

Commission a report in writing setting forth in detail the manner and form in which they have complied with this order.

IN THE MATTER OF
L. CHESTER, INC., ET AL.

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

Docket C-74. Complaint, Feb. 12, 1962—Decision, Feb. 12, 1962

Consent order requiring furriers in Fort Wayne, Ind., to cease violating the Fur Products Labeling Act by substituting non-conforming labels for those affixed to fur products by the manufacturer; falsely labeling furs as to the names of the producing animal, and as "natural" when they were artificially colored; labeling fur products with fictitious prices represented thereby as usual retail prices; failing to show on labels and invoices and in advertising the true animal name of fur, when fur was artificially colored, and when fur products were composed of cheap and waste fur; failing to show on invoices the country of origin of imported furs; by advertising which represented prices of fur products as reduced from regular prices which were in fact fictitious, and as "at cost or below cost" when such was not the fact; 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 L. Chester, Inc., a corporation, and L. Chester Franckowiak and Emily Franckowiak, 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 L. Chester, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of Indiana. Individual respondents L. Chester Franckowiak and Emily Franckowiak are President and Secretary-Treasurer, respectively, of the corporate respondent. Said individual respondents cooperate in formulating, directing and controlling the acts, policies and practices of the corporate respondent including the acts and practices hereinafter referred to. All respondents have their office and principal place of business at 2428 Broadway, Fort Wayne, Ind.

PAR. 2. Subsequent to the effective date of the Fur Products Labeling Act on August 9, 1952, and more especially since 1953, 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; and have sold, advertised, offered for sale and processed fur products which have been shipped and received in commerce and upon which fur products substitute labels have been placed by respondents, as the terms "commerce", "fur" and "fur products" are defined in the Fur Products Labeling Act.

PAR. 3. Respondents in selling, advertising, offering for sale and processing fur products which have been shipped and received in commerce, have misbranded such fur products by substituting thereon, labels which did not conform to the requirements of Section 4 of the Fur Products Labeling Act, for the labels affixed to said fur products by the manufacturer or distributor pursuant to Section 4 of said Act, in violation of Section 3(e) of said Act.

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PAR. 4. Respondents, in substituting labels as provided for, in Section 3(e) of the Fur Products Labeling Act, have failed to keep and preserve the records required, in violation of such Section and Rule 41 of the Rules and Regulations promulgated under the said Act.

PAR. 5. Certain of said fur products were misbranded in that they were falsely and deceptively labeled or otherwise falsely and deceptively identified as to the name or names of the animal or animals that produced the fur from which said fur products had been manufactured, in violation of Section 4(1) of the Fur Products Labeling Act.

PAR. 6. Certain of said fur products were misbranded in that they were falsely or deceptively labeled to show that the fur contained in such fur products was natural, when, in fact, such fur was bleached, dyed or otherwise artificially colored, in violation of Section 4(1) of the Fur Products Labeling Act.

PAR. 7. Certain of said fur products were misbranded in that labels affixed thereto contained fictitious prices and misrepresented the regular retail selling prices of fur products in that the prices represented on such labels as the regular prices of the fur products were in excess of the retail prices at which the respondent usually and regularly sold such fur products in the recent regular course of business, in violation of Section 4(1) of the Fur Products Labeling Act.

PAR. 8. 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.

Among such misbranded fur products, but not limited thereto, were fur products with labels which failed:

1. To show the true animal name of the fur used in the fur products.

2. To disclose that the fur contained in the fur products was bleached, dyed, or otherwise artificially colored when such was the fact.

PAR. 9. Certain of said fur products were misbranded in violation of the Fur Products Labeling Act in that they were not labeled in accordance with the Rules and Regulations promulgated thereunder in the following respects:

- (a) The term "Persian Lamb" was not set forth in the manner required by law, in violation of Rule 8 of the Rules and Regulations.

- (b) Information required under Section 4(2) of the Fur Products Labeling Act and the Rules and Regulations promulgated there-

under was not completely set out on one side of labels, in violation of Rule 29(a) of said Rules and Regulations.

