

IN THE MATTER OF
ANNIS FURS, INC.

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

Docket 6880. Complaint, Aug. 30, 1957—Decision, Feb. 7, 1958

Consent order requiring a furrier in New York City to cease violating the Fur Products Labeling Act by failing to comply with the invoicing requirements; and by advertising in newspapers which failed to disclose the names of the animals producing the fur in certain products, the country of origin of imported furs, and that some products were composed of artificially colored fur; which contained the names of other animals than those producing the fur in certain products, misrepresented prices as less than wholesale or less than cost, and failed in other respects to conform to the advertising requirements

Mr. S. F. House, in support of the complaint.

Mr. Everett H. Wells, of Detroit, Mich., for respondent.

INITIAL DECISION BY JAMES A. PURCELL, HEARING EXAMINER

The complaint in this proceeding, issued August 30, 1957, charges the respondent above-named with violation of the provisions of the Federal Trade Commission Act, the Fur Products Labeling Act and the rules and regulations promulgated under the last-named act, in connection with the sale, advertising and offering for sale, transportation and distribution, shipping and receiving in commerce, of fur and fur products, as the designations "commerce," "fur," and "fur products" are defined in the Fur Products Labeling Act.

After issuance and service of said complaint, the respondent entered into an agreement for a consent order with counsel in support of the complaint, disposing of all of the issues in this proceeding, which agreement was duly approved by the director and assistant director of the Bureau of Litigation. It was provided in said agreement that the signing thereof is for settlement purposes only and does not constitute an admission by respondent that it has violated the law as alleged in the complaint.

By the terms of said agreement, the respondent admitted all the jurisdictional allegations of the complaint, and agreed that the record herein may be taken as though the Commission had made findings of jurisdictional facts in accordance with such allegations. By said agreement the parties expressly waived a hearing before the hearing examiner or the Commission, the making of findings of fact or con-

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clusions of law by the hearing examiner or the Commission, the filing of exceptions and oral argument before the Commission, and all further and other procedure before the hearing examiner and the Commission to which respondent may be entitled under the Federal Trade Commission Act or the rules of practice of the Commission.

By said agreement, respondent further agreed that the order to cease and desist issued in accordance with said agreement shall have the same force and effect as if made after a full hearing, presentation of evidence and findings and conclusions thereon, and specifically waived any and all right, power or privilege to challenge or contest the validity of such order.

It was further provided that said agreement, together with the complaint, shall constitute the entire record herein; that the complaint herein may be used in construing the terms of the order issued pursuant to said agreement; and that the said order may be altered, modified or set aside in the manner provided by statute for other orders of the Commission.

Said agreement recites that respondent Annis Furs, Inc., is a corporation 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 130 W. 30th Street, New, York, N.Y.

The hearing examiner has considered such agreement and the order therein contained, and, it appearing that said agreement and order provides for an appropriate disposition of this proceeding, the same is hereby accepted and, without further notice to respondent, is ordered filed upon becoming part of the Commission's decision in accordance with sections 3.21 and 3.25 of the rules of practice, and in consonance with the terms of said agreement, the hearing examiner finds that the Federal Trade Commission has jurisdiction of the subject matter of this proceeding and of the respondent named herein, and that this proceeding is in the interest of the public, and issues the following order:

ORDER

It is ordered, That the respondent Annis Furs, Inc., a corporation, and its officers and respondent's representatives, agents, and employees, directly or through any corporate or other device, in connection with the introduction into commerce, or the sale, advertising, offering for sale, transportation, or distribution of fur products in commerce, or in connection with the sale, advertising, offering for sale, transportation or distribution of fur products which have been made in whole or in part of fur which had been shipped and received in commerce, as "commerce," "fur," and "fur products" are defined in

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the Fur Products Labeling Act, do forthwith cease and desist from:

A. Falsely or deceptively invoicing fur products by:

1. Setting forth information required under section 5(b)(1) of the Fur Products Labeling Act in abbreviated form, in violation of rule 4 of the rules and regulations promulgated thereunder.

2. Failing to furnish invoices to purchasers of fur products showing:

(a) The name or names of the animal or animals producing the fur or furs contained in the fur product, as set forth in the Fur Products Name Guide and as prescribed under the rules and regulations;

(b) That the fur product contains or is composed of used fur, when such is the fact;

(c) That the fur product contains or is composed of bleached, dyed, or otherwise artificially colored fur, when such is the fact;

(d) That the fur product is composed in whole or in substantial part of paws, tails, bellies, or waste fur, when such is the fact;

(e) The name and address of the person issuing such invoices;

(f) The name of the country of origin of any imported furs contained in a fur product.

