



[BILLING CODE: 6750-01S]

FEDERAL TRADE COMMISSION

[Files No. 082 3199, 122 3063, 122 3065]

The Neiman Marcus Group, Inc.; Dr.Jays.com, Inc., Eminent, Inc.; Analysis of Proposed Consent Orders to Aid Public Comment

AGENCY: Federal Trade Commission.

ACTION: Proposed Consent Agreements.

SUMMARY: The consent agreements in this matter settle alleged violations of federal law prohibiting unfair or deceptive acts or practices or unfair methods of competition. The attached Analysis to Aid Public Comment describes both the allegations in the draft complaints and the terms of the consent orders -- embodied in the consent agreements -- that would settle these allegations.

DATES: Comments must be received on or before April 18, 2013.

ADDRESSES: Interested parties may file a comment at

<https://ftcpublic.commentworks.com/ftc/neimanmarcusconsent>;

<https://ftcpublic.commentworks.com/ftc/drjaysconsent>; or

<https://ftcpublic.commentworks.com/ftc/eminentconsent> online or on paper, by following the

instructions in the Request for Comment part of the **SUPPLEMENTARY INFORMATION**

section below. Write “Neiman Marcus, File No. 082 3199” or “Dr.Jays.com, File No. 122 3063”

or “Eminent, File No. 122 3065” on your comment and file your comment online at

<https://ftcpublic.commentworks.com/ftc/neimanmarcusconsent>;

<https://ftcpublic.commentworks.com/ftc/drjaysconsent>; or

<https://ftcpublic.commentworks.com/ftc/eminentconsent> by following the instructions on the web-based form. If you prefer to file your comment on paper, mail or deliver your comment to the following address: Federal Trade Commission, Office of the Secretary, Room H-113 (Annex D), 600 Pennsylvania Avenue, NW, Washington, DC 20580.

FOR FURTHER INFORMATION CONTACT: Matt Wilshire (202-326-2976), FTC, Bureau of Consumer Protection, 600 Pennsylvania Avenue, NW, Washington, D.C. 20580.

SUPPLEMENTARY INFORMATION: Pursuant to Section 6(f) of the Federal Trade Commission Act, 15 U.S.C. 46(f), and FTC Rule 2.34, 16 CFR 2.34, notice is hereby given that the above-captioned consent agreements containing consent orders to cease and desist, having been filed with and accepted, subject to final approval, by the Commission, have been placed on the public record for a period of thirty (30) days. The following Analysis to Aid Public Comment describes the terms of the consent agreements, and the allegations in the complaints. An electronic copy of the full text of the consent agreement packages can be obtained from the FTC Home Page (for March 19, 2013), on the World Wide Web, at <http://www.ftc.gov/os/actions.shtm>. Paper copies can be obtained from the FTC Public Reference Room, Room 130-H, 600 Pennsylvania Avenue, NW, Washington, D.C. 20580, either in person or by calling (202) 326-2222.

You can file a comment online or on paper. For the Commission to consider your comment, we must receive it on or before April 18, 2013. Write “Neiman Marcus, File No. 082 3199” or “Dr.Jays.com, File No. 122 3063” or “Eminent, File No. 122 3065” on your comment. Your comment – including your name and your state – will be placed on the public record of this proceeding, including, to the extent practicable, on the public Commission Website, at <http://www.ftc.gov/os/publiccomments.shtm>. As a matter of discretion, the Commission tries to

remove individuals' home contact information from comments before placing them on the Commission Website.

Because your comment will be made public, you are solely responsible for making sure that your comment does not include any sensitive personal information, like anyone's Social Security number, date of birth, driver's license number or other state identification number or foreign country equivalent, passport number, financial account number, or credit or debit card number. You are also solely responsible for making sure that your comment does not include any sensitive health information, like medical records or other individually identifiable health information. In addition, do not include any "[t]rade secret or any commercial or financial information which . . . is privileged or confidential," as discussed in Section 6(f) of the FTC Act, 15 U.S.C. 46(f), and FTC Rule 4.10(a)(2), 16 CFR 4.10(a)(2). In particular, do not include competitively sensitive information such as costs, sales statistics, inventories, formulas, patterns, devices, manufacturing processes, or customer names.

If you want the Commission to give your comment confidential treatment, you must file it in paper form, with a request for confidential treatment, and you have to follow the procedure explained in FTC Rule 4.9(c), 16 CFR 4.9(c).¹ Your comment will be kept confidential only if the FTC General Counsel, in his or her sole discretion, grants your request in accordance with the law and the public interest.

Postal mail addressed to the Commission is subject to delay due to heightened security screening. As a result, we encourage you to submit your comments online. To make sure that the

¹ In particular, the written request for confidential treatment that accompanies the comment must include the factual and legal basis for the request, and must identify the specific portions of the comment to be withheld from the public record. *See* FTC Rule 4.9(c), 16 CFR 4.9(c).

Commission considers your online comment, you must file it at <https://ftcpublic.commentworks.com/ftc/neimanmarcusconsent>; <https://ftcpublic.commentworks.com/ftc/drjaysconsent>; or <https://ftcpublic.commentworks.com/ftc/eminentconsent> by following the instructions on the web-based form. If this Notice appears at <http://www.regulations.gov/#!/home>, you also may file a comment through that website.

If you file your comment on paper, write “Neiman Marcus, File No. 082 3199” or “Dr.Jays.com, File No. 122 3063” or “Eminent, File No. 122 3065” on your comment and on the envelope, and mail or deliver it to the following address: Federal Trade Commission, Office of the Secretary, Room H-113 (Annex D), 600 Pennsylvania Avenue, NW, Washington, DC 20580. If possible, submit your paper comment to the Commission by courier or overnight service.

Visit the Commission Website at <http://www.ftc.gov> to read this Notice and the news release describing it. The FTC Act and other laws that the Commission administers permit the collection of public comments to consider and use in this proceeding as appropriate. The Commission will consider all timely and responsive public comments that it receives on or before April 18, 2013. You can find more information, including routine uses permitted by the Privacy Act, in the Commission’s privacy policy, at <http://www.ftc.gov/ftc/privacy.htm>.

Analysis of Agreement Containing Consent Orders to Aid Public Comment

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.

By direction of the Commission.

Donald S. Clark
Secretary.

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