
IN THE MATTER OF

HERBERT BENARD, ET AL.*

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

Docket C-1880. Complaint, Mar. 18, 1971—Decision, Mar. 18, 1971

Consent order requiring a San Francisco, Calif., individual trading as a retailer of furs to cease misbranding, falsely invoicing, deceptively advertising, and failing to keep adequate price records on 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 Herbert Benard, an individual formerly trading as Herbert's 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 Herbert Benard is an individual formerly trading as Herbert's Furs with his office and principal place of business located at 133 Geary Street, San Francisco, California.

Respondent is a retailer of fur products.

*Formerly trading as Herbert's Furs.

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 to show that fur contained therein was natural, when in fact such fur was pointed, bleached, dyed, tip-dyed, or otherwise artificially colored, in violation of Section 4(1) of the Fur Products Labeling Act.

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:

1. To show the true animal name of the animal or animals which produced the fur used in such fur products.

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

PAR. 5. 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 which produced the fur used in such fur products.

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

PAR. 6. 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

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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. 7. 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, bleached, dyed, tip-dyed or otherwise artificially colored, in violation of Section 5(b) (2) of the Fur Products Labeling Act.

PAR. 8. Certain of said fur products were falsely and deceptively invoiced with respect to the name of the country of origin of imported furs used in such fur products, 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 invoiced to show the name of the country of origin of furs contained in such fur products as Canada when the country of origin of said furs was, in fact, a country other than Canada.

PAR. 9. 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 inasmuch as required item numbers were not set forth on invoices, in violation of Rule 40 of said Rules and Regulations.

PAR. 10. 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 San Francisco Chronicle, a newspaper published in the city of San Francisco, State of California and having a wide circulation in California 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 disclose that the fur contained in the fur products was bleached, dyed, or otherwise artificially colored, when such was the fact.

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.

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 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 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 Herbert Benard is an individual formerly trading as Herbert's Furs with his office and principal place of business located at 133 Geary Street, San Francisco, California.

Respondent is a retailer of fur products.

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

ORDER

It is ordered, That respondent Herbert Benard, individually and formerly trading as Herbert's Furs or trading under any other 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:

A. Misbranding any fur product by:

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

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.

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 on an invoice pertaining to such 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 the fur contained in such fur product is natural when such fur is pointed, bleached, dyed, tip-dyed, or otherwise artificially colored.

4. Misrepresenting in any manner, on an invoice directly or by implication, the country of origin of the fur contained in such fur product.

5. Failing to set forth on an invoice the item number or mark assigned to such fur product.

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.

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 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

HENRY HERLINGER FURS, LTD., ET AL.

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

Docket C-1881. Complaint, Mar. 18, 1971—Decision, Mar. 18, 1971

Consent order requiring a New York City manufacturing furrier to cease misbranding and falsely 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 Henry Herlinger Furs, Ltd., a corporation, and Henry Herlinger, individually and as an officer 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 Henry Herlinger Furs, Ltd., is a corporation organized, existing and doing business under and by virtue of the laws of the State of New York.

Respondent Henry Herlinger is an officer of the corporate respondent. He formulates, directs and controls the policies, acts and practices of the said corporate respondent including those hereinafter set forth.

Respondents are manufacturers of fur products with their office and principal place of business located at 224 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 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 have 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