IN THE MATTER OF

JACK R. GUTTER TRADING AS DUCHESS MINK

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

Docket C-1198. Complaint, Apr. 18, 1967—Decision, Apr. 18, 1967

Consent order requiring a Beverly Hills, Calif., manufacturer and wholesaler of fur products to cease misbranding and falsely advertising his 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 Jack R. Gutter, an individual trading as Duchess Mink, sometimes hereinafter referred to as respondent, has 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 Jack R. Gutter is an individual trading as Duchess Mink. Respondent is a manufacturer and

wholesaler of fur products with his office and principal place of business located at 344 North Rodeo Drive, Beverly Hills, California.

PAR. 2. Respondent is now, and for some time last past has been, 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 has 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 the Fur Products Labeling Act 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 said fur products.

2. To disclose that the fur contained in the said fur products was bleached, dyed, or otherwise artificially colored, when such was the fact.

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:

1. The term "Dyed Broadtail-processed Lamb" was not set forth on labels in the manner required by law, in violation of Rule 10 of said Rules and Regulations.

2. 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.

3. Information required on labels 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 the said Rules and Regulations.

PAR. 5. Certain of the fur products were misbranded in that they were falsely and deceptively labeled, or otherwise falsely or deceptively identified as the labels affixed to the fur products contained a purported "Appraisal Price" which represented, directly

or by implication, that the fur products had been appraised by a qualified and impartial appraiser, having no pecuniary or other interest in the fur products, and that the fur products had a value as represented. In truth and in fact the said fur products were not appraised by a qualified and impartial appraiser, having no pecuniary or other interest in the fur products and was in violation of Section 4(1) of the Fur Products Labeling Act.

PAR. 6. Certain of the 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 said Act.

Among and included in the aforesaid false and deceptive advertisements, but not limited thereto, were advertisements of the respondent which appeared in issues of the Chicago Tribune, and of the Chicago Daily News, newspapers published in the city of Chicago, State of Illinois, and having a wide circulation in the State of Illinois and other States of the United States.

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 any such fur product.

2. To show the country of origin of any imported furs contained in such fur products.

PAR. 7. By means of the aforesaid advertisements and others of similar import and meaning not specifically referred to herein, respondent 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:

1. The term "Broadtail Lamb" was not set forth in advertisements in the manner required by law, in violation of Rule 8(b) of the said Rules and Regulations.

2. The term "Dyed Broadtail-processed Lamb" was not set forth in advertisements in the manner required by law, in violation of Rule 10 of the said Rules and Regulations.

3. The term "natural" was not used in advertisements 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. 8. By means of the aforesaid advertisements and others of

similar import and meaning not specifically referred to herein, respondent falsely and deceptively advertised fur products in that certain of said fur products were falsely or 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 fur contained therein was entitled to the designation of "Broadtail Lamb" when in truth and in fact it was not entitled to such designation.

PAR. 9. By means of the aforesaid advertisement and others of similar import and meaning not specifically referred to herein, respondent falsely and deceptively advertised fur products with respect to the name of the country of origin of imported furs contained in such fur products, 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 to imply that the country of origin of fur contained in such fur products was the United States, when the country of origin of such furs was, in fact, Argentina.

PAR. 10. By means of the aforesaid advertisements, and others of similar import not specifically referred to herein, the respondent falsely and deceptively advertised fur products in that said advertisements represented that the said fur product came from "One of New York's Largest Wholesale Furriers—Justine Furs, New York, New York" and "From the Vaults of One of The Largest Fine Fur Wholesalers, Justine Furs, New York, New York." In truth and in fact only an infinitesimal number of the fur products offered for sale came from Norton Furs, successor in interest to Justine Furs. The remaining fur products were furnished by various other sources, including that of the respondent. The aforesaid representations were in violation of Section 5(a)(5) of the Fur Products Labeling Act and Rule 44(g) of the Rules and Regulations promulgated under the aforesaid Act.

