

IN THE MATTER OF
THE FAIR

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

Docket 6822. Order, May 23, 1960

Order modifying desist order of March 4, 1959,¹ to conform to order of the
U.S. Court of Appeals for the Seventh Circuit of April 7, 1960, by substi-
tuting a new Paragraph A for the original Paragraphs A and B.

Before *Mr. J. Earl Cox*, hearing examiner.

Mr. Henry D. Stringer for the Commission.

Wilson & McIlwaine, of Chicago, Ill., for respondent.

¹ 55 F.T.C. 1367.

ORDER MODIFYING ORDER TO CEASE AND DESIST AND ORDER TO CEASE AND
DESIST AS MODIFIED

Respondent having on the 29th day of April, 1959, filed in the United States Court of Appeals for the Seventh Circuit its petition for review¹ of and to set aside the order to cease and desist issued by the Commission on the 4th day of March, 1959; and the Court having heard the cause on briefs and oral argument and having thereafter, on the 8th day of December, 1959, handed down its opinion, and on the same date entered its decree, in which it modified the aforesaid order by vacating and setting aside the order of the Commission "insofar as it relates to the subject of misbranding"; and as thus modified, affirmed and enforced the said order; and the Court having, thereafter on the 7th day of April, 1960, entered another decree further modifying the aforesaid order to cease and desist by ordering that the cease-and-desist order "shall be rephrased to enjoin falsely or deceptively invoicing fur products by failing to furnish invoices showing each element of information required by the Act in lieu of the specific prohibitions contained in said order as issued"; and as thus further modified, affirmed and enforced the said order in all other respects; and,

The Commission being of the opinion that its said order to cease and desist issued on the 4th day of March, 1959, as aforesaid, should be modified so as to bring it into conformity with the decision of the United States Court of Appeals for the Seventh Circuit:

It is therefore ordered, That the said order to cease and desist be modified by striking therefrom paragraphs lettered A and B and all of their subsections, relettering paragraphs C and D as paragraphs B and C and adding the following paragraph to be lettered paragraph A:

A. Falsely or deceptively invoicing fur products by:

(1) Failing to furnish to purchasers of fur products invoices 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.

(2) Setting forth on invoices required information in abbreviated form.

and as thus modified to issue and serve upon respondent the following modified order:

MODIFIED ORDER

It is ordered, That respondent, The Fair, a corporation, and its officers, representatives, agents and employees, directly or through

¹ Amended by order of the Court entered on the 8th day of May, 1959, on motion of respondent.

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 product, or in connection with the sale, advertising, offering for sale, transportation or distribution of any fur product which has been made in whole or in part of fur which has been shipped and received in commerce, as "commerce," "fur" and "fur products" are defined in the Fur Products Labeling Act, do forthwith cease and desist from:

A. Falsely or deceptively invoicing fur products by:

(1) Failing to furnish to purchasers of fur products invoices 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.

(2) Setting forth on invoices required information in abbreviated form.

B. Falsely or deceptively advertising fur products through the use of any advertisement, public announcement, notice or in any other manner 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:

(1) That the regular or usual price of any fur product is any amount which is in excess of the price at which respondent has usually and customarily sold such products in the recent regular course of its business;

(2) That such product is of a higher grade, quality or value than is the fact, by means of illustrations or depictions of higher priced or more valuable products than those actually available for sale at the advertised selling price, or by any other means.

C. Making pricing claims or representations of the type referred to in paragraph B(1) above, unless there is maintained by respondent full and adequate records disclosing the facts upon which such claims or representations are based.

It is further ordered, That the charges of the complaint relating to alleged violations of Rule 44(b) of the Rules and Regulations promulgated under the Fur Products Labeling Act be, and the same hereby are, dismissed.

It is further ordered, That the respondent, The Fair, a corporation, shall within ninety (90) days from the 7th day of April, 1960, as required by the said decree of the United States Court of Appeals for the Seventh Circuit entered on the 7th day of April, 1960, as aforesaid, file with the Commission a report in writing setting forth

