

Decision

IN THE MATTER OF
UNITED CIGAR-WHELAN STORES CORPORATION
CONSENT ORDER, ETC., IN REGARD TO THE ALLEGED VIOLATION OF
THE FEDERAL TRADE COMMISSION ACT

Docket 6808. Complaint, May 23, 1957—Decision, Sept. 28, 1957

Consent order requiring a corporation in Brooklyn, N.Y., operating a large number of company-owned retail stores and selling also to individually owned stores operating under franchise agreements, to cease representing falsely in advertising in newspapers and on display cards and circulars furnished its said dealers that its "Imported Precision-made Food Slicer" was of a value greatly in excess of the advertised selling price and was unexcelled for safety.

Mr. Harry E. Middleton, Jr., for the Commission.

Mr. Alvah K. Parent, of Brooklyn, N.Y., and *Aranow, Brodsky, Bohlinger, Einhorn & Dann*, by *Mr. Herbert A. Einhorn*, of New York, N.Y., for respondent.

INITIAL DECISION BY ABNER E. LIPSCOMB, HEARING EXAMINER

On May 23, 1957, complaint herein was issued, charging Respondent with the use of false, misleading and deceptive representations in connection with the distribution and sale in commerce of its "Imported Precision-made Food Slicer," which representations constitute unfair methods of competition and unfair and deceptive acts and practices in commerce, in violation of the Federal Trade Commission Act.

On August 14, 1957, Respondent, its counsel, and counsel supporting the complaint entered into an Agreement Containing Consent Order To Cease And Desist, which was approved by the Director and the Assistant Director of the Commission's Bureau of Litigation, and thereafter submitted to the Hearing Examiner for consideration.

Respondent is identified in the agreement as a Delaware corporation, with its office and principal place of business located at 82 39th Street, Brooklyn, New York.

Respondent admits all the jurisdictional facts alleged in the complaint and agrees that the record may be taken as if findings of jurisdictional facts had been duly made in accordance with such allegations.

Respondent, in the agreement, waives any further procedure before the Hearing Examiner and the Commission; the making of findings

of fact or conclusions of law; and all the rights it may have to challenge or contest the validity of the order to cease and desist entered in accordance with the agreement. All parties agree that the record on which the initial decision and the decision of the Commission shall be based shall consist solely of the complaint and the agreement; that the order to cease and desist as contained in the agreement shall have the same force and effect as if entered after a full hearing, and may be altered, modified or set aside in the manner provided for other orders; that the complaint herein may be used in construing the terms of said order; and that the agreement is for settlement purposes only and does not constitute an admission by Respondent that it has violated the law as alleged in the complaint.

After consideration of the allegations of the complaint and the provisions of the agreement and the proposed order, the Hearing Examiner is of the opinion that such order constitutes a satisfactory disposition of this proceeding. Accordingly, in consonance with the terms of the aforesaid agreement, the Hearing Examiner accepts the Agreement Containing Consent Order To Cease And Desist; finds that the Commission has jurisdiction over the Respondent and over its acts and practices as alleged in the complaint; and finds that this proceeding is in the public interest. Therefore,

It is ordered, That Respondent United Cigar-Whelan Stores Corporation and its officers, representatives, agents and employees, directly or through any corporate or other device, in connection with the offering for sale, sale or distribution in commerce, as "commerce" is defined in the Federal Trade Commission Act, of food slicers, or other merchandise, do forthwith cease and desist from:

1. Representing, directly or by implication, that imported food slicers or other merchandise have a specific value when such stated value (a) is in excess of the price at which said imported food slicers or other merchandise are regularly and usually sold in the normal course of business at retail by other persons or firms; or (b) is in excess of the prevailing market price at the time of such representation;

2. Representing, directly or by implication, that a certain amount is Respondent's usual or regular retail price for its imported food slicers or any other merchandise when such amount is in excess of the price at which said merchandise is usually and regularly sold at retail by Respondent;

3. Representing, directly or by implication, that its said food slicer is safe, or misrepresenting in any manner, the safety with which any mechanical cutting device may be used.

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 shall, on the 28th day of September, 1957, become the decision of the Commission; and, accordingly;

It is ordered, That respondent United Cigar-Whelan Stores Corporation, a corporation, 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
ALLIED STORES OF OHIO, INC., TRADING AS THE
ROLLMAN SONS COMPANY

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

Docket 6805. Complaint, May 20, 1957—Decision, Oct. 1, 1957

Consent order requiring a furrier in Cincinnati, Ohio, to cease violating the Fur Products Labeling Act by failing to comply with the labeling and invoicing requirements; and by advertising which failed to disclose the names of animals producing the fur in certain products or that certain fur was artificially colored, and failed to set forth the description "dyed mouton processed lamb" as required.

Mr. S. F. House for the Commission.

Sullivan & Cromwell, by *Mr. Robert A. McDowell* of New York, N.Y., for respondent.

INITIAL DECISION BY FRANK HIER, HEARING EXAMINER

Pursuant to the provisions of the Federal Trade Commission Act and the Fur Products Labeling Act, the Federal Trade Commission on May 20, 1957, issued and subsequently served its complaint in this proceeding against respondent Allied Stores of Ohio, Inc., a corporation, trading as The Rollman Sons Company, existing and doing business under and by virtue of the laws of the State of Ohio, with its office and principal place of business located at Fifth and Vine Streets, Cincinnati, Ohio.