PAR. 11. By means of the aforesaid advertisements and others of similar import not specifically referred to herein, the respondent falsely and deceptively advertised fur products in that said advertisements represented, contrary to truth and fact, that the sale of the fur products was "By Order of the Creditors" in violation of Section 5(a)(5) of the Fur Products Labeling Act and

Rule 44(g) of the Rules and Regulations promulgated under the aforesaid Act.

PAR. 12. Certain of said fur products were falsely and deceptively advertised in that the labels affixed to the fur products contained a purported "Appraisal Price" which represented, directly or by implication, that the fur products had been appraised by a qualified and impartial appraiser, having no pecuniary or other interest in the fur products, and that the fur products had a value as represented. In truth and in fact the said fur products were not appraised by a qualified and impartial appraiser having no pecuniary or other interest in the fur products and was in violation of Section 5(a)(5) of the Fur Products Labeling Act, and Rule 44(c) of the Rules and Regulations promulgated thereunder.

PAR. 13. The aforesaid acts and practices of respondent, as herein alleged, are in violation of the Fur Products Labeling Act and the Rules and Regulations promulgated thereunder and constitute unfair methods of competition, and unfair and deceptive acts or practices, in commerce under the Federal Trade Commission Act.

DECISION AND ORDER

The Federal Trade Commission having initiated an investigation of certain acts and practices of the respondent named in the caption hereof, and the respondent having been furnished thereafter with a copy of a draft of complaint which the Bureau of Textiles and Furs proposed to present to the Commission for its consideration and which, if issued by the Commission, would charge respondent with violation of the Federal Trade Commission Act and the Fur Products Labeling Act; and

The respondent and counsel for the Commission having thereafter executed an agreement containing a consent order, an admission by the respondent of all the jurisdictional facts set forth in the aforesaid draft of complaint, a statement that the signing of said agreement is for settlement purposes only and does not constitute an admission by the respondent that the law has been violated as alleged in such complaint, and waivers and provisions as required by the Commission's rules; and

The Commission, having reason to believe that the respondent has violated the said Acts, and having determined that complaint should issue stating its charges in that respect, hereby issues its complaint, accepts said agreement, makes the following jurisdictional findings, and enters the following order:

1. Respondent Jack R. Gutter is an individual trading as Duchess Mink, with his office and principal place of business located at 344 North Rodeo Drive, Beverly Hills, California.

2. The Federal Trade Commission has jurisdiction of the subject matter of this proceeding and of the respondent, and the proceeding is in the public interest.

ORDER

It is ordered, That respondent Jack R. Gutter, an individual trading as Duchess Mink, or under any other trade name, and respondent's 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 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.

2. Failing to set forth the term "Dyed Broadtail-processed Lamb" on labels in the manner required where an election is made to use that term instead of the term "Dyed Lamb."

3. 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 bleached, dyed, tip-dyed, or otherwise artificially colored.

4. Failing to set forth on labels the 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.

5. Using the term "Appraisal Price" on labels, or

terms of similar import or meaning, to represent the value of fur products being offered for sale, unless such evaluations and prices are based upon authentic and bona fide appraisals of value by a qualified appraiser having no pecuniary or other interest in the 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 fur products, 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. Falsely or deceptively identifies any fur products as to the country of origin of furs contained in such fur product.

4. Fails to set forth the term "Broadtail Lamb" in the manner required where an election is made to use that term instead of the word "Lamb."

5. 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."

6. Fails to set forth the term "natural" as part of the information to be disclosed in advertisements under the Fur Products Labeling Act and the Rules and Regulations promulgated thereunder to describe such fur products which are not pointed, bleached, dyed, tip-dyed, or otherwise artificially colored.

7. Misrepresents directly or by implication, that any such fur products came from a particular source for the purpose of the sale.

8. Misrepresents directly or by implication, that any such fur products were secured by respondent from a source that is or was in financial or other distress.

9. Misrepresents directly or by implication, that the fur products being offered for sale have been appraised as to value by authentic and bona fide appraisals made

by a qualified appraiser having no pecuniary or other interest in the fur products.

It is further ordered, That the respondent herein shall, within sixty (60) days after service upon him of this order, file with the Commission a report in writing setting forth in detail the manner and form in which he has complied with this order.