

IN THE MATTER OF
LIVINGSTON BROS., INC.

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

Docket C-145. Complaint, May 29, 1962—Decision, May 29, 1962

Consent order requiring a San Francisco furrier to cease violating the Fur Products Labeling Act by such practices as advertising in newspapers which represented prices of fur products as reduced from regular prices which were in fact fictitious, and as reduced from higher prices without giving the time of such compared higher prices; and which represented falsely that fur products offered for sale were the stock of a business in liquidation.

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Complaint

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 Livingston Bros., Inc., a corporation, hereinafter referred to as respondent, has 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 Livingston Bros., Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of California with its office and principal place of business located on Grant Avenue at Geary Street, San Francisco, Calif.

PAR. 2. Subsequent to the effective date of the Fur Products Labeling Act on August 9, 1952, respondent has been and is 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 has 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 or deceptively advertised in that said fur products were not advertised as required under the provisions of Section 5(a) of the Fur Products Labeling Act and in the manner and form prescribed by the Rules and Regulations promulgated thereunder.

Said advertisements were intended to aid, promote and assist, directly or indirectly, in the sale and offering for sale of said fur products.

Among and included in the advertisements as aforesaid, but not limited thereto, were advertisements of respondent, which appeared in issues of the San Francisco Examiner, a newspaper published in the city of San Francisco, State of California, and having a wide circulation in said State and various other States of the United States.

PAR. 4. In advertising fur products for sale as aforesaid, respondent 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 respondent 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 advertising fur products for sale as aforesaid respondent represented prices of fur products as having been reduced from previous higher prices without giving the time of such compared higher prices, in violation of Rule 44(b) of said Rules and Regulations.

PAR. 6. In advertising fur products for sale as aforesaid respondent represented that fur products offered for sale were the stock of a business in a state of liquidation, when such was not the fact, in violation of Section 5(a)(5) of the Fur Products Labeling Act and Rule 44(g) of said Rules and Regulations.

PAR. 7. The aforesaid acts and practices of respondent, 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 respondent named in the caption hereof with violation of the Federal Trade Commission Act and the Fur Products Labeling Act, and the respondent 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 respondent and counsel for the Commission having thereafter executed an agreement containing a consent order, an admission by the respondent 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 respondent 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 Livingston Bros., Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the

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Decision and Order

State of California with its office and principal place of business located on Grant Avenue at Geary Street, San Francisco, Calif.

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

ORDER

It is ordered, That respondent Livingston Bros., Inc., a corporation, and its officers, and respondent's 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. 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. 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 respondent has usually and customarily sold such products in the recent regular course of business.

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

C. Uses previous higher prices as comparatives without giving the time of such compared prices.

D. Represents directly or by implication that fur products offered for sale are the stock of a business in a state of liquidation, when such is not the fact.

It is further ordered, That the respondent herein shall, within sixty (60) days after service upon it of this order, file with the Commission a report in writing setting forth in detail the manner and form in which it has complied with this order.

Complaint

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IN THE MATTER OF

WESCO PRODUCTS COMPANY, INC.

CONSENT ORDER, ETC., IN REGARD TO THE ALLEGED VIOLATION OF SEC. 2(a)
OF THE CLAYTON ACT

Docket C-146. Complaint, May 29, 1962—Decision, May 29, 1962

Consent order requiring Chicago distributors of automotive repair or replacement parts to cease discriminating in price in violation of Sec. 2(a) of the Clayton Act by classifying some favored jobbers as warehouse distributors and thus allowing them higher discounts than competing jobbers who paid the regular jobber prices.

COMPLAINT

The Federal Trade Commission, having reason to believe that the party respondent named in the caption hereof and hereinafter more particularly designated and described has violated and is now violating the provisions of subsection (a) of Section 2 of the Clayton Act, as amended by the Robinson-Patman Act, approved June 19, 1936 (U.S.C. Title 15, Sec. 13), hereby issues its complaint, stating its charges with respect thereto as follows:

PARAGRAPH 1. Respondent Wesco Products Company, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of Illinois, with its principal office and place of business located at 2300 South Parkway, Chicago 16, Illinois. Prior to January 1, 1961, the business was operated as a partnership under the name Western Automotive Company. Since January 1, 1961, the business has been operated as a corporation under the name Wesco Products Company, Inc. Wesco Products Company, Inc., is engaged in the sale and distribution of automotive repair or replacement parts, specifically universal joints and components thereof. Wesco Products Company, Inc., currently has a yearly sales volume of approximately \$2,000,000.

Respondent Wesco Products Company, Inc., in the course and conduct of its business as aforesaid, has caused, and now causes, the said automotive parts to be shipped and transported from the state of location of its principal place of business to the purchasers thereof located in states other than the state wherein said shipments originated. Said parts have been, and are, sold to different purchasers for use or resale within the United States and the District of Columbia. In the sale of said parts, respondent has been, at all times relevant herein, engaged in commerce, as "commerce" is defined in the Clayton Act.