

Decision

IN THE MATTER OF
TOBIAS HABER TRADING AS
INTERNATIONAL FURRIERS

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

Docket 7397. Complaint, Feb. 6, 1959—Decision, June 16, 1959

Consent order requiring manufacturing furriers in Niagara Falls, N.Y., 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 the names of animals producing certain furs, the country of origin of imported furs, or the fact that some products were artificially colored; which contained the name of a fictitious animal, and used the word "blended" improperly; which deceptively represented "written guarantee with each fur"; and which represented prices as reduced or below cost without maintaining adequate records as a basis therefor.

Mr. Frederick McManus, for the Commission.

McNulty, Gellman & Kellick, by *Mr. Jack A. Gellman*, of Niagara Falls, N.Y., for respondent.

INITIAL DECISION BY J. EARL COX, HEARING EXAMINER

The complaint charges respondent with misbranding and falsely and deceptively invoicing and advertising certain of his fur products, falsely and deceptively representing a "written guarantee with each fur," and failing to maintain full and adequate records disclosing the facts upon which comparative price claims were based, in violation of the Fur Products Labeling Act and the Rules and Regulations promulgated thereunder, and of the Federal Trade Commission Act.

After the issuance of the complaint, respondent and counsel supporting the complaint entered into an agreement containing consent order to cease and desist, which was approved by the director and an assistant director of the Commission's Bureau of Litigation, and thereafter transmitted to the hearing examiner for consideration.

The agreement states that respondent Tobias Haber is an individual trading as International Furriers, with his office and principal place of business located at 815 Cleveland Avenue, Niagara Falls, N.Y.

The agreement provides, among other things, that respondent

Order

55 F.T.C.

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; that the record on which the initial decision and the decision of the Commission shall be based shall consist solely of the complaint and this 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 the complaint may be used in construing the terms of the order agreed upon, which may be altered, modified or set aside in the manner provided for other orders; that the 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; and that the order set forth in the agreement and hereinafter included in this decision shall have the same force and effect as if entered after a full hearing.

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 the order to cease and desist entered in accordance with the agreement.

The order agreed upon fully disposes of all the issues raised in the complaint, and adequately prohibits the acts and practices charged therein as being in violation of the Fur Products Labeling Act and the Rules and Regulations promulgated thereunder, and of the Federal Trade Commission Act. Accordingly, the hearing examiner finds this proceeding to be in the public interest, and accepts the agreement containing consent order to cease and desist as part of the record upon which this decision is based. Therefore,

It is ordered, That Tobias Haber, an individual trading as International Furriers, or under any other name, and respondent's 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 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:

1981

Order

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 §4(2) of the Fur Products Labeling Act and the Rules and Regulations promulgated thereunder in abbreviated form;

(2) Information required under §4(2) of the Fur Products Labeling Act and the Rules and Regulations promulgated thereunder, mingled with nonrequired information;

(3) Information required under §4(2) of the Fur Products Labeling Act and the Rules and Regulations promulgated thereunder in handwriting;

(4) Information required under §4(2) of the Fur Products Labeling Act and the Rules and Regulations promulgated thereunder with pencil;

C. Failing to set forth the information required under §4(2) of the Fur Products Labeling Act and the Rules and Regulations promulgated thereunder in the required 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 §4(2) of the Fur Products Labeling Act and the Rules and Regulations promulgated thereunder with respect to the fur comprising each section;

Order

55 F.T.C.

2. Falsely or deceptively invoicing fur products by 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;

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) 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 bleached, dyed or otherwise artificially colored fur, when such is the fact;

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

B. Contains a fictitious or nonexistent animal name;

C. Sets forth the term "blended" as part of the information required under §5(a) of the Fur Products Labeling Act and the Rules and Regulations promulgated thereunder to describe the pointing, bleaching, dyeing or tip-dyeing of furs;

D. Represents, directly or by implication, that any such fur products are guaranteed, unless the nature and extent of such guaranty and the manner in which the guarantor will perform thereunder are clearly and conspicuously set forth;

1. Making claims and representations respecting prices or

1981

Decision

values of fur products, 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 16th day of June 1959, become the decision of the Commission; and, accordingly:

It is ordered, That respondent Tobias Haber, an individual trading as International Furriers, 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.

Complaint

55 F.T.C.

IN THE MATTER OF
EASTERN CANNERS, INC., ET AL.

CONSENT ORDER, ETC, IN REGARD TO THE ALLEGED VIOLATION OF
SEC. 2(c) OF THE CLAYTON ACT

Docket 7423. Complaint, Feb. 26, 1959—Decision, June 16, 1959

Consent order requiring a distributor of canned fruits and vegetables and other grocery items in Glenside, Pa., to cease violating Sec. 2(c) of the Clayton Act by receiving and accepting from suppliers on purchases for its own account for resale, allowances or discounts in lieu of brokerage ranging from 1½% to 4% of the net purchase price.

COMPLAINT

The Federal Trade Commission, having reason to believe that the parties respondent named in the caption hereof and hereinafter more particularly designated and described have been and are now violating the provisions of subsection (c) of Section 2 of the Clayton Act, as amended (U.S.C., Title 15, Sec. 13), hereby issues its complaint, stating its charges with respect thereto as follows:

PARAGRAPH 1. Respondent Eastern Canners, Inc., hereinafter-sometimes referred to as corporate respondent, is a corporation organized, existing, and doing business under and by virtue of the laws of the State of Pennsylvania, with its principal office and place of business located at 25 South Easton Road, Glenside, Pa., with mailing address as P. O. Box 161, Jenkintown, Pa.

Respondent corporation is now and for the past several years has been engaged primarily in the business of buying and selling canned fruits, canned vegetables and many other grocery items, all of which are hereinafter referred to as food products. Respondent has a substantial distribution of such food products, with a sales volume substantially in excess of \$2,000,000 annually.

PAR. 2. Respondent Dill Wattis, Jr., is an individual and is president and treasurer of the corporate respondent named herein, with his principal office and place of business the same as that of the corporate respondent. Respondent Dill Wattis, Jr., owns a majority of the outstanding capital stock of the corporate respondent and as president and majority stockholder, as described above, exercises authority and control over the corporate respondent and its business activities, including its purchase, sales and distribution policies.