

IN THE MATTER OF
THE MAY DEPARTMENT STORES COMPANY

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

Docket 7306. Complaint, Nov. 18, 1958—Decision, June 23, 1959

Consent order requiring a corporation operating some 30 department stores throughout the United States, including stores in the Los Angeles metropolitan area, to cease violating the Fur Products Labeling Act by failing to comply with the labeling, invoicing, and advertising requirements; and, specifically, by advertising in Los Angeles and other newspapers which failed to disclose the names of animals producing the fur in certain products or the fact that some products contained artificially colored or cheap or waste fur and named animals other than those producing some furs; which represented prices as reduced from so-called regular prices which were in fact fictitious, illustrated higher priced products than those available at the advertised selling prices, and named the United States falsely as the country of origin of imported furs; and by failing to keep adequate records as a basis for said pricing claims.

Mr. John T. Walker and Mr. Eugene Kaplan for the Commission.

Mr. J. Phillip Nevins for *Lawler, Felix and Hall*, of Los Angeles, Calif., for respondent.

INITIAL DECISION BY LOREN H. LAUGHLIN, HEARING EXAMINER

The Federal Trade Commission (sometimes also hereinafter referred to as the Commission) on November 18, 1958, issued its complaint herein, charging the above-named respondent with having violated the provisions of both the Federal Trade Commission Act and the Fur Products Labeling Act, together with the Rules and Regulations promulgated thereunder, and the respondent was duly served with process.

On May 7, 1959, there was submitted to the undersigned hearing examiner of the Commission for his consideration and approval an "Agreement Containing Consent Order to Cease and Desist," which had been entered into by and between respondent and the attorneys for both parties, under date of April 24, 1959, subject to the approval of the Bureau of Litigation of the Commission, which had subsequently duly approved the same.

On due consideration of such agreement, the hearing examiner finds that said agreement, both in form and in content, is in

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accord with §3.25 of the Commission's Rules of Practice for Adjudicative Proceedings, and that by said agreement the parties have specifically agreed to the following matters:

1. Respondent, the May Department Stores Company, is a corporation organized, existing and doing business under and by virtue of the laws of the State of New York, with its office and principal place of business located at Sixth and Olive Streets, St. Louis, Mo.

The said respondent operates some thirty (30) department stores under different trade names and at various cities throughout the United States, including the May Co. in Los Angeles, Calif., which, in turn, operates branch stores in the Los Angeles metropolitan area, more specifically located at Crenshaw Boulevard, Wilshire Boulevard, Lakewood Boulevard, and San Fernando Valley.

2. Respondent 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.

3. This agreement disposes of all of this proceeding as to all parties.

4. Respondent waives:

(a) Any further procedural steps before the hearing examiner and the Commission;

(b) The making of findings of fact or conclusions of law; and

(c) All of the rights it may have to challenge or contest the validity of the order to cease and desist entered in accordance with this agreement.

5. 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.

6. This agreement shall not become a part of the official record unless and until it becomes a part of the decision of the Commission.

7. This agreement is for settlement purposes only and does not constitute an admission by respondent that it has violated the law as alleged in the complaint.

8. The following order to cease and desist may be entered in this proceeding by the Commission without further notice to respondent. When so entered it shall have the same force and effect as if entered after a full hearing. It may be altered, modi-

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fied, or set aside in the manner provided for other orders. The complaint may be used in construing the terms of the order.

Upon due consideration of the complaint filed herein and the said "Agreement Containing Consent Order to Cease and Desist," the latter is hereby approved, accepted and ordered filed, the same not to become a part of the record herein, however, unless and until it becomes a part of the decision of the Commission. The hearing examiner finds from the complaint and the said "Agreement Containing Consent Order to Cease and Desist" that the Commission has jurisdiction of the subject matter of this proceeding and of the respondent herein; that the complaint states a legal cause for complaint under the Federal Trade Commission Act and the Fur Products Labeling Act and the Rules and Regulations promulgated by the Commission under the latter Act, against the respondent both generally and in each of the particulars alleged therein; that this proceeding is in the interest of the public; that the following order as proposed in said agreement is appropriate for the just disposition of all of the issues in this proceeding as to all of the parties hereto; and that said order therefore should be, and hereby is, entered as follows:

ORDER

It is ordered, That the May Department Stores Company, a corporation, and its officers, and respondent's 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 fur products, or in connection with the sale, advertising, offering for sale, transportation, or distribution of fur products which are 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 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, 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.

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, mingled with nonrequired information;

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

C. Failing to set forth the information required under §4(2) of the Fur Products Labeling Act and the Rules and Regulations promulgated thereunder on one side of labels.

D. 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.

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;

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(7) The item number or mark assigned to a fur product.

B. Falsely or deceptively invoicing or otherwise identifying fur products as to the name or names of the animal or animals that produced the fur from which such product was manufactured.

C. Setting forth information required under §5(b)(1) of the Fur Products Labeling Act and the Rules and Regulations promulgated thereunder in abbreviated form.

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) That the fur product is composed in whole or in substantial part of paws, tails, bellies, or waste fur, when such is the fact;

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

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

C. Sets forth information required under §5(a) of the Fur Products Labeling Act and the Rules and Regulations promulgated thereunder in abbreviated form.

D. Fails to set forth the term "Dyed Mouton processed Lamb" in the manner required by law.

E. 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.

F. 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 respondent has usually and customarily sold such products in the recent regular course of business.

G. Represents directly or by implication that any such fur

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product is of a higher grade, quality, or price than is the fact, by means of illustrations or depictions of higher priced products than those actually available for sale at the advertised selling price.

4. Falsely or deceptively advertising or otherwise identifying any such product as to the name of the country of origin of the fur contained in the fur product.

5. Making price claims and representations of the types referred to in paragraph 3F above unless there are maintained by respondent 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 23d day of June 1959, become the decision of the Commission; and, accordingly:

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

IN THE MATTER OF
ALEX MACRIS, ET AL.
TRADING AS MACRIS & KAPTAN

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

Docket 7061. Complaint, Feb. 7, 1958—Decision, June 24, 1959

Order requiring a furrier in New York City to cease violating the Fur Products Labeling Act by setting forth on labels the names of animals other than those producing certain furs and by failing in other respects to comply with the labeling and invoicing requirements.

Mr. Thomas A. Ziebarth supporting the complaint.

Mr. Joseph J. Bernstein and *Mr. Jonas H. Bernstein* of New York, N.Y., for respondents.

INITIAL DECISION BY WALTER R. JOHNSON, HEARING EXAMINER

The complaint charges the respondents with misbranding and falsely and deceptively invoicing of fur products in violation of the Fur Products Labeling Act and the Rules and Regulations thereunder, and constitute unfair and deceptive acts and practices, in commerce, under the Federal Trade Commission Act.

After service of the complaint, the respondents filed an answer denying all the charges set forth in the complaint. Thereafter, the parties hereto entered into a stipulation as to the facts which was accepted and ordered filed in the formal record of these proceedings.

The stipulation provides that the record shall consist solely of the complaint, the facts agreed upon in the stipulation and the exhibits made a part thereof.

The attorneys for the parties hereto filed proposed findings of fact, conclusions of law, and order, together with reasons therefor. Each proposed finding and conclusion not hereinafter specifically found or concluded, is hereby rejected. Upon the basis of the record the hearing examiner makes the following findings of fact, conclusions of law and order.

FINDINGS OF FACT

1. Alex Macris and James Kaptan are individuals and co-partners trading as Macric & Kaptan with their office and prin-