

IN THE MATTER OF
STEIN & SALOMON ET AL.

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

Docket C-1041. Complaint, Feb. 10, 1966—Decision, Feb. 10, 1966

Consent order requiring a Chicago, Ill., wholesaler to cease misbranding, deceptively invoicing, and failing to keep required records on fur products; misbranding wool products; and misbranding, furnishing false guaranties for, and failing to keep required records on textile fiber products.

COMPLAINT

Pursuant to the provisions of the Federal Trade Commission Act, the Fur Products Labeling Act, the Wool Products Labeling Act of 1939 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 Stein & Salomon, a partnership, and Joseph B. Hochberger and John B. Smith, individually and as copartners trading as Stein & Salomon and Bobby Jean, hereinafter referred to as respondents, have violated the provisions of said Acts and the Rules and Regulations promulgated under the Fur Products Labeling Act, the Wool Products Labeling Act of 1939 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,

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hereby issues its complaint stating its charges in that respect as follows:

PARAGRAPH 1. Respondent Stein & Salomon is a partnership, existing and doing business in the State of Illinois.

Respondents Joseph B. Hochberger and John B. Smith, are individual copartners trading as Stein & Salomon and Bobby Jean.

Respondents are wholesalers of fur products, wool products, and textile fiber products with their office and principal place of business located at 318 West Adams 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 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 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 falsely and deceptively labeled or otherwise 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 4(1) of the Fur Products Labeling Act.

Among such misbranded fur products, but not limited thereto, were fur products which were labeled as "Mink" when the fur contained in such products was "Japanese Mink."

PAR. 4. Certain of said fur products were misbranded in that they were falsely and deceptively labeled or otherwise falsely and deceptively identified with the respect to the name of the country of origin of furs contained in such fur products, in violation of Section 4(1) of the Fur Products Labeling Act.

Among such misbranded fur products, but not limited thereto, were fur products labeled to show the country of origin of furs used in such fur products as "Denmark" when the country of origin of such furs was, in fact, "United States."

PAR. 5. 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:

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 the imported furs contained in the fur product.

PAR. 6. 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 "blended" was used on labels as part of the information required under Section 4(2) of the Fur Products Labeling Act and the Rules and Regulations promulgated thereunder to describe the pointing, bleaching, dyeing, tip-dyeing or otherwise artificial coloring of furs, in violation of Rule 19(f) 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 set forth in handwriting on labels, in violation of Rule 29(b) 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 not set forth in the required sequence, in violation of Rule 30 of said Rules and Regulations.

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

PAR. 7. 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. 8. 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 "Squirrel" when, in fact, the fur contained in such products was "Dyed Red Fox."

PAR. 9. Respondents falsely and deceptively invoiced fur products, in violation of Section 5(b)(2) of the Fur Products Labeling Act and the Rules and Regulations promulgated thereunder by representing that respondents are manufacturers of fur products when, in fact, respondents' operations with respect to fur products are limited to wholesaling such products.

PAR. 10. 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) 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.

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

PAR. 11. Respondents in substituting labels as provided for in Section 3(e) of the Fur Products Labeling Act, have failed to keep and preserve the records required in violation of said Section 3(e) and Rule 41 of the Rules and Regulations promulgated under the said Act.

PAR. 12. The aforesaid acts and practices of the respondents, as herein alleged, are in violation of the Fur Products Labeling Act and the Rules and Regulations promulgated thereunder and constituted unfair and deceptive acts and practices and unfair methods of competition in commerce under the Federal Trade Commission Act.

PAR. 13. Subsequent to the effective date of the Wool Products Labeling Act of 1939, respondents have introduced into commerce, sold, transported, distributed, delivered for shipment, shipped, and offered for sale in commerce, wool products as "commerce" and "wool product" are defined in said Act.

PAR. 14. Certain of said wool products were misbranded by respondents in that they were not stamped, tagged, labeled or other-

wise identified as required under the provisions of Section 4(a) (2) of the Wool Products Labeling Act of 1939 and in the manner and form as prescribed by the Rules and Regulations promulgated under said Act.

Among such misbranded wool products, but not limited thereto, were certain wool products with labels on or affixed thereto which failed to disclose the percentage of the total fiber weight of the wool products, exclusive of ornamentation not exceeding 5 per centum of said total fiber weight; of (1) woolen fibers; (2) each fiber other than wool if said percentage by weight of such fiber is 5 per centum or more; (3) the aggregate of all other fibers.

PAR. 15. Certain of said wool products were misbranded in violation of the Wool Products Labeling Act of 1939 in that they were not labeled in accordance with the Rules and Regulations promulgated thereunder inasmuch as the respective common generic names of the fibers present in the wool products were not used in naming such fibers in required information on stamps, tags, labels or other means of identification affixed to such wool products, in violation of Rule 8 of the aforesaid Rules and Regulations.

