

IN THE MATTER OF

JACQUES E. GREENBERGER, ERNST GREENBERGER,
AND NORMAN J. GREENBERGER, PARTNERS DOING
BUSINESS UNDER THE TRADE NAME AND STYLE
GRAND RAPIDS FURNITURE MANUFACTURERS
WAREHOUSE ASSOCIATION, AND GRAND RAPIDS
FURNITURE MANUFACTURERS ASSOCIATION, INC.

COMPLAINT, FINDINGS AND ORDER IN REGARD TO THE ALLEGED VIOLATION
OF SECTION 5 OF AN ACT OF CONGRESS APPROVED SEPTEMBER 26, 1914.

Docket 1243—September 26, 1925.

SYLLABUS.

Where the City of Grand Rapids, Mich., had long been known as a large and important center of the furniture industry in the United States, manufacturers thereof through their organization, generally known and referred to by the trade and public as the Grand Rapids Furniture Manufacturers Association, expended large sums annually in advertising "Grand Rapids" and "Grand Rapids furniture" and in creating good will and demand therefor, the name "Grand Rapids" as associated with furniture had come to mean, and to be understood by the public as meaning, furniture made in said city, and Grand Rapids furniture had come to enjoy a wide spread popularity and demand and to be preferred by many to furniture made elsewhere; and thereafter a firm and its corporate successor, organized, operated and controlled by the former members thereof, engaged in the sale at retail in and from New York City of furniture which they bought from the manufacturers and resold at regular, full retail prices, and of which only a negligible proportion, not bought from Grand Rapids manufacturers, was made in said city; and neither representing, nor connected with, Grand Rapids manufacturers in any way, nor owning, interested in, controlling, nor operating any furniture factory; with full knowledge of the facts above set forth in reference to the Grand Rapids furniture industry;

- (a) Used and featured as their trade and corporate names the names "Grand Rapids Furniture Manufacturers Warehouse Association" and "Grand Rapids Furniture Manufacturers Association, Inc.";
- (b) Made numerous such statements in advertising their furniture under their aforesaid names as "Buy Grand Rapids Furniture—The Best in the World—Direct from the New York Branch Warehouse * * *," "The First time in New York's history Grand Rapids, the world's best furniture can now be bought at this New York branch warehouse. Shipments are coming regularly from our FACTORIES," "You can now buy from this New York branch, Grand Rapids, the world's finest and most durable furniture * * *," and conspicuously labeled such furniture as Grand Rapids furniture, and represented and sold the same as such;
- (c) Mailed post cards from Grand Rapids, Mich., to customers in eastern states, at the top of which cards they had printed the words "Grand Rapids, Mich.," together with an advertisement, over their aforesaid cor-

porate name, referring to themselves as the "New York Office" and to their address in the "New Building" as their "only New York address," procured and hung upon the walls of their store large photographs of Grand Rapids furniture factories, displayed prominently therein Grand Rapids daily papers, and represented themselves to prospective customers who came to their place of business, and in form letters sent out by them as a Grand Rapids concern dealing in Grand Rapids furniture only;

With the intent to deceive and mislead customers and prospective customers into believing they were Grand Rapids furniture manufacturers, or their representatives, operating a branch place of business and there selling Grand Rapids furniture, and of trading upon and usurping the reputation and good will established by and belonging to Grand Rapids furniture manufacturers; and with the effect of so doing;

- (d) Made their pretended connection with Grand Rapids factories a pretext for declining to make refund to dissatisfied and defrauded customers on the ground that said factories would not permit them to make such refunds, with the result that a feeling of bitterness and malice towards Grand Rapids manufacturers was thereby engendered in the aforesaid aggrieved and dissatisfied purchasers;
- (e) Marked or tagged their pieces of furniture with a figure double the price which they had determined upon, and made such statements in their advertisements as "Deduct 50 per cent from any piece of furniture. Self service in furniture buying," "You save 50 per cent by buying from us," "Furniture manufacturers warehouse selling surplus stock stored here by prominent manufacturers for disposition at once for cash. They are now offered far below manufacturers cost," "We guarantee to and do undersell any other furniture establishment by a margin of 30 per cent to 50 per cent," and in their form letters and other advertisements, asserted that their furniture was tagged and marked at regular retail prices and that they would permit any one to buy the same at "wholesale prices," namely, "one-half the market price," and in order to aid in the aforesaid deception inserted in advertisements, a "notice to dealers" to bring their "customers as usual, charge your price and pay us 50 per cent of the tag price"; with the effect of misleading and deceiving purchasers and prospective purchasers into believing that they were furniture manufacturers and that persons buying from them were dealing directly with the manufacturer and saving for themselves the usual middleman's profit, and with the intent so to do; and
- (f) Used false and fictitious names in form letters, and other transactions with the public, as a part of their policy to mislead and deceive the same in the sale of their furniture;

With the effect of lessening commerce in Grand Rapids furniture and of diverting trade from and otherwise prejudicing and injuring competitors who did not make use of such false, deceptive, and fraudulent practices:

Held, That such practices, under the circumstances set forth, constituted unfair methods of competition.

Mr. Morgan J. Doyle for the Commission.

Mr. Jesse I. Miller of Washington, D. C., for respondents.

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COMPLAINT.

Acting in the public interest pursuant to the provisions of an Act of Congress approved September 26, 1914, entitled "An Act To create a Federal Trade Commission, to define its powers and duties, and for other purposes," the Federal Trade Commission charges that Jacques E. Greenberger, Ernst Greenberger, and Norman J. Greenberger, partners, doing business under the trade name and style "Grand Rapids Furniture Manufacturers Warehouse Association"; and Grand Rapids Furniture Manufacturers Association, Inc., a corporation, hereinafter referred to as respondents, have been and are using unfair methods of competition in interstate commerce in violation of the provisions of Section 5 of said Act, and states its charges in that respect as follows:

PARAGRAPH 1. Respondents Jacques E. Greenberger, Ernst Greenberger and Norman J. Greenberger are partners and as such partners formerly did business under the trade name and style "Grand Rapids Furniture Manufacturers Warehouse Association," with their place of business at 518-526 W. Fifty-fifth Street in the City and State of New York, and were engaged in the business of selling furniture at retail. In the course of their said business, respondents made sales of furniture at retail to persons located at points in various States of the United States, and caused said furniture when so sold to be transported from their said place of business in the City and State of New York into and through other States of the United States to said persons at their respective points of location. In the course and conduct of their said business, respondents were in competition with other individuals, partnerships and corporations engaged in the sale and transportation of furniture in commerce between and among various States of the United States.

PAR. 2. Respondent Grand Rapids Furniture Manufacturers Association, Inc., is a corporation organized under the laws of the State of New York, with its principal office and place of business at 141-145 W. Seventeenth Street in the City of New York in said State, and is engaged in the business of selling furniture at retail. In the course of its said business, respondent corporation makes sales of furniture at retail to persons located at points in various States of the United States and causes said furniture when so sold to be transported from its said place of business in the City and State of New York into and through other States of the United States to said persons at their respective points of location. In the course and conduct of its said business respondent corporation is in

competition with other individuals, partnerships and corporations engaged in the sale and transportation of furniture in commerce between and among the various States of the United States.

PAR. 3. Respondents Jacques E. Greenberger, Ernst Greenberger, and Norman J. Greenberger, as partners, did business under said trade name and style "Grand Rapids Furniture Manufacturers Warehouse Association," for many years prior and up to the entry into business of respondent corporation as next below set out. In the early part of the year 1924, respondent corporation was organized took over the business and assets of respondent individuals trading as aforesaid, and continued thereafter to conduct said business.

PAR. 4. Respondent individuals doing business as "Grand Rapids Furniture Warehouse Association" as aforesaid, conducted said business in the following manner: At said place of business said respondents maintained and displayed signs bearing said trade name "Grand Rapids Furniture Manufacturers Warehouse Association," in large and conspicuous letters, and caused advertisements offering their said furniture for sale to be inserted in newspapers of general circulation in the State of New York and neighboring States, in which advertisements respondents caused said trade name to be prominently displayed, together with the statements and representations: "Buy Grand Rapids Furniture—the best in the world—direct from the New York branch warehouse, Grand Rapids Furniture Manufacturers Warehouse Association," "Grand Rapids the world's best furniture can now be bought at this New York branch warehouse," "The first time in New York's history Grand Rapids the world's best furniture can now be bought at this New York branch warehouse. Shipments are coming regularly from our FACTORIES," "You save 50% by buying from us," "We guarantee to and DO undersell any other furniture establishment by a margin of 30% to 50%," "Everyone knows Grand Rapids, but they may not know of this New York branch. To them we say visit our New York show rooms and see our display. Grand Rapids Furniture Warehouse Association," "Furniture Manufacturers Warehouse selling surplus stock stored here by prominent manufacturers for disposition at once for cash. They are now offered far below manufacturers cost," "New shipments just arrived from our factory make possible our greatest June sale," "The above association is now selling medium and high grade furniture and bedding direct to the public at wholesale prices," "Deduct 50% from any piece of furniture. Self-service in furniture buying," and other similar statements. Said respondents likewise caused aforesaid trade name to be prominently displayed upon the letterheads, billheads, business cards and other busi-

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ness stationery and literature used by them and by their salesmen and other agents and employees in and about making sales of said furniture.

PAR. 5. Since the early part of the year 1924 respondent corporation, having succeeded to the business and assets of respondent individuals as set out and described in paragraphs 3 and 4 hereof, has conducted its aforesaid business in the following manner: At said place of business said respondent has maintained and displayed signs bearing its corporate name, "Grand Rapids Furniture Manufacturers Association, Inc." in large and conspicuous letters, and has caused advertisements offering its said furniture for sale to be inserted in newspapers of general circulation in the State of New York and neighboring States, in which advertisements said respondent has caused its aforesaid corporate name to be prominently displayed, together with the statements and representations; "Buy Grand Rapids furniture—the best in the world—direct from the New York branch warehouse," "Furniture at better than wholesale prices," "You can now buy from this New York branch, Grand Rapids the world's finest and most durable furniture. Grand Rapids Furniture Manufacturers Association, Inc.," and sundry and divers other statements and representations identical with and similar to those statements and representations used by respondent corporation's predecessors in business, as set forth in paragraph 4 hereof. Respondent corporation likewise has caused its aforesaid name to be prominently displayed upon the letterheads, billheads, business cards and other business stationery and literature used by it and by its officers, directors, salesmen and other agents and employees in and about making sales of said furniture.

PAR. 6. The city of Grand Rapids, Michigan, has been for many years and is now a large and important center of the furniture industry in the United States, which fact is generally known to the public throughout the United States, and furniture manufactured in said city of Grand Rapids has for many years enjoyed and now enjoys a widespread popularity, good will and demand throughout the United States as being furniture of dependable quality and other desirable characteristics.

PAR. 7. Aforesaid trade name "Grand Rapids Furniture Manufacturers Warehouse Association" and aforesaid corporate name "Grand Rapids Furniture Manufacturers Association, Inc." and the statements and representations used, respectively, by respondent individuals and by respondent corporation is their advertising as set out in paragraphs 4 and 5 hereof, were and are calculated to, and had and have the capacity and tendency to mislead and deceive many

of the public into the belief that respondents were and are manufacturers of furniture, or that respondents were and are direct and authorized sales representatives of and for manufacturers of furniture located in the city of Grand Rapids, Mich.; that persons buying from respondents are buying direct from the manufacturers of said furniture, thus saving the profits of middlemen, and to cause many of the public to purchase respondents' furniture in that belief. Further, said statements and representations were and are calculated and had and have the capacity and tendency to mislead and deceive many of the public into the belief that the furniture dealt in and sold by respondents was and is manufactured by respondents or by respondents' principals in the aforesaid city of Grand Rapids, and was and is of the quality and other desirable characteristics associated in the public mind with the furniture industry of said city of Grand Rapids and its product as hereinbefore set out, and to cause many of the public to purchase respondents' furniture in that belief. In truth and in fact, respondents were and are not, either jointly or severally, manufacturers of furniture and none of respondents in anywise represented or represent any furniture manufacturer or manufacturers of aforesaid city of Grand Rapids or elsewhere, nor was the business conducted by respondent individuals under aforesaid trade name, nor is the business conducted by respondent corporation owned, controlled or operated by, for or on behalf of any furniture manufacturer or manufacturers of said city of Grand Rapids or elsewhere, as is falsely represented and pretended by respondents' aforesaid trade and corporate names and respondents' aforesaid advertising. The furniture sold by respondents under and in connection with aforesaid trade and corporate names and aforesaid statements and representations was and is not sold direct from the factory to the consuming public, nor at a saving to the purchaser of middlemen's profits, but respondents purchased and purchase the furniture in which they dealt and deal and resold and resell same at retail and at a profit to themselves. The furniture sold by respondents was and is for the most part made at points other than the city of Grand Rapids and by manufacturers in nowise connected with the furniture industry of that city.

PAR. 8. There were and are among the competitors of respondents mentioned in paragraphs 1 and 2 hereof, many dealing in and selling furniture manufactured in said city of Grand Rapids. There were and are others of respondents' said competitors dealing in and selling furniture not manufactured in said city of Grand Rapids, and who did and do not through trade names or otherwise represent that such furniture was or is manufactured in said city, or was or

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is in anywise connected with the furniture industry thereof. Respondents' sets and practices all hereinbefore set out, had and have the capacity and tendency to cause many of the public to buy the furniture of respondents not manufactured in the city of Grand Rapids, as and for furniture there manufactured, thus unfairly diverting business from those of respondents' competitors dealing in and selling genuine Grand Rapids furniture; and further, because of the widespread popularity, good will and demand among the public throughout the United States, enjoyed by aforesaid furniture industry of Grand Rapids, Mich., and its product, said acts and practices had and have the capacity and tendency to cause many of the public to buy respondents' said furniture not manufactured in the said city of Grand Rapids in preference to the furniture offered and sold by those of respondents' competitors hereinbefore referred to dealing in and selling furniture not manufactured in said city and who in nowise represented or represent that the furniture which they sell is there made or is in anywise associated with the furniture industry thereof.

PAR. 9. Many persons, firms and corporations manufacturing furniture in the city of Grand Rapids, Mich., have for many years last past been banded together in and have maintained an organization and association known as "Furniture Manufacturers Association of Grand Rapids." The adoption and use by respondent individuals of the trade name "Grand Rapids Furniture Manufacturers Warehouse Association," as aforesaid, and the adoption and use by respondent corporation of its corporate name "Grand Rapids Furniture Manufacturers Association, Inc.," as aforesaid, and the use by respondents, and each of them, of aforesaid false and misleading statements and representations in their advertising, were and are calculated to and had and have the tendency and capacity to deceive and mislead many of the public into the belief that respondents were and are said "Furniture Manufacturers Association of Grand Rapids"; whereas in truth and in fact respondents have not been and are not now, either jointly or severally, in anywise connected or associated with said "Furniture Manufacturers Association of Grand Rapids."

PAR. 10. In order to further mislead and deceive the public and to strengthen the deception and misrepresentations hereinbefore set out, respondents, and each of them, have from time to time caused advertisements to be published in aforesaid newspapers, containing representations to the effect that respondents' furniture is marked with the usual retail price thereof and that customers may obtain said furniture by paying one-half said marked price to respondents.

Respondents, and each of them, have made similar representations in letters written to customers and prospective customers and in accordance with said assertions have caused to be attached to sundry pieces of their furniture tags bearing said purported usual retail prices, which prices were arrived at by respondents, and each of them, by doubling the actual retail price at which respondents customarily sold and sell furniture of like kind and quality, and thereafter, in accordance with said representations, respondents, and each of them, have sold and sell said furniture to purchasers among the consuming public at one-half aforesaid purported retail prices, the price received by respondents for said furniture being thus the full retail price at which respondents customarily sold and sell furniture of like kind and quality.

