

the initial decision of the hearing examiner shall, on the 24th day of March, 1960, become the decision of the Commission; and, accordingly:

It is ordered, That 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

ROBERT MAGEE DOING BUSINESS AS ROBERT
MAGEE FURS

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

Docket 7570. Complaint, Aug. 25, 1959—Decision, Mar. 25, 1960

Order requiring an Oakland, Calif., furrier to cease violating the Fur Products Labeling Act by failing to show on invoices the name of the animal producing the fur and the country of origin and to comply with invoicing requirements in other respects, and, using fictitious prices, in newspaper advertising and on labels representing them thereby as the usual retail prices.

Mr. John J. McNally for the Commission.

Mr. Charles Reagh, of San Francisco, Calif., for respondent.

INITIAL DECISION BY EARL J. KOLB, HEARING EXAMINER

This proceeding is before the undersigned hearing examiner for final consideration on the complaint, answer thereto, testimony and other evidence, and proposed findings as to the facts and conclusions presented by counsel. The hearing examiner has given consideration to the proposed findings of fact and conclusions submitted by both parties, and all findings of facts and conclusions of law proposed by the parties, respectively, not hereinafter specifically found or concluded are herewith rejected, and the hearing examiner, having considered the record herein and being now fully advised in the premises, makes the following findings as to the facts, conclusions drawn therefrom and order:

FINDINGS AS TO THE FACTS

1. Respondent Robert Magee, a retail furrier, is an individual, trading as Robert Magee Furs, with his place of business located at 1727 Broadway, Oakland, California.

2. Subsequent to the effective date of the Fur Products Labeling Act, on August 9, 1952, respondent has been engaged in the introduction into commerce, and in the transportation, and distribution, in commerce, of fur products, consisting principally of fur stoles and jackets, and has sold, advertised, offered for sale, transported and distributed fur products which have been made in whole or in part of fur which has been shipped and received in commerce, as the terms "commerce," "fur" and "fur products" are defined in the Fur Products Labeling Act.

3. In a number of instances, invoices given to customers by the respondent in connection with the sale of fur garments were in violation of the Fur Products Labeling Act, in that such invoices (1) failed to show the name of the animal producing the fur; (2) failed to properly designate the animal producing the fur in accordance with the Fur Products Name Guide; (3) designated certain fur products as being tipped instead of being tip-dyed; and (4) failed to name the country of origin of imported furs contained in the fur products sold. The contention of the respondent that the omissions in the invoices resulted from inadvertence and without any intent to mislead or deceive cannot be considered as a defense in this proceeding, as the invoices do, in fact, violate the provisions of the Fur Products Labeling Act, and intent is not a necessary element in such violation.

4. In pricing his garments, the respondent did not use a systematic markup from cost. In some instances the retail or ticketed price was arbitrarily set, and in others respondent used a markup of double the cost, plus 10 percent. The retail or ticketed price was a fictitious price in that it was merely a bargaining price and did not represent the actual price at which the fur product was required to be sold.

5. When sales were held, respondent attached to his fur products an additional or sales label showing the purported regular price and the sale price. In addition, respondent placed advertisements in various newspapers having interstate circulation, representing that his fur products could be purchased at a substantial discount or saving, off regular prices. Under respondent's system of pricing, the so-called regular prices were, in fact, fictitious, and such representations in advertising constituted a misrepresentation of

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prices in violation of the Fur Products Labeling Act and Rule 44(a) promulgated thereunder.

CONCLUSION

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

ORDER

It is ordered, That respondent Robert Magee, an individual, doing business as Robert Magee Furs or under any other name, 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 any fur products, or in connection with the sale, transportation or distribution of any fur product which is made in whole or in part of fur which has been shipped and received in commerce, as the term "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) Falsely or deceptively labeling or otherwise identifying such products, so as to represent that the regular or usual prices of such products are any amount in excess of the prices at which respondent has usually and customarily sold such products in the recent course of business.

2. Falsely or deceptively invoicing fur products by:

(a) Failing to furnish to purchasers of fur products an invoice 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;

(b) Failing to set forth on each invoice the item number or mark assigned to such fur products.

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 represents, directly or by implication:

(a) That the regular or usual price of any fur product is any amount which is in excess of the price at which respondent has

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usually and customarily sold such products in the recent regular course of his business;

(b) That any of respondent's fur products can be purchased at a substantial discount or saving, off regular prices, when such regular prices do not represent the prices at which respondent has usually and customarily sold such products in the recent regular course of his business.

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 25th day of March, 1960, become the decision of the Commission; and, accordingly:

It is ordered. That respondent herein shall, within sixty (60) days after service upon him of this order, file with the Commission a report in writing setting forth in detail the manner and form in which he has complied with the order to cease and desist.

IN THE MATTER OF

NICHOLS & COMPANY, INC., ET AL.

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

Docket 7659. Complaint, Nov. 17, 1959—Decision, Mar. 25, 1960

Consent order requiring Boston manufacturers to cease violating the Wool Products Labeling Act by labeling as "80% Camel Hair, 20% Wool," wool stocks composed in part of reprocessed woolen fibers, and by failing to comply in other respects with labeling requirements.

The complaint remains pending as to the individual respondent who performed garnetting of the woolen stocks in question.

Before *Mr. Harry R. Hinkes*, hearing examiner.

Mr. Garland S. Ferguson supporting complaint.

