*Docket 6753. Complaint, Mar. 28, 1957—Decision, May 2, 1958*

Consent order requiring a manufacturer in Jersey City, N.J., to cease advertising falsely that its "Omega Oil" drug preparation was an effective treatment for, and would afford complete and permanent relief of, the symptoms and pains of all kinds of arthritis, rheumatism, backache, neuritis, and disorders of muscles and joints, etc.; and provided a new type of relief, different and more extensive than that provided by competitive products.

Mr. Morton Nesmith and Mr. Berryman Davis for the Commission.
Mr. Aaron M. Weinstein, of Jersey City, N.J., for respondent.

INITIAL DECISION BY WILLIAM L. PACK, HEARING EXAMINER

The complaint in this matter, as amended, charges the respondent with violation of the Federal Trade Commission Act through the use of certain statements in advertising its medicinal preparation known as "Omega Oil." An agreement has now been entered into by respondent and counsel supporting the complaint which provides, among other things, that respondent admits all of the jurisdictional allegations in the complaint, as amended; that the record on which the initial decision and the decision of the Commission shall be based shall consist solely of the complaint, as amended, and agreement; that the inclusion of findings of fact and conclusions of law in the decision disposing of this matter is waived, together with any further procedural steps before the hearing examiner and the Commission; that the order hereinafter set forth may be entered in disposition of the proceeding, such order to have the same force and effect as if entered after a full hearing, respondent specifically waiving any and all rights to challenge or contest the validity of such order; that the order may be altered, modified, or set aside in the manner provided for other orders of the Commission; that the complaint, as amended, may be used in construing the terms of the order; and that the agreement is for settlement purposes only and does not constitute an admission by respondent that it has violated the law as alleged in the complaint, as amended.

The hearing examiner having considered the agreement and proposed order and being of the opinion that they provide an adequate basis for appropriate disposition of the proceeding, the agreement