

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-

2006

Findings

principal place of business located at 130 West 30th Street, New York, N.Y.

2. Subsequent to the effective date of the Fur Products Labeling Act on August 9, 1952, respondents have been and are now engaged in the introduction into commerce, and in the manufacture for introduction into commerce, and in the sale and offering for sale in commerce, and in the transportation and distribution in commerce of fur products, and have manufactured for sale, sold, offered for sale, transported and distributed fur products which have been made in whole or in part of fur which had been shipped and received in commerce, as "commerce," "fur," and "fur product" are defined in the Fur Products Labeling Act.

3. Certain of said fur products were misbranded in that they were not labeled as required under provisions of Section 4(2) of the Fur Products Labeling Act and in the manner and form prescribed in the Rules and Regulations promulgated thereunder.

4. Certain of said fur products were misbranded in that on labels attached thereto respondents set forth the name of an animal other than the name of the animal that produced the fur contained in the fur product in violation of Section 4(3) of the Fur Products Labeling Act.

5. Certain of said fur products were misbranded in violation of the Fur Products Labeling Act in that they were not labeled in accordance with the Rules and Regulations promulgated thereunder in the following respects:

(a) Information required under Section 4(2) of the Fur Products Labeling Act and the Rules and Regulations thereunder was mingled with nonrequired information, in violation of Rule 29(a) of the aforesaid Rules and Regulations.

(b) Information required under Section 4(2) of the Fur Products Labeling Act and the Rules and Regulations thereunder was set forth in handwriting, in violation of Rule 29(b) of the aforesaid Rules and Regulations.

6. Certain of said fur products were falsely and deceptively invoiced in that they were not invoiced as required by Section 5(b) (1) of the Fur Products Labeling Act, and in the manner and form prescribed by the Rules and Regulations promulgated thereunder.

7. Certain of said fur products were falsely and deceptively invoiced, in violation of the Fur Products Labeling Act in that

Order

55 F.T.C.

they were not invoiced in accordance with the Rules and Regulations promulgated thereunder in the following respects:

(a) Information required under Section 5(b)(1) of the Fur Products Labeling Act and the Rules and Regulations thereunder was set forth in abbreviated form in violation of Rule 4 of the aforesaid Rules and Regulations.

(b) An item number was not set forth on each invoice pertaining to a fur product in violation of Rule 40 of the aforesaid Rules and Regulations.

8. 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.

CONCLUSIONS

The aforesaid acts and practices of respondents, as herein found, are in violation of the Fur Products Labeling Act and the Rules and Regulations promulgated thereunder, and constitute unfair and deceptive acts and practices, in Commerce, under the Federal Trade Commission Act.

ORDER

It is ordered, That respondents Alex Macris and James Kaptan, individually and as copartners trading as Macris & Kaptan, 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 in the transportation and 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:

1. Failing to affix labels to fur products showing in words and figures plainly legible all of the information required to be disclosed by each of the subsections of Section 4(2) of the Fur Products Labeling Act.

2. Setting forth on labels attached to fur products the name or names of any animal or animals other than the name or

2006

Decision

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.

3. Setting forth on labels attached to fur products:

(a) Required information in abbreviated form or in handwriting.

(b) Nonrequired information mingled with required information.

B. Falsely or deceptively invoicing fur products by:

1. Failing to furnish to purchasers of fur products invoices showing all of the information required to be disclosed by each of the subsections of Section 5(b) (1) of the Fur Products Labeling Act.

2. Failing to set forth on each invoice the item number or mark assigned to a fur product.

3. Setting forth on any invoice required information in abbreviated form.

DECISION OF THE COMMISSION AND ORDER TO FILE
REPORT OF COMPLIANCE

Service of the hearing examiner's initial decision in this proceeding having been completed on May 22, 1959, and no notice of intention to appeal therefrom having been filed; and

The Commission having considered the matter and having concluded that the initial decision should be modified in certain respects and thereafter adopted as the decision of the Commission:

It is ordered, That said initial decision be, and it hereby is, modified as follows:

1. By substituting the words "fur products" for the word "furs" in the second line of the first paragraph.

2. By substituting the following for paragraphs "A" and "B" of the order contained therein:

A. Misbranding fur products by:

1. Failing to affix labels to fur products showing in words and figures plainly legible all of the information required to be disclosed by each of the subsections of Section 4(2) of the Fur Products Labeling Act.

2. Setting forth on labels attached to fur products the name or names of any animal or animals other than the name or names of the animal or animals producing the fur or furs contained in

Decision

55 F.T.C.

the fur product as set forth in the Fur Products Name Guide and as prescribed under the Rules and Regulations.

3. Setting forth on labels attached to fur products:

(a) Required information in abbreviated form or in handwriting.

(b) Nonrequired information mingled with required information.

B. Falsely or deceptively invoicing fur products by:

1. Failing to furnish to purchasers of fur products invoices showing all of the information required to be disclosed by each of the subsections of Section 5(b) (1) of the Fur Products Labeling Act.

2. Failing to set forth on each invoice the item number or mark assigned to a fur product.

3. Setting forth on any invoice required information in abbreviated form.

It is further ordered, That the initial decision, as so modified, shall, on the 24th day of June 1959, become the decision of the Commission.

It is further ordered, That the respondents, Alex Macris and James Kaptan, 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.

Decision

IN THE MATTER OF
WILLIAM SAFRAN,
DOING BUSINESS AS CONTINENTAL WOOL CO.

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

Docket 7439. Complaint, Mar. 12, 1959—Decision, June 24, 1959

Consent order requiring a Brooklyn, N.Y., manufacturer to cease violating the Wool Products Labeling Act by labeling and invoicing as "wool" and "all wool," woolen stocks which contained a substantial quantity of other fibers and fibers previously woven or felted; and by failing in other respects to comply with the requirements of the Act.

Mr. Frederick McManus for the Commission.

Mr. Joseph T. McDonnell, of Washington, D.C., for respondent.

INITIAL DECISION BY J. EARL COX, HEARING EXAMINER

The complaint charges respondent with misbranding certain of his wool products, in violation of §4(a)(1) and §4(a)(2) of the Wool Products Labeling Act of 1939, and with the use of false, misleading and deceptive statements on sales invoices, shipping tags and other shipping memoranda concerning his woolen stocks, in violation of the Wool Products Labeling Act of 1939 and the Rules and Regulations promulgated thereunder, and of the Federal Trade Commission Act.

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

The agreement states that respondent William Safran is an individual doing business under the firm name Continental Wool Co., with his place of business located at 320 Driggs Avenue, Brooklyn, N.Y.

The agreement provides, among other things, that 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; that the record on which the initial decision and the decision of the Commission shall be based shall consist solely of