

IN THE MATTER OF
HELEN L. SIEGEL ET AL. TRADING AS SIEGEL'S

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

Docket 7071. Complaint, Feb. 21, 1958—Decision, Aug. 6, 1958

Consent order requiring furriers in San Antonio, Tex., to cease violating the Fur Products Labeling Act by falsely identifying on labels the fur contained in certain products, by affixing labels containing fictitious prices and falsely representing excessive amounts as the regular retail prices of fur products; by failing in other respects to conform with the labeling and invoicing requirements of the Act; by advertising in newspapers which failed to disclose the names of animals producing certain furs, or that certain products were artificially colored or were composed of cheap or waste fur, and which represented prices as reduced from regular prices which were in fact fictitious; and by failing to maintain adequate records as a basis for such pricing claims.

Mr. John T. Walker, for the Commission.
Respondents, for themselves.

INITIAL DECISION BY ABNER E. LIPSCOMB,
HEARING EXAMINER

The complaint herein was issued on February 21, 1958, charging Respondents with violation of the Federal Trade Commission Act and the Fur Products Labeling Act by misbranding, and falsely and deceptively invoicing and advertising, certain of their fur products.

Thereafter, on June 4, 1958, Respondents 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.

The agreement identifies Respondents Helen L. Siegel and Morris L. Siegel, erroneously named in the complaint as Morris E. Siegel, as individuals and copartners trading as Siegel's, with their office and principal place of business located at 307 Alamo Plaza, San Antonio, Tex.

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.

Respondents waive any further procedure before the hearing examiner and the Commission; the making of findings of fact and 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 the agreement. All parties agree that the record on which the initial decision and the decision of the Commission shall be based shall consist solely of the complaint and the agreement; that the order to cease and desist, as contained in the agreement, when it shall have become a part of the decision of the Commission, 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; that the complaint herein may be used in construing the terms of said order; and that the agreement is for settlement purposes only and does not constitute an admission by the Respondents that they have violated the law as alleged in the complaint.

After consideration of the allegations of the complaint and the provisions of the agreement and the proposed order, the hearing examiner is of the opinion that such order constitutes a satisfactory disposition of this proceeding. Accordingly, in consonance with the terms of the aforesaid agreement, the hearing examiner accepts the Agreement Containing Consent Order to Cease and Desist; finds that the Commission has jurisdiction over the Respondents and over their acts and practices as alleged in the complaint; and finds that this proceeding is in the public interest. Therefore,

It is ordered, That respondents, Helen L. Siegel and Morris L. Siegel, individually and as copartners, trading as Siegel's, or under any other name, 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 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

Order

55 F.T.C.

sold by respondents in the recent regular course of their business.

2. 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.

3. 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.

4. Setting forth on labels attached 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 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;

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

2. Setting forth on invoices pertaining to fur products 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. 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;

(c) That the fur product is composed in whole or in substantial part of paws, tails, bellies or waste fur, when such is the fact.

2. Represents directly or by implication that respondents' regular price of any fur product is any amount which is in excess of the price at which respondents have regularly or customarily sold such products in the recent regular course of their business.

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 there is maintained by respondents 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 6th day of August 1958, become the decision of the Commission; and, accordingly:

It is ordered, That the above-named respondents 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
WHITE FRONT STORES, INC., ET AL.

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

Docket 7063. Complaint, Feb. 12, 1958—Decision, Aug. 7, 1958

Consent order requiring a furrier in Los Angeles, Calif., to cease violating the Fur Products Labeling Act by failing to invoice as "secondhand used fur" where required, and to comply with other requirements of the Act with respect to invoicing; by advertising in newspapers which represented prices of fur products falsely as "way below cost," which failed to specify the nature and extent of a purported "three-year guarantee" and the manner in which respondent would perform thereunder, and which falsely advertised "free Storage," "40% to 60% off" regular prices, and "spectacular buy out values from Fellman Furs of L. A."; and by failing to maintain adequate records on which the savings claims were based.

Mr. John J. McNally supporting the complaint.

Loeb and Loeb, of Los Angeles, Calif., for respondents.

