

Decision

IN THE MATTER OF
DANIEL LIEBERMAN, ET AL.
TRADING AS BERDAN FURS

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

Docket 7295. Complaint, Nov. 6, 1958—Decision, May 19, 1959

Consent order requiring furriers in Philadelphia, Pa., to cease violating the Fur Products Labeling Act by failing to comply with the invoicing requirements; by advertising in catalogs, cards, signs, and by other means which represented prices falsely to be "wholesale" or reduced from purported regular prices which were in fact fictitious or manufacturer's suggested retail prices, which represented themselves falsely as wholesalers or manufacturers of fur products, and which named other animals than those producing the fur in certain products; and by failing to maintain adequate records as a basis for said pricing claims.

Mr. Alvin D. Edelson for the Commission.

Trammell, Rand & Nathan, by *Mr. Hans A. Nathan*, of Washington, D.C., for respondents.

INITIAL DECISION BY WALTER R. JOHNSON, HEARING EXAMINER

In the complaint dated November 6, 1958, the respondents are 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 March 12, 1959, the respondents and their attorney entered into an agreement with counsel in support of the complaint for a consent order.

Under the agreement, 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 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 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.

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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 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. Respondents Daniel Lieberman and Bernard Koff are individuals and copartners trading as Berdan Furs, and formerly officers of Berdan Furs, Inc., a bankrupt corporation. The office and principal place of business of both respondents is 1015 Chestnut Street, Philadelphia, Pa.

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 respondents Daniel Lieberman and Bernard Koff, individually and as copartners trading as Berdan Furs, or under any other name, and formerly officers of Berdan Furs, Inc., a bankrupt corporation, and respondents' representatives, agents, and employees, directly or 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 any fur product, or in connection with the sale, advertising, offering for sale, transportation, or distribution of any fur product which is 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. 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;

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(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. 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.

2. 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. Represents directly or by implication that prices of fur products are "Wholesale prices," when such is not the fact.

B. Represents 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 respondents have usually and customarily sold such products in the recent regular course of business.

C. Represents directly or by implication that a designated retail price is the manufacturer's suggested retail price, when such is not the fact, or otherwise using a fictitious price in connection with the advertising or offering for sale of a fur product.

D. Represents directly or by implication that respondents are wholesalers of fur products, when such is not the fact.

E. Represents directly or by implication that respondents are manufacturers of fur products, when such is not the fact.

F. Sets forth the name or names of any animal or animals other than the name or names specified in Section 5(a) (1) of the Fur Products Labeling Act.

3. Making price claims and representations referred to in subparagraphs A, B and C of paragraph 2 hereof unless there are maintained by respondents full and adequate records disclosing the facts upon which such claims and representations are based as required by Rule 44 (e) of the Rules and Regulations.

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DECISION OF THE COMMISSION AND ORDER TO FILE
REPORT OF COMPLIANCE

The Commission having considered the initial decision of the hearing examiner wherein he accepted an agreement containing a consent order to cease and desist executed by respondents Daniel Lieberman and Bernard Koff, individually and as copartners trading as Berdan Furs, and formerly officers of Berdan Furs, Inc., by counsel for respondents and by counsel in support of the complaint, service of which initial decision was completed on April 16, 1959; and

It appearing that the initial decision may be deficient in that it fails to incorporate the substance of certain pertinent provisions of the agreement of the parties:

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

Under the agreement, 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 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 respondents that they have violated the law as alleged in the complaint.

It is further ordered, That the initial decision as so modified shall on the 19th day of May 1959, become the decision of the Commission.

It is further ordered, That the respondents 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 contained in said initial decision.

Complaint

IN THE MATTER OF
SAV-A-STOP, INC., ET AL.

CONSENT ORDER, ETC., IN REGARD TO THE ALLEGED VIOLATION OF THE
FEDERAL TRADE COMMISSION ACT AND OF SEC. 2(a) OF THE CLAYTON ACT

Docket 7317. Complaint, Nov. 26, 1958—Decision, May 19, 1959

Consent order requiring three associated corporations in Jacksonville, Fla., engaged in business as a "rack merchandiser" or wholesaler of drug proprietaries and toiletries such as health and beauty aids—installing display racks and selling primarily to independent and chain grocery stores in the States of Florida, Georgia, Alabama, South Carolina, and Tennessee—to cease discriminating in price by paying on all purchases of certain favored customers who were not required to carry their "Jay" household items, the 3% discount allowed on that line, and by requiring non-favored customers to carry the "Jay" items in order to receive the additional discount on their drug proprietaries.

COMPLAINT

The Federal Trade Commission, having reason to believe that the party respondents named in the caption hereof, and herein-after more particularly designated and described, have violated and are now violating the provisions of subsection (a) of Section 2 of the Clayton Act, as amended by the Robinson-Patman Act, approved June 19, 1936 (U.S.C., Title 15, Sec. 13), and Section 5 of the Federal Trade Commission Act (U.S.C., Title 15, Sec. 45) and it appearing to the Commission that a proceeding by it in respect thereof, would be in the public interest, the Commission hereby issues its complaint, stating its charges as follows:

Count I

Charging violation of subsection (a) of Section 2 of the Clayton Act, as amended, the Commission alleges:

PARAGRAPH 1. The above named corporate respondents are corporations organized, existing and doing business under and by virtue of the laws of the State of Florida with their offices and principal place of business located at 2202 Main Street, Jacksonville, Fla.

Respondents James V. Freeman, Benjamin E. Griffin, William Adams, Alexander H. Edwards, and Harold Smith are president, vice president, secretary, treasurer and comptroller respectively