

Complaint

60 F.T.C.

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.

IN THE MATTER OF

DONENFELD'S INC., ET AL.

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

Docket C-149. Complaint, June 19, 1962—Decision, June 19, 1962

Consent order requiring furriers in Dayton, Ohio, to cease violating the Fur Products Labeling Act by failing to disclose on labels and invoices and in advertising, the names of animals producing certain furs; failing to disclose on labels when fur products were composed of cheap or waste fur and to identify the manufacturer, etc.; failing to show on invoices and in advertising when furs were artificially colored or composed of flanks, and to use the terms "Persian Lamb" and "Dyed Mouton" as required; failing to show on invoices the country of origin of imported furs, and invoicing bleached and dyed fur as natural; and failing in other respects to comply with requirements of the Act.

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 Donenfeld's, Inc., a corporation, and Ralph Donenfeld and Stanley R. Donenfeld, 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 Donenfeld's, Inc., is a corporation organized, existing and doing business by virtue of and under the laws of the State of Ohio with its office and principal place of business located at 35 North Main Street, Dayton, Ohio.

Respondents Ralph Donenfeld and Stanley R. Donenfeld are Vice President and Secretary-Treasurer, respectively, of the said corporate respondent and formulate, direct and control the acts and practices

of the corporate respondent, including the acts and practices herein-after set forth. 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 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, 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 falsely and deceptively labeled or otherwise falsely or deceptively identified with respect of the name of the country of origin of imported furs used in the fur product, in violation of Section 4(1) of the Fur Products Labeling Act.

PAR. 4. 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 that the fur product was composed in whole or in substantial part of paws, tails, bellies, or waste fur, when such was the fact.
3. 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, or transported or distributed it in commerce.

PAR. 5. 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) Labels affixed to fur products failed to show that the fur products were composed in whole or substantial part of flanks, when

such was the fact, in violation of Rule 20 of said Rules and Regulations.

(c) Labels affixed to fur products did not comply with the minimum size requirements of one and three-quarter inches by two and three-quarter inches, in violation of Rule 27 of said Rules and Regulations.

(d) 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.

(e) 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.

(f) Information required under Section 4(2) of the Fur Products Labeling Act and the Rules and Regulations promulgated thereunder was not set forth in the required sequence, in violation of Rule 30 of said Rules and Regulations.

(g) Information required under Section 4(2) of the Fur Products Labeling Act and the Rules and Regulations promulgated thereunder was not separately set forth on labels 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.

(h) Required item numbers were not set forth on labels, in violation of Rule 40 of said Rules and Regulations.

PAR. 6. 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. 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 there-

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

(e) Information required under Section 5(b)(1) of the Fur Products Labeling Act and the Rules and Regulations promulgated thereunder 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.

(f) Required item numbers were not set forth on invoices, in violation of Rule 40 of said Rules and Regulations.

PAR. 8. Certain of said fur products were falsely and deceptively invoiced in that said fur products were invoiced to show that the fur contained therein was natural when in fact such fur was bleached, dyed or otherwise artificially colored, in violation of Section 5(b)(2) of the Fur Products Labeling Act.

PAR. 9. Certain of said fur products were falsely and deceptively advertised, in violation of the Fur Products Labeling Act in that said fur products were not advertised in accordance with the provisions of Section 5(a) of the said Act and 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 respondents which appeared in issues of the Journal Herald and the Dayton Daily News, newspapers published in the city of Dayton, State of Ohio, and having a wide circulation in said State and various other States of the United States.

Among such false and deceptive advertisements of fur products, but not limited thereto, were advertisements referred to herein, which failed:

1. 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.

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

PAR. 10. In advertising fur products as aforesaid, respondents failed to set forth the term "Persian Lamb" in the manner required, in violation of Rule 8 of the Rules and Regulations promulgated under the Fur Products Labeling Act.