On August 9, 1957, there was submitted to the undersigned hearing examiner an agreement between respondent and counsel supporting the complaint providing for the entry of a consent order. By the terms of said agreement, respondent admits all the jurisdictional facts alleged in the complaint and agrees that the record may be taken as if findings of jurisdictional facts had been duly made in accordance with such allegations. By such agreement, respondent waives any further procedural steps before the hearing examiner and the Commission; waives the making of findings of fact and conclusions of law; and waives all of the rights it may have to challenge or contest the validity of the order to cease and desist entered in accordance with this agreement. Such agreement further provides that it disposes of all of this proceeding as to all parties; that the record on which this initial decision and the decision of the Commission shall be based shall consist solely of the complaint and this agreement; that the latter shall not become a part of the official

record unless and until it becomes a part of the decision of the Commission; that the agreement is for settlement purposes only and does not constitute an admission by respondent that it has violated the law as alleged in the complaint; and that the following order to cease and desist may be entered in this proceeding by the Commission without further notice to respondent, and, when so entered, it shall have the same force and effect as if entered after a full hearing, and may be altered, modified, or set aside in the manner provided for other orders; and that the complaint may be used in construing the terms of the order.

The hearing examiner having considered the agreement and proposed order, and being of the opinion that they provide an appropriate basis for settlement and disposition of this proceeding, the agreement is hereby accepted, the following jurisdictional findings made, and the following order issued.

1. Respondent Allied Stores of Ohio, Inc., trading as The Rollman Sons Company, is a corporation existing and doing business under and by virtue of the laws of the State of Ohio, with its office and principal place of business located at Fifth and Vine Streets, in the City of Cincinnati, State of Ohio.

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

It is ordered, That the respondent Allied Stores of Ohio, Inc., a corporation, and its officers, whether trading as The Rollman Sons Company or any other trade name or in any other manner, and respondent's representatives, agents or 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 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 "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) Failing to affix labels to fur products showing:

(1) 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;

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- (2) That the fur product contains or is composed of used fur, when such is the fact;
 - (3) That the fur product contains or is composed of bleached, dyed, or artificially colored fur, when such is the fact;
 - (4) That the fur product is composed in whole or in substantial part of paws, tails, bellies, or waste fur, when such is the fact;
 - (5) The name, or other identification issued and registered by the Commission, of one or more persons who manufactured such fur product for introduction into commerce, introduced it into commerce, sold it in commerce, advertised or offered it for sale in commerce, or transported or distributed it in commerce;
 - (6) The name of the country of origin of any imported furs used in the fur product;
 - (7) The item number or mark assigned to a fur product in violation of Rule 40 of the Rules and Regulations.
- (b) Setting forth on labels attached to fur products:
- (1) Information required under Section 4(2) of the Fur Products Labeling Act and the Rules and Regulations promulgated thereunder in abbreviated form;
 - (2) Information required under Section 4(2) of the Fur Products Labeling Act and the Rules and Regulations promulgated thereunder which is intermingled with non-required information;
 - (3) Information required under Section 4(2) of the Fur Products Labeling Act and the Rules and Regulations promulgated thereunder in handwriting.
2. Falsely or deceptively invoicing fur products by:
- (a) Failing to furnish invoices to purchasers of fur products showing:
 - (1) 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;
 - (2) That the fur product contains or is composed of used fur, when such is the fact;
 - (3) That the fur product contains or is composed of bleached, dyed, or otherwise artificially colored fur, when such is the fact;
 - (4) That the fur product is composed in whole or in substantial part of paws, tails, bellies, or waste fur, when such is the fact;
 - (5) The name and address of the person issuing such invoices;
 - (6) The name of the country of origin of any imported furs contained in the fur product;
 - (7) The item number or mark assigned to the fur product in violation of Rule 40 of the Rules and Regulations.

(b) 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. 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 disclose 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) Fails to disclose that the fur products are bleached, dyed, or otherwise artificially colored, when such is the fact in violation of Section 5(a)(3) of the Fur Products Labeling Act.

(c) Fails to use the complete term "Mouton-processed Lamb" when an election is made to use the description provided for in Rule 9, instead of merely the animal name "Lamb."

DECISION OF THE COMMISSION AND ORDER TO FILE REPORT OF COMPLIANCE

Pursuant to Sec. 3.21 of the Commission's Rules of Practice, the initial decision of the hearing examiner shall, on the 1st day of October, 1957, 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

R. H. BEST, INC., ET AL.

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

Docket 6814. Complaint, June 3, 1957—Decision, Oct. 3, 1957

Consent order requiring a concern in Rockville, Md., engaged in selling pre-cut houses, building materials, home equipment, and supplies, and in contracting for the construction of houses and pre-cut houses, to cease representing falsely in newspapers and by circular letters and catalogs that it was making a bona fide offer to sell and construct complete houses of specific design and size, at a specific price and at a designated saving over the usual cost of a comparable home; among a variety of false claims as in the order below set forth.

Mr. Harry E. Middleton, Jr., for the Commission.
Respondents, *pro se*.

INITIAL DECISION BY FRANK HIER, HEARING EXAMINER

Pursuant to the provisions of the Federal Trade Commission Act, the Federal Trade Commission on June 3, 1957, issued and subsequently served its complaint in this proceeding against respondents R. H. Best, Inc., a corporation existing and doing business under and by virtue of the laws of the State of Maryland, and R. H. Best, individually and as an officer of the corporate respondent. The office and principal place of the business of said respondents is at 1545 Rockville Pike, in the City of Rockville, State of Maryland.

On August 16, 1957, there was submitted to the undersigned hearing examiner an agreement between respondents and counsel supporting the complaint providing for the entry of a consent order. By the terms of said agreement, respondents admit all the jurisdictional facts alleged in the complaint and agree that the record may be taken as if findings of jurisdictional facts had been duly made in accordance with such allegations. By such agreement, respondents waive any further procedural steps before the hearing examiner and the Commission; waive the making of findings of fact and conclusions of law; and waive all of the rights they may have to challenge or contest the validity of the order to cease and desist entered in accordance with this agreement.

