

Complaint

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IN THE MATTER OF
ALBERT FINKEL ET AL. TRADING AS
ROYAL FURS

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

Docket C-589. Complaint, Aug. 2, 1963—Decision, Aug. 2, 1963

Consent order requiring manufacturing furriers in Kansas City, Mo., to cease violating the Fur Products Labeling Act by failing, on labels and invoices, to show the true animal name of furs and to use the term "Natural" when furs were not artificially colored; failing to identify the manufacturer, etc., on labels; failing to disclose on invoices when fur products contained artificially colored or cheap or waste fur, and to show the country of origin of imported furs; 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 Albert Finkel and Margaret Finkel, individuals trading as Royal Furs, 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. Respondents Albert Finkel and Margaret Finkel are individuals trading under their own names and as Royal Furs.

Respondents are manufacturers of fur products and also engage in the wholesale and retail sale of fur products and have their office and principal place of business at 1003 Main Street, Kansas City, Missouri.

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 sold, advertised, offered for sale, transported and distributed fur products which have been made in whole or in part of furs which have 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 and fur products with labels which failed:

1. To show the true animal name of the fur used in the fur product.
2. 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.

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 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 on labels in abbreviated form, in violation of Rule 4 of said Rules and Regulations.

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

(c) 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.

(d) 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.

(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 30 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. 5. 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 fur products covered by invoices 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 country of origin of imported furs used in fur products.

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 on invoices in abbreviated form, in violation of Rule 4 of said Rules and Regulations.

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

(c) The disclosure that fur products were composed in whole or in substantial part of paws, tails, bellies, sides, flanks, gills, ears, throats, heads, scrap pieces or waste fur, where required, was not set forth on invoices, in violation of Rule 20 of said Rules and Regulations.

(d) 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.

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

PAR. 7. 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. Respondents Albert Finkel and Margaret Finkel are individuals trading under their own names and as Royal Furs with their office and principal place of business located at 1003 Main Street, Kansas City, Missouri.
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 Albert Finkel and Margaret Finkel, individuals, trading under their own names and as Royal Furs, or under any other trade name, 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 manufacture for sale, 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

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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 in figures plainly legible all of the information required to be disclosed by each of the subsections of Section 4(2) of the Fur Products Labeling Act.

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

3. Failing to set forth the term "Natural" as part of the information required to be disclosed on labels under the Fur Products Labeling Act and the Rules and Regulations promulgated thereunder to describe fur products which are not pointed, bleached, dyed, tip-dyed, or otherwise artificially colored.

4. Failing to completely set out information required under Section 4(2) of the Fur Products Labeling Act and the Rules and Regulations thereunder on one side of the labels affixed to fur products.

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

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

7. Failing to set forth separately on labels attached to fur products composed of two or more sections containing different animal fur 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.

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

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 in 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 "Natural" as part of the information required to be disclosed on invoices under the Fur Products Labeling Act and Rules and Regulations promulgated thereunder to describe fur products which are not pointed, bleached, dyed, tip-dyed, or otherwise artificially colored.

4. Failing to disclose on invoices that fur products are composed in whole or in substantial part of paws, tails, bellies, sides, flanks, gills, ears, throats, heads, scrap pieces or waste fur.

5. Failing to set forth separately information required under Section 5(b)(1) of the Fur Products Labeling Act and Rules and Regulations promulgated thereunder with respect to each section of fur products composed of two or more sections containing different animal furs.

6. Failing to set forth on invoices the item number or mark assigned to fur 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.

IN THE MATTER OF
BARACUTA, INC., ET AL.

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

*Dockets C-540—C-566. Complaints, Aug. 12, 1963—Decisions, Aug. 12, 1963**

Consent orders requiring 27 wearing apparel manufacturers to cease discriminating in price among their customers in violation of Sec. 2(d) of the Clayton Act by favoring certain retailers with promotional payments not made proportionally available to competing stores, and postponing effective date of the orders until further order of the Commission.

COMPLAINT

The Federal Trade Commission, having reason to believe that each of the respondents named in the appendix herein has violated and is now violating the provisions of subsection (d) of Section 2 of the

*These orders were made effective on Aug. 9, 1965, see *Abby Kent Co., Inc., et al.*, docket No. C-328, et al., Aug. 9, 1965.

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Clayton Act, as amended by the Robinson-Patman Act (U.S.C., Title 15, Sec. 13), and it appearing to the Commission that a proceeding by it in respect thereto is in the interest of the public, the Commission hereby issues its complaints stating its charges as follows:

PARAGRAPH 1. Each of the respondents is a corporation engaged in commerce, as "commerce" is defined in the amended Clayton Act, and sells and distributes its wearing apparel products from one State to customers located in other States of the United States. The sales of respondents in commerce are substantial.

PAR. 2. Each of the respondents in the course and conduct of its business in commerce 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 and facilities furnished by or through such customers in connection with their sale or offering for sale of wearing apparel products sold to them by respondent, and such payments were not made available on proportionally equal terms to all other customers competing with favored customers in the sale and distribution of respondent's wearing apparel products.

