

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

Docket C-268. Complaint, Nov. 15, 1962—Decision, Nov. 15, 1962

Consent order requiring Kansas City, Mo., retailers of fur products to cease violating the Fur Products Labeling Act by failing to show on labels and

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invoices and in advertising the true names of animals producing certain furs, and failing in labeling and invoicing to disclose the country of origin of imported furs and to use the term "natural" where required; labeling fur products falsely as to the names of animals producing certain furs and to show that artificially colored furs were natural, and tagging them with fictitious prices; failing in labeling to disclose when fur was artificially colored, to identify the manufacturer, etc., and to use the term "Persian Lamb" as required; failing to use on invoices the terms "Dyed Broadtail-processed Lamb" and "Dyed Mouton Lamb"; by advertising in newspapers which represented excessive amounts as usual retail prices; failing to maintain adequate records as a basis for pricing and value claims; and failing in other respects to comply with labeling and invoicing requirements.

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 Mindlin's, Inc., a corporation, and its officers and Harold S. Mindlin, individually and as officer of said corporation, and Alexander Meltzer, individually and as fur buyer and manager of the fur department of corporate respondent, 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 Mindlin's, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of Missouri.

Individual respondent Harold S. Mindlin is an officer of the corporate respondent. Individual respondent Alexander Meltzer is fur buyer and manager of the fur department of corporate respondent. The individual respondents formulate, direct and control the acts, practices and policies of corporate respondent Mindlin's, Inc., including those hereinafter set forth.

Respondents are retailers of fur products and have their office and principal place of business at 201 West 47th Street, Kansas City, Mo.

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

PAR. 5. Certain of said fur products were misbranded in that labels affixed thereto contained fictitious prices and misrepresented the regular retail selling prices of such 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 respondents 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. 6. 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 disclose that the fur contained in the fur product was bleached, dyed, or otherwise artificially colored, 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, advertised or offered it for sale in commerce, or transported or distributed it in commerce.
4. To show the country of origin of the imported furs used in the fur product.

PAR. 7. 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:

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

(c) The term "natural" was not used to describe fur products that were not pointed, bleached, dyed, tip-dyed or otherwise artificially colored, in violation of Rule 19(g) 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 not completely set out on one side of labels, 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 not set forth in the required sequence, in violation of Rule 30 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 separately 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.

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

PAR. 8. 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 show the country of origin of the imported furs used in the fur product.

PAR. 9. 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 "Dyed Broadtail-processed Lamb" was not set forth in the manner required by law, in violation of Rule 10 of said Rules and Regulations.

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

(d) The term "natural" was not used to describe fur products that were not pointed, bleached, dyed, tip-dyed or otherwise artificially colored, in violation of Rule 19(g) of said Rules and Regulations.

PAR. 10. 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 respondents which appeared in issues of The Kansas City Times, a newspaper published in the city of Kansas City, State of Missouri, 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 which 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.

PAR. 11. By means of the advertisements referred to in paragraph 10, and other advertisements of similar import and meaning not specifically referred to herein respondents represented prices of fur products as having been reduced from regular or usual prices and the amount of such reductions constituted savings to the purchasers, 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 course of business and no savings were thereby afforded to the purchasers, in violation of Section 5(a)(5) of the Fur Products Labeling Act and Rule 44(a) of the Rules and Regulations promulgated under the said Act.

PAR. 12. Respondents by means of the advertisements referred to in paragraph 10 and other advertisements of similar import and meaning not specifically referred to herein, falsely and deceptively adver-

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tised fur products in that respondents 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 the Rules and Regulations promulgated under the said Act.

PAR. 13. Respondents further falsely and deceptively advertised fur products, in violation of Section 5(a)(5) of the Fur Products Labeling Act, by affixing labels to fur products which contained fictitious prices and misrepresented the regular retail selling prices of such 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 respondents usually and regularly sold such products in the recent regular course of business.