PAR. 11. Respondent individuals trading as aforesaid, and respondent corporation with the purpose and intent of further deceiving and misleading prospective customers, have made oral statements to said prospective customers, which said oral statements were and are identical with or similar to the statements and phrases used by respondents in their respective advertisements as set forth in paragraphs 4 and 5 hereinabove; and respondents and each of them have refused to refund money to dissatisfied and defrauded customers, respondents, and each of them, making, as reason for such refusal, false statements to the effect that the furniture factories at Grand Rapids would not permit respondents to make such refunds.

PAR. 12. Respondent corporation for the purpose of further deceiving, misleading and defrauding prospective customers has at sundry and divers times caused to be printed upon United States postoffice postal cards false statements to the effect that said respondents' place of business was the only New York show rooms of the furniture manufacturers of Grand Rapids, Mich.; and to further carry out said false, deceptive, misleading and fraudulent practice, said respondent has caused said postal cards to be addressed to sundry and divers persons throughout the United States and to be deposited in the United States postoffice at said city of Grand Rapids, in the State of Michigan, thereby and in that manner causing the postal establishment of the United States to postmark said cards as having been mailed in said city of Grand Rapids and to carry and deliver said postal cards to the addressees thereof at their respective postoffice addresses.

PAR. 13. There were and are a number of manufacturers of furniture in competition with respondents in the sale of furniture in interstate commerce who sold and sell the furniture which they manufacture direct to the consuming public. There were and are

also a number of retail dealers in competition with respondents in interstate commerce who did and do not in any manner hold out that they are sales agents or representatives of manufacturers through whom such manufacturers sell the furniture which they manufacture at a saving to the consumer of the profits of middlemen; and the acts and practices of respondents hereinbefore set out have unfairly diverted and now divert business from said competitors.

PAR. 14. The above alleged acts and practices of respondents, and of each of them, are all to the prejudice of the public and of respondents' competitors, and constitute unfair methods of competition in commerce within the intent and meaning of Section 5 of an Act of Congress entitled "An Act To create a Federal Trade Commission, to define its powers and duties, and for other purposes," approved September 26, 1914.

REPORT, FINDINGS AS TO THE FACTS, AND ORDER.

Pursuant to the provisions of an Act of Congress, approved September 26, 1914, the Federal Trade Commission issued and served a complaint upon the respondents, Jacques E. Greenberger, Ernst Greenberger, Norman J. Greenberger, and Grand Rapids Furniture Manufacturers Association, Inc., charging them with unfair methods of competition in commerce in violation of the provisions of Section 5 of said Act.

Respondents having made answer and entered their appearances, hearing was had before W. W. Sheppard, the examiner theretofore duly appointed; evidence, both oral and documentary was introduced and this proceeding came on for final hearing; and the Commission having fully considered the record and being fully advised in the premises, makes this its report, stating its findings as to the facts and conclusion.

FINDINGS AS TO THE FACTS.

PARAGRAPH 1. Respondents, Jacques E. Greenberger, Ernst Greenberger, and Norman J. Greenberger are partners, and as such partners engaged in the retail furniture business from May, 1921, to February, 1924. under the trade name and style "Grand Rapids Furniture Manufacturers Warehouse Association," with their office and principal place of business at 518-526 West Fifty-fifth Street, in the City and State of New York. In the course of said business said respondents made sales of furniture at retail to persons located at points in various States of the United States, and caused such

furniture so sold to be transported from New York City, N. Y., through and into other States of the United States, and then and there to be delivered to the purchasers thereof at their respective points of location. In the conduct of said business, said respondents were in direct and active competition with other persons, firms and corporations likewise engaged in the sale of furniture in interstate commerce.

PAR. 2. Respondent, "Grand Rapids Furniture Manufacturers Association, Inc.," is a corporation organized under the laws of the State of New York with its principal office and place of business at 141-145 West Seventeenth Street in the City and State of New York, and is, and since February, 1924, has been engaged in the business of selling furniture at retail. In the course of its said business, respondent corporation makes sales of furniture at retail to persons located at points in various States of the United States and causes such furniture when so sold to be transported from New York City through and into other States of the United States, and then and there to be delivered to the purchasers thereof at their respective points of location. In the conduct of its said business respondent corporation is in direct and active competition with other persons, firms and corporations likewise engaged in the sale of furniture in interstate commerce.

PAR. 3. Respondent, "Grand Rapids Furniture Manufacturers Association, Inc.," mentioned in paragraph 2 hereof, was organized by, and is owned, controlled, officered, and its acts and activities were and are directed by Jacques E. Greenberger, Norman J. Greenberger, and Ernst Greenberger, the respondents mentioned and named in paragraph 1 hereof. Respondent corporation, "Grand Rapids Furniture Manufacturers Association Inc.," was organized by aforesaid respondent individuals for the purpose of taking over the stock and assets of aforesaid partnership venture mentioned in paragraph 1 hereof, and for the purpose of succeeding to that business and for the purpose of continuing under corporate form the business theretofore conducted by respondent individuals under partnership form as aforesaid. In February, 1924, respondent corporation under the direction, control and management of aforementioned respondent individuals, took over and succeeded to the stock and business of aforesaid partnership, and respondent corporation moved said stock and business from 518-526 West Fifty-fifth Street to 141-145 West Seventeenth Street in the City and State of New York and said respondent corporation continued and still conducts said business at and from the last mentioned address.

