

UNITED STATES OF AMERICA
BEFORE THE FEDERAL TRADE COMMISSION

COMMISSIONERS: Edith Ramirez, Chairwoman
Julie Brill
Maureen K. Ohlhausen
Joshua D. Wright

_____))
In the Matter of))
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THE NEIMAN MARCUS GROUP, INC.,) DOCKET NO. C-4407
a corporation.))
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_____))

COMPLAINT

Pursuant to the provisions of the Federal Trade Commission Act, as amended, 15 U.S.C. § 41 *et seq.*, and by virtue of the authority vested in it by said Act, the Federal Trade Commission (“Commission”), having reason to believe that Neiman Marcus Group, Inc. (“Neiman Marcus” or “respondent”) has violated the provisions of the Federal Trade Commission Act, 15 U.S.C. § 41 *et seq.*, the Fur Products Labeling Act, 15 U.S.C. § 69 *et seq.*, and the Rules and Regulations Under the Fur Products Labeling Act, 16 C.F.R. Part 301, and it appearing to the Commission that this proceeding is in the public interest, alleges:

1. Respondent is a Delaware corporation with its principal office or place of business at 1618 Main St., Dallas, TX 75201.
2. The acts and practices of respondent alleged in this complaint have been in or affecting commerce, as commerce is defined in Section 4 of the Federal Trade Commission Act, 15 U.S.C. § 44, and Section 2(j) of the Fur Products Labeling Act, 15 U.S.C. § 69(j).

3. Respondent has advertised, offered for sale, sold, and distributed fur products, as that term is defined in Section 2(d) of the Fur Products Labeling Act, 15 U.S.C. § 69(d). Respondent advertises and offers fur products for sale through the Internet sites www.neimanmarcus.com and www.bergdorfgoodman.com.
4. In May 2009, Commission staff closed an investigation into whether respondent Neiman Marcus had falsely advertised coats as having faux fur that in fact contained real fur. In closing the investigation, staff relied in part on respondent's assurances that it had reached an agreement with a third-party vendor to label products as containing either real fur or other material.

CONDUCT

5. From approximately October 5, 2009, until approximately November 16, 2012, respondent disseminated, or caused to be disseminated, advertisements for fur products, including, but not limited to, a Burberry Outerwear Jacket ("Outerwear Jacket"), a Stuart Weitzman Ballerina Flat ("Ballerina Flat"), and an Alice + Olivia Kyah Faux-Fur Collar Coat ("Kyah Coat").

Outerwear Jacket False Advertising

6. From approximately October 5, 2009, until October 30, 2009, respondent disseminated, or caused to be disseminated, the advertisement attached as Exhibit A. This advertisement from www.neimanmarcus.com contained the following statements (emphasis added):

Outerwear Jacket

Cardinal red. Allover quilted topstitching. **Black faux-fur** hood with snap-tab detail; zip/snap front. Long sleeves with zip cuff detail. Tonal belt at natural waist. Zip pockets. A-line. Polyester/polyamide. Made in Italy of imported material.

7. The Outerwear Jacket had an attached label disclosing that it in fact contained "real fur."
8. From October 5, 2009, until October 30, 2009, respondent sold at least five Outerwear Jackets via its website for a total revenue of at least \$6,475.

Ballerina Flat False Advertising

9. From approximately August 3, 2011, until approximately December 1, 2011, respondent disseminated, or caused to be disseminated, the advertisement attached as Exhibit B. This advertisement from www.neimanmarcus.com contained the following statements (emphasis added):

A cute fur ornament decorates the toe of this basic ballerina flat by Stuart Weitzman.

Sport suede upper.

Faux fur (cotton/viscose) pom on round toe.

Imported of Spanish and Italian material.

Respondent's www.bergdorfgoodman.com internet site carried a similar advertisement beginning on August 20, 2011.

10. From approximately August 14, 2011, until approximately December 1, 2011, respondent disseminated, or caused to be disseminated, the catalog advertisement for the Ballerina Flat attached as Exhibit C, which contained the following statements (emphasis added):

Black or cola "Furball" ballet flat with **dyed mink** (Spain) pouf, rubber sole, and 1/2" wedge heel.

11. From approximately November 27, 2011, until approximately December 1, 2011, respondent mailed to its customers a "stuffer" attached as Exhibit D that described the product as containing a "**dyed mink** (Spain) pouf" (emphasis added).
12. The vendor of the Ballerina Flat had notified respondent that the product contained real rabbit fur before July 25, 2011.
13. From approximately August 3 to December 1, 2011, respondent sold at least 292 Ballerina Flats via its websites, catalog, and mailers for a total revenue of at least \$85,000.