B. Falsely or deceptively advertising fur products 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 fur products and which:

1. Fails to disclose:

(a) The name or names of the animal or animals which produced the fur or furs contained in the fur product, as set forth in the Fur Products Name Guide and as prescribed under the rules and regulations;

(b) That the fur products contain or are composed of bleached, dyed, or otherwise artificially colored fur, when such is the fact;

(c) The name of the country of origin of any imported furs contained in fur products.

2. Sets forth information required under section 5(a) of the Fur Products Labeling Act in abbreviated form, in violation of rule 4 of the rules and regulations.

3. Uses the name or names of an animal or animals other than the name or names specified in the Fur Products Name Guide or prescribed by the rules and regulations.

4. Represents directly or by implication: That fur products are being sold "at less than original wholesale prices" and "at less than original cost" or words of similar import and meaning, when such are not the facts.

DECISION OF THE COMMISSION AND ORDER TO FILE REPORT OF
COMPLIANCE

Pursuant to section 3.21 of the Commission's rules of practice, the initial decision of the hearing examiner did, on the 7th day of February 1958, become the decision of the Commission; and, accordingly:

It is ordered, That the respondent herein 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
EDWARD MALKIS ET AL. TRADING AS ARCTIC FUR CO.
CONSENT ORDER, ETC., IN REGARD TO THE ALLEGED VIOLATION OF THE
FEDERAL TRADE COMMISSION AND THE FUR PRODUCTS LABELING
ACTS

Docket 6786. Complaint, Apr. 30, 1957¹—Decision, Feb. 8, 1958

Consent order requiring furriers in Cincinnati, Ohio, to cease violating the Fur Products Labeling Act by failing to comply with the advertising, invoicing, and labeling requirements.

*Morton Nesmith and John J. Mathias, Esqs., for the Commission.
Goodman & Goodman, by Sol Goodman, Esq., of Cincinnati, Ohio,
for respondents.*

INITIAL DECISION BY JAMES A. PURCELL, HEARING EXAMINER

The Complaint in this proceeding, issued April 30, 1957, charges the respondents, Edward Malkis and Bess Malkis, individually and as copartners trading as Arctic Fur Co., with violation of the provisions of the Federal Trade Commission Act and of the Fur Products Labeling Act, in connection with the sale, advertising and offering for sale, transportation, and distribution, shipping and receiving in commerce, of fur and fur products, as "commerce," "fur," and "fur products" are defined in the Fur Products Labeling Act.

Subsequent to the issuance and service of the complaint the parties, in February 1957, incorporated the theretofore existing copartnership under the corporate name and style of their former trade name, that is, Arctic Fur Co. The complaint was, on August 20, 1957, amended to substitute Arctic Fur Co., a corporation, and Edward Malkis and Bess Malkis, individually and as officers of said corporation, as parties respondents in lieu of Edward Malkis and Bess Malkis, individually and as copartners trading as Arctic Fur Co. The individual respondents agreed that the answer filed by them on May 28, 1957, may be withdrawn, which agreement is ratified and said answer is hereby ordered withdrawn of record.

Thereafter, on October 14, 1957, respondents entered into an agreement with counsel supporting the complaint for a consent order disposing of all of the issues in this proceeding, which agreement was duly approved by the director and assistant director of the Bureau of Litigation of the Federal Trade Commission. It was expressly

¹ Amended Aug. 20, 1957.

provided in said agreement that the signing thereof is for the purpose of settlement only and does not constitute an admission by the respondents that they have violated the law as alleged in the amended complaint.

By the terms of said agreement, the respondents admitted all of the jurisdictional allegations of the complaint and agreed that the record herein may be taken as though the Commission had made findings of jurisdictional facts in accordance with such allegations. By said agreement the parties expressly waived a hearing before the hearing examiner or the Commission, the making of findings of fact or conclusions of law by the hearing examiner or the Commission, the filing of exceptions and oral argument before the Commission, and all further and other procedure before the hearing examiner and the Commission to which the respondents may otherwise, but for the execution of said agreement, be entitled under the Federal Trade Commission Act or the rules of practice of the Commission.

By said agreement, respondents further agreed that the order to cease and desist issued in accordance with said agreement shall have the same force and effect as though made after a full hearing, presentation of evidence and findings and conclusions thereon, and specifically waived any and all right, power or privilege to challenge or contest the validity of such order.

It was further provided that said agreement, together with the complaint, as amended, shall constitute the entire record herein; that the complaint herein, as amended, may be used in construing the terms of the order issued pursuant to said agreement; and that the said order may be altered, modified, or set aside in the manner provided by statute for other orders of the Commission.

