

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

DECISION AND ORDER

The Federal Trade Commission (“Commission”), having initiated an investigation of certain acts and practices of the Respondent named in the caption hereof, and the Respondent having been furnished thereafter with a copy of a draft of a Complaint which the Bureau of Consumer Protection proposed to present to the Commission for its consideration and which, if issued, would charge the Respondent with violations of the Federal Trade Commission Act and the Fur Products Labeling Act; and

The Respondent, its attorney, and counsel for the Commission having thereafter executed an Agreement Containing Consent Order (“Consent Agreement”), which includes: a statement by Respondent that it neither admits nor denies any of the allegations in the draft complaint, except as specifically stated in the Consent Agreement, and, only for purposes of this action, admits the facts necessary to establish jurisdiction; and waives and other provisions as required by the Commission’s Rules; and

The Commission having thereafter considered the matter and having determined that it had reason to believe that the Respondent has violated the Federal Trade Commission Act, and that a complaint should issue stating its charges in that respect, and having thereupon accepted the executed consent agreement and placed such agreement on the public record for a period of thirty (30) days for the receipt and consideration of public comments, and having duly considered the comments received from interested persons pursuant to Commission Rule 2.34, 16 C.F.R. § 2.34, now in further conformity with the procedure prescribed in Commission Rule 2.34, the Commission hereby issues its complaint, makes the following jurisdictional findings, and enters the following order:

1. Respondent The Neiman Marcus Group, Inc., is a Delaware corporation with its principal office or place of business at 1618 Main St., Dallas, TX 75201.
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

DEFINITIONS

For purposes of this order, the following definitions shall apply:

1. “Respondent” shall mean The Neiman Marcus Group, Inc., its successors and assigns, subsidiaries and divisions, and their officers, agents, representatives, and employees.
2. “Commerce” shall mean commerce among the several States or with foreign nations, or in any Territory of the United States or in the District of Columbia, or between any such Territory and another, or between any such Territory and any State or foreign nation, or between the District of Columbia and any State or Territory or foreign nation.
3. “Covered product” shall mean any article of clothing or covering for any part of the body that (a) is made in whole or in part of fur or used fur or (b) respondent advertises as containing fake or faux fur.
4. “Fur” shall mean any animal skin or part thereof with hair, fleece, or fur fibers attached thereto, either in its raw or processed state, but shall not include such skins as are to be converted into leather or which in processing shall have the hair, fleece, or fur fiber completely removed.
5. “Fur product” shall mean any article of clothing or covering for any part of the body made in whole or in part of fur or used fur.

I.

IT IS ORDERED that, subject to the guaranty provisions of the Fur Products Labeling Act (“Fur Act”), 15 U.S.C. § 69 *et seq.*, and the Rules and Regulations Under the Fur Products Labeling Act (“Fur Rules”), 16 C.F.R. Part 301, Respondent, directly or through any person, partnership, corporation, subsidiary, division, trade name, or other device, in connection with the labeling, advertising, promotion, offering for sale, sale, or distribution of any fur product in any advertisement disseminated through the mail, on any website, or in any catalog, in or affecting commerce, is hereby permanently restrained and enjoined from engaging in, causing other persons to engage in, or assisting other persons to engage in, violations of the Fur Act and the Fur Rules, including, but not limited to, falsely or deceptively advertising any fur product by misrepresenting or failing to disclose:

- A. That the fur in any fur product is faux or fake;
- B. The name or names (as set forth in the Fur Products Name Guide, 16 C.F.R. § 301.0) of the animal or animals that produced the fur, and such qualifying statement as may be required pursuant to 15 U.S.C. § 69e(c);
- C. That the fur is used fur or that the fur product contains used fur when such is the fact;
- D. That the fur product or fur is bleached, dyed, or otherwise artificially colored fur when such is the fact;
- E. That the fur product is composed in whole or in substantial part of paws, tails, bellies, or waste fur when such is the fact; and
- F. The name of the country of origin of any imported furs or those contained in the fur product.

Provided that, in the event the Fur Act or Fur Rules are amended or modified:

- 1. Respondent shall comply fully and completely with all applicable requirements thereof, on and after the effective date of any such act or rule; and
- 2. That nothing in this Paragraph shall impose upon Respondent obligations beyond what is required under the amended or modified version of the Fur Act or Rules.

