

Complaint

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IN THE MATTER OF
MEYER BROTHERS

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-1554. Complaint, July 2, 1969—Decision, July 2, 1969

Consent order requiring a Paterson, N.J., department store to cease falsely advertising its furs and textiles, and misbranding and falsely invoicing its furs.

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 Meyer Brothers, a corporation, 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 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:

PARAGRAPH 1. Respondent Meyer Brothers is a corporation organized, existing and doing business under and by virtue of the laws of the State of New Jersey.

Respondent operates a department store which includes a fur department. Its office and principal place of business is located at 181 Main Street, Paterson, New Jersey.

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 misbranded in that

they were falsely and deceptively labeled or otherwise 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 4(1) of the Fur Products Labeling Act.

Among such misbranded fur products, but not limited thereto, were fur products which were labeled 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. 4. 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 to show the true animal name of the animal or animals that produced the fur used in such fur products.

PAR. 5. Certain of said fur products were misbranded in that labels attached thereto, set forth the name of an animal other than the name or names of the animal or animals that produced the fur from which the said fur products had been manufactured, in violation of Section 4(3) of the Fur Products Labeling Act and the Rules and Regulations promulgated thereunder.

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) Information required under Section 4(2) of the Fur Products Labeling Act and the Rules and Regulations promulgated thereunder was set forth on labels 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 labels in the manner required by law, in violation of Rule 10 of said Rules and Regulations.

(c) 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.

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

(e) 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.

PAR. 7. 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 animal or animals that produced the fur used in such fur products.
2. To show the country of origin of imported furs used in any such fur products.

PAR. 8. 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 "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.

PAR. 9. 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 respondent which appeared in issues of the Paterson News, a newspaper published in the city of Paterson, State of New Jersey and having a wide circulation in New Jersey and in 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 animal or animals which produced the fur used in such fur products.
2. To show that the fur contained in the fur products was bleached, dyed, or otherwise artificially colored, when such was the fact.

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) 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.

(b) 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.

PAR. 11. 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 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. 12. 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. 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 and practices in commerce under the Federal Trade Commission Act.

PAR. 14. Respondent is now and for some time last past has been 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 has 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 has 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. 15. Certain of said textile fiber products were misbranded by respondent 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 Paterson News, a newspaper published in the city of Paterson, State of New Jersey, and having a wide circulation in New Jersey and various other States of the United States in that the fiber content of textile fiber products was set forth as being rayon-linen, thereby representing or implying that the products contained linen. In truth and in fact the said textile fiber products contained substantially different fibers than represented or implied.

PAR. 16. Certain of said textile fiber products were falsely and deceptively advertised in that respondent, 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 con-

tent as specified in 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 textile fiber products which were falsely and deceptively advertised in the Paterson News, a newspaper published in the city of Paterson, State of New Jersey, and having a wide circulation in New Jersey and various other States of the United States, in that the true generic names of the fibers present in such products were not set forth.

PAR. 17. By means of the aforesaid advertisements and others of similar import and meaning not specifically referred to herein, respondent falsely and deceptively advertised textile fiber products in violation of the Textile Fiber Products Identification Act in that said textile fiber products were not advertised in accordance with the Rules and Regulations thereunder in the following respects:

(a) Fiber trademarks were 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 advertisements, in violation of Rule 41(a) of the aforesaid Rules and Regulations.

(b) Fiber trademarks were used in advertising textile fiber products containing more than one fiber and such fiber trademarks did not appear in the required fiber content information in immediate proximity and conjunction with the generic names of the fibers to which they related 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 a textile fiber product 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 to which it related in plainly legible and conspicuous type or lettering, in violation of Rule 41(c) of the aforesaid Rules and Regulations.

PAR. 18. The acts and practices of the respondent as set forth in Paragraphs Fifteen, Sixteen and Seventeen 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 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 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, the Fur Products Labeling Act and the Textile Fiber Products Identification 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 Meyer Brothers is a corporation organized, existing and doing business under and by virtue of the laws of the State of New Jersey, with its office and principal place of business located at 181 Main Street, Paterson, New Jersey.

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 Meyer Brothers, a corporation, and its officers, 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. Misbranding any fur product by:

1. Falsely or deceptively labeling or otherwise falsely or deceptively 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. Failing to affix a label to such fur product 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.
3. Setting forth on a label attached to the fur product the name or names of any animal or animals other than the name of the animal producing the fur contained in the fur product as specified in the Fur Products Name Guide, and as prescribed by the Rules and Regulations.
4. Setting forth information required under Section 4(2) of the Fur Products Labeling Act and the Rules and Regulations promulgated thereunder in abbreviated form on a label affixed to such fur product.
5. Failing to set forth the term "Dyed Broadtail-processed Lamb" on a label in the manner required where an election is made to use that term in lieu of the term "Dyed Lamb."
6. Failing to set forth the term "natural" as part of the information required to be disclosed on a label under the Fur Products Labeling Act and the Rules and Regulations promulgated thereunder to describe such fur product which is not pointed, bleached, dyed, tip-dyed, or otherwise artificially colored.
7. Setting forth information required under Section 4(2) of the Fur Products Labeling Act and the Rules and Regulations promulgated thereunder in handwriting on a label affixed to such fur product.

8. Failing to set forth information required under Section 4(2) of the Fur Products Labeling Act and the Rules and Regulations promulgated thereunder on a label in the sequence required by Rule 30 of the afore-said Rules and Regulations.

B. 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 information required under Section 5(b)(1) of the Fur Products Labeling Act and the Rules and Regulations promulgated thereunder in abbreviated form on an invoice pertaining to such fur product.

3. Failing to set forth the term "natural" as part of the information required to be disclosed on an invoice under the Fur Products Labeling Act and the Rules and Regulations promulgated thereunder to describe such fur product which is not pointed, bleached, dyed, tip-dyed or otherwise artificially colored.

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

3. 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."

4. 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 such

fur product which is not pointed, bleached, dyed, tipped, or otherwise artificially colored.

D. 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 respondent Meyer Brothers, a corporation, and its officers, 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, 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 falsely or deceptively advertising any textile fiber product by:

1. Falsely or deceptively stamping, tagging, labeling, invoicing, advertising or otherwise identifying such product as to the name or amount of constituent fibers contained therein.

2. Making any representation, by disclosure or by implication, as to the fiber content of any textile fiber product in any written advertisement which is used to aid, promote or assist, directly or indirectly, in the sale or offering for sale of such textile fiber product, unless the same information required to be shown on the stamp, tag, label, or other means of identification under Section 4(b)(1) and (2) of the Textile Fiber Products Identification Act is contained in the same advertisement, except that the percentages of the fibers present in a textile fiber product need not be stated.

3. Using a fiber trademark in advertising such textile fiber product without a full disclosure of the required content information in at least one instance in said advertisement.

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4. Using a fiber trademark in advertising such textile fiber product containing more than one fiber without such fiber trademark appearing 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.

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

It is further ordered, That the respondent corporation shall forthwith distribute a copy of this order to each of its operating divisions.

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