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Title 12—BANKS AND BANKING

Chapter II—Federal Reserve System

SUBCHAPTER A—BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM

[Reg. Y]

PART 222—BANK HOLDING COMPANIES

§ 222.113 Services under section 4(a) of Bank Holding Company Act.

(a) The Board of Governors has been requested for an opinion as to whether the performance of certain functions by a bank holding company for four banks of which it owns less than 25 percent of the voting shares is in violation of section 4(a) of the Bank Holding Company Act.

(b) It is claimed that the holding company is engaged in "managing" four nonsubsidiary banks, for which services it receives "management fees." Specifically, the company engages in the following activities for the four nonsubsidiary banks: (1) Establishment and supervision of loaning policies; (2) direction of the purchase and sale of investment securities; (3) selection and training of officer personnel; (4) establishment and enforcement of operating policies; and (5) general supervision over all policies and practices.

(c) The question raised is whether these activities are prohibited by section 4(a)(2) of the Bank Holding Company Act, which permits a bank holding company to engage in only three categories of business: (1) Banking; (2) managing or controlling banks; and (3) furnishing services to or performing services for any bank of which the holding company owns or controls 25 percent or more of the voting shares.

(d) Clearly, the activities of the company with respect to the four nonsubsidiary banks do not constitute "banking." With respect to the business of "managing or controlling" banks, it is the Board's view that such business, within the purview of section 4(a)(2), is essentially the exercise of a broad governing influence of the sort usually exercised by bank stockholders, as distinguished from direct or active participation in the establishment or carrying out of particular policies or operations. The latter kinds of activities fall within the third category of businesses in which a bank holding company is permitted to engage. In the Board's view, the activities enumerated above fall in substantial part within that third category.

(e) Section 4(a)(2), like all other sections of the Holding Company Act, must be interpreted in the light of all of its provisions, as well as in the light of other sections of the Act. The expression "managing * * * banks," if it could be taken by itself, might appear to include activities of the sort enumerated. However, such an interpretation of those words would virtually nullify the last portion of section 4(a)(2), which permits a holding company to furnish services to or perform services for "any bank of which it owns or controls 25 per centum or more of the voting shares."

(f) Since Congress explicitly authorized the performance of services for banks that are at least 25 percent owned by a holding company, it obviously intended that the holding company should not perform services for banks in which it owns less than 25 percent of the voting shares. However, if the second category—"managing or controlling banks"—were interpreted to permit the holding company to perform services for any bank, including a bank in which it held less than 25 percent of the stock (or no stock whatsoever), the last clause of section 4(a)(2) would be meaningless.

(g) It is principally for this reason—that is, to give effective meaning to the final clause of section 4(a)(2)—that the Board interprets "managing or controlling banks" in that provision as referring to the exercise of a stockholder's management or control of banks, rather than direct and active participation in their operations. To repeat, such active participation in operations falls within the third category ("furnishing services to or performing services for any bank") and consequently may be engaged in only with respect to banks in which the holding company "owns or controls 25 per centum or more of the voting shares."

(h) Accordingly, it is the Board's conclusion that, in performing the services enumerated, the bank holding company is "furnishing services to or performing

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services for" the four banks referred to. Under the Act such furnishing or performing of services is permissible only if the holding company owns or controls 25 percent of the voting shares of each bank receiving such services, and, since the company owns less than 25 percent of the voting shares of these banks, it follows that these activities are prohibited by section 4(a)(2).

(i) While this conclusion is required, in the Board's opinion, by the language of the statute, it may be noted further that any other conclusion would make it possible for a bank holding company or any other corporation, through arrangements for the "managing" of banks in the manner here involved, to acquire effective control of banks without acquiring bank stocks and thus to evade the underlying objectives of section 3 of the Act.

(Sec. 5(b), 70 Stat. 137; 12 U.S.C. 1844)

Dated at Washington, D.C., this 10th day of December 1959.

[SEAL] MERRITT SHERMAN, *Secretary.*

[F.R. Doc. 60-329; Filed, Jan. 13, 1960; 8:45 a.m.]

Title 16—COMMERCIAL PRACTICES

Chapter I—Federal Trade Commission

[Docket 7092 o.]

