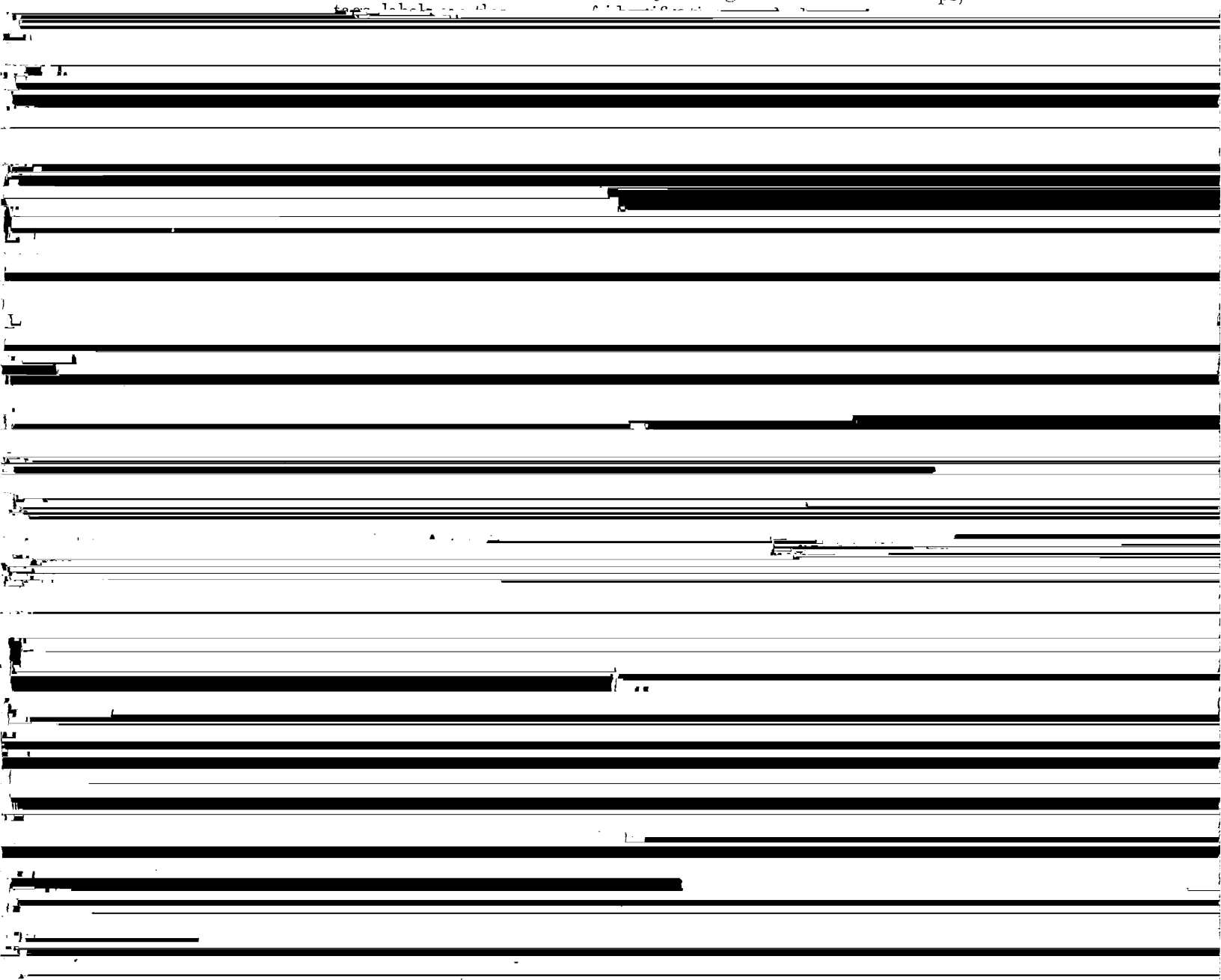


overall content of the wool products need not be given if such products are labeled in accordance with Rule 23 of the Rules and Regulations promulgated under said Act.

3. Misbranding wool products by failing to set forth on stamps, tags, labels, etc., the following information:



fur, and contained the name of another animal than that producing certain

requirements.

Mr. Thomas A. Ziebarth for the Commission.

Dunnington, Bartholow & Miller, by *Mr. Charles G. Pillon*, of New York, N. Y., for respondent.

INITIAL DECISION BY J. EARL COX, HEARING EXAMINER

The complaint charges that respondent has violated the Fur Prod-

hearings and submission of proposed findings, conclusions and order, and upon the basis of the entire record, the following findings

Decision

57 F.T.C.

that produced the fur—violating §4(3) of the Act and the Rules
and Regulations thereunder;

(d) Certain fur products were not labeled as required by the Act

690

Decision

not exceed five dollars (\$5.00), and no express or implied representation is made concerning the fur contained in such product * * *, the fur product shall be

9. There are three invoices in evidence

of the white mink muff above referred to. Under heading "Items & Style" the description is as follows:

Whi mink muff 37-1407.

