

THE HARRIS COMPANY ET AL.

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

Docket 8358. Complaint, Apr. 14, 1961—Decision, Aug. 23, 1961

·Consent order requiring San Bernardino, Calif., furriers to cease violating the
Fur Products Labeling Act by advertising in newspapers which failed to
disclose the names of animals producing certain furs and represented
prices as reduced from purported regular prices which were, in fact, fic-

titious, and as reduced in stated percentages; by failing to keep adequate records as a basis for price and value claims; and by failing to comply with 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 vested in it by said Acts, the Federal Trade Commission, having reason to believe that The Harris Company, a corporation, and Melville D. Harris, individually and as an officer of said corporation, and Carlo Charles Marchese, individually and as an employee of the 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. The Harris Company is a corporation organized, existing and doing business under and by virtue of the laws of the State of California with its office and principal place of business located at Third and E Streets, San Bernardino, California.

Melville D. Harris is an officer of said corporation and Carlo Charles Marchese is general merchandise manager of the said corporate respondent. These individuals control, direct and formulate the acts, practices and policies of the fur department of the said corporate respondent including the practices hereinafter set forth. 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 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 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) 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.

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

PAR. 5. Certain of said Fur products were falsely and deceptively advertised in violation of the Fur Products Labeling Act in that respondents caused the dissemination in commerce, as "commerce" is defined in said Act, of certain newspaper advertisements, concerning said products, which were not in accordance with the provisions of Section 5(a) 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 fur products.

PAR. 6. Among and included in the advertisements as aforesaid, but not limited thereto, were advertisements of respondents which appeared in issues of the San Bernardino Sun Telegram, a newspaper published in the City of San Bernardino, State of California, and having a wide circulation in said State and various other States of the United States.

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

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

(b) Represented prices of fur products as having been reduced from regular or usual prices where the so-called regular or usual prices were in fact fictitious in that they were not the prices at which said merchandise was usually sold by respondents in the recent regular course of business, in violation of Section 5(a)(5) of the Fur Products Labeling Act and Rule 44(a) of said Rules and Regulations.

(c) Represented directly or by implication through the use of percentage savings claims such as "Fabulous fur sale $\frac{1}{3}$ to $\frac{1}{2}$ off" that the regular or usual prices charged by respondents for fur

products were reduced in direct proportion to the percentage of savings stated when such was not the fact in violation of Section 5(a)(5) of the Fur Products Labeling Act.

PAR. 7. In advertising fur products for sale respondents made claims and representations respecting prices and values of fur products. Respondents in making such claims and representations 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 aforesaid rules and regulations.

PAR. 8. 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. Anthony J. Kennedy, Jr., for the Commission.

Surr & Hellyer, by *Mr. William S. Hellyer*, San Bernardino, Calif., for the respondents.

INITIAL DECISION BY EDGAR A. BUTTLE, HEARING EXAMINER

On April 14, 1961, the Federal Trade Commission issued its complaint against the above-named respondents charging them with violation of the provisions of the Federal Trade Commission Act and the Fur Products Labeling Act and the Rules and Regulations promulgated under said Fur Products Labeling Act in connection with the introduction into commerce, and the sale, advertising and offering for sale, transportation and distribution of fur products.

On June 9, 1961, the respondents and counsel supporting the complaint entered into an agreement containing a consent order to cease and desist in accordance with Section 3.25(a) of the Rules of Practice and Procedure of the Commission.

Under the foregoing agreement, the respondents admit the jurisdictional facts alleged in the complaint and agree among other things, that the cease and desist order there set forth may be entered without further notice and shall have the same force and effect as if entered after a full hearing. The agreement includes a waiver by the respondents of all rights to challenge or contest the validity of the order issuing in accordance therewith; and recites that the said agreement shall not become a part of the official record unless and until it becomes a part of the decision of the Commission, and that it is for settlement purposes only, does not constitute an admission

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by the respondents that they have violated the law as alleged in the complaint, and that said complaint may be used in construing the terms of the order. The hearing examiner finds that the content of the said agreement meets all of the requirements of Section 3.25 (b) of the Rules of Practice.

This proceeding having now come on for final consideration by the hearing examiner on the complaint and the aforesaid agreement for consent order, and it appearing that said agreement provides for an appropriate disposition of this proceeding, the aforesaid agreement is hereby accepted and is ordered filed upon becoming part of the Commission's decision in accordance with Section 3.21 of the Rules of Practice; and in consonance with the terms of said agreement, the hearing examiner makes the following jurisdictional findings and order:

1. Respondent The Harris Company is a corporation, organized, existing and doing business under and by virtue of the laws of the State of California with its office and principal place of business located at Third and E Streets, San Bernardino, California.

Respondent Melville D. Harris is an officer of the corporate respondent and Carlo Charles Marchese is the General Merchandise Manager of the corporate respondent. These individuals formulate, direct and control the acts and practices of the corporate respondent. Their address is the same as that of the corporate respondent.

2. The Federal Trade Commission has jurisdiction of the subject matter of this proceeding and of the respondents hereinabove named. The complaint states a cause of action against said respondents under the Federal Trade Commission Act, and this proceeding is in the interest of the public.

ORDER

It is ordered, That The Harris Company, a corporation and its officers, and Melville D. Harris, individually and as an officer of said corporation, and Carlo Charles Marchese, individually and as an employee of the 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 "com-

merce", "fur" and "fur product" are defined in the Fur Products Labeling Act, do forthwith cease and desist from:

1. Falsely and deceptively invoicing fur products by:

A. Failure 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.

C. Failing to set forth on invoices the item number or mark assigned to a fur product.

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. Fails to disclose the name or names of the animal or animals producing the fur or furs contained in the fur product as set forth in the Fur Products Name Guide and as prescribed under the said rules and regulations.

B. Represents, directly or by implication, 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.

C. Represents, directly or by implication, through percentage savings claims, such as "Fabulous fur sale $\frac{1}{3}$ to $\frac{1}{2}$ off" or words of like import, that the regular or usual prices charged by respondents for fur products in the recent regular course of business were reduced in direct proportion to the amount of savings stated, when contrary to the fact.

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

3. Making claims and 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 23d day of

August 1961, become the decision of the Commission; and, accordingly: