

Complaint

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mediary acting for or in behalf, or is subject to the direct or indirect control, of any buyer, including the Dixie-Central Produce Co., Inc.

DECISION OF THE COMMISSION AND ORDER TO FILE REPORT OF COMPLIANCE

Pursuant to Section 4.19 of the Commission's Rules of Practice, effective June 1, 1962, the initial decision of the hearing examiner shall, on the 14th day of July 1962, become the decision of the Commission; and accordingly:

It is ordered, That 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.

IN THE MATTER OF

EDGAR GEVIRTZ TRADING AS REGAL FURS

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

Docket 8446. Complaint, Oct. 12, 1961—Decision, July 17, 1962*

Order requiring a Los Angeles furrier to cease violating the Fur Products Labeling Act by failing to disclose the names of animals producing furs on labels and invoices and in advertising; failing to set forth on labels the name of the manufacturer, etc.; failing to disclose on invoices when fur was dyed, and invoicing "Japanese Mink" as "mink"; by advertising which falsely represented that fur prices were "at actual cost", that he owned a factory producing his fur products, that his products were guaranteed, and that "sale prices" attached to products were reduced from usual prices; by failing to maintain adequate records as a basis for pricing claims; and by failing in other respects to comply with requirements of the Act.

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 Edgar Gevirtz, an individual trading as Regal Furs, 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:

*As amended January 15, 1962.

PARAGRAPH 1. Edgar Gevirtz is an individual trading as Regal Furs with his office and principal place of business located at 623 West 7th Street, Los Angeles, Calif.

PAR. 2. Subsequent to the effective date of the Fur Products Labeling Act of August 8, 1952, respondent has been and is now 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 fur which had 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 in that labels containing fictitious prices were affixed to such fur products in violation of Section 4(1) of the Fur Products Labeling Act. Among such misbranded fur products, but not limited thereto, were fur products with labels which:

(1) Contained a purported "sale price", thereby falsely and deceptively representing directly or by implication that the prices of such fur products were reduced from the prices at which respondent regularly and usually sold such fur products in the recent regular course of business.

(2) Contained a sale price which was, in fact, fictitious in that such price was in excess of the price at which such fur products were actually sold.

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. Among such misbranded fur products, but not limited thereto, were fur products with labels which failed to disclose:

1. The name or names (as set forth in the Fur Products Name Guide) of the animal or animals that produced the fur; and

2. The name or other identification issued and registered by the Commission, of one or more of the persons who manufacture such fur product for introduction into commerce, introduce it into commerce, sell it in commerce, advertise or offer it for sale in commerce, or transport or distribute it in commerce.

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 the following respects:

1. Information required under Section 4(2) of the Fur Products Labeling Act and the Rules and Regulations promulgated thereunder was mingled with non-required information, in violation of Rule 29(a) of said Rules and Regulations;

2. Information required under Section 4(2) of the Fur Products Labeling Act and the Rules and Regulations promulgated thereunder was not completely set out on one side of labels, in violation of Rule 29(a) of said Rules and Regulations; and

3. Information required under Section 4(2) of the Fur Products Labeling Act and the Rules and Regulations promulgated thereunder was set forth in handwriting on labels, in violation of Rule 29(b) of said Rules and Regulations.

PAR. 6. Certain of said fur products were falsely and deceptively invoiced by respondent, in that they were not invoiced as required by Section 5(b)(1) of the Fur Products Labeling Act and in the manner and form prescribed by the Rules and Regulations promulgated thereunder.

Among such falsely and deceptively invoiced fur products, but not limited thereto, were invoices pertaining to such fur products which failed to disclose:

1. The name or names (as set forth in the Fur Products Name Guide) of the animal or animals that produced the fur;

2. That the fur contained in the fur products was dyed when such was the fact.

PAR. 7. Certain of said fur products were falsely and deceptively invoiced with respect to the name of the animal that produced the fur from which the fur product had been manufactured, in violation of Section 5(b)(2) of the Fur Products Labeling Act.

Among such falsely and deceptively invoiced fur products, but not limited thereto, were fur products which were invoiced as being "mink", when they were in fact "Japanese mink".

