

Decision

IN THE MATTER OF
JACOB BRICKER TRADING AS BRICKER BROS.

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

Docket 7334. Complaint, Dec. 15, 1958—Decision, Apr. 3, 1959

Consent order requiring a furrier in Detroit, Mich., to cease violating the Fur Products Labeling Act by failing to comply with the labeling and invoicing requirements, and by representations in advertising concerning comparative prices, percentage savings, and reductions from regular prices which were not based on adequate records, as required.

Mr. S. F. House supporting the complaint.

Mr. Louis E. Barden, of Detroit, Mich., for respondent.

INITIAL DECISION BY JOHN LEWIS, HEARING EXAMINER

The Federal Trade Commission issued its complaint against the above-named respondent on December 15, 1958, charging him with having violated the Fur Products Labeling Act and the Rules and Regulations issued thereunder, and the Federal Trade Commission Act, through the misbranding of certain fur products and the false and deceptive invoicing and advertising thereof. After being served with said complaint, respondent appeared by counsel and entered into an agreement, dated February 2, 1959, containing a consent order to cease and desist purporting to dispose of all of this proceeding as to all parties. Said agreement, which has been signed by respondent, by counsel for said respondent, and by counsel supporting the complaint, and approved by the director and assistant director of the Commission's Bureau of Litigation, has been submitted to the above-named hearing examiner for his consideration, in accordance with Section 3.25 of the Commission's Rules of Practice for Adjudicative Proceedings.

Respondent, pursuant to the aforesaid agreement, has admitted all the jurisdictional allegations of the complaint and agreed that the record may be taken as if findings of jurisdictional facts had been duly made in accordance with such allegations. Said agreement further provides that 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 he may have to challenge or contest the validity of

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the order to cease and desist entered in accordance with such agreement. It has been agreed that the order to cease and desist issued in accordance with said agreement shall have the same force and effect as if entered after a full hearing and that the complaint may be used in construing the terms of said order. It has also been agreed that the record herein shall consist solely of the complaint and said agreement, and that said agreement is for settlement purposes only and does not constitute an admission by respondent that he has violated the law as alleged in the complaint.

This proceeding having now come on for final consideration on the complaint and the aforesaid agreement containing consent order, and it appearing that the order provided for in said agreement covers all the allegations of the complaint and provides for an appropriate disposition of this proceeding as to all parties, said agreement is hereby accepted and is ordered filed upon this decision's becoming the decision of the Commission pursuant to Sections 3.21 and 3.25 of the Commission's Rules of Practice for Adjudicative Proceedings, and the hearing examiner, accordingly, makes the following jurisdictional findings and order:

1. Respondent Jacob Bricker is an individual trading as Bricker Bros., with his office and principal place of business located at 1420 Farmer Street, in the city of Detroit, State of Michigan.

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 Jacob Bricker, an individual trading as Bricker Bros., or under any other name, and his representatives, agents and employees, directly or through any corporate or other device, in connection with the introduction or manufacture for introduction into commerce, or the sale, advertising, offering for sale, transportation or distribution in commerce of fur products, or in connection with the sale, manufacture for sale, advertising, offering for sale, transportation or distribution of fur products which have been made in whole or

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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 promulgated 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 disclose that fur products contain or are composed of "secondhand fur," when such is the fact.

D. Failing to set forth the information required under Section 4(2) of the Fur Products Labeling Act and the Rules and Regulations promulgated thereunder in the required sequence.

E. Failing to set forth separately on labels attached to fur products composed of two or more sections containing different

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

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

(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. Failing to set forth the term "Persian Lamb" in the manner required.

C. Failing to set forth the term "Dyed Broadtail Processed Lamb" in the manner required.

D. Failing to set forth the information required under Section 5(b) (1) of the Fur Products Labeling Act and the Rules and Regulations thereunder with respect to "new fur" or "used fur" added to fur products that have been repaired, restyled or remodeled.

3. Making price claims and representations respecting comparative prices, percentage savings claims or claims and representations that prices are reduced from regular or usual prices unless respondent maintains full and adequate records disclosing the facts upon which such claims or 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

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3d day of April 1959, become the decision of the Commission; and, accordingly:

It is ordered, That respondent shall within sixty (60) days after service upon him of this order, file with the Commission a report in writing setting forth in detail the manner and form in which he has complied with the order to cease and desist.

IN THE MATTER OF
WALTER MARCYAN TRADING AS THE MARCY CO.

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

Docket 6706. Complaint, Jan. 9, 1957—Decision, Apr. 9, 1959

Ordering requiring a distributor in Los Angeles, Calif., to cease advertising falsely that use of his "DYN-A-PAK Food Supplements" containing vitamins and minerals would cause hair to grow faster and stronger and become thicker and glossier, and that the preparation would develop energy and endurance in persons lacking those qualities.

Mr. John J. McNally for the Commission.

Mr. G. G. Baumen, of Los Angeles, Calif., for respondent.

INITIAL DECISION BY J. EARL COX, HEARING EXAMINER

The complaint charges that respondent has violated the Federal Trade Commission Act by making false, misleading and deceptive statements about a food or drug preparation which he advertises as being beneficial for thinning or falling hair and baldness. Hearings were held at which evidence in support of and in opposition to the allegations of the complaint was received, and proposed findings were submitted by counsel. Upon the basis of the entire record the following findings are made, conclusions reached and order issued.

FINDINGS OF FACT

1. Respondent Walter Marcyan is an individual trading as The Marcy Co., with his office and principal place of business located at 1398 Sunset Boulevard, Los Angeles 26, Calif. Said respondent is now, and for one year and more last past has been, engaged in the sale and distribution of a food or drug preparation, as the terms "food" and "drug" are defined in the Federal Trade Commission Act.

2. Respondent causes the said preparation, when sold, to be transported from his place of business in the State of California to purchasers thereof located in various other States of the United States. Respondent maintains, and at all times mentioned herein has maintained, a course of trade in said preparation, in commerce, among and between various States of the United States. The volume of such trade has been and is substantial.