PAR. 11. In advertising fur products as aforesaid, respondents failed to set forth the term "Dyed Mouton Lamb" in the manner required, in violation of Rule 9 of said Rules and Regulations.

PAR. 12. In advertising fur products for sale as aforesaid, respondents 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(a) of said Rules and Regulations.

PAR. 13. In advertising fur products as aforesaid, respondents failed to set forth all the parts of the information required under Section 5(a) of the Fur Products Labeling Act and the Rules and Regulations promulgated thereunder in type of equal size and conspicuousness and in close proximity with each other, in violation of Rule 38(a) of said Rules and Regulations.

PAR. 14. 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, Donenfeld's, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of Ohio, with its office and principal place of business located at 35 North Main Street, Dayton, Ohio.

Respondents Ralph Donenfeld and Stanley R. Donenfeld are Vice-President and Secretary-Treasurer, respectively, 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 Donenfeld's, Inc., a corporation, and its officers, and Ralph Donenfeld and Stanley R. Donenfeld, 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, 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. Falsely or deceptively labeling or otherwise falsely or deceptively identifying any such product as to the country of origin of imported furs used in the fur product.

C. 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 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.

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

E. Affixing to fur products labels that do not comply with the minimum size requirements of one and three-quarter inches by two and three-quarter inches.

F. Failing to set forth the information required by Section 4(2) of the Fur Products Labeling Act and the Rules and Regulations promulgated thereunder in the required sequence in accordance with Rule 30 of the aforesaid Rules and Regulations.

G. Failing to set forth separately on labels attached to fur products composed of two or more sections containing different animal furs the information required under Section 4(2) of the Fur Products Labeling Act and the Rules and Regulations promulgated thereunder with respect to the fur comprising each section.

H. Failing to set forth on labels the item number or mark assigned to a fur product.

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 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".

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

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 one or more sections containing different animal furs.

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

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

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 in words and figures plainly legible all of the information required to be disclosed by each of the subsections of Section 5(a) of the Fur Products Labeling Act.

B. Fails to disclose that the fur product is composed in whole or in substantial part of flanks, when such is the fact.

C. 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".

D. Fails 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".

E. Fails to set forth all parts of information required under Section 5(a) of the Fur Products Labeling Act and the Rules and Regulations promulgated thereunder in type of equal size and conspicuousness and in close proximity with each other.

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
H.S.D. PUBLICATIONS, INC.

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

Docket C-150. Complaint, June 19, 1962—Decision, June 19, 1962

Consent order requiring the publisher of "Alfred Hitchcock's Mystery Magazine" in Riviera Beach, Fla., to cease paying promotional allowances to some customers but not to their competitors, in violation of Sec. 2(d) of the Clayton Act—such as a payment of \$9,661 to Union News Co., New York City—and basing such allowances on individual negotiations resulting in proportionally unequal terms to even the favored customers.

COMPLAINT

The Federal Trade Commission having reason to believe that the party respondent named in the caption hereof and hereinafter more

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particularly designated and described, has violated and is now violating the provisions of subsection (d) of Section 2 of the Clayton Act (U.S.C. Title 15, Sec. 13), as amended by the Robinson-Patman Act, hereby issues its complaint stating its charges with respect thereto as follows:

PARAGRAPH 1. Respondent H.S.D. Publications, 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 2441 Beach Court, Riviera Beach, Fla. Said respondent, among other things, has been engaged and is presently engaged in the business of publishing and distributing various publications including magazines under copyrighted titles including "Alfred Hitchcock's Mystery Magazine". Respondent's sales of publications during the calendar year 1960 exceeded two hundred fifty thousand dollars.

PAR. 2. Publications published by respondent are distributed by respondent to customers through its national distributor, Kable News Company, hereinafter referred to as Kable News.

