

## Complaint

## IN THE MATTER OF

## BEN STROLL FURS, 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-2371. Complaint, April 2, 1973—Decision, April 2, 1973.*

Consent order requiring a New York City manufacturer of fur products, among other things to cease misbranding, falsely invoicing and guaranteeing furs, and to make refunds to consumers who purchased misbranded or deceptively invoiced furs.

## 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 Ben Stroll Furs, Inc., a corporation, and Ben Stroll, a/k/a Benjamin Strulowitz, 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 Ben Stroll Furs, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of New York.

Respondent Ben Stroll, a/k/a Benjamin Strulowitz is an officer of the corporate respondent. He formulates, directs and controls 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 333 Seventh Avenue, 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 "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 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 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. 7. Respondents furnished false guaranties under Section 10(b) of the Fur Products Labeling Act with respect to certain of their fur products by falsely representing in writing that respondents had a continuing guaranty on file with the Federal Trade Commission when respondents in furnishing such guaranties had reason to believe that the fur products so falsely guarantied 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. 8. 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.

PAR. 9. Respondents are now and for some time last past have been engaged in the manufacture for sale, sale and distribution of fur products. The aforesaid products are shipped or delivered from respondents' place of business in the State of New York to respondents' customers located in various other States of the United States. Respondents maintain, and have maintained a substantial course of trade in said products in commerce, as "commerce" is defined in the Federal Trade Commission Act.

PAR. 10. Respondents in the course and conduct of their business as aforesaid have sold and distributed in commerce fur products which were misbranded and falsely and deceptively invoiced as alleged in Paragraph Three through Seven hereinbefore. Respondents, through the aforesaid false and deceptive labels and invoices, obtained substantially higher prices for fur products than they would have obtained had the fur products been accurately labeled and invoiced in accordance with the Fur Products Labeling Act and the rules and regulations promulgated thereunder.

The retention by respondents of the monies they received in the form of higher prices for the misbranded and deceptively invoiced fur products is a continuing deception and constitutes a deceptive act or practice and an unfair method of competition in commerce in violation of Section 5 of the Federal Trade Commission Act.

PAR. 11. The aforesaid acts and practices of respondents as herein alleged were and are to the prejudice and injury of the public and constitute unfair and deceptive acts and practices in commerce and an unfair method of competition within the intent and meaning of 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 there-

after 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 has 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 Ben Stroll Furs, 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 333 Seventh Avenue, city of New York, State of New York.

The respondent Ben Stroll, a/k/a Benjamin Strulowitz is an officer of said corporation and his address is the same as that of said corporation.

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 Ben Stroll Furs, Inc., a corporation, its successors and assigns, and its officers, and Ben Stroll, a/k/a Benjamin Strulowitz, individually and as an officer of said corporation, and respondents' representatives, agents and employees, directly or through any corporation, subsidiary, division, or other devise, 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, 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 and 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. 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 respondents Ben Stroll Furs, Inc., a corporation, its successors and assigns, and its officers and Ben Stroll, a/k/a Benjamin Strulowitz, individually and as an officer of said corporation, and respondents’ representatives, agents and employees, directly or through any corporation, subsidiary, division 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 respondents have reason to believe that such fur product may be introduced, sold, transported, or distributed in commerce.

*It is further ordered,* That respondents notify, by delivery of a copy of this order by registered mail, each of their customers listed in Schedule A, attached hereto, all of whom have purchased fur products which gave rise to this complaint, of the fact that such products were misbranded or falsely or deceptively invoiced.

*It is further ordered,* That respondents shall forthwith deposit in escrow with their attorney, as escrowee, Four Thousand Five Hundred and Eighty 00/100 (\$4,580.00) Dollars, which amount represents the difference between the sum actually received by the respondents in sales to their customers of 43 fur products identified by item number in Schedule A, attached hereto, which were misbranded or falsely or deceptively invoiced

as natural and the sum the respondents would have received for the same products had they been properly labeled and invoiced as dyed.