Said agreement recites that respondents Edward Malkis and Bess Malkis, prior to the issuance of the complaint, were and had been for several years, copartners trading and doing business as Arctic Fur Co. with their office and principal place of business located at No. 407 Race Street, Cincinnati, Ohio; that in February 1957, the copartnership was converted into a corporation of the same name, engaged in the same business, located at the same address, and that the two hereinabove-named respondents are the principal officers of said corporation in which capacities they formulate, direct and control the acts, policies and practices of the newly formed corporation.

The hearing examiner has considered such agreement and the order therein contained, and, it appearing that said agreement and order provides for an appropriate disposition of this proceeding, the same is hereby accepted and is ordered filed upon becoming part of the Com-

mission's decision in accordance with sections 3.21 and 3.25 of the rules of practice.

Consonant with the express terms and provisions of said agreement, the hearing examiner finds that the complaint herein, as amended, states a valid cause of action; that the Federal Trade Commission has jurisdiction of the subject matter of this proceeding and of the respondents named herein and that this proceeding is in the public interest, wherefore he issues the following order:

It is ordered, That respondents Arctic Fur Co., a corporation, and its officers and Edward Malkis and Bess Malkis, individually and as officers of said corporation, and respondents' representatives, agents, and employees, directly or through any corporate or other device, in connection with the introduction into commerce, or the sale, advertising or offering for sale, transportation or distribution of any fur product in commerce, or in connection with the sale, advertising, offering for sale, transportation or distribution of fur products which have been made in whole or in part of fur which has been shipped and received in commerce, as "commerce," "fur," and "fur product" are defined in the Fur Products Labeling Act, do forthwith cease and desist from:

A. Falsely or deceptively advertising fur products through the use of any advertisements, representation, public announcement, or notice which is intended to aid, promote or assist, directly or indirectly, in the sale or offering for sale of fur products, and which:

1. Fails to disclose:

(a) The name or names of the animal or animals that produced the fur or furs contained in the fur product as set forth in the Fur Products Name Guide and as prescribed under the said rules and regulations;

(b) That the fur product contains or is composed of bleached, dyed, or otherwise artificially colored fur, when such is the fact.

2. Sets forth information required under section 5(a) of the Fur Products Labeling Act and the rules and regulations promulgated thereunder in abbreviated form.

B. Misbranding fur products by:

1. Failing to affix labels to fur products showing:

(a) The name or names of the animal or animals producing the fur or furs contained in the fur product as set forth in the Fur Products Name Guide and as prescribed under the said rules and regulations;

(b) That the fur product contains or is composed of used fur, when such is the fact;

(c) That the fur product contains or is composed of bleached, dyed, or otherwise artificially colored fur, when such is the fact;

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(d) That the fur product is composed in whole or in substantial part of paws, tails, bellies, or waste fur, when such is the fact;

(e) The name, or other identification issued and registered by the Commission, of one or more of the persons who manufactured such fur product for introduction into commerce, sold it in commerce, advertised, or offered it for sale in commerce, or transported or distributed it in commerce;

(f) The name of the country of origin of any imported furs used in the fur product.

2. Setting forth on labels attached to fur products:

(a) Information required under section 4(2) of the Fur Products Labeling Act and the rules and regulations promulgated thereunder mingled with non-required information.

(b) Information required under section 4(2) of the Fur Products Labeling Act and the rules and regulations promulgated thereunder in handwriting.

C. Falsely or deceptively invoicing fur products by:

1. Failing to furnish invoices to purchasers of fur products showing:

(a) The name or names of the animal or animals producing the fur or furs contained in the fur product, as set forth in the Fur Products Name Guide and as prescribed under the said rules and regulations.

(b) That the fur product contains or is composed of used fur, when such is the fact;

(c) That the fur product contains or is composed of bleached, dyed, or otherwise artificially colored fur, when such is the fact;

(d) That the fur product is composed in whole or in substantial part of paws, tails, bellies, or waste fur, when such is the fact;

(e) The name and address of the person issuing such invoice;

(f) The name of the country of origin of any imported fur contained in a fur product.

2. Setting forth information required under section 5(b)(1) of the Fur Products Labeling Act and the rules and regulations promulgated thereunder in abbreviated form.

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

DECISION OF THE COMMISSION AND ORDER TO FILE REPORT OF
COMPLIANCE

Pursuant to section 3.21 of the Commission's rules of practice, the initial decision of the hearing examiner did, on the 8th day of February 1958, become the decision of the Commission; and, accordingly:

It is 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 the order to cease and desist.

