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 or other means of identification attached to such products the information required under Section 4(a)(2)(A) of the Wool Products Labeling Act with respect to each specifically designated section of a wool product composed of two or more sections where such sections are of a different fiber composition and are recognizably distinct.

4. Falsely or deceptively designating the character or amount of the fibers contained in any section of a wool product composed of two or more sections which are recognizably distinct in violation of Rule 23 of the Rules and Regulations promulgated pursuant to the Wool Products Labeling Act of 1939.

It is further ordered, That the charges contained in paragraph ten of the complaint be, and the same hereby are, dismissed.

It is further ordered, That the initial decision as modified herein be, and it hereby is, adopted as the decision of the Commission.

It is further ordered, That the respondents named in the preamble of the order to cease and desist 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.

Commissioner Tait not participating.

IN THE MATTER OF

HOVING CORPORATION

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

Docket 7195. Complaint, July 18, 1958[1]*—Decision, Sept. 23, 1960*

Order requiring a corporation trading as "Bonwit Teller", with retail stores in New York City, Chicago, Cleveland, and other cities, to cease violating the Fur Products Labeling Act by labeling which deceptively identified the animals producing certain furs or named an additional animal; by advertising in newspapers and otherwise which failed to disclose the names of animals producing certain furs or the country of origin of imported furs, failed to disclose when fur products contained artificially colored or cheap or waste

[1] Amended and Supplemental Complaint dated Mar. 9, 1959.

fur, and contained the name of another animal than that producing certain fur; and by failing in other respects to comply with labeling and invoicing 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 Products Labeling Act and the Rules and Regulations thereunder. After hearings and submission of proposed findings, conclusions and order, and upon the basis of the entire record, the following findings of fact are made, conclusions drawn and order issued.

1. Respondent Hoving Corporation is a Delaware corporation having its principal place of business at 721 Fifth Avenue, New York City. It is engaged, in interstate commerce, in the business of selling women's wearing apparel and accessories, including articles comprised, in whole or in part, of fur. It trades under the name "Bonwit Teller" and maintains retail stores at 721 Fifth Avenue, New York City, and in Cleveland, Chicago, and other cities. Its sales volume during the fiscal year 1957 in all of its seven stores was in excess of $33,000,000, involving the sale of approximately 2,000,000 items; and it has more than 250,000 charge account customers throughout the United States. Fur products represent approximately 1½% to 2% of respondent's total business. As an incident to its business it causes numerous advertisements to be printed in various newspapers, magazines and other periodicals.

2. The original complaint, issued July 18, 1958, was superseded by an amended and supplemental complaint dated March 9, 1959, mailed March 18, 1959. This procedeing is to be determined upon the charges in the amended complaint, which fall into three general categories—false labeling, false invoicing and false advertising.

A. *Labeling Charges, Paragraphs 3 through 6*:

3. Under this general classification there are several charges more or less specifically set forth, as follows:

(a) Certain fur products were falsely and deceptively identified with respect to the name or names of the animal or animals which produced the fur—a violation of § 4(1) of the Act;

(b) Certain fur products were not labeled as required by § 4(2) of the Act and the Rules and Regulations thereunder;

(c) Certain fur products were misbranded in that the labels contained the name of an animal in addition to the name of the animal

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 and in accordance with the Rules and Regulations in the following respects:

(1) Required information was abbreviated—a violation of Rule 4;

(2) Required information was mingled with non-required information—a violation of Rule 29(a);

(3) Required information was set forth in handwriting—a violation of Rule 29(b);

(4) Item numbers or marks were not set forth on labels—a violation of Rule 40.

4. To support the labeling charges there was introduced into evidence a white mink muff which was procured from respondent's New York store on December 5, 1958, by an investigator from the Commission's New York office, accompanied by Mr. Mac Shuler, who conducts in New York a resident fur-buying business for out-of-town stores. The label on the muff contained the following information:

Bleached white mink plate; fur origin: USA; item #5; style 1407; RN 3971.

