

Complaint

57 F.T.C.

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.

IN THE MATTER OF
MAXINE'S, INC., ET AL.

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

Docket 7989. Complaint, June 24, 1960—Decision, Oct. 12, 1960

Consent order requiring Pittsburgh furriers to cease violating the Fur Products Labeling Act by labeling which falsely identified the animals producing certain furs and failed to set forth the term "Dyed Broadtail Lamb" where required; by advertising which failed to disclose the names of animals producing the fur in certain products or the country of origin of imported furs; and by failing in other respects to comply with labeling and invoicing requirements.

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 Maxine's, Inc., a corporation, and Louis J. Azen and Alan Azen, 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. Maxine's, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of Pennsylvania with its office and principal place of business located at 514 Wood Street, Pittsburgh, Pennsylvania. Louis J. Azen is president and Alan Azen is secretary and treasurer of the said corporate respondent. These individuals formulate, control and direct the acts, practices and policies of the said corporate respondent. Their office and principal place of business is the same as that of the said 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 sale, ad-

vertising, and offering for sale, in commerce, and in the transportation and distribution, in commerce, of fur products; and have 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 misbranded in that they were falsely and deceptively labeled or otherwise falsely and deceptively identified with respect to the name or names of the animal or animals that produced the fur from which said fur products had been manufactured, in violation of Section 4(1) of the Fur Products Labeling Act.

PAR. 4. Certain of said fur products were misbranded in that they were not labeled as required under the provisions of Section 4(2) of the Fur Products Labeling Act and in the manner and form prescribed by the Rules and Regulations promulgated thereunder.

PAR. 5. Certain of said fur products were misbranded in violation of the Fur Products Labeling Act in that they were not labeled in accordance with the Rules and Regulations promulgated thereunder in the following respects:

(a) The term Dyed Broadtail Lamb was not set forth in the manner required where an election was made to use that term instead of Dyed Lamb in violation of Rule 8 of the said Rules and Regulations.

(b) Information required under Section 4(2) of the Fur Products Labeling Act and the Rules and Regulations promulgated thereunder was mingled with non-required information, in violation of Rule 29(a) of said Rules and Regulations.

(c) Information required under Section 4(2) of the Fur Products Labeling Act and the Rules and Regulations promulgated thereunder was set forth in handwriting on labels, in violation of Rule 29(b) of said Rules and Regulations.

(d) Information required under Section 4(2) of the Fur Products Labeling Act and the Rules and Regulations promulgated thereunder was not set forth separately on labels with respect to each section of fur products composed of two or more sections containing different animal furs, in violation of Rule 36 of said Rules and Regulations.

(e) Required item numbers were not set forth on labels, in violation of Rule 40 of said Rules and Regulations.

PAR. 6. Certain of said fur products were falsely and deceptively invoiced by respondents in that they were not invoiced as required

by Section 5(b)(1) of the Fur Products Labeling Act, and in the manner and form prescribed by the Rules and Regulations promulgated thereunder.

PAR. 7. 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. 8. Among and included in the advertisements as aforesaid, but not limited thereto, were advertisements of respondents which appeared in issues of the Pittsburgh Sun Telegraph, Pittsburgh Press and Pittsburgh Post Gazette, newspapers published in the City of Pittsburgh, State of Pennsylvania, 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 the name of the country of origin of the imported furs contained in the fur product, in violation of Section 5(a)(6) of the Fur Products Labeling Act.

PAR. 9. 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 under the Federal Trade Commission Act.

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

No appearance for respondents.

INITIAL DECISION BY EARL J. KOLB, HEARING EXAMINER

The complaint in this proceeding issued June 24, 1960, charges respondents Maxine's, Inc., a Pennsylvania corporation, located at 514 Wood Street, Pittsburgh, Pennsylvania, and Louis J. Azen and Alan Azen, individually and as officers of said corporate respondent and located at the same address as said corporation, with the use of unfair and deceptive acts and practices, in commerce in violation of

the provisions of the Federal Trade Commission Act, and the Fur Products Labeling Act and the Rules and Regulations promulgated thereunder.

After the issuance of said complaint, respondents entered into an agreement containing consent order to cease and desist with counsel in support of the complaint, disposing of all the issues as to all parties in this proceeding.

It was expressly provided in said agreement that the signing thereof is for settlement purposes only and does not constitute an admission by respondents that they have violated the law as alleged in the complaint.

By the terms of said agreement, the respondents admitted all the jurisdictional facts alleged in the complaint and agreed that the record herein may be taken as if the Commission had made findings of jurisdictional facts in accordance with the allegations.

By said agreement, the parties expressly waived any further procedural steps before the hearing examiner and the Commission; the making of findings of fact or conclusions of law; and all the rights they may have to challenge or contest the validity of the order to cease and desist entered in accordance with the agreement.

Respondents further agreed that the order to cease and desist, issued in accordance with said agreement, shall have the same force and effect as if made after a full hearing.

It was further provided that said agreement, together with the complaint, shall constitute the entire record herein; that the complaint herein may be used in construing the terms of the order issued pursuant to said agreement; and that said order may be altered, modified or set aside in the manner prescribed by the statute for orders of the Commission.

The hearing examiner has considered such agreement and the order therein contained, and, it appearing that said agreement and order provides for an appropriate disposition of this proceeding, the same is hereby accepted and is ordered filed upon becoming part of the Commission's decision in accordance with Sections 3.21 and 3.25 of the Rules of Practice, and, in consonance with the terms of said agreement, the hearing examiner finds that the Federal Trade Commission has jurisdiction of the subject matter of this proceeding and of the respondents named herein, that this proceeding is in the interest of the public, and issues the following order:

ORDER

It is ordered, That Maxine's, Inc., a corporation, and its officers, and Louis J. Azen and Alan Azen, 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 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:

A. Misbranding fur products by:

1. Falsely or deceptively labeling or otherwise falsely or deceptively identifying any such product as to the name or names of the animal or animals that produced the fur from which such product was manufactured.

2. Failing to affix labels to fur products showing in words and figures plainly legible, all the information required to be disclosed by each of the subsections of Section 4(2) of the Fur Products Labeling Act.

3. Failing to set forth the term "Dyed Broadtail Lamb" where an election is made to use that term instead of dyed Lamb.

4. 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:

(a) Mingled with non-required information.

(b) In handwriting.

5. Failing to set forth separately on labels affixed to fur products composed of two or more sections containing different animal furs the information required under Section 4(2) of the Fur Products Labeling Act and the Rules and Regulations promulgated thereunder with respect to the fur comprising each section.

6. Failing to set forth on labels the item number or mark assigned to a fur product.

B. Falsely or deceptively invoicing fur products by:

1. Failing to furnish to purchasers of fur products an invoice showing all the information required to be disclosed by each of the subsections of Section 5(b)(1) of the Fur Products Labeling Act.

C. 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 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. The name of the country of origin of any imported furs contained in a fur product.

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 12th day of October 1960, become the decision of the Commission; and, accordingly:

It is ordered, That respondents herein 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