Kyah Coat False Advertising

14. From approximately August 9, 2012, until approximately November 16, 2012, respondent disseminated, or caused to be disseminated, the advertisement attached as Exhibit E. This advertisement from www.neimanmarcus.com contained the following statements (emphasis added):

Kyah Faux Fur-Collar Coat: Glam up your professional looks with the Alice + Olivia Kyah coat, which features a plush **faux-fur** collar.

Crepe with **faux-fur (polyester/viscose)** collar.

Self-tie waist.

Long sleeves.

Arched hem falls below hip.

Virgin wool/cashmere/polyester.

Dry clean.

Imported.

15. The Kyah Coat had an attached label disclosing that its collar was in fact “real fur.”
16. From approximately August 9, 2012, until approximately November 16, 2012, respondent sold at least 19 Kyah Coats via its website for a total revenue of at least \$15,162.

COUNT I

17. Through the means described in Paragraphs 6, 9, and 14, respondent represented, expressly or by implication, that the fur in the Outerwear Jacket, Ballerina Flat, and Kyah Coat was faux or fake. In truth and in fact, those products contained real fur. Therefore, the representations set forth in Paragraphs 6, 9, and 14 were false, deceptive, or misleading.
18. Through the means described in Paragraphs 10 and 11, respondent represented, expressly or by implication, that the fur in the Ballerina Flat was mink fur. In truth and in fact, the Ballerina Flat contained rabbit fur. Therefore, the representations set forth in Paragraphs 10 and 11 were false, deceptive, or misleading.
19. Respondent’s practices, as alleged in this complaint, constitute unfair or deceptive acts or practices in or affecting commerce in violation of Section 5(a) of the Federal Trade Commission Act, 15 U.S.C. § 45(a), and false advertising in violation of Section 5(a)(5) of the Fur Products Labeling Act, 15 U.S.C. §§ 69c(a)(5), and Sections 301.2(c) and 301.49 of the Rules and Regulations Under the Fur Products Labeling Act, 16 C.F.R. §§ 301.2(c) and 301.49. Pursuant to Sections 3(a) and 3(c) of the Fur Products Labeling Act, 15 U.S.C. § 69a(a) and 69a(c), the false advertising of fur products, within the meaning of the Fur Products Labeling Act and the Rules and Regulations Under Fur Products Labeling Act, is unlawful and an unfair and deceptive act or practice, in commerce, under the Federal Trade Commission Act, 15 U.S.C. § 41, *et seq.*

COUNT II

20. Through the means described in paragraphs 6, 9-11, and 14, respondent did not disclose the name of the animal that produced the fur in the Outerwear Jacket, Ballerina Flat, and Kyah Coat as set forth in the Fur Products Name Guide, 16 C.F.R. § 301.0.
21. Through the means described in paragraphs 6, 9, and 14, respondent did not disclose the country of origin for the fur in the Outerwear Jacket, Ballerina Flat, and Kyah Coat.
22. Respondent’s practices, as alleged in this complaint, constitute unfair or deceptive acts or practices in or affecting commerce in violation of Section 5(a) of the Federal Trade Commission Act, 15 U.S.C. § 45(a), and false advertising in violation of Sections 5(a)(1), 5(a)(5), and 5(a)(6) of the Fur Products Labeling Act, 15 U.S.C. §§ 69c(a)(1),(5), and (6), and Sections 301.2(c) and 301.49 of the Rules and Regulations Under the Fur Products Labeling Act, 16 C.F.R. §§ 301.2(c) and 301.49. Pursuant to Sections 3(a) and 3(c) of the

Fur Products Labeling Act, 15 U.S.C. § 69a(a) and 69a(c), the false advertising of fur products, within the meaning of the Fur Products Labeling Act and the Rules and Regulations Under Fur Products Labeling Act, is unlawful and an unfair and deceptive act or practice, in commerce, under the Federal Trade Commission Act, 15 U.S.C. § 41, *et seq.*

WHEREFORE, THE PREMISES CONSIDERED, the Federal Trade Commission has caused this Complaint to be signed by its Secretary and its official seal to be hereto affixed, at Washington, D.C., this eighteenth day of July, 2013.

By the Commission.

Donald S. Clark
Secretary

SEAL: