

IN THE MATTER OF
MERCANTILE STORES CO., INC., ET AL.

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

Docket 6999. Complaint, Dec. 18, 1957—Decision, June 12, 1958

Consent order requiring a furrier in Seattle, Wash., and its parent corporation to cease violating the advertising, invoicing, and labeling requirements of the Fur Products Labeling Act.

Mr. John J. McNally, Jr., supporting the complaint.

Mr. Clarence U. Carruth, Jr., of the firm of *Curtis, Mollet-Prevost, Colt & Mosle* of New York, N.Y., for respondents.

INITIAL DECISION BY JOSEPH CALLAWAY, HEARING EXAMINER

The Federal Trade Commission issued its complaint against the above-named respondents on December 18, 1957, charging them 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 respondents entered into an agreement dated March 12, 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.

Respondents, pursuant to the aforesaid agreement have admitted all of the jurisdictional allegations of the complaint and agreed that the record may be taken as if findings of jurisdictional facts had been made duly in accordance with such allegations. Said agreement further provides that respondents waive 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

1808

Order

said 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, 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 Mercantile Stores Co., Inc., is a corporation existing and doing business under and by virtue of the laws of the State of Delaware, with its office and principal place of business located at 100 West 10th Street, Wilmington, Del.

2. The MacDougall & Southwick Co. is a corporation organized, existing and doing business under and by virtue of the laws of the State of Washington with its office and principal place of business located at Second Avenue and Pike Street, Seattle, Wash.

3. 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 the respondents, Mercantile Stores Co., Inc., a corporation, and the MacDougall & Southwick Co., a corporation, and their officers, 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, 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 and received in commerce, as "commerce," "fur," and "fur product" are defined in the Fur Products Labeling Act, do forthwith cease and desist from:

1. Misbranding fur products by:

Order

54 F.T.C.

a. Falsely or deceptively labeling or otherwise identifying any such product as to the name or names of the animal or animals that produced the fur from which such product was manufactured.

2. Misbranding fur products by:

a. Failing to affix labels to fur products showing:

1. 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. That the fur product contains or is composed of used fur, when such is a fact;

3. That the fur product contains or is composed of bleached, dyed, or artificially colored fur, when such is a fact;

4. That the fur product is composed in whole or in substantial part of paws, tails, bellies, or waste fur, when such is a fact;

5. 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;

6. The name of the country of origin of any imported furs used in the fur product;

7. The item number or mark assigned to a fur product.

b. Setting forth on labels attached to fur products:

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

2. The term "blended" to describe the pointing, bleaching, dyeing or tip-dyeing of fur products.

3. Information required under section 4(2) of the Fur Products Labeling Act and the rules and regulations promulgated thereunder in an illegible or inconspicuous manner.

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

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

c. Failing to affix labels to fur products which comply with the minimum size requirements of 1¼ inches by 2¾ inches.

3. Falsely or deceptively invoicing fur products by:

a. Failing to furnish invoices to purchasers of fur products showing:

1808

Order

1. 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. That the product contains or is composed of used fur, when such is a fact;
 3. That the fur product contains or is composed of bleached, dyed, or otherwise artificially colored fur, when such is the fact;
 4. That the fur product is composed in whole or in substantial part of the paws, tails, bellies, or waste fur, when such is the fact;
 5. The name and address of the person issuing such invoice;
 6. The name of the country of origin of any imported furs contained in a fur product;
 7. The item number or mark assigned to a fur product.
- b. Using on invoices the name or names of any animal or animals other than the name or names provided for in paragraph 3(a)(1) above, or furnishing invoices which misrepresent the country of origin of imported furs contained in fur products or which contain any form of misrepresentation or deception directly or by implication with respect to such fur products.
 - c. 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.
 4. Falsely or deceptively advertising fur products through the use of any advertisement, 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:
 - a. Fails to disclose:
 1. The name or names of the animal or animals which produced the fur or furs contained in the fur products as set forth in the Fur Products Name Guide.
 2. That the fur products contain or are composed of bleached, dyed, or otherwise artificially colored fur, when such is the fact.
 3. That the fur products are composed in whole or in substantial part of paws, tails, bellies, or waste fur, when such is the fact;
 - b. Contains the name or names of an animal or animals other than the name or names specified in the Fur Products Name Guide or prescribed under the rules and regulations;
 - c. Contains the term "blended" to describe the pointing, bleaching, dyeing or tip-dyeing of fur products.
 - d. Represents directly or by implication that the regular or usual price of any fur product is any amount which is in excess of the price at which the respondents have usually and customarily sold such products in the recent regular course of their business.

e. Represents directly or by implication through percentage savings claims that the regular or usual retail prices charged by respondents for fur products in the recent regular course of their business are reduced in direct proportion to the amounts of savings stated, when contrary to fact.

5. Making price claims or representations of the types referred to in paragraphs 4 (d) and (e) above unless there are maintained by respondents full and 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 12th 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
MAURICE FABRICANT TRADING AS LE CHARME AND
FRENCH PERFUME AGENCY

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

Docket 7024. Complaint, Jan. 10, 1958—Decision, June 17, 1958

Consent order requiring a distributor in New York City to cease representing falsely in advertising, circulars, price lists, by brand names, etc., that domestically made perfumes were French imports; misrepresenting the retail price or value of the perfumes; claiming falsely that the filigree on perfume bottles was jeweled or gold-plated, that the perfume in such bottles did not deteriorate but improved with age, and that it had been advertised in the New York Times as a "\$10.00 value."

Mr. Kent P. Kratz for the Commission.

Mr. Peter J. Unger, of New York, N.Y., for respondent.

INITIAL DECISION BY WILLIAM L. PACK, HEARING EXAMINER

The complaint in this matter charges the respondent with making certain misrepresentations in advertising his perfume products. 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; that the record on which the initial decision and the decision of the Commission shall be based shall consist solely of the complaint 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 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 he has violated the law as alleged in the complaint.

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 is