

IN THE MATTER OF
FRANK GROSS TRADING AS FRANK GROSS FURS

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

Docket 6921. Complaint, Oct. 24, 1957—Decision, July 12, 1958

Consent order requiring a furrier in Harrisburg, Pa., to cease violating the Fur Products Labeling Act by affixing to fur products labels containing fictitious prices and thereby misrepresenting the regular retail selling prices; by failing to conform to the invoicing requirements of the Act; by newspaper advertisements which represented prices as reduced from regular prices which were in fact fictitious, and used comparative prices and percentage savings claims not based on the regular retail prices; and by failing to maintain adequate records as a basis for such pricing claims.

Mr. Charles W. O'Connell for the Commission

Mr. Lewis F. Adler, of Harrisburg, Pa., for respondent.

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 respondent, Frank Gross, an individual trading as Frank Gross Furs, with having violated the provisions of the Federal Trade Commission Act and of the Fur Products Labeling Act and the Rules and Regulations promulgated thereunder, in certain particulars. Respondents were duly served with process.

On May 13, 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 the respondent and attorneys for both parties, under date of May 8, 1958, subject to the approval of the Bureau of Litigation of the Commission. Such agreement had been thereafter duly approved by that Bureau.

On due consideration of the said "Agreement Containing Consent Order to Cease and Desist," the hearing examiner finds that said agreement, both in form and in content, is in accord with §3.25 of the Commission's Rules of Practice for Adjudicative Proceedings and that by said agreement the parties have specifically agreed that:

1. Respondent, Frank Gross, is an individual trading as Frank Gross Furs, with his place of business located at 23 South Fourth Street, in the city of Harrisburg, State of Pa.

2. Pursuant to the provisions of the Federal Trade Commission Act and the Fur Products Labeling Act, the Federal Trade Commission, on October 24, 1957, issued its complaint in this proceeding against respondent, and a true copy was thereafter duly served on respondent.

3. Respondent admits all the jurisdictional facts alleged in the complaint and agrees 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. Respondent waives:

(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 he 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 respondent that he has violated the law as alleged in the complaint.

9. The following order to cease and desist may be entered in this proceeding by the Commission without further notice to respondent. When so entered it shall have the same force and effect as if entered after a full hearing. It may be altered, modified or set aside in the manner provided for other orders. The complaint may be used in construing the terms of the order.

It is noted that respondent's address, as given in the identifying paragraph of the agreement, appears as 23 South Fourth Street, Harrisburg, Pa., whereas respondent, when signing the agreement, set forth his address, in his own handwriting, subsequent to the order, as 17 North Second Street, Harrisburg, Pa. The hearing examiner believes the latter address to be correct. Accordingly, after due consideration of the complaint filed herein and the

Order

55 F.T.C.

said "Agreement Containing Consent Order to Cease and Desist," the latter, although as submitted it contains this slight defect, is hereby approved, accepted and ordered filed, if and when it shall have become a part of the Commission's decision. The hearing examiner finds from the complaint and the said "Agreement Containing Consent Order to Cease and Desist" that the Commission has jurisdiction of the subject matter of this proceeding and of the person of the respondent herein; that the complaint states a legal cause for complaint under the Federal Trade Commission Act and the Fur Products Labeling Act and the Rules and Regulations promulgated thereunder, both generally and in each of the particulars alleged therein; that this proceeding is in the interest of the public; that the following order as proposed in said agreement is appropriate for the just disposition of all of the issues in this proceeding, and, therefore, it should be, and hereby is, entered as follows:

ORDER

It is ordered, That Frank Gross, an individual trading as Frank Gross Furs, or under any other trade name, and respondent's 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 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 affixed to fur products that certain amounts are the regular and usual prices of fur products when such amounts are in excess of the prices at which respondent usually and customarily sold such products in the recent regular course of his 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

108

Decision

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 the 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 a fur product.

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 that the regular or usual price of any fur product is any amount which is in excess of the price at which the respondent has regularly and customarily sold such product in the recent regular course of his business.

2. Makes use of comparative prices and 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.

D. Making claims and representations in advertisements respecting comparative prices, percentage savings claims, or claims that prices are reduced from regular or usual prices, unless respondent maintains full and adequate records disclosing the facts upon which such claims and 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 July 1958, become the decision of the Commission; and, accordingly:

It is ordered, That respondent Frank Gross, an individual

Decision

55 F.T.C.

trading as Frank Gross Furs, 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.

Decision

IN THE MATTER OF
THE FRY KING CORPORATION ET AL.CONSENT ORDER, ETC., IN REGARD TO THE ALLEGED VIOLATION OF
THE FEDERAL TRADE COMMISSION ACT*Docket 7029. Complaint, Jan. 14, 1958—Decision, July 12, 1958*

Consent order requiring New York City manufacturers of small household electrical appliances, including deep fat fryer-cookers and fry pan skillets, to cease representing falsely in advertising and upon cartons packaging the appliances, which were disseminated to purchasers for use in retail sale, that an exaggerated and fictitious price was the usual retail price; that certain of their appliances had been approved or guaranteed by Good Housekeeping magazine; and, through prominent use of the word "Westinghouse," that their appliances were manufactured by Westinghouse Electric Corporation.

Ames W. Williams, Esq., for the Commission.

Louis Drell, Esq., of New York City, for respondents.

INITIAL DECISION BY ROBERT L. PIPER, HEARING EXAMINER

The Federal Trade Commission issued its complaint against the above-named respondents on January 14, 1958, charging them with having violated the Federal Trade Commission Act by fictitious pricing and falsely representing that their products have been approved by Good Housekeeping magazine and manufactured by the Westinghouse Electric Corporation. Respondents entered into an agreement, dated March 20, 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 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