

## **Analysis of Proposed Consent Orders to Aid Public Comment**

*In the Matter of The Neiman Marcus Group, Inc., File No. 082 3199*

*In the Matter of DrJays.com, Inc., File No. 122 3063*

*In the Matter of Eminent, Inc., doing business as Revolve Clothing, File No. 122 3065*

The Federal Trade Commission (“FTC” or “Commission”) has accepted, subject to final approval, agreements containing consent orders from The Neiman Marcus Group, Inc. (“Neiman Marcus”), DrJays.com, Inc. (“DrJays”), and Eminent, Inc., doing business as Revolve Clothing (“Revolve”).

The proposed consent orders have been placed on the public record for thirty (30) days for receipt of comments by interested persons. Comments received during this period will become part of the public record. After thirty (30) days, the Commission will again review the agreements and the comments received, and decide whether it should withdraw from the agreements or make the proposed orders final.

### **Proposed Complaints**

These matters involve violations of Section 5(a) of the Federal Trade Commission Act, 15 U.S.C. § 45(a) (“FTC Act”), Section 5(a)(5) of the Fur Products Labeling Act, 15 U.S.C. § 69c(a)(5) (“Fur Act”), and Sections 301.2(c) and 301.49 of the Rules and Regulations Under Fur Products Labeling Act, 16 C.F.R §§ 301.2(c) and 301.49 (“Fur Rules”). In 2010, Congress enacted the Truth in Fur Labeling Act, which amended the Fur Act by, among other things, eliminating an exemption for items containing fur valued at no more than \$150. As a result, the Fur Act now requires disclosure of any fur content in wearing apparel.

The proposed complaints allege that Neiman Marcus, DrJays, and Revolve each advertised products containing real fur as containing “faux fur” on its Internet site. The proposed complaints further allege that the advertisements failed to disclose the names, as set forth in the Fur Products Name Guide, 16 C.F.R. § 301.0, of the animals that produced the fur in each product. They also allege that most of the products had labels correctly identifying the fur content.

The proposed complaint against Neiman Marcus alleges that the company’s website misrepresented the fur content and failed to disclose the animal name for three products: an Outerwear Jacket, a Ballerina Flat by Stuart Weitzman, and a Kyah Faux Fur-Collar Coat. In addition to falsely advertising the Ballerina Flat online as “faux” fur, Neiman Marcus’ catalog and mail advertising falsely represented that the product’s fur was mink when it was in fact rabbit. The proposed complaint further alleges that Neiman Marcus sold at least 316 units of the three products. Finally, it alleges that Neiman Marcus failed to disclose the country of origin of each product.

The proposed complaint against DrJays alleges that the company misrepresented the fur content and failed to disclose the animal name for three products: a Snorkel Jacket by Crown Holder; a Fur/Leather Vest by Knoles & Carter; and a New York Subway Leather Bomber Jacket by United Face. It further alleges that DrJays sold at least 241 units.

The proposed complaint against Revolve alleges that the company misrepresented the fur content and failed to disclose the animal name for four products: an Australia Luxe Collective Nordic Angel Short Boot; a Marc Jacobs Runway Roebbling Coat; a Dakota Xan Fur Poncho; and an Eryn Brinie Belted Faux Fur Vest. It further alleges that Revolve sold at least 158 units of the products.

### **Proposed Orders**

The proposed orders are designed to prevent Neiman Marcus, DrJays, and Revolve from engaging in similar acts and practices in the future.

Paragraph I bars each proposed respondent from violating the Fur Act and Rules by, among other things, misrepresenting in mail, catalog, or Internet advertisements that the fur in any product is faux or fake or misrepresenting the type of fur. Paragraph I also contains a proviso incorporating the Enforcement Policy Statement that the Commission announced on January 3, 2013. The proviso and Statement provide a safe harbor when a retailer cannot legally obtain a guaranty, as long as the retailer meets certain requirements, including that it neither knew nor should have known of the violation.

Paragraphs II through IV will help the Commission ensure that the proposed respondents comply with Part I by requiring them to keep copies of advertisements and materials relied upon in disseminating any representation covered by the orders (Paragraph II); provide copies of the orders to certain personnel having responsibility for the advertising or sale of fur and fake fur products (Paragraph III); and provide certain notices and compliance reports to the Commission (Paragraph IV).

Finally, Part V provides that the orders will terminate after twenty (20) years, with certain exceptions.

The purpose of this analysis is to facilitate public comment on the proposed orders. It is not intended to constitute an official interpretation of the complaints or the proposed orders, or to modify the proposed orders' terms in any way.