

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

E. I. DUPONT DE NEMOURS & COMPANY

CONSENT ORDER, ETC., IN REGARD TO THE ALLEGED VIOLATION OF THE
FEDERAL TRADE COMMISSION ACT

Docket 8870, Complaint, November 12, 1971—Decision, July 24, 1972.

Consent order requiring a Wilmington, Delaware, manufacturer and marketer of automotive antifreeze described as Zerex Antileak Antifreeze to cease advertising, selling or distributing any such product which causes damage in or on vehicles in or on which it is used unless it discloses, among other things, that damage can or might occur or identifies any make or model of vehicles in or on which such product causes damage; and to cease advertising, selling or distributing any such product unless such product has been tested to determine whether the product will cause damage in or on the vehicles in or on which it is used.

COMPLAINT

Pursuant to the provisions of the Federal Trade Commission Act, and by virtue of the authority vested in it by said Act, the Federal Trade Commission, having reason to believe that E. I. duPont de Nemours & Company, a corporation, hereinafter referred to as respondent, has violated the provisions of said 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. E. I. duPont de Nemours & Company is a corporation organized, existing and doing business under and by virtue of the laws of the State of Delaware, with its principal offices and place of business

Complaint

81 F.T.C.

located at 1007 Market Street, in the city of Wilmington, State of Delaware.

PAR. 2. Respondent is now, and for some time last past, has been engaged in the manufacture, sale and distribution of an automotive antifreeze described as Zerex Antileak Antifreeze. Said product consists of an ethylene glycol solution mixed with polystyrene particles, which act as the antileak ingredient.

PAR. 3. In the course and conduct of its business as aforesaid, respondent now causes, and for sometime last past has caused, its said product, when sold, to be shipped to purchasers thereof located in various other States of the United States and in the District of Columbia, and maintains, and at all times mentioned herein has maintained, a substantial course of trade in said product in commerce, as "commerce" is defined in the Federal Trade Commission Act.

PAR. 4. Respondent at all times mentioned herein has been and now is in substantial competition in commerce with individuals, firms and corporations engaged in the sale and distribution of automotive antifreeze.

PAR. 5. In the course and conduct of its business, and for the purpose of inducing the sale of its said product, respondent extensively employs advertising in national and regional magazines and other publications and on network and local television and radio and through various other outlets, including point of sale displays.

PAR. 6. In the course and conduct of its business as aforesaid, respondent represented in advertisements and on its labels that Zerex was effective in the sealing of leaks in automotive cooling systems, without stating or disclosing the fact that said product when used in automotive cooling systems could cause damage to the system or component parts thereof.

PAR. 7. In the further course and conduct of its business as aforesaid, and following the marketing and advertising of Zerex Antileak Antifreeze, respondent received information from various sources by which it knew, or had reason to believe, that the use of said product under normal operating conditions could cause damage to various parts or components of automotive cooling systems. Notwithstanding its possession of such knowledge or reason to believe, respondent continued to market and advertise said product without disclosing to the purchasing public, in its advertisements and on its labels, the fact that the use of Zerex Antileak Antifreeze could cause damage to automotive cooling systems.

PAR. 8. In the further course and conduct of its business as aforesaid, respondent introduced its Zerex Antileak Antifreeze onto the

market and advertised it for use in automotive cooling systems without having conducted or obtained scientific tests that were adequate to establish whether or not said product would or could cause damage to automotive cooling systems under ordinary conditions of use.

PAR. 9. By marketing and advertising its product Zerex Antileak Antifreeze for use in automotive cooling systems, respondent represented, directly or by implication, that said product would not damage the automotive cooling systems in which it was used, under ordinary conditions of use, and respondent further represented, and does now represent, directly or by implication, that prior to the marketing and advertising of Zerex, it conducted or obtained scientific tests that were adequate to establish that such damage would not occur.

Therefore, the advertisements referred to in Paragraphs Six, Seven and Eight above were false and misleading and the acts and practices referred to in said Paragraphs constitute unfair and deceptive acts and practices. Furthermore, the marketing of said product without prior tests adequate to establish that it would not cause damage under ordinary conditions of use and the failure to disclose clearly and conspicuously in all advertisements for, and labels and packaging of said product what damage could occur was and is an unfair act and practice in violation of Section 5 of the Federal Trade Commission Act.