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 respects:

1. Information required under Section 5(b)(1) of the Fur Products Labeling Act and the Rules and Regulations promulgated thereunder was set forth in abbreviated form, in violation of Rule 4 of said Rules and Regulations; and

2. Required item numbers were not set forth on invoices, in violation of Rule 40 of said Rules and Regulations.

PAR. 9. Certain of said fur products were falsely and deceptively advertised, in violation of the Fur Products Labeling Act, in that respondent caused the dissemination in commerce, as "commerce" is defined in said Act, of certain newspaper advertisements, concerning said products, which were not in accordance with the provisions of Section 5(a) of the said Act, and the Rules and Regulations promulgated thereunder, which advertisements were intended to aid, promote and assist, directly or indirectly, in the sale and offering for sale of said fur products.

Among such advertisements, but not limited thereto, were advertisements of respondent which appeared in the Los Angeles Times, a newspaper published in Los Angeles, California, having a wide circulation in California and in other States of the United States. By means of said advertisements and others of similar import and meaning, not specifically referred to herein, respondent falsely and deceptively advertised fur products, in that said advertisements:

1. Failed to disclose the name or names (as set forth in the Fur Products Name Guide) of the animal or animals that produced the fur contained in the fur product, in violation of Section 5(a)(1) of the Fur Products Labeling Act.

2. Represented prices of fur products to be "at actual cost" when such was not the fact, in violation of Section 5(a)(5) of the Fur Products Labeling Act and Rule 44(a) of said Rules and Regulations.

3. Represented, directly or by implication, that respondent owned or operated a factory producing fur products sold by him, when such was not the fact, in violation of Section 5(a)(5) of the Fur Products Labeling Act.

4. Represented, directly or by implication, that fur products were guaranteed without disclosing the nature and extent of the guarantee or the manner and form in which the guarantor would perform thereunder, in violation of Section 5(a)(5) of the Fur Products Labeling Act.

PAR. 10. Certain of said fur products were falsely and deceptively advertised in that labels containing fictitious prices were affixed to such fur products. Among such falsely and deceptively advertised fur products, but not limited thereto, were fur products with labels which:

- (1) Contained a purported "sale price", thereby falsely and deceptively representing directly or by implication that the prices of such fur products were reduced from the prices at which respondent regularly and usually sold such fur products in the recent regular course of business, in violation of Section 5(a)(5) of the Fur Products Label-

ing Act and Rule 44 of the Rules and Regulations promulgated thereunder.

(2) Contained a sale price which was, in fact, fictitious in that such price was in excess of the price at which such fur products were actually sold, in violation of Section 5(a)(5) of the Fur Products Labeling Act.

PAR. 11. In advertising fur products for sale, as aforesaid, respondent made pricing claims and representations of the types covered by subsections (a), (b), (c) and (d) of Rule 44 of the Regulations under the Fur Products Labeling Act. Respondent in making such claims and representations failed to maintain full and adequate records disclosing the facts upon which such pricing claims and representations were based in violation of Rule 44(e) of the said Rules and Regulations.

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 and deceptive acts and practices in commerce under the Federal Trade Commission Act.

Mr. Robert W. Lowthian and Mr. Eugene H. Strayhorn supporting the complaint.

Hertzberg & Geretz, by Mr. Harrison W. Hertzberg, of Los Angeles, Calif., for respondent.

INITIAL DECISION BY RAYMOND J. LYNCH, HEARING EXAMINER

The Federal Trade Commission issued the complaint against the respondent on October 12, 1961. On November 6, 1961, counsel supporting the complaint filed a motion with the examiner to amend the complaint. Copy of the motion was served upon respondent who failed to file a reply thereto and on January 15, 1962, the examiner issued an order amending the complaint as requested by counsel supporting the complaint. Respondent filed an answer to the amended complaint, and hearings were held on February 12 and 13, 1962, in Los Angeles, California.

The amended complaint alleged in substance that the respondent Edgar Gevirtz trading as Regal Furs violated certain provisions of the Fur Products Labeling Act and certain of the Rules and Regulations promulgated thereunder. Respondent's answer to the amended complaint admitted and denied certain of the allegations set forth therein.

This proceeding is before the hearing examiner for final consideration upon the complaint as amended, answer, testimony and other

evidence, and proposed findings of fact and conclusions filed by counsel for respondent and by counsel supporting the complaint.

Consideration has been given to the proposed findings of fact and conclusions submitted by both parties, and all proposed findings of fact and conclusions not hereinafter specifically found or concluded are rejected and the hearing examiner, having considered the entire record herein, makes the following findings of fact, conclusions drawn therefrom and issues the following order:

FINDINGS OF FACT

1. Respondent Edgar Gevirtz is an individual trading as Regal Furs with his office and principal place of business located at 623 West 7th Street, Los Angeles, Calif. This fact is admitted by respondent in his answer to the amended complaint.

