MORRIS WEIL AND ELIAS WEIL, COPARTNERS DOING BUSINESS UNDER THE TRADE NAME AND STYLE, ASSOCIATED FURNITURE MANUFACTURERS' WAREHOUSE COMPANY, AND NATIONAL FURNITURE DISTRIBUTING CORPORATION.

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

Docket 1225—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, furniture there manufactured had come to enjoy a wide spread popularity, reputation and good will, the name "Grand Rapids" as applied to furniture had come to mean and to be understood by the public as meaning, furniture manufactured in Grand Rapids, and Grand Rapids furniture had come to be in great demand by the purchasing public 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, of which only a negligible proportion was made in Grand Rapids; and neither representing nor connected with furniture manufacturers in any way, nor manufacturing furniture or owning, controlling, interested in, or operating any furniture factory;

(*a*) Used and featured as their trade and corporate names the names "Associated Furniture Manufacturers' Warehouse Co." and "National Furniture Distributing Corporation";

(*b*) Made numerous such statements in advertising their furniture under their aforesaid names as "We have been ordered by the leading Grand Rapids Manufacturers to advance our price 20%," "Forced Sale, Grand Rapids Furniture, Wholesale Prices," "Grand Rapids Furniture direct to the public," "$100,000 stock Grand Rapids Furniture at wholesale prices by order of Associated Furniture Manufacturers," and "Forced Sale, Grand Rapids Furniture, wholesale prices—dealer's inability to accept furniture ordered during latest Grand Rapids Exposition has caused our factory to throw this merchandise on sale to the public at wholesale prices";

(*c*) Advertised, offered and sold their furniture under a fictitious "GUARANTEE OF MAKERS" in which "GRAND RAPIDS MANUFACTURERS" as the pretended "designers and manufacturers" of the furniture offered and sold as above set forth, were made to "guarantee and swear that every piece of furniture is perfect in every detail and every respect and has been examined before leaving our factory * * *";

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

(*d*) Advertised, offered for sale and sold their aforesaid furniture as Grand Rapids furniture;

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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:

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

Mr. Morgan J. Doyle for the Commission.

Mr. Donald Horne and *Gordon, Tally & Gordon* of New York City for respondents.

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 Morris Weil and Elias Weil, copartners, doing business under the trade name and style, Associated Furniture Manufacturers Warehouse Company, and the National Furniture Distributing Corporation, a corporation, organized under the laws of the State of New York, 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 it charges in that respect as follows:

PARAGRAPH 1. Respondents Morris Weil and Elias Weil are partners doing business under the trade name and style Associated Furniture Manufacturers Company, with their place or places of business in the City and State of New York. Respondent National Furniture Distributing Corporation is a corporation organized under the laws of the State of New York, with its principal place of business in the City and State of New York. Said corporation was organized by, and is owned wholly or in greater part by Morris Weil, Elias Weil and Irving Weil. Each of the respondents is and for about three years last past has been engaged under said trade name and/or corporate name in the business of selling furniture at retail to purchasers located at points in various States of the United States. Respondents and each of them cause said furniture when so sold to be transported from their places of business respectively, into and through other States of the United States to said purchasers at their respective points of location. In the course and conduct of said business, respondents are in competition with other individuals, partnerships and corporations similarly and otherwise engaged in the sale of furniture in interstate commerce and with the trade generally.

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PAR. 2. During aforesaid time respondents have conducted their aforesaid businesses at their said places of business in the following manner: At each such place of business respondents maintain and display a sign bearing the said corporate name, "National Furniture Distributing Corporation" in large and conspicuous letters, and respondents have 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 respondents have caused said corporate name to be prominently displayed, together with the statements: "$100,000 stock Grand Rapids furniture at wholesale prices by order of associated furniture manufacturers. The National Furniture Dist. Co. was appointed to sell this tremendous stock for cash only," "Everything must be disposed of at once," "Grand Rapids furniture at one-half less," "Every article on sale at wholesale prices," "Forced sale Grand Rapids furniture, wholesale prices," "We will dispose of this $500,000 stock of Grand Rapids furniture at once," "Grand Rapids furniture direct to the public. Latest designs now on display. $100,000 stock must be disposed of at once at wholesale prices," and other similar statements.

Further, respondents have caused advertisements offering their said furniture for sale, to be inserted in newspapers of general circulation throughout the United States, in which said advertisements respondents have caused said trade name "Associated Furniture Manufacturers Warehouse Company" to be prominently displayed, together with sundry and divers false and misleading statements such as "We have been ordered by the leading Grand Rapids manufacturers to advance our prices 20 per cent"; "Beautiful homes for young people furnished complete, less than cost"; "All goods purchased by the association"; "Hundreds of odd pieces must be sold to make room for large early shipments direct from Grand Rapids," and other similar statements.

In connection with said statements respondents in some instances have caused to be set forth the following purported guarantee of their said furniture by the manufacturers thereof, to wit: "Guarantee of makers. We the designers and manufacturers of this furniture in the sale do guarantee and swear that every piece of furniture is perfect in every detail and every respect and has been examined before leaving our factory. * * * Grand Rapids Furniture Manufacturers." In truth and fact said purported guarantee is in no wise the undertaking of any manufacturer but is a pretended guarantee fabricated by respondents.

PAR. 3. 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

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throughout the United States, and furniture manufactured in said city of Grand Rapids has for many years enjoyed and now enjoys a widespread popularity, reputation, good will and demand throughout the United States as being furniture of dependable quality and other desirable characteristics.

PAR. 4. Aforesaid statements appearing in respondents' advertisements as set out in paragraph 2 hereof, are false, deceptive and misleading and are calculated to and do mislead and deceive many of the public into the erroneous belief that the furniture dealt in and sold by respondents is manufactured in the aforesaid city of Grand Rapids 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 are calculated to and do cause many of the public to purchase respondents' furniture in that belief. In truth and fact the furniture sold by respondents under and in connection with said statements is for the most part made at points other than said city of Grand Rapids and by manufacturers in no wise connected with the furniture industry of that city.

PAR. 5. There are among the competitors of respondents mentioned in paragraph 1 hereof, many who deal in and sell furniture manufactured in said city of Grand Rapids. There are others of respondents' said competitors who deal in and sell furniture not manufactured in said city of Grand Rapids and who do not through trade or corporate names or otherwise represent that such furniture is manufactured in said city or is in anywise connected with the furniture industry thereof. By reason of the widespread reputation, popularity and good will among the public throughout the United States enjoyed by aforesaid furniture industry of Grand Rapids, Mich., and its product, respondents' acts and practices as hereinbefore set out, have the capacity and tendency to and do cause many of the public to buy the furniture of respondents, not manufactured in said city of Grand Rapids, as and for furniture there manufactured, thus unfairly diverting business from those of respondents' competitors who deal in and sell genuine Grand Rapids' furniture; and further have the capacity and tendency to and do 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 who deal in and sell furniture not manufactured in said city and who in nowise represent that the furniture which they sell is there made or is in anywise associated with the furniture industry thereof.

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PAR. 6. Aforesaid trade and corporate names and the various statements and assertions used by respondents in their advertising, as set out in paragraph 2 hereof, signify to and are understood by a substantial part of the public to mean that respondents are agents for manufacturers of furniture selling direct to the consuming public, whereas in truth and fact respondents are not such agents but purchase the furniture in which they deal from others who manufacture same and respondents resell said furniture to the public at a profit and at prices substantially the same as the retail prices prevalent in the trade for furniture of like kind and quality. Said trade and corporate names and said statements so used by respondents are false and misleading and have the capacity and tendency to and do mislead and deceive many among the consuming public to believe that respondents act as sales agents for manufacturers who are selling direct to the consuming public through respondents as such agents and that persons buying from respondents are buying direct from the manufacturer of said furniture, thus saving profits of middlemen, and to induce many of the consuming public to purchase the furniture of respondents in that belief. Further, the inducement to the public to buy respondents' said furniture under the circumstances and in the belief in this paragraph above set out, is strengthened and enlarged by the widespread popularity, reputation and good will enjoyed by furniture manufactured in the city of Grand Rapids, Mich., hereinbefore referred to.

PAR. 7. There are a number of manufacturers of furniture in competition with respondents in the sale of furniture in interstate commerce who sell the furniture which they manufacture, direct to the consuming public. There are also a number of retail dealers in competition with respondents in interstate commerce who 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 unfairly divert business from and otherwise prejudice and injure said competitors.

PAR. 8. The above alleged acts and practices of respondents are all to the prejudice of the public and 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.

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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, Morris Weil, Elias Weil, and National Furniture Distributing Corporation, 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 records 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, Morris Weil and Elias Weil, are partners, engaged in the retail furniture business and having their principal office and place of business in the City and State of New York. From November, 1921, until April, 1924, they operated said business under the trade name and style "Associated Furniture Manufacturers' Warehouse Company." From and after April 4, 1924, said business has been conducted by respondents, Morris Weil and Elias Weil, under the name "National Furniture Distributing Corporation," the same being a New York corporation organized, owned, and controlled and officered by respondents, Morris Weil and Elias Weil.

PAR. 2. That in the conduct of said business respondents, Morris Weil and Elias Weil, under the trade name "Associated Furniture Manufacturers' Warehouse Company," and under the corporate name "National Furniture Distributing Corporation" made sales of furniture 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. Respondents carried on such business in direct and active competition with other persons, firms and corporations likewise engaged in the sale of furniture in interstate commerce.

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Respondents solicited business of persons residing outside the State of New York by offering to make free delivery to all such purchasers as reside within one hundred miles of New York City.

PAR. 3. That respondents, Morris Weil and Elias Weil, prior to April, 1924, and in the conduct of said business, under aforesaid trade name inserted advertisements in large daily newspapers having a general circulation throughout the United States, in which said advertisements respondents prominently displayed their said trade name together with sundry and divers statements such as:

We have been ordered by the leading Grand Rapids Manufacturers to advance our price 20%.

Hundreds of odd pieces must be sold to make room for large early shipments direct from Grand Rapids.

and other similar statements.

PAR. 4. That respondents, Morris Weil and Elias Weil, subsequent to April 4, 1924, and in the conduct of said business under aforesaid corporate name, inserted advertisements in large daily newspapers having general circulation throughout the United States, in which said advertisements respondents prominently displayed said corporate name together with sundry and divers statements such as:

Forced Sale, Grand Rapids Furniture, Wholesale Prices.

We will dispose of $500,000 stock of Grand Rapids Furniture at once.

Grand Rapids Furniture direct to the public.

$100,000 stock Grand Rapids Furniture at wholesale prices by order of Associated Furniture Manufacturers.

The National Furniture Distributing Corporation was appointed to sell this tremendous stock ($500,000 worth of Grand Rapids Furniture.)

Forced Sale, Grand Rapids Furniture, wholesale prices—dealer's inability to accept furniture ordered during latest Grand Rapids Exposition has caused our factory to throw this merchandise on sale to the public at wholesale prices.

and other similar statements.

PAR. 5. That respondents, Morris Weil and Elias Weil and National Furniture Distributing Corporation, in the conduct of said business falsely pretended that the furniture being offered for sale by them, bore the guarantee of, and was guaranteed by Grand Rapids Furniture Manufacturers, and said respondents in their advertisements have caused to be printed and set out, a purported "Guarantee

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of Makers," which said purported guarantee so printed and set out was as follows:

GUARANTEE OF MAKERS.

We, the designers and manufacturers of this furniture in this sale, do guarantee and swear that every piece of furniture is perfect in every detail and every respect and has been examined before leaving our factory. Every article is of the latest 1924 Period.

GRAND RAPIDS MANUFACTURERS.

PAR. 6. That Grand Rapids Furniture is and the public understands it to be furniture manufactured at Grand Rapids, Mich., that not more than 2 per cent of the furniture which respondents had on hand, and for sale, was Grand Rapids Furniture, whereas 98 per cent of respondents furniture was not "Grand Rapids Furniture."

PAR. 7. That the statements contained in respondents' advertisements as set forth in paragraphs 3 and 4 hereof were false; that respondents did not at any time have on hand, nor for sale, $500,000 worth of Grand Rapids furniture, nor did respondents have $100,000 worth of Grand Rapids furniture, the fact being that respondents had practically no Grand Rapids furniture on hand or for sale at any time. Respondents' purchases of Grand Rapids furniture average less than $4,000 a year.

That respondents do not now, nor have they ever manufactured furniture nor have they or any of them ever owned, operated, controlled or had any interest whatsoever in any furniture factory, and no manufacturer, or manufacturing company has, or ever had, any interest in respondents' business described in paragraph 1 hereof. Respondents were not an association of furniture manufacturers as was falsely represented and pretended by their aforesaid trade name, Associated Furniture Manufacturers' Warehouse Association, nor was any furniture manufacturer or association of manufacturers in any wise interested in connection with, or affiliated with respondents or any of them. Respondents were not at any time nor for any purpose the agents or representatives of any furniture manufacturer or manufacturers of Grand Rapids, Mich., or elsewhere, and respondents did not at any time sell furniture direct from manufacturer to consumer as was falsely represented and pretended by respondents in their aforesaid advertisements.

PAR. 8. That the purported "Guarantee of Makers" which respondents caused to be printed and circulated as set out in paragraph 5 hereof was not the guarantee or undertaking of any furniture manufacturer or manufacturers of Grand Rapids, Mich., but said

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"Guarantee of Makers" was fabricated, forged and counterfeited by respondents and was false and fraudulent; further the furniture which respondents sought to sell by and through the use of said false, forged, counterfeit and fraudulent "Guarantee of Makers" was not, in fact, Grand Rapids Furniture.