The sales slip shows date, price, Federal tax, sales tax, department number and other information customarily found on department-store sales slips, but no other information pertaining to the mink

690

Decision

(d) by failing to disclose that certain furs were bleached, dyed or otherwise artificially colored; and

(e) by failing to disclose that certain furs were dyed or otherwise artificially colored in whole

Order

57 F.T.C.

dyed white or dyed black mink" * * * "All furs labeled country of origin". Commission's witness Azen ordered one of the white mink hat-and-muff sets and found, as stated hereinabove, that "the set was composed of assembled or pieced mink and not solid mink, and furthermore that the pieces from which said set was assembled averaged

one-half by one inch in size". The advertisement did not disclose that the fur was dyed or that the product was made of "waste fur", as previously found to be the case hereinabove in paragraph 9(b) where this same fur product was discussed.

(9) In the New York Times of November 23, 1958 (CX 3C), there

mink. All furs labeled country of origin". The mink muff (CX 13) previously referred to in paragraphs 4, 5 and 6, above, was from one of the sets thus advertised. There was no statement in the advertisement that the muff was fabricated from scraps or "waste fur."

(10) In Harpers Bazaar for October, 1957 (CX 6), respondent

690

Opinion

merce, of fur products, or in connection with the sale, advertising, offering for sale, transportation or distribution of fur products which

are defined in the Fur Products Labeling Act, do forthwith cease and desist from:

- A. Misbranding fur products by: Failing to affix labels to fur products showing in words and figures plainly legible all of the information required to be disclosed by each of the subsections of § 4(2) of the Fur Products Labeling Act;
- B. Failure to accurately identify the species of fur animal from which the fur was obtained;

complaint filed a motion with the Commission

the provisions of Section 4(2), and Paragraph Seven charges that certain of its fur products were falsely and deceptively invoiced in that they were not invoiced as required by Section 5(b)(1). As stated in the Commission's opinion in the matter of *Mandel Brothers, Inc.*, Docket No. 6434, July 12, 1957 (order as rephrased affirmed 359 U.S. 385, May 4, 1959):

The Fur Products Labeling Act expresses a national policy against misbrand

merce, or the transportation or distribution of it in commerce, or the sale, advertising, or offering of it for sale in commerce is unlawful, unless it has attached to it a label setting forth clearly and conspicuously all the data indicated as necessary to be included thereon by Section 4(2), and is falsely invoiced unless there is issued, in connection with its sale, an invoice which incorporates each of the statements of the nature set forth in Section 5(b)(1).

Opinion

57 F.T.C.

mink garment and are sewn together into an oblong sheet." As stated by the hearing examiner, however, the Act was adopted for

the protection of the public and not for members of the fur industry. The statutory requirement with respect to the labeling of a fur prod-

uct such as here involved is expressly stated. Since the muff was shown to have been made of waste fur, the label should have shown in words and figures plainly legible (and we think with unmistakable clarity) that such was the fact. In the absence of such a show-

information but also such further rules and regulations as may be necessary and proper for purposes of administration and enforcement of the Act. One of the provisions of the Act which the Commission has to administer and enforce is Section 2(d). Under this

made in whole or in part of fur or used fur; except that such term shall not include such articles as the Commission shall exempt by

a fur product is composed of bleached fur, such fact shall be disclosed as a part of the required information. The term "bleached" should have been included on respondent's invoice.

The evidence sustains those charges in the complaint which are covered by the hearing examiner's order. However, respondent argues that on the basis of the allegations and findings in this case, it is incumbent on counsel supporting the complaint to show why

the public interest requires the issuance of a formal order. It is well settled that the Commission has broad discretion in determining whether a proceeding would be to the interest of the public. *Federal Trade Commission v. Klesner* 280 U.S. 19 (1929). It is likewise

exempt from the requirements of the Act under the provisions of Rule 38(c). It is not necessary to determine whether or not the advertisement was of an institutional type. Rule 38(a) contains an

express provision that "when animal names are used in such advertising, such names shall be those set forth in the Fur Products Name Guide." Thus, regardless of whether the advertisement was of the institutional type, respondent's failure to disclose the type of fox producing the furs referred to therein constituted a violation of the Act.

The hearing examiner also found that the kind of fox was not specified in an advertisement offering fox boa-ties "of beautiful fox * * *. In natural platina, natural silver or natural blue bleached white." Respondent's argument is that the words "platina", "silver" and "blue" are proper designations in the Name Guide as required

the animal appearing in the Name Guide consists of two separate words, the second word shall precede the first in designating the name of the animal in the required information. In the list of

Decision

57 F.T.C.

FINAL ORDER

This matter having been heard by the Commission upon appeal

ent's appeal from the hearing examiner's initial decision; and

The Commission, for the reasons stated in the accompanying opinion, having denied the aforementioned appeal and having modified the initial decision to the extent necessary to conform to the views expressed in said opinion:

It is ordered, That the initial decision of the hearing examiner, as so modified, be, and it hereby is, adopted as the decision of the Commission.

It is further ordered, That the respondent, Hoving Corporation, a corporation, shall, within sixty (60) days after service upon it of this order, file with the Commission a report, in writing, setting