

IN THE MATTER OF
MASTER FURRIERS, INC., ET AL.

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

Docket 6895. Complaint, Sept. 26, 1957—Decision, June 10, 1958

Consent order requiring furriers operating a retail store in Washington, D.C., to cease violating the Fur Products Labeling Act by representing that fictitious prices on labels affixed to fur products were the regular retail selling prices; by failing to comply with invoicing requirements; by advertising in newspapers which represented falsely that fur products were being sold "below cost" and were reduced from regular prices which were in fact fictitious, and which used comparative prices and percentage savings claims not based on usual retail prices; and by failing to keep adequate records as a basis for such pricing claims.

Mr. Charles W. O'Connell supporting the complaint.

Mr. Ben Ivan Melnicoff, of Washington, D.C., for Master Furriers, Inc., and certain individual respondents.

INITIAL DECISION AS TO CERTAIN RESPONDENTS BY JOHN LEWIS,
HEARING EXAMINER

The Federal Trade Commission issued its complaint against the above-named respondents on September 26, 1957, charging them with having violated the Fur Products Labeling Act and the rules and regulations issued thereunder, and the Federal Trade Commission Act, through the misbranding of certain fur products and the false and deceptive invoicing and advertising thereof. After being served with said complaint, respondents appeared by counsel and filed their answers thereto. Thereafter the respondents Master Furriers, Inc., Ernest E. Marx, Erwin C. Bein, and M. J. Swartz entered into an agreement, dated March 18, 1958, containing a consent order to cease and desist purporting to dispose of all of this proceeding as to said parties. Said agreement, which has been signed by the named respondents, by counsel for said respondents, and by counsel supporting the complaint, and approved by the Director and Assistant Director of the Commission's Bureau of Litigation, has been submitted to the above-named hearing examiner for his consideration, in accordance with section 3.25 of the Commission's rules of practice for adjudicative proceedings.

The signatory respondents, pursuant to the aforesaid agreement, have admitted all the jurisdictional allegations of the complaint and agreed that the record may be taken as if findings of juris-

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dictional facts had been duly made in accordance with such allegations. Said agreement further provides that said respondents waive any further procedural steps before the hearing examiner and the Commission, the making of findings of fact or conclusions 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 such agreement. It has been agreed that the order to cease and desist issued in accordance with said agreement shall have the same force and effect as if entered after a full hearing and that the complaint may be used in construing the terms of said order. It has also been agreed that the record herein shall consist solely of the complaint and said agreement, and that said agreement is for settlement purposes only and does not constitute an admission by the signatory respondents that they have violated the law as alleged in the complaint.

Submitted with the aforesaid agreement containing consent order, and as a part thereof, is an affidavit of respondent Sally Marx, sworn February 10, 1958, and attesting to the fact that said respondent does not formulate, direct, and control the acts, policies, and practices of the corporate respondent Master Furriers, Inc. It has been agreed that the complaint may be dismissed as to respondent Sally Marx.

This proceeding having now come on for final consideration as to respondents Master Furriers, Inc., Ernest E. Marx, Erwin C. Bein, Sally Marx, and M. J. Swartz on the complaint, the aforesaid agreement containing consent order and the affidavit of Sally Marx attached to and made a part of said agreement, and it appearing that the order provided for in said agreement covers all the allegations of the complaint and provides for an appropriate disposition of this proceeding as to the parties above named, said agreement and affidavit are hereby accepted and are ordered filed upon this decision's becoming the decision of the Commission pursuant to sections 3.21 and 3.25 of the Commission's rules of practice for adjudicative proceedings, and the hearing examiner, accordingly, makes the following jurisdictional findings and order:

1. Respondent Master Furriers, Inc., is a corporation organized, existing, and doing business under and by virtue of the laws of the State of Maryland with its office and place of business at 227 North Howard Street, Baltimore, Md.

Respondents Ernest E. Marx and Erwin C. Bein are president and treasurer respectively, of said Master Furriers, Inc., and their office and place of business is the same as that of the corporate respondent.