Such agreement further provides that it disposes of all of this proceeding as to all parties and that there is no provision in the order respecting the charge relating to the use of the term "custom

built" as set out in Paragraph Four 7 of the complaint or relating to that part of Paragraph Four 8 of the complaint concerning the use of the statement that "other loaning agencies are in favor of our program and they make . . . conventional loans more willingly and in larger amounts than on houses built for sale."

Such agreement further provides that as to the matter referred to in Paragraph Four 7 of the complaint, counsel states that respondents have supplied him with evidence indicating that most or all of the houses built by them are actually "custom built" as that term is commonly understood. As to the matters referred to in Paragraph Four 8 of the complaint counsel states that there is evidence which he believes to be reliable, that loaning agencies do in fact favor programs of the type respondents have and do in fact make loans more willingly on such housing programs and in larger amounts than in the case of houses built for sale. A separate provision covering the use of the expression "predetermined price" is not included in the order as it is believed that the use of this expression is adequately covered in other provisions of the order.

Such agreement further provides that the record on which this initial decision and the decision of the Commission shall be based shall consist solely of the complaint and this agreement; that the latter shall not become a part of the official record unless and until it becomes a part of the decision of the Commission; that the agreement is for settlement purposes only and does not constitute an admission by respondents that they have violated the law as alleged in the complaint; and that the following order to cease and desist may be entered in this proceeding by the Commission without further notice to respondents, and, when so entered, it shall have the same force and effect as if entered after a full hearing, and may be altered, modified, or set aside in the manner provided for other orders; and that the complaint may be used in construing the terms of the order.

The hearing examiner having considered the agreement and proposed order, and being of the opinion that they provide an appropriate basis for settlement and disposition of this proceeding, the agreement is hereby accepted, the following jurisdictional findings made, and the following order issued.

1. Respondent R. H. Best, Inc., is a corporation existing and doing business under and by virtue of the laws of the State of Maryland, with its office and principal place of business located at 1545 Rockville Pike, Rockville, Maryland. The individual respondent R. H. Best is an officer and director of said corporate respondent and has as his principal place of business the same address as the corporate respondent.

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

It is ordered, That respondents R. H. Best, Inc., a corporation, and its officers and R. H. Best, individually and as an officer of said corporation, and respondents' representatives, agents and employees, directly or through any corporate or other device in connection with the offering for sale, sale, or distribution of precut houses, building materials, home equipment, and supplies in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from representing:

1. That they are making a bona fide offer to sell, and construct complete houses of specific design and size, unless such be the fact.

2. That such houses are being offered for sale at a specific price, unless such be the fact.

3. That a designated amount of money will be saved from the normal and usual cost of buying and building a house of comparable size and design when purchasing one of their advertised houses.

4. That a customer may have a \$19,000 house (or equal) for as little as \$13,000.

5. That the customer can reduce the advertised price of the house if he does part of the work himself, unless such be the fact.

6. That only the finest grade of lumber is used in the construction and is guaranteed to be of the finest quality.

7. That the Government is in favor of respondents' program or that it makes FHA or VA loans more willingly and in larger amounts than on houses built for sale.

DECISION OF THE COMMISSION AND ORDER TO FILE REPORT OF COMPLIANCE

Pursuant to Sec. 3.21 of the Commission's Rules of Practice, the initial decision of the hearing examiner shall, on the 3rd day of October, 1957, 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.

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IN THE MATTER OF
FEDERAL FIRE PROTECTION SERVICE, INC., ET AL.

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

Docket 6811. Complaint, June 3, 1957—Decision, Oct. 3, 1957

Order dismissing without prejudice, for failure to effect service, complaint charging a concern in Washington, D.C., with using scare tactics and false claims to sell home fire alarm systems.

Edward F. Downs and Garland S. Ferguson, Esqs., for the Commission.

INITIAL DECISION BY JAMES A. PURCELL, HEARING EXAMINER

On June 3, 1957, the Federal Trade Commission issued its complaint stating its belief to be that respondents, Federal Fire Protection Service, Inc., a corporation organized and doing business under and by virtue of the laws of the District of Columbia, with its principal place of business located at No. 6230 Third Street, Northwest, Washington, D.C., and Richard O. Waterman, individually and as an officer of the corporate respondent and, in his latter capacity, formulating, directing and controlling the policies, acts and practices of such corporate respondent, have violated the provisions of the Federal Trade Commission Act by use of false and deceptive acts and practices, and the use of so-called "scare tactics" in the sale of fire alarm systems for use by the members of the public in their homes.

On August 7, 1957, the attorneys in support of the complaint filed in this proceeding a motion to dismiss the complaint without prejudice, stating, *inter alia*, that every effort, (including attempted personal service), had been made to effect service of said complaint, as required by law, upon the said respondents but without success, it appearing that the corporate respondent has ceased its business operations and that the individual respondent has left for parts unknown, wherefore service has been rendered unobtainable.

The Hearing Examiner has considered the said motion and, being of opinion that, under the circumstances delineated, such motion should be granted:

It is ordered, That the complaint in this matter be, and it is hereby, dismissed without prejudice, however, to the right of the

Federal Trade Commission to institute another proceeding or to take such other action at any time in the future as it may elect or as may be appropriate in the then existing circumstances.

DECISION OF THE COMMISSION

Pursuant to Section 3.21 of the Commission's Rules of Practice, the initial decision of the hearing examiner did, on the 3rd day of October, 1957, become the decision of the Commission.

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IN THE MATTER OF
DEXTER'S FURRIERS, INC., ET AL.

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

Docket 6821. Complaint, June 17, 1957—Decision, Oct. 3, 1957

Consent order requiring a furrier in Salem, Mass., to cease violating the Fur Products Labeling Act by failing to comply with the labeling and invoicing requirements; and by advertising in newspapers which failed to disclose the names of animals producing the fur in certain products and that certain furs were artificially colored, which contained the names of animals other than those producing certain furs, and which misrepresented prices and values and the source of their stock; and by failing in other respects to comply with requirements of the Act.

