

FEDERAL TRADE COMMISSION AND THE FUR PRODUCTS LABELING ACTS

Docket C-889. Complaint, Mar. 12, 1965—Decision, Mar. 12, 1965

Consent order requiring New York City operators of low mark-up retail stores to cease falsely invoicing and advertising their fur products.

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 Allied Stores Corporation, a corporation, Allied Central Stores, Inc., a corporation, Pomeroy's, Inc., a corporation, and Almart Stores, Inc., a corporation, and its and their officers, hereinafter referred to as respondents have violated the provisions of the 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 Allied Stores Corporation is a corporation organized, existing and doing business under and by virtue of the laws of the State of Delaware. Its office and principal place of business is located at 401 Fifth Avenue, New York, New York.

Respondent Allied Central Stores, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of Missouri. Its office and principal place of business is located at 138 Public Square, Springfield, Missouri.

Respondent Pomeroy's, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the Commonwealth of Pennsylvania. Its office and principal place of business is located at 600 Penn Street, Reading, Pennsylvania.

Respondent Almart Stores, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of Delaware. Its office and principal place of business is located at 11 East 36th Street, New York, New York.

Respondents Allied Central Stores, Inc., Pomeroy's, Inc., and Almart Stores, Inc., are subsidiaries of respondent Allied Stores Corporation.

Allied Stores Corporation is charged in its capacity as operator of low mark-up, mass merchandising, self-service retail stores of the type heretofore operated as "Almart" stores or stores of a type similar thereto and whether operated under the description "Almart" or otherwise.

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 sale, advertising, and offering for sale in commerce, and in the transportation and distribution in commerce, of fur products; and have sold, advertised, offered for sale, transported and distributed fur products

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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:

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. 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) 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 "Dyed Mouton Lamb" was not set forth on invoices in the manner required by law, in violation of Rule 9 of said Rules and Regulations.

(d) 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.

(e) 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.

(f) The disclosure that fur products were composed in whole or in substantial part of paws, tails, bellies, sides, flanks, gills, ears, throats, heads, scrap pieces or waste fur, where required, was not

set forth on invoices in violation of Rule 20 of said Rules and Regulations.

(g) 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.

PAR. 5. 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.

PAR. 6. 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 Kansas City Star, a newspaper published in the city of Kansas City, State of Missouri.

Among such false and deceptive advertisements, but not limited thereto, were advertisements which failed:

1. To show the true animal name of the fur used in the fur product.
2. To show that the fur contained in the fur product was bleached, dyed, or otherwise artificially colored, when such was the fact.
3. To show that the fur product was composed in whole or in substantial part of paws, tails, bellies or waste fur, when such was the fact.

PAR. 7. 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 in the following respects:

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(a) The term "Dyed Broadtail-processed Lamb" was not set forth in the manner required, in violation of Rule 10 of the said Rules and Regulations.

(b) 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.

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

PAR. 8. 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 that certain of said fur products were falsely and deceptively identified 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(a)(5) of the Fur Products Labeling Act.

Among such falsely and deceptively advertised fur products, but not limited thereto, were fur products advertised 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.

PAR. 9. 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 that said advertisements misrepresented prices as being "Below Mfr.'s Wholesale Price" and thereby also misrepresented the savings available to purchasers of said products, 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 aforesaid Act.

PAR. 10. In advertising fur products for sale as aforesaid respondents falsely and deceptively advertised said fur products in violation of Section 5(a)(5) of the Fur Products Labeling Act and Rule 44(a) of the said Rules and Regulations by representing directly or by implication, through such statements as "Spectacular \$75,000 Fur Sale! Unseasonable Heat Forces a Master New York Furrier to Liquidate His Surplus Inventory. Peck's is ONLY K. C. 'outlet' for hundreds of magnificent fur coats, fur jackets, fur capes, and fur stoles from a fabulous New York workroom," that respondents obtained price concessions from a supplier of fur products due to unusual circumstances and as a result of the special purchase were

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able to offer the fur products for sale to the purchasing public at savings, when in truth and in fact the representation was false, misleading and deceptive in that respondents did not make a special purchase of all the fur products offered for sale but only a small percentage thereof and savings were not thereby afforded to customers as represented.

PAR. 11. In advertising fur products for sale as aforesaid respondents falsely and deceptively advertised such fur products in violation of Section 5(a)(5) of the Fur Products Labeling Act and Rule 44(a) of the said Rules and Regulations by representing, directly and by implication, through such statements as: "Prize pelts bought at auction from Hudson Bay Company" and "Middleman costs eliminated," that respondents were offering said fur products for sale at reduced prices due to purchases at auction from the Hudson Bay Company and middleman costs were thereby eliminated when in truth and in fact such fur products were not purchased at auction from the Hudson Bay Company, middleman costs were not thus eliminated and savings were not thereby afforded to customers as represented.

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 violation of the Federal Trade Commission Act and the Fur Products Labeling Act, and the respondents named in the caption above having been duly so informed 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 Allied Stores Corporation is a corporation organized, existing and doing business under and by virtue of the laws of the State of Delaware with its office and principal place of business located at 401 Fifth Avenue, in the city of New York, State of New York.

Respondent Allied Central Stores, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of Missouri with its office and principal place of business located at 138 Public Square, in the city of Springfield, State of Missouri.

Respondent Pomeroy's, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the Commonwealth of Pennsylvania with its office and principal place of business located at 600 Penn Street, in the city of Reading, State of Pennsylvania.

Respondent Almart Stores, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of Delaware with its office and principal place of business located at 11 East 36th Street, in the city of New York, State of New York.

Respondents Allied Central Stores, Inc., Pomeroy's, Inc. and Almart Stores, Inc. are subsidiaries of proposed respondent Allied Stores 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 respondent Allied Stores Corporation, a corporation, and its officers, agents, representatives, employees and corporate subsidiaries and affiliates, as operator and/or operators of low mark-up, mass merchandising, self-service retail stores of the type heretofore operated as "Almart" stores, or stores of any type

similar thereto and whether operated under the description "Almart" or otherwise, and respondents Allied Central Stores, Inc., Pomeroy's, Inc., and Almart Stores, Inc., corporations, and said respondents' officers, 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 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 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 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 product.

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

5. Failing to set forth the term "Dyed Mouton Lamb" in the manner required where an election is made to use that term instead of the words "Dyed Lamb."

6. 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."

7. 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.

8. Failing to disclose on invoices that fur products are composed in whole or in substantial part of paws, tails, bellies, sides, flanks, gills, ears, throats, heads, scrap pieces or waste fur.

9. 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.

B. 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. Falsely or deceptively identifies any such fur product as to the name or designation of the animal or animals that produced the fur contained in the fur product.

3. Fails 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."

4. 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.

5. Sets forth the term "assembled" or any term of like import as part of the information required under Section 5(a) 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. Falsely or deceptively represents directly or by implication that the prices of fur products are "below manufacturer's wholesale price."

7. Represents in any manner, contrary to fact, that fur products are the surplus stock, liquidated inventory or

distress merchandise of a supplier or that fur products are offered for sale at a savings as a result of unusual circumstances.

8. Represents in any manner, contrary to fact, that special price concessions have been obtained from suppliers with respect to any fur products offered for sale.

9. Represents in any manner, contrary to fact, that the furs contained in fur products offered for sale were obtained directly from a supplier of fur pelts or at an auction of fur pelts.

10. Represents in any manner, contrary to fact, that middleman costs have been eliminated with respect to any fur products offered for sale.

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

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

C. 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.

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
JOHN SURREY, LTD., ET AL.