

IN THE MATTER OF

SAM NAGLER

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

Docket C-2527. Complaint, Aug. 16, 1974—Decision, Aug. 16, 1974

Consent order requiring a New York City wholesaler of furs and fur products, among other things to cease misrepresenting his business as being a manufacturer of fur products; misbranding, mislabeling, and falsely invoicing his fur products; and furnishing false guaranties as to his fur products.

Appearances

For the Commission: *James Manos* and *Richard A. Givens*.

For the respondent: *Pro se*.

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 Nagler, an individual, 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 Sam Nagler is an individual trading as Sam Nagler.

Respondent is a wholesaler of furs and fur products with his office and principal place of business located at 224 West 30th Street, New York, N.Y.

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 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 that 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 said 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. 7. Certain of said fur products were falsely and deceptively invoiced, in violation of Section 5(b)(2) of the Fur Products Labeling

Act, in that the said fur products were invoiced to show that the fur contained therein was "natural," when in fact such fur was dyed.

PAR. 8. Certain of said fur products were falsely and deceptively invoiced in violation of Section 5(b)(2) of the Fur Products Labeling Act in that respondent, by and through the use of the word "Manufacturers," on his invoices, represented that he owned, operated or controlled a manufacturing plant in which some or all of the various fur products sold by him are made.

In truth and in fact, said representations were, and are, false, misleading and deceptive. Respondent at all times mentioned herein did not, and does not now, own, operate or control a manufacturing plant in which any of the fur products sold by him are made.

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 under such Act in that required item numbers were not set forth on invoices, in violation of Rule 40 of said rules and regulations.

PAR. 10. Fur products of the respondent were falsely and deceptively advertised in violation of Section 5(a) of the Fur Products Labeling Act through representations set forth on respondent's stationery that his business was that of "Manufacturing Furriers." Such representations were intended to aid, promote and assist directly and indirectly in the sale and offering for sale of the respondent's fur products. In truth and in fact respondent's business is and was that of a wholesaler of fur products manufactured by other firms and respondent's business is and was not that of "Manufacturing Furriers."

PAR. 11. Respondent furnished false guaranties under Section 10(b) of the Fur Products Labeling Act with respect to certain of his fur products by falsely representing in writing that respondent had a continuing guaranty on file with the Federal Trade Commission when respondent in furnishing such guaranties had reason to believe that the fur products so falsely guaranteed 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. 12. 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 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 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 had 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 sixty (60) 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 Nagler, is an individual trading as Sam Nagler.
2. Respondent is a wholesaler of furs and fur products with his office and principal place of business located at 224 West 30th Street, New York, N.Y.
3. 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

It is ordered, That respondent, Sam Nagler, an individual trading as Sam Nagler, or under any other name or names, his successors and assigns, and respondent's representatives, agents and employees, directly or through any corporation, subsidiary, division, 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, 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 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.

3. Describing fur products which have been bleached, dyed or otherwise artificially colored by the name of mink or any other animal name or names without disclosing that the said fur products are bleached, dyed or otherwise artificially colored.

4. Failing to set forth on invoices the item number or mark required to be assigned to such fur products.

5. Representing directly or indirectly on invoices the word "manufacturers" or any other word of similar import or meaning implying that the respondent manufactures the fur products sold by him, unless and until respondent actually owns and operates, or directly and absolutely controls the manufacturing plant wherein his fur products are made.

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, which implies that the respondent manufactures the fur products sold by him, unless and until respondent actually owns and operates, or directly and absolutely controls the manufacturing plant wherein his fur products are made.

D. Furnishing a false guaranty that any fur product is not misbranded, falsely invoiced or falsely advertised when the respondent has reason to believe that such fur product may be introduced, sold, transported, or distributed in commerce.

It is further ordered, That the respondent 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 respondent 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.

IN THE MATTER OF

SUN OIL COMPANY, ET AL.

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

Docket 8889. Complaint, June 2, 1972—Decision, Aug. 19, 1974

Order requiring a Philadelphia, Pa., manufacturer and distributor of gasoline and other petroleum products and its New York City advertising agency, among other things