

IN THE MATTER OF

JOHN J. TIERNEY TRADING AS ARTISAN GALLERIES

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

Docket 8172. Complaint, Nov. 14, 1960—Decision, Feb. 16, 1961

Consent order requiring Dallas, Tex., furriers to cease violating the Fur Products Labeling Act by advertising which failed to disclose the names of animals producing certain furs or falsely identified the animals, and by failing to invoice furs with all required information.

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 John J. Tierney, an individual trading as Artisan Galleries, 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. John J. Tierney is an individual trading as Artisan Galleries, with his office and principal place of business located at 2100 North Haskell Avenue, Dallas, Texas.

PAR. 2. Subsequent to the effective date of the Fur Products Labeling Act on August 9, 1952, respondent 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 as the term "fur" and "commerce" are defined in the Fur Products Labeling Act.

PAR. 3. Certain of said furs were falsely and deceptively invoiced by the 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. 4. Certain of said furs were falsely and deceptively advertised in violation of the Fur Products Labeling Act in that respondent caused the dissemination in commerce, as "commerce" is defined in said Act, of certain advertisements concerning said furs which were not in accordance with the provisions of Section 5 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 furs.

PAR. 5. Among and included in the advertisements as aforesaid but not limited thereto, were advertisements of respondent which appeared in magazines, cards and catalogs which were distributed in commerce.

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

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

B. Falsely or deceptively identified said furs with respect to the name or names of the animal or animals that produced the fur in violation of Section 5(a)(5) of the Fur Products Labeling Act.

PAR. 6. 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. Michael P. Hughes, for the Commission.

Mr. Richard S. Chambers, of Dallas, Tex., for respondent.

INITIAL DECISION BY ABNER E. LIPSCOMB, HEARING EXAMINER

The complaint herein was issued on November 14, 1960, charging Respondent with falsely and deceptively invoicing and advertising certain of his furs, in violation of the Federal Trade Commission Act, and of the Fur Products Labeling Act and the Rules and Regulations promulgated thereunder.

Thereafter, on December 22, 1960, Respondent, his counsel, and counsel supporting the complaint herein entered into an Agreement Containing Consent Order To Cease And Desist, which was approved by the Acting Director, Associate Director and Assistant Director of the Commission's Bureau of Litigation, and thereafter, on December 29, 1960, submitted to the Hearing Examiner for consideration.

The agreement identifies Respondent John J. Tierney as an individual trading as Artisan Galleries, with his office and principal place of business located at 2100 North Haskell Avenue, Dallas, Texas.

Respondent admits all the jurisdictional facts alleged in the complaint, and agrees that the record may be taken as if findings of

jurisdictional facts had been duly made in accordance with such allegations.

Respondent waives any further procedure before the Hearing Examiner and the Commission; the making of findings of fact and 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. All parties 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, as contained in the agreement, when it shall have become a part of the decision of the Commission, shall have the same force and effect as if entered after a full hearing, and may be altered, modified or set aside in the manner provided for other orders; that the complaint herein may be used in construing the terms of said order; and that the 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.

After consideration of the allegations of the complaint, and the provisions of the agreement and the proposed order, the Hearing Examiner is of the opinion that such order constitutes a satisfactory disposition of this proceeding. Accordingly, in consonance with the terms of the aforesaid agreement, the Hearing Examiner accepts the Agreement Containing Consent Order To Cease And Desist; finds that the Commission has jurisdiction over the Respondent and over his acts and practices as alleged in the complaint; and finds that this proceeding is in the public interest. Therefore,

It is ordered, That John J. Tierney, an individual trading as Artisan Galleries 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 any fur as "fur" and "commerce" are defined in the Fur Products Labeling Act do forthwith cease and desist from:

1. Falsely or deceptively invoicing fur by:

- A. Failing to furnish to purchasers of fur invoices showing all the information required to be disclosed by each of the subsections of §5(b)(1) of the Fur Products Labeling Act;

2. Falsely or deceptively advertising furs through the use of any advertisement, representation, public announcement, or notice which is intended to aid, promote or assist, directly or indirectly, in this sale, or offering for sale of furs, and which:

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A. Fails to disclose the name or names of the animal or animals producing the furs as set forth in the Fur Products Name Guide and as prescribed under the Rules and Regulations promulgated under the Fur Products Labeling Act;

B. Falsely or deceptively identifies any such fur as to the name or names of the animal or animals that produced the fur.

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 16th day of February, 1961, become the decision of the Commission; and, accordingly:

It is ordered. That respondent John J. Tierney, an individual trading as Artisan Galleries shall within sixty (60) days after