

IN THE MATTER OF
FRANCKOWIAK'S, 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-309. Complaint, Feb. 6, 1963—Decision, Feb. 6, 1963

Consent order requiring a retail furrier in South Bend, Ind., to cease violating the Fur Products Labeling Act by failing to disclose on labels when fur products contained artificially colored, cheap, or waste fur; by representing falsely in invoicing, labeling, and newspaper advertising that prices of fur products had been reduced from regular prices which were, in fact, fictitious; and by advertising falsely that furs from its regular stock were purchased from an overstocked furrier who needed to raise money.

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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 Franckowiak's, Inc., a corporation, and Lucien Franckowiak and Rose Marie Franckowiak, individually and as officers of said corporate respondent, hereinafter referred to as respondents, have violated the provisions of said Act 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 Franckowiak's, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of Indiana.

Individual respondents Lucien Franckowiak and Rose Marie Franckowiak are officers 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.

Respondents are in the business of retailing fur products. All respondents have their office and principal place of business located at 314 North Michigan Street, South Bend, Ind.

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

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.

PAR. 5. Certain of said fur products were falsely and deceptively invoiced by respondents in that respondents represented on invoices that prices of fur products had been reduced from regular or usual prices and that the amount of such reductions constituted savings to purchasers of respondents' products when 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 and no savings were thereby offered to the purchaser, in violation of Section 5(b) (2) of the Fur Products Labeling Act.

PAR. 6. Certain of said fur products were falsely and deceptively advertised in violation of the Fur Products Labeling Act in that said 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 products.

Among and included in the advertisements as aforesaid but not limited thereto, were advertisements of respondents which appeared in the South Bend Tribune, a newspaper published in the city of South Bend, State of Indiana.

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 those said advertisements by:

- a. Representing prices of fur products as having been reduced from regular or usual prices and that the amount of said reductions constituted savings to producers of respondents' products when 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 the respondents in the recent regular course of business and no savings were thereby offered to the purchaser, in violation of Section 5(a) (5) and Rule 44(a) of the said Rules and Regulations.

- b. Representing, directly or by implication that fur products offered for sale were purchased from a Fort Wayne furrier because of the need of said furrier to raise money and to dispose of overstocked merchandise when in fact many of such fur products were from the respondents' regular stock, in violation of Section 5(a) (5) of the Fur Products Labeling Act.

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PAR. 7. Respondents, by means of the labels referred to in Paragraph 3 hereof and others of similar import and meaning, not specifically referred to herein, falsely and deceptively advertised fur products in that said labels 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 regularly and usually sold such fur products in the recent regular course of business and no savings were thereby afforded to the purchaser, in violation of Section 5(a) (5) of the Fur Products Labeling Act and Rule 44(a) of the Rules and Regulations promulgated under said Act.

PAR. 8. 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 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 Franckowiak's, 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 located at 314 North Michigan Street, in the city of South Bend, State of Indiana.

Respondents Lucien Franckowiak and Rose Marie 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 Franckowiak's, Inc., a corporation, and its officers, and Lucien Franckowiak and Rose Marie 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 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. Representing on labels or other means of identification, directly or by implication, that any price, when accompanied or unaccompanied by any descriptive language, was the price at which the merchandise so labeled or otherwise identified was usually and customarily sold at retail by the respondents unless such said merchandise was in fact usually and customarily sold at retail at such price by the respondents in the recent past.

2. Falsely or deceptively invoicing fur products by representing on invoices, directly or by implication that any price when accompanied or unaccompanied by any descriptive language, was the price at which the merchandise so invoiced or otherwise identified was usually and customarily sold at retail by the respondents unless such said merchandise was in fact usually and customarily sold at retail at such price by the respondents in the recent past.

3. Falsely or deceptively advertising fur products through the use of any advertisement, representation, public announcement, or

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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, contrary to fact, that fur products offered for sale were acquired as the result of the financial distress of a supplier or third party or that such fur products were otherwise acquired as a result of a situation more advantageous to respondents than was the case.

B. Represents, directly or by implication, that any price, when accompanied or unaccompanied by any descriptive language, was the price at which the merchandise advertised was usually and customarily sold at retail by the respondents unless such advertised merchandise was in fact usually and customarily sold at retail at such price by the respondents in the recent past.

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

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.
