

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

Docket C-988. Complaint, Sept. 10, 1965—Decision, Sept. 10, 1965

Consent order requiring two New York City firms dealing in fur products to cease misbranding, falsely advertising, and falsely invoicing fur products in violation of the Fur Products Labeling 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 Abco Furs, Inc., a corporation, Hy Fishman, Inc., a corporation, and Hy Fishman, individually and as an officer of both corporations, 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 Abco Furs, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of New York with its office and principal place of business located at 312 Seventh Avenue, New York, New York.

Respondent Hy Fishman, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of New York with its office and principal place of business located at 312 Seventh Avenue, New York, New York.

Respondent Hy Fishman is an officer of the said corporate respondents and formulates, directs and controls the acts, practices and policies of the said corporate respondents. His office and principal place of business is the same as that of the said corporate respondents.

Respondent Abco Furs, Inc., manufactures, retails and services fur products. Respondent Hy Fishman, Inc., manufactures and wholesales fur products.

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 that they were not labeled as required under the provisions of Section 4(2) of

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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:

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, advertised or offered it for sale, 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:

(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.

(b) 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.

(c) 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.

(d) 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.

Respondents failed to invoice fur products with any of the information required under Section 5(b)(1) of the said Act.

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 Regula-

tions promulgated thereunder in that 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 producers 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 appearing in newspapers, magazines, sales brochures and other advertising material.

Among and included in the advertisements, but not limited thereto, were advertisements which failed to show the true animal name of the fur used in the fur product.

PAR. 8. By means of the aforesaid advertisements and others of similar import and meaning not specifically referred to herein, respondents have made statements and representations, among and typical but not all inclusive of which are the following:

Member of: The Master Furriers Guild of America.

A division of America's Largest Retail Fur Servicing Chain, Operator—200 Stores.

Showroom samples—garments worn at T.V. and fashion shows.

Some are samples shown at shows and on T.V.

ABCO FURS is also America's recognized leader in Custom Fur Remodeling and Redyeing.

America's Largest Fur Rental Co.

Also offers tremendous values on superb quality, unredeemed storage furs, from their 160 affiliate N. Y. stores.

Abco sells slightly used furs.

Abco Furs gives best values on prestige quality, gently used furs.

PAR. 9. Through the use of the said advertisements, and others of similar import and meaning not specifically set out herein respondents have represented and have now represented directly or by implication:

1. That respondents are members of the Master Furriers Guild of America.

2. That respondents are a division of America's largest retail fur services chain.

3. That respondents are a member of a chain of over 200 stores.

4. That respondents market substantial amounts of showroom samples.

5. That respondents market substantial amounts of fur products used in fashion shows and television shows.

6. That respondents are America's recognized leader in custom fur remodeling and redyeing.

7. That respondents are America's largest fur rental company.

8. That respondents market substantial amounts of unredeemed storage furs from a large number of affiliate stores.

9. That used fur products offered for sale by respondents are not damaged or affected to an appreciable extent by usage or wear.

PAR. 10. The aforesaid statements are false, misleading and deceptive. In truth and in fact:

1. None of the respondents is a member of or affiliated with the Master Furriers Guild of America.

2. Respondents are not a division of America's largest retail fur services chain.

3. Respondents are not a member of a chain of over 200 stores. Respondents have only one place of business and are not a chain organization.

4. Respondents do not market showroom samples.

5. Respondents do not market fur products used in fashion shows and television shows.

6. Respondents are not America's recognized leader nor a leader in custom fur remodeling or redyeing.

7. Respondents are not America's largest fur rental company.

8. Respondents do not market unredeemed storage furs or any other type of unredeemed merchandise.

9. A substantial number of used fur products offered for sale by respondents are substantially damaged by usage or wear.

PAR. 11. 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 admis-

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sion 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 Abco Furs, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of New York with its office and principal place of business located at 312 Seventh Avenue, New York, New York.

Respondent Hy Fishman, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of New York with its office and principal place of business located at 312 Seventh Avenue, New York, New York.

Respondent Hy Fishman is an officer of said corporations and his address is the same as that of said corporations.

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 Abco Furs, Inc., a corporation, and its officers, Hy Fishman, Inc., a corporation, and its officers, and Hy Fishman, individually and as an officer of said corporations, 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. Failing to affix labels to fur products showing in words and in figures plainly legible all of the information

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required to be disclosed by each of the subsections of Section 4(2) of the Fur Products Labeling Act.

2. 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.

3. 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.

4. 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.

5. Failing to set forth on labels the item number or mark assigned to a fur product.

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. Failing to set forth on invoices the item number or mark assigned to a fur product.

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. Represents, directly or by implication, that any of the respondents is a member of Master Furriers Guild Association of America; or which otherwise misrepresents respondents' affiliations or connections with any other trade organization.

3. Represents, directly or by implication, that respondents' enterprise is a division of America's largest retail fur servicing chain, or is a member of a chain of over 200 stores or is a chain organization; or which otherwise misrepresents the respondents' affiliations or connections with any other business organization.

4. Represents, directly or by implication, that respondents market showroom sample products or products used in television or fashion shows: *Provided, however,* That it shall be a defense in any enforcement proceeding instituted hereunder for respondents to establish (1) that such category or categories of merchandise are available from respondents and (2) that the volume of merchandise which comprises the category or categories of products named or implied in respondents' sales solicitation is truthfully disclosed in immediate conjunction with such representation.

5. Represents, directly or by implication, that respondents are America's recognized leader or a leader in custom fur remodeling or redyeing.

6. Represents, directly or by implication, that respondents are America's largest fur rental company.

7. Misrepresents in any manner, directly or by implication, the size, scope, nature, status, reputation or type of respondents' business.

8. Represents, directly or by implication, that respondents market unredeemed storage furs or any other type of unredeemed merchandise: *Provided, however,* That it shall be a defense in any enforcement proceeding instituted hereunder for respondents to establish (1) that such merchandise is available from them and (2) that the volume of merchandise which comprises the category or categories of products named or implied in respondents' sales solicitation is truthfully disclosed in immediate conjunction with such representation.

9. Suggests, directly or by implication, any qualification or limitation of the disclosure that a fur or fur product is used, second-hand, or damaged, by such terms as "slightly used," "like new," or otherwise: *Provided, however,* That it shall be a defense in any enforcement proceeding instituted hereunder for respondents to establish that such qualification or limitation truthfully repre-

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sents the degree and extent to which the fur or fur product so described has been used or damaged.

10. Misrepresents in any manner, directly or by implication, the nature, type or quality of respondents' fur products.

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