PART 13—PROHIBITED TRADE PRACTICES

Brooklyn Fashion Center, Inc., and Sigmund Schwartz

Subpart—Advertising falsely or misleadingly: § 13.30 Composition of goods: 13.30-30 Fur Products Labeling Act;

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(Sec. 6, 38 Stat. 722; 15 U.S.C. 46. Interpret or apply sec. 5, 38 Stat. 719, as amended; sec. 8, 65 Stat. 179; 15 U.S.C. 45, 69f) [Cease and desist order, Brooklyn Fashion Center, Inc., et al., Brooklyn, N.Y., Docket 7092, November 20, 1959]

In the Matter of Brooklyn Fashion Center, Inc., a Corporation, and Sigmund Schwartz, an Individual and Officer of Said Corporation

This proceeding was heard by a hearing examiner on the complaint of the Commission charging operators of a retail ladies' clothing store in Brooklyn, N.Y., with violating the Fur Products Labeling Act in the offer for sale of 12 fur pieces which were "leftovers" of a stock they had purchased ten years before, by failing to comply with labeling requirements, and by advertising which failed to disclose the true name of the animal producing a fur and named other animals, and failed to disclose the country of origin of imported furs and the fact that some furs were artificially colored, and which used comparative prices and represented sale prices as reduced from regular prices without having any records as a basis for such pricing claims.

From the initial decision, complaint counsel appealed. Granting the appeal, the Commission directed modification of the order and, on November 20, adopted the initial decision as thus modified as the decision of the Commission.

The order to cease and desist is as follows:

It is ordered, That respondents, Brooklyn Fashion Center, Inc., a corporation, and its officers, and Sigmund Schwartz, as an individual and as an officer of said corporation, and respondents' agents, representatives and employees, directly or through any corporate or other device, in connection with the introduction into commerce or the sale, advertising, offering for sale, transportation or distribution of fur products, in commerce, 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:

1. 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 section 4(2) of the Fur Products Labeling Act.

2. Setting forth on labels affixed to fur products the name or names of any animal or animals other than 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 rules and regulations.

3. Setting forth on labels affixed to fur products:

(a) Information required under section 4(2) of the Fur Products Labeling Act and the rules and regulations promulgated thereunder mingled with non-required information.

(b) Information required under section 4(2) of the Fur Products Labeling Act and the rules and regulations promulgated thereunder in handwriting.

B. 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:

(a) 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 rules and regulations.

(b) That the fur product contains or is composed of bleached, dyed, or otherwise artificially colored fur when such is the fact.

(c) The name of the country of origin of any imported furs contained in the fur product.

2. Contains the name or names of any animal or animals other than the name or names provided for in section 5(a)(1) of the Fur Products Labeling Act and as prescribed under the rules and regulations.

C. Making price claims or representations in advertisements respecting comparative prices or reduced prices unless there are maintained by respondents adequate records disclosing the facts upon which such claims or representations are based.

By "Final Order", report of compliance was required as follows:

It is further ordered, That respondents, Brooklyn Fashion Center, Inc., and Sigmund Schwartz, 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 as modified.

Issued: November 20, 1959.

By the Commission.

[SEAL] ROBERT M. PARRISH, *Secretary.*

[F.R. Doc. 60-330; Filed, Jan. 13, 1960; 8:45 a.m.]

[Docket 6893 o.]

PART 13—PROHIBITED TRADE PRACTICES

Theodore Kagen Corp. et al.

Subpart—Neglecting, unfairly or deceptively, to make material disclosure: § 13.1845 Composition.

(Sec. 6, 38 Stat. 722; 15 U.S.C. 46. Interprets or applies sec. 5, 38 Stat. 719, as amended; 15 U.S.C. 45) [Cease and desist order, Theodore Kagen Corp. et al., New York, N.Y., Docket 6893, November 19, 1959]

In the Matter of Theodore Kagen Corp., a Corporation, and Theodore Kagen, Individually and as an Officer of Theodore Kagen Corp., and Doing Business as T. K. Co.

This case was heard by a hearing examiner on the complaint of the Commission charging New York City importers, engaged in assembling watches and wholesaling them to watchmakers, with selling watch cases incorporating bezels composed of aluminum treated to simulate gold or gold alloy without clearly disclosing that the bezels were composed of base metal; with falsely marking watchcases on the backs as "water-resistant" and "water-protected"; and with deceptive use of the word "manufacturers" on invoices and letterheads in connection with watchcases that they purchased from others.

Following the usual proceedings, the hearing examiner made his initial decision and order to cease and desist the practice of non-disclosure of base metal composition, and dismissed the other charges. Denying cross-appeals of both counsel, the Commission on November 19 adopted the initial decision as the decision of the Commission.

