

Decision

IN THE MATTER OF
STANLEY FURS, INC., ET AL.

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

Docket 7135. Complaint, Apr. 30, 1958—Decision, Feb. 28, 1959

Consent order requiring furriers in Denver, Colo., to cease violating the Fur Products Labeling Act by labeling fur products with fictitious prices represented as regular retail selling prices, by deceptively identifying the animals producing certain furs on labels, setting forth the names of other animals on labels and invoices, and failing in other respects to label and invoice fur products as required; by advertising in newspapers which failed to disclose the name of the animal producing certain furs or contained that of another animal, failed to disclose that fur products contained artificially colored or cheap or waste fur, and misrepresented prices as cost plus tax or reduced from usual prices which were in fact fictitious; and by failing to maintain adequate records as a basis for such pricing claims.

Mr. Thomas A. Ziebarth for the Commission.

Mr. Lawrence M. Henry, of Denver, Colo., for Yvonne Cavanaugh.

Mr. Richard A. Zarlengo, of Denver, Colo., for all other respondents.

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, 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, all respondents except Yvonne Cavanaugh, 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 Stanley Furs, Inc. is a corporation organized, existing and doing business under and by virtue of the laws of the State of Colorado, with its office and principal place of business located at 1600 E. Colfax Avenue, Denver, Colo., and that the individual respondents, Stanley

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Calkins and Raymond Hartman, are president and vice president, respectively, of the corporate respondent, and have the same address as said corporate respondent.

The agreement sets forth that all parties signatory thereto agree that, inasmuch as respondent Yvonne Cavanaugh is only nominally secretary-treasurer of the corporate respondent, has no policy-making authority, and did not formulate, direct or control the acts, policies or practices of said corporation, the complaint herein should be dismissed insofar as concerns said respondent.

The agreement provides, among other things, that the respondents signatory thereto 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 signatory thereto 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 signatory to the agreement 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 into 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,

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It is ordered, That respondent, Stanley Furs, Inc., a corporation, and its officers, and respondents Stanley Calkins and Raymond Hartman, individually and as officers of said corporation, and respondents' representatives, agents and employees, directly or through any corporate or other device, in connection with the introduction 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 product" are defined in the Fur Products Labeling Act, do forthwith cease and desist from:

A. Misbranding fur products by:

1. Falsely or deceptively labeling or otherwise falsely 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;

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

3. 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 product for introduction into commerce, introduced it in commerce, sold it in commerce, advertised or offered it for sale in commerce, or transported or distributed it in commerce;

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- f. The name of the country of origin of any imported furs used in the fur product;
- g. The item number of such fur product;
- 4. Setting forth on labels attached to fur products:
 - a. Information required under §4(2) of the Fur Products Labeling Act and the Rules and Regulations thereunder in abbreviated form;
 - b. Information required under §4(2) of the Fur Products Labeling Act and the Rules and Regulations thereunder mingled with nonrequired information;
 - c. Information required under §4(2) of the Fur Products Labeling Act and the Rules and Regulations thereunder in handwriting;
 - d. The name or names of an animal or animals other than the name or names prescribed by §4(2) (A) of the Fur Products Labeling Act;
- 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 products, 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 invoices;
 - f. The name of the country of origin of any imported furs contained in the fur product;
 - 2. Setting forth on invoices of fur products:
 - a. The name or names of an animal or animals other than the name or names prescribed by §5 (b) (1) (A) of the Fur Products Labeling Act;
 - b. Information required under §5(b) (1) of the Fur Products Labeling Act and the Rules and Regulations thereunder in abbreviated form;
- C. Falsely or deceptively advertising fur products through the use of any advertisement, representation, public announcement

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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;

c. That the fur products are composed in whole or in substantial part of paws, tails, bellies or waste fur, when such is the fact;

2. Contains the name or names of an animal or animals other than the name or names prescribed in §5(a)(1) of the Fur Products Labeling Act;

3. Represents directly or by implication:

a. That the prices of fur products are at cost plus tax or words of similar import, when such is not the fact;

b. That prices of fur products are at cost of sale plus tax or words of similar import, when such is not the fact;

c. That respondents' regular price of any fur product is any amount which is in excess of the price at which respondents have regularly or customarily sold such products in the recent regular course of their business;

D. Making claims or representations in advertisements respecting comparative prices or that prices are reduced from regular or usual prices or that prices are at cost plus tax or that prices are at cost of sale plus tax unless there are maintained by respondents full and adequate records disclosing the facts upon which such claims and representations are based.

It is further ordered, That the complaint, insofar as it relates to respondent Yvonne Cavanaugh, be, and the same 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 28th day of February 1959, become the decision of the Commission; and, accordingly:

It is ordered, That respondents Stanley Furs, Inc., a corpora-

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tion, and Stanley Calkins and Raymond Hartman, 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
WARD LABORATORIES, INC., ET AL.ORDER, ETC., IN REGARD TO THE ALLEGED VIOLATION OF
THE FEDERAL TRADE COMMISSION ACT

Docket 6346. Complaint, May 5, 1955—Decision, Mar. 4, 1959

Order requiring three associated New York City sellers to cease representing falsely in advertising that the common cause of baldness, or a significant one, is germ infection, and that use of their hair and scalp preparations would remedy such causes and remedy and prevent the common type of baldness, cause growth of new hair, and prevent excessive hair fall; and to cease representing falsely that they owned or operated a laboratory, through use of the word "Laboratories" in their corporate names or otherwise.

Morton Nesmith, Esq. for the Commission.

T. Stanley Block, Esq., of New York, N.Y., for respondents.

INITIAL DECISION BY JAMES A. PURCELL, HEARING EXAMINER

Preliminary Statement

The complaint in this matter, issued by the Federal Trade Commission on May 5, 1955, charges the respondents named in the caption hereof, are engaged in the business of selling and distributing cosmetic and medicinal preparations in interstate commerce for external use in the treatment of conditions of the hair and scalp. The complaint charges specifically that the respondents, through the use and dissemination of false and misleading advertisements concerning their said preparations, for the purpose of inducing and which were likely to induce the sale of said preparations to the public, falsely represented the efficacy of their said preparations as to their therapeutic effect for the prevention of baldness or partial baldness and that they will cause the growth of new hair and prevent excessive hair fall. It was further charged they represented that the common cause, or a significant cause, of baldness is due to germ infection and that use of their preparations will effectively remedy and obviate the common or significant cause of baldness thus resulting in new hair growth and the prevention of excessive hair fall.

Respondents Ward Laboratories, Inc., and Comate Laboratories, Inc., were further charged in said complaint with the false, misleading and deceptive use of the word "laboratories" in their