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PAR. 4. Respondents, Jacques E. Greenberger, Norman J. Greenberger, and Ernst Greenberger, doing business as "Grand Rapids Furniture Manufacturers Warehouse Association" as aforesaid, conducted said business in the following manner: At said place of business respondent individuals maintained and displayed signs bearing said trade name, "Grand Rapids Furniture Manufacturers Warehouse Association" in large and conspicuous letters, and said respondent individuals caused advertisements to be inserted in newspapers of general circulation in the State of New York and neighboring States in which advertisements they caused said trade name to be prominently displayed, together with the statements and representations:

Buy Grand Rapids Furniture—The Best In The World—Direct From The New York Branch Warehouse—Grand Rapids Furniture Manufacturers Warehouse Association.

Grand Rapids, The World's Best Furniture Can Now Be Bought At This New York Branch Warehouse.

The First Time In New York's History, Grand Rapids, The World's Best Furniture Can Now Be Bought At This New York Branch Warehouse. Shipments Are Coming Regularly From Our FACTORIES.

You Save 50% By Buying From Us.

We Guarantee To and DO Undersell Any Other Furniture Establishment By A Margin Of 30% to 50%.

Everyone Knows Grand Rapids, But They May Not Know Of This New York Branch. To Them We Say Visit Our New York Showrooms And See Our Display. Grand Rapids Furniture Manufacturers Warehouse Association.

Furniture Manufacturers Warehouse Selling Surplus Stock Stored Here by Prominent Manufacturers For Disposition At Once For Cash. They Are Now Offered Far Below Manufacturers' Cost.

New Shipments Just Arrived From Our Factory Make Possible Our Greatest June Sale.

The Above Association Is Now Selling Medium and High Grade Furniture And Bedding Direct to The Public At Wholesale Prices.

Deduct 50% From Any Piece Of Furniture. Self-service In Furniture Buying.

and other similar statements.

Said respondent individuals caused aforesaid trade name to be prominently displayed upon the letterheads, billheads and business

cards and other business stationery and literature used by them and by their salesmen and other agents and employees in and about making sales of said furniture.

PAR. 5. Since February, 1924, respondent corporation, "Grand Rapids Furniture Manufacturers Association, Inc." as the successor to aforesaid partnership, "Grand Rapids Furniture Manufacturers Warehouse Association," has conducted its said business in the following manner: At its aforesaid principal place of business, said respondent corporation has maintained and displayed signs bearing its corporate name, "Grand Rapids Furniture Manufacturers Association, Inc.," in large and conspicuous letters, and has caused advertisements offering its said furniture for sale to be inserted in newspapers of general circulation in the State of New York and neighboring States, in which advertisements it has caused its aforesaid corporate name to be prominently displayed together with the statements and representations:

Buy Grand Rapids Furniture—The Best In the World—
Direct from The New York Branch Warehouse.

You Can Now Buy From This New York Branch, Grand
Rapids, The World's Finest And Most Durable Furniture.
Grand Rapids Furniture Manufacturers Association, Inc.

and sundry and divers other statements and representations identical with those statements and representations used by respondent corporation's predecessors in business and as set forth in paragraph 4 hereof.

Respondent corporation caused its aforesaid name to be prominently displayed upon the letterheads, billheads, business cards and other business stationery and literature used by it and by its officers, directors, salesmen and other agents and employees in and about making sales of its said furniture.

PAR. 6. The city of Grand Rapids, Mich., has been for many years and is now a large and important center of the furniture industry in the United States, which fact is generally known to the public throughout the United States. Furniture manufactured in the city of Grand Rapids has for many years enjoyed and now enjoys a widespread popularity, goodwill and demand throughout the United States. "Grand Rapids Furniture" is, and the public understands it to be, furniture manufactured in the city of Grand Rapids, in the State of Michigan. There are among the purchasing public many who prefer Grand Rapids Furniture to furniture made at points other than at Grand Rapids, Mich.

PAR. 7. There are approximately sixty furniture factories in Grand Rapids, Mich., which said factories produce annually, furniture of value approximately fifty million dollars.

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For many years prior to 1911, furniture manufacturers of Grand Rapids, Mich., had and maintained an organization or association trade-named and known as "Grand Rapids Furniture Manufacturers Association." The purpose of said organization or association was to advance the interests of furniture manufacturers of Grand Rapids, Mich., and to acquaint the public with, and create demand for, furniture manufactured at Grand Rapids, Mich. In the year 1911 said organization or association was incorporated under the laws of the State of Michigan. Said corporation was named "Furniture Manufacturers Association of Grand Rapids." Said corporation spends annually about one hundred thousand dollars in advertising "Grand Rapids" and "Grand Rapids Furniture" and in creating goodwill and demand for said furniture. Said corporation is generally known throughout the United States and is generally and usually referred to, both by the trade and by the public, as "Grand Rapids Furniture Manufacturers Association."

PAR. 8. Neither "Grand Rapids Furniture Manufacturers Association" nor "Furniture Manufacturers Association of Grand Rapids" (generally known and referred to as "Grand Rapids Furniture Manufacturers Association") each and both of which are mentioned and described in paragraph 7 hereof, have ever, at any time or in any manner, authorized the use of their said trade or corporate names by all or any of the respondents named in this case.

