

Decision

IN THE MATTER OF

CHARLES COHEN TRADING AS SANTA ANA FUR CO.
AND CHARLES OF THE SANTA ANA FUR CO.

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

Docket 6993. Complaint, Dec. 16, 1957—Decision, May 22, 1958

Consent order requiring a furrier in Santa Ana, Calif., to cease violating the Fur Products Labeling Act by removing labels from fur products prior to sale to the ultimate consumer; by naming on invoices fictitious or non-existent animal or animals other than those producing the fur; by failing to comply in other respects with the labeling and invoicing requirements; by advertising in newspapers which failed to disclose the names of animals producing furs or named other animals, failed to disclose that certain products were composed of artificially colored fur and the name of the country of origin of imported furs, and failed to give other required information; represented prices as reduced from regular prices which were in fact fictitious, represented falsely that he designed and manufactured his fur products, that prices were reduced in a so-called "Disruption Sale" and that they were below cost; and by failing to keep adequate records as a basis for the pricing claims.

Mr. John J. McNally supporting the complaint.
Respondent, pro se.

INITIAL DECISION BY JOSEPH CALLAWAY, HEARING EXAMINER

The Federal Trade Commission issued its complaint against the above-named respondent on December 16, 1957, charging him with having violated the Fur Products Labeling Act, the rules and regulations issued thereunder, and the Federal Trade Commission Act by misbranding, falsely invoicing and falsely advertising certain fur products. After being served with the complaint respondent entered into an agreement, dated February 15, 1958, containing a consent order to cease and desist, disposing of all the issues in this proceeding without hearing, which agreement has been duly approved by the Assistant Director and the Director of the Bureau of Litigation. Said agreement has been submitted to the undersigned, heretofore duly designated to act as hearing examiner herein, for his consideration in accordance with section 3.25 of the rules of practice of the Commission.

Respondent, pursuant to the aforesaid agreement, has admitted all of the jurisdictional allegations of the complaint and agreed that the record may be taken as if findings of jurisdictional facts had

Order

54 F.T.C.

been made duly in accordance with such allegations. Said agreement further provides that respondent waives all further procedural steps before the hearing examiner or the Commission, including the making of findings of fact or conclusions of law and the right to challenge or contest the validity of the order to cease and desist entered in accordance with such agreement. It has also been agreed that the record herein shall consist solely of the complaint and said agreement, that the agreement shall not become a part of the official record unless and until it becomes a part of the decision of the Commission; that said agreement is for settlement purposes only and does not constitute an admission by respondent that he has violated the law as alleged in the complaint; that said order to cease and desist 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, and that the complaint may be used in construing the terms of the order.

This proceeding having now come on for final consideration on the complaint and the aforesaid agreement containing the consent order, and it appearing that the order and agreement cover all of the allegations of the complaint and provide for appropriate disposition of this proceeding, the agreement is hereby accepted and ordered filed upon this decision and said agreement becoming part of the Commission's decision pursuant to sections 3.21 and 3.25 of the rules of practice, and the hearing examiner accordingly makes the following findings, for jurisdictional purposes, and order:

1. Respondent, Charles Cohen, is an individual trading as Santa Ana Fur Co., and as Charles of the Santa Ana Fur Co. The office and principal place of business of the said individual respondent is located at 308 North Broadway, Santa Ana, Calif.

2. The Federal Trade Commission has jurisdiction of the subject matter of this proceeding and of the respondent hereinabove named. The complaint states a cause of action against said respondent under the Fur Products Labeling Act and the Federal Trade Commission Act, and this proceeding is in the interest of the public.

ORDER

It is ordered, That respondent Charles Cohen, an individual trading as Santa Ana Fur Co. and as Charles of the Santa Ana Fur Co., or under any other trade name or names, and respondent's representatives, agents and employees, directly or through any corporate or other device, in connection with the introduction into commerce, or the

1665

Order

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 actual consumer.

B. 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, 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:

(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;

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

Order

54 F.T.C.

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 invoices;

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

2. Setting forth on invoices the name of an animal which is fictitious or nonexistent in place of the name or names of the animal or animals producing the fur as required by paragraph C.1(a) above.