The muff was fabricated from what is known in the trade as a "plate", which consists of small pieces of fur from the bellies or flanks of minks, sewn together to form a larger rectangular piece approximately 8″ x 12″ in size. The pieces were small sections which had "fallen off the furrier's table during the operation of making a mink garment." Counsel have "joined in recommending" that such pieces may be referred to as "waste fur". The fur had been bleached to achieve a white color. Its selling price, exclusive of tax, was $39.50. If it had been fabricated from average quality whole white mink skins, the price would have been "in the neighborhood of $350 last December, figuring on a basis of 6 skins at $240, plus labor, plus markup". The value of the mink plate actually used, in the same market, was estimated roughly by the Commission's expert witness at 5¢ per square inch. The muff was manufactured by Miss Alice, Inc., and the cost of the fur contained, exclusive of cost of incorporating it into the muff, was stated to be less than $5.00.

No labels or tags relating to any other fur product are in evidence.

5. Counsel for the respondent contend that since the manufacturer's cost of the fur contained in the mink muff did not exceed $5.00, the product, under Rule 39, is exempt from the requirements of the Act. The applicable part of Rule 39 reads as follows:

(a) Where the cost of any manufactured fur or furs contained in a fur product, exclusive of any costs incident to its incorporation therein, does not exceed five dollars ($5.00), or where a manufacturer's selling price of a fur product does

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 exempt from the requirements of the Act and Regulations; * * *.

By labeling the muff, respondent made certain representations concerning the fur contained therein, and therefore the fur product is not exempt from the requirements of the Act and the Regulations.

6. Assessing the label on the basis of the charges, it must be concluded that the label clearly (a) discloses the name of the animal which produced the fur; (b) contains no name of an animal other than that which produced the fur; (c) contains no abbreviation except USA, which has repeatedly been disregarded in the Commission's decisions as a violation of Rule 4; (d) does not mingle required infromation with nonrequired information; (e) does not set forth the required information in handwriting; (f) discloses the item number of the product.

There is a provision in § 4(2)(D) of the Act that the label must disclose "that the fur product is composed in whole or in substantial part of paws, tails, bellies, or waste fur, when such is the fact." Rule 20(a), which further elucidates § 4(2)(D) of the Act, provides:

Where fur products, or fur mats and plates, are composed in whole or in substantial part of paws, tails, bellies, sides, flanks, gills, ears, throats, heads, scrap pieces or waste fur, such fact shall be disclosed a a part of the required information in labeling, invoicing and advertising. Where a fur product is made of the backs of skins such fact may be set out in labels, invoices and advertising.

"Rule 20," respondent says, "is, in effect, a tautology, in reality, saying that a 'plate' is a 'plate', and the information which it requires is unnecessary and unreasonable." What the respondent contends is that by use of the word "plate" the label clearly discloses that the muff is made of pieces of bellies, or waste fur. To the fur industry that may be the case, but the Act and the Rules were adopted for the protection of the public and not for members of the industry. Respondent's label, by failing to disclose that the muff was made of scrap pieces of bellies or flanks, or waste fur, does not comply with the relevant requirements of the Act and the Rules.

7. In concluding this section, it is found that respondent, through labeling this mink muff as it did, has violated the provisions of the Act and the Rules as to labeling by not conforming to the requirements of § 4(2)(D) thereof and the Rules relevant thereto.

B. *Invoicing Charges—Paragraphs 7 and 8 of Complaint*:

8. There are two invoicing charges:

(a) a general charge that certain fur products were not invoiced as required by § 5(b)(1) of the Act and the Rules thereunder, and

(b) that required information was set forth in abbreviated form, violating § 5(b)(1) of the Act and Rule 4 thereunder.

9. There are three invoices in evidence.

(a) One is a sales slip issued by Bonwit Teller to the purchaser 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 muff. It does not show that the fur product was dyed or bleached, or made of bellies, flanks or waste fur, as required by §5 (b) (1) of the Act.

(b) Another sales slip was issued by Bonwit Teller to Max Azen, in which the fur product is described as a

White Mink Set.

With reference to this product the purchaser, a fur expert, stated by affidavit 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". Because of the small size of the pieces it must be concluded that the fur product covered by this invoice was made of scrap pieces or waste fur. Being white mink, the fur must have been dyed or bleached. By not disclosing these facts this invoice was faulty and did not comply with the requirement of § 5(b) (1) of the Act and the Rules thereunder. This fur set was purchased by Azen on the basis of an advertisement in the New York Times of November 24, 1957.

(c) The third sales slip shows that it was issued by Bonwit Teller for a "Beige Otter Coat". It was stipulated that otter fur in its natural state is dark brown in color ,and if it is beige in a fur garment, the fur would of necessity be dyed, bleached or otherwise artificially colored. This information is not disclosed on the sales slip, which is therefore faulty.

