

Decision

IN THE MATTER OF
STERN BROTHERS

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

Docket 7550. Complaint, July 23, 1959—Decision, Apr. 14, 1960

Consent order requiring a New York City department store to cease violating the Fur Products Labeling Act by labeling certain fur products falsely as to the animal producing the furs; by setting forth the name "United States" on invoices of furs of foreign origin; by advertising in newspapers which falsely represented fur products to be "priced below wholesale" and "nationally advertised from" certain prices which were not the usual prices in the trade area concerned, and made claims as to prices and values without maintaining adequate records as a basis therefor; and by failing in other respects to comply with requirements of the Act; and to cease such unfair trade practices as in advertising designating as "reg.," "regularly," and "usually," amounts in excess of its current selling prices.

Mr. Charles W. O'Connell for the Commission.

Sullivan & Cromwell, of New York, N.Y., for respondent.

INITIAL DECISION BY HARRY R. HINKES, HEARING EXAMINER¹

On July 23, 1959 the Federal Trade Commission issued its complaint in this proceeding against Stern Brothers, a corporation, charging it with violations of the Federal Trade Commission Act and the Fur Products Labeling Act in connection with the sale and distribution of fur products and other merchandise. On the same date, July 23, 1959, Stern Brothers was merged with Allied Stores Corporation, and the business previously carried on by said Stern Brothers has been carried on by Allied Stores Corporation as Stern Brothers Division of Allied Stores Corporation.

On February 1, 1960 Allied Stores Corporation, trading as Stern Brothers, by its duly authorized officer and by its attorney entered into an agreement for a consent order with counsel supporting the complaint in accordance with Section 3.25(a) of the Rules of Practice and Procedure of the Federal Trade Commission. Incorporated in, and made a part of, this agreement was a request by all of the parties that the complaint be amended by substituting Allied Stores Corporation, trading as Stern Brothers, a corporation, in the

¹ The initial decision amended the complaint by substituting Allied Stores Corporation, trading as Stern Brothers, a corporation, in the place and stead of the respondent named in the complaint.

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place and stead of the respondent named in the complaint, with waiver of service of all proceedings involving the amendment of the complaint, including the complaint as amended. Pursuant to said agreement, the complaint herein is herewith amended as requested by counsel for all parties. The agreement further provides that respondent admits all the jurisdictional facts alleged in the amended complaint; that the record on which the initial decision and the decision of the Commission shall be based shall consist solely of the amended complaint and the agreement; that the making 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 this proceeding without further notice to the respondent and when entered shall have the same force and effect as if entered after a full hearing, respondent specifically waiving all the rights it may have to challenge or contest the validity of the order; that the order may be altered, modified, or set aside in the manner provided for other orders; that the amended complaint may be used in construing the terms of the order; that the agreement is for settlement purposes only and does not constitute an admission by respondent that it has violated the law as alleged in the amended complaint; and 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.

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

1. Respondent Allied Stores Corporation is a corporation organized and existing under the laws of the State of Delaware, with its office located at 401 Fifth Avenue, New York, New York. The acts and practices alleged in the amended complaint as being violative of law were engaged in by Stern Brothers, located at 41 West 42nd Street, in the City of New York, State of New York, which was merged into said Allied Stores Corporation, as aforesaid.

2. The Federal Trade Commission has jurisdiction of the subject matter of this proceeding and of the respondent, and the proceeding is in the public interest.

ORDER

It is ordered, That respondent Allied Stores Corporation, a corporation, trading as Stern Brothers, its officers, 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 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 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.

(b) Falsely or deceptively labeling or otherwise identifying any such products as to the name or names of the animal or animals that produced the fur from which such product was manufactured.

(c) Setting forth on labels affixed to fur products information required under Section 4(2) of the Fur Products Labeling Act and the Rules and Regulations promulgated thereunder mingled with nonrequired information.

(d) Failing to affix labels to fur products showing the item number or mark assigned to a fur product.

