

Decision

55 F.T.C.

IN THE MATTER OF
EILER'S FURS

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

Docket 7321. Complaint, Dec. 2, 1958—Decision, Apr. 9, 1959

Consent order requiring a furrier in Huron, S. Dak., 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 to disclose the country of origin of imported furs, and which claimed percentage savings and reductions from regular prices without keeping adequate records as a basis therefor.

Mr. Floyd Collins for the Commission.
Respondents, *pro se*.

INITIAL DECISION BY JOHN B. POINDEXTER, HEARING EXAMINER

On December 2, 1958, the Federal Trade Commission issued a complaint charging Ethel Eilers and William Eilers, individually and as copartners trading as Eilers' Furs, (erroneously referred to in the caption of the complaint as Ethel Eiler and William Eiler, individually and as copartners trading as Eiler's Furs) hereinafter referred to as respondents, with falsely and deceptively misbranding, invoicing and advertising certain of their fur products in violation of the Federal Trade Commission Act and the Fur Products Labeling Act.

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

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 find-

1638

Order

ings of fact and conclusions of law; respondents waive further 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. Respondents Ethel Eilers and William Eilers, are individuals and copartners, trading and doing business as Eilers' Furs. Respondents' place of business is located in Huron, S. Dak.

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 Ethel Eilers and William Eilers, individually and as copartners, trading as Eilers' Furs, or under any other name, and respondents' 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 or offering for sale in commerce, or the 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 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

Order

55 F.T.C.

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 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;

1638

Decision

(3) That the fur products contain or are 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.

B. 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:

(1) That the fur product contains or is composed of bleached, dyed or otherwise artificially colored fur, when such is the fact;

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

4. Making price claims and representations respecting percentage savings claims or claims that prices are reduced from regular or usual prices unless there are maintained by respondents 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 9th day of April 1959, become the decision of the Commission; and, accordingly:

It is ordered, That the respondents Ethel Eilers and William Eilers, individually and as copartners trading as Eilers' Furs (incorrectly identified in the complaint as Ethel Eiler and William Eiler, individually and as copartners trading as Eiler's Furs) 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
BAAR & BEARDS, INC.

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

Docket 6831. Complaint, July 8, 1957—Decision, Apr. 9, 1959

Order dismissing, for failure to establish a *prima facie* case and lack of public interest, complaint charging New York City importers with violating the Wool Products Labeling Act by failing to label scarfs and stoles as required.

Mr. S. F. House for the Commission.

Mr. Harry J. Halperin, of Halperin, Natanson, Shivitz, Scholer and Steingut, of New York, N.Y., for respondent.

INITIAL DECISION BY LOREN H. LAUGHLIN, HEARING EXAMINER

On motion of respondent to dismiss the complaint because the evidence fails to establish a *prima facie* case against the respondent and for want of public interest, the motion is sustained and therefore this initial decision is issued dismissing the complaint.

This proceeding is one brought pursuant to the provisions of the Federal Trade Commission Act and the Wool Products Labeling Act of 1939. The complaint was filed July 8, 1957, and after service thereof on respondent, answer was filed in due course. Hearings on the Commission's case-in-chief were subsequently held in New York, N.Y., November 12, 1957; in Washington, D.C., May 19, 1958; in St. Louis, Mo., September 2, 1958; and in Kansas City, Mo., September 3, 1958. Thereafter on September 8, 1958, counsel supporting the complaint rested the Commission's case-in-chief subject only to his renewal by motion of certain evidence which was previously offered on the record and rejected by the examiner. This motion, also filed on September 8, was opposed by respondent, and said motion was denied by an order dated September 30, 1958, which also granted a request of respondent to file its proposed motion to dismiss. Such motion to dismiss, together with a supporting brief, was filed October 21, 1958. On October 29, 1958, an answer brief was filed by counsel supporting the complaint. After due consideration of the whole record, the motion to dismiss has been sustained for reasons stated in this decision