10. In concluding this section, it is found that in its invoicing respondent has violated § 5(b) (1) of the Act and Rule 4 of the Rules and Regulations as charged.

C. *Advertising Charges—Paragraphs 9 and 10*:

11. The complaint charges that in its advertising respondent has violated § 5(a) (1), (3), (4), (5) and (6) of the Fur Act and Rule 20.

(a) by failing to disclose the name or names of the animal or animals that produced certain furs;

(b) by setting forth the name of an animal in addition to the name of the animal that produced certain furs;

(c) by failing to disclose the name of the country of origin of certain imported furs;

(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 composed in whole or in part of paws, tails, bellies, or waste fur.

12. To support the foregoing charges, the following advertisements were presented:

(1) In the New York Herald Tribune of December 3, 1958 (CX 4), respondent advertised "mink, chinchilla, fox" furs, but did not disclose the type of fox as specified in the Name Guide, and so did not comply with §5 (a) of the Act and the Rules thereunder.

(2) Two identical advertisements, one in the Cleveland Press of December 7, 1956 (CX 2A), and the other in the Cleveland Plain Dealer of December 14, 1956 (CX 1A), described a "barrel muff" as being "Black Fox" and "Black-dyed fox from Finland". The muff advertised was constructed of the fur of the Red Fox imported from Finland and dyed black. The designation in the advertisement does not disclose properly the name of the animal that produced the fur.

(3) In advertisements appearing in the Plain Dealer of November 10, 1957 (CX 1C) and December 1, 1957 (CX 1E) and in the Press of December 13, 1957 (CX 2B), respondent advertised a "black fox barrel muff" as "black dyed red fox from Finland". Black Fox and Red Fox are accepted in the Name Guide as proper animal designations, but both cannot be properly used as animal designations for the same fur.

(4) An advertisement in the Plain Dealer of August 18, 1957 (CX 1B) is of a "hip line tweed, collared in black lapin" suit. Black lapin is an improper description, not recognized by the Name Guide.

(5) The Plain Dealer of November 23, 1958 (CX 1H), the Cleveland Press of December 5, 1958 (CX 2C), and the New York Times of November 23, 1958 (CX 3D) advertise fox boa-ties "of beautiful fox * * * in natural platina, natural silver or natural blue bleached white. All labeled country of origin". The kind of fox is not specified, as required by the Act and Rules.

(6) In the New York Times of September 29, 1957 (CX 3A) is a respondent's advertisement of a black and white tweed coat with "dyed black Alaskan seal collar". "Alaskan" is not one of the types of seal listed in the Name Guide. "Seal" in itself is not a complete name.

(7) A Plain Dealer advertisement of November 14, 1958 (CX 1G) is of an "African leopard" beret and muff to match. The fault is that "African" refers to a continent rather than a country. The name of the "country of origin" is required.

(8) The New York Times of November 24, 1957 (CX 3B) carried respondent's advertisement of hat-and-muff sets "Natural ranch,

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 was an advertisement of mink fur sets "in white, black or ranch 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 advertised a "belted jacket of American broadtail". "American broadtail" is not a name listed in the Name Guide nor a term recognized by Rule 8. It is therefore an improper designation of the name of the animal that produced the fur of which the jacket was composed. Counsel supporting the complaint urges that there were other faults in this particular advertisement, but his conclusions are based on the testimony of an expert who undertook, without further information, to identify specifically the fur contained in the jacket pictured in the Bazaar. It is doubtful that a positive, specific identification can be so made. Furthermore, accepting the contentions of counsel supporting the complaint as correct, no violations would be found in addition to those which have been pointed out and established by other advertisements of record.

CONCLUSIONS

This proceeding is in the public interest.

The Federal Trade Commission has jurisdiction herein.

