

IN THE MATTER OF

E. L. BROWNHILL, INC., ET AL.

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

Docket 7055. Complaint, Jan. 31, 1958—Decision, June 27, 1958

Consent order requiring a furrier in Greensboro, N.C., to cease violating the Fur Products Labeling Act by affixing to fur products labels carrying fictitious prices and misrepresenting regular prices; by misuse of the term "blended" in labeling, invoicing, and advertising; by advertising which failed to disclose the names of animals producing the fur in certain products or that certain furs were artificially colored, used the name of one animal to describe the fur of another, and represented prices as reduced from regular prices which were in fact fictitious, or as "below wholesale cost," or misrepresented percentage savings; and by failing to maintain adequate records disclosing the facts on which such pricing claims were based.

Mr. Alvin D. Edelson for the Commission.

Galef & Jacobs, of New York, N.Y., for respondents.

INITIAL DECISION BY WILLIAM L. PACK, HEARING EXAMINER

The complaint in this matter, issued on January 31, 1958, charged the respondents named therein, E. L. Brownhill, Inc., a corporation, and Lewis Rosenberg, an individual, with violating the Fur Products Labeling Act and the rules and regulations promulgated thereunder, and the Federal Trade Commission Act. Since the issuance of the complaint, the individual respondent, Lewis Rosenberg, has died, and an agreement has now been entered into between the corporate respondent E. L. Brownhill, Inc., 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 con-

struing 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.

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 hereby accepted, the following jurisdictional findings made, and the following order issued:

1. Respondent E. L. Brownhill, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of North Carolina with its office and principal place of business located at 108 North Elm Street, Greensboro, N.C.

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 E. L. Brownhill, Inc., a corporation, and its officers, and respondent's 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 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. Representing on labels attached 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 such products are usually and customarily sold by respondent in the recent regular course of its business.

2. 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 by 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 in commerce, or transported it in commerce.

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

3. Setting forth on labels affixed to fur products the term "blended" as part of the information required under section 4(2) of the Fur Products Labeling Act and the rules and regulations thereunder to describe the pointing, bleaching, dyeing, or tip-dyeing of furs.

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.

(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.

2. Setting forth on invoices pertaining to fur products the term "blended" as part of the information required under section 5(b) of the Fur Products Labeling Act and the rules and regulations thereunder to describe the pointing, bleaching, dyeing, or tip-dyeing of furs.

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 which:

1. Fails to disclose:

(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 products contain or are composed of bleached, dyed or otherwise artificially colored fur, when such is the fact.

2. Contains the name of an animal or animals other than the name or names of the animal or animals that produced the fur.

3. Contains the term "blended" as part of the information required under section 5(a) of the Fur Products Labeling Act and the rules

and regulations thereunder to describe the pointing, bleaching, dyeing, or tip-dyeing of furs.

4. Represents directly or by implication that respondent's regular price of any fur product is any amount which is in excess of the price at which respondent has regularly or customarily sold such products in the recent regular course of its business.

5. Represents directly or by implication that the prices of fur products are "below wholesale cost," or words of similar import, when such is not the fact.

6. Represents directly or by implication through percentage savings claims that the regular or usual retail prices charged by respondent for fur products in the recent regular course of its business were reduced in direct proportion to the amount of savings stated, when contrary to the fact.

D. Makes claims and representations in advertisements respecting comparative prices, percentage savings claims or claims that prices are below wholesale cost or claims that prices are reduced from regular or usual prices, unless there are maintained by respondent full and adequate records disclosing the facts upon which such claims and representations are based.

It is further ordered, That the complaint be, and it hereby is, dismissed as to respondent Lewis Rosenberg, deceased.

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 27th day of June 1958, become the decision of the Commission; and, accordingly:

It is ordered, That the respondent E. L. Brownhill, Inc., a corporation, 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.

IN THE MATTER OF
PRESENT TRADING CORP. ET AL.

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

Docket 7073. Complaint, Feb. 28, 1958—Decision, June 27, 1958

Consent order requiring a concern in New York City, engaged in distributing imported stainless steel table flatware to retail stores, house-to-house installment companies, and houseware jobbers for resale to the public, to cease misrepresenting regular retail prices by placing fictitious and exaggerated prices on packages of such products and on empty boxes and cartons which it sold to its customers for said flatware sets.

Mr. Garland S. Ferguson for the Commission.

Mr. Lawrence I. Hammer, of New York, N.Y., for respondents.

INITIAL DECISION BY EARL J. KOLP, HEARING EXAMINER

The complaint in this proceeding, issued February 28, 1958, charges the respondents Present Trading Corp., a corporation, and Ignatz Present and David Mermelstein, individually and as officers of said corporation, the office and principal place of business of all respondents being located at 220 Fifth Avenue, New York, N.Y., with violation of the Federal Trade Commission Act in the sale and distribution of imported stainless steel table flatware.

After the issuance of the complaint, said respondents entered into an agreement containing consent order to cease and desist with counsel in support of the complaint, disposing of all the issues as to all parties in this proceeding, which agreement was duly approved by the Director and Assistant Director of the Bureau of Litigation.

It was expressly provided in said agreement that the signing thereof is for settlement purposes only and does not constitute an admission by said respondents that they have violated the law as alleged in the complaint.

By the terms of said agreement, the said respondents admitted all the jurisdictional facts alleged in the complaint and agreed that the record herein may be taken as if the Commission had made findings of jurisdictional facts in accordance with the allegations.

By said agreement, the parties expressly waived any further procedural steps before the hearing examiner and the Commission; the making of findings of fact or conclusions of law; and all the rights