PAR. 16. The acts and practices of the respondents as set forth above were, and are, in violation of the Wool Products Labeling Act of 1939 and the Rules and Regulations promulgated thereunder, and constituted and now constitute, unfair and deceptive acts and practices and unfair methods of competition in commerce within the intent and meaning of the Federal Trade Commission Act.

PAR. 17. Subsequent to the effective date of the Textile Fiber Products Identification Act of 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.

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PAR. 18. Certain of said textile fiber products were misbranded by the 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.

Among such misbranded textile fiber products, but not limited thereto, were textile fiber products which were not labeled to show in words and figures plainly legible the true generic name of the fibers present in the textile fiber products.

PAR. 19. Certain of said textile fiber products were misbranded by the respondents 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:

1. Fiber trademarks were placed 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.

2. Fiber trademarks were used on labels without full and complete fiber content disclosure the first time the generic name or fiber trademark appeared on the label, in violation of Rule 17(b) of the aforesaid Rules and Regulations.

3. The respective percentages of fibers contained in the front and back of pile fabrics were not set out in such a manner as to give the ratio between the face and back of such fabrics where an election was made to separately set out the fiber content of the face and back of textile fiber products containing pile fabrics, in violation of Rule 24 of the aforesaid Rules and Regulations.

PAR. 20. Respondents furnished false guaranties under Section 10(b) of the Textile Fiber Products Identification Act with respect to certain of their textile fiber products by falsely representing that respondents had a continuing guaranty on file with the Federal Trade Commission in violation of Section 10(b) of the Textile Fiber Products Identification Act.

PAR. 21. Respondents in substituting stamps, tags, labels, or other identification pursuant to Section 5(b) of the Textile Fiber Products Identification Act have failed to maintain records to show the information set forth on stamps, tags, labels, or other identification that they removed and the name or names of the person or persons from whom such textile fiber products were received, in violation of Section 6 (b) of the Textile Fiber Products Identification Act and Rule 39 of the Rules and Regulations.

PAR. 22. 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 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, the Wool Products Labeling Act of 1939 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 Stein & Salomon is a partnership, existing and doing business in the State of Illinois, with its office and principal place of business located at 318 West Adams Street, Chicago, Illinois.

Respondents Joseph B. Hochberger and John B. Smith are individual copartners trading as Stein & Salomon and Bobby Jean and 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 Stein & Salomon, a partnership, and Joseph B. Hochberger and John B. Smith, individually and

as copartners trading as Stein & Salomon and Bobby Jean, or under any other trade name, 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 the transporting or distributing, 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 "fur," "commerce," and "fur product" are defined in the Fur Products Labeling Act, do forthwith cease and desist from:

A. Misbranding fur products by:

1. Falsely or deceptively labeling or otherwise identifying any such fur product as to the name or designation of the animal or animals that produced the fur contained in the fur product.

2. Falsely or deceptively labeling or otherwise identifying any such fur product as to the country of origin of furs contained in such fur product.

3. Failing to affix labels to fur products 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.

4. Setting forth the term "blended" or any term of like import on labels as part of the information required under Section 4(2) of the Fur Products Labeling Act and the Rules and Regulations promulgated thereunder to describe the pointing, bleaching, dyeing, tip-dyeing or otherwise artificial coloring of furs contained in fur products.

5. 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.

6. 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.

7. Failing to set forth information required under

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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.

8. 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 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. Falsely or deceptively representing that respondents are manufacturers of fur products.

4. 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.

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

It is further ordered, That respondents Stein & Salomon, a partnership, and Joseph B. Hochberger and John B. Smith, individually and as copartners trading as Stein & Salomon and Bobby Jean, or under any other trade name, and respondents' representatives, agents and employees, directly or through any corporate or other device, in connection with the introduction, sale, advertising or offering for sale, in commerce, or the processing for commerce of fur products; or in connection with the selling, advertising, offering for sale or processing of fur products which have been shipped and received in commerce, do herewith cease and desist from failing to keep and preserve the records required by the Fur Products Labeling Act and the Rules and Regulations promulgated thereunder in substituting labels as permitted by Section 3(e) of the said Act.

It is further ordered, That respondents Stein & Salomon, a

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partnership, and Joseph B. Hochberger and John B. Smith, individually and as copartners trading as Stein & Salomon and Bobby Jean, or under any other trade name, and respondents' representatives, agents and employees, directly or through any corporate or other device, in connection with the introduction into commerce, or offering for sale, sale, transportation, distribution or delivery for shipment, or shipment, in commerce, of any wool product as "commerce" and "wool product" are defined in the Wool Products Labeling Act of 1939, do forthwith cease and desist from misbranding any such product by:

A. Failing to securely affix to, or place on such product a stamp, tag, label, or other means of identification, showing in a clear and conspicuous manner each element of information required to be disclosed by Section 4(a)(2) of the Wool Products Labeling Act of 1939.

