

IN THE MATTER OF
H. P. SELMAN & COMPANY, INC., ET AL.

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

Docket 7173. Complaint, June 11, 1958—Decision, Oct. 29, 1958

Consent order requiring furriers in Louisville, Ky., to cease violating the labeling, invoicing, and advertising provisions of the Fur Products Labeling Act.

Mr. John T. Walker for the Commission.

Greenebaum, Barnett and Wood, by *Mr. S. C. Greenebaum*, of Louisville, Ky., for respondents.

INITIAL DECISION BY ABNER E. LIPSCOMB, HEARING EXAMINER

The complaint herein was issued on June 11, 1958, charging respondents with violating the Fur Products Labeling Act, the Rules and Regulations promulgated thereunder, and the Federal Trade Commission Act, by misbranding their fur products, in some instances by failing to attach required labels thereto, and in other instances by failing to set forth on labels the required information, by abbreviating such information, mingling it with nonrequired information, or setting it forth on the labels in handwriting, or not separately with respect to each section of fur products composed of two or more sections containing different animal furs. Respondents were further charged with violating said Acts by falsely and deceptively invoicing their fur products with respect to the name of the animal which produced the fur from which such products had been manufactured, and by setting forth such information in abbreviated form, and omitting required item numbers. Further, respondents were charged with violating said Acts by falsely and deceptively advertising their fur products, by failing to disclose, among other things, the name of the animal that produced the fur contained therein, the fact that their fur products were composed of bleached, dyed or otherwise artificially colored fur, and the name of the country of origin of the imported furs contained in such products. Respondents were also charged with violating said Acts by misrepresenting, in their advertisements, the regular and usual prices of their fur products; by the use of fictitious percentage savings claims; by failure to give a designated time of a bona fide com-

pared price when citing comparative prices in their advertisements; and by failure to maintain full and adequate records disclosing the facts upon which such claims and representations were based.

On August 13, 1958, Respondents, their counsel, 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 acting assistant director of the Commission's Bureau of Litigation, and thereafter submitted to the hearing examiner for consideration.

The agreement identifies respondent H. P. Selman & Company, Inc., as a Kentucky corporation, with its office and principal place of business located at 466 South Fourth Street, Louisville, Ky., and individual respondents Joseph Thal, Norman Thal, Gene Thal, and Aaron Thal as president, vice president, treasurer, and secretary, respectively, of the corporate respondent, and having the same address as the corporate respondent.

All parties to the agreement join in recommending that the complaint herein be dismissed as to respondents Joseph Thal, Norman Thal, and Aaron Thal individually, but not as officers of the corporate respondent. In support of such recommendation, there are attached to the agreement, and by reference made a part thereof, three affidavits, as to which the agreement sets forth that no evidence contrary thereto is available.

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 or 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, 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

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and does not constitute an admission by 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 the respondents, H. P. Selman & Company, Inc., a corporation, and its officers, and Gene Thal, individually and as officer of said corporation, and Joseph Thal, Norman Thal, and Aaron Thal, as officers of said corporation, and respondents' representatives, agents or employees, directly or through any corporate or other device, in connection with the introduction into commerce, or the sale, advertisement, offering for sale, or transportation or distribution in commerce of any fur product, or in connection with the sale, advertising, offering 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. 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 the fact;
 - (3) That the fur product contains or is composed of bleached, dyed, or artificially colored fur, when such is the fact;
 - (4) That the fur product is composed in whole or in substantial part of paws, tails, bellies, or waste fur, when such is the 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 §4(2) of the Fur Products Labeling Act and the Rules and Regulations promulgated thereunder in abbreviated form;

(2) Information required under §4(2) of the Fur Products Labeling Act and the Rules and Regulations promulgated thereunder which is intermingled with nonrequired information;

(3) Information required under §4(2) of the Fur Products Labeling Act and the Rules and Regulations promulgated thereunder in handwriting;

C. Failing to set forth separately on labels attached to fur products composed of two or more sections containing different animal furs the information required under §4(2) of the Fur Products Labeling Act and the Rules and Regulations promulgated thereunder with respect to the fur comprising each section;

2. Falsely or deceptively invoicing fur products by:

A. Falsely or deceptively identifying any such products as to the name or names of the animal or animals that produced the fur from which such products were manufactured;

B. 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 the 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 paws, tails, bellies, or waste fur, when such is the fact;

(5) The name and address of the person issuing such invoices;

(6) The name of the country of origin of any imported furs contained in the fur product;

(7) The item number or mark assigned to the fur product;

C. Abbreviating on invoices information required under

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§5(b)(1) of the Fur Products Labeling Act and the Rules and Regulations promulgated thereunder;

3. 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:

A. 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 said Rules and Regulations;

B. Fails to disclose that the fur products contain or are composed of bleached, dyed, or otherwise artificially colored fur, when such is the fact;

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

D. Fails to set forth all parts of the information required under §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;

E. 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;

F. Represents, directly or by implication, that the customary or usual retail price charged by respondents for any fur product in the recent regular course of their business is reduced in direct proportion to the amount of savings stated in the percentage savings claims, when contrary to the fact;

G. Makes use of comparative prices unless such compared prices or claims are based upon a bona fide compared price at a designated time;

4. Making price claims and representations of the types referred to in subparagraphs E, F, and G of paragraph 3 above, unless there are maintained by respondents full and adequate records disclosing the facts upon which such claims or representations are based.

It is further ordered, That the complaint be, and hereby is, dismissed as to Joseph Thal, Norman Thal, and Aaron Thal, individually, but not as officers of said corporate respondent.

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 29th day of October 1958, become the decision of the Commission; and, accordingly:

It is ordered, That respondents H. P. Selman & Company, Inc., a corporation, and Gene Thal, individually and as an officer of said corporation, and Joseph Thal, Norman Thal, and Aaron Thal, as officers of said corporation, 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.

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IN THE MATTER OF
LIBERTY MUTUAL INSURANCE COMPANY

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

Docket 6451. Complaint, Nov. 18, 1955—Order, Oct. 30, 1958

Order dismissing, for lack of jurisdiction, following the ruling of the Supreme Court of the United States in *Federal Trade Commission v. National Casualty Company* and *Federal Trade Commission v. The American Hospital and Life Insurance Company*, 357 U.S. 560, complaint charging an insurance company with main office in Boston, Mass., with false advertising of its health and accident policies.

Before Mr. Loren H. Laughlin and Mr. Frank Hier, hearing examiners.

Mr. John W. Brookfield, Jr. and Mr. Donald King for the Commission.

Mr. Franklin J. Marryott, of Boston, Mass., and Hogan & Hartson, of Washington, D.C., for respondent.

FINAL ORDER

It appearing that an initial decision in this proceeding was filed May 27, 1957, dismissing the complaint herein on the ground of failure of proof and that, by its order of November 12, 1957, the Commission remanded the matter to the hearing examiner; and

The Commission having reconsidered the matter in the light of the United States Supreme Court's ruling in *Federal Trade Commission v. National Casualty Company*, 357 U.S. 560 (1958), and having concluded that this proceeding should be dismissed on jurisdictional grounds upon the authority of said ruling of the Supreme Court:

It is ordered, That the Commission's order of November 12, 1957, removing this case from the appeal docket and remanding it to the hearing examiner be, and it hereby is, vacated and set aside.

It is further ordered, That the initial decision filed May 27, 1957, be, and it hereby is, vacated and set aside.

It is further ordered, That the complaint herein be, and it hereby is, dismissed.