

IN THE MATTER OF
COLEMAN'S FASHION SHOP, INC., ET AL.

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

Docket 7299. Complaint, Nov. 14, 1958—Decision, Mar. 10, 1959

Consent order requiring a furrier in Wellesley, Mass., to cease violating the Fur Products Labeling Act by failing to set forth as required on labels and invoices such terms as "Persian Lamb," "Dyed Mouton-processed Lamb," and "Dyed Broadtail-processed Lamb"; by advertising in newspapers which represented fur products as from a liquidating business and prices as reduced from regular prices which were in fact fictitious; and by failing in other respects to comply with the labeling, invoicing, and advertising requirements, and to keep adequate records as a basis for said pricing claims.

Mr. Alvin D. Edelson supporting the complaint.

Mr. Alan J. Dimond, of Boston, Mass., for respondents.

INITIAL DECISION BY JOHN LEWIS, HEARING EXAMINER

The Federal Trade Commission issued its complaint against the above-named respondents on November 14, 1958, charging them with having violated the Fur Products Labeling Act and the Rules and Regulations issued thereunder, and the Federal Trade Commission Act, through the misbranding of certain fur products and the false and deceptive invoicing and advertising thereof. After being served with said complaint, respondents appeared by counsel and entered into an agreement, dated January 7, 1959, containing a consent order to cease and desist purporting to dispose of all of this proceeding as to all parties. Said agreement, which has been signed by all respondents, by counsel for said respondents, and by counsel supporting the complaint, and approved by the director and assistant director of the Commission's Bureau of Litigation, has been submitted to the above-named hearing examiner for his consideration, in accordance with Section 3.25 of the Commission's Rules of Practice for Adjudicative Proceedings.

Respondents, pursuant to the aforesaid agreement, have admitted all the jurisdictional allegations of the complaint and agreed that the record may be taken as if findings of jurisdictional facts had been duly made in accordance with such alleg-

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tions. Said agreement further provides that respondents waive any further procedural steps before the hearing examiner and the Commission, the making of findings of fact or conclusions of law and all of the rights they may have to challenge or contest the validity of the order to cease and desist entered in accordance with such agreement. It has been agreed that the order to cease and desist issued in accordance with said agreement shall have the same force and effect as if entered after a full hearing and that the complaint may be used in construing the terms of said order. It has also been agreed that the record herein shall consist solely of the complaint and said agreement, and 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.

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

1. Respondent Coleman's Fashion Shop, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of New York. The address of the corporate respondent is 71 Central Street, Wellesley, Mass.

Individual respondents Robert J. Coleman, Clara A. Coleman and Alfred F. Coleman are officers of the said corporate respondent and each has a business address at 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 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 Coleman's Fashion Shop, Inc., a corporation, and its officers, and Robert J. Coleman, Clara A. Coleman

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and Alfred F. Coleman, individually and as officers of said corporation, hereinafter referred to as respondents, and respondents' representatives, agents and employees, directly or through any corporate or other device, in connection with the introduction into commerce, or the sale, advertising, or offering for sale 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:

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 or the country of origin of any imported furs contained in a fur product;

(g) The item number or mark assigned to a fur product.

2. 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.

3. Setting forth on labels affixed to fur products:

(a) Information required under Section 4(2) of the Fur Products Labeling Act and the Rules and Regulations promulgated thereunder in abbreviated form;

(b) Information required under Section 4(2) of the Fur Prod-

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ucts Labeling Act and the Rules and Regulations thereunder, mingled with nonrequired information;

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

4. Failing to set forth required information in the sequence required under Rule 30.

5. Failing to set forth the term "Persian Lamb" in the manner required by Rule 8 of the Regulations.

6. Failing to set forth the term "Dyed Mouton-processed Lamb" in the manner required by Rule 9 of the Regulations.

7. Failing to set forth the term "Dyed Broadtail-processed Lamb" in the manner required by Rule 10 of the Regulations.

8. Affixing to fur products labels that do not comply with the minimum size requirements of one and three-quarter inches by two and three-quarter inches.

9. Failing to set forth separately on labels attached to fur products composed of two or more sections containing different animal furs the information required under Section 4(2) of the Fur Products Labeling Act and the Rules and Regulations promulgated thereunder with respect to the fur comprising each section.

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 products 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 or origin of any imported furs contained in a fur product;

(g) The item number or mark assigned to a fur product.

2. Setting forth information required under Section 5(b)(1)

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of the Fur Products Labeling Act and the Rules and Regulations promulgated thereunder in abbreviated form.

3. Failing to set forth the term "Persian Lamb" in the manner required by Rule 8 of the Regulations.

4. Failing to set forth the term "Dyed Mouton-processed Lamb" in the manner required by Rule 9 of the Regulations.

5. Failing to set forth the term "Dyed Broadtail-processed Lamb" in the manner required by Rule 10 of the Regulations.

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 set forth the information required under Section 5(a) of the Fur Products Labeling Act and the Rules and Regulations promulgated thereunder in type of equal size and conspicuousness and in close proximity with each other.

2. Represents, directly or by implication, that any such products are the stock of a business in a state of liquidation, contrary to fact.

3. Represents, directly or by implication, that the regular or usual price of any fur product is any amount which is in excess of the price at which respondent has usually and customarily sold such products in the recent regular course of business.

D. Making price claims and representations respecting comparative prices, percentage savings claims, prices being reduced from regular or usual prices, and prices being "Many way below cost" unless there are maintained by respondents full and adequate records disclosing the facts upon which such claims and 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 10th day of March 1959, 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.

Decision

IN THE MATTER OF
STAZ-SET, INC., ET AL.CONSENT ORDER, ETC., IN REGARD TO THE ALLEGED VIOLATION OF
THE FEDERAL TRADE COMMISSION ACT

Docket 7302. Complaint, Nov. 14, 1958—Decision, Mar. 10, 1959

Consent order requiring a distributor and its advertising agency in New York City to cease representing falsely in advertising that their drug preparation designated "7 Day Reducer" was safe for use by all obese persons, would cause them to lose weight without dieting and at specific rates per week and per month, and was approved for reducing weight by the U.S. Public Health authorities.

Mr. Berryman Davis for the Commission.
Bass & Friend, of New York, N.Y., for respondents.

INITIAL DECISION BY WILLIAM L. PACK, HEARING EXAMINER

The complaint in this matter charges the respondents with misrepresenting a weight reducing preparation advertised and sold by them. An agreement has now been entered into by respondents and counsel supporting the complaint which provides, 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 agreement; 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 order hereinafter set forth may be entered in disposition of the proceeding, such order 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 order; that the order 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 order; and 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.

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

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agreement is hereby accepted, the following jurisdictional findings made, and the following order issued:

1. Respondent Staz-Set, Inc., is a corporation existing and doing business under the laws of the State of New York, with its office and principal place of business located at 42 West 38th Street, New York, N.Y. Respondents David L. Ratke and Herman Liebenson are officers of respondent Staz-Set, Inc., and the address of said individual respondents is the same as that of the corporate respondent.

Respondent Parker Advertising, Inc., is a corporation existing and doing business under the laws of the State of New York, with its office and principal place of business located at 42 West 38th Street, New York, N.Y.

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, Staz-Set, Inc., a corporation, and its officers and David L. Ratke, and Herman Liebenson, individually and as officers of said corporation, and Parker Advertising, Inc., and its officers, 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 7-Day Reducer, or any other preparation of substantially similar composition or possessing substantially similar properties, whether sold under the same name or any other name, 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, which advertisement represents, directly or indirectly, that:

- (a) The preparation is safe to use by all obese persons;
- (b) Obese persons can lose weight by use of the preparation without dieting, that is while consuming the same kinds and amounts of food they ordinarily consume;
- (c) Any predetermined weight reduction can be achieved by the taking or use of said preparation for a prescribed period of time;
- (d) United States Public Health Authorities approve or en-