

corporation, and Henry Droz and Ralph Jewell, individually and as officers 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
ESTHER DOROTHY, INC., ET AL.

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

Docket 7985. Complaint, June 24, 1960—Decision, Sept. 28, 1960

Consent order requiring New York City furriers to cease violating the Fur Products Labeling Act by advertising in the Wall Street Journal and otherwise which failed to disclose the names of animals producing the fur in certain fur products or that some products contained artificially colored fur; which represented prices as reduced from fictitious "regular" prices and used "formerly" prices without designating the time when such comparative prices were effective; and by failing to keep adequate records as a basis for such pricing claims.

COMPLAINT

Pursuant to the provisions of the Federal Trade Commission Act and the Fur Products Labeling Act, and by virtue of the authority vested in it by said Acts, the Federal Trade Commission, having reason to believe that Esther Dorothy, Inc., a corporation, and

Esther Dorothy Ruben and Sidney Ruben, individually and as officers of said corporation, hereinafter referred to as respondents, have violated the provisions of said Acts and the Rules and Regulations promulgated under the Fur Products Labeling Act, and it appearing to the Commission that a proceeding by it in respect thereof would be in the public interest, hereby issues its complaint stating its charges in that respect as follows:

PARAGRAPH 1. Esther Dorothy, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the Commonwealth of Massachusetts, with its office and principal place of business located at 68 East 56th Street, New York, N.Y.

Esther Dorothy Ruben is president and treasurer of said corporation. Sidney Ruben is vice president of said corporation. These individuals control, direct and formulate the acts, practices and policies of the said corporate respondents. Their office and principal place of business is the same as that of the corporate respondent.

PAR. 2. Subsequent to the effective date of the Fur Products Labeling Act on August 9, 1952, respondents have been and are now engaged in the introduction into commerce, and in the manufacture for introduction into commerce, and in the sale, advertising, and offering for sale, in commerce, and in the transportation and distribution, in commerce, of fur products, and have manufactured for sale, sold, advertised, offered for sale, transported and distributed fur products which have been made in whole or in part of fur which had been shipped and received in commerce as the terms "commerce", "fur" and "fur product" are defined in the Fur Products Labeling Act.

PAR. 3. Certain of said fur products were falsely and deceptively advertised in violation of the Fur Products Labeling Act in that respondents caused the dissemination in commerce, as "commerce" is defined in said Act, of certain newspaper advertisements, concerning said products, which were not in accordance with the provisions of Section 5(a) of the said Act and the Rules and Regulations promulgated thereunder; and which advertisements were intended to aid, promote and assist, directly or indirectly, in the sale and offering for sale of said fur products.

PAR. 4. Among and included in the advertisements as aforesaid, but not limited thereto, were advertisements of respondents which appeared in issues of the Wall Street Journal, a newspaper published in the city of New York, State of New York and having a wide circulation in said State and various other States of the United States.

By means of said advertisements and others of similar import and meaning, not specifically referred to herein, respondents falsely and deceptively advertised fur products in that said advertisements:

(a) Failed to disclose the name or names of the animal or animals that produced the fur contained in the fur product as set forth in the Fur Products Name Guide, in violation of Section 5(a)(1) of the Fur Products Labeling Act.

(b) Failed to disclose that fur products contained or were composed of bleached, dyed or otherwise artificially colored fur, when such was the fact, in violation of Section 5(a)(3) of the Fur Products Labeling Act.

(c) Represented prices of fur products as having been reduced from regular or usual prices where the so-called regular or usual prices were in fact fictitious in that they were not the prices at which said merchandise was usually sold by respondents in the recent regular course of business in violation of Section 5(a)(5) of the Fur Products Labeling Act and Rule 44(a) of said Rules and Regulations.

(d) Used earlier comparative prices by referring to said prices as "formerly" prices, without designating the time at which said comparative prices were in effect in violation of Rule 44(b) of the aforesaid Rules and Regulations.

PAR. 5. In advertising fur products for sale as aforesaid respondents made claims and representations respecting prices and values of fur products. Respondents in making such claims and representations failed to maintain full and adequate records disclosing the facts upon which such claims and representations were based in violation of Rule 44(e) of the aforesaid Rules and Regulations.

PAR. 6. The aforesaid acts and practices of respondents, as herein alleged, are in violation of the Fur Products Labeling Act and the Rules and Regulations promulgated thereunder and constitute unfair and deceptive acts and practices in commerce within the intent and meaning of the Federal Trade Commission Act.

Mr. Charles S. Cox for the Commission.

Mr. Bernard Graber of *Zweibel & Graber*, of New York, N.Y., for respondents.

INITIAL DECISION BY HARRY R. HINKES, HEARING EXAMINER

The complaint in this matter charges the respondents with violation of the Federal Trade Commission Act and the Fur Products

Labeling Act in connection with the sale, advertising and distribution in commerce of fur products.

An agreement has now been entered into by respondents, their attorney and counsel supporting the complaint which provides, among other things, that respondents admit all the jurisdictional facts alleged in the complaint; that the record on which the initial decision and the decision of the Commission shall be based shall consist solely of the 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 respondents and when entered shall have the same force and effect as if entered after a full hearing, respondents specifically waiving all the rights they 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 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 respondents that they have violated the law as alleged in the 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 Esther Dorothy, Inc. is a corporation existing and doing business under and by virtue of the laws of the Commonwealth of Massachusetts, with its office and principal place of business located at 68 East 56th Street, in the city of New York, State of New York.

Respondents Esther Dorothy Ruben and Sidney Ruben, are officers of the corporate respondent Esther Dorothy, Inc., and formulate, direct and control the acts and practices of corporate respondent. The address of the individual respondents is the same as that of the corporate respondent.

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

Decision

57 F.T.C.

ORDER

It is ordered, That Esther Dorothy, Inc., a corporation, and its officers, and Esther Dorothy Ruben and Sidney Ruben, individually and as officers of said corporation, and respondents' representatives, agents and employees, directly or through any corporate or other device, in connection with the introduction, manufacture for introduction, 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, manufacture for sale, advertising, offering for sale, transportation or distribution of fur products which have been 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 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. 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.

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

C. Bases comparative prices on former or original prices that are not the prevailing prices at the time of the advertisement without stating the times or dates of the compared prices.

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

2. Making price claims and representations respecting prices and values of fur products unless there are maintained by respondents 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 28th day

FRED BRONNER CORPORATION, ET AL.

771

766

Decision

of September 1960, become the decision of the Commission; and,
accordingly: