

far as they charge as a deceptive practice that the respondents' unpackaged watch bands fail to have adequately identified thereon the country or place of origin, are herein and hereby dismissed for lack of evidence.

IN THE MATTER OF

J. H. LEVITT & BERGER, 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-327. Complaint, Apr. 8, 1963—Decision, Apr. 8, 1963

Consent order requiring New York City furriers to cease violating the Fur Products Labeling Act by failing to label fur products with the required information, to invoice furs which were not artificially colored as "natural", and to comply with other invoicing requirements; and by furnishing false guaranties through representing falsely in writing that they had a continuing guaranty on file with the Commission.

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 J. H. Levitt & Berger, Inc., a corporation, and J. Harry Levitt and Harry Berger, 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 J. H. Levitt & Berger, Inc., is a corpora-

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tion formed under the laws of the State of New York with its office and principal place of business located at 242 West 30th Street, New York, New York. On or about December 31, 1961, said corporation became inactive but was not dissolved. Individual respondents J. Harry Levitt and Harry Berger were sole officers of the said corporation and controlled, directed and formulated its acts, practices and policies prior to the time the firm became inactive. Respondent Harry Berger is currently president of the firm of Berger & Seidman, Inc., 242 West 30th Street, New York, New York, and respondent J. Harry Levitt is president-treasurer of J. Harry Levitt, Inc., 242 West 30th Street, New York, New York.

The corporate respondent during its period of activity and the individual respondents have at all times been manufacturers 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. 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 without labels affixed thereto showing the information required to be disclosed by the aforesaid Section 4(2) of the Fur Products Labeling Act.

PAR. 4. 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 that required item numbers were not set forth on labels, in violation of Rule 40 of said Rules and Regulations.

PAR. 5. Certain of said fur products were falsely and deceptively invoiced in that they were not invoiced as required under the provisions of Section 5(b)(1) of the Fur Products Labeling Act and in the manner and form prescribed by the Rules and Regulations promulgated thereunder.

Among such falsely and deceptively invoiced fur products, but not

limited thereto, were fur products covered by invoices which failed to disclose the true name of the animal that produced the fur used in the fur product.

PAR. 6. 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) Fur products which were not pointed, bleached, dyed, tip-dyed or otherwise artificially colored were not described as natural, in violation of Rule 19(g) of said Rules and Regulations.

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

PAR. 7. Respondents furnished false guaranties under Section 10(b) of the Fur Products Labeling Act with respect to certain of their fur products by falsely representing in writing that they had a continuing guaranty on file with the Federal Trade Commission when respondents in furnishing such guaranties had reason to believe that the fur products so falsely guaranteed would be introduced, sold, transported and distributed in commerce, in violation of Section 10(b) of the Fur Products Labeling Act and Rule 48(c) of said Rules and Regulations.

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 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 J. H. Levitt & Berger, Inc., is a corporation formed under the laws of the State of New York with its office and principal place of business located at 242 West 30th Street, New York, New York. On or about December 31, 1961, said corporation became inactive but was not dissolved. Respondents J. Harry Levitt and Harry Berger were sole officers of the said corporation.

Respondent Harry Berger is currently president of the firm of Berger & Seidman, Inc., 242 West 30th Street, New York, New York, and respondent J. Harry Levitt is president-treasurer of J. Harry Levitt, Inc., 242 West 30th Street, New York, New York.

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 J. H. Levitt & Berger, Inc., a corporation, and its officers, and J. Harry Levitt and Harry Berger, individually and as officers of the said corporation, 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. Misbranding fur products by:

A. Failing to affix labels to fur products showing all the information required to be disclosed by each of the subsections of Section 4(2) of the Fur Products Labeling Act.

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

D. Failure to set forth on invoices the item number or mark assigned to a fur product.

3. Furnishing a false guaranty that any fur product is not misbranded, falsely invoiced or falsely advertised when the respondents have reason to believe that such fur products may be introduced, sold, transported, or distributed in commerce.

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.