

affixed to any textile fiber product, after such textile fiber product has been shipped in commerce and prior to the time such textile fiber product has been sold and delivered to the ultimate consumer.

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

THE PRAGER COMPANY TRADING AS
PRAGER BRUSH COMPANY ET AL.

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

Docket C-637. Complaint, Dec. 27, 1963—Decision, Dec. 27, 1963

Consent order requiring Atlanta, Ga., manufacturers of paint and varnish brushes and other products, to cease selling brushes with no disclosure of the fact that they were composed of bristles which had been previously used; stamping the handles of certain brushes with the words "Contains

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CHINA 100% Pure Bristle", when the brushing part was made in substantial part of bristle from other sources; and selling brushes without revealing that the brushing part of some of them contained other material simulating bristle along with the bristle.

COMPLAINT

Pursuant to the provisions of the Federal Trade Commission Act, and by virtue of the authority vested in it by said Act, the Federal Trade Commission, having reason to believe that The Prager Company, a corporation trading and doing business as Prager Brush Company, and Hans E. Prager, individually and as an officer of said corporation, hereinafter referred to as respondents, have violated the provisions of said 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 The Prager Company is a corporation organized, existing and doing business under and by virtue of the laws of the State of Georgia, with its principal office and place of business located at 355 Marietta Street N.W., in the City of Atlanta, State of Georgia. Said corporation trades and does business under the name Prager Brush Company.

Respondent Hans E. Prager is an officer of the corporate respondent. He formulates, directs and controls the acts and practices of the corporate respondent, including the acts and practices hereinafter set forth. His address is the same as that of the corporate respondent.

PAR. 2. Respondents are now, and for some time last past have been, engaged in the manufacture, advertising, offering for sale, sale and distribution of paint and varnish brushes and other products to distributors and retailers for resale to the public.

PAR. 3. In the course and conduct of their business, respondents now cause, and for some time last past have caused, their said products, when sold, to be shipped from their place of business in the State of Georgia to purchasers thereof located in various other States of the United States, and maintain, and at all times mentioned herein have maintained, a substantial course of trade in said products in commerce, as "commerce" is defined in the Federal Trade Commission Act.

PAR. 4. Respondents, for the purpose of inducing the purchase of their products have misrepresented the materials of which certain of

their brushes are made or composed by the following methods and means:

(1) The brushing part of certain of respondents' brushes is composed in whole or in part of hog or swine bristle (hereinafter referred to as bristle) which has been previously used and no disclosure of that fact is made in advertising and on invoices or on said brushes. By failing to make such disclosure, respondents represent, directly or by implication, that the brushing part of such brushes is made or composed wholly of new bristle. In truth and in fact, the brushing part of respondents' said brushes is made or composed in whole or in part of previously used bristle. Such bristle has the appearance of new bristle and, in the absence of any disclosure to the contrary, respondents' said brushes are readily accepted by members of the purchasing public as having brushing parts made wholly of new bristle, a fact of which the Commission takes official notice. There is a preference among the purchasing public for paint brushes having a brushing part made wholly of new bristle as contrasted with paint brushes having a brushing part made in whole or in part of previously used bristle, a fact of which the Commission takes official notice.

(2) The handles or ferrules of certain of respondents' brushes are marked or stamped with the words "Contains CHINA 100% Pure Bristle". Respondents thereby represent, directly or by implication, that the brushing part of said brushes is composed entirely of bristle imported from China. In truth and in fact, the brushing part of respondents' said brushes is made in substantial part of bristle obtained from other sources.

(3) Certain of respondents' said brushes have a brushing part consisting of bristle and some other material which simulates the appearance of bristle. Respondents thereby represent, directly or by implication, that the brushing part of such brushes is made wholly of bristle. In truth and in fact, the brushing part of respondents' said brushes is made of a mixture or combination of bristle and other materials. In the absence of any disclosure to the contrary, respondents' said brushes are readily accepted by members of the purchasing public as have brushing parts made wholly of bristle, a fact of which the Commission takes official notice. There is a preference among members of the purchasing public for brushes having a brushing part made wholly of bristle as contrasted with brushes having a brushing part made of a mixture or combination of bristle and other materials, a fact of which the Commission takes official notice.

Therefore, the aforesaid statements and representations were and are false, misleading and deceptive.

PAR. 5. By the aforesaid practices, respondents place in the hands of retailers the means and instrumentalities by and through which they may mislead the public as to the quality and composition of said brushes and as to the country of origin of the bristle of which the brushing part of said brushes is made.

PAR. 6. In the conduct of their business, at all times mentioned herein, respondents have been in substantial competition, in commerce, with corporations, firms and individuals engaged in the sale of products of the same general kind and nature as those sold by respondents.

PAR. 7. The use by respondents of the aforesaid false, misleading and deceptive statements, representations and practices has had, and now has, the capacity and tendency to mislead members of the purchasing public into the erroneous and mistaken belief that said statements and representations were and are true and into the purchase of substantial quantities of respondents' products by reason of said erroneous and mistaken belief.

