

Decision

IN THE MATTER OF
PROJANSKY, INC., ET AL.

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

Docket 7276. Complaint, Oct. 10, 1958—Decision, Feb. 7, 1959

Consent order requiring a furrier in Rochester, N.Y., to cease violating the Fur Products Labeling Act by labeling fur products with excessive fictitious prices represented as regular selling prices; by identifying them falsely in labeling and advertising with respect to the names of animals which produced the fur; by failing to comply with other labeling requirements of the Act; and by advertising in newspapers which failed to disclose the names of animals producing certain furs or that some products contained cheap or waste fur, or to set forth the term "Dyed Mouton processed Lamb" in the manner required, and represented prices as reduced from purported regular prices which were in fact fictitious.

Mr. S. F. House for the Commission.

Baker & Carver, by *Mr. Barton Baker*, of Rochester, N.Y., for respondents.

INITIAL DECISION BY ABNER E. LIPSCOMB, HEARING EXAMINER

The complaint herein was issued on October 10, 1958, charging respondents with misbranding and falsely and deceptively advertising certain of their fur products, in violation of the Federal Trade Commission Act and of the Fur Products Labeling Act and the Rules and Regulations promulgated thereunder:

Thereafter, on November 20, 1958, respondents, their counsel, and counsel supporting the complaint herein 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 submitted to the hearing examiner for consideration.

The agreement identifies respondent Projansky, Inc. as a New York corporation, with its office and principal place of business located at 39 East Avenue, Rochester, N.Y., and respondent Henri P. Projansky as president of said corporate respondent, in which capacity he formulates, directs, and controls the acts, policies and practices thereof, his address being the same as that of the said corporate respondent.

Respondents admit all the jurisdictional facts alleged in the complaint, and agree that the record may be taken as if findings

Order

55 F.T.C.

of jurisdictional facts had been duly made in accordance with such allegations.

Respondents waive any further procedure 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. All parties agree that the record on which the initial decision and the decision of the Commission shall be based shall consist solely of the complaint and the agreement; that the order to cease and desist, as contained in the agreement, when it shall have become a part of the decision of the Commission, shall have the same force and effect as if entered after a full hearing, and may be altered, modified or set aside in the manner provided for other orders; that the complaint herein may be used in construing the terms of said order; and that the 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.

Having considered the allegations of the complaint and the provisions of the agreement and the proposed order, the hearing examiner is of the opinion that such order constitutes a satisfactory disposition of this proceeding. Accordingly, in consonance with the terms of the aforesaid agreement, the hearing examiner accepts the Agreement Containing Consent Order to Cease and Desist; finds that the Commission has jurisdiction over the respondents and over their acts and practices as alleged in the complaint; and finds that this proceeding is in the public interest. Therefore,

It is ordered, That Projansky, Inc., a corporation, and its officers, and Henri P. Projansky, 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 any fur products, 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:

1117

Order

1. Misbranding fur products by:

A. Failing to affix labels to fur products showing:

(1) 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;

(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, 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;

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

B. Falsely or deceptively labeling or otherwise identifying any such product as to the name or names of the animal or animals that produced the fur from which such product was manufactured;

C. Representing on labels affixed to the fur products, or in any other manner, that certain amounts are their regular and usual prices, when such amounts are in excess of the prices at which respondents have usually and customarily sold such products in the recent, regular course of business;

D. Setting forth on labels affixed to fur products information required under §4(2) 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 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;

(2) That the fur product is composed in whole or in substan-

Decision

55 F.T.C.

tial part of paws, tails, bellies, or waste fur, when such is the fact;

B. Fails to set forth the term "Dyed Mouton Processed Lamb" in the manner required;

C. Fails to set forth the information required under §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;

D. 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 products in the recent, regular course of business;

3. Falsely or deceptively advertising or otherwise identifying any such product as to the name or names of the animal or animals that produced the fur from which such product was manufactured.

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 7th day of February 1959, become the decision of the Commission; and, accordingly:

It is ordered, That respondents Projansky, Inc., a corporation, and Henri P. Projansky, individually and as an officer 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.

Decision

IN THE MATTER OF
GEORGE M. VOSS TRADING AS
VOSS HAIR EXPERTS OF GEORGIA

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

Docket 6498. Complaint, Jan. 27, 1956¹—Decision, Feb. 9, 1959

Order requiring an individual in Atlanta to cease representing falsely, particularly in newspaper advertising, that through use of his hair and scalp preparations, methods, and treatments, in his place of business and by purchasers of the preparations in their homes, baldness would be prevented and overcome, growth of new and thicker hair would be promoted and lost hair restored, dandruff cured, etc.; and to cease representing himself falsely as a "Trichologist" and the "Nation's leading hair expert."

Mr. Harold A. Kennedy and Mr. Thomas F. Howder supporting the complaint.

Gettleman & Gettleman of Chicago, Ill., by *Mr. Frank E. Gettleman* and *Mr. Franklin M. Lazarus* for respondent.

INITIAL DECISION BY JOSEPH CALLAWAY, HEARING EXAMINER

PRELIMINARY STATEMENT

The complaint issued herein and duly served, as subsequently amended, charges respondent with the dissemination through the mails and in commerce of false advertisements for certain cosmetic and medicinal preparations, advertised for external use in the treatment of conditions of the hair and scalp. Misrepresentation by respondent is also alleged in referring to himself in said advertisements as a "Trichologist" and as the "Nation's Leading Hair Expert." The answer to the complaint, as amended, denies all the material allegations thereof, except the name and address of respondent.

Hearings were held in Atlanta, Ga. and New Orleans, La., for the taking of evidence in support of the allegations of the complaint. Motion by the respondent to dismiss the complaint at the end of the testimony in support of the allegations of the complaint was denied and interlocutory appeal to the Commission from the denial of the motion by the hearing examiner was denied. Thereupon, respondent elected not to introduce any evi-

¹ Amended Oct. 16, 1957.