(c) The disclosure that fur products were composed in whole or substantial part of paws, tails, bellies, sides, flanks, gills, ears, throats, heads, scrap pieces or waste fur was not set forth on labels, in violation of Rule 20 of the said Rules and Regulations.

PAR. 10. Certain of said fur products were falsely and deceptively invoiced by the respondents in that they were not invoiced as required by Section 5(b)(1) of the Fur Products Labeling Act and the Rules and Regulations promulgated under such act.

Among such falsely and deceptively invoiced fur products, but not limited thereto, were invoices pertaining to such fur products which failed:

1. To show the true animal names of the fur used in the fur products.

2. To disclose that the fur contained in the fur products was bleached, dyed, or otherwise artificially colored when such was the fact.

3. To show that the fur products were composed in whole or in substantial part of paws, tails, bellies or waste fur, when such was the fact.

4. To show the country of origin of the imported furs used in the fur products.

PAR. 11. Certain of said fur products were falsely and deceptively invoiced in that the invoices contained misrepresentations as to the name or names of the animal or animals that produced the fur from which the said fur products had been manufactured, in violation of Section 5(b)(2) of the Fur Products Labeling Act.

PAR. 12. 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) The term "Persian Lamb" was not set forth in the manner required, in violation of Rule 8 of said Rules and Regulations.

- (c) The term "Dyed Mouton Lamb" was not set forth in the manner required, in violation of Rule 9 of said Rules and Regulations.

- (d) Information required under Section 5(b)(1) of the Fur Products Labeling Act and the Rules and Regulations promulgated there-

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under was not set forth separately on invoices with respect to each section of fur products composed of two or more sections containing different animal furs, in violation of Rule 36 of said Rules and Regulations.

(e) The disclosure that fur products were composed in whole or in substantial part of paws, tails, bellies, sides, flanks, gills, ears, throats, heads, scrap pieces or waste fur, was not set forth on invoices, in violation of Rule 20 of said Rules and Regulations.

PAR. 13. 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. 14. Among and included in the advertisements as aforesaid, but not limited thereto, was an advertisement of respondents, which appeared in the Fort Wayne News Sentinel, a newspaper published in the city of Fort Wayne, State of Indiana, and having a wide circulation in said State and various other States of the United States.

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

(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 set forth the term "Persian Lamb" in the manner required, in violation of Rule 8 of said Rules and Regulations.

(c) Failed to disclose that fur products were composed in whole or in substantial part of paws, tails, bellies, sides, flanks, gills, ears, throats, heads, scrap pieces, or waste fur, in violation of Rule 20 of said Rules and Regulations.

(d) 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 its business, in violation of Section 5(a) (5) of the Fur Products Labeling Act and Rule 44(a) of said Rules and Regulations.

(e) Represented prices of fur products to be "at cost or below cost"

when such was not the fact, in violation of Section 5(a)(5) of the Fur Products Labeling Act and Rule 44(a) of said Rules and Regulations.

PAR. 15. Respondents in advertising fur products for sale as aforesaid, made claims and representations respecting prices and values of fur products. Said representations were of the types covered by subsections (a), (b), (c), and (d) of Rule 44 of Rules and Regulations promulgated under the Fur Products Labeling Act. 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 said Rules and Regulations.

PAR. 16. 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 and unfair methods of competition in commerce under the Federal Trade Commission Act.

DECISION AND ORDER

The Commission having heretofore determined to issue its complaint charging the respondents named in the caption hereof with violation of the Federal Trade Commission Act and the Fur Products Labeling Act, and the respondents having been served with notice of said determination and with a copy of the complaint the Commission intended to issue, together with a proposed form of order; and

The respondents and counsel for the Commission having thereafter executed an agreement containing a consent order, an admission by respondents of all the jurisdictional facts set forth in the complaint, a statement that the signing of said agreement is for settlement purposes only and does not constitute an admission by respondents that the law has been violated as set forth in the complaint, and waivers and provisions as required by the Commission's rules; and

The Commission, having considered the agreement, hereby accepts same, issues its complaint in the form contemplated by said agreement, makes the following jurisdictional findings, and enters the following order:

1. Respondent L. Chester, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of Indiana, with its office and principal place of business at 2428 Broadway, Fort Wayne, Ind.

