

Complaint

59 F.T.C.

IN THE MATTER OF

M. COHEN & SON COATS & SUITS, INC., ET AL.

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

Docket 8386. Complaint, May 4, 1961—Decision, Sept. 19, 1961

Consent order requiring New York City furriers to cease violating the Fur Products Labeling Act by using the name "Golden Glory Fox", registered trademark of another person, to describe their "Bleached Blue Fox" on labels and invoices, and by failing to comply in other respects with labeling and 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 M. Cohen & Son Coats & Suits, Inc., a corporation, and Max Cohen and Irving Elkin, 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 M. Cohen & Son Coats & Suits, Inc., 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 225 West 37th Street, New York, New York.

Respondents Max Cohen and Irving Elkin are officers of the said corporate respondent and control, direct and formulate the acts, practices and policies of the corporate respondent. Their address is the same as that of the 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 manufacture for introduction into commerce, and in the sale, advertising, offering for sale, 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 com-

merce 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 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. 4. Certain of said fur products were misbranded by being falsely and deceptively labeled in violation of Section 4(1) of the Fur Products Labeling Act in that respondents used the name "Golden Glory Fox" to describe "Bleached Blue Fox" thereby tending to lead the public to believe it was a "Golden Glory" fox, which was not the fact, "Golden Glory" being a registered trademark of another person for a certain species of the fox family.

PAR. 5. 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. 6. Certain of said fur products were falsely and deceptively invoiced in violation of Section 5(b) (2) of the Fur Products Labeling Act in that respondents used the name "Golden Glory Fox" to describe "Bleached Blue Fox" thereby tending to lead the public to believe it was a "Golden Glory" fox, which was not the fact, "Golden Glory" being a registered trademark of another person for a certain species of the fox family.

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 the item number or mark assigned to a fur product was not set forth on invoices in violation of Rule 40 of said 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. Charles W. O'Connell supporting the complaint.

Mr. Arthur I. Winard, New York, N.Y., for respondents.

INITIAL DECISION BY JOHN B. POINDEXTER, HEARING EXAMINER

On May 4, 1961, the Commission issued a complaint charging the respondents named in the caption hereof with violation of the pro-

Order

59 F.T.C.

visions of the Federal Trade Commission Act and the Fur Products Labeling Act, and the Rules and Regulations promulgated thereunder.

Thereafter, on July 10, 1961, there was submitted to the undersigned hearing examiner an agreement between respondents and counsel supporting the complaint providing for the entry of a consent order.

Under the terms of the agreement, respondents admit the jurisdictional facts alleged in the complaint. The parties agree, among other things, that the cease and desist order set forth therein may be entered without further notice and have the same force and effect as if entered after a full hearing and includes a waiver by respondents of all rights to challenge or contest the validity of the order to be issued in accordance therewith. The agreement further provides that it is for settlement purposes only and does not constitute an admission by respondents that they have violated the law as alleged in the complaint and that the complaint may be used in construing the terms of the order.

The hearing examiner finds that the content of the agreement meets all of the requirements of Section 3.25(b) of the Rules of Practice before the Commission, and, being of the opinion that said agreement and form of order provide an appropriate basis for settlement and disposition of this proceeding, the agreement is hereby accepted, and it is ordered that said agreement shall not become a part of the official record unless and until it becomes a part of the decision of the Commission. Accordingly, the following jurisdictional findings are made and order issued:

FINDINGS OF FACT

1. Respondent M. Cohen & Son Coats & Suits, Inc., is a corporation organized and doing business under the laws of the State of New York, with its office and principal place of business located at 225 West 37th Street, New York, New York.

2. The individual respondents Max Cohen and Irving Elkin are officers of the corporate respondent. Their address is the same as that of the corporate respondent.

3. The Federal Trade Commission has jurisdiction of the subject matter of this proceeding and of the respondents, and the proceeding is in the public interest.

ORDER

It is ordered, That respondents M. Cohen & Son Coats & Suits, Inc., a corporation, and its officers and Max Cohen and Irving Elkin, indi-

vidually 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, or manufacture for 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, 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 product" are defined in the Fur Products Labeling Act do forthwith cease and desist from:

A. Misbranding fur products by:

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

2. Falsely and deceptively labeling by using the term "Golden Glory" to describe furs of the fox family, or falsely and deceptively so using any registered trademark of another person to describe furs or fur products.

B. Falsely and deceptively invoicing fur products by:

1. 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.

2. Falsely or deceptively using on invoices the trademark "Golden Glory" to describe furs of the fox family or falsely and deceptively so using any registered trademark of another person to describe furs or fur products.

3. Failing to set forth the item number or mark assigned to a fur product.

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 19th day of September 1961, become the decision of the Commission; and, accordingly:

It is ordered, That the 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.

Complaint

59 F.T.C.

IN THE MATTER OF

RALPH RUPLEY TRADING AS
RALPH RUPLEY ET AL.CONSENT ORDER, ETC., IN REGARD TO THE ALLEGED VIOLATION OF THE
FEDERAL TRADE COMMISSION AND THE FUR PRODUCTS LABELING ACTS*Docket 8424. Complaint, June 2, 1961—Decision, Sept. 19, 1961*

Consent order requiring Houston, Tex., furriers to cease violating the Fur Products Labeling Act by failing to label and invoice fur products with the true animal name of the fur used therein, failing to show on invoices the country of origin of imported furs, and failing in other respects to comply with labeling and invoicing requirements; by advertising in newspapers which represented prices of fur products as reduced from usual prices which were in fact fictitious, and contained earlier compared prices without giving the time of the latter; and by failing to maintain adequate records as a basis for price and value 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 Ralph Rupley, an individual trading as Ralph Rupley, and Carl Stephanow, individually and as manager of the Ralph Rupley concern, and Ralph Rupley, Jr., individually and as assistant to the manager of the Ralph Rupley concern 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. Ralph Rupley is an individual trading as Ralph Rupley with his office and principal place of business located at 1000 Main Street, Houston, Texas. Carl Stephanow is an individual and manager of the Ralph Rupley concern with his office and principal place of business located at 1000 Main Street, Houston, Texas. Ralph Rupley, Jr. is an individual and assistant to the manager of the Ralph Rupley concern with his office and principal place of business located at 1000 Main Street, Houston, Texas. The said Ralph Rupley, Carl Stephanow and Ralph Rupley, Jr. control, direct and formulate the acts, practices and policies of the Ralph Rupley concern.

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 distri-