

Decision

IN THE MATTER OF
LOUIS PIZITZ DRY GOODS CO., INC.

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

Docket 7263. Complaint, Sept. 23, 1958—Decision, Feb. 4, 1959

Consent order requiring a retailer in Birmingham, Ala., to cease violating the Fur Products Labeling Act by failing to comply with the invoicing requirements, and by advertising in newspapers which represented prices of fur products falsely as "Below wholesale prices," and represented falsely that price concessions were obtainable due to its "tremendous buying power."

Mr. John T. Walker for the Commission.

Pritchard, McCall & Jones, by *Mr. William S. Pritchard*, of Birmingham, Ala., for respondent.

INITIAL DECISION BY J. EARL COX, HEARING EXAMINER

The complaint charges respondent with falsely and deceptively invoicing and advertising certain of its 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, respondent, its 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 Louis Pizitz Dry Goods Co., Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of Alabama, with its office and principal place of business located at 1821 Second Avenue North, Birmingham, Ala.

The agreement provides, among other things, that the respondent admits all the jurisdictional facts alleged in the complaint and agrees 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

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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 respondent that it has 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.

Respondent waives 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 it 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 Louis Pizitz Dry Goods Co., Inc., a corporation, and its officers, representatives, agents 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, in commerce, of fur products, or in connection with the sale, advertising, offering for sale, transportation, or distribution of fur products which are 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;

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(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 a fur product;

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

B. Setting forth information required under §5(b)(1) of the Fur Products Labeling Act and the Rules and Regulations promulgated thereunder in abbreviated form;

C. Failing to set forth the term "Dyed Mouton processed Lamb" in the manner required;

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. Represents, directly or by implication, that fur products are offered for sale at prices which are below wholesale, when such is not the fact;

B. Represents, directly or by implication, that price concessions for fur products purchased have been obtained due to buying power, or for any other reason, when such is not the fact.

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 4th day of February 1959, become the decision of the Commission; and, accordingly:

It is ordered, That respondent Louis Pizitz Dry Goods Co., Inc., a corporation, 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
FEDERAL LIFE AND CASUALTY COMPANY

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

Docket 6312. Complaint, Mar. 11, 1955—Order, Feb. 4, 1959

Order dismissing for lack of jurisdiction, following the per curiam decision of the Supreme Court 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), complaint charging a Battle Creek, Mich., insurance company with falsely advertising its accident and health insurance policies.

Before Mr. Frank Hier, hearing examiner.

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

Beaumont, Smith & Harris, of Detroit, Mich., for respondent.

FINAL ORDER

This matter having come before the Commission upon the appeal of respondent from the hearing examiner's initial decision and upon briefs and oral argument in support of and in opposition thereto; and

The Commission having considered the record and the ruling of the Supreme Court of the United States in its *per curiam* opinion of June 30, 1958, in the combined cases of *Federal Trade Commission v. National Casualty Company* and *The American Hospital and Life Insurance Company*, 357 U.S. 560 (1958), entered subsequent to the filing of the instant appeal, and having concluded that the complaint herein should be dismissed:

It is ordered, That the initial decision herein, filed December 31, 1956, be, and it hereby is, vacated and set aside.

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