
IN THE MATTER OF
FRANK WALLECK TRADING AS WALLECK'S FUR SHOP

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

Docket 8045. Complaint, July 18, 1960—Decision, Nov. 4, 1960

Consent order requiring a Pittsburgh furrier to cease violating the Fur Products Labeling Act by removing, before delivery to the ultimate consumer, labels required to be affixed to fur products; by failing to set forth the term "Persian Lamb" as required on labels and invoices and the term "Dyed Mouton processed Lamb" on invoices, and to reveal on labels when fur products contained flanks: 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

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vested in it by said Acts, the Federal Trade Commission, having reason to believe that Frank Walleck, an individual trading as Walleck's Fur Shop, hereinafter referred to as respondent, has 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. Frank Walleck is an individual trading as Walleck's Fur Shop with his office and principal place of business located at 414 Federal Street, Pittsburgh, Pennsylvania.

PAR. 2. Subsequent to the effective date of the Fur Products Labeling Act on August 9, 1952, respondent has been and is now engaged in the 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 has 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. Respondent has removed or caused or participated in the removal of, prior to the time certain fur products were sold and delivered to the ultimate consumer, labels required by the Fur Products Labeling Act to be affixed to such products, in violation of Section 3(d) of said Act and the Rules and Regulations promulgated thereunder.

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 "Persian Lamb" was not set forth in the manner required where an election is made to use that term instead of Lamb in violation of Rule 8 of the said Rules and Regulations.

(b) Failure to disclose that fur products are composed in whole or substantially of flanks when such is the fact in violation of Rule 20 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 mingled with non-required information, in violation of Rule 29(a) 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 set forth in handwriting on labels, in violation of Rule 29(b) of said Rules and Regulations.

(e) 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.

(f) 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 respondent 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 invoiced in violation of the Fur Products Labeling Act in that they were not invoiced in accordance with the Rules and Regulations promulgated thereunder in the following respects:

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

(b) The term "Dyed Mouton processed Lamb" was not set forth in the manner required where an election is made to use that term instead of Dyed Lamb.

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

PAR. 8. The aforesaid acts and practices of respondent, 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. Garland S. Ferguson supporting the complaint.

Respondent, for himself.

INITIAL DECISION BY LEON R. GROSS, HEARING EXAMINER

On July 18, 1960, the Federal Trade Commission, pursuant to the provisions of the Federal Trade Commission Act and the Fur Products Labeling Act, caused its complaint to be issued in this proceeding, to which Frank Walleck, an individual trading as Walleck's Fur Shop, is respondent. A true copy of said complaint

was served upon the respondent as required by law. The complaint charges the respondent with violating the Federal Trade Commission Act, and the Fur Products Labeling Act and the Rules and Regulations promulgated thereunder, in the sale, advertising and offering for sale of fur products, by removing, or causing or participating in the removal from certain of said products, prior to the time they were sold and delivered to the ultimate consumer, of labels required by said Act and Rules to be attached thereto; and further, by misbranding and falsely and deceptively invoicing certain of said fur products. Respondent introduces fur products into commerce, and sells, advertises, offers for sale, transports and distributes said products in commerce; and has 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. After being served with the complaint, respondent entered into an agreement dated September 12, 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 as Frank J. Walleck (the same person named in the complaint as Frank Walleck), and by counsel supporting the complaint, and has been approved by the Director, Associate Director and Assistant Director of the Bureau of Litigation of this Commission. On September 21, 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.

Respondent, in the aforesaid agreement of September 12, 1960, has admitted all of the jurisdictional facts alleged in the complaint and agreed that the record may be taken as if findings of such 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 he may have to challenge or contest the validity of the order to cease and desist entered in accordance with the agreement. In the said agreement the parties, *inter alia*, agree 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 order to cease and desist issued in accordance with the said agreement shall have the same force and effect as if entered after a full hearing; that the order may be altered, modified or set aside in the manner provided for other orders;

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that the complaint may be used in construing the terms of the order; and that said agreement is for settlement purposes only and does not constitute an admission by the respondent that he has violated the law as alleged in the complaint.

This proceeding now having come on for final consideration on the complaint and the aforesaid agreement of September 12, 1960, containing consent order, and it appearing that the order provided for in said agreement covers all of the allegations of the complaint and provides for an appropriate disposition of this proceeding as to all parties, the aforesaid agreement of September 12, 1960, is hereby accepted and approved as complying with § 3.21 and § 3.25 of the Commission's Rules of Practice for Adjudicative Proceedings.

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. That the Federal Trade Commission has jurisdiction over the parties and the subject-matter of this proceeding;

2. Frank Walleck is an individual trading as Walleck's Fur Shop, with his office and principal place of business located at 414 Federal Street, Pittsburgh, Pennsylvania. Respondent presently is, and subsequent to the effective date of the Fur Products Labeling Act on August 9, 1952, has been engaged in the 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 has 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.

3. Respondent is engaged in commerce as "commerce" is defined in the Federal Trade Commission Act.

4. The complaint herein 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 Regulations promulgated thereunder. This proceeding is in the public interest.

ORDER

It is ordered. That respondent Frank Walleck, an individual trading as Walleck's Fur Shop or under any other trade name, 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. Removing, or causing to be removed or participating in the removal of labels required to be affixed to fur products, prior to the time fur products are sold, and delivered to the ultimate purchaser of such fur products, unless proper substitute labels are affixed to such fur products in accordance with § 3(e) of said Act;

2. 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 the term "Persian Lamb" where an election is made to use that term instead of Lamb;

C. Failing to disclose that fur products are composed in whole or in substantial part of paws, tails, bellies, sides, flanks, gills, ears, throats, heads, scrap pieces, or waste fur when such is the fact;

D. Setting forth on labels affixed to fur products:

(1) Information required under § 4(2) of the Fur Products Labeling Act and the Rules and Regulations promulgated thereunder mingled with non-required information;

(2) Information required under § 4(2) of the Fur Products Labeling Act and the Rules and Regulations promulgated thereunder in handwriting;

E. 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 § 4(2) of the Fur Products Labeling Act and the Rules and Regulations promulgated thereunder with respect to the fur comprising each section;

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

3. Falsely or 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;

B. Failing to set forth the term Persian Lamb where an election is made to use that term instead of Lamb;

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C. Failing to set forth the term Dyed Mouton processed Lamb where an election is made to use that term instead of Dyed Lamb;

D. Failing to set forth on invoices the item number or mark assigned to 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 4th day of November, 1960, become the decision of the Commission; and, accordingly:

It is ordered, That respondent Frank Walleck, an individual trading as Walleck's Fur Shop, shall, within 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.