PAR. 9. Aforesaid trade name, "Grand Rapids Furniture Manufacturers Warehouse Association," and aforesaid corporate name, "Grand Rapids Furniture Manufacturers Association, Inc.," so used by respondents as aforesaid, each and both were and are false, deceptive and misleading. Neither the aforesaid partnership business nor aforesaid corporate business was conducted by, for, or on behalf of any furniture manufacturer or manufacturers or association of manufacturers of Grand Rapids, Mich., or elsewhere; no furniture manufacturer or manufacturers of Grand Rapids, Mich., or elsewhere was or were in any manner interested in or connected with either said partnership or corporation business; the business conducted by said partnership and subsequently by said corporation as aforesaid was conducted by respondent individuals named in paragraph 1 hereof on their own behalf and for their own exclusive benefit and profit; neither respondent individuals nor respondent corporation, are, or ever were, an association of Grand Rapids Furniture Manufacturers; not more than two per centum of the furniture on hand and for sale at respondents' respective places of business was Grand Rapids Furniture, whereas ninety-eight per centum of

respondents' furniture was furniture not made at Grand Rapids, Mich.

PAR. 10. That respondents in adopting and using the trade name, "Grand Rapids Furniture Manufacturers Warehouse Association," as aforesaid, and in adopting and using the corporate name "Grand Rapids Furniture Manufacturers Association, Inc.," as aforesaid, intended to, and did, deceive and mislead customers and prospective customers into the erroneous belief that respondents were an association of Grand Rapids, Mich., furniture manufacturers, and that respondents' aforesaid places of business were branch places of business conducted by, for and on behalf of furniture manufacturers of Grand Rapids, Mich., and that the furniture being offered for sale and sold by respondents was made at Grand Rapids, Mich.

Respondents, prior to the time they adopted and used their aforesaid trade and corporate names, had knowledge of the existence and activities of the "Grand Rapids Furniture Manufacturers Association," and the "Furniture Manufacturers Association of Grand Rapids," mentioned and described in paragraph 7 hereof, and respondents had full knowledge of the facts found in paragraph 6 hereof, and respondents in adopting and using trade and corporate names as aforesaid, intended to, and did, trade upon, and usurp, the reputation and goodwill established by, and belonging to, furniture manufacturers of Grand Rapids, Mich.

PAR. 11. That each and all the statements contained in respondents' advertisements as set forth in paragraphs 4 and 5 hereof, were, and respondents in making them knew them to be, false, deceptive and misleading, and respondents in making such statements intended to, and did deceive and mislead purchasers and prospective purchasers to believe (1) that respondents were and are the authorized New York representatives of furniture manufacturers of Grand Rapids, Mich.; (2) that respondents are furniture manufacturers, and that persons purchasing furniture from respondents, buy direct from the manufacturer, and save unto themselves the usual middleman's profit; (3) that the furniture dealt in and sold by respondents, was manufactured by respondents at their furniture factory in the city of Grand Rapids.

The facts are: (a) Neither all, nor any of the respondents have ever been appointed, nor were they nor any of them, the agents or representatives of any Grand Rapids furniture manufacturer or manufacturers, nor have they nor any of them ever been authorized to act in any capacity for any of said Grand Rapids furniture manufacturers. Respondents were in nowise connected, associated or

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affiliated with the "Grand Rapids Furniture Manufacturers Association" of Grand Rapids, nor with the "Furniture Manufacturers Association of Grand Rapids." No Grand Rapids Manufacturer nor manufacturers had or has any interest in, or connection with, respondents' aforesaid business; (b) none of respondents have ever owned, operated, controlled or had any interest in any furniture factory, but respondents purchased their furniture from others who manufacture, and respondents resell such furniture to the public at a great profit. Respondents being retailers are middlemen, and persons buying from respondents are required to and do pay the regular and full retail price therefor, and do not save unto themselves the middlemen's profit; (c) respondents have not had, and do not have, any furniture factory at Grand Rapids, Mich., and respondents, trading as set forth in paragraphs 1 and 2 hereof, have never purchased any furniture from any Grand Rapids furniture manufacturer. About two per centum of the furniture which respondents had on hand and for sale, was Grand Rapids Furniture which respondents had purchased from another retail store in the City and State of New York, whereas ninety-eight per centum of respondents' furniture was furniture made at points other than Grand Rapids, Mich.

PAR. 12. Respondents, in the conduct of their said business, and for the purpose of deceiving purchasers and prospective purchasers into the erroneous belief that all the furniture which respondents had on hand and for sale was "Grand Rapids furniture," attached to such furniture gummed labels containing the words "Grand Rapids Furniture" in large and conspicuous lettering. These labels were attached to each piece and all of respondents' furniture, notwithstanding the fact that ninety-eight per centum of such furniture was not in fact "Grand Rapids Furniture."

PAR. 13. Respondent individuals, and their agents, salesmen, and employees, and respondent corporation through its officers, agents, salesmen and employees, advertised, offered for sale and sold as "Grand Rapids furniture," furniture which was not manufactured at Grand Rapids, Mich., and which was not "Grand Rapids furniture."

PAR. 14. Respondents, in their newspaper advertisements, and also by means of form letters which were sent by mail, advertise, represent and pretend that the furniture being offered for sale by respondents was tagged and marked at regular retail prices and values, and that respondents would allow anyone to buy at "wholesale prices," viz, "one-half the marked price." Respondents' practice is marking or pricing their furniture was as follows: They determine how

much they wished to obtain for their furniture, then doubled said price, and marked, by means of tags, the price on the furniture accordingly. A customer could therefore pay 50 per cent of the price appearing on said furniture (tag), yet pay at a higher level than prevalent retail prices in the community, for furniture of like kind and quality.