PAR. 10. The use by respondent of the aforesaid false and misleading advertisements and unfair and deceptive acts and practices had the tendency and capacity to mislead and deceive a substantial portion of the purchasing public into the erroneous and mistaken belief that said product would not cause damage to automotive cooling systems under ordinary conditions of use; and that respondent had conducted or obtained scientific tests that were adequate to establish that said product would not cause damage to automotive cooling systems under ordinary conditions of use, and into the purchase of substantial quantities of respondent's Zerex Antileak Antifreeze by reason of said erroneous and mistaken belief.

PAR. 11. The aforesaid acts and practices of respondent, as herein alleged, were and are all to the prejudice and injury of the public and of respondent's competitors, and constituted, and now constitute, unfair and deceptive acts and practices and unfair methods of competition in commerce in violation of Section 5 of the Federal Trade Commission Act.

DECISION AND ORDER

The Commission having issued its complaint on November 12, 1971, charging the respondent named in the caption hereof with violation of

the Federal Trade Commission Act, and respondent having been served with a copy of that complaint; and

The Commission having duly determined upon motion duly certified to the Commission that, in the circumstances presented, the public interest would be served by waiver here of the provisions of Section 2.34(d) of its rules, that the consent order procedure shall not be available after issuance of complaint; and

Respondent and counsel for the complaint having thereafter executed an agreement containing a consent order, an admission by respondent of all jurisdictional facts set forth in the complaint, a statement that the signing of the agreement by respondent 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 considered the agreement and having provisionally accepted same, and the agreement containing consent having thereupon been placed 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 makes the following jurisdictional findings and enters the following order:

1. Respondent E. I. duPont de Nemours & Company is a corporation organized, existing and doing business under and by virtue of the laws of the State of Delaware, with its office and principal place of business located at 1007 Market Street, Wilmington, Delaware.

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

I

It is ordered, That respondent E. I. duPont de Nemours & Company, a corporation, its officers, representatives, agents and employees, directly or through any corporate or other device, in connection with the advertising, offering for sale, sale and distribution of any retail consumer automotive product in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

- (a) Advertising, offering for sale, selling or distributing any such product which, when used in its intended manner and under ordinary conditions of use, causes damage in or on the vehicles in or on which it is so used, unless respondent makes a clear and conspicuous disclosure in all its advertising for such product (except

point of purchase materials that merely identify the product) that damage can or might occur, or identifies any make or model of vehicles in or on which such product causes damage when so used and makes a clear and conspicuous disclosure that such product should not be used in or on those vehicles, and further on all its labels for such product makes a clear and conspicuous disclosure that damage can or might occur and clearly and conspicuously sets forth the nature of such damage and any procedures which can be utilized to prevent such damage. *Provided, however,* That it shall be a defense in any enforcement proceeding instituted hereunder for respondent to establish it neither knew nor had reason to know that when such product was so used damage would occur, or for respondent to show that the instances of damage upon which the enforcement proceeding was predicated were unique or isolated instances, and were of such a nature that it could not be reasonably anticipated that such damage would result to a class or group of vehicles, or for respondent to establish that within sixty (60) days of the date that respondent knew or had reason to know that when such product was so used damage would occur, respondent ceased disseminating any product with any label, not complying with the terms of this order; and

(b) advertising, offering for sale, selling or distributing any such product which is first distributed after the effective date of this order, unless such product has been subjected to tests designed and executed in a manner reasonably calculated to determine whether such product when used in its intended manner and under ordinary conditions of use will cause damage in or on the vehicles in or on which it is so used, or unless respondent has in its possession prior to such distribution other studies, documentation or data reasonably calculated to determine whether such use of product will cause such damage, the results of which tests, studies, documentation or other data are maintained in writing.

II

The labeling provisions of this order shall apply to all products which are packaged sixty (60) days or more after the date upon which this order becomes effective.

III

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

Decision and Order

81 F.T.C.

It is further ordered, That respondent notify the Commission at least thirty (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 respondent 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 the order to cease and desist.

IN THE MATTER OF

SAM ZIAS, 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-2259. Complaint, July 27, 1972—Decision, July 27, 1972.

Consent order requiring a New York City manufacturer of fur products to cease misbranding and deceptively invoicing its merchandise.

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 Sam Zias, Inc., a corporation, and Sam Zias and George Makos, 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 Sam Zias, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of New York.

Respondents Sam Zias and George Makos are officers of the corporate respondent. They formulate, direct and control the policies, acts and practices of the corporate respondent including those hereinafter set forth.

