

Complaint

74 F.T.C.

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
JOSEPH SCHULMAN

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

Docket C-1376. Complaint, July 12, 1968—Decision, July 12, 1968

Consent order requiring a Dallas, Tex., salesman of fur products to cease falsely invoicing and deceptively 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 Joseph Schulman, an individual, 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 Joseph Schulman is an individual with his office and principal place of business located at 7238 Northaven Road, Dallas, Tex.

Respondent is a salesman of fur products.

PAR. 2. Respondent is now, and for some time last past has been, 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 has 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 falsely and deceptively invoiced by the respondent 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 any such fur product.

2. To show the country of origin of imported fur used in any such fur product.

PAR. 4. 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 the furs contained therein were not entitled to such designation.

PAR. 5. Certain of said fur products were falsely and deceptively invoiced, as the term "invoice" is defined in Section 2 of the Fur Products Labeling Act, in violation of Section 5(b)(2) of the said Act, in that an inventory list relating to the said fur products was supplied to The Advance Shop. The inventory list contained comparative prices which represented, and, were used by the respondent and The Advanced Shop to represent, directly or by implication, that the higher amounts were the former retail prices at which the said fur products had been offered for sale by retail establishments including The Advance Shop and that the said fur products were reduced from such former prices and the amounts of such reductions constituted savings to the consumer-purchasers of the said fur products.

In truth and in fact, the alleged former prices were fictitious in that they were not actual bona fide prices at which The Advance Shop had offered the products to the public on a regular basis for a reasonably substantial period of time in the recent regular course of business and the said fur products were not reduced in price as represented and savings were not afforded purchasers of respondent's said fur products, as represented.

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) 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.

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, was an advertisement of respondent's, namely a written inventory list furnished to retailers 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 imported furs contained in any such fur product.

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 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 respondent falsely and deceptively advertised fur products in violation of Section 5(a)(5) of the Fur Products Labeling Act in that the said advertisement, namely an inventory list, contained comparative prices which represented, and were used by the respondent and The Advance Shop to represent, directly or by implication, that the higher amounts were the former retail prices

at which the said fur products had been offered for sale by retail establishments including The Advance Shop and that the said fur products were reduced from such former prices and the amounts of such reductions constituted savings to the consumer-purchasers of the said fur products.

In truth and in fact, the alleged former prices were fictitious in that they were not actual bona fide prices at which The Advance Shop had offered the products to the public on a regular basis for a reasonably substantial period of time in the recent regular course of business and the said fur products were not reduced in price as represented and savings were not afforded purchasers of respondent's said fur products, as represented.

PAR. 10. 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:

(a) Information required under Section 5(a) of the Fur Products Labeling Act and the Rules and Regulations promulgated thereunder was set forth in abbreviated form, in violation of Rule 4 of the said Rules and Regulations.

(b) 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.

PAR. 11. In advertising fur products for sale, as aforesaid, respondent 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. Respondent in making such claims and representations failed to maintain full and adequate records disclosing the facts upon which such claims and representations were based, in violation of Rule 44(e) of said Rules and Regulations.

PAR. 12. 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 and 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

Order

74 F.T.C.

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 respondent that the law has been violated as alleged in such complaint, and waivers and other provisions as required by the Commission's Rules; and

The Commission having thereafter considered the matter and having determined that it had reason to believe that the respondent has violated the said Acts, and that complaint should issue stating its charges in that respect, and having thereupon accepted the executed consent agreement and placed such agreement on the public record for a period of thirty (30) days, now in further conformity with the procedure prescribed in § 2.34(b) of its Rules, the Commission hereby issues its complaint, makes the following jurisdictional findings, and enters the following order:

1. Respondent Joseph Schulman is an individual with his office and principal place of business located at 7238 Northaven Road, Dallas, Texas.
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 Joseph Schulman, an individual, and respondent's 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 any fur product by:

1. Failing to furnish an invoice, 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. Setting forth on an invoice pertaining to any fur product 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. Representing, directly or by implication on an invoice, that any price whether accompanied or not by descriptive terminology is the former retail price of such fur product when such price is in excess of the price at which such fur product has been sold or offered for sale in good faith at retail in the recent regular course of business, or otherwise misrepresenting the retail price at which such fur product had been sold or offered for sale.

4. Falsely or deceptively representing, that savings are afforded to the purchaser of any such fur product or misrepresenting in any manner the amount of savings afforded to the purchaser of such fur product.

5. Misrepresenting in any manner that the price of any such fur product is reduced.

6. 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.

7. 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."

B. Falsely or deceptively advertising any fur product 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 such 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 fur product as

Order

74 F.T.C.

to the name or designation of the animal or animals that produced the fur contained in the fur product.

3. Represents, directly or by implication, that any price whether accompanied or not by descriptive terminology is the former retail price of such fur product when such price is in excess of the price at which such fur product has been sold or offered for sale in good faith at retail in the recent regular course of business, or otherwise misrepresents the retail price at which such fur product had been sold or offered for sale.

4. Falsely or deceptively represents, that savings are afforded to the purchaser of any such fur product or misrepresents in any manner the amount of savings afforded to the purchaser of such fur product.

5. Falsely or deceptively represents in any manner that the price of any such fur product is reduced.

6. Sets forth information required under Section 5(a) of the Fur Products Labeling Act and the Rules and Regulations promulgated thereunder in abbreviated form.

7. 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."

C. Failing to maintain full and adequate records disclosing the facts upon which pricing claims and representations of the types described in subsections (a), (b), (c) and (d) of Rule 44 of the Rules and Regulations promulgated under the Fur Products Labeling Act are based.

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.

IN THE MATTER OF
SPIEGEL, INC.

ORDER, OPINIONS, ETC., IN REGARD TO THE ALLEGED VIOLATION
OF THE FEDERAL TRADE COMMISSION ACT

*Docket 8708. Complaint, Sept. 7, 1966—Decision, July 15, 1968**

Order requiring a large Chicago, Ill., catalog retailer to cease making fictitious pricing and savings claims in the sale of its merchandise.

COMPLAINT

Pursuant to the provisions of the Federal Trade Commission Act, and by virtue of the authority vested in it by said Act, the Federal Trade Commission, having reason to believe that Spiegel, Inc., a corporation, hereinafter referred to as respondent, has violated the provisions of said 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, Spiegel, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of Delaware, with its principal office and place of business located at 2511 West 23rd Street, in the city of Chicago, State of Illinois.

PAR. 2. Respondent is a catalog house selling merchandise by mail order and is now, and for some time last past has been, engaged in the advertising, offering for sale, sale and distribution of bedspreads, quilts, blankets and various other articles of merchandise.

PAR. 3. In the course and conduct of its business, respondent now causes, and for some time last past has caused, its said products, when sold, to be shipped from its place of business in the State of Illinois to purchasers thereof located in various other States of the United States and the District of Columbia, and maintains, and at all times mentioned herein has maintained, a substantial course of trade in said products in commerce, as "commerce" is defined in the Federal Trade Commission Act.

PAR. 4. For the purpose of inducing the purchase of said prod-

* Modified by Commission's order of Sept. 29, 1969, by deleting numbered Paragraph 3 of the order.