

Decision

IN THE MATTER OF
B. ALTMAN & CO.

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

Docket 7206. Complaint, July 23, 1958—Decision, Dec. 17, 1958

Consent order requiring a New York City department store to cease violating the Fur Products Labeling Act by newspaper advertising which failed to disclose the names of animals producing certain furs, offered furs as reduced from "regular" prices which were in fact fictitious, and contained comparative prices which failed to give a bona fide time of the compared price; and by failing to comply with the invoicing requirements.

Alvin D. Edelson, Esq., for the Commission.

Richard Lincoln, Esq., of New York, N.Y., for respondent.

INITIAL DECISION BY JAMES A. PURCELL, HEARING EXAMINER

The complaint in this proceeding, issued July 23, 1958, charges the respondent above named with violation of the provisions of the Federal Trade Commission Act and the Fur Products Labeling Act and the Rules and Regulations promulgated under the last-named Act, in connection with the introduction into commerce and in the sale, advertising and offering for sale, transportation and distribution, in commerce, of fur products, as the designations "commerce," "fur" and "fur product" are defined in the Fur Products Labeling Act.

After the issuance of said complaint respondent, on October 7, 1958, entered into an agreement for a consent order with counsel in support of the complaint which agreement was duly approved by the director and assistant director of the Bureau of Litigation of the Federal Trade Commission.

The agreement disposes of all charges of the complaint as issued except as to paragraph 6 (b) of the complaint in which it was charged that respondent in advertising, "failed to disclose that fur products contained or were composed of bleached, dyed or otherwise artificially colored fur when such was the fact, in violation of Section 5(a) (3) of the Fur Products Labeling Act," it being felt that the evidence on this point is not substantial enough to sustain this charge.

It was expressly provided in said agreement that the signing thereof is for settlement purposes only and does not constitute

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an admission by respondent that it has violated the law as alleged in the complaint.

By the terms of said agreement, the respondent admitted all of the jurisdictional allegations of the complaint and agreed that the record herein may be taken as though the Commission had made findings of jurisdictional facts in accordance with such allegations. By said agreement the parties expressly waived a hearing before the hearing examiner or the Commission, the making of findings of fact or conclusions of law by the hearing examiner or the Commission, the filing of exceptions and oral argument before the Commission, and all further and other procedure before the hearing examiner and the Commission to which the respondent may otherwise be entitled under the Federal Trade Commission Act or the Rules of Practice of the Commission.

By said agreement, respondent further agreed that the order to cease and desist issued in accordance with said agreement shall have the same force and effect as though made after a full hearing, presentation of evidence and findings and conclusions thereon, and specifically waived any and all right, power or privilege to challenge or contest the validity of such order.

It was further provided that said agreement, together with the complaint, shall constitute the entire record herein; that the complaint herein may be used in construing the terms of the order issued pursuant to said agreement; and that the said order may be altered, modified or set aside in the manner provided for other orders of the Commission.

Said agreement recites that respondent B. Altman & Co., is a corporation existing and doing business under and by virtue of the laws of the State of New York, with its office and principal place of business located at Fifth Avenue and 34th Street New York, N. Y.

The hearing examiner has considered such agreement and the order therein contained, and, it appearing that said agreement and order provides for an appropriate disposition of this proceeding, the same is hereby accepted and, without further notice to respondent, is ordered filed upon becoming part of the Commission's decision in accordance with Sections 3.21 and 3.25 of the Rules of Practice, and in consonance with the terms of said agreement, the hearing examiner finds that the Federal Trade Commission has jurisdiction of the subject matter of this proceeding and of the respondent named herein, and that this proceeding

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is in the interest of the public, wherefore he issues the following order.

ORDER

It is ordered, That B. Altman & Co., a corporation, and its officers, 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, or offering for sale in commerce, or the 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. 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 products 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 invoice;

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

B. 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.

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

A. Fails to disclose:

(1) The name or names of the animal or animals producing

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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. Bases comparative prices on former or original prices that are not the prevailing prices at the time of the advertisement without stating the dates or times of the compared prices.

C. 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 respondent has usually and customarily sold such products in the recent regular course of business.

It is further ordered, That the allegation as to "bleached and dyed" fur products as alleged in paragraph 6(b) of the complaint be, and 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 17th day of December 1958, become the decision of the Commission; and, accordingly:

It is ordered, That the respondent herein 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.

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IN THE MATTER OF
CANADIAN FUR COMPANY ET AL.CONSENT ORDER, ETC., IN REGARD TO THE ALLEGED VIOLATION OF THE
FEDERAL TRADE COMMISSION AND THE FUR PRODUCTS LABELING ACTS*Docket 7246. Complaint, Sept. 4, 1958—Decision, Dec. 17, 1958*

Consent order requiring furriers in Springfield, Mass., to cease violating the Fur Products Labeling Act by advertising in newspapers which failed to disclose the names of animals producing certain furs, or that certain products contained artificially colored fur, or to set forth the description "dyed mouton-processed lamb" as required; which represented prices as reduced from regular prices which were in fact fictitious, or as affording percentage savings not in accord with the facts, and falsely represented certain fur products as from stock being liquidated in a "Removal Sale"; and by failing to comply with the invoicing requirements.

Mr. S. F. House for the Commission.

Mr. Benjamin D. Novak, of Springfield, Mass., for respondents.

INITIAL DECISION BY EARL J. KOLB, HEARING EXAMINER

The complaint in this proceeding issued September 4, 1958, charged respondents Canadian Fur Company, a corporation, located at 272 Bridge Street, Springfield, Mass., and Carl Riner and Harold Riner, individually and as officers of said corporation, their address being the same as that of the corporate respondent, with the use of unfair and deceptive acts and practices in interstate commerce in violation of the provisions of the Federal Trade Commission Act and the Fur Products Labeling Act and the Rules and Regulations promulgated thereunder.

After the issuance of the complaint, respondents entered into an agreement containing consent order to cease and desist with counsel in support of the complaint, disposing of all the issues 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 respondents that they have violated the law as alleged in the complaint.

By the terms of said agreement, the 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.