

It is ordered, That the respondents herein 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.

IN THE MATTER OF
LOWENTHAL'S, INC., ET AL.

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

Docket 7504. Complaint, June 2, 1959—Decision, Oct. 29, 1959

Consent order requiring a Cincinnati furrier to cease violating the Fur Products Labeling Act by failing to set forth such terms as "Persian Lamb" and "Dyed Mouton-processed Lamb" on labels, invoices, and in advertising; by advertising which failed to disclose the names of animals producing certain furs or that fur products contained artificially colored or cheap or waste fur, or contained names of animals other than those producing the fur in fur products; and by failing in other respects to comply with requirements of the Act.

Mr. John T. Walker for the Commission.

Mr. Grauman Marks, of Cincinnati, Ohio, for respondents.

INITIAL DECISION BY LOREN H. LAUGHLIN, HEARING EXAMINER

The Federal Trade Commission (sometimes also hereinafter referred to as the Commission) on June 2, 1959, issued its complaint herein, charging respondents with having violated the provisions of the Fur Products Labeling Act and the Rules and Regulations promulgated thereunder, by falsely and deceptively advertising, labeling, and invoicing fur products, which acts and practices of respondents constitute unfair and deceptive acts and practices in commerce, in violation of the provisions of the Federal Trade Commission Act. Respondents were duly served with process.

On September 9, 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 respondents and the attorneys for both parties, under date of August 21, 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 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 Lowenthal's, Inc., is a corporation existing and doing business under and by virtue of the laws of the State of Ohio, with its office and principal place of business located at 117 W. 4th Street, in the City of Cincinnati, State of Ohio.

Individual respondents William Lowenthal, Jack Jacobs, and Herschel Lowenthal are officers of said corporation and have the same address as that of the corporate respondent.

The complaint issued herein also names as respondent William Lowenthal, individually and as officer of said corporation. It is recommended that the complaint be dismissed as to William Lowenthal, individually, but not as officer of said corporate respondent. In support of said recommendation, there is attached to the agreement, and by reference made a part thereof, an affidavit of William Lowenthal. There is no available evidence contrary to said affidavit.

2. Respondents 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.

3. This agreement disposes of all of this proceeding as to all parties if the recommendation as to the dismissal of the complaint as to respondent William Lowenthal, individually, is approved and ordered.

4. Respondents waive:

(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 they 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 respondents that they have violated the law as alleged in the complaint.

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8. The following order to cease and desist may be entered in this proceeding by the Commission without further notice to respondents. When so entered it shall have the same force and effect as if entered after a full hearing. It may be altered, modified 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 each of the respondents 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 each of the respondents 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 Lowenthal's, Inc., a corporation, and its officers, and Jack Jacobs and Herschel Lowenthal, individually and as officers of said corporation, and William Lowenthal, as an officer 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:

1. Misbranding fur products by:

A. Failing to affix labels to fur products showing:

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(1) In words and figures plainly legible all of the information required to be disclosed by each of the sub-sections of Section 4(2) of the Fur Products Labeling Act;

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

B. Setting forth on labels affixed to fur products:

(1) Information required under Section 4(2) of the Fur Products Labeling Act and the Rules and Regulations promulgated thereunder in abbreviated form;

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

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

C. Failing to set forth the term "Persian Lamb" in the manner required.

D. Failing to set forth the term "Dyed Mouton-processed Lamb" in the manner required.

E. Failing to set forth the information required under Section 4(2) of the Fur Products Labeling Act and the Rules and Regulations promulgated thereunder in the required sequence.

F. 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 Section 4(2) of the Fur Products Labeling Act and the Rules and Regulations promulgated thereunder with respect to the fur comprising each section.

2. Falsely or deceptively invoicing fur products by:

A. Failing to furnish to purchasers of fur products an invoice showing:

(1) All of the information required to be disclosed by each of the sub-sections of Section 5(b)(1) of the Fur Products Labeling Act;

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

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

C. Failing to set forth the term "Persian Lamb" in the manner required.

D. Failing to set forth the term "Dyed Mouton-processed Lamb" in the manner required.

E. Failing to set forth the term "Dyed Broadtail-processed Lamb" in the manner required.

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.

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

C. Fails to set forth the term "Persian Lamb" in the manner required.

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

E. Sets forth the term "blended" as part of the information required under Section 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. Fails to set forth the information required under Section 5(a) of the Fur Products Labeling Act and the Rules and Regulations promulgated thereunder in type of equal size and conspicuousness and in close proximity with each other.

It is further ordered, That the complaint be, and it hereby is, dismissed as to William Lowenthal, individually, but not as officer of said corporate respondent.

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 29th day of October, 1959, become the decision of the Commission; and, accordingly:

It is ordered, That the above-named respondents except respondent William Lowenthal, individually, 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
A. & J. ENGEL, INC.

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

Docket 7524. Complaint, June 17, 1959—Decision, Nov. 4, 1959

Consent order requiring a New York City furrier to cease violating the Fur Products Labeling Act by labeling products deceptively with respect to animals producing furs; by failing to include required information on labels and invoices; by advertising in newspapers which failed to disclose the names of animals producing certain furs or that fur products contained artificially colored or cheap or waste fur, contained names of animals in addition to those producing the fur in fur products, and represented prices as reduced from previous higher prices without giving time of such compared prices, and as reduced from regular prices which were in fact fictitious; and by failing to maintain adequate records as a basis for such pricing claims.

Mr. Charles W. O'Connell for the Commission.
Respondent, for itself.

INITIAL DECISION BY J. EARL COX, HEARING EXAMINER

The complaint charges respondent with misbranding and falsely and deceptively invoicing and advertising certain of its fur products, and with failing to maintain full and adequate records disclosing the facts upon which were based certain pricing and saving claims and representations made by respondent in advertisements of said fur products, 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 Acting 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 A. & J. Engel, 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 18 East 50th Street, in the City of New York, State of New York.

The agreement provides, among other things, that respondent admits all the jurisdictional facts alleged in the complaint, and agrees