The acts and practices hereinabove found to be in violation of the Fur Products Labeling Act, and the Rules and Regulations promulgated thereunder, constituted and now constitute unfair and deceptive acts and practices in commerce, within the intent and meaning of the Federal Trade Commission Act. Therefore,

It is ordered, That the respondent, Hoving Corporation, a corporation, and its officers, 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 com-

merce, of fur products, or in connection with the sale, advertising, offering for sale, transportation or distribution of fur products which have been 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: 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. Falsely or deceptively invoicing fur products by: Failing to furnish to purchasers of fur products an invocie showing all of the information required to be disclosed by each of the subsections of § 5(b)(1) of the Fur Products Labeling Act;

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 disclose 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 said Rules and Regulations;

2. Fails to disclose that the fur product or fur is bleached, dyed or otherwise artificially colored, when such is the fact;

3. Fails to disclose that the fur product is composed in whole or in substantial part of paws, tails, bellies, or waste fur, when such is the fact;

4. Contains the name of an animal in addition to the name of the animal that produced the fur;

5. Fails to disclose the name of the country of origin of imported furs contained in fur products.

OPINION OF THE COMMISSION

By ANDERSON, *Commissioner*:

Respondent is charged with misbranding, false invoicing and false advertising of fur products in violation of the Fur Products Labeling Act and the rules and regulations promulgated thereunder. The hearing examiner held in his initial decision that the allegations were sustained in part and ordered respondent to cease and desist from the practices found to be unlawful. Respondent has appealed from this decision.

The complaint was originally issued on July 18, 1958. Prior to any hearings for the reception of testimony, counsel supporting the

complaint filed a motion with the hearing examiner to amend the complaint so as to include two additional advertising charges. This motion was denied by the hearing examiner on the ground that he did not have authority under § 3.9 of the Rules of Practice to allow the amendment. On February 10, 1959, counsel supporting the complaint filed a motion for amended and supplemental complaint, which was essentially the same as the previous motion, together with a motion to the hearing examiner to certify the proceeding to the Commission for its determination. Thereafter, the proceeding was certified to the Commission, the motion was granted, and an amended and supplemental complaint was issued by the Commission on March 9, 1959.

Respondent's first contention is that the Commission's order of March 9, 1959, was null and void since the motion for certification was filed subsequent to the ten-day period provided in § 3.20 of the Rules of Practice for the filing of interlocutory appeals. It appears, however, that the motion for certification was not an appeal from the hearing examiner's action. The hearing examiner's ruling was not based on the merits of the motion and it is obvious from the motion to certify that the counsel supporting the complaint was in accord with the hearing examiner's decision that the requested action exceeded his authority. The medium of certification was not a means to thwart the provisions of § 3.20 as urged by respondent, but was a proper method of presenting the matter to the Commission which itself has administrative responsibility to issue a complaint or to amend and supplement an existing complaint whenever it has "reason to believe" that a provision of the laws it administers is, or has been, violated. Respondent was not prejudiced by the Commission's action and its appeal on this point is denied.

Respondent next argues that the hearing examiner erred in admitting evidence of violations which occurred after issuance of the original complaint. The original complaint was superseded by the amended and supplemental complaint which was, in effect, the commencement of a new action by the Commission. Since the evidence sought to be excluded was offered in proof of violations which occurred prior to the new action, respondent's argument must be rejected.

Respondent contends that the hearing examiner erred in finding violations of subsection D of Section 4(2) and subsection D of section 5(b)(1) of the Act since violations of those subsections were not specifically charged. In so contending, respondent misconceives the scope and purpose of Sections 4(2) and 5(b)(1). Paragraph Four of the complaint charges that certain of respondent's fur products were misbranded in that they were not labeled as required under

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 misbranding and false invoicing of fur products. Under the Act, a fur product is misbranded and the introduction, or manufacture of it for introduction, into commerce, 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 contemplated by Section 5(b)(1). The violations with which the subsections are concerned consist of the failure to attach to a fur garment an adequate label as there prescribed or to deliver to the customer in connection with the sale an invoice that imparts all required information. The subsections do not deal with separate violations in and of themselves, nor do they recognize or excuse misbranding or false invoicing in varying degrees. Under the plain language of the statute, the offense of misbranding or false invoicing occurs either by reason of failure to attach to a fur product a label or to issue in connection with its sale an invoice, or failure to include on a label which is attached or to show on an invoice which is issued each of the items of information which the statute requires.

Thus, the charges that certain of respondent's fur products were misbranded and falsely invoiced because they were not labeled and invoiced as required by Section 4(2) and 5(b)(1), respectively, were clearly sufficient to inform respondent of the practices alleged to be in violation of the law. The fact that the complaint did not go further and specify the information alleged to have been omitted from the labels and invoices, namely, that the fur products were composed in whole or in substantial part of paws, tails, bellies, or waste fur, when such was the fact, is immaterial. "Pleadings before the Commission are not required to meet the standards of pleadings in a court where issues are attempted to be framed with a measure of exactness which is designed to limit the broad sweep of investigation that characterizes the proceedings of administrative bodies." *A. E. Staley Mfg. Co.* v. *Federal Trade Commission*, 135 F. 2d 453, 454 (7th Cir. 1943).

