

Complaint

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IN THE MATTER OF

JANICE JUNIORS, INC., ET AL.

CONSENT ORDER, ETC., IN REGARD TO THE ALLEGED VIOLATION OF THE
FEDERAL TRADE COMMISSION AND THE FLAMMABLE FABRICS ACTS

Docket C-81. Complaint, Feb. 21, 1962—Decision, Feb. 21, 1962

Consent order requiring New York City manufacturers to cease violating the Flammable Fabrics Act by selling in commerce dresses which were so highly flammable as to be dangerous when worn, and furnishing customers with a false guaranty that the required tests were made and showed the dresses not to be highly flammable.

COMPLAINT

Pursuant to the provisions of the Federal Trade Commission Act and the Flammable Fabrics Act, and by virtue of the authority vested in it by said Acts, the Federal Trade Commission, having reason to believe that Janice Juniors, Inc., a corporation, Nat Rolfe and Phil Rolfe, 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 Flammable Fabrics 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, Janice Juniors, Inc., is a corporation duly organized, existing and doing business under and by virtue of the laws of the State of New York. Respondents Nat Rolfe and Phil Rolfe are President and Secretary, respectively, of Janice Juniors, Inc. The individual respondents formulate, direct and control the policies, acts and practices of said corporate respondent. The business address of all respondents is 1400 Broadway, New York, N.Y.

PAR. 2. Respondents, subsequent to July 1, 1954, the effective date of the Flammable Fabrics Act, have manufactured for sale, sold and offered for sale, in commerce; have imported into the United States; and have introduced, delivered for introduction, transported and caused to be transported, in commerce; and have transported and caused to be transported for the purpose of sale or delivery after sale in commerce; as "commerce" is defined in the Flammable Fabrics Act, articles of wearing apparel, as the term "article of wearing apparel" is defined therein, which articles of wearing apparel were, under Section 4 of the Flammable Fabrics Act, as amended, so highly flammable as to be dangerous when worn by individuals.

Among the articles of wearing apparel mentioned hereinabove were dresses.

PAR. 3. Respondents, subsequent to July 1, 1954, the effective date of the Flammable Fabrics Act, have manufactured for sale, sold and offered for sale, articles of wearing apparel made of fabric which was, under Section 4 of the Act, as amended, so highly flammable as to be dangerous when worn by individuals, which fabric had been shipped and received in commerce, as the terms "article of wearing apparel", "fabric" and "commerce" are defined in the Flammable Fabrics Act.

Among the articles of wearing apparel mentioned above were dresses.

PAR. 4. Respondents have furnished their customers with a guaranty with respect to the articles of wearing apparel mentioned in paragraphs 2 and 3 hereof, to the effect that reasonable and representative tests made under the procedures provided in Section 4 of the Flammable Fabrics Act, as amended, and the Rules and Regulations promulgated thereunder, show that said articles of wearing apparel are not, in the form delivered by respondents, so highly flammable under the provisions of the Flammable Fabrics Act as to be dangerous when worn by individuals. There was reason for respondents to believe that the articles of wearing apparel covered by such guaranty might be introduced, sold, or transported in commerce.

Said guaranty was false in that with respect to some of said articles of wearing apparel, respondents have not made such reasonable and representative tests.

PAR. 5. The acts and practices of respondents herein alleged were and are in violation of the Flammable Fabrics Act and of the Rules and Regulations promulgated thereunder and as such constitute unfair and deceptive acts and practices and unfair methods of competition in commerce within the intent and meaning of 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 Flammable Fabrics 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 to issue herein, 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 such 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 Janice Juniors, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of New York, with business address at 1400 Broadway, New York, N.Y.

Respondents Nat Rolfe and Phil Rolfe 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 respondent Janice Juniors, Inc., a corporation, and its officers, and respondents Nat Rolfe and Phil Rolfe, individually and as officers of said corporation, and respondents' representatives, agents and employees, directly or through any corporate or other device, do forthwith cease and desist from:

1. (a) Importing into the United States; or
 - (b) Manufacturing for sale, selling, offering for sale, introducing, delivering for introduction, transporting or causing to be transported, in commerce, as "commerce" is defined in the Flammable Fabrics Act; or
 - (c) Transporting or causing to be transported, for the purpose of sale or delivery after sale in commerce;
- any article of wearing apparel which, under the provisions of Section 4 of the Flammable Fabrics Act, as amended, is so highly flammable as to be dangerous when worn by individuals.
2. Manufacturing for sale, selling, or offering for sale any article of wearing apparel made of fabric, which fabric has been shipped or received in commerce, and which under Section 4 of the Act, as amended, is so highly flammable as to be dangerous when worn by individuals.

3. Furnishing to any person a guaranty with respect to any article of wearing apparel which respondents, or any of them, have reason to believe may be introduced, sold or transported in commerce, which guaranty represents, contrary to fact, that reasonable and representative tests made under the procedures provided in Section 4 of the Flammable Fabrics Act, as amended, and the Rules and Regulations thereunder, show and will show that the article of wearing apparel covered by the guaranty, is not, in the form delivered or to be delivered by the guarantor, so highly flammable under the provisions of the Flammable Fabrics Act as to be dangerous when worn by individuals, provided, however, that this prohibition shall not be applicable to a guaranty furnished on the basis of, and in reliance upon, a guaranty to the same effect received by respondents in good faith signed by and containing the name and address of the person by whom the fabric contained in the said article of wearing apparel was manufactured or from whom it was received.

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.

IN THE MATTER OF

CANADIAN FUR CORPORATION ET AL.