2. Subsequent to the effective date of the Fur Products Labeling Act on August 9, 1952, respondent has been and is now 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 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. Respondent admitted that he had been and was presently engaged in the fur business and that he realized the existence of the Fur Products Labeling Act and that in the business in which he was engaged he was subject to the provisions of that Act. The record shows, and the examiner finds, that the respondent advertised¹ "fur products", as the term is used in the Act, in both the Los Angeles Times and the Herald Express newspapers that have interstate circulation.

3. Certain of said fur products were misbranded in that they were falsely and deceptively labeled in that labels containing fictitious prices were affixed to such fur products in violation of Section 4(1) of the Fur Products Labeling Act. Among such misbranded fur products, but not limited thereto, were fur products with labels which:

(A) Contained a purported "sale price", thereby falsely and deceptively representing directly or by implication that the prices of such fur products were reduced from the prices at which respondent regularly and usually sold such fur products in the recent regular course of business.

¹ Commission exhibits 1 through 24 were advertisements placed in the Los Angeles Times and Commission exhibit 68 is an exhibit of an advertisement placed in the Herald Express. See *Morton's Inc., et al. v. FTC*, 286 F. 2d, 158.

(B) Contained a sale price which was in fact fictitious, in that the "sale price" represented the price which the respondent regularly used in selling his fur products. Respondent had a dual ticket method of operating, according to the testimony of the Commission witness Anderson. One label (regular label) contained two coded items, (1) a letter code which was the cost of the garment, (2) a numerical code of seven digits which was explained as follows: Disregard the first two and the last two digits and the remaining three digits are the "usual retail selling price" of the garment. (R. 69, 70) The other ticket affixed to the fur garment was a "special sale" tag. (CX 28, 30) These tags were red, on which was written the words "Special sale", under which were two white boxes. In the upper box were the words "Regular price" and the lower box the words "Sale price".

Anderson testified that of the many fur products he examined there was no writing in the box marked "Regular price" however in all cases the "sale price" box was filled in with a price mark which, according to the uncontroverted testimony of the witness Anderson, was identical to the coded "retail selling price".

The "sale price" set forth on the tickets of some 59 "fur products" (CX 31) examined by the witness Anderson was in truth and in fact fictitious because in all cases the "usual retail selling price" of the garment was the same as the "special sale price". The respondent's explanation of the type operation he engaged in is set forth at page 216 of the record:

In our type of operation, we try to get the ticket price that we put on the garment. In order for us to stay in business, we try to get that price; but competition being as keen as it is, if a customer comes in my store and walks out because she thinks it is cheaper elsewhere and is the same quality, then I certainly am going to sell it for less money, because my operation depends on volume selling.

The fact of the matter is that "special sale" "at actual cost" meant nothing to the respondent but a gimmick to bring prospective customers into his place of business where if a sale were made it would be made at respondent's regular retail sale price or at a bartered price arrived at by the respondent according to what the customers would pay. There was no "special sale" price nor were there any "at actual cost" sales. These terms were used by the respondent in advertising fur products merely as "sucker bait" to bring in the unwary customers who had two choices: (1) buy at the respondent's regular price, which they were led to believe was a bargain, or (2) haggle with the respondent until a price was agreed upon so that respondent would not lose the sale.

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. Among such misbranded fur products, but not limited thereto, were fur products which labels failed to disclose:

A. The name or names (as set forth in the Fur Products Name Guide) of the animal or animals that produced the fur; and

B. The name or other identification issued and registered by the Commission of one or more of the persons who manufacture such fur product for introduction into commerce, sell it in commerce, advertise it or offer it for sale in commerce, or transport or distribute it in commerce.

Commission Exhibits 48, 49, and 52 are label facsimiles introduced into evidence and, according to the testimony of the Commission witness Anderson, the information on these three documents is insufficient in the following respects:

CX 48—The label does not contain the name of any animal, any fur bearing animal, as such animal is found in the Fur Products Name Guide.

CX 49—A part of the information appears in handwriting—no registered identification number appears on the label.

CX 52—A part of the information is in handwriting. Non-required information is mingled with required information. The tag does not contain a registered identification number.

The only explanation presented by the respondent in this regard was that errors are bound to occur when you deal with so many garments. Respondent's explanation was not convincing and, in addition, the witness Anderson stated that the exhibits referred to were but a few examples of the many errors he found during his investigation of the respondent's business.