Kable News has acted and is now acting as national distributor for the publications of several independent publishers, including respondent publisher. Kable News, as national distributor of publications published by respondent and other independent publishers, has performed and is now performing various services for these publishers. Among the services performed and still being performed by Kable News for the benefit of these publishers are the taking of purchase orders and the distributing, billing and collecting for such publications from customers. Kable News also had participated in the negotiation of various promotional arrangements with the retail customers of said publishers, including said respondent.

In its capacity as national distributor for respondent in dealing with the customers of respondent, Kable News served and is now serving as a conduit or intermediary for the sale, distribution and promotion of publications published by respondent. "Alfred Hitchcock's Mystery Magazine" is among the most popular and widely circulated mystery magazines in the United States and is distributed throughout various States by Kable News through local distributors to retail outlets.

PAR. 3. Respondent, through its conduit or intermediary, Kable News, has sold and distributed and now sells and distributes its publications in substantial quantities in commerce, as "commerce" is defined in the Clayton Act, as amended, to competing customers located throughout various States of the United States and in the District of Columbia.

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PAR. 4. In the course and conduct of its business in commerce, respondent has paid or contracted for the payment of something of value to or for the benefit of some of its customers as compensation or in consideration for services or facilities furnished, or contracted to be furnished, by or through such customers in connection with the handling, sale, or offering for sale of publications sold to them by respondent. Such payments or allowances were not made available on proportionally equal terms to all other customers of respondent competing in the distribution of such publications.

PAR. 5. As an example of the practices alleged herein, respondent has made payments or allowances to certain retail customers who operate chain retail outlets in railroad, airport and bus terminals, as well as outlets located in hotels and office buildings. Such payments or allowances were not offered or otherwise made available on proportionally equal terms to all other customers (including drug chains, grocery chains and other newsstands) competing with the favored customers in the sale and distribution of the publications of respondent publisher. Among the favored customers receiving payments in 1960, and during the first six months of 1961, which were not offered to other competing customers in connection with the purchase and sale of respondent's publication were:

Customer	Approximate amount received	
	1960	1961 (Jan.-June)
Fred Harvey, Chicago, Ill.-----	\$204.90	\$81.48
Interstate Co., Los Angeles, Calif.-----	96.60	123.55
Greyhound Post Houses, Forest Park, Ill.-----	107.52	52.76
Union News Co., New York City.-----	9,661.00	(Jan. 1, 1960- June 30, 1961).

Respondent made said payments to its favored customers on the basis of individual negotiations. Among said favored customers such payments were not made on proportionally equal terms.

PAR. 6. The acts and practices of respondent as alleged above are in violation of the provisions of subsection (d) of Section 2 of the Clayton Act, as amended.

DECISION AND ORDER

The Commission having heretofore determined to issue its complaint charging the respondent named in the caption hereof with violation of subsection (d) of Section 2 of the Clayton Act, as amended, 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 H.S.D. Publications, 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 2441 Beach Court, in the city of Riviera Beach, State of Florida.
2. The Federal Trade Commission has jurisdiction of the subject matter of this proceeding and of the respondent.

ORDER

It is ordered, That respondent H.S.D. Publications, Inc., a corporation, its officers, employees, agents and representatives, directly or through any corporate or other device, in connection with the distribution, sale or offering for sale of publications including magazines in commerce, as "commerce" is defined in the amended Clayton Act, do forthwith cease and desist from:

Paying or contracting for the payment of an allowance or anything of value to, or for the benefit of, any customer as compensation or in consideration for any services or facilities furnished by or through such customer in connection with the handling, offering for sale, sale or distribution of publications including magazines published, sold or offered for sale by respondent, unless such payment or consideration is affirmatively offered and otherwise made available on proportionally equal terms to all of its other customers competing with such favored customer in the distribution of such publications including magazines.

The word "customer" as used above shall be deemed to mean anyone who purchases from H.S.D. Publications, Inc., acting either as principal or agent, or from a distributor or wholesaler where such transaction with such purchaser is essentially a sale by such respondent, acting either as principal or agent.

NATIONAL POLICE GAZETTE CORP.

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