

Decision

IN THE MATTER OF

CARL M. STEPHAN ET AL. TRADING AS THE FASHION

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

Docket 6956. Complaint, Nov. 25, 1957—Decision, June 11, 1958

Consent order requiring furriers in San Antonio, Tex., to cease violating the Fur Products Labeling Act by failing to comply with the labeling, invoicing, and advertising requirements, and specifically by advertising in newspapers which failed to disclose the names of animals producing the furs in certain products or the country of origin, or that some products contained artificially colored or cheap or waste fur.

Mr. John T. Walker supporting the complaint.

Respondents, pro se.

INITIAL DECISION BY JOHN B. POINDEXTER, HEARING EXAMINER

On November 25, 1957, the Federal Trade Commission issued a complaint charging Carl M. Stephan, Earl Marcus, Gladys Stephan, Murray Marcus, Carol Marcus and Janet Marcus, individually and as copartners, trading as The Fashion, hereinafter referred to as respondents, with misbranding, 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 respondents and counsel supporting the complaint entered into an agreement for a consent order. The agreement has been approved by the Director and Assistant Director of the Bureau of Litigation. The agreement disposes of the matters complained about.

The pertinent provisions of said agreement are as follows: Respondents admit 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; respondents waive the requirement that the decision must contain a statement of findings of fact and conclusions of law; respondents waive further procedural steps before 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; respondents waive any right to challenge or con-

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test 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 respondents that they have violated the law 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. Respondents Carl M. Stephan, Earl Marcus, Gladys Stephan, Murray Marcus, Carol Marcus and Janet Marcus, are individuals and copartners trading as The Fashion. Their office and principal place of business is located at 230 East Houston Street, San Antonio, Tex.

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

ORDER

It is ordered, That respondents Carl M. Stephan, Earl Marcus, Gladys Stephan, Murray Marcus, Carol Marcus and Janet Marcus, individually and as copartners, trading as The Fashion or under any other trade name or names, and respondents' 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 it for distribution in commerce;

(f) The name of the country of origin of any imported furs used in the fur product;

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

2. Setting forth on labels affixed to fur products:

(a) Information required under section 4(2) of the Fur Products Labeling Act and the rules and regulations promulgated thereunder mingled with nonrequired information.

(b) Information required under section 4(2) of the Fur Products Labeling Act and the rules and regulations promulgated thereunder in handwriting.

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 a 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 a 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;

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

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

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 11th day of June 1958, become the decision of the Commission; and, accordingly,

It is ordered, That the respondents herein 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.

Decision

IN THE MATTER OF

SURPLUS TIRE CO., INC., ET AL.

CONSENT ORDER, ETC., IN REGARD TO THE ALLEGED VIOLATION OF THE
FEDERAL TRADE COMMISSION ACT*Docket 7004. Complaint, Dec. 23, 1957—Decision, June 11, 1958*

Consent order requiring sellers of automotive tires in Chicago, largely by use of post cards offering "FACTORY SURPLUS," to cease selling cleaned, repainted, and, in some instances, repaired used tires as new ones—frequently not of the brand or size ordered but concealing that fact by wrappings until after delivery by the carrier—and failing to make guaranteed shipments and refunds to dissatisfied customers and offering instead an unprofitable exchange deal.

Mr. William C. Somers for the Commission.

Mr. Jerome J. Nudelman, of Chicago, Ill., for respondents.

INITIAL DECISION BY FRANK HIER, HEARING EXAMINER

Pursuant to the provisions of the Federal Trade Commission Act, the Federal Trade Commission on December 23, 1957, served its complaint in this proceeding against respondents Surplus Tire Co., Inc., a corporation existing and doing business under and by virtue of the laws of the State of Illinois, Jacob (Jack) Roth and Seymour Roth, individually and as president and secretary-treasurer, respectively, of the corporate respondent. The office and principal place of business of said respondents is located at 3929 West Grand Avenue, Chicago, Ill.

On April 22, 1958, there was submitted to the undersigned hearing examiner an agreement between respondents and counsel supporting the complaint providing for the entry of a consent order. By the terms of said agreement, 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. By such agreement, respondents waive any further procedural steps before the hearing examiner and the Commission; waive the making of findings of fact and conclusions of law; and waive 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. Such agreement further provides that it disposes of all of this proceeding as to all parties; that the record on which this initial decision and the decision of the Commission shall be based shall consist solely of the complaint and