PAR. 14. Respondents in advertising fur products for sale as alleged in paragraphs 10 through 12 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. 15. 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 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 com-

plaint, 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, Mindlin's, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of Missouri, with its office and principal place of business located at 201 West 47th Street, in the city of Kansas City, State of Missouri.

Respondent Harold S. Mindlin is an officer of said corporation. Respondent Alexander Meltzer is fur buyer and manager of the fur department of said corporation. 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, Mindlin's, Inc., a corporation, and its officers, and Harold S. Mindlin, individually and as an officer of said corporation, and Alexander Meltzer, individually and as fur buyer and manager of the fur department of the corporate respondent, 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:

A. Misbranding fur products by:

1. 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.

2. Representing directly or by implication on labels that the fur contained in fur products is natural when such fur is pointed, bleached, dyed, tip-dyed or otherwise artificially colored.

3. Falsely or deceptively labeling or otherwise identifying any such product as to the name or names of the animal or animals that produced the fur from which such product was manufactured.

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

5. Setting forth on labels affixed to fur products information required under Section 4(2) of the Fur Products Labeling Act and the Rules and Regulations promulgated thereunder in abbreviated form.

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

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

8. 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.

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

10. Failing to describe fur products as natural when such fur products are not pointed, bleached, dyed, tip-dyed or otherwise artificially colored.

11. Failing to set forth all the information required to be disclosed by Section 4(2) of the Fur Products Labeling Act and the Rules and Regulations promulgated thereunder on one side of labels.

B. Falsely or deceptively invoicing fur products by:

1. 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.

2. 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.

3. 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".

* 4. Failing to set forth the term "Dyed Broadtail-processed Lamb" in the manner required where an election is made to use that term instead of the term "Dyed Lamb".

5. Failing to describe fur products as natural when such fur products are not pointed, bleached, dyed, tip-dyed or otherwise artificially colored.

C. 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:

1. Fails to set forth all the information required to be disclosed by each of the subsections of Section 5(a) of the Fur Products Labeling Act.

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

3. Misrepresents directly or by implication that any such products are the stock of a business in a state of liquidation.

4. Misrepresents in any manner that savings are available to purchasers of respondents' fur products.

D. 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 representations are based.

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.

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IN THE MATTER OF

YOUR INCOME TAX RECORDS, INC., ET AL.

CONSENT ORDER, ETC., IN REGARD TO THE ALLEGED VIOLATION OF THE FEDERAL TRADE COMMISSION ACT

Docket C-269. Complaint, Nov. 15, 1962—Decision, Nov. 15, 1962

Consent order requiring New York City sellers, through their franchised distributors, of a combined record keeping system and tax service for small businesses, to cease—in advertisements in newspapers, brochures, and other advertising material to induce the purchase of distributorships—misrepresenting distributors' earnings and opportunities for profits; respondents' time in business, experience and importance; approval of their system by banks, etc., as in the order below set forth in detail.

COMPLAINT

Pursuant to the provisions of the Federal Trade Commission Act, and by virtue of the authority vested in it by said Act, the Federal Trade Commission, having reason to believe that Your Income Tax Records, Inc., a corporation, and James W. Riley, individually and as an officer of said corporation, hereinafter referred to as respondents, have violated the provisions of said 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 Your Income Tax Records, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of New York, with its principal office and place of business located at 53 Worth Street, New York 13, N.Y.

Respondent James W. Riley is an officer of the corporate respondent. He formulates, directs and controls the policies, acts and practices of the corporate respondent, including the acts and practices hereinafter set forth. His address is the same as that of the corporate respondent.

PAR. 2. Respondents are now, and for some time last past have been, engaged in the advertising, offering for sale, sale and distribution, through franchised distributors, of a combined record keeping system and tax service for small businesses. Businessmen purchasing said systems and service are referred to as "subscribers" by respondents. The record keeping system consists of a loose-leaf binder called "Your Income Tax Saver" which contains forms and instructions for maintaining records of the business. The tax service furnishes the