

It is ordered, That respondent Exxon's motion be, and it hereby is, denied.

Commissioner Thompson dissenting.

IN THE MATTER OF
GEORGE MANOS & WILIBEL KOWALKER, INC., ET AL.
CONSENT ORDER, ETC., IN REGARD TO THE ALLEGED VIOLATIONS
OF THE FEDERAL TRADE COMMISSION AND FUR PRODUCTS
LABELING ACTS

Docket C-2514. Complaint, May 2, 1974—Decision, May 2, 1974

Consent order requiring a St. Petersburg, Fla., wholesaler of fur products, among other things to cease misbranding and falsely invoicing its fur products; and misrepresenting that it has foreign branches and a continuing guaranty on file with the Federal Trade Commission.

Appearances

For the Commission: *Joel S. Thwaites.*

For the respondents: *Yeakle & Riden, St. Petersburg, Fla.*

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 George Manos & Wilibel Kowalker, Inc., a corporation, and George Manos, 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 now appearing to the Commission that a proceeding by it in respect thereto would be in the public interest, hereby issues its complaint stating its charges in that respect as follows:

PARAGRAPH 1. Respondent George Manos & Wilibel Kowalker, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of Florida with its principal office and place of business at 411 19th Street, South, St. Petersburg, Fla.

Respondent George Manos is 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 the same as that of the corporate respondent.

Respondents are engaged in the business of purchasing fur products and wholesaling such throughout the southeastern region of the United States to retailers for direct sales to purchaser consumers.

COUNT I

Alleging violation of the Fur Products Labeling Act and the implementing rules and regulations promulgated thereunder, and the Federal Trade Commission Act, the allegations of Paragraph One hereof are incorporated by reference in Count I as if fully set forth verbatim.

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 certain of said fur products were invoiced to imply 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. 7. Respondents, in violation of Rule 49 of the rules and regulations promulgated under the Fur Products Labeling Act, falsely invoiced misbranded fur products by stating that such products were not misbranded under the provisions of the Fur Products Labeling Act and rules and regulations thereunder.

PAR. 8. 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 respect:

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.

PAR. 9. Respondents, in violation of Rules 35(a) and 49, in substituting fur products labels under the provisions of Section 3(e) of said Act, did not disclose on the substitute labels all the information required under the Act and rules and regulations in the same form and manner as required in respect to the original label.

Among such substitute fur products labels affixed by respondents, but not limited thereto, were those which identified the fur in the fur product as being "Natural," whereas, in truth and in fact, such fur in the fur product had been dyed, tip-dyed or otherwise artificially colored.

PAR. 10. 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 constituted and now constitute unfair methods of competition and unfair and deceptive acts and practices in commerce under the Federal Trade Commission Act.

COUNT II

Alleging violations of Section 5 of the Federal Trade Commission Act, the allegations of Paragraph One, hereof, are incorporated by reference in Count II as if fully set forth verbatim.

PAR. 11. In the course and conduct of their business as aforesaid, respondents now cause, and for some time last past have caused, their said products to be shipped among themselves between the States of Florida and New York and have maintained, and now maintain offices in the States of Florida and New York, and have sent and received and now send and receive, statements, bills, negotiable instruments and other commercial papers among themselves in these offices, and main-

tain, and at all times mentioned herein have maintained, a substantial course of trade in said products in commerce, as "commerce" is defined in the Federal Trade Commission Act.

PAR. 12. Respondents falsely and deceptively implied on invoices that they maintain branch offices or other facilities in Paris, France, whereas, in truth and in fact, respondents do not maintain such facilities.

PAR. 13. Respondents falsely and deceptively represented on invoices that they had on file with the Federal Trade Commission a continuing guaranty under the Flammable Fabrics Act, as amended, when, in truth and in fact, respondents had not filed such a continuing guaranty.

PAR. 14. In the course and conduct of their aforesaid business, and at all times mentioned herein, respondents have been, and now are, in substantial competition in commerce, with corporations, firms and individuals, engaged in the business of purchasing and selling fur products of the same general kind and nature as that purchased and sold by the respondents.

PAR. 15. The use by respondents of the aforesaid false, misleading and deceptive statements, representations and practices has had, and now has, the capacity and tendency to mislead dealers and other purchasers into the erroneous and mistaken belief that such statements and representations were, and are, true, and into the purchase of substantial quantities of respondents' products by reason of said erroneous and mistaken belief.

PAR. 16. The aforesaid acts and practices of respondents, as herein alleged were, and are, all to the prejudice and injury of the public and of respondents' competitors and constituted, and now constitute, unfair and deceptive acts and practices and unfair methods of competition, in commerce, within the intent and meaning of Section 5 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 Atlanta 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 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 George Manos & Wilibel Kowalker, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of Florida with its offices and principal place of business located at 411 19th Street, South, St. Petersburg, Fla.

Respondent George Manos is an officer of said corporation. He formulates, directs and controls the policies, acts and practices 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

COUNT I

It is ordered, That respondents George Manos & Wilibel Kowalker, Inc., a corporation, its successors and assigns, and its officers, and George Manos, individually and as an officer of said corporation, and respondents' representatives, agents and employees, directly or through any corporation, subsidiary, division 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 fur products 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.

3. When substituting fur products labels under the provisions of Section 3(e) of the Fur Products Labeling Act, failing to disclose on the substitute labels all of the information required under the Act and rules and regulations in the same form and manner as required in respect to the original label.

B. Falsely or deceptively invoicing fur products 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 is pointed, bleached, dyed, tip-dyed, or otherwise artificially colored.

3. Failing to disclose the term "natural" on invoices to describe fur products which contain fur which has not been pointed, bleached, dyed, tip-dyed, or otherwise artificially colored, as required by Rule 19(g) of said rules and regulations.

4. Stating that misbranded fur products are not misbranded under the provisions of the Fur Products Labeling Act and the rules and regulations thereunder.

COUNT II

It is further ordered, That George Manos & Wilibel Kowalker, Inc., a corporation, its successors and assigns, and its officers, and George Manos, individually and as an officer of said corporation, and respondents' representatives, agents and employees, directly or through any corporation, subsidiary, division or other device, in connection with the advertising, offering for sale, sale, or distribution of fur products in commerce as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. Falsely and deceptively representing, directly or by implication, on fur products sales invoices or other instrumentalities, that said respondents maintain branch offices or other facilities in Paris,

France, or in any other geographical area.

2. Falsely representing in writing that respondents have a continuing guaranty on file with the Federal Trade Commission, under the provisions of the Flammable Fabrics Act, as amended.

It is further ordered, That respondents notify the Commission at least thirty (30) days prior to any proposed change in the corporate respondent, George Manos & Wilibel Kowalker, Inc., 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 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 address and a statement as to 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 respondents deliver a copy of this order to cease and desist to all present and future personnel of respondents engaged in the offering for sale, or sale of any product or in any aspect of preparation, creation, or placing of advertising, and that respondents secure a signed statement acknowledging receipt of said order from each such person.

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 this order.

IN THE MATTER OF

TYSONS (TYSONS) CORNER REGIONAL SHOPPING CENTER,
ET AL.

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

Docket 8886. Complaint, May 8, 1972—Decisions, May 3, 1974*

Consent order requiring a Tysons Corner, Va., developer of a northern Va. regional shopping center. among other things to cease entering into or enforcing agreements