John T. Walker, Esq., for the Commission.

Respondents, pro se.

INITIAL DECISION BY JOSEPH CALLAWAY, HEARING EXAMINER

The Federal Trade Commission issued its complaint against the above-named respondents on June 17, 1957, charging them with having violated the Fur Products Labeling Act, the rules and regulations issued thereunder, and the Federal Trade Commission Act by misbranding, falsely advertising and falsely invoicing their fur products. Respondents entered into an agreement, dated July 29, 1957, containing a consent order to cease and desist, disposing of all the issues in this proceeding without hearing, which agreement has been duly approved by the Assistant Director and the Director of the Bureau of Litigation. Said agreement has been submitted to the undersigned, heretofore duly designated to act as hearing examiner herein, for his consideration in accordance with Section 3.25 of the Rules of Practice of the Commission.

Respondents, pursuant to the aforesaid agreement, have admitted all of the jurisdictional allegations of the complaint and agreed that the record may be taken as if findings of jurisdictional facts had been made duly in accordance with such allegations. Said agreement further provides that respondents waive all further procedural steps before the hearing examiner or the Commission, including the making of findings of fact or conclusions of law and the right to challenge or contest the validity of the order to cease and desist entered in accordance with such agreement. It has also been agreed that the

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record herein shall consist solely of the complaint and said agreement, that the agreement shall not become a part of the official record unless and until it becomes a part of the decision of the Commission, that said agreement is for settlement purposes only and does not constitute an admission by respondents that they have violated the law as alleged in the complaint, that said order to cease and desist shall have the same force and effect as if entered after a full hearing and may be altered, modified, or set aside in the manner provided for other orders, and that the complaint may be used in constructing the terms of the order.

This proceeding having now come on for final consideration on the complaint and the aforesaid agreement containing the consent order, and it appearing that the order and agreement cover all of the allegations of the complaint and provide for appropriate disposition of this proceeding, the agreement is hereby accepted and ordered filed upon this decision and said agreement becoming part of the Commission's decision pursuant to Sections 3.21 and 3.25 of the Rules of Practice, and the hearing examiner accordingly makes the following findings, for jurisdictional purposes, and order:

1. Respondent Dexter's Furriers, Inc., is a corporation existing and doing business under and by virtue of the laws of the State of Massachusetts, with its office and principal place of business at 231 Washington Street, in the City of Salem, State of Massachusetts. Respondent Benjamin Allen is treasurer of said corporate respondent and he formulates, directs and controls the policies, acts and practices of said corporate respondent.

2. The Federal Trade Commission has jurisdiction of the subject matter of this proceeding and of the respondents hereinabove named. The complaint states a cause of action against said respondents under the Fur Products Labeling Act and the Federal Trade Commission Act, and this proceeding is in the interest of the public.

ORDER

It is ordered, That respondents, Dexter's Furriers, Inc., a corporation, and its officers, and Benjamin Allen, individually and as an officer 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 manufacture for 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 manufacture for sale, 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. 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 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 or other identification issued and registered by the Commission, of one or more persons who manufactured such fur product for introduction into commerce, introduced it 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 thereunder in abbreviated form.

(b) Information required under Section 4(2) of the Fur Products Labeling Act and the Rules and Regulations thereunder mingled with non-required information.

(c) Information required under Section 4(2) of the Fur Products Labeling Act and the Rules and Regulations thereunder in handwriting.

B. 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 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 on invoices the name or names of any animal or animals other than the name or names provided for in Paragraph B(1)(a) above.

3. Abbreviating on invoices information required under Section 5(b)(1) of the Fur Products Labeling Act and the Rules and Regulations thereunder.

C. 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 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 bleached, dyed, or otherwise artificially colored fur, when such is the fact.

2. Contains the name or names of any animal or animals other than the name or names provided for in Paragraph C(1)(a) above.

3. Contains information required under Section 5(a) of the Fur Products Labeling Act and the Rules and Regulations thereunder in print that is not of equal size and conspicuousness.

4. Represents that fur products offered for sale constitute, "A fantastic purchase of thousands of dollars of luxurious furs from a famous reputable New England Furrier," or words of similar import, when such is not the fact.

D. Makes pricing claims or representations in advertisements respecting reduced prices, comparative prices or percentage savings claims, value or quality of furs or fur products, unless there is maintained by respondents, adequate records disclosing the facts upon which such claims or representations are based.

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 shall, on the 3rd day of October, 1957, 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.

IN THE MATTER OF
PARFUMERIE LIDO, INC., ET AL.

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

Docket 6688. Complaint, Dec. 11, 1956—Decision, Oct. 4, 1957

Consent order requiring a seller in New York City to cease, on labels and in advertising, representing fictitious prices as the customary prices of perfumes and colognes and representing falsely that such products were compounded in France.

Mr. Kent P. Kratz for the Commission.

Sherman & Citron, of New York, N.Y., by *Mr. Cecil A. Citron* for Parfumerie Lido, Inc., and Alexander S. Salz.

Mr. Berthold Dilloff, of New York, N.Y., pro se.

INITIAL DECISION BY WILLIAM L. PACK, HEARING EXAMINER

The complaint in this matter charges the respondents with violation of the Federal Trade Commission Act through the making of certain misrepresentations in connection with perfume products sold by them. Agreements have now been entered into by respondents and counsel supporting the complaint which provide, among other things, that respondents admit all of the jurisdictional allegations in the complaint; that the record on which the initial decision and the decision of the Commission shall be based shall consist solely of the complaint and the respective agreements; that the inclusion of findings of fact and conclusions of law in the decision disposing of this matter is waived, together with any further procedural steps before the hearing examiner and the Commission; that the orders set forth in the agreements may be entered in disposition of the proceeding as to the respective respondents, such orders to have the same force and effect as if entered after a full hearing, respondents specifically waiving any and all rights to challenge or contest the validity of such orders; that the orders may be altered, modified, or set aside in the manner provided for other orders of the Commission; that the complaint may be used in construing the terms of the orders; and that the agreements are for settlement purposes only and do not constitute an admission by respondents that they have violated the law as alleged in this complaint.