The label introduced into evidence to support the misbranding charge was attached to a mink muff and bears the wording "Bleached White Mink Plate." The record shows that in the fur industry the term "plate" as used with reference to this article, means that the product is composed of "pieces of small sections of the mink that have fallen off the furrier's table during his operation of making a

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 product 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 showing on the label, the product was clearly misbranded.

Respondent has raised several objections to the hearing examiner's refusal to rule that certain of its fur products were exempt from the requirements of the Act and the Rules and Regulations by the provisions of Rule 39(a). The part of the rule relied on by respondent reads as follows:

(a) Where the cost of any manufactured fur or furs contained in a fur product, exclusive of any costs incident to its incorporation therein, does not exceed five dollars ($5.00), or where a manufacturer's selling price of a fur product does not exceed five dollars ($5.00), and no express or implied representations is made concerning the fur contained in such product * * *, the fur product shall be exempt from the requirements of the Act and Regulations;

The record discloses that the cost of the fur in the muff introduced into evidence in this case did not exceed $5.00. The only labels or tags in evidence are those which were attached to that muff. As we have previously stated, the label bears the wording "Bleached White Mink Plate." The hearing examiner found that by labeling the muff, respondent made certain representations concerning the fur contained in the product, and that therefore the product was not exempt.

Respondent contends that since the hearing examiner did not specify the representations which were made, his findings were deficient. It appears, however, that the representations used on the label were set out verbatim in the initial decision, and since this is the only label in evidence, the statement thereon obviously must have been the one on which the finding was based. We find that the words "Bleached White Mink Plate" constitute representations concerning the fur within the intent and meaning of Rule 39(a).

Respondent next argues that Rule 39, insofar as it purports to withdraw the exemption from an otherwise exempt item in the event an express or implied representation is made concerning the fur contained therein, was beyond the authority of the Commission to make. The Commission's general authority to prescribe rules and regulations under the Fur Act is granted by Section 8(b). Under this section, the Commission is authorized and directed to prescribe not only rules and regulations governing the disclosure of required

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 section a "fur product" is defined as "any article of wearing apparel 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 reason of the relatively small quantity or value of the fur or used fur contained therein." Thus the Commission was specifically charged with the duty of determining which, if any, fur products should be exempt from the statutory requirements by reason of the relatively small quantity or value of the fur contained therein, and of prescribing appropriate regulations thereon. In the exercise of this duty, the Commission, after appropriate proceedings, promulgated Rule 39. Under this rule, and subject to the other provisions thereof, a fur product is exempt if, but only if, the cost of the fur contained in the product does not exceed five dollars, or the manufacturer's selling price of the product does not exceed five dollars, and, in either case, if no express or implied representation is made concerning the fur. Obviously, this does not withdraw from the requirements of the statute an exemption otherwise allowed, but establishes a condition which must exist before the exemption applies. In our view, this condition is fully consistent with the stated purpose of the Act to protect consumers and with the general authorization in Section 8(b).

Respondent's contention that the rule was illegally promulgated for the reason that it does not contain a concise general statement of its basis and purpose as required by Section 4(b) of the Administrative Procedure Act, 5 U.S.C.A. Section 1003(b), is rejected upon the authority of *Courtaulds, Inc.* v. *Federal Trade Commission, et al.*, D.C. Cir., March 4, 1960, and the case cited therein. Also, contrary to the contention of respondent, that portion of Rule 39 relating to representations concerning the fur in a fur product was discussed at the public hearings on the proposed rules and regulations held on June 3, 1952. (See transcript of hearings, Docket 204-4, pages 104, 105.)

