

Complaint

102 F.T.C.

IN THE MATTER OF

LLOYD'S FURS, INC.

CONSENT ORDER, ETC., IN REGARD TO ALLEGED VIOLATION OF SEC. 5 OF
THE FEDERAL TRADE COMMISSION ACT*Docket C-3128. Complaint, Dec. 5, 1983—Decision, Dec. 5, 1983*

This consent order requires a Denver, Colo. company engaged in the advertising, sale and distribution of furs and fur-containing garments, among other things, to cease falsely representing a garment's designer or manufacturer. The order requires that any fur or fur-containing garment bearing a manufacturer's or designer's label accurately identify the manufacturer or designer of the garment. Further, respondent must comply with all written labeling instructions received from a manufacturer or designer, and maintain records documenting from whom a garment was received and to whom it was sold, as well as records documenting compliance with the Fur Products Labeling Act and this order.

Appearances

For the Commission: *F. Kelly Smith.*

For the respondent: *James E. Hartley, Holland & Hart, Denver, Colo.*

COMPLAINT

Pursuant to the provisions of the Federal Trade Commission Act, and by virtue of the authority vested in it by that Act, the Federal Trade Commission, having reason to believe that Lloyd's Furs, Inc., a corporation, hereinafter sometimes 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. Respondent Lloyd's is a corporation, organized, existing and doing business under and by virtue of the laws of the State of Colorado, having its office and principal place of business at 1543 Stout Street, Denver, Colorado.

PAR. 2. Respondent is now, and for some time last past has been engaged in the purchasing, offering for sale, sale, and distribution of fur-containing garments and related products to the public at retail.

PAR. 3. In the ordinary course and conduct of its business, respondent operates retail sales outlets in Denver, Colorado, and in several midwestern and western states. It causes and has caused the conduct

of business in each of these states through the U.S. mail and other facilities of interstate commerce. Respondent maintains and has maintained a substantial course of business, including the acts and practices hereinafter set forth, which are in or affect commerce, as "commerce" is defined in the Federal Trade Commission Act.

PAR. 4. In the ordinary course and conduct of its business, respondent offers for sale and sells to the general public at retail furs or fur-containing garments to which are attached or affixed labels purporting to reflect the manufacturer or designer of the garments. Respondent, by attaching or affixing such labels to the garments it offers for sale and sells to the general public, represents directly or by implication to consumers that said garments were manufactured or designed by the persons or firms indicated on the labels.

PAR. 5. In truth and in fact labels reflecting the manufacturers or designers of fur and fur-containing garments have been attached or affixed to said garments by respondent without regard to whether those garments were actually designed or manufactured by the designer or manufacturer designated on the labels. Therefore, respondent's aforesaid representations, acts or practices are false, misleading, deceptive or unfair.

PAR. 6. The use by respondent of the aforesaid false, misleading, deceptive or unfair representations, acts or practices has had, and now has, the capacity and tendency to mislead members of the purchasing public into the erroneous and mistaken belief that said representations, acts or practices are true and into the purchase of substantial quantities of furs or fur-containing garments by reason of said erroneous and mistaken belief.

PAR. 7. The acts and practices of respondent Lloyd's, as herein alleged, were and are all to the prejudice and injury of the public and constituted and now constitute unfair or deceptive acts or practices in or affecting commerce in violation of Section 5 of the Federal Trade Commission Act. The acts and practices of respondent, as herein alleged, are continuing and will continue in the absence of the relief herein requested.

Commissioner Calvani did not participate.

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 draft of complaint which the Denver 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 respondent, its attorney, and counsel for the Commission having thereafter executed an agreement containing a consent order, an admission by the respondent of all 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 Act, and that the 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 described in Section 2.34 of its Rules, the Commission hereby issues its complaint, makes the following jurisdictional findings and enters the following order:

1. Respondent Lloyd's Furs, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of Colorado, with its office and principal place of business at 1543 Stout Street, in the City of Denver, State of Colorado.

