

IN THE MATTER OF

LEO ESSERMAN TRADING AS ESSERMAN CO.

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

Docket C-581. Complaint, Sept. 11, 1963—Decision, Sept. 11, 1963

Consent order requiring a New York City manufacturing furrier to cease violating the Fur Products Labeling Act by failing, on labels and invoices, to show the true animal name of fur, to use the term "Persian Lamb" as required, and to describe fur products which were not artificially colored as "natural"; failing, on invoices, to disclose when fur was bleached, etc.; and to show the country of origin of imported furs; failing in other respects to comply with labeling and invoicing requirements, and furnishing false guarantees that fur products were not misbranded, falsely invoiced or falsely advertised.

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 Leo Esserman, an individual trading as Esserman Co., 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 Leo Esserman is an individual trading under the name Esserman Co.

Respondent is a manufacturer of fur products with his office and principal place of business located at 231 West 29th Street, New York, New York.

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 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 has manufactured for sale, 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

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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. 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 "Persian Lamb" was not set forth on labels in the manner required by law, in violation of Rule 8 of said Rules and Regulations.

(c) 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.

(d) The term "assembled" was used on labels to describe fur products composed of pieces in lieu of the required terms, in violation of Rule 20(d) of said Rules and Regulations.

(e) Information required under Section 4(2) of the Fur Products Labeling Act and Rules and Regulations promulgated thereunder was not set forth in a legible manner, in violation of Rule 29(a) 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 set forth in handwriting on labels, in violation of Rule 29(b) of said Rules and Regulations.

(g) 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.

(h) 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 36 of said Rules and Regulations.

(i) 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 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:

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 "Persian Lamb" was not set forth on invoices in the manner required by law, in violation of Rule 8 of said Rules and Regulations.

(c) 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.

(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) Information required under Section 5(b)(1) of the Fur Products Labeling Act and the Rules and Regulations promulgated thereunder was not set forth on invoices in a clear, legible, distinct and conspicuous manner, in violation of Rule 37 of said Rules and Regulations.

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

PAR. 7. Respondent furnished false guaranties that certain of his fur products were not misbranded, falsely invoiced or falsely ad-

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vertised when respondent in furnishing such guaranties had reason to believe that fur products so falsely guaranteed would be introduced, sold, transported or distributed in commerce, in violation of Section 10(b) of the Fur Products Labeling Act.

PAR. 8. 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 respondent 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 Leo Esserman is an individual trading under the name Esserman Co., with his office and principal place of business located at 231 West 29th Street, in the city of New York, State of New York.

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 respondent Leo Esserman, an individual, trading under his own name as Esserman Co., or under any other trade name, and respondent's representatives, agents and employees, di-

rectly 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 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 "Persian Lamb" on labels in the manner required where an election is made to use that term instead of the word "Lamb".

4. 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.

5. Setting forth the term "assembled" or any term of like import as part of the information required under Section 4(2) of the Fur Products Labeling Act and the Rules and Regulations promulgated thereunder to describe fur products composed in whole or in substantial part of paws, tails, bellies, sides, flanks, gills, ears, throats, heads, scrap pieces or waste fur.

6. Failing to set forth information required under Section 4(2) of the Fur Products Labeling Act and the Rules and Regulations promulgated thereunder in a legible manner.

7. 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.

8. 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.

9. 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.

10. 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 "Persian Lamb" in the manner required where an election is made to use that term instead of the word "Lamb".

4. 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.

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. Setting forth information required under Section 5(b)(1) of the Fur Products Labeling Act and the Rules and Regulations thereunder in a manner which is not clear, legible, distinct and conspicuous.

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

It is further ordered, That respondent Leo Esserman, an individual, trading under his own name as Esserman Co., or under any other trade name, and respondent's representatives, agents and employees,

directly or through any corporate or other device, do forthwith cease and desist from furnishing a false guaranty that any fur product is not misbranded, falsely invoiced or falsely advertised when the respondent has reason to believe that such fur product may be introduced, sold, transported, or distributed in commerce.