PAR. 3. Included among, but not limited to, the practices alleged herein, each of the respondents has granted substantial promotional payments or allowances for the promoting and advertising of its wearing apparel products to certain department stores and others who purchase respondent's said products for resale. These aforesaid promotional payments or allowances were not offered and made available on proportionally equal to all other customers of respondents who compete with said favored customers in the sale of respondents' wearing apparel products.

PAR. 4. The acts and practices alleged in Paragraphs 1 through 3 are all in violation of subsection (d) of Section 2 of the Clayton Act, as amended by the Robinson-Patman Act.

DECISION AND ORDER

The Federal Trade Commission having initiated an investigation of certain acts and practices of each of the respondents named in the appendix herein, and subsequently having determined that complaint should issue, and each respondent having entered into an agreement containing an order to cease and desist from the practices being investigated and having been furnished a copy of a draft of complaint to issue herein charging each respondent with violation of subsection (d) of Section 2 of the Clayton Act, as amended, and

Each of the respondents having executed the agreement containing a consent order which agreement contains an admission of all the jurisdictional facts set forth in the complaint to issue herein, and a statement that the signing of the said agreement is for settlement

purposes only and does not constitute an admission by the respondent that the law has been violated as set forth in such complaint, and also contains the waivers and provisions required by the Commission's rules; and

The Commission, having considered the agreements hereby accepts the same, issues its complaints in the form contemplated by said agreements, makes the following jurisdictional findings, and enters the following orders:

1. Each of the respondents named in the appendix herein is a corporation organized and existing under the laws of various States of the United States, with its office and principal place of business located as listed in the appendix herein.

2. The Federal Trade Commission has jurisdiction of the subject matter of these proceedings and of the respondents.

ORDER

It is ordered, That each respondent named in the appendix herein, a corporation, its officers, directors, agents, representatives and employees, directly or through any corporate or other device, in the course of its business in commerce, as "commerce" is defined in the Clayton Act, as amended, do forthwith cease and desist from:

(1) Paying or contracting for the payment of anything of value to, or for the benefit of, any customer of such respondent as compensation or in consideration for advertising or promotional services, or any other service or facility, furnished by or through such customer in connection with the handling, sale or offering for sale of wearing apparel products manufactured, sold or offered for sale by respondent, unless such payment or consideration is made available on proportionally equal terms to all other customers competing with such favored customer in the distribution or resale of such products.

It is further ordered, That the effective date of these orders to cease and desist be and it hereby is postponed until further Order of the Commission.

APPENDIX

The respondents are (addresses are New York City, unless otherwise indicated):

(C-540) Baracuta, Inc., 16 E. 40th St.

(C-541) Blue Jeans Corp., 130 W. 34th St.

(C-542) College-Town Sportswear, 35 Morrissey Blvd., Boston, Mass.

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- (C-543) Davis Sportswear Co., Inc., 5 Franklin St., Lawrence, Mass.
- (C-544) Gail Byron Frocks Co., Inc., 463 Seventh Ave.
- (C-545) Girltown, Inc., 35 Morrissey Blvd., Boston, Mass.
- (C-546) C. F. Hathaway Co., 10 Water St., Waterville, Me.
- (C-547) Junior Accent, Inc., 498 Seventh Ave.
- (C-548) Century Sportswear Co., Inc., 20 Boyleston St., Boston, Mass.
- (C-549) Jonathan Logan, Inc., 3901 Liberty Ave., North Bergen, N. J.
- (C-550) The Manhattan Shirt Co., 1271 Avenue of the Americas.
- (C-551) Novelty Veiling Co., Inc., 675 Sixth Ave.
- (C-552) Petite Lady Dress Co., Inc., 1375 Broadway.
- (C-553) Phillips-Van Heusen Corp., 417 Fifth Ave.
- (C-554) Rosecrest, Inc., 24 Binford St., Boston, Mass.
- (C-555) Boris Smoler & Sons, Inc., 3021 N. Pulaski, Chicago, Ill.
- (C-556) Alice Stuart, Inc., 525 Seventh Ave.
- (C-557) Sunnyvale, Inc., 1350 Broadway.
- (C-558) Tanner of North Carolina, Inc., Rutherfordtown, N. C.
- (C-559) Warshauer and Franck, Inc., 75 Kneeland St., Boston, Mass.
- (C-560) Westover Fashions, Inc., 1400 Broadway.
- (C-561) Boston Maid, Inc., 560 Harrison Ave., Boston, Mass.
- (C-562) Devonbrook, Inc., 1400 Broadway.
- (C-563) R. and M. Kaufman, Inc., 41 Holbrook St., Aurora, Ill.
- (C-564) Linsk of Philadelphia, Inc., 3111 W. Allegheny Ave., Philadelphia, Pa.
- (C-565) Modern Juniors, Inc., 1407 Broadway.
- (C-566) D. F. Rodgers Mfg. Co., Inc., 1350 Broadway.