The hearing examiner having considered the agreements and proposed orders and being of the opinion that they provide an adequate basis for appropriate disposition of the proceeding, the agreements

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are hereby accepted, the following jurisdictional findings made, and the following order issued (the orders in the two agreements being identical except as to the respondents named therein, the orders are here consolidated into one order):

1. Respondent Parfumerie Lido, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of New York, with its office and principal place of business at 115 West 30th Street, New York, New York. Respondent Alexander S. Salz is founder and president of the corporation and formulates, directs and controls its policies, acts and practices. Respondent Salz and respondent Berthold Dilloff were formerly partners in a business known as Lido Products Company, such partnership having since been dissolved.

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

It is ordered, That respondent Parfumerie Lido, Inc., a corporation, its officers, and respondent Alexander S. Salz, individually and as an officer of said corporation and formerly trading as Lido Products Company, or trading under any other name; and respondent Berthold Dilloff, individually and formerly trading as Lido Products Company, or trading under any other name; and respondents' agents, representatives and employees, directly or through any corporate or other device, in connection with the offering for sale, sale or distribution of perfumes, colognes, or any other related product do forthwith cease and desist from directly or indirectly:

1. Disseminating or causing to be disseminated any advertisement, by means of the United States mails or by any means in commerce, as "commerce" is defined in the Federal Trade Commission Act, for the purpose of inducing or which is likely to induce, directly or indirectly, the purchase of said products, which advertisement:

(a) Contains or lists prices or amounts when such prices or amounts are in excess of the prices at which the products are usually and customarily sold at retail;

(b) Uses the words "Design Created in Paris," "25 Rue Montgolfier, Paris," "Sole United States Distributor," "Originated in France," "Imported French Perfume," "French Perfume," "Famous French Perfume," "Imported From France," "Created in France," or "New York-Paris" in connection with any products not manufactured or compounded in France; or otherwise representing, directly

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or by implication, that such products are manufactured or compounded in France;

(c) Uses any French name or word as a corporate or trade name or as a part thereof or any name, word, term or depiction indicative of French origin in connection with products manufactured or compounded in the United States unless it is clearly and conspicuously revealed in immediate connection and conjunction therewith that such products are manufactured or compounded in the United States.

2. Disseminating or causing to be disseminated any advertisement, by any means, for the purpose of inducing or which is likely to induce, directly or indirectly, the purchase of said products in commerce, as "commerce" is defined in the Federal Trade Commission Act, which advertisement contains any of the representations prohibited in Paragraph 1 of this order.

It is further ordered, That respondent Parfumerie Lido, Inc., a corporation, its officers, and respondent Alexander S. Salz, individually and as an officer of said corporation and formerly trading as Lido Products Company, or trading under any other name; and respondent Berthold Dilloff, individually and formerly trading as Lido Products Company, or trading under any other name; and respondents' agents, representatives and employees, directly or through any corporate or other device, in connection with the offering for sale, sale or distribution of perfumes, colognes or any other related product in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. Setting out prices or amounts on the labels or in the labeling of their products, when such prices or amounts are in excess of the prices at which such products are usually and customarily sold at retail.

2. Using the words "Design Created in Paris," "25 Rue Montgolfier, Paris," "Sole United States Distributor," "Originated in France," "Imported French Perfume," "French Perfume," "Famous French Perfume," "Imported From France," "Created in France," or "New York-Paris" on the labels or in the labeling in connection with any products not manufactured or compounded in France, or otherwise representing, directly or by implication, on the labels or in the labeling that such products are manufactured or compounded in France.

3. Using any French name or word as a corporate or trade name or as a part thereof or any name, word, term or depiction indicative of French origin, on the label or in the labeling of products manufactured or compounded in the United States unless it is clearly and conspicuously revealed in immediate connection and conjunction

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therewith that such products are manufactured or compounded in the United States.

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 shall, on the 4th day of October, 1957, 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.

IN THE MATTER OF

RIT-ZIE NOVELTY COMPANY, INC., ET AL.

Docket 6354. Complaint, May 16, 1955—Decision, Oct. 7, 1957

VICTOR B. HANDAL & BRO., INC., ET AL.

Docket 6375. Complaint, June 27, 1955—Decision, Oct. 7, 1957

RELIANCE INTERCONTINENTAL CORPORATION ET AL.

*Docket 6520. Complaint, Feb. 28, 1956—Decision, Oct. 7, 1957*CONSENT ORDERS, ETC., IN REGARD TO THE ALLEGED VIOLATION OF THE
FEDERAL TRADE COMMISSION AND THE FLAMMABLE FABRICS ACTS

Consent orders requiring three importers in New York City to cease violating the Flammable Fabrics Act by importing into the United States from Japan and selling and transporting in commerce silk scarves which were so highly inflammable as to be dangerous when worn.

Before *Mr. James A. Purcell*, hearing examiner.

Mr. Brockman Horne for the Commission.

Weil, Gotshal & Manges, of New York City, for respondents.

OPINION OF THE COMMISSION

By ANDERSON, Commissioner:

Upon the closing on the record of the case-in-chief in support of the complaint in each of the above-captioned proceedings, all of the parties thereto, moving through counsel supporting the complaint, on July 8, 1957, sought and obtained from the hearing examiner a deferment of the reception of evidence in opposition to the allegations of the complaint for the purpose of permitting negotiation of agreements containing cease and desist orders disposing of each of the proceedings. Thereafter, at a duly noticed hearing in New York on July 18, 1957, the record discloses agreements in each of the three cases had been negotiated and executed. Subsequently, on July 25, 1957, they were submitted to the hearing examiner under one memorandum of transmittal. The agreements were rejected by the hearing examiner. Counsel supporting the complaints and counsel for respondents in all three matters have filed joint appeal from that ruling as permitted under § 3.25 of the Commission's Rules of Practice.