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M. J. Swartz is an individual with his address at 3900 Parks Lane, Baltimore, Md. He is a former officer and director of respondent Master Furriers, Inc., and has cooperated and now cooperates with the officers of respondent Master Furriers, Inc., in formulating and directing the acts, practices, and policies of said corporate respondent.

2. The Federal Trade Commission has jurisdiction of the subject matter of this proceeding and of the respondents hereinabove named. The complaint states a cause of action against said respondents 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, Master Furriers, Inc., a corporation, and its officers, and respondents Ernest E. Marx and Erwin C. Bein, individually and as officers of said corporation, and respondent M. J. Swartz, an individual, and respondents' agents, representatives 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 or received in commerce as "commerce," "fur," and "fur products" are defined in the Fur Products Labeling Act do forthwith cease and desist from:

A. Misbranding fur products by:

1. Representing on labels affixed to fur products, or in any other manner, that certain amounts are the regular and usual prices of fur products when such amounts are in excess of the prices at which respondents usually and customarily sell such products in the recent regular course of their business.

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.

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- (e) The name and address of the person issuing such invoice.
 - (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.
2. Setting forth information required under section 5(b)(1) of the Fur Products Labeling Act and the rules and regulations promulgated thereunder in abbreviated form.

C. 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. Represents directly or by implication:
- (a) That retail prices of fur products are reduced or that fur products are being sold "below cost" or "below wholesale cost," when such is not the fact.
 - (b) That respondent's regular price of any fur product is any amount which is in excess of the price at which respondents have regularly or customarily sold fur products of similar grade and quality in the recent course of their business.

2. Makes use of comparative prices or percentage savings claims in advertisements unless such compared prices or percentage savings claims are based upon the current market value of the fur product or unless a bona fide price at a designated time is stated.

3. Makes pricing claims and representations of the types referred to in paragraphs C1 (a) and (b) and C2 hereof, unless there are maintained by respondents 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.

It is further ordered, That the complaint herein be dismissed as to respondent Sally Marx.

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 10th day of June 1958, become the decision of the Commission; and, accordingly:

It is ordered, That respondent Master Furriers, Inc., a corporation, and Ernest E. Marx and Erwin C. Bein, individually and as officers of said corporation, and M. J. Swartz, an individual, 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
PIPER BRACE SALES CORP. ET AL.

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

Docket 6949. Complaint, Nov. 20, 1957—Decision, June 10, 1958

Consent order requiring sellers in Kansas City, Mo., to cease misrepresenting in newspaper advertisements the qualities and unique nature of their trusses or hernia supports, and disparaging competitive products.

Mr. Morton Nesmith and Mr. John J. Mathias for the Commission.
Mr. Solbert M. Wasserstrom, of Kansas City, Mo., for respondents.

INITIAL DECISION BY ABNER E. LIPSCOMB, HEARING EXAMINER

The complaint herein was issued on November 20, 1957, charging Respondents with violation of the provisions of the Federal Trade Commission Act by the dissemination of false advertisements relating to certain devices consisting of trusses designated "Rupture-Easer," "Rupture-Gard," and "PiPeer Golden Crown Truss."

Thereafter, on March 20, 1958, Respondents Piper Brace Sales Corp., by Henry G. Nelkin, its president; Henry G. Nelkin, individually; Nedwyn R. Nelkin, individually; Eugene Goldstein, individually; their attorney, and counsel supporting the complaint herein entered into an agreement containing consent order to cease and desist, which was approved by the Director and an Assistant Director of the Commission's Bureau of Litigation, and thereafter submitted to the hearing examiner for consideration.

In the agreement it is recommended that the complaint herein be dismissed, insofar as it relates to respondents Anne R. Nelkin, Cecil Nelkin, and Marie H. Dinger, for reasons set forth in an affidavit executed by respondent Henry G. Nelkin, and attached to and made a part of said agreement. Respondent Henry G. Nelkin, in said affidavit, sets forth that respondents Anne R. Nelkin, Cecil Nelkin, and Marie H. Dinger, stockholders in the respondent corporation, have not been, and will not in the future be, consulted concerning the lay-out, wording, or content of the respondent corporation's advertising or display materials. The agreement then sets forth the recommendation that the complaint be dismissed as to these three respondents, and the order contained therein provides for such dismissal without prejudice.