

and form in which they have complied with this order.

IN THE MATTER OF
ROBERT BENEDICK TRADING AS ROBERT BENEDICK FURS

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

Docket C-1831. Complaint, Dec. 1, 1970—Decision, Dec. 1, 1970

Consent order requiring a New York City individual to cease misbranding, falsely invoicing and deceptively guaranteeing 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 Robert Benedick, an individual trading as Robert Benedick Furs, 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 Robert Benedick is an individual trading as Robert Benedick Furs.

Respondent is a retailer of fur products with his office and principal place of business located at 333 Seventh Avenue, New York, New York.

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 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 without labels as required by the said Act.

PAR. 4. 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 disclose that the fur contained in the fur products was bleached, dyed, or otherwise artificially colored, when such was the fact.

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

PAR. 5. Certain of said fur products were falsely and deceptively invoiced in that said fur products were invoiced to show that the fur contained therein was natural, when in fact such fur was pointed, dyed, tip-dyed, or otherwise artificially colored, in violation of Section 5(b)(2) of the Fur Products Labeling Act.

PAR. 6. Respondent furnished false guaranties under Section 10(b) of the Fur Products Labeling Act with respect to certain of his fur products by falsely representing in writing that respondent had a continuing guaranty on file with the Federal Trade Commission when respondent in furnishing such guaranties had reason to believe that the fur products so falsely guaranteed would be introduced, sold, transported and distributed in commerce, in violation of Rule 48(c) of said Rules and Regulations under the Fur Products Labeling Act and Section 10(b) of said Act.

PAR. 7. The aforesaid acts and practices of respondent, as herein alleged, are in violation of the Fur Products Labeling Act and the

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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 caption hereof, and the respondent having been furnished thereafter with a copy of a draft of complaint which the Bureau of Consumer Protection, Division 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 records 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 Robert Benedick is an individual trading as Robert Benedick Furs with his office and principal place of business located at 333 Seventh Avenue, New York, New York.

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 Robert Benedick, individually and trading as Robert Benedick Furs 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 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:

1. Misbranding any fur product by 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.

2. Falsely or deceptively invoicing any fur product by 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.

3. Representing, directly or by implication on an invoice that the fur contained in such fur product is natural when such fur is pointed, bleached, dyed, tip-dyed, or otherwise artificially colored.

It is further ordered, That respondent Robert Benedick, individually and trading as Robert Benedick Furs or under any other trade name and respondent's representatives, agents and employees, directly or through any corporate or other device, do forthwith cease and desist from furnishing a false guaranty that any fur product is not misbranded, falsely invoiced or falsely advertised when the respondent has reason to believe that such fur product may be introduced, sold, transported or distributed in commerce.

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 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.

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IN THE MATTER OF
THE SEEBURG CORPORATION

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

Docket 8682. Complaint, April 22, 1966—Decision, Dec. 4, 1970

Order modifying a divestiture order dated April 10, 1969, 75 F.T.C. 561, pursuant to a decision of the Court of Appeals, Sixth Circuit, 425 F. 2d 124 (8 S.&D. 1146) which required the omission of the words "and/or sale" of vending machines from Paragraph D of the original order.

FINAL ORDER

The Commission issued its divestiture order in this matter on April 10, 1969 [75 F.T.C. 561]; the Court of Appeals for the Sixth Circuit modified and, as so modified, affirmed the divestiture order on April 29, 1970 [8 S.&D. 1146], and the Supreme Court denied petition for writ of certiorari on October 19, 1970;

It is therefore ordered, That the divestiture order issued by the Commission be, and it hereby is, modified to read in full as follows:

A

It is ordered, That respondent, The Seeburg Corporation, a corporation, and its officers, directors, agents, representatives, employees, subsidiaries, affiliates, successors and assigns, within one (1) year from the date of service of this order, shall divest absolutely and in good faith, all stock, assets, properties, rights and privileges, tangible or intangible, including but not limited to all properties, plants, machinery, equipment, trade names, contract rights, patents, trademarks, and good will acquired by The Seeburg Corporation as a result of the acquisition by The Seeburg Corporation of the assets of Cavalier Corporation, together with all plants, machinery, buildings, land, improvements, equipment and other property of whatever description that has been added to or placed on the premises of the former Cavalier Corporation, so as to restore Cavalier Corporation as a going concern and effective competitor in the manufacture and sale of bottle vending machines.

B

It is further ordered, That pending divestiture, respondent shall not make any changes in any of the plants, machinery, buildings,