Respondents L. Chester Franckowiak and Emily Franckowiak are officers of said corporation and their address is the same as that of said corporation.

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 L. Chester, Inc., a corporation, and its officers, and L. Chester Franckowiak and Emily Franckowiak, 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 the sale, advertising or offering for sale, in commerce, or the transportation or distribution in commerce, of any fur product; or in connection with the sale, advertising, offering for sale, transportation or distribution, or any fur product which is made in whole or in part of fur which has been shipped and received in commerce; or in connection with the sale, advertising, offering for sale or processing of any fur product which has been shipped and received in commerce, and upon which fur product a substitute label has been placed by the respondents, as "commerce," "fur" and "fur product" are defined in the Fur Products Labeling Act, do forthwith cease and desist from:

1. Misbranding fur products by:

A. Placing thereon substitute labels for labels affixed to such fur products pursuant to Section 4 of the Fur Products Labeling Act and which substitute labels do not conform to the requirements of Section 4 of the said Act.

B. Falsely and deceptively labeling or otherwise identifying such fur products as to the name or names of the animal or animals that produced the furs from which such fur products were manufactured.

C. Representing directly or by implication that the fur contained in fur products is natural, when such is not the fact.

D. Falsely and deceptively labeling or otherwise identifying such products as to the regular price or values thereof by any representation that the regular or usual prices of such products are any amount in excess of the price at which respondents have usually and customarily sold such products in the recent regular course of their business.

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

F. Failing to set forth the term "Persian Lamb" in the manner required where an election is made to use that term instead of the word "Lamb".

G. Failing to set forth on one side of the labels the information required under Section 4(2) of the Fur Products Labeling Act and the Rules and Regulations promulgated thereunder.

H. Failing to disclose that fur products are composed in whole or substantial part of paws, tails, bellies, sides, flanks, gills, ears, throats, heads, scrap pieces or waste fur.

2. 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. Setting forth any misrepresentation as to the name or names of the animal or animals that produced the fur from which the said fur product has been manufactured.

C. 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.

D. Failing to set forth the term "Persian Lamb" in the manner required where an election is made to use that term instead of the word "Lamb".

E. Failing to set forth the term "Dyed Mouton Lamb" in the manner required where an election is made to use that term instead of the term "Dyed Lamb".

F. Failing to set forth information required under Section 5(b)(1) of the Fur Products Labeling Act and the Rules and Regulations promulgated thereunder with respect to each section of fur products composed of two or more sections containing different animal furs.

G. Failing to disclose that fur products are composed in whole or in substantial part of paws, tails, bellies, sides, flanks, gills, ears, throats, heads, scrap pieces or waste fur.

3. 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 products, as set forth in the Fur Products Name Guide, and as prescribed under the Rules and Regulations.

B. Fails to set forth the term "Persian Lamb" in the manner required where an election is made to use that term instead of the word "Lamb".

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C. Fails to disclose that the fur products are composed in whole or in substantial part of paws, tails, bellies, sides, flanks, gills, ears, throats, heads, scrap pieces or waste fur.

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

E. Represents directly or by implication that prices of fur products are "at cost" or "below cost", when such is not the fact.

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

4. Making claims and representation of the types covered by subsections (a) (b), (c), and (d) of Rule 44 of the Rules and Regulations promulgated under the Fur Products Labeling Act unless there are maintained by respondents full and adequate records disclosing the facts upon which such claims and representations are based.

5. Failing to keep and preserve the records required by the Fur Products Labeling Act and the Rules and Regulations promulgated thereunder when making the substitution of labels on fur products as provided for in Section 3(e) of the said act.

It is further 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 this order.