

in which he has complied with the order to cease and desist.

IN THE MATTER OF
DALY BROS. 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-911. Complaint, June 28, 1965—Decision, June 28, 1965

Consent order requiring retailers of fur and textile fiber products located in Eureka, Calif., to cease violating the Fur Products Labeling Act by misbranding, falsely advertising, and deceptively invoicing fur products; and to cease violating the Textile Fiber Products Identification Act by misbranding and falsely advertising textile fiber products.

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 Daly Bros., a partnership, and Charles F. Daly, Jack F. Daly, John S. Daly, Cornelius Daly, Catherine Matthewson, Marian Biord,

DECISION OF THE COMMISSION AND ORDER TO FILE

REPORT OF COMPLIANCE

This matter having been heard by the Commission upon respondent's appeal from the hearing examiner's initial decision, and upon briefs and oral argument in support thereof and in opposition thereto; and the Commission having rendered its decision denying the appeal and directing modification of the hearing examiner's order:

It is ordered, That the following order be, and it hereby is, substituted for the order contained in the initial decision:

It is ordered, That respondent, John A. Guziak, individually or through any agent, representative, agency or other instrumentality, in connection with the offering for sale, sale or distribution of aluminum and simulated stone home and building siding materials or any other similar products, in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from representing, directly or by implication, that:

(1) Any saving or discount is afforded purchasers or a special or reduced price is granted by respondent, unless such saving, discount or special price constitutes a reduction from the price which respondent usually and regularly charged for the materials and their application in the recent regular course of his business.

(2) (a) Respondent will bring prospective customers to see the purchaser's "model home"; or that respondent will call on prospective purchasers referred to him by his customers.

(b) Respondent will pay a bonus, commission or any other compensation to purchasers or prospective purchasers on sales made as a result of demonstrating or advertising the purchaser's or prospective purchaser's house or building.

(3) Respondent manufactures the siding products which he sells.

(4) Aluminum siding materials sold by respondent are manufactured by Alcoa, Kaiser or Reynolds Aluminum Company or misrepresenting in any way the identity of the manufacturer or the source of any of respondent's products.

(5) Respondent is connected or affiliated with Reynolds Aluminum Company, or that respondent is connected with any business concern or organization with which respondent is not so connected or affiliated.

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(b) 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(a) of said Rules and Regulations.

(c) 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 to show the true animal name of the fur used in the fur product.

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

PAR. 7. 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 Humboldt Standard, a newspaper published in the city of Humboldt, State of California.

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 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 that 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.

and Annette Falk, individually and as copartners, trading as Daly Bros., 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 the Textile Fiber Products Identification 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:

PAR. 1. Respondent Daly Bros. is a partnership existing and doing business in the State of California.

Respondents Charles F. Daly, Jack F. Daly, John S. Daly, Cornelius Daly, Catherine Matthewson, Marian Biord, and Annette Falk are copartners in said partnership.

Respondents are retailers of fur products and textile fiber products with their office and principal place of business located at 405 "F" Street, Eureka, California.

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, or fur products; and have 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 the Fur Products Labeling Act and the manner and form prescribed by the Rules and Regulations promulgated thereunder.

Among such misbranded fur products, but not limited thereto, were fur products to which no labels whatever were affixed.

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 that information required under Section 4(2) of the Fur Products Labeling Act and the Rules and Regulations promulgated thereunder in the following respects:

(a) 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.

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Also among such misbranded textile fiber products were finished drapes manufactured specifically for particular customers after the sales were consummated by means of properly labeled swatches of the same fiber content as the drapes, which textile fiber products were not labeled to show the information required by the Textile Fiber Products Identification Act and the Rules and Regulations thereunder and which were not accompanied by invoices or other paper showing the information otherwise required to appear on the labels as permitted by Rule 21(b) of the Rules and Regulations promulgated under said Act.

PAR. 13. Certain of said textile fiber products were misbranded in violation of the Textile Fiber Products Identification Act in that they were not labeled in accordance with the Rules and Regulations promulgated thereunder in the following respects:

A. Fiber trademarks appeared on labels without the generic names of the fibers appearing on such labels, in violation of Rule 17(a) of the aforesaid Rules and Regulations.