For the purpose of further deceiving purchasers and prospective purchasers into the erroneous belief that respondents' "Marked prices" were representative of the true retail value of said furniture and that respondents were selling at wholesale, and at wholesale prices, respondents inserted in their said newspaper advertisements statements as follows:

NOTICE TO DEALERS.

Bring your customers as usual, charge your own price and pay us 50% of the tag price.

PAR. 15. Respondents, for the purpose of further misleading and deceiving customers, and prospective customers into the belief that respondents' business was conducted by, for and on behalf of Grand Rapids, Mich., furniture manufacturers, procured and hung upon the walls of their said store large photographs of various Grand Rapids, Mich., furniture factories. In order to carry the deception further, respondents regularly procured daily newspapers published at Grand Rapids, Mich., and placed such papers upon a table at the front of said store in a position and at a point where they were conspicuously displayed to all persons entering said store.

PAR. 16. Respondents, in the course of their business, prepared and mailed, in large numbers, to prospective customers, form letters, in which letters they falsely pretended to be a "Grand Rapids" concern and dealing in and selling only "Grand Rapids furniture." These form letters were sent out and distributed, by respondents, through the United States mails, to all parts of the country, but principally in the States of New York and New Jersey and other eastern States.

PAR. 17. Respondents, in order to further mislead and deceive the purchasing public, into the belief that respondents were a "Grand Rapids" concern and dealt in and sold only "Grand Rapids furniture," purchased United States post cards in large numbers; caused advertisements to be printed on said cards by printers in the City of New York; caused the words "Grand Rapids, Michigan" to be printed at the top of these cards, giving the impression that said cards were prepared in the city of Grand Rapids, Mich. The cards

Findings.

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were signed, following the advertisement placed thereon—"Grand Rapids Furniture Manufacturers Association, Inc." In July, 1923, respondent, Jacques E. Greenberger, accompanied by one of respondents' salesmen (Mr. Silver), went to Grand Rapids, Mich., and while in said city mailed said post cards to a thousand customers located in the States of New York, New Jersey, and neighboring States. This action was repeated by respondents in March and May, 1924. Said cards having been mailed in Grand Rapids, Mich., bore the Grand Rapids, Mich., postmark. An example of said cards so used by respondents, is as follows:

GRAND RAPIDS, MICHIGAN.

No doubt you have been notified by the New York office of their removal from West 55th Street to their new home at 141-143-145 West 17th Street.

We understand that all the old merchandise was sold and an entire new line of the most up-to-the-minute designs, are being displayed in the new building.

Yours very truly,

GRAND RAPIDS FURNITURE MANUFACTURERS ASSOCIATION, INC.

(Our only New York address is 141-143-145 West 17th Street.)

Respondents never conducted "show rooms" in New York City for any Grand Rapids furniture factory.

PAR. 18. Respondents in order to further mislead and deceive the purchasing public who came to their place of business to purchase furniture, made statements, on numerous occasions, and to numerous prospective customers, that they were a "Grand Rapids, Michigan" concern and dealt in and sold "Grand Rapids furniture." After said furniture had been sold and the purchase price, either in whole or in part, had been paid, and respondents had made delivery of said furniture to the purchaser thereof, and said furniture had been found to be faulty and defective and not as represented, respondents refused to refund the purchase price of said furniture to such dissatisfied and defrauded customers, giving as a reason for such refusal, that the Grand Rapids furniture factories, at Grand Rapids, Mich., would not permit respondents to make such refunds, thus forcing said dissatisfied and defrauded customers, to consult attorneys and ask relief in the courts, at great expense, and cause said dissatisfied customers much worry and trouble and personal discomfort and great financial injury, all of which tended to and did cause in such aggrieved and dissatisfied purchasers of respondents' furniture, a feeling of bitterness and malice towards manufacturers of furniture located in the city of Grand Rapids, Mich.

PAR. 19. The words "Grand Rapids," when used in connection with furniture, are so widely and favorably known that their use in trade names or in advertisements inserted in newspapers or magazines, attracts customers, and furniture labelled "Grand Rapids" is more readily sold to the general public than furniture not so marked or labelled. Respondents' use of the words "Grand Rapids" on their furniture, ninety-eight per centum of which was furniture not made in the city of Grand Rapids, Mich., was a part of their policy to mislead and deceive the purchasing public.

PAR. 20. Respondents, in the course and conduct of their business, made use of false and fictitious names, "aliases" and names not their true names, in dealing with, and selling their furniture to the general public, also in signing letters, form letters, and circulars advertising their furniture to the public, all of which advertising was in behalf of respondent, Grand Rapids Furniture Manufacturers Association. Respondent, Norman J. Greenberger, the manager of the Seventeenth Street Store in the City of New York, was generally known as and went under the "alias" "Mr. Norman." Respondent, Jacques E. Greenberger, went under the "alias" "Mr. Jay." The use by respondents of said false and fictitious names was a part of their policy to mislead and deceive the purchasing public in the sale of their furniture.

PAR. 21. The acts and practices of respondents, as hereinabove set out, interfered with and lessened interstate commerce in "Grand Rapids Furniture."

PAR. 22. There were, and are, among respondents' competitors mentioned in paragraphs 1 and 2 hereof, many persons, firms and corporations who do not indulge in, or make use of any, of the false, deceptive and fraudulent practices, used by respondents, which practices, as hereinbefore set out, divert trade from and otherwise prejudice and injure said competitors.

CONCLUSION.

