

Decision

IN THE MATTER OF
MARY LOUISE GORDON FORMERLY DOING BUSINESS
AS DELUXE 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 7098. Complaint, Mar. 27, 1958—Decision, Dec. 24, 1958

Consent order requiring furriers in Hazleton, Pa., to cease violating the Fur Products Labeling Act by tagging fur products with excessive prices purporting to be the regular retail selling prices; by newspaper and television advertising which failed to disclose the names of animals producing certain furs or that some furs were artificially colored, represented furs falsely as from a business in liquidation, and used comparative prices and percentage savings claims, etc., not based on adequate records; and by failing in other respects to comply with the labeling, invoicing, and advertising requirements of the Act.

Mr. John T. Walker for the Commission.

Marie Louise Gordon and *George Gordon*, *pro se*.

INITIAL DECISION BY EVERETT F. HAYCRAFT, HEARING EXAMINER

On March 27, 1958, the Federal Trade Commission issued its complaint against Marie Louise Gordon (erroneously referred to in the complaint as Mary Louise Gordon), an individual formerly doing business as DeLuxe Fur Company, and George Gordon, an individual formerly manager of the DeLuxe Fur Company, hereinafter referred to as respondents, charging them with the use of unfair and deceptive acts and practices in commerce in violation of the provisions of the Federal Trade Commission Act, the Fur Products Labeling Act and the Rules and Regulations promulgated under the Fur Products Labeling Act. In lieu of submitting answer to said complaint, both of the respondents on October 20, 1958, entered into an agreement for consent order with counsel supporting the complaint disposing of all the issues in this proceeding in accordance with Section 3.25 of the Rules of Practice and Procedure of the Commission, which agreement has been duly approved by the Bureau of Litigation.

By the terms of said agreement, the respondents admitted all the jurisdictional facts alleged in the complaint and agreed that the record may be taken as if findings of jurisdictional facts had been duly made in accordance with such allegations. Respondents in the agreement expressly waived any further pro-

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cedural 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 this agreement. It was further provided that said agreement, together with the complaint, shall constitute the entire record herein; 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 the respondents that they have violated the law as alleged in the complaint. The agreement also provided that the order to cease and desist issued in accordance with said agreement shall have the same force and effect as if entered after a full hearing; that it 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 by the hearing examiner on the complaint and the aforesaid agreement for consent order, and it appearing that said agreement provides for an appropriate disposition of this proceeding, the aforesaid agreement is hereby accepted and 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 makes the following jurisdictional findings and order:

1. Respondent Marie Louise Gordon is an individual formerly doing business as DeLuxe Fur Company, with office and principal place of business located at 41 North Wyoming Street, Hazleton, Pa. Respondent George Gordon is an individual formerly manager of the DeLuxe Fur Company, with office and principal place of business at the same address as Marie Louise Gordon.

2. 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 Federal Trade Commission Act and the Fur Products Labeling Act, and this proceeding is in the interest of the public.

ORDER

It is ordered, That respondents Marie Louise Gordon (erroneously designated in the complaint as Mary Louise Gordon), an individual formerly doing business as DeLuxe Fur Company, and

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George Gordon, an individual formerly manager of the DeLuxe Fur Company, and doing business under any other trade name or names, 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 sold by respondents in the recent regular course of their business.

2. 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;

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

3. 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;

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(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.

2. Fails to set forth the information required under Section 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.

3. Represents, directly or by implication, that any such stock

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is from the stock of a business in a state of liquidation, contrary to the fact.

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 are 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 24th day of December 1958, become the decision of the Commission; and, accordingly:

It is ordered, That respondents Marie Louise Gordon (erroneously designated in the complaint as Mary Louise Gordon), an individual formerly doing business as DeLuxe Fur Company, and George Gordon, an individual formerly manager of the DeLuxe Fur Company, 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
NELBRO PACKING COMPANY

CONSENT ORDER, ETC., IN REGARD TO THE ALLEGED VIOLATION
OF SEC. 2(c) OF THE CLAYTON ACT

Docket 7209. Complaint, July 23, 1958—Decision, Dec. 24, 1958

Consent order requiring a distributor of canned salmon in Seattle, Wash., to cease violating the brokerage section of the Clayton Act as evidenced by its allowance of discounts reflecting brokerage on direct sales to a large retail chain.

COMPLAINT

The Federal Trade Commission, having reason to believe that the party respondent named in the caption hereof, and hereinafter more particularly designated and described, has been and is now violating the provisions of subsection (c) of Section 2 of the Clayton Act, as amended (U.S.C. Title 15, Sec. 13), hereby issues its complaint stating its charges with respect thereto as follows:

PARAGRAPH 1. Respondent Nelbro Packing Company, hereinafter sometimes referred to as Nelbro, is a corporation, organized, existing and doing business under and by virtue of the laws of the State of Washington, with its principal office and place of business located at 401 Colman Building, Seattle, Wash. Respondent Nelbro is a wholly owned subsidiary of Nelson Bros. Fisheries Ltd., a Canadian corporation, located at Vancouver, B.C. Respondent Nelbro is engaged in distributing canned salmon, all of which are hereinafter referred to as seafood products. Respondent Nelbro is a substantial factor in the sale and distribution of seafood products, particularly canned salmon, acting in its own behalf as well as in behalf of its parent corporation in connection with sales of seafood products within the United States.

PAR. 2. In the course and conduct of its business, respondent Nelbro for the past several years has sold and distributed and is now selling and distributing seafood products in commerce as "commerce" is defined in the aforesaid Clayton Act, to buyers located in the several States of the United States other than the State in which respondent is located. Said respondent transports or causes such seafood products when sold to be transported from