B. Fiber trademarks appeared on labels without a full and complete fiber content disclosure appearing on such labels, in violation of Rule 17(b) of the aforesaid Rules and Regulations.

PAR. 14. Certain of said textile fiber products were falsely and deceptively advertised in that respondents in making disclosures or implications as to the fiber content of such textile fiber products in written advertisements used to aid, promote, and assist directly or indirectly in the sale or offering for sale of said products, failed to set forth the required information as to fiber content as specified by Section 4(c) of the Textile Fiber Products Identification Act and in the manner and form prescribed by the Rules and Regulations promulgated under said Act.

Among such textile fiber products, but not limited thereto, were articles of wearing apparel which were falsely and deceptively advertised in *The Humboldt Times*, a newspaper of interstate circulation, in that such terms as "Arnel," "Dacron," "Orlon," "Pima," "Satin," and "Estron" were used without the true generic names of the fibers in such articles being set forth.

PAR. 15. Certain of said textile fiber products were falsely and deceptively advertised in violation of the Textile Fiber Products Identification Act in that they were not advertised in accordance with the Rules and Regulations promulgated thereunder.

Among such textile fiber products but not limited thereto, were textile fiber products which were falsely and deceptively advertised in *The Humboldt Times* and *The Humboldt Standard*, newspapers

PAR. 9. 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.

PAR. 10. 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, 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. 11. Certain of said textile fiber products were misbranded by respondents within the intent and meaning of Section 4(a) of the Textile Fiber Products Identification Act and the Rules and Regulations promulgated thereunder, in that they were falsely and deceptively stamped, tagged, labeled, invoiced, advertised, or otherwise identified as to the name or amount of constituent fibers contained therein.

Among such misbranded textile fiber products, but not limited thereto, were textile fiber products which were falsely and deceptively advertised in The Humboldt Standard and The Humboldt Times, newspapers published in Humboldt, California, and having interstate circulation, in that certain of said advertisements contained such terms as "linen-look" and "Linen Weaves" which represented either directly or by implication, that linen fiber was present in said products when such was not the case.

PAR. 12. Certain of said textile fiber products were misbranded by respondents in that they were not stamped, tagged, labeled or otherwise identified as required under the provisions of Section 4(b) of the Textile Fiber Products Identification Act, and in the manner and form as prescribed by the Rules and Regulations promulgated under said Act to disclose the true generic names of the fibers present.

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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 Daly Bros. is a partnership 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 405 "F" Street, Eureka, California.

Respondents Charles F. Daly, Jack F. Daly, John S. Daly, Cornelius Daly, Catherine Matthewson, Marian Biord and Annette Falk are copartners in said partnership. Their address is the same as that of the said partnership.

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 Daly Bros., a partnership, and Charles F. Daly, Jack F. Daly, John S. Daly, Cornelius Daly, Catherine Matthewson, Marian Biord, and Annette Falk, individually and as copartners trading as Daly Bros., and respondents' representatives, agents and employees, directly or through any corporate or other device, do forthwith cease and desist from introducing into commerce, or selling, advertising or offering for sale in commerce, or transporting or distributing in commerce, any fur product; or selling, advertising, offering for sale, transporting or distributing any

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published in Humboldt, California, and having interstate circulation, in the following respects:

A. A fiber trademark was used in advertising textile fiber products, without a full disclosure of the fiber content information required by the said Act and the Rules and Regulations thereunder in at least one instance in said advertisement, in violation of Rule 41(a) of the aforesaid Rules and Regulations.

B. A fiber trademark was used in advertising textile fiber products, containing more than one fiber and such fiber trademark did not appear in the required fiber content information in immediate proximity and conjunction with the generic name of the fiber in plainly legible type or lettering of equal size and conspicuousness, in violation of Rule 41(b) of the aforesaid Rules and Regulations.

C. A fiber trademark was used in advertising textile fiber products, containing only one fiber and such fiber trademark did not appear, at least once in the said advertisement, in immediate proximity and conjunction with the generic name of the fiber in plainly legible and conspicuous type, in violation of Rule 41(c) of the aforesaid Rules and Regulations.

