

IN THE MATTER OF
LLOYD'S FURS, INC., ET AL.

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

Docket 7185. Complaint, July 11, 1958—Decision, Nov. 19, 1958

Consent order requiring two associated furriers in Denver, Colo., to cease violating the Fur Products Labeling Act by invoicing and labeling irregularities and by advertising in newspapers and otherwise which falsely represented fur sales as "Liquidation" and "going out of business" sales.

Mr. Thomas A. Ziebarth for the Commission.

Mr. Louis G. Isaacson and *Mr. Jay E. Lutz*, of Denver, Colo., for respondents.

INITIAL DECISION BY J. EARL COX, HEARING EXAMINER

The complaint charges respondents with misbranding and with falsely and deceptively invoicing and advertising certain of their fur products, in violation of the Fur Products Labeling Act and the Rules and Regulations promulgated thereunder, and of the Federal Trade Commission Act.

After the issuance of the complaint, all respondents except Anne T. Kaye, their counsel, and counsel supporting the complaint 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 transmitted to the hearing examiner for consideration.

The agreement states that respondents Lloyd's Furs, Inc., and Chevron Furs, Inc., are corporations organized and existing under and by virtue of the laws of the State of Colorado, and that Lloyd's Furs, Inc., maintains its offices and principal place of business at 1660 Broadway, Denver, Colo.

The agreement also states that individual respondents Richard I. Kaye and Anne T. Kaye are officers of said Lloyd's Furs, Inc.; that individual respondent Richard I. Kaye is an officer of said Chevron Furs, Inc.; that the address of the individual respondents is the same as that of the corporate respondents; and that corporate respondent Chevron Furs, Inc., did business under the names Miller Furs and Miller Fur Company.

All parties agree that, inasmuch as individual respondent Richard I. Kaye is president of corporate respondent Lloyd's Furs,

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Inc., and solely responsible for the formulation, direction and control of the practices of said corporation, while individual respondent Anne T. Kaye is only a nominal officer thereof and at no time formulates, directs or controls any of the practices thereof, the complaint herein should be dismissed insofar as it relates to individual respondent Anne T. Kaye.

The agreement provides, among other things, that respondents signatory thereto 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; that 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; 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 the complaint may be used in construing the terms of the order agreed upon, which may be altered, modified or set aside in the manner provided for other orders; that the agreement is for settlement purposes only and does not constitute an admission by respondents signatory thereto that they have violated the law as alleged in the complaint; and that the order set forth in the agreement and hereinafter included in this decision shall have the same force and effect as if entered after a full hearing.

Respondents signatory to the agreement waive any further procedural steps 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.

The order agreed upon fully disposes of all the issues raised in the complaint, and adequately prohibits the acts and practices charged therein as being in violation of the Fur Products Labeling Act and the Rules and Regulations promulgated thereunder, and of the Federal Trade Commission Act. Accordingly, the hearing examiner finds this proceeding to be in the public interest, and accepts the agreement containing consent order to cease and desist as part of the record upon which this decision is based. Therefore,

It is ordered, That respondent Lloyd's Furs, Inc., a corporation, and its officers, and Richard I. Kaye, individually and as an officer of said corporation, and respondents' representatives, agents and employees, directly or through any corporate or other device, in

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connection with the introduction into commerce or the sale, advertising or offering for sale in commerce, or the transportation or distribution in commerce, of fur products, 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. 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 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 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;

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

2. Setting forth on labels affixed to fur products:

(a) Information required under §4(2) of the Fur Products Labeling Act and the Rules and Regulations thereunder mingled with nonrequired information;

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

3. Failing to affix labels to fur products that comply with the minimum size requirements of one and three-quarter inches by two and three-quarter inches;

4. Failing to affix labels to fur products in a conspicuous manner;

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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 products 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 fur contained in a fur product;

2. Abbreviating information required under §5(b)(1) of the Fur Products Labeling Act and the Rules and Regulations thereunder.

It is further ordered, That respondents Lloyd's Furs, Inc., a corporation, and its officers, and Richard I. Kaye, individually and as an officer of said corporation; Chevron Furs, Inc., a corporation, and its officers, and Richard I. Kaye, individually and as an officer of said corporation, 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 or offering for sale in commerce, or the transportation or distribution in commerce, of fur products, 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:

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 any fur product offered for sale is from the stock of a business in a state of

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liquidation or that respondents are offering for sale the stock of a concern that is going out of business, unless such is the fact;

2. Represents, directly or by implication, that fur products offered for sale are from the stock of an old, established business, unless such is the fact.

It is further ordered, That the complaint herein, insofar as it relates to individual respondent, Anne T. Kaye, be, and the same hereby is, dismissed.

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 19th day of November 1958, become the decision of the Commission; and, accordingly:

It is ordered, That respondents Lloyd's Furs, Inc., a corporation; Chevron Furs, Inc., a corporation; and Richard I. Kaye, individually and as an officer of said corporate 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.

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IN THE MATTER OF
BANTAM BOOKS, INC.ORDER, ETC., IN REGARD TO THE ALLEGED VIOLATION OF
THE FEDERAL TRADE COMMISSION ACT

Docket 6802. Complaint, May 16, 1957—Decision, Nov. 24, 1958

Order requiring a distributor of books in New York City to make adequate disclosure on the front cover and title page when parts of the original text of reprints had been deleted and when new titles were substituted for the original titles of reprinted books.

Mr. John W. Brookfield, Jr., for the Commission.

Weil, Gotshal & Manges, by *Mr. Horace S. Manges*, of New York, N.Y., for respondent.

INITIAL DECISION BY J. EARL COX, HEARING EXAMINER

The complaint charges that respondent has violated the Federal Trade Commission Act by failing to disclose, or disclose adequately, that certain of the books which it publishes and distributes in commerce are abridgments and that changes of title have been made in others. It is alleged that such failure "has had, and now has, the tendency and capacity to lead a substantial portion of the purchasing public into the mistaken and erroneous belief that said books are complete and unabridged, or are new and original publications." Respondent has denied all the allegations of the complaint except those pertaining to corporate organization and business activities in selling and distributing books in commerce.

Hearings were held at which evidence in support of and in opposition to the allegations of the complaint was received, duly recorded and filed. At the close of the case-in-chief in support of the complaint, respondent filed a motion to dismiss for lack of evidence sufficient to establish a *prima facie* case, which motion was denied. At the completion of the reception of evidence, proposed findings of fact and conclusions were filed and have been ruled upon in a separate document.

Upon the entire record, the following findings and conclusions are made:

1. Bantam Books, Inc., is a corporation organized and doing business under and by virtue of the laws of the State of New