PAR. 8. The aforesaid acts and practices of respondents, as herein alleged, were and are all to the prejudice and injury of the public and of respondents competitors and constituted, and now constitute, unfair methods of competition in commerce and unfair and deceptive acts and practices in commerce, in violation of Section 5 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 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,

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makes the following jurisdictional findings, and enters the following order:

1. Respondent The Prager Company is a corporation organized, existing and doing business under and by virtue of the laws of the State of Georgia, with its office and principal place of business located at 355 Marietta Street, NW., in the city of Atlanta, State of Georgia. Said corporation trades and does business under the name of Prager Brush Company.

Respondent Hans E. Prager is an officer of said corporation, 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 The Prager Company, a corporation, trading and doing business as Prager Brush Company, or under any other name or names, and Hans E. Prager, individually and as an officer of said corporation, and respondents' agents, representatives and employees, directly or through any corporate or other device, in connection with the offering for sale, sale or distribution of paint and varnish brushes or other products, in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

(1) Offering for sale or selling brushes having a brushing part composed in whole or in part of bristle of the hog or swine or any other material which has been previously used without clearly disclosing such fact in advertising and sales promotional material and on invoices and other sales memoranda and by means of a legible marking or stamping on the handle or ferrule of such brushes of such size, conspicuousness and degree of permanency, as to be noticeable and readable upon casual inspection when the brush is offered for sale to consumer purchasers.

(2) Using the word "China" or any other word or words of similar import or meaning, either alone or in conjunction with other words, to designate or describe or refer to bristle of the hog or swine which is not imported from China, or otherwise misrepresenting the origin of the bristle of which the brushing part of respondents' brushes is made or composed.

(3) Offering for sale or selling brushes having a brushing part composed in part of bristle of the hog or swine and in part of

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material other than such bristle but which has the appearance of bristle without truthfully describing, in the order of their predominance, all constituent materials by means of a legible marking or stamping on the handle or ferrule of the brush of such size, conspicuousness and degree of permanency as to be noticeable and readable upon casual inspection when the brush is offered for sale to consumer purchasers.

(4) Placing in the hands of others the means or instrumentalities whereby they may mislead the public as to any of the matters or things prohibited in Paragraphs 1, 2, and 3 hereof.

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

HARRY HUTT TRADING AS HARRY HUTT FUR CO.

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

Docket C-638. Complaint, Dec. 27, 1963—Decision, Dec. 27, 1963

Consent order requiring manufacturing furriers in New York City, to cease violating the Fur Products Labeling Act by failing to show, on labels and invoices, the true animal name of furs; to disclose, on labels, when fur was artificially colored and to identify the manufacturer, etc.; to show, on invoices, when fur products contained used fur and the country of origin of imported furs; to set forth the terms "Persian Lamb", on labels and invoices, and "Dyed Broadtail-processed Lamb", on invoices; invoicing dyed rabbit as "Coney" and "Sealine"; and failing to comply in other respects 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 Harry Hutt, an individual trading as Harry Hutt Fur 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 in-

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terest hereby issues its complaint stating its charges in that respect as follows:

PARAGRAPH 1. Respondent Harry Hutt is an individual trading as Harry Hutt Fur Co. Said respondent is a retail furrier with his office and principal place of business located at 307 Seventh Avenue, 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 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 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 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, 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:

1. 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.
2. 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.

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3. 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.

4. 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.

5. 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 show that the fur product contained or was composed of used fur, 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 with respect to the name or designation of the animal or animals that produced the fur from which the said fur products had been manufactured, in violation of Section 5(b) (2) of the Fur Products Labeling Act.

Among such falsely and deceptively invoiced fur products, but not limited thereto, were fur products which were invoiced as "Coney" and "Sealine", respectively, when, in fact, the fur contained in such products was dyed rabbit.

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:

1. 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.

2. 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.

3. The term "Dyed Broadtail-processed Lamb" was not set forth on invoices in the manner required by law, in violation of Rule 10 of said Rules and Regulations.

4. The disclosure "second-hand" where required was not set forth on invoices, in violation of Rule 23 of said Rules and Regulations.

5. 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.

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

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 Harry Hutt is an individual trading as Harry Hutt Fur Co. and has his office and principal place of business at 307 Seventh Avenue, New York, New York.

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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 Harry Hutt, an individual, trading as Harry Hutt Fur Co., 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, 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 the terms "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 in words and figures plainly legible all the information required to be disclosed by each of the subsections of Section 4(2) of the Fur Products Labeling Act.

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

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

D. 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".

E. 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.

F. Failing to set forth on labels the item number or marks assigned to a fur product.

2. Falsely or deceptively invoicing fur products by:

A. 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.

B. Setting forth on invoices pertaining to fur products any false and deceptive information with respect to the name or designation of the animal or animals that produced the fur contained in such fur product.

C. 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.

D. 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".

E. Failing to set forth the term "Dyed Broadtail-processed Lamb" in the manner required where an election is made to use that term instead of the words "Dyed Lamb".

F. Failing to disclose that fur products contain or are composed of second-hand used fur.

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

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

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.
