

IN THE MATTER OF

REINSTEIN-BERGER, INC., ET AL.

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

Docket 7448. Complaint, Mar. 16, 1959—Decision, July 15, 1959

Consent order requiring a New York City furrier to cease violating the Fur Products Labeling Act by listing on consignment invoices fictitious prices which were intended to help sell the products, and by failing to maintain proper records to substantiate such pricing claims.

Mr. Garland S. Ferguson for the Commission.

Mr. Louis M. Weber, of New York, N.Y., for respondents.

INITIAL DECISION BY J. EARL COX, HEARING EXAMINER

The complaint charges respondents with falsely and deceptively invoicing and advertising certain of their fur products and with failing to maintain full and adequate records disclosing the facts upon which pricing and savings claims and representations were based, in violation of §5(b)(2) and §5(a) of the Fur Products Labeling Act, Rule 44(e) of the Rules and Regulations promulgated thereunder, and of the Federal Trade Commission Act.

After the issuance of the complaint, respondents, their counsel, 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 Reinstein-Berger, Inc. is a corporation 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 330 Seventh Avenue, New York, New York, and that individual respondents Abraham I. Reinstein and Daniel L. Reinstein (erroneously named in certain instances in the complaint as Daniel I. Reinstein) are officers of said corporation and formulate, direct, and control the acts and practices thereof, having the same address as that of the corporate respondent.

The agreement sets forth, in an affidavit attached thereto and made a part thereof, that on February 17, 1959, Alfred S. Berger severed his connection with the said corporation as an officer, director and stockholder thereof, and is no longer connected with the corporation in any capacity whatsoever, wherefore it is recom-

mended that the complaint, insofar as it relates to respondent Alfred S. Berger, be dismissed.

The agreement provides, among other things, that respondents signatory thereto admit all the jurisdictional facts alleged in the complaint, and agree 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 said respondents that they have 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.

Respondents signatory to the agreement waive 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 they 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 respondents Reinstein-Berger, Inc., a corporation, and its officers and Abraham I. Reinstein and Daniel L. Reinstein, individually and as officers of said 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 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:

A. Falsely or deceptively invoicing fur products by:

1. Representing directly or by implication that the respondents' regular or usual price of any fur product is any amount in excess of the price at which the respondents have usually and customarily sold such product in the recent regular course of business;

2. Representing directly or by implication that any person's regular or usual price of any fur product is any amount in excess of the price at which such person has usually and customarily sold such product in the recent regular course of business;

B. 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:

1. Represents directly or by implication that the respondents' regular or usual price of any fur product is any amount in excess of the price at which the respondents have usually and customarily sold such product in the recent regular course of business;

2. Represents directly or by implication that any person's regular or usual price of any fur product is any amount in excess of the price at which such person has usually and customarily sold such product in the recent regular course of business;

C. Misrepresenting in any manner the savings available to purchasers of respondents' fur products;

D. Making claims or representations in advertisements respecting prices or values of fur products unless there is maintained by respondents full and adequate records disclosing the facts upon which such claims and representations are based.

It is further ordered, That the complaint be, and the same hereby is, dismissed as to Alfred S. Berger, individually and as an officer of said corporation.

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 15th day of July, 1959, become the decision of the Commission; and, accordingly:

It is ordered, That respondents Reinstein-Berger, Inc., a corporation, and Abraham I. Reinstein and Daniel L. Reinstein, individually and as officers of said corporation, shall, within sixty (60)

