

Complaint

IN THE MATTER OF

KOSAK FURS, INC., ET AL.

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

Docket 8348. Complaint, Apr. 5, 1961—Decision, Oct. 25, 1961

Consent order requiring New York City furriers to cease violating the Fur Products Labeling Act by failing to set forth the term "dyed Mouton processed Lamb" where required on invoices of fur products and failing in other respects to comply with invoice requirements, and by furnishing false guaranties that certain of their fur products were not misbranded, falsely invoiced, or falsely advertised.

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 Kosak Furs, Inc., a corporation, and Fred Kosak and Sol Horowitz, 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 Kosak Furs, 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 305 Seventh Avenue, New York 1, New York.

Respondents Fred Kosak and Sol Horowitz are officers of the 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 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 that the term "dyed Mouton processed Lamb" was not set forth where an election was made to use that term instead of Lamb in violation of Rule 9 of said Rules and Regulations.

PAR. 5. The respondents furnished false guaranties that certain of their fur products were not misbranded, falsely invoiced or falsely advertised when respondents in furnishing such guarantees had reason to believe the fur products so falsely guaranteed would be introduced, sold, transported or distributed, in commerce, in violation of Section 10(b) of the Fur Products Labeling Act.

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. Charles W. O'Connell for the Commission.

Mr. Charles Goldberg, New York, N.Y., for respondents.

INITIAL DECISION BY WILLIAM L. PACK, HEARING EXAMINER

The complaint in this matter charges the respondents with certain violations of the Fur Products Labeling Act and the Rules and Regulations promulgated thereunder, and the Federal Trade Commission Act. An agreement has now been entered into by respondents and counsel supporting the complaint which provides, among other things, that respondents admit all of the jurisdictional allegations in the complaint; that the record on which the initial decision and the decision of the Commission shall be based shall consist solely of the complaint and agreement; that the inclusion of findings of fact and conclusions of law in the decision disposing of this matter is waived, together with any further procedural steps before the hearing examiner and the Commission; that the order hereinafter set forth may be entered in disposition of the proceeding, such order to have the same force and effect as if entered after a full hearing, respondents specifically waiving any and all rights to challenge or contest the validity of such order; that the order may be altered, modified, or set aside in the manner provided for other orders of the Commission; that the

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complaint may be used in construing the terms of the order; and that the 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 proposed order provides for the dismissal of the complaint as to respondent Sol Horowitz as an officer of the respondent corporation but not in his individual capacity. As it is evident from the agreement and an affidavit attached thereto that respondent Horowitz is no longer an officer of the corporation nor otherwise connected with it, such dismissal appears to be appropriate.

The hearing examiner having considered the agreement and proposed order and being of the opinion that they provide an adequate basis for appropriate disposition of the proceeding, the agreement is hereby accepted, the following jurisdictional findings made, and the following order issued:

1. Respondent Kosak Furs, Inc., is a New York corporation with its office and principal place of business located at 305 Seventh Avenue, New York, New York.

Respondent Fred Kosak is an officer of the corporate respondent. His address is the same as that of the corporate respondent.

Respondent Sol Horowitz is a former officer of the corporate respondent. His address is 2723 Brown Street, Brooklyn, New York.

2. 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 Kosak Furs, Inc., a corporation, and its officers, and Fred Kosak, individually and as an officer of said corporation, and Sol Horowitz, individually, 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, 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 product" are defined in the Fur Products Labeling Act, do forthwith cease and desist from:

A. Falsely or 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.

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2. Failing to set forth the term "dyed Mouton processed Lamb" where an election is made to use that term instead of Lamb.

B. Furnishing a false guarantee that any fur or fur product is not misbranded, falsely invoiced or falsely advertised when the respondents have reason to believe that such fur or fur product may be introduced, sold, transported or distributed in commerce.

It is further orderd, That the complaint be, and the same hereby is, dismissed as to respondent Sol Horowitz as an officer of respondent corporation.

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 25th day of October 1961, become the decision of the Commission; and, accordingly:

It is ordered, That Kosak Furs, Inc., a corporation, Fred Kosak, individually and as an officer of said corporation, and Sol Horowitz, individually, 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.