Mr. Edward C. Park, of *Withington, Cross, Park & McCann*, of Boston, Mass., for respondents.

INITIAL DECISION AS TO ALL RESPONDENTS EXCEPT HARRY CARR

Pursuant to the provisions of the Federal Trade Commission Act and the Wool Products Labeling Act of 1939, the Federal Trade Commission issued and subsequently served its complaint in this proceeding against the above-named respondents, charging them

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usually and customarily sold such products in the recent regular course of his business;

(b) That any of respondent's fur products can be purchased at a substantial discount or saving, off regular prices, when such regular prices do not represent the prices at which respondent has usually and customarily sold such products in the recent regular course of his business.

DECISION OF THE COMMISSION AND ORDER TO FILE REPORT OF COMPLIANCE

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It is ordered. That respondent herein shall, within sixty (60) days after service upon him of this order, file with the Commission a report in writing setting forth in detail the manner and form in which he has complied with the order to cease and desist.

IN THE MATTER OF

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Mr. Garland S. Ferguson supporting complaint.

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INITIAL DECISION AS TO ALL RESPONDENTS EXCEPT HARRY CARR

Pursuant to the provisions of the Federal Trade Commission Act and the Wool Products Labeling Act of 1939, the Federal Trade Commission issued and subsequently served its complaint in this proceeding against the above-named respondents, charging them

with violation of the Federal Trade Commission Act, the Wool Products Labeling Act and the Rules and Regulations promulgated thereunder in connection with their sale, offering for sale, delivery and introduction into commerce of certain wool products.

On February 1, 1960 there was submitted to the undersigned hearing examiner an agreement between certain respondents, their counsel and counsel supporting the complaint, providing for the entry of a consent order.

Under the foregoing agreement, Nichols & Company, Inc., a corporation, and Arthur O. Wellman, Arthur O. Wellman, Jr., and John H. Nichols, Jr., erroneously named in the complaint as John N. Nichols, Jr., individually and as officers of said corporation, and Sumner E. Burdette, individually, admitted all of the jurisdictional allegations in the complaint. The agreement provides that the record on which the initial decision and the decision of the Commission shall be based shall consist solely of the complaint and agreement; that the inclusion of findings of fact and conclusions of law in the decision disposing of this matter is waived, together with any further procedural steps before the hearing examiner and the Commission; that the order hereinafter set forth may be entered in disposition of the proceeding, such order to have the same force and effect as if entered after a full hearing, the signatory respondents specifically waiving any and all rights to challenge or contest the validity of such order; that the order may be altered or set aside in the manner provided for other orders of the Commission; that the complaint may be used in construing the terms of the order; and that the agreement is for settlement purposes only and does not constitute an admission by such respondents that they have violated the law as alleged in the complaint.

The hearing examiner having considered the agreement and proposed order and being of the opinion that they provide an adequate basis for an appropriate disposition of the proceeding as to the signatory respondents, the agreement is hereby accepted, the following jurisdictional findings made and the following order issued:

1. Nichols & Company, Inc., is a corporation existing and doing business under and by virtue of the laws of the State of Massachusetts with its office and principal place of business located at 140 Federal Street, Boston, Massachusetts. Individual respondents Arthur O. Wellman, Arthur O. Wellman, Jr., and John H. Nichols, Jr., are officers of said corporation, and Sumner E. Burdette is manager of the Waste Department of said corporation.

The address of the aforesaid individual respondents is the same as that of the corporate respondent.

2. The agreement does not dispose of this proceeding as to Harry Carr, who is subject to further proceedings.

3. 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.

ORDER

It is ordered, That respondents Nichols & Company, Inc., a corporation, and its officers, and Arthur O. Wellman, Arthur O. Wellman, Jr., and John H. Nichols, Jr., individually and as officers of said corporation, Sumner E. Burdette, individually, 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 offering for sale, sale, transportation, or distribution in commerce, as "commerce" is defined in the Federal Trade Commission Act and the Wool Products Labeling Act of 1939, of woolen stocks or other wool products, do forthwith cease and desist from misbranding such products by:

1. Falsely or deceptively stamping, tagging, labeling or otherwise identifying such products as to the character or amount of the constituent fibers included therein;

2. Failing to affix labels to such products showing each element of information required to be disclosed by Section 4(a)(2) of the Wool Products Labeling Act of 1939.

It is further ordered, That respondents Nichols & Company, Inc., a corporation, and its officers, and Arthur O. Wellman, Arthur O. Wellman, Jr., and John H. Nichols, Jr., individually and as officers of said corporation, and Sumner E. Burdette, individually, and respondents' representatives, agents and employees, directly or through any corporate or other device, in connection with the sale or distribution of woolen, or part woolen stocks, in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from, directly or indirectly, misrepresenting the generic names of the fibers of which their products are composed, as such names are defined in the Wool Products Labeling Act and the Rules and Regulations promulgated thereunder, or the percentages or amounts thereof, in sales invoices, shipping memoranda, or in any other manner.

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 25th

day of March, 1960, become the decision of the Commission; and, accordingly:

It is ordered, That respondents Nichols & Company, Inc., a corporation, and Arthur O. Wellman, Arthur O. Wellman, Jr., and John H. Nichols, Jr., erroneously named in the complaint as John N. Nichols, Jr., individually and as officers of said corporation, Sumner E. Burdette, 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.