Respondent contends that the hearing examiner erred in finding that an invoice describing a fur product as a "Beige Otter Coat" violates Section 5(b)(1) of the Act. Respondent concedes that the fur in this coat was bleached, but argues that there is no proof that the use of the term "beige" was not sufficient to show this fact. This argument is rejected. We agree with the hearing examiner's finding that the word "beige" does not meet the statutory directive of Sec-

tion 5(b)(1), which as implemented by Rule 19 requires that where 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 settled that it is in the public interest to prevent the sale of commodities by deceptive methods. *Federal Trade Commission* v. *Royal Milling Co.*, 288 U.S. 212 (1933). Where the Commission has determined that a proceeding is warranted in the public interest and has issued its complaint and found a violation of its statutes, there is no requirement for a specific finding that the issuance of an order to cease and desist is in the public interest. *Northern Feather Works, Inc.* v. *Federal Trade Commission*, 234 F. 2d 335 (3rd Cir. 1956). In the case of a statute such as the one here involved, any clear and actual violation, even though shown to have been engaged in only once, constitutes ground for issuance of an appropriate order. *The Fair* v. *Federal Trade Commission*, 272 F. 2d 609 (7th Cir., 1959).

The hearing examiner's order requires respondent to properly set forth on its labels and invoices all of the information required to be disclosed by each of the six subsections of Section 4(2) and Section 5(b)(1) of the Act, respectively. Respondent contends that this order is improper since the hearing examiner found a violation of only one of the subsections of Section 4(2) and two of the subsections of Section 5(b)(1). This same argument was considered by the Commission in the matter of *Mandel Brothers, Inc., supra*, in which case the Supreme Court approved an order of like scope under similar circumstances (359 U.S. 385). For the reasons set forth in the Commission's opinion in that case, the respondent's objections to the order here are denied.

Respondent also argues that the hearing examiner was in error in holding that certain of its advertisements violated the Act. One such advertisement, published in the December 3, 1958, issue of the New York Herald Tribune, contained the representation "mink, chinchilla, fox" furs. The hearing examiner ruled that the failure to disclose the type of fox as specified in the Name Guide constituted a violation of Section 5(a). Respondent contends that the advertisement was of an institutional type and that, as such, it was

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(c) 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 by Section 5(a)(1). Rule 5(b) provides that where the name of 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 names of the various kinds of fox in the Name Guide, the words "Platinum", "Silver" and "Blue" are the second words. The hearing examiner's finding is correct.

Respondent has taken exception to the hearing examiner's rulings on certain other of its advertisements. From a careful review of the record, we are convinced that the evidence fully supports the hearing examiner's findings and we are in accord with his conclusions and his order based thereon. Respondent's arguments on these points are rejected.

Although no appeal has been taken on this point, the hearing examiner found that in its invoicing respondent has violated Rule 4 of the Rules and Regulations. This rule provides that required information shall not be abbreviated but shall be spelled out fully. The finding is based on an abbreviation of the word "White" in the designation "Whi Mink Muff" appearing on the invoice referred to in paragraph 9(a) of the initial decision. As the word "White" is not information required to be disclosed under the Act and the Rules, there is no factual basis for the hearing examiner's finding. Accordingly, the initial decision will be modified by striking from paragraph 10 the words "and Rule 4 of the Rules and Regulations."

In view of the foregoing, respondent's appeal is denied. As modified in accordance with this opinion, the initial decision will be adopted as the decision of the Committee.

Commissioner Tait did not participate in the decision of this matter.

FINAL ORDER

This matter having been heard by the Commission upon respondent'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 forth in detail the manner and form in which it has complied with the order contained in said initial decision.

Commissioner Tait not participating.

IN THE MATTER OF

THE LAFAYETTE BRASS MANUFACTURING COMPANY, INC., ET AL.

ORDER, ETC., IN REGARD TO THE ALLEGED VIOLATION OF THE FEDERAL TRADE COMMISSION ACT

Docket 6671. Complaint, Oct. 31, 1956—Decision, Sept. 27, 1960

Order requiring two associated corporations and their common officer-owners to cease using the word "Manufacturing" as part of their corporate or trade names unless it is clearly disclosed in immediate connection and conjunction with each such name that such corporation is primarily a distributor and assembler of the products it sells.

Charges of failure to reveal foreign origin of products, representing them to be of domestic origin, and misrepresenting the extent to which their lawn sprinklers could withstand water pressure were settled by consent order dated July 23, 1957, 54 F.T.C. 117.

Mr. Berryman Davis for the Commission.

Mr. Charles Korn, of New York, N.Y., for respondents.

INITIAL DECISION BY JAMES A. PURCELL, HEARING EXAMINER

All of the issues originally involved in this proceeding except those raised by paragraph 9 and 10 of the complaint have been adjudicated as to all parties by an Initial Decision *pro tanto* issued by the hearing examiner June 10, 1957, and adopted by the Commission July 23, 1957.