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Complaint

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

BAKER MERCHANDISING CORPORATION ET AL.

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

Docket 8355. Complaint, Apr. 14, 1961—Decision, Sept. 12, 1961

Consent order requiring New York City furriers to cease violating the Fur Products Labeling Act by advertising in newspapers which failed to disclose names of animals producing the fur contained in fur products or that some products contained artificially colored fur, and failed to use the term "Dyed Broadtail-processed Lamb" as required, and which represented prices of fur products as reduced from so-called regular prices which were in fact fictitious; and by failing to keep adequate records as a basis for pricing claims.

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 Baker Merchandising Corporation, a corporation, and Samuel B. Baker, Robert C. Baker and Lawrence Rawlings, 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. Respondent Baker Merchandising Corporation 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 224 West 30th Street, New York, New York.

Respondents Samuel B. Baker, Robert C. Baker and Lawrence Rawlings are president-treasurer, vice president, and secretary, respectively, of the said corporate respondent. These individuals control, formulate and direct the acts, practices and policies of the said corporate respondent. Their offices and principal place of business are the same as that of the said corporate respondent.

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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 manufacture for 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 manufactured for sale, 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 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 product.

PAR. 4. Among and included in the advertisements as aforesaid, but not limited thereto, were advertisements of respondents which appeared in issues of The Salt Lake Tribune, a newspaper published in the City of Salt Lake City, State of Utah, 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) Failed to disclose that fur products contained or were composed of bleached, dyed or otherwise artificially colored fur, when such was the fact, in violation of Section 5(a)(3) of the Fur Products Labeling Act.

(c) Failed to use the term "Dyed Broadtail-processed Lamb" as required, in violation of Rule 10 of said Rules and Regulations.

(d) Represented prices of fur products has 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.

PAR. 5. In making the pricing claims and representations set forth in subparagraph (d) of Paragraph Four hereof, respondents 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 said Rules and Regulations.

PAR. 6. 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. Harry E. Middleton, Jr., for the Commission.

Respondents, *pro se*.

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 18, 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 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 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

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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 Baker Merchandising Corporation 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 224 West 30th Street, in the City of New York, State of New York.

Respondents Samuel B. Baker, Robert C. Baker and Lawrence Rawlings are individuals and officers of said corporate respondent. They formulate, direct and control the policies, 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 Baker Merchandising Corporation, a corporation, and its officers and Samuel B. Baker, Robert C. Baker and Lawrence Rawlings 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 manufacture for introduction into commerce, or the sale, advertising, offering for sale, transportation or distribution in commerce of fur products, or in connection with the sale, manufacture for sale, advertising, offering for sale, transportation or distribution of fur products which have been made in whole or in part of fur which has been shipped and received in commerce as "commerce", "fur" and "fur products" are defined in the Fur Products Labeling Act do forthwith cease and desist from:

1. 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:

(1) The name or names of the animal or animals producing the fur or furs contained in the fur products as set forth in the Fur Products Name Guide and as prescribed under the rules and regulations.

(2) That the fur product contains or is composed of bleached, dyed or otherwise artificially colored fur when such is the fact.

B. Fails to set forth the terms "Dyed Broadtail Processed Lamb" in the manner required.

C. 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.

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

2. Making price claims and representations of the types referred to in paragraphs C and D above 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

This matter having come on to be heard by the Commission upon its review of the initial decision filed by the hearing examiner on July 21, 1961, and the Commission having determined that said initial decision is adequate and appropriate in all respects to dispose of this proceeding:

It is ordered, That the aforesaid initial decision be, and it hereby is, adopted as the decision of the Commission.

It is further ordered, That respondents herein 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.