

Complaint

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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
BILLIE LEBOW, INC., ET AL.

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

Docket 8252. Complaint, Dec. 29, 1960—Decision, Apr. 18, 1961

Consent order requiring New York City furriers to cease violating the Fur Products Labeling Act by pricing fur products fictitiously on invoices, by failing in other respects to observe invoicing and advertising requirements, and by failing to keep adequate records as a basis for pricing and savings claims made in advertising.

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 Billie Lebow, Inc., a corporation, Furs by Billie, Ltd., a corporation, and Billie Lebow, individually and as an officer of said corporations, 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. Billie Lebow, Inc. and Furs by Billie, Ltd., are corporations organized, existing and doing business under and by virtue of the laws of the State of New York with their offices and principal places of business located at 333 Seventh Avenue, New York, New York.

Billie Lebow is president of both the said corporate respondents and controls, formulates and directs the acts, practices and policies of the said corporate respondents. Her office and principal place of business is the same as that of the said corporate respondents.

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 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. 4. Certain of said fur products were falsely and deceptively invoiced in that the respondents, on invoices, made representations as to the prices of fur products, which prices were in fact fictitious, in violation of Section 5(b)(2) of the Fur Products Labeling Act.

PAR. 5. Certain of said fur products were falsely and deceptively advertised in that the respondents, on consignment invoices, 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.

PAR. 6. Respondents in making pricing and savings claims and representations in advertisements 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 Rules and Regulations under the Fur Products Labeling Act.

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.

Mr. Charles W. O'Connell and Mr. David J. McKean for the Commission.

Respondents, pro se.

INITIAL DECISION BY JOHN B. POINDEXTER, HEARING EXAMINER

On December 29, 1960, the Federal Trade Commission issued a complaint charging the above-named respondents with falsely and deceptively invoicing and advertising certain of their said fur prod-

Findings

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ucts in violation of the Federal Trade Commission Act and the Fur Products Labeling Act.

After issuance and service of the complaint, the respondents and counsel supporting the complaint entered into an agreement for a consent order. The agreement has been approved by the Director, Associate Director and the Assistant Director of the Bureau of Litigation. The agreement disposes of the matters complained about.

The pertinent provisions of said agreement are as follows: Respondents admit all jurisdictional facts; the complaint may be used in construing the terms of the order; the order shall have the same force and effect as if entered after a full hearing and the said agreement shall not become a part of the official record of the proceeding unless and until it becomes a part of the decision of the Commission; the record herein shall consist solely of the complaint and the agreement; respondents waive the requirement that the decision must contain a statement of findings of fact and conclusions of law; respondents waive further procedural steps before the hearing examiner and the Commission, and the order may be altered, modified, or set aside in the manner provided by statute for other orders; respondents waive any right to challenge or contest the validity of the order entered in accordance with the agreement and the signing of said agreement is for settlement purposes only and does not constitute an admission by respondents that they have violated the law as alleged in the complaint.

The undersigned hearing examiner having considered the agreement and proposed order, hereby accepts such agreement, makes the following jurisdictional findings, and issues the following order:

JURISDICTIONAL FINDINGS

1. Respondent Billie Lebow, 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 333 Seventh Avenue, in the City of New York, State of New York.

2. Respondent Furs by Billie, Ltd., 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 333 Seventh Avenue, in the City of New York, State of New York.

3. Individual respondent Billie Lebow is president of both the said corporate respondents and controls, formulates and directs the acts, practices and policies of the said corporate respondents. Her office and principal place of business is the same as that of the said corporate respondents.

4. The Federal Trade Commission has jurisdiction of the subject matter of this proceeding and of the respondents hereinabove named and the proceeding is in the public interest.

ORDER

It is ordered, That respondents Billie Lebow, Inc., a corporation, and its officers, and Furs by Billie, Ltd., a corporation, and its officers, and Billie Lebow, individually and as an officer of said corporations, 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. Falsely or deceptively invoicing fur products by:

A. Failing to furnish invoices to purchasers of fur products showing in words and figures plainly legible all the information required to be disclosed by each of the subsections of Section 5(b)(1) of the Fur Products Labeling Act.

B. Representing directly or by implication on invoices that the regular or usual prices of any fur product is any amount which is in excess of the price at which respondents have usually and customarily sold such products in the recent regular course of business.

2. 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:

A. Represents directly or by implication that the regular or usual price of any fur product is any amount which is in excess of the price at which respondents have usually and customarily sold such products in the recent regular course of business.

B. Misrepresents in any manner the savings available to purchasers of respondents' fur products.

3. Making pricing claims or representations respecting prices and values of fur products unless respondents maintain 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 18th day of