

Decision

IN THE MATTER OF
KISBA FUR CORPORATION, ET AL.CONSENT ORDER, ETC., IN REGARD TO THE ALLEGED VIOLATION OF THE
FEDERAL TRADE COMMISSION AND THE FUR PRODUCTS LABELING ACTS*Docket 7193. Complaint, July 17, 1958—Decision, Dec. 30, 1958*

Consent order requiring furriers in New York City to cease violating the Fur Products Labeling Act by invoicing fur products with fictitious prices and making pricing and savings claims without keeping adequate records as a basis therefor; by failing to comply in other respects with the labeling and invoicing requirements of the Act; and by furnishing a false guaranty that certain of their furs were not misbranded.

Mr. Charles W. O'Connell for the Commission.

Mr. Manfred H. Benedek, of New York, N.Y., for Kisba Fur Corporation and Harry I. Kushner; *Goldstein & Goldstein*, of New York, N.Y., for Sam Bassin and Sol Kushner.

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, with failing to maintain full and adequate records disclosing the facts upon which were based pricing and savings claims and representations as to such products, and with furnishing a false guaranty that certain of their furs or fur products were not misbranded, falsely invoiced and falsely advertised, 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, respondents, 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 respondent Kisba Fur Corporation is a corporation organized, 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 315 Seventh Avenue, New York, N.Y., and that respondents Harry I. Kushner (erroneously referred to in the complaint as Harry J. Kushner),

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Sam Bassin (erroneously referred to in the complaint as Sam Bassen), and Sol Kushner are president, secretary-treasurer and vice president, respectively, of said corporation, their address being the same as that of the corporate respondent.

The agreement further states that respondent Sam Bassin resides at 2105 Wallace Avenue, Bronx, N.Y., and respondent Sol Kushner resides at 2501 Nostrand Avenue, Brooklyn, N.Y.

The agreement provides, among other things, that the 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; 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 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 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 respondents Kisba Fur Corporation, a corporation, and its officers, and Harry I. Kushner, Sam Bassin and Sol Kushner, individually and as officers of said corporation, and respondents' representatives, agents and employees, directly

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or through any corporate or other device, in connection with the introduction into commerce, or the manufacture for 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 manufacture for sale, 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 products" 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 products 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 used in the fur products;

2. Setting forth on labels attached to fur products information required under §4(2) of the Fur Products Labeling Act and the Rules and Regulations promulgated thereunder which is intermingled with nonrequired information;

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 Fur Products Name Guide and as prescribed under the Rules and Regulations;

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(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 invoices;

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

2. Representing directly or by implication, on invoices, that the regular or usual price of any fur product is any amount which is in excess of the price at which respondents have usually and customarily sold such products in the recent regular course of their business;

C. Falsely or deceptively advertising fur products through the use of any advertisement, representation, or 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 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 respondents have usually and customarily sold such product in the recent regular course of their business;

D. Making pricing claims or representations in advertisements respecting comparative prices, percentage savings claims, or claims that prices are reduced from regular or usual prices, unless respondents maintain full and adequate records disclosing the facts upon which such claims or representations are based;

E. Furnishing false guaranties that certain furs or fur products are not misbranded, falsely invoiced or falsely advertised, when there is reason to believe that said furs or fur products may be introduced, sold, transported or distributed in commerce.

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 30th day of December 1958, become the decision of the Commission; and accordingly:

It is ordered, That respondents Kisba Fur Corporation, a corporation, and Harry I. Kushner (erroneously named in the com-

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plaint as Harry J. Kushner), Sam Bassin (erroneously named in the complaint as Sam Bassen), and Sol Kushner, individually and 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
BANKERS LIFE & CASUALTY COMPANY

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

Docket 6240. Complaint, Oct. 14, 1954—Order, Jan. 5, 1959

Dismissal, for lack of jurisdiction following decision of the Supreme Court of the United States in the combined cases of *Federal Trade Commission v. National Casualty Company* and *Federal Trade Commission v. The American Hospital and Life Insurance Company*, 357 U.S. 560 (1958), of complaint charging a Chicago insurance company with falsely advertising its accident and health policies.

Before Mr. Loren H. Laughlin, hearing examiner.

Mr. Robert R. Sills and Mr. Raymond L. Hays for the Commission.

Brundage & Short, of Chicago, Ill., for respondent.

FINAL ORDER

This matter having come on to be heard upon the appeal of counsel supporting the complaint from the hearing examiner's initial decision filed prior to the ruling of the Supreme Court of the United States in the combined cases of *Federal Trade Commission v. National Casualty Company* and *Federal Trade Commission v. The American Hospital and Life Insurance Company*, 357 U.S. 560 (1958) ; and

The Commission having considered the record herein and the said opinion of the Supreme Court and having concluded that it should dismiss the complaint in this proceeding:

It is ordered, That the initial decision filed December 19, 1956, be, and it hereby is, vacated and set aside.

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

Commissioner Kern not participating.