

as Gabby's Auto Discount and Gabriel Bobrow, alias Gabby McCoy, individually and as an officer 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
JOSEPH LURIA TRADING AS
LURIA'S

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

Docket 8048. Complaint, July 18, 1960—Decision, Feb. 9, 1961

Consent order requiring Philadelphia furriers to cease violating the Fur Products Labeling Act by affixing to fur products labels containing fictitious prices, represented falsely thereby as the regular retail selling price, and by failing to comply in other respects with advertising, invoicing, and labeling 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 Joseph Luria, an individual trading as Luria's, 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. Joseph Luria is an individual trading as Luria's, with his office and principal place of business located at 5724 North Broad Street, in the City of Philadelphia, State of 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. Certain of said fur products were misbranded in that labels affixed thereto contained fictitious prices and misrepresented the regular retail selling prices of such fur products in that the prices represented on such labels as the regular prices of the fur products were in excess of the retail prices at which the respondent usually and regularly sold such fur products in the recent regular course of its business, 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 that information required under Section 4(2) of the Fur Products Labeling Act and the Rules and Regulations promulgated thereunder was not set forth in the required sequence in violation of Rule 30 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 that information required under Section 5(b)(1) of the Fur Products Labeling Act and the Rules and Regulations promulgated thereunder was set forth in abbreviated form in violation of Rule 4 of said Rules and Regulations.

PAR. 8. Certain of said fur products were falsely and deceptively advertised in that respondent on labels affixed to fur products made representations and gave notices concerning said fur products which representations and notices were not in accordance with the provisions of Section 5(a) of the Fur Products Labeling Act and the Rules and Regulations promulgated thereunder; and which representations and notices were intended to aid, promote and assist, directly or indirectly in the sale and offering for sale of said fur products.

By means of said representations and notices contained on the labels affixed to fur products, and others of similar import and meaning not specifically referred to herein, respondent falsely and deceptively advertised fur products in that respondent thereby made representations as to the prices of fur products which prices were, in fact, fictitious, in violation of Section 5(a)(5) of the Fur Products Labeling Act and Rule 44(a) of said Rules and Regulations.

PAR. 9. Respondent, in making pricing claims and representations, respecting fur products 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 said Rules and Regulations.

PAR. 10. 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.

Garland S. Ferguson, Esq., supporting the complaint.

Burton Caine, Esq., of *Wolf, Block, Schorr and Solis-Cohen*, of Philadelphia, for respondent.

INITIAL DECISION BY LEON R. GROSS, HEARING EXAMINER

On July 18, 1960, the Federal Trade Commission issued a complaint against the above-named respondent, in which he was 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 in accordance with the Fur Products Labeling Act and the Rules and Regulations promulgated thereunder, falsely and deceptively invoic-

ing, and falsely and deceptively advertising fur products sold by respondent in interstate commerce. A true and correct copy of the complaint was served upon the respondent, as required by law. Thereafter respondent appeared by counsel and agreed to dispose of this proceeding without a formal hearing pursuant to the terms of an agreement dated December 5, 1960, containing consent order to cease and desist. The agreement was submitted to the undersigned hearing examiner on December 20, 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 all parties 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 respondent, the attorneys for both parties, and has been approved by the Assistant Director, Associate Director and Director of the Bureau of Litigation of the Federal Trade Commission. In said agreement respondent admits all of the jurisdictional facts alleged in the complaint and agrees that the record may be taken as if findings of jurisdictional facts had been made in accordance with such allegations. In the agreement the respondent waives: (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 respondent 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 respondent, 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 respondent that he has 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 December 5, 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

Findings

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complaint as to all of the parties involved, said agreement of December 5, 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 Joseph Luria is an individual trading and doing business as Luria's, with his office and principal place of business located at 5724 North Broad Street, City of Philadelphia, State of Pennsylvania;

3. Respondent is engaged in commerce as "commerce" is defined in the Federal Trade Commission Act and the Fur Products Labeling Act;

4. The complaint filed herein states a cause of action against the respondent 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 Joseph Luria, an individual trading as Luria's, or 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. Misbranding fur products by:

A. Falsely or deceptively labeling or otherwise falsely or deceptively identifying any such product as to respondent's regular price thereof by any representation that respondent's regular or usual price of any such product is any amount in excess of the price at which respondent has usually and customarily sold such product in the recent regular course of business;

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

C. Failing to set forth the information required under Section 4(2) of the Fur Products Labeling Act and the Rules and Regulations promulgated thereunder in the required sequence.

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 Section 5(b)(1) of the Fur Products Labeling Act;

B. Setting forth information required under Section 5(b)(1) of the Fur Products Labeling Act and the Rules and Regulations promulgated thereunder in abbreviated form.

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:

Represents directly or by implication that respondent's regular or usual price of any fur product is any amount which is in excess of the price at which respondent has usually and customarily sold such product in the recent regular course of business.

4. Making claims and representations respecting prices and values of fur products unless respondent maintains 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 9th day of February 1961, become the decision of the Commission; and, accordingly:

It is ordered, That respondent Joseph Luria, an individual trading as Luria's, 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.

Complaint

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IN THE MATTER OF

MARY-MAC, INCORPORATED, ET AL.

CONSENT ORDER, ETC., IN REGARD TO THE ALLEGED VIOLATION OF THE
FEDERAL TRADE COMMISSION ACT*Docket 8073. Complaint, Aug. 10, 1960—Decision, Feb. 9, 1961*

Consent order requiring Dallas, Tex., distributors of its "Mary-Mac Relax-O-Motor Motorized" devices consisting of motordriven cushions, tables, chairs, mattresses, and belts, to cease representing falsely in advertising that use of said devices would effect a general loss of body weight and a localized loss of weight to waist, hips, legs, and other body areas; would tone the muscles and result in a firmer figure.

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 Mary-Mac, Incorporated, a corporation, and Harry H. McDaniel, H. J. McDaniel, and Mary McDaniel, individually and as officers of said corporation, hereinafter referred to as respondents, have 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 Mary-Mac, Incorporated is a corporation organized, existing and doing business under and by virtue of the laws of the State of Texas with its office and principal place of business located at 1012-14 Powhattan Street, Dallas, Texas.

Respondents Harry H. McDaniel, H. J. McDaniel and Mary McDaniel are the officers of corporate respondent who formulate, direct and control its activities including the acts and practices hereinafter set forth. Their business address is the same as that of the corporate respondent.

PAR. 2. Respondents are now, and for some time past have been, engaged in the advertising, offering for sale, sale and distribution of mechanical vibrating equipment and furniture including motor driven cushions, tables, chairs, mattresses and belts. Said equipment is advertised and sold under the name "Mary-Mac Relax-O-Motor Motorized". Each of respondents' mechanical vibrating products is a "device" as that word is defined in the Federal Trade Commission Act.

PAR. 3. Respondents cause the said devices, when sold, to be transported from their place of business in the State of Texas to