

prejudice be, and it hereby is, adopted as the decision of the Commission.

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IN THE MATTER OF  
R. H. MACY & COMPANY, INC.

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

*Docket 7573. Complaint, Sept. 1, 1959—Decision, May 25, 1960*

Consent order requiring a New York City department store to cease violating the Fur Products Labeling Act by labeling fur products with excessive prices represented thereby as the usual retail prices; by failing to set forth on invoices the terms "Dyed Mouton-processed Lamb" and "Dyed Broadtail-processed Lamb" as required; by advertising in newspapers which failed to disclose that certain fur products contained artificially colored or cheap or waste fur or were "second-hand" or "used," and to disclose the country of origin of imported furs; which contained the names of animals other than those producing certain furs and represented prices falsely as

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## Decision

"below wholesale cost"; by failing to maintain adequate records as a basis for said pricing claims; and by failing in other respects to comply with labeling and invoicing requirements.

*Mr. Charles W. O'Connell* supporting the complaint.

*Mr. Marvin Fenster*, of New York, N.Y., for respondent.

## INITIAL DECISION BY LEON R. GROSS, HEARING EXAMINER

On September 1, 1959, the Federal Trade Commission, pursuant to the provisions of the Federal Trade Commission Act and the Fur Products Labeling Act, issued its complaint against R. H. Macy & Company, Inc., a corporation, charging said respondent with violating the provisions of said Acts and the Rules and Regulations promulgated under the Fur Products Labeling Act, by misbranding and falsely and deceptively invoicing and advertising certain of its fur products, and by failing to maintain full and adequate records disclosing the facts upon which were based its pricing claims and representations for said fur products. A true and correct copy of said complaint was served upon respondent as required by law. After being served with the complaint, respondent appeared by counsel and entered into an agreement dated March 31, 1960, which purports to dispose of all of this proceeding as to all parties without the necessity of conducting a hearing. The agreement has been signed by the respondent, its counsel, and by counsel supporting the complaint; and has been approved by the Director, the Associate Director and the Assistant Director of the Bureau of Litigation of this Commission. Said agreement contains the form of a consent cease and desist order which the parties have agreed is dispositive of the issues involved in this proceeding as to all parties. On April 6, 1960, the said agreement was submitted to the above-named hearing examiner for his consideration, in accordance with §3.25 of the Commission's Rules of Practice for Adjudicative Proceedings.

Said agreement contains, *inter alia*, an agreement by the parties that certain amendments be made to the complaint, which amendments, in the opinion of the hearing examiner, do not materially affect the gravamen of the complaint as originally issued, and the hearing examiner has, by order dated April 6, 1960, amended the complaint as agreed to by counsel supporting the complaint, and respondent.

Respondent, pursuant to the aforesaid agreement, has admitted all the jurisdictional facts alleged in the amended complaint and agreed that the record may be taken as if findings of jurisdictional facts had been duly made in accordance with such allegations. Said

agreement further provides that respondent waives any further procedural steps before the hearing examiner and the Commission, the making of findings of fact or conclusions of law, and all of the rights it may have to challenge or contest the validity of the order to cease and desist entered in accordance with such agreement. The parties have, *inter alia*, by such agreement agreed: (1) the order to cease and desist issued in accordance with said agreement shall have the same force and effect as if entered after a full hearing; (2) the complaint as amended may be used in construing the terms of said order; (3) the record herein shall consist solely of the complaint as amended and said agreement; and (4) that said 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.

This proceeding having now come on for final consideration on the complaint as amended and the aforesaid agreement of March 31, 1960, containing consent order, and it appearing that the order provided for in said agreement covers all of the allegations of the complaint as amended and provides for an appropriate disposition of this proceeding as to all parties; the agreement of March 31, 1960, is hereby accepted and ordered filed at the same time that this decision becomes the decision of the Federal Trade Commission pursuant to §3.21 and §3.25 of the Commission's Rules of Practice for Adjudicative Proceedings; and

The undersigned hearing examiner having considered the agreement and proposed order and being of the opinion that the acceptance thereof will be in the public interest, makes the following jurisdictional findings, and issues the following order:

#### JURISDICTIONAL FINDINGS

1. The Federal Trade Commission has jurisdiction over the parties and the subject matter of this proceeding.
2. Respondent R. H. Macy & Co., Inc., incorrectly referred to in the complaint as R. H. Macy & Company, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of New York, with its office and principal place of business located at 151 West 34th Street, New York 1, New York.
3. Respondent is engaged in commerce as "commerce" is defined in the Fur Products Labeling Act.
4. The complaint as amended states a cause of action against said respondent under the Federal Trade Commission Act and under the Fur Products Labeling Act and the Rules and Regulation promulgated thereunder, and this proceeding is in the public interest.

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Order

## ORDER

*It is ordered,* That respondent R. H. Macy & Co., Inc., a corporation, and its officers, 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:

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 §4(2) of the Fur Products Labeling Act;

B. Failing to set forth on labels attached to fur products the item number or mark assigned to a fur product;

C. Falsely or deceptively labeling such products as to the regular prices thereof by means of any label representing that respondent's regular or usual prices of such products are any amounts in excess of the prices at which respondent has usually or customarily sold such products in the recent regular course of business;

## D. Setting forth on labels affixed to fur products:

1. Required information in abbreviated form or in handwriting;

2. Non-required information mingled with required information;

## 2. Falsely or deceptively invoicing fur products by:

A. Failing to furnish to purchasers of fur products invoices showing all of the information required to be disclosed by each of the subsections of §5(b) (1) of the Fur Products Labeling Act;

B. Failing to set forth on each invoice the item number or mark assigned to a fur product;

C. Setting forth on any invoice required information in abbreviated form;

D. Failing to set forth the terms, "Dyed Mouton Processed Lamb" and "Dyed Broadtail Processed Lamb" in the manner required;

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:

## A. Fails to disclose:

1. That the fur product contains or is composed of bleached, dyed or otherwise artificially colored fur, when such is the fact;
2. That the fur product is composed in whole or in substantial part of flanks, when such is the fact;
3. The name of the country of origin of any imported furs contained in a fur product when the option afforded by Rule 38(b) is not exercised;
- B. Sets forth the name or names of any animal or animals other than the name or names specified in §5(a)(1) of the Fur Products Labeling Act;
- C. Represents directly or by implication that the prices of fur products are "below wholesale cost" when such is not the fact;
- D. Fails to set forth the term "used," where applicable, in close proximity and in type of equal size with other required information;
- E. Fails to designate the fur product as "second hand" where applicable;
4. Making pricing claims and representations in advertisements of the type referred to in Paragraph 3C above unless respondent maintains full and adequate records disclosing the facts upon which such claims or 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 25th day of May, 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.

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IN THE MATTER OF  
RITTER BROTHERS, INC., ET AL.