

Decision

IN THE MATTER OF
FLEISHER FUR COMPANY

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

Docket 7192. Complaint, July 17, 1958—Decision, Apr. 25, 1959

Consent order requiring a New York City furrier to cease violating the Fur Products Labeling Act by failing to comply with labeling requirements; by setting forth on invoices and in advertising, prices which were fictitious; by failing to maintain adequate records as a basis for such pricing claims; and by furnishing a false guaranty that certain of their fur products were not misbranded, falsely invoiced, and falsely advertised.

Mr. Charles W. O'Connell for the Commission.

Mr. Jack C. Wilner, of New York, N.Y., for respondent.

INITIAL DECISION BY WALTER R. JOHNSON, HEARING EXAMINER

In the complaint dated July 17, 1958, the respondent is charged with violating the provisions of the Federal Trade Commission Act and the Fur Products Labeling Act and the Rules and Regulations made pursuant thereto.

On February 24, 1959, the respondent and his attorney entered into an agreement with counsel in support of the complaint for a consent order.

Under the foregoing agreement, the respondent admits the jurisdictional facts alleged in the complaint. The parties agree, among other things, that the cease and desist order there set forth may be entered without further notice and have the same force and effect as if entered after a full hearing and the document includes a waiver by the respondent of all rights to challenge or contest the validity of the order issuing in accordance therewith. The agreement further recites that it is for settlement purposes only and does not constitute an admission by the respondent that he has violated the law as alleged in the complaint.

The hearing examiner finds that the content of the agreement meets all of the requirements of Section 3.25(b) of the Rules of the Commission.

The hearing examiner being of the opinion that the agreement and the proposed order provide an appropriate basis for disposition of this proceeding as to all of the parties, the agreement

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is hereby accepted and it is ordered that the 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 following jurisdictional findings are made and the following order issued.

1. Respondent Leon Fleisher is an individual trading and doing business as Fleisher Fur Company with his office and place of business located at 333 Seventh Avenue, New York, N.Y.

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

ORDER

It is ordered, That Leon Fleisher, an individual trading as Fleisher Fur Company, or under any other name or names, and his 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, offering for sale, 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 setting forth on labels attached to fur products information required under Section 4(2) of the Fur Products Labeling Act and the Rules and Regulations promulgated thereunder which is mingled with nonrequired information.

B. Falsely or deceptively invoicing fur products by representing, 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 respondent has usually and customarily sold such product in the recent regular course of his business.

C. 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, which represents, directly or by implication, that the regular or usual price of any fur product is any amount which is in excess of the

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price at which respondent has usually and customarily sold such product in the recent regular course of his business.

D. Making claims or representations in advertisements 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.

E. Furnishing false guaranties that certain furs or fur products are not misbranded, falsely invoiced or falsely advertised, when there is reason to believe that such furs or fur products may be introduced, sold, transported or distributed in commerce.

DECISION OF THE COMMISSION AND ORDER TO FILE
REPORT OF COMPLIANCE

The Commission having considered the initial decision filed by the hearing examiner wherein he accepted an agreement containing a consent order to cease and desist executed by the respondent and his counsel and by counsel supporting the complaint, service of which initial decision was completed on March 25, 1959; and

Counsel for the respondent, by letter received March 26, 1959, having stated that the respondent's entry into that agreement was contingent on inclusion of a statement that the agreement was being entered into for settlement purposes only and did not constitute an admission by the respondent of law violation, and the respondent having requested that the initial decision be amended to incorporate the agreement's reservation in that respect inasmuch as no reference thereto appears in the initial decision; and

It appearing that prior decisions of the Commission based on agreements containing consent orders to cease and desist usually have included brief summaries of certain of their salient provisions, and the Commission having determined in the circumstances here that the initial decision's omission in that regard should be supplied, including due mention of the paragraph to which the respondent's motion relates:

It is ordered, That the initial decision be, and it hereby is, amended by inserting between the second and third paragraphs thereof the following paragraph:

Under the foregoing agreement, the respondent admits the jurisdictional facts alleged in the complaint. The parties agree, among other things, that the cease and desist order there set forth may be entered without further notice and have the same

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force and effect as if entered after a full hearing and the document includes a waiver by the respondent of all rights to challenge or contest the validity of the order issuing in accordance therewith. The agreement further recites that it is for settlement purposes only and does not constitute an admission by the respondent that he has violated the law as alleged in the complaint.

It is further ordered, That the initial decision as so modified shall, on the 25th day of April, 1959, become the decision of the Commission.

It is further ordered, That the respondent Leon Fleisher, an individual trading as Fleisher Fur Company, 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.

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IN THE MATTER OF
FORT JEWELRY COMPANY, INC., ET AL.CONSENT ORDER, ETC., IN REGARD TO THE ALLEGED VIOLATION OF
THE FEDERAL TRADE COMMISSION ACT*Docket 7343. Complaint, Dec. 30, 1958—Decision, Apr. 25, 1959*

Consent order requiring a Providence, R.I., distributor of costume and men's jewelry to jobbers and distributors, to cease preticketing merchandise with tags bearing purported usual retail prices which were in fact fictitious and greatly exaggerated.

Mr. Ames W. Williams for the Commission.

Hinckley, Allen, Salisbury & Parsons, of Providence, R.I., for respondents.

INITIAL DECISION BY WALTER R. JOHNSON, HEARING EXAMINER

In the complaint dated December 30, 1958, the respondents are charged with violating the provisions of the Federal Trade Commission Act.

On March 4, 1959, the respondents and their attorneys entered into an agreement with counsel in support of the complaint for a consent order.

Under the agreement, the respondents admit the jurisdictional facts alleged in the complaint. The parties agree, among other things, that the cease and desist order there set forth may be entered without further notice and have the same force and effect as if entered after a full hearing, and the document includes a waiver by the respondents of all rights to challenge or contest the validity of the order issuing in accordance therewith. The agreement further recites that it 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.

The hearing examiner finds that the content of the agreement meets all of the requirements of Section 3.25(b) of the Rules of the Commission.

Attached to and made a part of said agreement is an affidavit attesting to the fact that Lena Forte, while an officer of the corporate respondent, does not participate in the formulation, direction or execution of corporation policy respecting the acts and practices set forth in the complaint.

The hearing examiner being of the opinion that the agreement