3. Setting forth on invoices the name of an animal other than the name or names of the animal or animals producing the fur as required by paragraph C.1(a) above.

4. Setting forth on invoices information required under section 5(b)(1) of the Fur Products Labeling Act and the rules and regulations thereunder in abbreviated form;

5. Failing to furnish invoices to purchasers of fur products showing the item number or mark assigned to such 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:

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. Contains the name of an animal other than the name or names of the animal or animals producing the fur contained in fur products as required by paragraph D.1 above.

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

5. Fails to set forth the information required by section 5(a) of the Fur Products Labeling Act in type of equal size and conspicuous-

1665

Decision

ness and in close proximity with each other, as required by rule 38(a) of the rules and regulations.

6. Represents, directly or by implication, that the regular or usual price of any fur product is any amount which is in excess of the prices at which such products, in the recent regular course of business, have been usually and customarily sold by the respondent.

7. Represents, directly or by implication, that fur products being offered for sale were created, designed or manufactured by respondent, where such is contrary to the fact.

8. Represents, directly or indirectly, through the use of such terms as "Disruption Sale," "Clearance," "Remodeling Sale," "Liquidation," or through terms of like import or meaning, that fur products being offered for sale are from respondent's regular inventory or stocks or must be disposed of at reduced prices, where such is contrary to the fact.

9. Represents, directly or by implication, that fur products are being offered for sale at prices which are the same as, or are below, respondent's wholesale costs of such products, where such is contrary to the fact.

10. Makes pricing claims and representations of the type referred to in paragraphs D. 6 and 9 above, unless there are maintained by respondent full and adequate records disclosing the facts upon which such claims or representations are based, as required by rule 44(e) of the rules and regulations.

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 22d 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 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.

IN THE MATTER OF
SEON ZERAH ET AL. DOING BUSINESS AS HAWTHORNE
WATCH CO.

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

Docket 7011. Complaint, Dec. 27, 1957—Decision, May 22, 1958

Consent order requiring a partnership in San Francisco, Calif., selling its merchandise to jobbers and dealers for resale, to cease representing falsely in catalogs, on counter display cards, and on containers, that certain of their watches containing one jewel were "jeweled," guaranteed for 1 year, had been awarded a gold medal in competitions at London, Paris, and Geneva, and that secondhand, rebuilt watches were new; and to cease attaching to their merchandise, or furnishing to their customers for attachment thereto, tags printed with fictitious and greatly exaggerated prices.

Mr. John J. McNally, for the Commission.

Mr. Seon Zerah and *Mr. Jacques Raoul Zerah*, of San Francisco, Calif., *pro se*.

INITIAL DECISION BY LOREN H. LAUGHLIN, HEARING EXAMINER

The Federal Trade Commission (sometimes also hereinafter referred to as the Commission) issued its complaint herein, charging the above-named respondents with having violated the provisions of the Federal Trade Commission Act in certain particulars.

On March 11, 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 and the attorney for the Commission, under date of February 25, 1958, subject to the approval of the Bureau of Litigation of the Commission, which had subsequently duly approved the same.

On due consideration of such agreement, the hearing examiner finds that said agreement, both in form and in content, is in accord with section 3.25 of the Commission's rules of practice for adjudicative proceedings, and that by said agreement the parties have specifically agreed to the following matters:

1. Respondents Seon Zerah and Jacques Raoul Zerah are individuals and copartners doing business as Hawthorne Watch Co. with their office and principal place of business located at 593 Mission Street, San Francisco, Calif.

1670

Decision

2. Pursuant to the provisions of the Federal Trade Commission Act, the Federal Trade Commission, on December 27, 1957, issued its complaint in this proceeding against respondents and a true copy was thereafter duly served on respondents.

3. Respondents admit all of 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 law; 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.

9. That the proposed order set forth in the agreement may be entered by the Commission without further notice to the respondents, and when so entered it shall have the same force and effect as if entered after a full hearing; 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.