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

Docket C-82. Complaint, Feb. 21, 1962—Decision, Feb. 21, 1962

Consent order requiring Newark, N.J., furriers to cease violating the Fur Products Labeling Act by failing to show in labeling, invoicing, and advertising, the true animal name of fur used in fur products; to show on labels the name of the registered manufacturer, etc.; to disclose on invoices when fur was artificially colored or composed of flanks, and the country of origin of imported furs; by invoicing "Japanese Mink" as "Mink", and failing to set forth the term "Persian Lamb" as required on invoices; by failing in other respects to comply with labeling and invoicing requirements; by advertising which represented prices of fur products as reduced from regular prices which were, in fact, fictitious, and represented prices falsely as "cut 50% and more"; and by failing to keep adequate records as a basis for price and value claims.

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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 Canadian Fur Corporation, a New York corporation, and Canadian Fur Corporation, a New Jersey corporation, and Jacob Dornfeld and Morris Dornfeld, individually and as officers of the said corporations, and Sidney Dornfeld, individually and as general manager of fur operations of the said corporations, 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 Canadian Fur Corporation is a corporation organized, existing and doing business under and by virtue of the laws of the State of New York, and respondent Canadian Fur Corporation is a corporation organized, existing and doing business under and by virtue of the laws of the State of New Jersey. The office and principal place of business of both corporations is 1300 McCarter Highway, Newark, N.J.

Respondent Jacob Dornfeld is secretary of the New York corporation, and vice president of the New Jersey corporation. Respondent Morris Dornfeld is treasurer of the New York corporation, and secretary and treasurer of the New Jersey corporation. Respondent Sidney Dornfeld is general manager of the fur operations of the said corporate respondents. These individuals control, direct and formulate the acts, practices and policies of the said corporate respondents. The office and principal place of business of these individuals is the same as that of the said corporate respondents.

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 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 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 product.
2. To show the name, or other identification issued and registered by the Commission, of one or more of the persons who manufactured such fur product for introduction into commerce, introduced it into commerce, sold it in commerce, advertised or offered it for sale, in commerce, or transported or distributed it in commerce.

PAR. 4. 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) Information required under Section 4(2) 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) Information required under Section 4(2) of the Fur Products Labeling Act and the Rules and Regulations promulgated thereunder was mingled with non-required information, in violation of Rule 29 (a) of said Rules and Regulations.

(c) Information required under Section 4(2) of the Fur Products Labeling Act and the Rules and Regulations promulgated thereunder was set forth in handwriting on labels, in violation of Rule 29 (b) of said Rules and Regulations.

PAR. 5. 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 name of the fur used in the fur product.
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 the country of origin of the imported furs used in the fur product.

PAR. 6. Certain of said fur products were falsely and deceptively invoiced with respect to the name of the animal that produced the

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fur from which the fur products had been manufactured, in violation of Section 5(b) (2) of the Fur Products Labeling Act.

Among such falsely and deceptively invoiced fur products, but not limited thereto, were fur products which were invoiced as being "Mink", when they were, in fact, "Japanese Mink".

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 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) Invoices failed to disclose that fur products were composed in whole or in substantial part of flanks, when such was the fact, in violation of Rule 20 of said Rules and Regulations.

PAR. 8. 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. 9. Among and included in the advertisements as aforesaid, but not limited thereto, were advertisements of respondents, which appeared in issues of the Newark News, a newspaper published in the City of Newark, State of New Jersey, 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 through percentage savings claims such as "prices cut 50% and more" that prices of 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. 10. 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 the 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. 11. 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 the respondents of all the jurisdictional facts set forth in the complaint to issue herein, 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 such 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 Canadian Fur Corporation is a corporation organized, existing and doing business under and by virtue of the laws of

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the State of New York, and respondent Canadian Fur Corporation is a corporation organized, existing and doing business under and by virtue of the laws of the State of New Jersey. The office and principal place of business of both corporations is 1300 McCarter Highway, Newark, N.J.

Respondent Jacob Dornfeld is secretary of the New York corporation and vice president of the New Jersey corporation. Respondent Morris Dornfeld is treasurer of the New York corporation and secretary and treasurer of the New Jersey corporation. Respondent Sidney Dornfeld is general manager of the fur operations of the said corporate respondents. The office and principal place of business of these individuals is the same as that of the said corporate respondents.

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 Canadian Fur Corporation, a New York corporation, and its officers, and Canadian Fur Corporation, a New Jersey corporation, and its officers, and Jacob Dornfeld and Morris Dornfeld, individually and as officers of said corporations, and Sidney Dornfeld, individually and as general manager of the fur operations of the said corporations, 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 of any fur product which is 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:

1. Misbranding fur products by:

A. 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.

B. Setting forth on labels affixed to fur products:

1. Information required under Section 4(2) of the Fur Products Labeling Act and the Rules and Regulations promulgated thereunder in abbreviated form.

2. Information required under Section 4(2) of the Fur Products Labeling Act and the Rules and Regulations promulgated thereunder mingled with non-required information.

3. Information required under Section 4(2) of the Fur Products Labeling Act and the Rules and Regulations promulgated thereunder in handwriting.

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

D. Failing to disclose that fur products are composed in whole or in substantial part of flanks, when such is the fact.

3. Falsely or deceptively invoicing fur products or otherwise falsely or deceptively identifying such fur products with respect to the name or names of the animal or animals that produced the fur from which such fur products were manufactured.

4. 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 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 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.

C. Represents through percentage savings claims that prices of fur products are reduced in direct proportion to the percentage of savings stated when such is not the fact.

5. Making claims and representations 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 defenses are based.