

days of April, 1960, become the decision of the Commission; and, accordingly:

It is ordered, That the respondent herein 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.

IN THE MATTER OF

GREENBLATT'S, INC., OF INDIANA, ET AL.

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

Docket 7677. Complaint, Dec. 3, 1959—Decision, Apr. 20, 1960

Consent order requiring furriers in Fort Wayne, Ind., to cease violating the Fur Products Labeling Act by advertising in newspapers which failed to disclose that fur products were artificially colored or made of cheap or waste fur and to disclose the country or origin of imported furs, represented fictitious amounts as the usual prices and made deceptive percentage savings claims; by failing to keep adequate records as a basis for said pricing claims; and by failing to comply with invoicing requirements.

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

Rothberg, Gallmeyer & Strutz, by *Mr. Thomas D. Logan*, of Fort Wayne, Ind., for respondents.

INITIAL DECISION BY LOREN H. LAUGHLIN, HEARING EXAMINER

The Federal Trade Commission (sometimes also hereinafter referred to as the Commission) on December 3, 1959, issued its complaint herein, charging the respondents Greenblatt's, Inc., of Indiana, a corporation, and Harold Michelson, individually and as an officer of said corporation, with having violated the provisions of the Federal Trade Commission Act and of the Fur Products Labeling Act and the Rules and Regulations promulgated thereunder, and respondents were duly served with process.

On February 29, 1960, 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, their counsel, and counsel supporting the complaint, under date of February 22, 1960, 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 Greenblatt's, Inc. of Indiana is a corporation organized, existing and doing business under and by virtue of the laws of the State of Indiana, with its office and principal place of business located at 113 West Wayne Street, in the City of Fort Wayne, State of Indiana. Respondent Harold Michelson is president of the said corporate respondent and controls, formulates and directs the acts, practices and policies of the said corporate respondent. His address is the same as that of the corporate respondent.

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.

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.

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 in accordance with the terms thereof. 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 the respondents herein; that the complaint states a legal cause for complaint against the respondents under the Federal Trade Commission Act, the Fur Products Labeling Act and the Rules and Regulations promulgated thereunder, both generally and in each of the particulars alleged in said complaint; 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:

It is ordered, That respondents Greenblatt's Inc., of Indiana, a corporation, and its officers, and Harold Michelson, individually and 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, offering for sale, transportation or distribution, in commerce, of any fur product, or in connection with the sale, advertising, offering for 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 "commerce," "fur" and "fur product" are defined in the Fur Products Labeling Act, do forthwith cease and desist from:

1. Falsely and deceptively invoicing fur products by:
 - A. Failing to furnish to purchasers of fur products invoices showing all the information required to be disclosed by each of the subsections of §5(b)(1) of the Fur Products Labeling Act;
2. Falsely and 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 and waste fur, when such is the fact;

(4) The name of the country of origin of any imported furs contained in a fur product;

B. Fails to set forth the information required under §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;

C. Represents, directly or by implication, that respondents' regular or usual price of any fur product is any amount which is in excess of the price at which they have usually and customarily sold such products in the recent regular course of business;

D. Represents, directly or by implication, through percentage savings claims that the regular or usual retail prices charged by respondents for fur products in the recent regular course of business were reduced in direct proportion to the amount of savings stated, when contrary to the fact;

E. Misrepresents in any manner the savings available to purchasers of respondents' fur products;

3. Making claims or representations in advertisements respecting prices or values of fur products unless respondents maintain full and adequate records disclosing the facts upon which such claims and representations are based.

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 20th day of April, 1960, become the decision of the Commission; and, accordingly:

It is ordered. That respondents Greenblatt's, Inc., of Indiana, a corporation, and Harold Michelson, individually and as an officer 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 order to cease and desist.

IN THE MATTER OF
TIME RECORDS, INCORPORATED, ET AL.

CONSENT ORDER, ETC., IN REGARD TO THE ALLEGED VIOLATION OF THE
FEDERAL TRADE COMMISSION ACT

Docket 7765. Complaint, Jan. 27, 1960—Decision, Apr. 21, 1960

Consent order requiring New York City manufacturers of phonograph records for distribution to retail outlets and jukebox operators, to cease giving concealed "payola" to television and radio disc jockeys as inducement to play their records in order to increase sales.

*Mr. John T. Walker and Mr. James H. Kelley for the Commission.
Proskauer Rose Goetz & Mendelsohn, by Mr. Marvin E. Frankel,
of New York, N.Y., for respondents.*

INITIAL DECISION BY J. EARL COX, HEARING EXAMINER

The complaint charges respondents, who are engaged in the manufacture, distribution and sale of phonograph records to independent distributors for resale to retail outlets and jukebox operators in various states of the United States, with violation of the Federal Trade Commission Act, in that respondents, alone or with certain unnamed record distributors, have negotiated for and disbursed "payola," i.e., the payment of money or other valuable consideration to disk jockeys of musical programs on radio and television stations, to induce, stimulate or motivate the disk jockeys to select, broadcast, "expose" and promote certain records, in which respondents are financially interested, on the express or implied understanding that the disk jockeys will conceal, withhold or camouflage the fact of such payment from the listening public.

After the issuance of the complaint, respondents, their counsel, and counsel supporting the complaint entered into an agreement containing consent order to cease and desist, which was approved by the 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 respondents Time Records, Incorporated, and Brent Music Corp. are corporations organized, existing and doing business under and by virtue of the laws of the State of New York, with their principal office and place of business located at 2 West 45th Street, New York, New York; that the corporate respondent Time Records, Incorporated, also does business in commerce under the trade name of Shad Records, and the corporate respondent Brent Music Corp. also does business in commerce under