*It is further ordered,* That respondents make every prompt and diligent effort to ascertain the identity and the present address of, and the individual retail prices paid by each consumer who purchased the said 43 fur products manufactured by the respondents and identified by item number in Schedule A, attached hereto; and the respondents at the time and as part of the initial report of compliance which they shall file with the Commission within 60 days after service upon them of this order, as hereinafter set forth, shall include as part of that report a detailed account of the efforts made by them in obtaining the above information together with the results thereof.

*It is further ordered,* That following the respondents' initial report of compliance and its acceptance by the Commission, each consumer located by the respondents or by the Commission who has purchased any of the subject 43 fur products shall be sent by the respondents by registered mail a copy of this order and shall be paid a sum from the escrow amount arrived at as follows:

(1) Each of the consumers who have purchased any of the subject 43 fur products shall receive a percentage of the \$4,580.00 escrow. The percentage received by each shall be determined by ascertaining the total of the retail prices paid by the consumers for the 43 fur products and then determining the percentage that the individual consumer's retail price bears to the total of the retail prices.

(2) In the event that some of the consumers can not be located there shall be no reduction in the escrow amount of \$4,580.00, but rather the amount received by each consumer shall be calculated as described above except that the total of the retail prices used to ascertain the percentage of the escrow amount to be paid to the individual consumer shall be the total of the retail prices paid by the consumers who have been located for the respective fur products that they purchased.

(3) In no event shall any consumer receive more than 20 percent of the retail price originally paid by him, however, such payment shall not limit the consumer's rights or interests.

(4) Any amount remaining in the escrow account following full compliance by the respondents with this order

may be returned to them by the escrowee subject to the approval of the Commission.

*It is further ordered,* That in addition to the provisions hereinabove made regarding payment by the respondents to consumers who purchased the 43 misbranded or falsely and deceptively invoiced fur product, the respondents shall pay, to any other consumer who shows that prior to the effective date of this order he purchased a fur product manufactured and deceptively invoiced and/or misbranded by the proposed respondents, an amount equal to 20 percent of the wholesale price received by the respondents in the sale of the misbranded or falsely or deceptively invoiced fur product but in no event shall any payment made to a consumer under the provisions of this paragraph foreclose any of the consumer's rights or interests, nor shall any payment by the respondents provided for under this paragraph be made by them from the hereinabove described escrow fund of \$4,580.00.

*It is further ordered,* That in addition to the respondents sending a copy of this order to consumers who had purchased the 43 fur products as described hereinbefore, the respondents shall also send a copy of this order by registered mail to any other consumer known by them or who may become known by them to have purchased a fur product manufactured and misbranded or falsely or deceptively invoiced by the respondents prior to the effective date of this order.

*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 effect compliance obligations arising out of the order.

*It is further ordered,* That the individual respondent named herein promptly notify the Commission of the discontinuance of his present business or employment and of his affiliation with a new business or employment. Such notice shall include respondent's current business and address, the nature of the business or employment in which he is engaged as well as a description of his duties and responsibilities.

*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 an initial report of compliance in

writing setting forth in detail the manner and form in which they have complied with this order.

*It is further ordered,* That the respondents within sixty (60) days of their filing of the initial report of compliance and acceptance of the same by the Commission shall file with the Commission an additional report in writing setting forth in detail the manner and form in which they have complied with this order.

## SCHEDULE A

| <u>Stroll<br/>Inv. #</u> | <u>Date</u> | <u>Customer</u> | <u>Style/Item No.</u> |
|--------------------------|-------------|-----------------|-----------------------|
| 4191                     | 7/11/68     | Lockwood Furs   | 197/6331              |
| "                        | "           | " "             | 180/6327              |
| 4529                     | 8/13/68     | Lloyds          | 197/6682              |
| "                        | "           | "               | 101/4256              |
| 4607                     | 8/20/68     | I. E. Goodman   | 190/6708              |
| "                        | "           | " "             | 190/6340              |
| 4552                     | 8/13/68     | " "             | 199/6336              |
| 4476                     | 8/5/68      | Northern Furs   | 675/6649              |
| "                        | "           | " "             | 101/4273              |
| 5091                     | 10/9/68     | Evans Fur Co.   | 917F/6430             |
| "                        | "           | " " "           | 291F/6680             |
| 4793                     | 9/6/68      | " " "           | 199/6437              |
| 4711                     | 8/29/68     | " " "           | 968-8/6425            |
| 4694                     | 8/28/68     | " " "           | 917F/6428             |
| "                        | "           | " " "           | 981F/6429             |
| "                        | "           | " " "           | 953/6653              |
| 4360                     | 7/25/68     | " " "           | 585/6445              |
| 4264                     | 7/17/68     | " " "           | 875/6435              |

