

IN THE MATTER OF
STANLEY NEWCOMB TRADING AS
STAN NEWCOMB FIFTH AVENUE

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

Docket C-569. Complaint, Aug. 16, 1963—Decision, Aug. 16, 1963

Consent order requiring a San Diego, Calif., retail furrier to cease violating
the Fur Products Labeling Act by representing falsely, on labels and in

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newspaper advertising, that prices of fur products had been reduced from regular prices which were, in fact, fictitious; failing to use the term "natural" in labeling, invoicing and advertising for furs which were not artificially colored; failing to show the true animal name of fur on labels and invoices and in advertising; failing to keep adequate records disclosing the basis for pricing claims; and failing in other respects to comply with requirements of the Act.

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 Stanley Newcomb, an individual trading as Stan Newcomb Fifth Avenue, hereinafter referred to as respondent, has 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 Stanley Newcomb is an individual trading as Stan Newcomb Fifth Avenue.

Respondent is a retailer of fur products with his office and principal place of business located at 2706 Fifth Avenue, San Diego, California.

PAR. 2. Subsequent to the effective date of the Fur Products Labeling Act on August 9, 1952, respondent has been and is 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 has 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 labels affixed thereto represented that the prices of such fur products had been reduced from regular or usual prices of said fur products and that the amount of such reductions constituted savings to purchasers 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 respondent in the recent regular course of business and the represented savings were not thereby afforded to purchasers, 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 to show the true animal name of the fur used in the fur product.

PAR. 5. 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) 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.

(b) 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.

(c) 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.

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

PAR. 6. Certain of said fur products were falsely and deceptively invoiced by the respondent 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 to show the true animal name of the fur used in the fur product.

PAR. 7. 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) 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.

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

PAR. 8. Certain of said fur products were falsely and deceptively advertised in violation of the Fur Products Labeling Act in that cer-

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tain advertisements intended to aid, promote and assist, directly or indirectly, in the sale and offering for sale of such fur products were not in accordance with the provisions of Section 5(a) of the said Act.

Among and included in the aforesaid advertisements but not limited thereto, were advertisements of respondent which appeared in issues of the San Diego Union, a newspaper published in the city of San Diego, State of California.

Among such false and deceptive advertisements, but not limited thereto, were advertisements which failed to show the country of origin of imported furs contained in fur products.

PAR. 9. By means of the aforesaid advertisements and other advertisements of similar import and meaning not specifically referred to herein, respondent falsely and deceptively advertised fur products in that said advertisements represented that the prices of fur products were reduced from regular or usual prices and that the amount of such reductions afforded savings to the purchasers of respondent's 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 respondent in the recent regular course of business and the represented savings were not 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. 10. Respondent falsely and deceptively advertised fur products by affixing labels thereto which represented that prices of such fur products had been reduced from regular or usual prices of such products and that the amount of such reductions constituted savings to purchasers 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 respondent in the recent regular course of business and the represented savings were not thereby afforded to purchasers, in violation of Section 5(a)(5) of the Fur Products Labeling Act and Rule 44(a) of the Rules and Regulations.

PAR. 11. In advertising fur products for sale as aforesaid respondent represented through such statements as "20-50% off" that prices of fur products were reduced in direct proportion to the percentages stated and that the amount of said reduction afforded savings to the purchasers of respondent's products when in fact such prices were not reduced in direct proportion to the percentages stated and the represented savings were not thereby afforded to the said purchasers, in violation of Section 5(a)(5) of the Fur Products Labeling Act.

PAR. 12. By means of the aforesaid advertisements and others of similar import and meaning not specifically referred to herein, respondent falsely and deceptively advertised fur products in violation of the Fur Products Labeling Act in that the said fur products were not advertised in accordance with the Rules and Regulations promulgated thereunder in the following respects:

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

(b) All parts of the information required under Section 5(a) of the Fur Products Labeling Act and the Rules and Regulations promulgated thereunder were not set forth in type of equal size and conspicuousness in close proximity with each other, in violation of Rule 38(a) of the aforesaid Rules and Regulations.

PAR. 13. In advertising fur products for sale, as aforesaid, respondent made pricing claims and representations of the types covered by subsections (a), (b), (c) and (d) of Rule 44 of the Regulations under the Fur Products Labeling Act. Respondent in making such claims and representations failed to maintain full and adequate records disclosing the facts upon which such pricing claims and representations were based, in violation of Rule 44(e) of the said Rules and Regulations.

PAR. 14. The aforesaid acts and practices of respondent, 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 respondent named in the caption hereof with violation of the Federal Trade Commission Act and the Fur Products Labeling Act, and the respondent 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 respondent and counsel for the Commission having thereafter executed an agreement containing a consent order, an admission by respondent 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 re-

spondent 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 Stanley Newcomb is an individual trading as Stan Newcomb Fifth Avenue, with his office and principal place of business located at 2706 Fifth Avenue, San Diego, California.

2. The Federal Trade Commission has jurisdiction of the subject matter of this proceeding and of the respondent, and the proceeding is in the public interest.

ORDER

It is ordered, That Stanley Newcomb, an individual trading as Stan Newcomb Fifth Avenue, or under any other trade name, and respondent's 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. Falsely or deceptively labeling or otherwise identifying such products by any representation that any price, when accompanied or unaccompanied by any descriptive language, was the price at which the merchandise was in fact usually and customarily sold by respondent at such price in the recent past.

2. Misrepresenting in any manner on labels or other means of identification the savings available to purchasers of respondent's products.

3. Falsely or deceptively representing in any manner, directly or by implication, on labels or other means of identification that prices of respondent's fur products are reduced.

