

NAT BEINHORN

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

Docket C-2204. Complaint, May 1, 1972—Decision, May 1, 1972

Consent order requiring a New York City retail furrier of fur products to
cease misbranding and falsely or deceptively invoicing its 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 Nat Beinhorn, an individual trading as Nat Beinhorn 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 Nat Beinhorn is an individual doing business under and by virtue of the laws of the State of New York.

Respondent is primarily a retail furrier of fur products with his office and principal place of business located at 130 West 30th Street, 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, advertis-

Complaint

80 F.T.C.

ing, 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 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 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 respect:

(a) Required item numbers were not set forth on labels, in violation of Rule 40 of said rules and regulations.

PAR. 6. 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 to disclose that the fur contained in the fur products were bleached, dyed, or otherwise artificially colored when such was the fact.

PAR. 7. 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 under such Act in the following respect:

(a) Required item numbers were not set forth on invoices, in violation of Rule 40 of said rules and regulations.

PAR. 8. Respondent sold and distributed fur products which were bleached, dyed or artificially colored. Certain of these fur products were falsely and deceptively invoiced in violation of Section 5(b)(2)

711

Decision and Order

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

PAR. 9. 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 in violation of 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 Section 2.34(b) of its rules, the Commission

Decision and Order

80 F.T.C.

hereby issues its complaint, makes the following jurisdictional findings, and enters the following order:

1. Respondent Nat Beinhorn is an individual doing business under and by virtue of the laws of the State of New York. He is primarily a retail furrier of fur products with his office and principal place of business located at 130 West 30th Street, New York, New York.

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, Nat Beinhorn, an individual trading as Nat Beinhorn, or under any other name or names 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" and "fur product" are defined in the Fur Products Labeling Act, do forthwith cease and desist from:

A. Misbranding fur products by:

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

2. Failing to affix labels to fur products 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. Failing to set forth on labels the item number or mark to be assigned to each fur product.

B. Falsely or deceptively invoicing 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. Representing, directly or by implication, on invoices that the fur contained in the fur products is natural when such fur is pointed, bleached, dyed, tip-dyed, or otherwise artificially colored.

707

Complaint

It is further ordered, That respondents notify the Commission at least 30 days prior to any proposed change in the corporate respondent such as dissolution, assignment or sale resulting in the emergence of a successor corporation, the creation or dissolution of subsidiaries or any other change in the corporation which may affect compliance obligations arising out of the order.

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 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.