The order to cease and desist is as follows:

It is ordered, That the respondents, Theodore Kagen Corp., a corporation, and its officers, and Theodore Kagen, individually and as an officer of said corporation and doing business as T.K. Co., and respondents' representatives, agents and employees, directly or through any corporate or other device, in connection with the offering for sale, sale and distribution of watch cases in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from: Offering for sale or selling watch cases composed in whole or in part of base metal which has been treated to simulate precious metal, without clearly disclosing on such cases the true metal composition of such treated cases or parts.

It is further ordered, That as to all other issues the complaint be, and it hereby is, dismissed.

By "Final Order", report of compliance was required as follows:

It is ordered, That the respondents named in the caption hereof 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.

Issued: November 19, 1959.

By the Commission.

[SEAL] ROBERT M. PARRISH, *Secretary.*

[F.R. Doc. 60-331; Filed, Jan. 13, 1960; 8:46 a.m.]

[Docket 7002 o.]

PART 13—PROHIBITED TRADE PRACTICES

Stewart & Stevenson Services, Inc., et al.

Subpart—Combining or conspiring: § 13.430 To enhance, maintain or unify prices.

(Sec. 6, 38 Stat. 722; 15 U.S.C. 46. Interprets or applies sec. 5, 38 Stat. 719, as amended; 15 U.S.C. 45) [Cease and desist order, Stewart & Stevenson Services, Inc., et al., Docket 7002, Nov. 20, 1959]

In the Matter of Stewart & Stevenson Services, Inc., Lewis Diesel Engine Company (Inc.), of Memphis, Tennessee, Lewis Diesel Engine Company (Inc.), of Little Rock, Arkansas, Diesel Power Company, United Engines, Inc., Taylor Machinery Corporation, William Patrick Kennedy, Jr., trading as Kennedy Marine Engine Company, Kennedy Marine Engine Co., Inc., and George Engine Company, Inc.

This case was heard by a hearing examiner on the complaint of the Commission charging nine franchised wholesale distributors of General Motors diesel engines and replacement parts with conspiring to fix or maintain prices and selling conditions for the parts.

Five of the respondents executed consent orders effective May 23, 1959, 24 F.R. 5292. The complaint was dismissed as to one of the others.

As to the remaining three, the usual proceedings terminated in an initial decision from which one respondent appealed. The appeal was denied and on November 20 the initial decision was adopted as the decision of the Commission.

The order to cease and desist is as follows:

It is ordered, That the respondents, United Engines, Inc., a corporation, Taylor Machinery Corporation, and William Patrick Kennedy, Jr., trading as Kennedy Marine Engine Company, an individual, and their respective officers, agents, representatives, and employees, in, or in connection with the offering for sale, sale or distribution of replacement parts for diesel engines, in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from entering into, carrying out, continuing, or cooperating in, any planned common course of action, understanding, agreement, combination, or conspiracy between or among any two or more respondents, or between any one or more of them and others not parties hereto, or specifically named in this order, to establish, fix, or maintain prices, terms, or conditions of sale of replacement parts for diesel engines, or adhere to any prices, terms or conditions of sale so fixed or maintained.

It is further ordered, That the complaint be, and the same hereby is, dismissed as to Kennedy Marine Engine Co., Inc.

By "Final Order", report of compliance was required as follows:

It is further ordered, That respondents, United Engines, Inc., and Taylor Machinery Corporation, corporations, and William Patrick Kennedy, Jr., 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 contained in the initial decision.

Issued: November 20, 1959.

By the Commission.

[SEAL] ROBERT M. PARRISH, *Secretary.*

[F.R. Doc. 60-332; Filed, Jan. 13, 1960; 8:46 a.m.]

Title 24—HOUSING AND HOUSING CREDIT

Chapter III—Public Housing Administration, Housing and Home Finance Agency

PART 300—GENERAL PROCEDURAL PROVISIONS

PART 320—LOW-RENT HOUSING PROGRAM

Miscellaneous Amendments

Section 300.3 *Claims cognizable under the Federal Tort Claims Act* is amended as follows:

Paragraph (a)(1) is amended by deleting "$1,000" and inserting in lieu thereof "$2,500". As amended, paragraph (a)(1) reads as follows:

§ 300.3 Claims cognizable under the Federal Tort Claims Act.

(a) * * *

(1) They are for $2,500 or less;

§ 320.6 [Amendment]

Section 320.6 *Federally owned low-rent housing* is amended as follows:

Under the heading "California" the item "Brawley, Housing Authority of the County of Imperial, Post Office Box 1001, Brawley, Calif." is deleted.

Approved: January 6, 1960.

LAURENCE DAVERN, *Acting Commissioner.*

[F.R. Doc. 60-334; Filed, Jan. 13, 1960; 8:47 a.m.]

