

Complaint

IN THE MATTER OF

MAR-CAL SPORTSWEAR OF CALIFORNIA, INC., TRADING
AS MELVYN MODES OF CALIFORNIA ET AL.

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

Docket C-830. Complaint, Sept. 11, 1964—Decision, Sept. 11, 1964

Consent order requiring Los Angeles manufacturers of fur and textile fiber products to cease violating the Fur Products Labeling Act by failing on invoices to show the true animal name of fur used in fur products, omitting required item numbers, and abbreviating required information; and to cease violating the Textile Fiber Products Identification Act by furnishing false guarantees that certain of their textile fiber products were not misbranded or falsely invoiced.

COMPLAINT

Pursuant to the provisions of the Federal Trade Commission Act, the Fur Products Labeling 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 Mar-Cal Sportswear of California, Inc., a corporation trading as Melvyn Modes of California, and Gene Wishan and Joseph A. Capitano, individually and as officers of the said corporation hereinafter referred to as respondents have violated the provisions of said Acts and the Rules and Regulations promulgated under the said Acts, 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 Mar-Cal Sportswear of California, Inc., trading as Melvyn Modes of California is a corporation organized, existing and doing business under and by virtue of the laws of the State of California.

Respondents Gene Wishan and Joseph A. Capitano are officers of the corporate respondent and formulate, direct and control the acts, practices and policies of the said corporate respondent including those hereinafter set forth.

Respondents are manufacturers of fur products and textile fiber products with their office and principal place of business located at 818 South Broadway, Los Angeles, California.

PAR. 2. Subsequent to the effective date of the Fur Products Label-

ing 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 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 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 to show the true animal name of the fur used in the fur product.

PAR. 4. 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) Required item numbers were not set forth on invoices, in violation of Rule 40 of said Rules and Regulations.

PAR. 5. 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 in 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 have been advertised or offered for sale in commerce; and have sold, offered for sale, advertised, delivered, transported and caused to be transported, after shipment in commerce, textile fiber products, either 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.

PAR. 6. Respondents furnished false guaranties that certain of their textile fiber products were not misbranded or falsely and deceptively invoiced by falsely or deceptively representing in writing on

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invoices that respondents had filed a continuing guaranty under the Textile Fiber Products Identification Act with the Federal Trade Commission, in violation of Section 10(b) of said Act and Rule 38(d) of the Rules and Regulations promulgated under the said Act.

PAR. 7. The aforesaid acts and practices of respondents, as herein alleged, are in violation of the Fur Products Labeling Act, the Textile Fiber Products Identification Act and the Rules and Regulations promulgated under said acts 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, the Fur Products Labeling 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 Mar-Cal Sportswear of California, Inc., trading as Melvyn Modes of California is a corporation organized, existing and doing business under and by virtue of the laws of the State of California with its office and principal place of business located at 818 South Broadway, Los Angeles, California.

Respondents Gene Wishan and Joseph A. Capitano are officers of the corporate respondent and their address is the same as that of the corporate respondent.

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 Mar-Cal Sportswear of California, Inc., a corporation, trading as Melvyn Modes of California and its officers and Gene Wishan and Joseph A. Capitano, 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 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:

A. Falsely or deceptively invoicing fur products by:

1. Failing to furnish invoices, as the term "invoice" is defined in the Fur Products Labeling Act, 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 of Rules and Regulations promulgated thereunder in abbreviated form.
3. Failing to set forth on invoices the item number or mark assigned to fur products.

It is further ordered, That respondents Mar-Cal Sportswear of California, Inc., a corporation trading as Melvyn Modes of California and its officers, and Gene Wishan and Joseph A. Capitano, 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 into 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, of any textile fiber product which has been advertised or offered for sale in commerce; or in connection with the sale, offering for sale, advertising, delivery, transportation or causing to be transported, after shipment in commerce, of any textile fiber product whether in its 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 furnishing a false guaranty that any textile fiber product is not misbranded or falsely and deceptively invoiced.

It is further ordered, That the respondents herein shall, within sixty (60) days after service upon them of this order, file with the Commis-