Respondents are manufacturers of fur products with their office and principal place of business located at 214 W. 29th 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, and offering for sale in commerce, and in the transportation and distribution in commerce, of fur products; and have manufactured for sale, sold, 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 said Act.

PAR. 4. Certain of said products were misbranded in violation of the Fur Products Labeling Act in that they were not labeled in accordance with rules and regulations promulgated thereunder in the following respects:

(a) 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.

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

(c) The true animal name of the fur used in such fur products was not shown on labels in violation of Rule 5 of said rules and regulations.

(d) Required information on labels was described in abbreviated form and not spelled out fully, in violation of Rule 4 of said rules and regulations.

PAR. 5. Certain of said products 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, but not limited thereto, were fur products covered by invoices 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. 6. 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) 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.

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

(c) Required information on invoices was described in abbreviated form and not spelled out fully, in violation of Rule 4 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 New York Regional Office 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 Section 2.34(b) of its rules, the Commission

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

1. Respondent Sam Zias, Inc., is a corporation, organized, existing and doing business under and by virtue of the laws of the State of New York with its office and principal place of business located at 214 West 29th Street, New York, New York.

Respondents Sam Zias and George Makos are officers of said corporation and their address is the same as that of the corporation. They formulate, direct and control the acts, practices and policies of said corporate respondent.

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 the respondents Sam Zias, Inc., a corporation, its successors and assigns, and its officers, and Sam Zias and George Makos, individually and as officers of said corporation, and respondents' representatives, agents and employees, directly or through any corporation, subsidiary or other device in connection with the introduction, or manufacture for 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 manufacture for sale, 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 transportation or distribution in commerce, of any fur, 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. 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. 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.

3. Failing to set forth on a label the item number or mark assigned to such fur product.

4. Failing to set forth on a label the true animal name of the fur used in such fur product.

5. Setting forth information required under the Fur Products Labeling Act and the rules and regulations promulgated thereunder in abbreviated form on a label pertaining to such fur product.

B. Falsely or deceptively invoicing any fur product by:

1. Failing to furnish an invoice, as the term "invoice" is defined in the Fur Product 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 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.

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

4. Setting forth information required under the Fur Products Labeling Act and the rules and regulations promulgated thereunder in abbreviated form on an invoice pertaining to such fur product.

It is further ordered, That the individual respondents named herein promptly notify the Commission of the discontinuance of their present business or employment and of their affiliation with a new business or employment. Such notice shall include respondents' current business or employment in which they are engaged as well as description of their duties and responsibilities.

It is further ordered, That respondents notify the Commission at least thirty (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 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 the order to cease and desist contained herein.

Complaint

IN THE MATTER OF

LEEMOR IMPORT CORP., ET AL.

CONSENT ORDER, ETC., IN REGARD TO THE ALLEGED VIOLATION OF THE
FEDERAL TRADE COMMISSION AND THE FLAMMABLE FABRICS ACTS

Docket C-2260. Complaint, July 27, 1972—Decision, July 27, 1972.

Consent order requiring a New York City importer and distributor of women's accessories, including women's scarves, to cease, among other things, selling, importing, or transporting any product, fabric, or related material which fails to conform to an applicable standard of flammability or regulation issued or amended under the provisions of the Flammable Fabrics Act.

COMPLAINT

Pursuant to the provisions of the Federal Trade Commission Act and the Flammable Fabrics Act, as amended, and by virtue of the authority vested in it by said Acts, the Federal Trade Commission, having reason to believe that Leemor Import Corp., a corporation, and Joseph Salem and Eli Haber, 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 Flammable Fabrics Act, as amended, 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 Leemor Import Corp., is a corporation organized, existing and doing business under and by virtue of the laws of the State of New York. Respondents Joseph Salem and Eli Haber are officers of said corporate respondent. They formulate, direct and control the acts, practices and policies of said corporation.

Respondents are engaged in the sale and distribution of merchandise, including, but not limited to, women's scarves. Their office and principal place of business is located at 8 West 37th Street, New York, New York.

PAR. 2. Respondents are now and for some time last past have been engaged in the sale and offering for sale, in commerce, and the importation into the United States, and have introduced, delivered for introduction, transported and caused to be transported in commerce, and have sold or delivered after sale or shipment in commerce, products, as "commerce," and "product," are defined in the Flammable