INITIAL DECISION BY JOSEPH CALLAWAY, HEARING EXAMINER

The Federal Trade Commission issued its complaint against the above-named respondents on February 12, 1958, charging them with having violated the Fur Products Labeling Act, the rules and regulations issued thereunder, and the Federal Trade Commission Act by falsely and deceptively advertising the prices of their fur products, failing to keep records to substantiate pricing claims and with irregularities in invoicing their fur products. After being served with the complaint respondents entered into an agreement, dated May 29, 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

174

Order

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 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 White Front Stores, Inc., is a corporation, organized, existing and doing business under and by virtue of the laws of the State of California, with its principal office and place of business located at 4611 Pacific Boulevard, Los Angeles, Calif.

2. Respondent Harry Blackman is an individual and is president of said respondent corporation. His office and principal place of business is located at the same address as that of said corporate respondent.

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 respondent White Front Stores, Inc., a cor-

Order

55 F.T.C.

poration, and its officers, and respondent Harry Blackman, as an individual and as an officer of said corporation; and respondents' representatives, agents and employees, directly or through any corporate or other device, lease, assignment, or agreement, in connection with the introduction into commerce, or the sale, advertisement, offer for sale, transportation, or distribution in commerce of any fur product, or in connection with the sale, advertisement, offer for sale, transportation, or distribution of any fur product which is 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. Falsely or deceptively invoicing fur products by:

A. Failing to furnish invoices to purchasers of 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 otherwise 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 and address of the person issuing such invoice;

(6) The name of the country of origin of any imported fur contained in a fur product.

B. Setting forth on invoices pertaining to fur products the name of an animal other than the name or names of the animal or animals producing the fur or furs contained in 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.

D. Failing to set forth, on invoices pertaining to fur products, the term "secondhand used fur" when required by the Rules and Regulations.

2. 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, di-

rectly or indirectly, in the sale or offering for sale of fur products, and which:

A. Represents, directly or by implication, where contrary to the facts, that such fur products:

(1) Are being offered for sale at or below respondents' wholesale costs.

(2) Are guaranteed, unless the nature and extent of such guarantee, and the manner in which the guarantor will perform thereunder, are clearly and conspicuously set forth.

(3) May be stored for the purchaser at his option and without charge, by respondents;

(4) Were secured by respondents from a source that is in financial or other distress.

B. Represents, through percentage savings claims or otherwise, that the regular or usual retail prices charged by respondents for fur products of similar grade or quality in the recent regular course of business have been reduced in direct proportion to such savings claims.

3. Setting forth savings claims, or representations as to selling or offering to sell at or below cost, unless there are maintained by respondents full and adequate records disclosing the facts upon which such claims and representations are based, as required by Rule 44(e) of the Rules and Regulations.

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 7th day of August 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.

IN THE MATTER OF
MAX J. RAFF ET AL. DOING BUSINESS AS
ARISTOCRAT CLOCK COMPANY

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

Docket 6931. Complaint, Nov. 6, 1957—Decision, Aug. 13, 1958

Order requiring distributors in New York City to cease representing falsely by means of labels, counter displays, display boxes, and trade circulars distributed to dealers and retailers, that their "Artco" watches were jeweled and contained jeweled movements; that watches designated "Seventeen" and "Twenty-One" contained seventeen and twenty-one jewels, respectively; and that the watches were fully guaranteed for one year; and to cease selling watches having bezels composed of base metal simulating gold without disclosing the true metal composition of the bezels.

Mr. Harry E. Middleton, Jr., for the Commission.

Petersen, Steiner & Kohan, of New York, N.Y., by *Joseph H. Kohan*, for respondents.

INITIAL DECISION BY WILLIAM L. PACK, HEARING EXAMINER

PRELIMINARY STATEMENT

The Commission's complaint in this matter, issued on November 6, 1957, charged the respondents with the use of certain misleading representations and practices in the advertising and sale of watches. After the filing of respondents' answer to the complaint, there were extended negotiations between counsel looking toward disposition of the proceeding by means of an agreement for a consent order. Because of one difficulty in connection with the proposed order (to be discussed later), such negotiations were unsuccessful, and on April 16, 1958, a hearing was held for the purpose of concluding the proceeding insofar as reception of evidence was concerned.

At this hearing, respondents through their attorney admitted all of the allegations of fact in the complaint, and it was therefore unnecessary that any evidence in support of the complaint be offered. While certain evidence was introduced on behalf of respondents, such evidence was not in contravention of the factual allegations of the complaint but related solely to the proposed order; specifically, to the question whether there should be a postponement of the effective date of one prohibition in the order.