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## Decision and Order

| <u>Stroll<br/>Inv. #</u> | <u>Date</u> | <u>Customer</u>   | <u>Style/Item No.</u> |
|--------------------------|-------------|-------------------|-----------------------|
| 4257                     | "           | " " "             | 875/6320              |
| 4244                     | 7/16/68     | " " "             | 875/6313              |
| 4414                     | 7/31/68     | Gold Label        | 195/6344              |
| 5149                     | 10/14/68    | H. D. Grossman    | 291F/6317             |
| 4627                     | 8/21/68     | Ben Herschaft     | 194/4259              |
| "                        | "           | " "               | 195/6668              |
| 4174                     | 7/10/68     | Robert Schechner  | 199/6348              |
| 9300                     | 1/22/70     | Giba-Friedman     | 635/5805              |
| "                        | "           | " "               | 915/5808              |
| 3357                     | 12/30/70    | Giba-Noblia, Inc. | 817/1700              |
| 3494                     | 1/15/71     | A. I. Lipsey      | 9408/1703             |
| 3538                     | 1/20/71     | " "               | 9408/1701             |
| 6863                     | 10/28/68    | Lockwood Furs     | 197/6331              |
| 6857                     | 10/18/68    | " "               | 180/6327              |
| 9165                     | 12/12/69    | Mohl Fur Co.      | 875/5215              |
| "                        | "           | " " "             | 675/5222              |
| "                        | "           | " " "             | 675/5229              |
| 9010                     | 12/1/69     | " " "             | 824/4097              |
| 9056                     | 12/3/69     | Goldin-Feldman    | 525/5224              |
| 8974                     | 11/25/69    | Harfred           | 875/5228              |
| 9141                     | 12/10/69    | Evans Fur Co.     | 8225/4107             |
| 3494                     | 1/15/71     | A. I. Lipsey      | 9408/1703             |
| 3538                     | 1/20/71     | " "               | 9408/1701             |
| 9051                     | 12/3/69     | Pageant Furs      | 817/4288              |
| 8916                     | 11/18/69    | Goldin-Feldman    | 817/4279              |

IN THE MATTER OF  
WESTERN STORECASTING, LIMITED, ET AL.

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

*Docket C-2373. Complaint, April 2, 1973—Decision, April 2, 1973.*

Consent order requiring a Canadian corporation in Vancouver, British Columbia, operating in-store broadcasting promotional plans, among other things to cease knowingly inducing and receiving discriminatory promotional allowances from suppliers, and participating in advertising arrangements resulting in unlawful discrimination among American retailer.

COMPLAINT

The Federal Trade Commission, pursuant to the provisions of the Federal Trade Commission Act (15 U.S.C. Section 45), by virtue of the authority vested in it by said Act, having reason to believe that the parties named in the caption hereof and hereinafter more particularly described and referred to as respondents, have violated the provisions of Section 5 of the Federal Trade Commission Act, as hereinafter more particularly described, 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 respect thereto as follows:

PARAGRAPH 1. Respondent Western Storecasting, Limited, is a corporation organized, existing and doing business under and by virtue of the laws of the Province of British Columbia, Canada, with its principal office located at 515-850 West Hastings Street, Vancouver, British Columbia, Canada. Respondent Western Storecasting, Limited, is known as and referred to herein as "Western."

Respondent William R. Schieman is an individual and an officer of the corporate respondent. He formulates, directs and controls the acts and practices of the corporate respondent including the acts and practices hereinafter set forth. His address is 1371 West 71st, Vancouver, British Columbia, Canada, and he is a citizen of the United States of America.

PAR. 2. Respondents, in connection with their business, have solicited, entered into and executed contracts and agreements with suppliers, located in the United States of America, which provide for Western to supply the following services and facilities