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 the following respects:

A. Information required under Section 4(2) of the Fur Products Labeling Act and the Rules and Regulations promulgated thereunder was not completely set out on one side of the labels (CX 54), in violation of Rule 29(a) of said Rules and Regulations; and

B. Information required under Section 4(2) of the Fur Products Labeling Act and the Rules and Regulations promulgated thereunder was set forth in handwriting on labels (CX's 47, 49, 50, 51, 52 and 55), in violation of Rule 29(b) of said Rules and Regulations.

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 in the manner and form prescribed by the Rules and Regulations promulgated thereunder.

Among such falsely and deceptively invoiced fur products, but not limited thereto, were invoices pertaining to such fur products which failed to disclose:

A. The name or names (as set forth in the Fur Products Name Guide) of the animal or animals that produced the fur; Commission Exhibits 25, 60, 65 and 66.

B. That the fur contained in the fur products was dyed when such was the fact. Commission Exhibit 26 is an invoice that fails to disclose that the fur product was dyed when such was the fact. Mr. Kaufman, a fur expert, testified for the Commission (R. 44, 45), that the fur product covered by Commission Exhibit 26 was in fact a dyed fur product. Respondent failed to disclose this information on the invoice.

7. Certain of said fur products were falsely and deceptively invoiced with respect to the name of the animal that produced the fur from which the fur product had been manufactured, in violation of Section 5(b)(2) of the Fur Products Labeling Act. Commission Exhibit 25 is an invoice covering a fur product that was identified as "mink" when, in truth and in fact, the fur product sold by respondent was a "Japanese Mink" fur product. Mink is of the genus-species *Mustela Vison* and *Mustela Lutreola*, whereas Japanese Mink is of the genus-species *Mustela Itatsi*. (Fur Products Name Guide)

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:

Information required under Section 5(b)(1) of the Fur Products Labeling Act and the Rules and Regulations promulgated thereunder was set forth in abbreviated form in violation of Rule 4 of said Rules and Regulations. (CX's 59, 61, 62, 64 and 65)

Respondent admitted the deficiencies in the above referred to exhibits but contends that they were unintentional. The Commission has already ruled on this issue *In the Matter of Samuel A. Mannis and Company* (Docket No. 7062) where the Commission stated:

In a proceeding for violation of the Fur Act, it is not necessary to show that a respondent has knowingly failed to comply with the requirements of the Act or the Rules and Regulations promulgated thereunder or that he intended to deceive

the public. It is also unnecessary to establish that any existence of misbranding, false invoicing or misrepresentation in advertising resulted in deception of the public, nor is it necessary to show that such a practice has the capacity and tendency to deceive the public.

This opinion was affirmed by the United States Court of Appeals for the Ninth Circuit in a decision rendered August 28, 1961. *Samuel A. Mannis and Company v. FTC*, 293 F. 2d, 774.

Certain of said fur products were falsely and deceptively advertised in violation of the Fur Products Labeling Act, in that respondent caused the dissemination in commerce, as "commerce" is defined in said Act, of certain newspaper advertisements concerning said products, which were not in accordance with the provisions of Section 5(a) of the said Act, and the Rules and Regulations promulgated thereunder, which advertisements were intended to aid, promote, and assist, directly or indirectly, in the sale and offering for sale of said fur products.

Among such advertisements, but not limited thereto, were advertisements of respondent's which appeared in the Los Angeles Times, a newspaper published in Los Angeles, California, having a wide circulation in California and in other States of the United States. By means of said advertisements and others of similar import and meaning, not specifically referred to herein, respondent falsely and deceptively advertised fur products, in that said advertisements:

Failed to disclose the name or names (as set forth in the Fur Products Name Guide) of the animal or animals that produced the fur contained in the fur product, in violation of Section 5(a)(1) of the Fur Products Labeling Act.

Respondent argues that, while he might be technically in error, all of the alleged missing information was set forth in the advertisements. This argument is without merit and must be rejected since Rule 38(a) of the Rules and Regulations promulgated under the Fur Products Labeling Act requires that:

In advertising furs or fur products, all parts of the required information shall be stated in close proximity with each other and, if printed, in legible and conspicuous type of equal size.

10. Respondent falsely and deceptively advertised fur products in that said advertisements:

Represented prices of fur products to be "at actual cost", when such was not the fact, in violation of Section 5(a)(5) of the Fur Products Labeling Act and Rule 44(a) of the Rules and Regulations promulgated thereunder.