That the acts and things done by respondents, Jacques E. Greenberger, Ernst Greenberger, Norman J. Greenberger, and Grand Rapids Furniture Manufacturers Association, Inc., as set out in the above findings as to the facts, constitute unfair methods of competition in interstate commerce, in violation of the provisions of an Act of Congress approved September 26, 1914, entitled "An Act to create a Federal Trade Commission, to define its powers and duties, and for other purposes."

Order.

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ORDER TO CEASE AND DESIST.

This proceeding having been heard by the Federal Trade Commission upon the complaint of the Commission, the answer of the respondents, and the testimony and evidence, and the Commission having made its findings as to the facts with the conclusion that the respondents have violated the provisions of the Act of Congress approved September 26, 1914, entitled "An Act to create a Federal Trade Commission, to define its powers and duties, and for other purposes,

Now, therefore, it is ordered, That the respondents, Jacques E. Greenberger, Ernst Greenberger, Norman J. Greenberger, and Grand Rapids Furniture Manufacturers Association, Inc., and each of you, and your respective officers, agents, servants and employees, do cease and desist from directly or indirectly—

(1) Conducting any furniture business under the false name "Grand Rapids Furniture Manufacturers Warehouse Association," or under the name "Grand Rapids Furniture Manufacturers Association, Inc.," or under any other trade or corporate name or names containing the words "Grand Rapids";

(2) Advertising, offering for sale, or selling, as "Grand Rapids Furniture," any furniture which was not in fact manufactured at Grand Rapids, Mich.;

(3) Falsely making any representation or representations to the effect that the furniture business or businesses by you, or by any of you, conducted, is owned by, or is operated by, for, or on behalf of any furniture manufacturer or manufacturers, or association of furniture manufacturers of Grand Rapids, Mich.;

(4) Falsely representing, in advertisements or otherwise, that you or any of you, are the representative or representatives of, or are in any manner associated or affiliated with any furniture manufacturer or manufacturers or association of furniture manufacturers of Grand Rapids, Mich.;

(5) Attaching or placing upon any furniture being offered for sale by you, any label, ticket or tag containing the words "Grand Rapids" unless such furniture was in fact manufactured at Grand Rapids, Mich.;

(6) Making any representations in advertisements or otherwise, or in any manner whatsoever, that you, or any of you, own, or control any furniture factory or factories, or that the furniture by you sold, comes direct from manufacturer to purchaser, unless and until you actually own and operate, or directly and absolutely control a

factory or factories wherein is made any and all furniture offered for sale or sold by or through any such advertisement or other representation of ownership of such a factory or factories;

(7) Stamping, printing, or otherwise marking on furniture or on price tags attached to furniture, any fictitious, exaggerated, or misleading price in excess of the price at which such furniture is intended to be and usually is sold at retail.

It is further ordered, That respondents within sixty days after the receipt of this order report in writing to the Commission the manner and extent to which compliance with this order has been made by said respondents.

IN THE MATTER OF
**HARRY CHESSLER AND RUSSELL W. CHESSLER, PART-
NERS, DOING BUSINESS UNDER THE TRADE NAMES
AND STYLES, LEXINGTON STORAGE WAREHOUSE
COMPANY AND LEXINGTON WAREHOUSE COMPANY.**

COMPLAINT, FINDINGS AND ORDER IN REGARD TO THE ALLEGED VIOLATION
OF SECTION 5 OF AN ACT OF CONGRESS APPROVED SEPTEMBER 26, 1914.

Docket 1198—September 28, 1925.

SYLLABUS.

Where the City of Grand Rapids, Mich., had long been known as a large and important center of the furniture industry in the United States, the name "Grand Rapids" as associated with furniture had come to mean, and to be understood by the public as meaning, furniture made in said city, and Grand Rapids furniture had come to be preferred by many to furniture made elsewhere; and thereafter a firm engaged in the sale at retail in and from New York City of furniture which they purchased from others, including a few thousands dollars worth of Grand Rapids furniture, resold by them at a great profit, and constituting only a negligible proportion of the furniture dealt in by them; and neither manufacturing furniture, nor owning, operating, controlling, or interested in any furniture factory, nor representing or acting for furniture manufacturers in any way;

- (a) Displayed at their principal place of business conspicuous signs bearing the legends "Furniture from Factory to you at Wholesale Prices," "Manufacturers Sale";
- (b) Made such statements in advertising their furniture as "Must sell out \$500,000 stock Grand Rapids Furniture at sacrificed prices," "Selling out \$500,000 stock Grand Rapids Furniture at any price. Manufacturers selling out," "Manufacturers Finest Stock, Grand Rapids Furniture, Sacrificed at less than wholesale cost," "Brand New Period Furniture. \$500,000 Storage Sale. Just received carloads of Grand Rapids bedroom, dining room and living room suites, direct from the factories, must be sold at great sacrifice";
- (c) Represented themselves upon their letterheads, billheads and other stationery as "Distributors for the largest Grand Rapids Furniture Manufacturers," and "Receivers and Distributors for the largest furniture manufacturers. High Grade furniture at less than factory prices";

With the intent thereby to deceive, mislead and defraud the purchasing public;

- (d) Advertised, offered for sale and sold as Grand Rapids furniture, furniture not manufactured in said city;

With the effect of interfering with, injuring and lessening the business of Grand Rapids furniture manufacturers and with the capacity and tendency to divert trade from and otherwise injure competitors dealing in genuine Grand Rapids furniture, competitors dealing in other furniture not misrepresented by them, and competitors making no false claims of manufacturing affiliations or operations: