

decision of the Commission issued September 11, 1962 [61 F.T.C. 517], shall become effective with the issuance of this order.

It is further ordered, That respondents herein shall on or before January 1, 1965, file with the Commission a report, in writing, setting forth in detail the manner and form in which they have complied with the provisions of the order issued September 11, 1962.

IN THE MATTER OF

ALPER FURS, INC., ET AL.

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

Docket C-833. Complaint, Sept. 17, 1964—Decision, Sept. 17, 1964

Consent order requiring manufacturing furriers in Chicago to cease violating the Fur Products Labeling Act by failing, on labels and invoices, to show the true animal name of furs in fur products and to use the term "Natural" for fur that was not bleached or dyed; labeling fur products with fictitious price; invoicing furs deceptively as "Broadtail" and "Sable"; failing to show in newspaper advertisements when fur was artificially colored; 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 Alper Furs, Inc., a corporation, and Max Alper, Percy Alper, and Mildred Alper, 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 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 Alper Furs, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of Illinois.

Respondents Max Alper, Percy Alper and Mildred Alper 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, wholesalers and retailers of fur products with their office and principal place of business located at 190 North State Street, Chicago, Illinois.

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 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 violation of Section 4(1) of the Fur Products Labeling Act in that they were falsely and deceptively labeled or otherwise falsely and deceptively identified in that labels affixed to fur products, contained representations, either directly or by implication that the prices of such fur products were reduced from respondents' former prices and the amount of such purported reduction constituted savings to purchasers of respondents' fur products. In truth and in fact, the alleged former prices were fictitious in that they were not actual, bona fide prices at which respondents offered the products to the public on a regular basis for a reasonably substantial period of time in the recent regular course of business and the said fur products were not reduced in price as represented and savings were not afforded purchasers of respondents' said fur products, as represented.

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 products.

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:

Complaint

66 F.T.C.

(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.

PAR. 6. 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. 7. 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 "Broadtail" thereby implying that the furs contained therein were entitled to the designation "Broadtail Lamb" when in truth and in fact they were not entitled to such designation.

Also among such falsely and deceptively invoiced fur products, but not limited thereto, were fur products which were invoiced as "Sable" when in fact the fur contained in such fur products was American Sable or American Marten which are different names for the same animal.

PAR. 8. 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 "Dyed Broadtail-processed Lamb" was not set forth on invoices in the manner required by law, in violation of Rule 10 of the 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.

PAR. 9. Certain of said fur products were falsely and deceptively advertised in violation of the Fur Products Labeling Act in that certain 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 respondents which appeared in issues of the Chicago Tribune, a newspaper published in the city of Chicago, State of Illinois.

Among such false and deceptive advertisements, but not limited thereto, were advertisements which failed to show that the fur contained in the fur product was bleached, dyed or otherwise artificially colored fur when such was the fact.

PAR. 10. Respondents falsely and deceptively advertised fur products by affixing labels thereto which represented either directly or by implication that prices of such fur products were reduced from respondents' former prices and the amount of such purported reduction constituted savings to purchasers of respondents' fur products. In truth and in fact, the alleged former prices were fictitious in that they were not the actual, bona fide prices at which respondents offered the fur products to the public on a regular basis for a reasonably substantial period of time in the recent regular course of business and the said fur products were not reduced in price as represented 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. By means of the aforesaid advertisements and others of similar import and meaning not specifically referred to herein, respondents 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 inasmuch as 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.

PAR. 12. In advertising fur products for sale, as aforesaid, respondents 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. Respondents 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. 13. 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. Respondent Alper Furs, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of Illinois, with its office and principal place of business located at 190 North State Street, in the city of Chicago, State of Illinois.

Respondents Max Alper, Percy Alper and Mildred Alper are officers of the said corporation and their address is the same as that of the 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 Alper Furs, Inc., a corporation, and its officers, and Max Alper, Percy Alper and Mildred Alper, individually and as officers of the 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. Misbranding fur products by:

1. Representing, directly or by implication on labels, that any price, whether accompanied or not by descriptive terminology, is the respondents' former price of fur products when such amount is in excess of the actual, bona fide prices at which respondents offered the fur products to the public on a regular basis for a reasonably substantial period of time in the recent regular course of business.

2. Misrepresenting in any manner the savings available to purchasers of respondents' fur products.

3. Falsely or deceptively representing in any manner that prices of respondents' fur products are reduced.

4. Failing to affix labels to fur products showing in words and in 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.

5. 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.

6. 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.

7. 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.

8. 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.

9. 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.

B. 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 by each of the subsections of Section 5(b) (1) of the Fur Products Labeling Act.

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

3. 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.

4. 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."

5. Failing to set forth the term "Natural" as part of the information required 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.

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. Represents directly or by implication that any price whether accompanied or not by descriptive terminology is the respondents' former price of fur products when such amount is in excess of the actual, bona fide price at which respondents offered the fur products to the public on a regular basis for a reasonably substantial period of time in the recent regular course of business.

4. Misrepresents in any manner the savings available to purchasers of respondents' fur products.

5. Falsely or deceptively represents in any manner that prices of respondents' fur products are reduced.

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

Is 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.

Complaint

66 F.T.C.

IN THE MATTER OF

COTTON CITY WASH FROCKS, INC.

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

*Docket C-834. Complaint, Sept. 18, 1964—Decision, Sept. 18, 1964**

Consent order requiring a New York City distributor of wearing apparel to cease violating Sec. 2(d) of the Clayton Act by granting substantial allowances for the promoting and advertising of its products to certain department stores and others who purchased its products for resale while not making proportionally equal allowances available to all competitors of those so favored. The effective date of the order has been postponed until further order of the Commission.

COMPLAINT

The Federal Trade Commission, having reason to believe the respondent named in the caption hereof has violated and is now violating the provisions of subsection (d) of Section 2 of the Clayton Act, as amended by the Robinson-Patman Act (U.S.C., Title 15, Section 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 complaint stating its charges as follows:

PARAGRAPH 1. The respondent 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 respondent in commerce are substantial.

PAR. 2. The respondent 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, respondent has granted substantial promotional payments or allowances for the promoting and advertising of its wearing apparel

*This order was made effective on Aug. 9, 1965, see *Abby Kent Co., Inc., et al.*, Docket No. C-328, et al., Aug. 9, 1965, 68 F.T.C. 393.