Provided further that if Respondent (1) cannot legally obtain a guaranty when it takes an ownership interest in a fur product, (2) does not embellish or misrepresent claims provided by the manufacturer about that product, and (3) does not sell the product as a private label product, then Respondent shall be liable for a violation of this Paragraph only if it knew or should have known that the marketing or sale of the product would violate this Paragraph.

II.

IT IS FURTHER ORDERED that Respondent shall maintain and, upon request, make available to the Commission, for inspection and copying, all records that will demonstrate compliance with the requirements of this order, including, but not limited to:

- A. All acknowledgments of receipt of order obtained pursuant to Paragraph III.B.
- B. For three (3) years after the last date of dissemination of any representation by Respondent about any covered product in any advertisement disseminated through the mail, on any website, or in any catalog;
 - 1. All advertisements and promotional materials containing the representation;
 - 2. All materials that were relied upon in disseminating the representation;
 - 3. All tests, reports, studies, surveys, demonstrations, or other evidence in the possession or control of any of the persons covered by Paragraph III.A that contradict, qualify, or call into question the representation, or the basis relied upon for the representation; and
 - 4. All complaints and other communications with consumers that call into question the representation, or the basis relied upon for the representation, in connection with a specific product purchased by a specific consumer, and all communications with governmental or consumer protection organizations that contradict, qualify, or call into question the representation, or the basis relied upon for the representation.

III.

IT IS FURTHER ORDERED that Respondent shall:

- A. For a period of three (3) years, deliver a copy of this order to all employees, agents, and representatives having responsibilities with respect to Respondent's marketing or advertising of any covered product in any advertisement disseminated through the mail, on any website, or in any catalog and to any manager or officer in the chain of command of such employees, agents, and representatives, within thirty (30) days after (1) the date of service of this order, or (2) the person assumes a position covered by this paragraph.
- B. Secure from each person receiving this order pursuant to this paragraph a signed and dated statement acknowledging receipt of this order.

IV.

IT IS FURTHER ORDERED that Respondent shall notify the Commission in connection with compliance with this order as follows:

- A. At least thirty (30) days prior to any change in the corporation that may affect compliance obligations arising under this order, including, but not limited to, a dissolution, assignment, sale, merger, or other action, that would result in the emergence of a successor corporation; the creation or dissolution of a subsidiary, parent, or affiliate that engages in any acts or practices subject to this order; the proposed filing of a bankruptcy petition; or a change in the corporate name or address. *Provided* that, with respect to any proposed change in the corporation about which Respondent learns less than thirty (30) days prior to the date such action is to take place, Respondent shall notify the Commission as soon as is practicable after obtaining such knowledge.
- B. Within sixty (60) days after the date of service of this order, file with the Commission a true and accurate report, in writing, setting forth in detail the manner and form of its own compliance with this order. Within ten (10) days of receipt of written notice from a representative of the Commission, it shall submit additional true and accurate written reports.
- C. Unless otherwise directed by a representative of the Commission in writing, all notices required by this Part shall be emailed to Debrief@ftc.gov or sent by overnight courier (not the U.S. Postal Service) to: Associate Director for Enforcement, Bureau of Consumer Protection, Federal Trade Commission, 600 Pennsylvania Avenue NW, Washington, DC 20580. The subject line must begin: *FTC v. The Neiman Marcus Group, Inc.*, File Number 0823199, Docket Number C-4407.

V.

IT IS FURTHER ORDERED that this order will terminate on July 18, 2033, or twenty (20) years from the most recent date that the United States or the Commission files a complaint (with or without an accompanying consent decree) in federal court alleging any violation of the order, whichever comes later. *Provided* that the filing of such a complaint will not affect the duration of:

- A. Any Part in this order that terminates in less than twenty (20) years;
- B. This order, if such complaint is filed after the order has terminated pursuant to this Part. Provided, further, that if such complaint is dismissed, or a federal court rules that the Respondent did not violate any provision of the order, and the dismissal or ruling is either not appealed or upheld on appeal, then the order will terminate according to this Part as though the complaint had never been filed, except that the order will not terminate between the date such complaint is filed and the later of the deadline for appealing such dismissal or ruling and the date such dismissal or ruling is upheld on appeal.

By the Commission.

Donald S. Clark
Secretary

SEAL:
ISSUED: July 18, 2013