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, Lloyd's Furs, Inc. ("Lloyd's"), a corporation, its successors and assigns, and respondent's officers, agents, representatives, and employees, directly or through any corporation, subsidiary, division, or other device, in connection with the purchasing, advertising, offering for sale, sale and distribution of any fur or fur-containing garment in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

- A. Representing, directly or by implication, that any such fur or fur-containing garment has been manufactured or designed by any particular manufacturer or designer, unless such is the case and respondent has in good faith complied with all written labeling instruc-

tions received from the manufacturer or designer of the fur or fur-containing garment and maintained accurate records demonstrating such compliance and showing from whom the fur or fur-containing garment was received and to whom it was sold.

B. Attaching or affixing to any fur or fur-containing garment a label purporting to identify the manufacturer or designer of the garment, unless such fur or fur-containing garment has, in fact, been manufactured or designed by that manufacturer or designer and respondent has in good faith complied with all written labeling instructions received from the manufacturer or designer of the fur or fur-containing garment and maintained accurate records demonstrating such compliance and showing from whom the fur or fur-containing garment was received and to whom it was sold.

II.

It is further ordered, That within thirty (30) days after this order becomes final, respondent shall provide a copy of this order to its officers, managers, supervisors and sales personnel. Respondent shall also provide a copy of this order to all its officers, managers, supervisors and sales personnel who join the corporation within five (5) years from the date of this order.

III.

It is further ordered, That respondent shall maintain records sufficient to demonstrate its compliance with this order and with the Fur Products Labeling Act and the rules and regulations promulgated thereunder. It shall make such records available for inspection by the staff of the Federal Trade Commission upon request.

IV.

It is further ordered, That respondent shall notify the Commission at least thirty (30) days prior to any proposed change in the respondent corporation 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 that may affect compliance obligations arising out of the order.

V.

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 this order.

Commissioner Calvani did not participate.

CONSOLIDATED FOODS CORP.

1833

Modifying Order

IN THE MATTER OF

CONSOLIDATED FOODS CORPORATION

MODIFYING ORDER IN REGARD TO ALLEGED VIOLATION OF
SEC. 7 OF THE CLAYTON ACT

Docket C-1024. Consent Order, Dec. 21, 1965—Modifying Order, Dec. 7, 1983

On Dec. 7, 1983, the Federal Trade Commission deleted Paragraph VIII from the order issued against Consolidated Foods Corp. on Dec. 21, 1965 (68 F.T.C. 1137). The Commission has determined that order provisions requiring prior approval of future acquisitions generally should not have terms exceeding ten years.

ORDER REOPENING PROCEEDING AND MODIFYING ORDER

By petition filed August 8, 1983, respondent Consolidated Foods Corporation ("Consolidated") requests, pursuant to Section 5(b) of the Federal Trade Commission Act (15 U.S.C. 45(b)), that the Commission modify its final order in this matter to remove the prior approval requirement contained in Paragraph VIII of the order. Pursuant to Section 2.51 of the Commission's Rules of Practice and Procedure, the petition was placed on the public record for thirty days. No comments were received.

The Commission has determined that order provisions requiring prior Commission approval of future acquisitions generally should not have terms exceeding ten years. In most cases, the Commission believes that such prior approval provisions will have served their remedial and deterrent purposes after ten years and that the findings upon which such provisions are based should not be presumed to continue to exist for a longer period of time. The Commission has reviewed respondent's petition and has concluded that the order has served its law enforcement and remedial goals.

Therefore, upon consideration of the petition, the Commission, in the exercise of its discretion, finds that elimination of Paragraph VII is in the public interest.

Accordingly, *it is ordered*, that the proceeding be, and it hereby is reopened for the purpose of modifying the Order entered therein;

It is further ordered, That Paragraph VIII shall terminate upon service of this order.