The hearing examiner predicates his rejection of the consent agreements, first, upon the ground that respondents have "* * * availed themselves of delaying tactics and of every possible avenue of de-

fense and now, having forced counsel for the complaint to a full disclosure of his case and being apparently, at an end, seek approval of a consent settlement * * *." The Commission recognizes the hearing examiner's concern with the fact that two of these cases have been pending in the trial stage since 1955 and one since 1956 but, from its examination of the record, has concluded that not all, not even the majority, of the delay can be attributed to respondents' trial tactics. For example, in 1955 and 1956, as pointed out by respondents, there was pending in Congress proposed legislation which, if enacted, would have exempted silk scarves such as are involved in these proceedings from coverage by the Flammable Fabrics Act, and the complaints herein would have been subject to dismissal. All participants in the proceedings during that period appear to have been in agreement as to continuance of the hearings. The record, in any event, does not disclose otherwise.

On the point that respondents "forced counsel supporting the complaint to a full disclosure of his case," this is not the criterion by which to determine whether a consent order agreement should be accepted—or rejected. The record shows no evidence not previously known to respondents and counsel supporting the complaint was not subjected to an onerous burden in the presentation thereof. On the contrary, most of the physical exhibits, consisting of scarves sold by the respondents in commerce, were identified by respondents prior to hearing and were received in evidence pursuant to stipulation, as was much of the testimony, including some government expert testimony on flammability tests, thus effecting savings of time and money in making the case-in-chief.

Secondly, the hearing examiner, in his notice of rejection of the proposed agreements for settlement, refers to the Commission's policy of denying the privilege of informal stipulation procedures to respondents in certain types of cases, including those involving flammable fabrics; and states that, by analogy, the reasoning on which such policy is bottomed "should govern" the extension of the privilege of disposing of a proceeding through the entry of a consent order under § 3.25 of the Rules of Practice. We disagree that there is, or should be, any significant parallel between the policy behind informal stipulation procedures available prior to issuance of complaint and the policy embodied in the consent order method of disposing of cases after complaint has issued. Under the pertinent rule, the latter procedure is clearly available in all types of cases at any stage of a proceeding subsequent to the issuance of a complaint.

The hearing examiner next assigns as a reason for his rejection of the consent agreements the fact that respondents, in refusing an offer

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of settlement in a pretrial hearing, thereby gave themselves an unfair competitive advantage over their competitors who did execute consent agreements even though they had on hand considerable stocks of the scarves of the flammable type involved here. Whatever merit this argument may have, other considerations in the situation found here are persuasive for the acceptance of the agreements. The saving of time and money that will result will be more in the public interest than would the rejection of the agreements and the remand of the proceedings for the taking of further testimony and the reception of evidence in opposition to the complaints. Under the agreements, as a practical matter, everything is accomplished that would be achieved by entry of cease and desist orders after trial in each of the three cases, and, having in mind the statutory mandate contained in Section 6(a) of the Administrative Procedure Act, 5 U.S.C.A. 1005(b), that "Every agency shall proceed with reasonable dispatch to conclude any matter presented to it * * *," we feel that the agreements should be accepted. In the light of the foregoing considerations, the Commission is of the opinion that the agreements constitute appropriate disposition of the issues in each case, and we direct their acceptance and the entry of an appropriate decision in each proceeding.

DECISION OF THE COMMISSION AND ORDER TO FILE REPORT OF COMPLIANCE

On the dates noted in the above title the Federal Trade Commission issued and subsequently served its complaints in these proceedings charging that the named corporate and individual respondents, in their respective capacities, were and are engaging in acts and practices in violation of the Flammable Fabrics Act and of the rules and regulations promulgated thereunder which constitute unfair and deceptive acts and practices and unfair methods of competition in commerce within the intent and meaning of the Federal Trade Commission Act. After the issuance of said complaints, the filing of respondents' answers thereto and the closing on the record of the cases-in-chief in support of the complaints, at a duly noticed hearing on July 8, 1957, in New York, on the request of counsel supporting the complaints, a postponement was granted by the hearing examiner to permit negotiation of agreements for consent settlements. Thereafter, at a hearing convened July 18, 1957, before the hearing examiner, such Agreements, entered into between counsel supporting the complaints and respondents were submitted in disposition of all the issues presented in these proceedings. Under procedures provided in § 3.25(e) of the Commission's Rules of Prac-

tice, the agreements are now before the Commission for its consideration.

Pursuant to the agreements, respondents have admitted all the jurisdictional allegations of the complaints and agreed that the records herein may be taken as if the Commission had made findings of jurisdictional facts in accordance with such allegations. The agreements further provide that respondents waive all further procedural steps before the hearing examiner or the Commission, including the making of findings as to the facts or conclusions of law and the right to challenge or to contest the validity of the orders to cease and desist entered in accordance with these agreements. The agreements further state that the records on which the decision of the Commission shall be based shall consist solely of the complaints and said agreements. Further, the agreements assert that they are for settlement purposes only and do not constitute admissions by respondents that they have violated the law as alleged in the complaints. Respondents additionally have agreed that the orders to cease and desist contained in the agreements may be entered in these proceedings without further notice to respondents and that, when so entered, they shall have the same force and effect as if entered after full hearing, and that they may be altered, modified or set aside in the manner provided by statute for other orders, and that the complaint may be used in construing the terms of the orders.

