

Complaint

IN THE MATTER OF

KLEIN & BLUMENSTEIN, INC., ET AL.

CONSENT ORDER, ETC., IN REGARD TO THE ALLEGED VIOLATION OF
THE FEDERAL TRADE COMMISSION AND THE FUR PRODUCTS
LABELING ACTS*Docket C-1669. Complaint, Jan. 14, 1970—Decision, Jan. 14, 1970*

Consent order requiring a New York City retail furrier to cease falsely advertising and deceptively invoicing its 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 Klein & Blumenstein, Inc., a corporation, and Meyer Klein and Henry Blumenstein, individually and as officers of said corporation, 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 Klein & Blumenstein, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of New York.

Respondents Meyer Klein and Henry Blumenstein are officers of the corporate respondent. They formulate, direct and control the acts, practices and policies of the said corporate respondent including those hereinafter set forth.

Respondents are fur dealers with their office and principal place of business located at 140 West 30th Street, New York, New York.

PAR. 2. Respondents are now and for some time last past have 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 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; and have introduced into commerce, sold, advertised and offered for sale in commerce, and transported and distributed in commerce, furs as the terms "commerce,"

"fur" and "fur product" are defined in the Fur Products Labeling Act.

PAR. 3. Certain of said fur products or furs were falsely and deceptively advertised in violation of the Fur Products Labeling Act in that certain representations intended to aid, promote and assist, directly or indirectly, in the sale and offering for sale of such fur products or furs were not in accordance with the provisions of Section 5(a)(5) of the said Act.

Among and included in the aforesaid representations but not limited thereto, were representations of respondents which were made orally to respondents' customers at the time of sale of said fur products or furs to said customers. By means of the aforesaid representations and others of similar import and meaning not specifically referred to herein, respondents falsely and deceptively advertised fur products or furs in that certain of said fur products or furs were represented in such a way as to indicate that the fur contained therein was natural, when in fact such fur was pointed, bleached, dyed, tip-dyed, or otherwise artificially colored, in violation of Section 5(a)(5) of the Fur Products Labeling Act.

PAR. 4. Certain of said fur products or furs 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 or furs, but not limited thereto, were fur products or furs covered by invoices which failed to disclose that the fur products or furs were bleached, dyed, or otherwise artificially colored, when such was the fact.

PAR. 5. Respondents distributed fur products or furs which were bleached, dyed or artificially colored. Certain of these fur products or furs were falsely and deceptively invoiced in violation of Section 5(b)(2) of the Fur Products Labeling Act in that the said fur products or furs were described on invoices as "Mink" without disclosing that said fur products or furs were bleached, dyed or otherwise artificially colored. The respondents' description of the said fur products or furs as "Mink" without a disclosure that the said fur products or furs were bleached, dyed or artificially colored had the tendency and capacity to mislead respondents' customers and others into the erroneous belief that the fur products or furs were not bleached, dyed or otherwise artificially colored. Such failure to disclose this material fact was to the prejudice of respondents' customers and to the purchasing public and constituted false and deceptive invoicing under Section 5(b)(2) of the Fur Products Labeling Act.

PAR. 6. Certain of said fur products or furs were falsely and deceptively invoiced in violation of the Fur Products Labeling Act for the reason that they were not invoiced in accordance with the Rules and Regulations promulgated thereunder in that fur products or furs were composed of bleached, dyed or otherwise artificially colored fur which was not disclosed in the required information on invoices covering the said fur products or furs in violation of Rule 19(a) of said Rules and Regulations.

PAR. 7. 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 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 respondents named in the caption hereof, and the respondents 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 respondents with violation of the Federal Trade Commission Act and the Fur Products Labeling Act; and

The respondents and counsel for the Commission having thereafter executed an agreement containing a consent order, an admission by the respondents 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 respondents 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 respondents have 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 Klein & Blumenstein, Inc., is a corporation orga-

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nized, existing and doing business under and by virtue of the laws of the State of New York.

Respondents Meyer Klein and Henry Blumenstein are officers of said corporation. They formulate, direct, and control the policies, acts and practices of said corporation.

Respondents are fur merchants with their office and principal place of business located at 140 West 30th Street, city of New York, State of New York.

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 Klein & Blumenstein, Inc., a corporation, and its officers, and Meyer Klein and Henry Blumenstein, individually and as officers of said corporation, 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 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; or in connection with the introduction into commerce, or the sale, advertising or offering for sale in commerce, or the transportation and distribution in commerce of furs, 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 advertising any fur products or fur 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 or fur, and which represents directly or by implication that the fur contained in any fur product or fur is natural when the fur contained therein is pointed, bleached, dyed, tip-dyed, or otherwise artificially colored.

B. Falsely or deceptively invoicing furs or 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. Describing fur products or furs which have been bleached, dyed or otherwise artificially colored by the name of mink or by any other animal name or names without disclosing that the said fur products or furs were bleached, dyed or otherwise artificially colored.

3. Failing when a fur or fur product is pointed or contains or is composed of bleached, dyed or otherwise artificially colored fur, to disclose such facts as a part of the required information on invoices pertaining thereto.

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 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.

IN THE MATTER OF

FRANK & SHAKALIS, INC., ET AL.

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