Title 50—WILDLIFE

Chapter I—Fish and Wildlife Service, Department of the Interior

SUBCHAPTER B—HUNTING AND POSSESSION OF WILDLIFE

PART 6—MIGRATORY BIRDS

Order Permitting Killing of Depredating Common Mergansers (American Mergansers) In, On, or Over Designated Lakes and Streams in Western Washington

Basis and purpose. It has been determined from investigations and observations made by the Bureau of Sport Fisheries and Wildlife and the Washington State Department of Game that serious depredations to trout populations in certain streams and lakes are occurring because of large numbers of common mergansers (American mergansers) present in western Washington. Because these depredations are so widespread in western Washington and cannot be considered as localized injury, it was further determined that these depredations can best be minimized or alleviated by permitting depredating common mergansers (American mergansers) to be killed and taken by shooting in any affected areas under specific conditions and restrictions. Accordingly, pursuant to authority contained in § 6.65, Code of Federal Regulations (23 F.R. 9712) and effective on the date of the publication in the FEDERAL REGISTER, it is ordered as follows:

1. (a) Common mergansers (American mergansers) may be killed by shooting only with a shotgun not larger than 10 gauge fired from the shoulder, during the daylight hours only on or over the following lakes and streams in western Washington when committing or about to commit serious depredations upon trout populations.

CLARK COUNTY

Lacamas Lake.

COWLITZ COUNTY

Silver Lake.
Yale Reservoir.

ISLAND COUNTY

Cranberry Lake.

SNOHOMISH COUNTY

Bosworth Lake.
Crabapple Lake.
Flowing Lake.
Goodwin Lake.
Ki Lake.
Loma Lake.
Martha Lake (Alderwood Manor).
Martha Lake (Warm Beach).
Roesiger Lake.
Serene Lake (Hwy. 99).
Shoecraft Lake.
Silver Lake.
Storm Lake.
Wagner Lake.

KING COUNTY

Ames Lake.
Beaver Lake.
Desire Lake.
Joy Lake.
Meridian Lake.
Morton Lake.
North Lake.
Pine Lake.
Shadow Lake.
Shady Lake.
Steel Lake.
Wilderness Lake.
Star Lake.

PACIFIC COUNTY

Loomis Lake.

PIERCE COUNTY

Bay Lake.
Clear Lake (Eatonville).
Crescent Lake.
Spanaway Lake.
Tanwax Lake.

KITSAP COUNTY

Kitsap Lake.
Mission Lake.
Scout Lake.
Wildcat Lake.

MASON COUNTY

Aldrich Lake.
Benson Lake.
Cady Lake.
Clara Lake.
Haven Lake.
Isabella Lake.
Nahwatzel Lake.
Panther Lake.
Phillips Lake.
Spencer Lake.
Tiger Lake.
Trask Lake.
Twin Lake.
U Lake.
Wooten Lake.

THURSTON COUNTY

Clear Lake (Bald Hills).
Deep Lake.
Hicks Lake.
Lawrence Lake.
McIntosh Lake.
Offut Lake.
Summit Lake.
Ward Lake.

WHATCOM COUNTY

Silver Lake.

SAN JUAN COUNTY

Hummel Lake.

SKAGIT COUNTY

Beaver Lake.
Cavanaugh Lake.
Clear Lake.
Hart Lake.
Pass Lake.

STREAMS

Chehalis River.
Cowlitz River.
Dosewallips River.
Duckabush River.
Dungeness River.
Elokomin River.
Grays River.
Green River.
Humptulips River.
Kalama River.
Lewis River and Forks.
Newaukum River.
Nisqually River.
North River.
Nooksack River.
Puyallup River.
Salmon River.
Satsop River.
Skagit River.
Skokomish River.
Skykomish River.
Snohomish River.
Snoqualmie River.
Sol Duc River.
Soos River.
Stillaquamish River.
Tilton River.
Tolt River.
Toutle River.
Washougal River.
Willapa River.
Wind River.
Wynooche River.

(b) The authorization to kill mergansers, as contained in this order shall terminate on April 10, 1960: *Provided,* If prior to that date it is found that the emergency condition no longer exists, the killing of common mergansers (American mergansers) as permitted under this order will be terminated earlier by publication of an order of revocation in the FEDERAL REGISTER.

(c) Common mergansers (American mergansers) killed under the provisions of this order may be used or donated to charitable institutions for food purposes and they may be donated to public museums or public scientific and educational institutions for exhibition, scientific, or educational purposes. No such birds may be sold, offered for sale, bartered, or shipped for purposes of sale or barter. Any such birds which cannot be used for the purposes stated herein shall be completely destroyed.