For the reasons assigned in its accompanying opinion, the Commission has determined that the aforesaid agreements containing the consent orders to cease and desist provide for an appropriate disposition of these proceedings in the public interest, and the same are hereby accepted and ordered filed; and

Having determined that these proceedings are in the public interest, the Commission hereby makes the following jurisdictional findings, and issues the following orders:

JURISDICTIONAL FINDINGS IN DOCKET 6354

1. The respondent Rit-Zie Novelty Company, Inc., is a corporation existing and doing business under and by virtue of the laws of the State of New York, with its office and principal place of business located at 234 Fifth Avenue, in the City of New York, State of New York.

2. Respondents Moe Liebowitz and Samuel Einhorn (the latter whose name is incorrectly spelled in the caption of the complaint herein) are president-secretary and vice-president-treasurer, respectively, of said corporate respondent, and they formulate, direct and

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control the policies, acts and practices of said corporation. Their address is the same as that of the corporate respondent.

JURISDICTIONAL FINDINGS IN DOCKET 6375

1. Respondent Victor B. Handal & Bro., Inc., is a corporation existing and doing business under and by virtue of the laws of the State of New York, and with its principal place of business located at 277 Fifth Avenue, in the City of New York, State of New York.

2. Respondents Victor B. Handal and John Handal are individuals and are vice-president and secretary-treasurer, respectively, of said corporate respondent, and they formulate, direct and control the policies, acts and practices of said corporation. Their address is the same as that of said corporate respondent.

JURISDICTIONAL FINDINGS IN DOCKET 6520

1. The respondent Reliance Intercontinental Corporation is a corporation existing and doing business under and by virtue of the laws of the State of New York, with its office and principal place of business located at 48 West 37th Street, in the City of New York, State of New York.

2. Respondents Adolph Meirowitz and Jerrold Kurtz are individuals and are president and secretary-treasurer, respectively, of said corporate respondent, and they formulate, direct and control the policies, acts and practices of said corporation. Their address is the same as that of said corporate respondent.

3. The Federal Trade Commission has jurisdiction of the subject matter of these proceedings and of the respondents, and the proceedings are in the public interest.

ORDER

It is ordered, That respondents Rit-Zie Novelty Company, Inc., a corporation, and its officers, and Moe Liebowitz and Samuel Einhorn, individually and as officers of said corporation; Victor B. Handal & Bro., Inc., a corporation, and its officers, and respondents Victor B. Handal and John Handal, individually and as officers of said corporation; and Reliance Intercontinental Corporation, a corporation, and its officers, and respondents Adolph Meirowitz and Jerrold Kurtz, individually and as officers of said corporation; and respondents' representatives, agents and employees, directly or through any corporate or other device, do forthwith cease and desist from:

(a) Importing into the United States; or

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(b) Selling, offering for sale, introducing, delivering for introduction, transporting, or causing to be transported, in commerce, as "commerce" is defined in the Flammable Fabrics Act; or

(c) Transporting or causing to be transported, for the purpose of sale or delivery after sale in commerce; any article of wearing apparel, which, under the provisions of Section 4 of the said Flammable Fabrics Act, as amended, is so highly flammable as to be dangerous when worn by individuals.

It is further ordered, That above-named respondents shall, within sixty (60) days after service upon them of these orders, file with the Commission reports, 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
MAURICE BALL TRADING AS MAURICE BALL FURS

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

Docket 6631. Complaint, Sept. 12, 1956—Decision, Oct. 7, 1957

Order requiring a Los Angeles furrier to cease violating the Fur Products Labeling Act in advertising and labeling which falsely identified the animals producing the fur in certain products and carried fictitious prices; by failing to comply with the labeling and invoicing requirements of the Act; by advertisements in newspapers which failed to disclose that certain fur products were artificially colored, and misrepresented the geographic origin of certain furs, their values, and prices; and by failing to keep adequate records as a basis for such pricing claims.

Mr. Michael J. Vitale and Mr. Thomas A. Ziebarth for the Commission.

Tyre & Kamins, of Beverly Hills, Calif., by *Mr. Richard J. Kamins*, for respondent.

INITIAL DECISION BY EARL J. KOLB, HEARING EXAMINER

This proceeding is before the undersigned hearing examiner for final consideration upon the complaint, answer thereto, testimony and other evidence, and proposed findings as to the facts and conclusions presented by counsel. The hearing examiner has given consideration to the proposed findings of fact and conclusions submitted by both parties, and all findings of fact and conclusions of law proposed by the parties respectively not hereinafter specifically found or concluded are herewith rejected, and the hearing examiner having considered the record herein and being now fully advised in the premises makes the following findings as to the facts, conclusions drawn therefrom, and order:

1. Respondent Maurice Ball is an individual trading as Maurice Ball Furs with his place of business located at 521 West Seventh Street, Los Angeles 14, California. Respondent is a retail furrier and has been engaged in the purchase and distribution of fur products, including coats, jackets, stoles and related fur garments in the downtown Los Angeles area for over 35 years.

2. Subsequent to the effective date of the Fur Products Labeling Act on August 9, 1952, respondent has been engaged in the advertising and in the sale and distribution of fur products in interstate commerce. The evidence in this proceeding shows that respondent obtained substantial quantities of its fur products by means of pur-

chases made outside the State of California and that such fur products were shipped to him at his place of business in California. The evidence also shows that these fur products were thereafter advertised in newspapers having an interstate circulation, and in at least four instances respondent sold and transported fur garments to purchasers located outside the State of California. Respondent also purchases mink pelts or furs from a source in Los Angeles, California, for use in the manufacture, by him, of fur products. These pelts have their origin outside the State of California. The activities of the respondent in procuring fur products from sources outside the State of California, and thereafter advertising and offering for sale in newspapers having an interstate circulation, and thereafter selling, shipping, and delivering such fur products in commerce clearly brings its business activities within the concept of "commerce" under the Fur Products Labeling Act.

