

IN THE MATTER OF
ASSOCIATED DRY GOODS CORPORATION

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

Docket 7260. Complaint, Sept. 17, 1958¹—Decision, Mar. 20, 1959

Consent order requiring furriers in New York City to cease violating the Fur Products Labeling Act by failing to comply with labeling and invoicing requirements, and by advertising in newspapers which failed to disclose that certain fur products contained artificially colored fur and which used comparative prices and purportedly reduced prices without maintaining adequate records as a basis for such pricing claims.

Garland S. Ferguson, Esq., for the Commission.

Wilcox & Vanallen, by Archibald M. Laidlaw, Esq., of Buffalo, N.Y., for respondent.

INITIAL DECISION BY ROBERT L. PIPER, HEARING EXAMINER

The Federal Trade Commission issued its complaint on September 17, 1958, as amended February 2, 1959, against the above-named respondent charging it with having violated the Fur Products Labeling Act, the rules and regulations issued thereunder, and the Federal Trade Commission Act, by misbranding and falsely advertising and invoicing its fur products. Respondent appeared by counsel and entered into an agreement, dated January 21, 1959, containing a consent order to cease and desist, disposing of all the issues in this proceeding without further hearings, which agreement has been duly approved by the Director of the Bureau of Litigation. Said agreement has been submitted to the undersigned, heretofore duly designated to act as hearing examiner herein, for his consideration in accordance with §3.25 of the Rules of Practice of the Commission.

Respondent, pursuant to the aforesaid agreement, has admitted all of the jurisdictional allegations of the complaint and agreed that the record may be taken as if findings of jurisdictional facts had been made duly in accordance with such allegations. Said agreement further provides that respondent waives all further procedural steps before the hearing examiner or the Commission, including the making of findings of fact or conclusions

¹ Amended Feb. 2, 1959, by substituting "Associated Dry Goods Corporation" as respondent instead of "J. N. Adam & Company".

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of law and the right to challenge or contest the validity of the order to cease and desist entered in accordance with such agreement. It has also been agreed that the record herein shall consist solely of the complaint and said 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 said 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, that said order to cease and desist 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, and that the complaint may be used in construing the terms of the order.

This proceeding having now come on for final consideration on the complaint and the aforesaid agreement containing the consent order, and it appearing that the order and agreement cover all of the allegations of the complaint and provide for appropriate disposition of this proceeding, the agreement is hereby accepted and ordered filed upon this decision and said agreement becoming part of the Commission's decision pursuant to §§3.21 and 3.25 of the Rules of Practice, and the hearing examiner accordingly makes the following findings, for jurisdictional purposes, and order:

1. Respondent Associated Dry Goods Corporation is a corporation incorporated under the laws of the Commonwealth of Virginia, with its office and principal place of business located at 261 Madison Avenue, New York, N.Y.

The acts and practices alleged in the complaint as being violative of law were engaged in by J. N. Adam & Company of Buffalo, N.Y., located at 389 Main Street, a division of said Associated Dry Goods Corporation.

2. The Federal Trade Commission has jurisdiction of the subject matter of this proceeding and of the respondent hereinabove named. The complaint states a cause of action against said respondent under the Fur Products Labeling Act and the Federal Trade Commission Act, and this proceeding is in the interest of the public.

ORDER

It is ordered. That respondent Associated Dry Goods Corporation, a corporation, and its officers, and representatives, agents, and employees trading as J. N. Adam & Company, directly or

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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 fur products, 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:

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;

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

B. Setting forth on labels affixed to fur products:

(1) Information required under Section 4(2) of the Fur Products Labeling Act and the rules and regulations promulgated thereunder in abbreviated form;

(2) Information required under Section 4(2) of the Fur Products Labeling Act and the rules and regulations thereunder, mingled with nonrequired information;

(3) Information required under Section 4(2) of the Fur Products Labeling Act and the rules and regulations promulgated thereunder in handwriting.

C. Failing to set forth the information required under Sec-

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tion 4(2) of the Fur Products Labeling Act and the rules and regulations promulgated thereunder in proper sequence.

D. Failing to set forth separately on labels attached to fur products composed of two or more sections containing different animal furs the information required under Section 4(2) of the Fur Products Labeling Act and the rules and regulations promulgated thereunder with respect to the fur comprising each section.

2. 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;

(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 a substantial part of paws, tails, bellies, or waste fur, when such is the fact;

(5) The name and address of the person issuing such invoicing;

(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 Section 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 "Persian Lamb" in the manner required.

D. Failing to set forth the term "Dyed Mouton Processed Lamb" in the manner required.

3. 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:

That the fur product contains or is composed of bleached, dyed, or otherwise artificially colored fur, when such is the fact.

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4. Making price claims and representations respecting prices or reduced prices unless respondent maintains 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 20th day of March 1959, become the decision of the Commission; and, accordingly:

It is ordered, That respondent Associated Dry Goods Corporation, a corporation, and its officers, and representatives, agents, and employees trading as J. N. Adam & Company 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
L. THALER & CO., INC., ET AL.

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

Docket 7287. Complaint, Oct. 27, 1958—Decision, Mar. 20, 1959

Consent order requiring distributors in New York City to cease representing falsely—by means of fliers or inserts enclosed in the plastic covers or otherwise—that bed comforters which they sold to retailers and to the premium trade were “allergy resistant,” “moth resistant,” and worth “\$24.95.”

Mr. S. F. House, counsel supporting the complaint.

Greenwald, Kovner & Goldsmith, of New York, N.Y., for respondents.

INITIAL DECISION BY JOHN B. POINDEXTER, HEARING EXAMINER

On October 27, 1958, the Federal Trade Commission issued a complaint charging that L. Thaler & Co., Inc., a corporation, and Louis Thaler, Charles Weiss, Leo Lederman and Morris Lederman, individually and as officers of said corporation, hereinafter referred to as respondents, had violated the provisions of the Federal Trade Commission Act by making false, misleading and deceptive statements and representations in advertisements concerning their products, which they sell and distribute.

After issuance and service of the complaint, the respondents, their counsel, and counsel supporting the complaint entered into an agreement for a consent order. The order disposes of the matters complained about. The agreement has been approved by the assistant director and acting director of the Bureau of Litigation.

The pertinent provisions of said agreement are as follows: Respondents admit all jurisdictional facts; the complaint may be used in construing the terms of the order; the order shall have the same force and effect as if entered after a full hearing and the said agreement shall not become a part of the official record of the proceeding unless and until it becomes a part of the decision of the Commission; the record herein shall consist solely of the complaint and the agreement; respondents waive the requirement that the decision must contain a statement of findings of fact and conclusions of law; respondents waive further

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procedural steps before the hearing examiner and the Commission, and the order may be altered, modified, or set aside in the manner provided by statute for other orders; respondents waive any right to challenge or contest the validity of the order entered in accordance with the agreement and the signing of said 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.

The undersigned hearing examiner having considered the agreement and proposed order and being of the opinion that the acceptance thereof will be in the public interest, hereby accepts such agreement, makes the following jurisdictional findings, and issues the following order:

JURISDICTIONAL FINDINGS

1. Respondent L. Thaler & Co., Inc., is a corporation existing and doing business under and by virtue of the laws of the State of New York, with their office and principal place of business located at 141 Fifth Avenue, New York, N.Y. Respondents Louis Thaler, Charles Weiss, Leo Lederman and Morris Lederman are officers of said corporate respondent. They formulate, direct and control the acts, policies and practices of the corporate respondent. Said individual respondents have their office and principal place of business at the same address as the corporate respondent.

2. The Federal Trade Commission has jurisdiction of the subject matter of this proceeding and of the respondents and the proceeding is in the public interest.

ORDER

It is ordered, That L. Thaler & Co., Inc., a corporation, and its officers, and Louis Thaler, Charles Weiss, Leo Lederman and Morris Lederman, 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 offering for sale, sale or distribution of bed comforters or any other products in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from directly or indirectly:

1. Representing that their bed comforters or other products are "allergy resistant," when such is not the fact;

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2. Representing that their bed comforters or other products are "moth resistant," when such is not the fact;

3. Representing in any manner that certain amounts are the regular and usual retail prices of their products, when such amounts are in excess of the prices at which such products are usually and customarily sold at retail.

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 20th day of March 1959, become the decision of the Commission; and, accordingly:

It is ordered, That the respondents herein 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.

IN THE MATTER OF
JORDAN MARSH COMPANY

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

Docket 7311. Complaint, Nov. 19, 1958—Decision, Mar. 20, 1959

Consent order requiring a department store in Miami, Fla., to cease violating the Fur Products Labeling Act by advertising in newspapers which represented prices of fur products as reduced from so-called regular prices which were in fact fictitious, and represented certain mink products falsely as "Each * * * a one-of-a-kind designer piece."

Mr. John T. Walker for the Commission.

Walton, Lantaff, Schroeder, Atkins, Carson & Wahl, by *Mr. Richard A. Pettigrew*, of Miami, Fla., for respondent.

INITIAL DECISION BY FRANK HIER, HEARING EXAMINER

Pursuant to the provisions of the Federal Trade Commission Act and the Fur Products Labeling Act, the Federal Trade Commission on November 19, 1958 issued and subsequently served its complaint in this proceeding against respondent Jordan Marsh Company, a corporation existing and doing business under and by virtue of the laws of the State of Florida.

On January 28, 1959, there was submitted to the undersigned hearing examiner an agreement between respondent and counsel supporting the complaint providing for the entry of a consent order. By the terms of said agreement, 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. By such agreement, respondent waives any further procedural steps before the hearing examiner and the Commission; waives the making of findings of fact and conclusions of law; and waives all of the rights it may have to challenge or contest the validity of the order to cease and desist entered in accordance with this agreement.

Such agreement further provides that it disposes of all of this proceeding as to all parties; that the record on which this initial decision and the decision of the Commission shall be based shall consist solely of the complaint and this agreement; that the latter shall not become a part of the official record unless and until