2. This order does not permit the killing of common mergansers (American mergansers) in violation of any State law or regulation. This order contemplates emergency measures designed to aid in relieving depredations and is not to be construed as a reopening or extension of any open hunting season prescribed by regulations promulgated under section 3 of the Migratory Bird Treaty Act (sec. 3, 40 Stat. 755, as amended, 16 U.S.C. 704).

Since immediate action is necessary to alleviate an emergency condition as described in the opening paragraph, notice and public procedure on this order are impracticable and may be waived under the exceptions provided in section 4(a) of the Administrative Procedure Act of June 11, 1946. Since this order also relieves restrictions which otherwise would preclude the killing of common mergansers (American mergansers), the thirty-day advance publication requirement imposed by section 4(c) of the Administrative Procedure Act of June 11, 1946, may be waived under the exceptions provided in such section.

Issued at Washington, D.C.,, and dated January 12, 1960.

D. H. JANZEN,
Director, Bureau of Sport Fisheries and Wildlife.

[F.R. Doc. 60-414; Filed, Jan. 13, 1960; 10:55 a.m.]

SUBCHAPTER C—MANAGEMENT OF WILDLIFE CONSERVATION AREAS

PART 34—SOUTHEASTERN REGION

Subpart—Kentucky Woodlands National Wildlife Refuge, Kentucky

HUNTING

Basis and purpose. Pursuant to the authority conferred upon the Secretary of the Interior by section 10 of the Migratory Bird Conservation Act of February 18, 1929 (45 Stat. 1224; 16 U.S.C. 715i), as amended and supplemented, and acting in accordance with the authority delegated to me by Commissioner's Order No. 4 (22 F.R. 8126), I have determined that the hunting of turkey gobblers during a part of the 1960 State season on the Kentucky Woodlands National Wildlife Refuge, Kentucky, would be consistent with the management of the refuge.

By Notice of Proposed Rule Making published in the FEDERAL REGISTER of December 3, 1959 (24 F.R. 9677), the public was invited to participate in the adoption of a proposed regulation (conforming substantially with the rule set forth below) which would permit the hunting of turkey gobblers during a part of the 1960 State season on the Kentucky Woodlands National Wildlife Refuge, Kentucky, by submitting written data, views, or arguments to the Director, Bureau of Sport Fisheries and Wildlife, Washington 25, D.C., within a period of 30 days from the date of publication. No comments, suggestions, or objections having been received within the 30-day period, the regulations constituting Part 34 are amended by adding § 34.62 to Subpart—Kentucky Woodlands National Wildlife Refuge, Kentucky, as follows:

§ 34.62 Hunting of turkey gobblers permitted.

Hunting of turkey gobblers is permitted on the Kentucky Woodlands National Wildlife Refuge, Kentucky, subject to the provisions of Parts 18 and 21 of this chapter and the following conditions:

(a) *Hunting methods and seasons.* Hunting with shotguns only, no larger than 12 gauge, slugs prohibited, is permitted April 27, 28, 29, 1960, inclusive, of turkey gobblers with visible beards. Strict compliance with all State laws and regulations is required. Hunters, upon entering or leaving the hunting area, shall report at such checking stations as may be established for regulating the hunting. All hunters shall check out of the refuge by 12 noon, c.s.t. The Regional Director shall regulate the number of turkey gobblers to be removed during the season.

(b) *Hunting area.* Hunting is permitted only on refuge lands directed by the Regional Director and as conspicuously posted by the officer-in-charge as open to public hunting: *Provided,* That the area open to public hunting shall not exceed 40 percent of the total lands within the boundaries of the refuge.

(c) *Hunting licenses and permits.* Any person who hunts within the refuge must possess a valid State hunting license, if such is required. In addition, each hunter must possess a Federal permit to hunt and must comply with the restrictions imposed by this permit.

(d) *Dogs.* No dogs are allowed in connection with the hunting of turkeys.

In accordance with the requirements imposed by section 4(c) of the Administrative Procedure Act of June 11, 1946, 60 Stat. 238; 5 U.S.C. 1003(c), the foregoing amendment shall become effective on the 31st day following publication in the FEDERAL REGISTER.

Dated: January 11, 1960.

D. H. JANZEN,
Director, Bureau of Sport Fisheries and Wildlife.

[F.R. Doc. 60-354; Filed, Jan. 13, 1960; 8:49 a.m.]