The hearing examiner further finds from the complaint and said agreement that the Commission has jurisdiction of the subject matter of this proceeding and of the person of each of the respondents; that the complaint states a legal cause for complaint under the Federal Trade Commission Act, both generally and in each of the particular charges alleged therein; that this proceeding is in the interest of the public; and that the order proposed in the said agreement is appropriate for the full disposition of all the issues as to all of the parties to this proceeding.

The said agreement, including the order proposed therein, is therefore accepted by the hearing examiner and transmitted to the Commission herewith for filing if the Commission so decides; and said

Decision

54 F.T.C.

proposed order is adopted and hereinafter made and entered as the "Order" portion of this initial decision: *Provided*, That neither said agreement nor this initial decision shall become a part of the official record of this proceeding, nor shall this initial decision be published unless and until they respectively become parts of the official decision of the Commission.

ORDER

It is ordered, That respondents Seon Zerah and Jacques Raoul Zerah, as individuals, or as corpartners doing business as Hawthorne Watch Co., or under any other trade name or names, and respondents' representatives, agents, and employees, directly, or through any corporate or other device, in connection with the offering for sale, sale or distribution of merchandise, including watches or other items of jewelry, in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

- (1) Representing, directly or by implication that any such watch:
 - (a) Is a "jeweled" watch, or that it contains a jeweled movement, unless such watch contains at least seven jewels, each of which serves a mechanical purpose as a frictional bearing;
 - (b) Is guaranteed, unless the nature and extent of the guarantee and the manner in which the guarantor will perform thereunder are clearly and conspicuously disclosed;
 - (c) Has been awarded a gold medal or other prize, honor or recognition, in competition with other watches.
- (2) Representing, directly or by implication, that any such merchandise, including watches or other items of jewelry, are new, when such are secondhand or reconstructed.
- (3) Supplying purchasers of merchandise, including watches and other items of jewelry, with price tags having prices or amounts which are in excess of the usual or regular retail selling prices of such merchandise, or otherwise representing that the usual or regular retail price of such merchandise is any amount greater than the price at which such merchandise is usually and regularly sold at retail.
- (4) Putting into operation any plan whereby retailers or others may misrepresent the regular or usual retail prices of merchandise.

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 22d day of

1670

Decision

May 1958, become the decision of the Commission; and, accordingly:

It is ordered, That respondents Seon Zerah and Jacques Raoul Zerah, as individuals, or as copartners doing business as Hawthorne Watch Co., 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
FEDERAL CREDIT BUREAU OF THE UNITED STATES,
INC., ET AL.

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

Docket 6989. Complaint, Dec. 13, 1957—Decision, May 24, 1958

Consent order requiring operators of a collection agency who maintained a single office in Chicago, to cease representing falsely on printed forms, sales manuals furnished their agents, and by oral statements of agents that they had a nationwide departmentalized organization with local bonded collectors and attorneys in various States who would personally contact each debtor; that they would make prompt periodic reports on all accounts assigned for collection; that they maintained a credit reporting system available without cost to clients; that they would charge a maximum of 33⅓ percent of accounts they collected; that clients would receive their share of collections every 90 days or less; and, through use of their corporate name, that they were connected with the United States Government; and to cease using misleading form letters to obtain by subterfuge information concerning alleged debtors.

William A. Somers, Esq., for the Commission.

Ward C. Swalwell, Esq., of Chicago, Ill., for respondents.

INITIAL DECISION BY JAMES A. PURCELL, HEARING EXAMINER

The complaint in this proceeding, issued December 13, 1957, charges the respondent Federal Credit Bureau of the United States, Inc., a corporation, and Cornelius J. Kelleher, Leonard W. Zinck, Alyce Kelleher, and Harriet Zinck, individually and as officers of said corporation, with violation of the Federal Trade Commission Act in connection with representations by them made in their business of soliciting accounts for collection and improper use of a corporate name implying connection with or as an agency of the U.S. Government.

After the issuance of said complaint, respondents, on February 18, 1958, 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 of the Federal Trade Commission. It was expressly provided in said agreement that the signing thereof is for settlement purposes only and does not constitute an admission by respondents that they have violated the law as alleged in the complaint.