D. The generic name of a fiber was used in advertising textile fiber products, in such a manner as to be false, deceptive, and misleading as to fiber content and to indicate, directly or indirectly, that such textile fiber product was composed wholly or in part of such fiber when such was not the case, in violation of Rule 41(d) of the aforesaid Rules and Regulations.

Among such products, but not limited thereto, were textile fiber products, namely ladies' coats advertised as "linen-look" and "Linen Weaves," thus implying that such products were composed wholly or in part of linen when in fact the products contained no Linen.

E. In advertising textile fiber products in such a manner as to require disclosure of the information required by the Act and Regulations, all parts of the required information were not stated in immediate conjunction with each other in legible and conspicuous type or lettering of equal size and prominence, in violation of Rule 42(a) of the aforesaid Rules and Regulations.

PAR. 16. The acts and practices of respondents as set forth above were and are in violation of the Textile Fiber Products Identification Act and the Rules and Regulations promulgated thereunder, and constituted, and now constitute unfair methods of competition and unfair and deceptive acts or practices, in commerce, under the Federal Trade Commission Act.

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

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 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.

It is further ordered, That respondents Daly Bros., a partnership, and Charles F. Daly, Jack F. Daly, John S. Daly, Cornelius Daly, Catherine Matthewson, Marian Biord, and Annette Falk, individually and as copartners trading as Daly Bros., and respondents' representatives, agents and employees, directly or through any corporate or other device, do forthwith cease and desist from introducing, delivering for introduction, selling, advertising, or offering for sale, in commerce, or transporting or causing to be transported in commerce, or importing into the United States, any textile fiber product; or selling, offering for sale, advertising, delivering, transporting, or causing to be transported, of any textile fiber product which has been advertised or offered for sale in commerce; or selling, offering for sale, advertising, delivering, transporting, 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.

A. Which is falsely or deceptively stamped, tagged, labeled, invoiced, advertised or otherwise identified as to the name or amount of constituent fibers contained therein.

B. Which is falsely or deceptively stamped, tagged, labeled, invoiced, advertised or otherwise identified by any representation either directly or by implication, through the use of such terms as "linen-look," "Linen Weaves," or any other terms, that any fibers are present in a textile fiber product when such is not the case.

C. Unless such textile fiber product has affixed thereto a label showing each element of information required to be disclosed by Section 4(b) of the Textile Fiber Products Identification Act.

D. Which has a label affixed setting forth a fiber trademark without the generic name of the fiber appearing on the said label.

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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:

A. Unless each such fur product has securely affixed thereto a label:

1. Correctly 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 the term "natural" as part of the information required under the Fur Products Labeling Act and Rules and Regulations promulgated thereunder to describe fur products which are not pointed, bleached, dyed, tipped, or otherwise artificially colored.

3. Setting forth information required under Section 4(2) of the Fur Products Labeling Act and the Rules and Regulations promulgated thereunder in the sequence required by Rule 30 of the aforesaid Rules and Regulations.

4. Setting forth an item number or mark assigned to the fur product.

It is further ordered, That respondents Daly Bros., a partnership, and Charles F. Daly, Jack F. Daly, John S. Daly, Cornelius Daly, Catherine Matthewson, Marian Biord, and Annette Falk, individually and as copartners trading as Daly Bros., and respondents' 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 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 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 the Rules and Regulations promulgated thereunder in abbreviated form.

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4. Using a generic name of a fiber in advertising textile fiber products in such a manner as to be false, deceptive or misleading as to fiber content or to indicate, directly or indirectly, that such textile fiber products are composed wholly or in part of such fiber when such is not the case.

5. Using a fiber trademark in advertising textile fiber products containing only one fiber without such fiber trademark appearing at least once in the advertisement, in immediate proximity and conjunction with the generic name of the fiber in plainly legible and conspicuous type.

6. Failing to set forth all parts of the required information in advertisements of textile fiber products in immediate conjunction with each other in legible and conspicuous type or lettering of equal size and prominence.

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.