B. Failing to set forth the common generic name of fibers in the required information on labels, tags or other means of identification attached to any such product.

It is further ordered, That respondents Stein & Salomon, a partnership, and Joseph B. Hochberger and John B. Smith, individually and as copartners trading as Stein & Salomon and Bobby Jean, or under any other trade name, and respondents' representatives, agents and employees, directly or through any corporate or other device, in connection with the introduction, delivery for introduction, sale, advertising or offering for sale, in commerce, or the transportation or causing to be transported, in commerce, or the importation into the United States of any textile fiber product; 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:

A. Misbranding textile fiber products by:

1. Failing to affix labels to such textile fiber products showing in a clear, legible and conspicuous manner each

element of information required to be disclosed by Section 4(b) of the Textile Fiber Products Identification Act.

2. Using a fiber trademark on labels affixed to such textile fiber products without the generic name of the fiber appearing on such label.

3. Using a generic name or fiber trademark on any label, whether required or nonrequired, without making a full and complete fiber content disclosure in accordance with the Textile Fiber Products Identification Act and the Rules and Regulations promulgated thereunder the first time such generic name or fiber trademark appears on the label.

4. Failing to disclose the respective percentages of the face and back of pile fabrics in such a manner as will show the ratio between the face and back when an election is made to set forth the percentages of the fiber content of the face and back separately.

It is further ordered, That respondents Stein & Salomon, a partnership, and Joseph B. Hochberger and John B. Smith, individually and as copartners trading as Stein & Salomon and Bobby Jean, or under any other trade name, and respondents' representatives, agents and employees, directly or through any corporate or other device, do forthwith cease and desist from furnishing a false guaranty that any textile fiber product is not misbranded or falsely invoiced.

It is further ordered, That respondents Stein & Salomon, a partnership, and Joseph B. Hochberger and John B. Smith, individually and as copartners trading as Stein & Salomon and Bobby Jean, or under any other trade name, and respondents' representatives, agents and employees, directly or through any corporate or other device, do forthwith cease and desist from failing to keep and preserve the records required by the Textile Fiber Products Identification Act and the Rules and Regulations promulgated thereunder in substituting stamps, tags, labels or other means of identification permitted by Section 5(b) of the Textile Fiber Products Identification Act.

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.

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IN THE MATTER OF

FRUEHAUF TRAILER COMPANY*

MODIFIED ORDER, ETC., IN REGARD TO THE ALLEGED VIOLATION OF SEC. 7 OF THE CLAYTON ACT AND THE FEDERAL TRADE COMMISSION ACT

Docket 6608. Complaint, Aug. 17, 1956—Decision, Feb. 11, 1966

Modified divestiture order, in compliance with the final order of the Court of Appeals, Seventh Circuit, of January 21, 1966, requiring respondent to divest itself within 1 year of its Strick Trailers Division which was acquired in 1956, Strick must be restored as a going concern and effective competitor in all lines of commerce in which it was engaged immediately prior to its acquisition by respondent, and forbidding respondent from acquiring any other manufacturer of truck trailers for 10 years without approval of the Commission;

Divestiture order of May 28, 1965, 67 F.T.C. 878, required respondent to divest itself of Strick plus the Hobbs Manufacturing Co. of Fort Worth, Texas, and Hobbs Trailer and Equipment Co. of Dallas, Texas, which it acquired in 1955.

MODIFIED ORDER

Fruehauf Corporation, having filed in the United States Court of Appeals for the Seventh Circuit on August 6, 1965, a petition to review and set aside the order of divestiture issued herein on May 28, 1965 [67 F.T.C. 878]; and the Commission and Fruehauf Corporation, having subsequently agreed upon a plan of divestiture and upon the provisions of a final order modifying the order entered by the Commission on May 28, 1965; and the Court, on January 21, 1966, having issued its final order affirming and enforcing said order as submitted by the Commission and Fruehauf Corporation;

Now, therefore, it is hereby ordered, That the order of May 28, 1965, be, and it hereby is, modified in accordance with the final order of the Court to read as follows:

It is ordered, That

(A) Respondent, the Fruehauf Corporation, a corporation, and its officers, directors, agents, representatives, and employees shall, within one (1) year from the date of this order, divest itself absolutely, in good faith, of all assets of its Strick Trailers Division and such other assets as may be necessary to restore the Strick Company and Strick Plastics

*Now known as the Fruehauf Corporation.