

(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
NIC KUEHN, 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-319. Complaint, Mar. 8, 1963—Decision, Mar. 8, 1963

Consent order requiring manufacturers and retailers of fur products in St. Joseph, Mo., to cease violating the Fur Products Labeling Act by removing the labels required to be affixed to fur products prior to ultimate sale, and by attaching nonconforming labels; by labeling such products with fictitious prices represented thereby as the regular retail prices; by advertisements in newspapers representing prices of fur products falsely as reduced from usual prices which were in fact fictitious, and as "½ Price"; and by failing to maintain adequate records as a basis for price and value claims.

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 Nic Kuehn, Inc., a corporation, and Curt E. Kuehn, individually and as an officer 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 Nic Kuehn, 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 716 Francis Street, St. Joseph, Missouri.

Respondent Curt E. Kuehn is an officer of Nic Kuehn, Inc. He directs, controls and formulates the acts, practices and policies of Nic Kuehn, Inc. His office and principal place of business is the same as that of Nic Kuehn, Inc.

Respondents are manufacturers and retailers of fur products.

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 manufacture for 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 manufactured for sale, 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. Respondents have removed or caused or participated in the removal of, prior to the time certain fur products were sold and delivered to the ultimate consumer, labels required by the Fur Products Labeling Act to be affixed to such products, in violation of Section 3(d) of said Act and the Rules and Regulations promulgated thereunder.

PAR. 4. 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. 5. Certain of said fur products were falsely and 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 St. Joseph, Missouri News Press, a newspaper published in the city of St. Joseph, State of Missouri.

PAR. 6. By means of the advertisements referred to in Paragraph 5, 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 were usually sold by respondents in the recent regular course of business and the represented savings were thereby not 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 thereunder.

PAR. 7. In advertising fur products for sale as aforesaid respondents represented through such statements as "½ Price" that prices of fur products were reduced in direct proportion to the percentage of savings stated when in fact such prices were not reduced to afford purchasers of respondents' fur products the percentage of savings stated in violation of Section 5(a)(5) of the Fur Products Labeling Act.

PAR. 8. The 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 subsection (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. 9. Respondents have sold, advertised, offered for sale and processed fur products which have been shipped and received in commerce, and have misbranded said fur products by substituting for the labels affixed to such fur products, by manufacturers or distributors pursuant to Section 4 of the Fur Products Labeling Act, labels which did not conform to the requirements of said Section 4, in violation of Section 3(e) of said Act.

PAR. 10. 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 Nic Kuehn, 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 716 Francis Street, St. Joseph, Missouri.

Respondent Curt E. Kuehn is an officer of Nic Kuehn, Inc., and his 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 Nic Kuehn, Inc., a corporation, and its officers, and Curt E. Kuehn, individually and as an officer of Nic Kuehn, Inc., and respondents' representatives, agents and employees, directly or through any corporate or other device, in connection with the introduction, or manufacture for 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, manufacture for sale, advertising, offering for sale, transportation or distribution, of any fur product which has been 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. Removing or causing or participating in the removal of, prior to the time fur products are sold and delivered to the ultimate consumer, labels required by the Fur Products Labeling Act to be affixed to such products.

2. Misbranding fur products by falsely and deceptively labeling or otherwise identifying such products as to the regular prices thereof by representing directly or by implication that any price, when accompanied or unaccompanied by any descriptive language, was the price at which the merchandise was usually and customarily sold at retail by the respondents unless such merchandise was in fact usually and customarily sold at retail at such price by the respondents in the recent past.

3. Falsely and 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 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.

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

C. Represents directly or by implication through percentage savings claims that prices of fur products are reduced to afford purchasers of respondents' fur products the percentage of savings stated when the prices of such fur products are not reduced to afford the percentage of savings stated.

4. 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 respondents Nic Kuehn, Inc., a corporation, and its officers, and Curt E. Kuehn, individually and as an officer of Nic Kuehn, Inc., and respondents' representatives, agents and employees, directly or through any corporate or other device, in connection with the introduction, sale, advertising or offering for sale, in commerce, or the processing for commerce, of fur products; or in

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connection with the selling, advertising, offering for sale, or processing of fur products which have been shipped and received in commerce, do forthwith cease and desist from misbranding fur products by substituting for the labels affixed to such fur products pursuant to Section 4 of the Fur Products Labeling Act labels which do not conform to the requirements of the aforesaid Act and the Rules and Regulations promulgated thereunder.

It is further ordered, That the respondents herein shall, within