As an example, the respondent advertised Mink "at actual cost" while at the same time he offered a "Fox or Mink-trimmed cashmere sweater free." The testimony of the respondent and that of Mr. Anderson is more than sufficient to sustain the above finding. The respondent stated that he added the cost of the sweater to the price of the fur product, thus the sweater was not given to the purchaser free, nor was the fur product sold at "actual cost." Mr. Anderson testified that in the sale of a fur product to one of the customers, Mrs. Housel, respondent made a profit of \$145.00.

The record shows that during the period the "at actual cost" sale ran, some 25 sales were made of products advertised, and in no case was the fur product sold at actual cost.

There is no doubt and the examiner finds that the respondent's advertisements in Commission Exhibits 12, 13, 14, 15, 22, 23, 24, 71, 72, 74, 76, 77 and 78 were false and deceptive.

11. Respondent falsely and deceptively advertised that he owned or operated a factory producing fur products sold by him, when such was not the fact, in violation of Section 5(a)(5) of the Fur Products Labeling Act. Respondent caused advertisements to be made, Commission Exhibits 12 and 13, that respondent was operating a manufacturing plant manufacturing fur products, when such was not the fact. Mr. Anderson testified that he examined respondent's premises on July 18 and July 25, 1960, at a time when respondent advertised "We must keep our factories running despite bad economic conditions", and that he found no evidence of a manufacturing plant. Respondent himself stated that he did not "run a regular manufacturing place like a wholesaler to sell wholesale." The respondent's statements in the advertisements holding himself out as a manufacturer of fur products were false and deceptive.

12. By means of the advertisements set forth in Commission Exhibits 2, 7, 8, 16 and 17, respondent falsely and deceptively advertised fur products, in that said advertisements:

Represented, directly or by implications, that fur products were guaranteed without disclosing the nature and extent of the guarantee or the manner and form in which the guarantor would perform thereunder, in violation of Section 5(a)(5) of the Fur Products Labeling Act.

The Commission has held that the use of the word "guaranteed" in advertisements, unless additional information is given disclosing the nature and extent of the guarantee, is deceptive. See *Samuel A. Mannis and Company*, Docket No. 7062.

13. Certain of said fur products were falsely and deceptively advertised in that labels containing fictitious prices were affixed to such fur labels. Among such falsely and deceptively advertised fur products, but not limited thereto, were fur products with labels which:

(A) Contained a purported "sale price", thereby falsely and deceptively representing directly or by implication that the prices of such fur products were reduced from the prices at which respondent regularly and usually sold such fur products in the recent regular course of business in violation of Section 5(a)(5) of the Fur Products Labeling Act and Rule 44 of the Rules and Regulations thereunder.

(B) Contained a sale price which was, in fact, fictitious in that such price was in excess of the price at which such fur products were actually sold, in violation of Section 5(a)(5) of the Fur Products Labeling Act.

The facts in the case at hand clearly reveal that the respondent's products were advertised in the Los Angeles Times on July 29, 1959. They were further advertised by means of a representation or notice, namely, a bright red "special sale" ticket hung on the garments with the purported "sale price" thereon. This notice implied, by the use of the blank "regular price" box and the filled in "sale price" box, that the fur products had, in fact been reduced from a higher regular and usual price.

These tags were plainly hung on each garment so as to catch the eye of the prospective customers enticed into the store by the prior advertisements. (R. 96, 182)

These sales tags convey to the prospective purchaser the idea of a saving. A clear impression of this fact is set forth and this impression due to the falseness of the claims, is misleading. The labels advertise a false price to the public. Such practices are false and deceptive and the public must be protected against them.

14. In advertising fur products for sale, as found above, respondent made pricing claims and representations of the type covered by subsections (a), (b), (c) and (d) of Rule 44 of the Regulations under the Fur Products Labeling Act. Respondent, in making such claims and representations, failed to maintain full and adequate records disclosing the facts upon which such pricing claims and representations were based in violation of Rule 44(e) of said Rules and Regulations.

Although the respondent contends that he maintained records and that he made them available to Mr. Anderson, the record in this proceeding is clear that respondent failed to maintain books and records

Initial Decision

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sufficient to meet the requirements of the Act and Regulations. No records were ever made available to Mr. Anderson whereby a complete check could be made of either respondent's operations or his pricing claims.

