

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

Docket 7990. Complaint, June 24, 1960—Decision, Nov. 24, 1960

Consent order requiring Buffalo, N.Y., furriers to cease violating the Fur Products Labeling Act by failing to set forth the term "Dyed Broadtail processed Lamb" on invoices as required, and by failing in other respects to comply with invoicing and labeling provisions.

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 Slotkin's, Inc., a corporation, and Sidney Main and Florence Main, 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. Slotkin's, 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 15 East Mohawk Street, Buffalo, New York.

Sidney Main is vice president of the said corporate respondent and Florence Main is secretary-treasurer of the said corporate respondent. These individuals control, formulate 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, advertising, 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 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. 4. 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) Labels affixed to fur products did not comply with the minimum size requirements of one and three-quarter inches by two and three-quarter inches, in violation of Rule 27 of 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 mindled 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 not completely set out on one side of labels, 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 smaller than pica or twelve point type in violation of Rule 29(a) of said Rules and Regulations.

PAR. 5. 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. 6. 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 that the term "Dyed Broadtail processed 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 10 of said Rules and Regulations.

PAR. 7. 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.

DeWitt T. Puckett, Esq., supporting the complaint.

Adelbert Fleischman, Esq., of *Jaechle, Fleischman, Kelly, Swart and Augspurger*, of Buffalo, N.Y., for respondents.

INITIAL DECISION BY LEON R. GROSS, HEARING EXAMINER

On June 24, 1960, the Federal Trade Commission issued a complaint against the above-named respondents, in which they were charged with violating the Federal Trade Commission Act, and the Fur Products Labeling Act and the Rules and Regulations promulgated thereunder by, among other things, misbranding by failing to label, affixing labels which fail to comply with minimum size requirements, mingling required with non-required information, failing to set out completely on one side of a label information required by the law and rules and regulations promulgated thereunder,

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setting forth required information in smaller type than is permitted by law, and falsely and deceptively invoicing fur products sold by respondents in interstate commerce. A true and correct copy of the complaint was served upon the respondents and each and all of them, as required by law. Thereafter respondents appeared by counsel and agreed to dispose of this proceeding without a formal hearing pursuant to the terms of an agreement dated September 14, 1960, containing consent order to cease and desist. The agreement was submitted to the undersigned hearing examiner on September 28, 1960, in accordance with § 3.25 of the Commission's Rules of Practice for Adjudicative Proceedings. The agreement purports to dispose of this proceeding as to the respondents and each and all of them and contains the form of a consent cease-and-desist order which the parties have represented is dispositive of the issues involved in this proceeding. The agreement has been signed by the corporate respondent by its president, by the individual respondents individually and as officers of said corporation, by the attorneys for the respondents, by counsel supporting the complaint, and has been approved by the Assistant Director, Associate Director and Acting Director of the Bureau of Litigation of the Federal Trade Commission. In said agreement of September 14, 1960, respondents admit all of the jurisdictional facts alleged in the complaint and agree that the record may be taken as if findings of jurisdictional facts had been made in accordance with such allegations. In the agreement the respondents waive: (a) any further procedural steps before the hearing examiner and the Commission; (b) the making of findings of fact or conclusions of law; and (c) all rights respondents may have to challenge or contest the validity of the order to cease and desist entered in accordance with the agreement.

The parties further agree, in said agreement, 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 agreement shall not become a part of the official record unless and until it becomes a part of the decision of the Federal Trade Commission; that the order to cease and desist entered in this proceeding by the Commission may be entered without further notice to the respondents, and when so entered such order will have the same force and effect as if entered after a full hearing. Said order may be altered, modified or set aside in the manner provided for other orders. The complaint may be used in construing the terms of the order.

The parties have covenanted that the said agreement is for settlement purposes only and does not constitute an admission by the

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respondents that they have violated the law as alleged in the complaint.

This proceeding having now come on for final consideration on the complaint and the aforesaid agreement of September 14, 1960, containing consent order, and it appearing that the order which is approved in and by said agreement disposes of all the issues presented by the complaint as to all of the parties involved, said agreement of September 14, 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 findings and issues the following order:

FINDINGS

1. The Federal Trade Commission has jurisdiction over the parties and the subject matter of this proceeding;
2. Respondent Slotkin's, Inc., is a corporation 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 15 East Mohawk Street, Buffalo, New York;
3. Individual respondents Sidney Main and Florence Main are officers of the corporate respondent and as such, formulate, direct and control the acts, practices and policies of the corporate respondent, their address being the same as that of the corporate respondent;
4. Respondents are engaged in commerce as "commerce" is defined in the Federal Trade Commission Act and the Fur Products Labeling Act;
5. The complaint filed herein states a cause of action against the respondents under the Federal Trade Commission Act and under the Fur Products Labeling Act and the Rules and Regulations issued pursuant thereto; and this proceeding is in the public interest. Now, therefore,

It is ordered, That Slotkin's, Inc., a corporation, and its officers, and Sidney Main and Florence Main, 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:

1. Misbranding fur products by:

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

B. Affixing to fur products labels that do not comply with the minimum size requirements of one and three-quarter inches by two and three-quarter inches;

C. Setting forth on labels affixed to fur products information required under § 4(2) of the Fur Products Labeling Act and the Rules and Regulations promulgated thereunder mingled with non-required information;

D. Failing to set forth on labels affixed to fur products all the information required to be disclosed by § 4(2) of the Fur Products Labeling Act and the Rules and Regulations promulgated thereunder on one side of such labels;

E. Failing to set forth the information required under § 4(2) of the Fur Products Labeling Act and the Rules and Regulations promulgated thereunder in a legible manner and in not smaller than pica or twelve point type;

2. 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 on invoices the term "Dyed Broadtail processed Lamb" where an election is made to use that term instead of Dyed Lamb.

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 24th day of November 1960, become the decision of the Commission; and, accordingly:

It is ordered, That respondents Slotkin's, Inc., a corporation, and Sidney Main and Florence Main, 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.

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IN THE MATTER OF

HOLT, RINEHART AND WINSTON, INC.

CONSENT ORDER, ETC., IN REGARD TO THE ALLEGED VIOLATION OF THE
FEDERAL TRADE COMMISSION ACT*Docket 8042. Complaint, July 13, 1960—Decision, Nov. 24, 1960*

Consent order requiring New York City publishers to cease representing falsely in advertising that the book "Folk Medicine" by Dr. D. C. Jarvis, which they published, was an effective treatment, cure, and prevention for a long list of ailments and diseases, was a guide to good health, and had been scientifically tested.

COMPLAINT

Pursuant to the provisions of the Federal Trade Commission Act and by virtue of the authority vested in it by said Act, the Federal Trade Commission, having reason to believe that Holt, Rinehart and Winston, Inc., a corporation, hereinafter referred to as respondent, has violated the provisions of said 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. Respondent Holt, Rinehart and Winston, Inc., is a corporation organized and existing under and by virtue of the laws of the State of Delaware, with its principal office and place of business located at 383 Madison Avenue, in the City of New York, State of New York. The name of this corporation was formerly Henry Holt and Company, Inc.

PAR. 2. Respondent is now, and for more than three years last past has been, engaged in the publication, distribution and sale of books. Respondent causes said books when sold to be transported from its place of business in New York, New York to purchasers thereof located in various other States of the United States and in the District of Columbia. Respondent maintains, and at all times mentioned herein has maintained, a course of trade in said books in commerce among and between the various States of the United States and in the District of Columbia. Respondent's volume of business in the sale of said books in commerce is, and has been, substantial.

Among said books, caused to be sold and distributed as aforesaid, is a book entitled "Folk Medicine" by Dr. D. C. Jarvis.

PAR. 3. In the course and conduct of its business as aforesaid, respondent has made many statements concerning said book "Folk