3. In the course and conduct of his business, certain of the fur products hereinabove described were misbranded as follows:

(a) Some of respondent's fur products were falsely and deceptively labeled or otherwise were falsely or deceptively identified with respect to the name or names of the animal or animals that produced the fur from which said fur products had been manufactured in violation of Section 4(1) of the Fur Products Labeling Act.

(b) Some of respondent's fur products were not labeled as required under the provisions of Section 4(2) of the Fur Products Labeling Act, or in the manner and form prescribed by the Rules and Regulations promulgated thereunder.

(c) Some of respondent's fur products were misbranded in that required information was mingled with non-required information on labels, and in some instances information on labels was set forth in handwriting in violation of the Fur Products Labeling Act and the Rules and Regulations promulgated thereunder.

(d) Respondent caused or participated in the removal of labels required under the Fur Products Labeling Act to be affixed to fur products prior to the time such fur products were sold and delivered to the ultimate consumer in violation of Section 3(d) of the Fur Products Labeling Act and Rule 27 of the Rules and Regulations promulgated thereunder.

(e) Respondent's fur products were falsely and deceptively invoiced in that such invoices in some instances did not contain the name or names of the animals that produced the fur; did not indicate that the fur products contained or were composed of bleached, dyed or otherwise artificially colored fur; did not show that the fur products were composed of paws, tails, bellies or waste fur; or did not give the correct country of origin of such fur; as required

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under the provisions of Section 5(b)(1) of the Fur Products Labeling Act and in the manner and form prescribed by the Rules and Regulations promulgated thereunder.

(f) Respondent's products in some instances 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 that required information was set forth in abbreviated form in violation of Rule 4 of the aforesaid Rules and Regulations.

(g) Respondent caused dissemination in commerce, as "commerce" is defined in the Fur Products Labeling Act, of certain advertisements concerning his said fur products, by means of newspapers and by various other means, which advertisements were not in accordance with the provisions of Section 5(a) of said Act and the Rules and Regulations promulgated thereunder.

(h) Respondent caused dissemination in commerce, as "commerce" is defined in the Fur Products Labeling Act of certain advertisements concerning his said fur products, which falsely and deceptively advertised said fur products, in that some of said advertisements:

(1) Failed to disclose the name or names of the animal or animals producing the fur or furs contained in the fur products.

(2) Failed to disclose that the fur products were bleached, dyed, or otherwise artificially colored.

(3) Falsely represented the geographical origin of the animal or animals which produced the fur contained in said fur products.

4. In the course and conduct of his business respondent held fur sales from time to time. On such occasions respondent placed advertisements in various newspapers having interstate circulation including Los Angeles Examiner, Los Angeles Times, and Los Angeles Herald and Express. In such advertisements respondent represented that he was holding store-wide sales, during which his fur products could be purchased at a substantial discount or saving off regular prices.

5. There is testimony in this proceeding that when a shipment of fur products was received, respondent's clerk wrote on the manufacturer's ticket attached to the garment the cost of said article as shown by the invoice. After the cost of the garment had been placed on the ticket, the garment was inspected by the respondent and two figures placed upon the manufacturer's tag designating the top or ticketed price and the sale price. This procedure was not denied by the respondent except that he testified that this was only done when garment was received to be included in a sale to be or

being held. The clerk then prepared a yellow ticket to be attached to the garment showing the fur and origin and the top or ticketed price in figures—and the cost price in code. In the event a sale was being conducted a sales ticket was also attached to the garment showing the sale price in figures. The manufacturer's tag was then removed and attached to the invoice.

6. While the evidence as a whole indicates that respondent does in fact place both the top and lower figure on the manufacturer's tag, even in non-sales periods, this is not material as the top or ticketed price was merely a bargaining price and did not represent the actual price at which the garment was required to be sold by any sales person. This is borne out by the testimony of the respondent:

Q. And don't several of your customers, or prospective customers, I should say, during your regular season periods offer to purchase the garments for less than is shown on the yellow tag?

A. Quite a number of them do.

Q. And also on those occasions where quite a number of them do, if you can make what you consider a fair profit, you sell it for less, don't you?

A. We do. (Tr. 230)

Even during a sale period, respondent's sales personnel are authorized, subject to approval of respondent or his store manager, to sell a garment for less than the sales ticket price.

7. In pricing his garments the respondent did not use any systematic mark-up from costs, and in fact the prices fixed by respondent to be placed on the yellow ticket had no systematic relation to cost and were not set up on a definite pattern of profit.

8. The representations contained in the advertisements issued by the respondent constitute a misrepresentation of prices in violation of the Fur Products Labeling Act and Rule 44(a) promulgated thereunder. Respondent's system of pricing was such that the representations in advertisements of the regular price were fictitious, and further the purported saving indicated by the advertisements was in fact fictitious since the designated regular price, or respondent's ticketed price, included Federal tax, while the sales price did not include tax.

CONCLUSION

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

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ORDER

It is ordered, That respondent Maurice Ball, an individual doing business as Maurice Ball Furs, or under any other 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 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. Falsely or deceptively labeling or otherwise identifying any such product as to the name or names of the animal or animals that produced the fur from which such product was manufactured.

2. Falsely or deceptively labeling or otherwise identifying any such product as to the regular price or value of such product when such price is not that at which such product is regularly sold by respondent.

3. 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 Rules and Regulations;

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

c. That the fur product contains or is composed of bleached, dyed or artificially colored fur, when such a fact;

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

e. The name, or other identification issued and registered by the Commission, of one or more persons who manufactured such fur product for introduction into commerce, introduced it 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.

4. Setting forth on labels attached to fur products:

a. Non-required information mingled with required information;

b. Required information in handwriting.

B. Removing or participating in the removal of labels required by the Fur Products Labeling Act to be affixed to fur products, prior to

