

and form in which they have complied with the order to cease and desist.

IN THE MATTER OF
RUDOLPH MENDIOLA TRADING AS
WHOLESALE FUR HOUSE

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

Docket 7486. Complaint, Mar. 11, 1959—Decision, Apr. 18, 1960

Order requiring a Houston, Tex., furrier to comply with labeling and invoicing provisions of the Fur Products Labeling Act.

Before *Mr. John B. Poindexter*, hearing examiner.

Mr. John T. Walker and *Mr. Charles S. Cox* for the Commission.
Talbert, Giessel, Cutherell & Barnett, of Houston, Tex., for respondent.

FINDINGS AS TO THE FACTS, CONCLUSIONS AND ORDER

Pursuant to the provisions of the Federal Trade Commission Act and the Fur Products Labeling Act, the Federal Trade Commission on March 11, 1959, issued its complaint in this proceeding upon the respondent, charging him with violation of the Fur Products Labeling Act and the Rules and Regulations promulgated thereunder and with engaging in unfair and deceptive acts and practices in violation of the Federal Trade Commission Act. After the filing of answer by the respondent, a hearing was held before a

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hearing examiner of the Commission and testimony and other evidence were received into the record. On February 17, 1960, the hearing examiner filed an initial decision.

The Commission, upon its review thereof, having vacated and set aside such initial decision, further finds that this proceeding is in the interest of the public and now makes its findings as to the facts, conclusions drawn therefrom, and order, the same to be in lieu of those contained in said initial decision.

FINDINGS AS TO THE FACTS

1. The respondent, Rudolph Mendiola, is an individual trading as Wholesale Fur House. During the period to which the testimony in this proceeding relates, his office and principal place of business was located at 612 Caroline Street, Houston, Texas.

2. Subsequent to the effective date of the Fur Products Labeling Act on August 9, 1952, respondent has engaged in the retailing of fur garments. Many of his garments were made in whole or part of fur which had been shipped and received in commerce, as the terms "commerce" and "fur" are defined in the Fur Products Labeling Act. Such articles accordingly constituted fur products subject to that Act. Unless otherwise stated, the term "fur products" as hereafter used refers to that category of the respondent's merchandise.

3. Certain of the fur products were misbranded in violation of the Fur Products Labeling Act in that information required under Section 4(2) of said Act was set forth in handwriting on the respondent's labels in violation of Rule 29(b) of the Rules and Regulations promulgated by the Commission under said Act.

4. Certain of said fur products were falsely and deceptively invoiced within the intent and meaning of Section 5(b)(1) of the aforesaid Act in that the invoices issued by the respondent did not show the name of the country of origin of the imported furs contained in such fur products as required by subsection (F) thereof.

Another of said fur products was falsely and deceptively invoiced in violation of the Fur Products Labeling Act in that no item number for that product was set forth on the respondent's sales invoice as prescribed by Rule 40 of said Rules and Regulations.

CONCLUSIONS

The acts and practices of respondent, as hereinabove found, are in violation of the Fur Products Labeling Act and the Rules and Regulations promulgated thereunder, and are to the prejudice and

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injury of the public and constitute unfair and deceptive acts and practices, in commerce, within the intent and meaning of the Federal Trade Commission Act.

The record, however, does not support informed determinations that the acts and practices challenged in paragraphs 3, 4(a)(b)(d) and 6(a) of the complaint, were engaged in by the respondent in connection with the marketing of products subject to the Fur Products Labeling Act. These latter charges are accordingly being dismissed for lack of jurisdiction.

Paragraphs 7 through 10 of the complaint alleged interstate dissemination by respondent of advertisements which failed to supply the information required by the Fur Products Labeling Act and which misrepresented, among other things, the regular prices for the garments as reduced prices; and paragraph 11 in effect charged failure to maintain adequate records disclosing the bases for the pricing claims thus advertised in commerce. The record, however, does not support the allegations that such products were advertised in commerce, as "commerce" is defined in the Fur Products Labeling Act. These charges of the complaint likewise are being dismissed.

ORDER

It is ordered, That Rudolph Mendiola, an individual, trading as Wholesale Fur House, 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 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 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 in handwriting.

2. Falsely or deceptively invoicing fur products by failing to furnish to purchasers of fur products an invoice showing:

- (A) All the information required to be disclosed by each of the subsections of Section 5(b)(1) of the Fur Products Labeling Act.

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

It is further ordered, That the allegations contained in para-

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graphs 3, 4(a)(b)(d), 6(a) and 7 through 11 of the complaint be, and they hereby are, dismissed.

It is further ordered, That the respondent 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.

FINAL ORDER

This matter having come on to be heard by the Commission upon its review of the hearing examiner's initial decision; and

The Commission having determined that the initial decision is not appropriate in all respects to dispose of this proceeding:

It was ordered, On April 12, 1960, that the initial decision of the hearing examiner be vacated and set aside.

It was further ordered, That the attached findings as to the facts, conclusions drawn therefrom, and order, be issued and served upon the respondent.