CONCLUSIONS

The acts and practices of the respondent hereinabove found are false, misleading and deceptive and are in violation of the Fur Products Labeling Act and the Rules and Regulations promulgated thereunder, and constitute unfair and deceptive acts and practices in commerce under the Federal Trade Commission Act.

This proceeding is in the public interest, and an order to cease and desist the above found unlawful practices should issue against respondent.

ORDER

It is ordered, That Edgar Gevirtz, an individual trading as Regal Furs, or under any other trade name, 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, or offering for sale in commerce, or the transportation or distribution in commerce of fur products, or in connection with the sale, advertising, offering for sale, transportation or distribution of fur products which are 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:

1. Misbranding fur products by:

A. Falsely or deceptively labeling or otherwise identifying such products by any representation, directly or by implication:

(1) That the prices of such products are reduced from the prices at which respondent has usually or customarily sold such products, when such is not the case.

(2) That savings are available to purchasers of respondent's fur products, when such is not the case.

B. Falsely or deceptively labeling or otherwise identifying any such product, during any period such product is labeled as on sale, by any representation, directly or by implication, that any amount is the sale price of such products when such amount is in excess of the price at which the product is actually sold during such sale period.

C. Failing to affix labels to fur products showing in words and figures plainly legible all the information required to

be disclosed by each of the subsections of Section 4(2) of the Fur Products Labeling Act.

D. Setting forth on labels affixed to fur products: Information required under Section 4(2) of the Fur Products Labeling Act and the Rules and Regulations promulgated thereunder in handwriting.

E. Failing to set forth all the information required to be disclosed by Section 4(2) of the Fur Products Labeling Act and the Rules and Regulations promulgated thereunder on one side of labels.

2. Falsely or deceptively invoicing fur products by:

A. Failing to furnish invoices to purchasers of fur products showing all the information required to be disclosed by each of the subsections of Section 5(b)(1) of the Fur Products Labeling Act.

B. Setting forth on invoices pertaining to fur products the name or names of any animal or animals other than the name or names of the animal producing the fur product as specified in the Fur Products Name Guide and as prescribed under the Rules and Regulations.

C. 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.

D. Failing to set forth on invoices the item number or mark assigned to a fur product.

3. 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:

A. Fails to set forth all the information required to be disclosed by each of the subsections of Section 5(a) of the Fur Products Labeling Act.

B. Represents directly or by implication that prices of fur products are "at actual cost" or words of similar import when such is not the fact.

C. Represents in any manner, contrary to fact, directly or by implication, that prices of such products are reduced from the prices at which respondent has usually or customarily sold such products in the recent regular course of business.

D. Represents in any manner, during any period any such product is on sale, that any amount is the sale price of such product when such amount is in excess of the price at which the product is actually sold during such sale period.

E. Represents in any manner that savings are available to purchasers of respondent's fur products, when such is not the fact.

F. Represents directly or by implication that respondent owns or operated a factory, or words of similar import, when such is not the fact.

G. Represents directly or by implication that fur products are guaranteed, unless the nature and extent of such guarantee and the manner in which the guarantor will perform thereunder are clearly and conspicuously set forth.

4. Making claims and representations of the types covered by subsections (a), (b), (c), and (d) of Rule 44 of the Rules and Regulations promulgated under the Fur Products Labeling Act unless there are maintained by respondent full and adequate records disclosing the facts upon which such claims and representations are based.

FINAL ORDER

The Commission by its order of June 21, 1962, having placed this case on its docket for review; and

The Commission now having concluded that the initial decision of the hearing examiner is appropriate in all respects to dispose of this proceeding:

It is ordered, That the initial decision of the hearing examiner filed May 8, 1962, be, and it hereby is, adopted as the decision of the Commission.

It is further ordered, That the respondent Edgar Gevirtz shall, within sixty (60) days after service upon him of this order, file with the Commission a report, in writing, setting forth in detail the manner and form in which he has complied with the order to cease and desist.

IN THE MATTER OF

BELMONT PRODUCTIONS, INC.

CONSENT ORDER, ETC., IN REGARD TO THE ALLEGED VIOLATION OF SEC. 2(d)
OF THE CLAYTON ACT

Docket C-173. Complaint, July 17, 1962—Decision, July 17, 1962

Consent order requiring a New York City publisher of paperback books to cease discriminating in price in violation of Sec. 2(d) of the Clayton Act by paying promotional allowances to certain retail customers—some of whom oper-