4. 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.

5. 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.

6. 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.

7. 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.

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. 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.

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

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 any fur product and which:

1. Fails to set forth in words and figures plainly legible all the information required to be disclosed by each of the

subsections of Section 5(a) of the Fur Products Labeling Act.

2. Fails to set forth the term "Natural" as part of the information required to be disclosed in advertisements 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.

3. Fails to set forth all parts of the information required under Section 5(a) of the Fur Products Labeling Act and the Rules and Regulations promulgated thereunder in type of equal size and conspicuousness and in close proximity with each other.

4. 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 respondent unless such advertised merchandise was in fact usually and customarily sold at retail at such price by respondent in the recent past.

5. Misrepresents in any manner the savings available to purchasers of respondent's fur products.

6. Falsely or deceptively represents in any manner that prices of respondent's fur products are reduced.

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

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 respondent full and adequate records disclosing the facts upon which such claims and representations are based.

It is further ordered, That the respondent herein shall, within sixty (60) days after service upon him of this order, file with the Commission a report in writing setting forth in detail the manner and form in which he has complied with this order.

By the Commission, Commissioner Elman not participating.

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IN THE MATTER OF
TROY YARN & TEXTILE CO. ET AL.

CONSENT ORDER, ETC., IN REGARD TO THE ALLEGED VIOLATION OF THE
FEDERAL TRADE COMMISSION AND THE TEXTILE FIBER PRODUCTS IDENTI-
FICATION ACTS

Docket C-570. Complaint, Aug. 23, 1963—Decision, Aug. 23, 1963

Consent order requiring manufacturers of textile fiber products in Pawtucket, R. I., to cease their practice of failing to maintain proper records of the fiber content of the textile fiber products they sold and distributed in commerce.

COMPLAINT

Pursuant to the provisions of the Federal Trade Commission Act and the Textile Fiber Products Identification Act, and by virtue of the authority vested in it by said Acts, the Federal Trade Commission, having reason to believe that Troy Yarn & Textile Co., a corporation, and Jacob Percelay, Morris Percelay, and Merrill Percelay, individually and as officers of said corporation, hereinafter referred to as respondents, have violated the provisions of said Acts and the Rules and Regulations under the Textile Fiber Products Identification 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 Troy Yarn & Textile Co., is a corporation organized, existing and doing business under and by virtue of the laws of the State of Rhode Island.

Individual respondents Jacob Percelay, Morris Percelay, and Merrill Percelay are officers of the corporate respondent. They formulate, direct and control the acts, practices and policies of the corporate respondent, including those hereinafter set forth. Respondents are manufacturers of textile fiber products with their principal office and place of business located at 603 Mineral Spring Avenue, in the city of Pawtucket, State of Rhode Island.

PAR. 2. Subsequent to the effective date of the Textile Fiber Products Identification Act on March 3, 1960, respondents have been and are now engaged in the introduction, delivery for introduction, manufacture for introduction, sale, advertising, and offering for sale, in commerce, and in the transportation or causing to be transported in commerce, and the importation into the United States, of textile fiber products; and have sold, offered for sale, advertised, delivered, transported, and caused to be transported, textile fiber products, which

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have been advertised or offered for sale in commerce; and have sold, offered for sale, advertised, transported, and caused to be transported, after shipment in commerce, textile fiber products, either in their original state or contained in other textile products, as the terms "commerce" and "textile fiber product" are defined in the Textile Fiber Products Identification Act.

PAR. 3. Respondents have failed to maintain proper records showing the fiber content of the textile fiber products manufactured by them, in violation of Section 6(a) of the Textile Fiber Products Identification Act and Rule 39 of the Regulations promulgated thereunder.

PAR. 4. The acts and practices of respondents, as set forth above were, and are, in violation of the Textile Fiber Products Identification Act and the Rules and Regulations promulgated thereunder, and constituted, and now constitute, unfair and deceptive acts and practices and unfair methods of competition in commerce, within the intent and meaning of 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 Textile Fiber Products Identification 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 Troy Yarn & Textile Co. is a corporation organized, existing and doing business under and by virtue of the laws of the State of Rhode Island with its office and principal place of business located at 603 Mineral Spring Avenue, in the city of Pawtucket, State of Rhode Island.

Respondents Jacob Percelay, Morris Percelay, and Merrill Percelay 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 Troy Yarn & Textile Co., a corporation and its officers and Jacob Percelay, Morris Percelay, and Merrill Percelay, 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, delivery for introduction, manufacture for introduction, sale, advertising, or offering for sale, in commerce, or the transportation or causing to be transported in commerce, or the importation into the United States of textile fiber products; or in connection with the sale, offering for sale, advertising, delivery, transportation, or causing to be transported, textile fiber products, which have been advertised or offered for sale in commerce; or in the connection with the sale, offering for sale, advertising, delivery transportation, or causing to be transported, after shipment in commerce, of textile fiber products, whether in their original state or contained in other textile fiber products as the terms "commerce" and "textile fiber product" are defined in the Textile Fiber Products Identification Act, do forthwith cease and desist from failing to maintain records of fiber content of textile fiber products manufactured by them, as required by Section 6(a) of the Textile Fiber Products Identification Act and Rule 39 of the Regulations promulgated thereunder.

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

QUALITONE INDUSTRIES, INC., ET AL.

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

Docket C-571. Complaint, Sept. 4, 1963—Decision, Sept. 4, 1963

Consent order requiring New York City distributors of phonograph needles, record brushes and phonograph accessories to wholesalers and jobbers, to cease selling phonograph needles with Japanese and Swiss components