

IN THE MATTER OF
STEVENS FURS, INC., ET AL.

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

Docket 7258. Complaint, Sept. 12, 1958—Decision, Aug. 27, 1959

Order requiring a New York City furrier to cease violating the Fur Products Labeling Act by failing to comply with labeling and invoicing requirements.

Mr. John T. Walker for the Commission.

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

INITIAL DECISION BY ABNER E. LIPSCOMB, HEARING EXAMINER

The complaint herein was issued on September 12, 1958, charging respondents with misbranding and falsely and deceptively invoicing certain of their fur products, in violation of the Federal Trade Commission Act and of the Fur Products Labeling Act and the Rules and Regulations promulgated thereunder.

Thereafter, on March 5, 1959, respondents and counsel supporting the complaint herein entered into a Stipulation As To The Facts, subject to the approval of the hearing examiner, whereby they agreed that the statement of facts so made should become a part of the record herein and might be taken as the facts in this proceeding in lieu of evidence in support of the charges stated in the complaint or in opposition thereto. The stipulation further provided that the hearing examiner might proceed, on the basis of said stipulation of facts, to make his initial decision, stating his findings as to the facts, including inferences which he might draw from the stipulation as to the facts, and his conclusions based thereon, and might enter an order disposing of this proceeding without the necessity of counsel filing proposed findings as to the facts and proposed conclusions, or the presentation of oral argument.

The Stipulation As To The Facts further provided that the Federal Trade Commission might, if this proceeding should come before it upon appeal or by review upon its own motion, set aside the stipulation and remand the case to the hearing examiner for further proceedings under the complaint.

The stipulation further provided that all admissions of fact made by the respondents therein are solely for the purpose of this proceeding, including any reviews thereof by the Courts.

The stipulation then specifically provides as follows:

1. Respondents admit all of the material allegations of fact set forth in said complaint and waive all further hearing as to said facts.

2. In support of the allegations of Paragraph Three of said complaint, the facts are that the respondents failed to affix labels to certain fur products showing that the fur product contained or was composed of dyed, or otherwise artificially colored fur, when such was the fact.

3. In support of the allegations of Paragraph Five of said complaint, the facts are that the respondents falsely or deceptively invoiced fur products by failing to furnish invoices to purchasers of certain fur products showing that the fur product contained or was composed of dyed, or otherwise artificially colored fur, when such was the fact, and by failing to furnish invoices to purchasers of certain fur products showing the name or names of the animal or animals producing the fur products, as set forth in the Fur Products Name Guide and as prescribed under the Rules and Regulations, and such qualifying statements as are required pursuant to §7 of the Fur Products Labeling Act.

After consideration of the allegations of the complaint, the provisions of the Stipulation As To The Facts, and the provisions of the law relative thereto, the hearing examiner makes his findings as to the facts and conclusions, as follows:

1. Respondent Stevens Furs, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of New York, with its offices and principal place of business at 231 West 29th Street, New York, New York.

Individual respondent Harry Silverman is president of said corporate respondent, and individual respondent Edward Jenkins is secretary-treasurer of said corporate respondent, and said individual respondents control, formulate and direct the acts, practices and policies of the corporate respondent. The office and principal place of business of the individual respondents is the same as the corporate respondent.

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 re-

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ceived 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 did not have affixed to them labels as required under Section 4(2) of the Fur Products Labeling Act, showing that such fur products contained or were composed of dyed, or otherwise artificially colored, fur, when such was the fact.

4. Certain of said fur products were misbranded in that labels affixed thereto contained information required under Section 4(2) of the Fur Products Labeling Act which was mingled with non-required information, in violation of Rule 29(a) of the Rules and Regulations promulgated under the aforesaid Act.

5. Certain of said fur products were misbranded in that labels affixed thereto contained information required under Section 4(2) of the Fur Products Labeling Act which was in handwriting, in violation of Rule 29(b) of the Rules and Regulations promulgated under said Act.

6. Certain of said fur products were misbranded in that labels affixed thereto did not contain item numbers or marks of the fur products, as required by Rule 40 of the Rules and Regulations promulgated under the Fur Products Labeling Act.

7. 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 to show:

a. that the fur products contained or were composed of dyed, or otherwise artificially colored, fur, when such was the fact;

b. the name or names of the animal or animals producing the fur products, as set forth in the Fur Products Name Guide and as prescribed under the Rules and Regulations, and such qualifying statements as are required pursuant to Section 7 of the Fur Products Labeling Act.

8. Certain of said fur products were falsely and deceptively invoiced in that item numbers of the fur products were not set forth on the invoices pertaining to such products, as required by Rule 40 of the Rules and Regulations promulgated under the Fur Products Labeling Act.

CONCLUSIONS

1. The Commission has jurisdiction over the respondents and over their acts and practices as herein found.

2. This proceeding is in the public interest.

3. The aforesaid acts and practices of respondents, as herein found, are in violation of the Fur Products Labeling Act and the

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Rules and Regulations thereunder, and constitute unfair and deceptive acts and practices in commerce, under the Federal Trade Commission Act.

ORDER

It is ordered, That Stevens Furs, Inc., a corporation, and Harry Silverman and Edward Jenkins, individually and as officers of said corporation, and their representatives, agents and employees, directly or through any corporate or other device, in connection with the introduction into commerce, or the sale, advertising, offering for sale, transportation or distribution of fur products in commerce, or in connection with the 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 thereto 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. Failing to affix labels thereto showing the item numbers or marks assigned to such fur products;
3. Setting forth on labels affixed thereto information required under Section 4(2) of the Fur Products Labeling Act and the Rules and Regulations thereunder which is mingled with non-required information;
4. Setting forth on labels affixed thereto information required under Section 4(2) of the Fur Products Labeling Act and the Rules and Regulations thereunder which is in handwriting.

B. Falsely or deceptively invoicing fur products by:

1. Failing to furnish to purchasers of such 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 furnish to purchasers of such products invoices showing the item numbers or marks assigned to said fur products.

DECISION OF THE COMMISSION AND ORDER TO FILE REPORT OF COMPLIANCE

The hearing examiner, on May 8, 1959, having filed his initial decision herein based on a record consisting of the complaint, the respondents' answer thereto, a number of interlocutory motions and rulings thereon, and a stipulation as to the facts entered into

by and between counsel for the respondents and counsel in support of the complaint in lieu of all other evidence in support of and in opposition to the allegations of the complaint; and

The Commission, on June 8, 1959, having issued its order, effective June 4, 1959, extending until further order the date on which said initial decision otherwise would have become the decision of the Commission; and

It appearing that the initial decision is deficient in that it fails to cover some of the material allegations of fact set forth in the complaint, all of which were expressly admitted in the stipulation; and, accordingly:

It is ordered, That the initial decision be, and it hereby is, modified by striking all of pages 3 and 4 except the first paragraph, numbered "2" on page 3, and substituting therefor the following:

"3. Certain of said fur products were misbranded in that they did not have affixed to them labels as required under Section 4(2) of the Fur Products Labeling Act, showing that such fur products contained or were composed of dyed, or otherwise artificially colored, fur, when such was the fact.

"4. Certain of said fur products were misbranded in that labels affixed thereto contained information required under Section 4(2) of the Fur Products Labeling Act which was mingled with non-required information, in violation of Rule 29(a) of the Rules and Regulations promulgated under the aforesaid Act.

"5. Certain of said fur products were misbranded in that labels affixed thereto contained information required under Section 4(2) of the Fur Products Labeling Act which was in handwriting, in violation of Rule 29(b) of the Rules and Regulations promulgated under said Act.

"6. Certain of said fur products were misbranded in that labels affixed thereto did not contain item numbers or marks of the fur products, as required by Rule 40 of the Rules and Regulations promulgated under the Fur Products Labeling Act.

"7. 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 to show:

"a. that the fur products contained or were composed of dyed, or otherwise artificially colored, fur, when such was the fact;

"b. the name or names of the animal or animals producing the fur products, as set forth in the Fur Products Name Guide and as prescribed under the Rules and Regulations, and such qualifying statements as are required pursuant to Section 7 of the Fur Products Labeling Act.

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"8. Certain of said fur products were falsely and deceptively invoiced in that item numbers of the fur products were not set forth on the invoices pertaining to such products, as required by Rule 40 of the Rules and Regulations promulgated under the Fur Products Labeling Act.

"CONCLUSIONS

"1. The Commission has jurisdiction over the respondents and over their acts and practices as herein found.

"2. This proceeding is in the public interest.

"3. The aforesaid acts and practices of respondents, as herein found, are 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.

"ORDER

"It is ordered, That Stevens Furs, Inc., a corporation, and Harry Silverman and Edward Jenkins, individually and as officers of said corporation, and their representatives, agents and employees, directly or through any corporate or other device, in connection with the introduction into commerce, or the sale, advertising, offering for sale, transportation or distribution of fur products in commerce, or in connection with the 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 thereto 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. Failing to affix labels thereto showing the item numbers or marks assigned to such fur products;

"3. Setting forth on labels affixed thereto information required under Section 4(2) of the Fur Products Labeling Act and the Rules and Regulations thereunder which is mingled with non-required information;

"4. Setting forth on labels affixed thereto information required under Section 4(2) of the Fur Products Labeling Act and the Rules and Regulations thereunder which is in handwriting.

"B. Falsely or deceptively invoicing fur products by:

"1. Failing to furnish to purchasers of such fur products in-

voices 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 furnish to purchasers of such products invoices showing the item numbers or marks assigned to said fur products."

It is further ordered, That the initial decision, as so modified, be, and it hereby is, adopted as the decision of the Commission.

It is further ordered, That the respondents, Stevens Furs, Inc., a corporation, and Harry Silverman and Edward Jenkins, individually and as officers of said corporation, 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 above order to cease and desist.