2. Falsely or deceptively invoicing fur products by:

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

(b) Setting forth on invoices pertaining to fur products the name "United States" as the country of origin of the furs contained in fur products when such is not the fact.

(c) 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.

(d) Failing to furnish to purchasers of fur products an invoice showing the item number or mark assigned to a fur product.

3. Falsely or deceptively advertising fur products through the use of any advertisements, 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) Represents, directly or by implication, that the prices of fur products are "priced below wholesale" or words of similar import, when such is not the fact.

(b) Represents, directly or by implication, that certain amounts are nationally advertised prices or words of similar import, when such is not the fact.

(c) Misrepresents in any manner the savings available to purchasers of respondent's fur products.

4. Making price claims and representations in advertisements respecting prices and values of fur products unless respondent maintains full and adequate records disclosing the facts upon which such claims or representations are based.

It is further ordered, That respondent Allied Stores Corporation, a corporation, trading as Stern Brothers, its officers, representatives, agents and employees, directly or through any corporate or other device, in connection with the offering for sale, sale or distribution of merchandise, in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. Representing, directly or by implication:

(a) That any amount is respondent's usual and regular price of merchandise when it is in excess of the price at which said merchandise has been usually and regularly sold by respondent in the recent regular course of its business.

(b) That any saving is afforded from respondent's price in the purchase of merchandise unless the price at which it is offered constitutes a reduction from the price at which the merchandise has been usually and customarily sold by respondent in the recent regular course of its business.

2. Misrepresenting in any manner the amount of savings available to purchasers of respondent's merchandise, or the amount by which the price of said merchandise is reduced from the price at which it is usually and customarily sold by respondent in the normal course of its 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 14th day of April, 1960, become the decision of the Commission; and, accordingly:

It is ordered, That respondent Allied Stores Corporation, a corporation, trading as Stern Brothers, shall, within sixty (60) days after service upon it of this order, file with the Commission a report in writing setting forth in detail the manner and form in which it has complied with the order to cease and desist.

Decision

IN THE MATTER OF

ELI PERLO ET AL. TRADING AS S. PERLO & SONS

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

Docket 7623. Complaint, Oct. 22, 1959—Decision, Apr. 14, 1960

Consent order requiring New York City distributors to cease violating the Wool Products Labeling Act by labeling and invoicing as "100% Re-processed Wool," interlining materials which contained substantially less than 100% wool.

Mr. Thomas A. Ziebarth supporting the complaint.

Mr. Louis K. Bleecker, of New York, N.Y. for respondents.

INITIAL DECISION BY LEON R. GROSS, HEARING EXAMINER

On October 22, 1959, the Federal Trade Commission, pursuant to authority granted to it by the Federal Trade Commission Act and the Wool Products Labeling Act, caused a complaint to be issued against the above respondents, charging them with violations of the Wool Products Labeling Act and the Rules and Regulations promulgated by the Commission pursuant to the provisions of said Act. A true copy of said complaint was duly served upon respondents, as required by law. The complaint charges respondents with misbranding wool products sold by respondents in commerce within the intent and meaning of §4(a)(1) of the Wool Products Labeling Act, and with failure to stamp, tag and label wool products sold in commerce as required by §4(a)(2) of the Wool Products Labeling Act, and in the manner and form prescribed by the Rules and Regulations promulgated under said Act.

After being served with the complaint, respondents appeared by counsel. Thereafter respondents entered into an agreement dated January 25, 1960, which purports to dispose of all this proceeding as to all parties without the necessity of conducting a formal hearing. Accompanying the January 25, 1960 agreement is an affidavit of Louis K. Bleecker, counsel for respondent that Hinda R. Perlo, one of the named respondents is deceased, and the Hearing Examiner is therefore dismissing her as a respondent as agreed to in the cease and desist order set forth in the January 25, 1960 agreement. The hearing examiner finds such disposition of this proceeding as to Hinda R. Perlo not to be inimical to the public interest, and to these proceedings.