PAR. 9. That respondents in making the false statements, in the manner and as set out in paragraphs 3 and 4 hereof, knew said statements to be false, and respondents inserted said false statements in their advertisements for the purpose of and with the intent to deceive, mislead and defraud members of the purchasing public; and that respondents in fabricating said "Guarantee of Makers" in the manner and as set out in paragraphs 5 and 8 hereof knew that said "Guarantee of Makers" was forged and counterfeit, and knew it to be false and fraudulent, and respondents caused such false, forged and counterfeit "Guarantee of Makers" to be published and circulated for the purpose of and with the intent to deceive, mislead and defraud members of the purchasing public.

PAR. 10. That respondents advertised, offered for sale, and sold as "Grand Rapids Furniture," furniture which was not manufactured in the city of Grand Rapids, Mich.

PAR. 11. That the city of Grand Rapids, Mich., has been for many years, and still is 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, Mich., has for many years enjoyed and still enjoys a wide spread popularity, reputation, and good will, and is in great demand by the purchasing public throughout the United States, and many persons prefer "Grand Rapids Furniture" to furniture manufactured at points other than Grand Rapids, Mich.

Grand Rapids, Mich., is a city of about 150,000 people, and there are located in said city approximately 60 large furniture factories, and the factory value of the combined output of these factories is approximately $45,000,000 per year. The furniture manufactured in Grand Rapids is from medium to high grade in quality, and is shipped from said city of Grand Rapids to points in every State in the United States, and to many foreign countries.

PAR. 12. That the acts and practices of respondents as hereinbefore set out directly interfered with and injured and lessened the interstate business of furniture manufacturers of Grand Rapids, Mich.

PAR. 13. There are among respondents' competitors mentioned in paragraph 2 hereof many persons, firms and corporations who deal in and sell "Grand Rapids Furniture," and there are others among

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respondents' competitors who deal in and sell furniture not manufactured in the city of Grand Rapids, Mich., but who do not advertise, or sell such furniture as and for Grand Rapids Furniture; there are also among respondents' said competitors many dealers who do not manufacture furniture and who do not represent as agents or otherwise any furniture manufacturer, but who do not in their advertisements or otherwise hold themselves out as, or represent themselves to be either manufacturers of furniture or agents or representatives of manufacturers, and the acts and practices of respondents have the capacity and tendency to divert trade from and otherwise injure such competitors.

CONCLUSION.

That the acts and things done by the respondents, Morris Weil, Elias Weil and National Furniture Distributing Corporation, 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 TO CEASE AND DESIST.

This proceeding having been heard by the Federal Trade Commission, upon the complaint of the Commission, the answers 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, Morris Weil and Elias Weil and National Furniture Distributing Corporation and each of you, and your respective officers, agents, servants and employees, do cease and desist from directly or indirectly—

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

(2) Representing, in any manner whatsoever, in advertisements or otherwise, that you, or any of you, have on hand or for sale Grand Rapids Furniture in any quantity, or of certain value unless and except at the time such representation or representations are made, you actually have on hand, and for sale, furniture made at Grand Rapids, Mich., in the quantity or of the value so represented.

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(3) Making any representations in advertisements or otherwise, or in any manner whatsoever, that 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 advertisements or other representation of ownership of such a factory or factories.

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.

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IN THE MATTER OF

LOUIS SHAPIRO, BARNEY SHAPIRO, AND FRANK B. SHAPIRO, DOING BUSINESS UNDER THE NAME AND STYLE OF L. SHAPIRO & SONS.

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

Docket 1318—September 30, 1925.

SYLLABUS.

Where a firm engaged in the manufacture and sale of men's clothing, represented in circulars advertising the aforesaid clothing and consisting of samples of cloth and descriptive matter, that the fabric of which the said clothing was made, was "all wool," the fact being that 35 per cent thereof was cotton; with the tendency to mislead the trade and purchasing public in reference to the composition of said garments, and with the effect of causing a substantial portion thereof to purchase the same in the erroneous belief thereby induced, and with the tendency to divert trade from competitors manufacturing and selling clothing truthfully designated and described in reference to the composition of the fabric thereof, whether all wool or wool and cotton mixed:

Held, That such false and misleading advertising, under the circumstances set forth, constituted an unfair method of competition.

Mr. Robert O. Brownell for the Commission.

Mr. B. H. Hartogensis of Baltimore, Md., for respondents.

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 Louis Shapiro, Barney Shapiro, and Frank B. Shapiro, partners, doing business under the trade name and style of Shapiro & Sons, hereinafter designated 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, Louis Shapiro, Barney Shapiro, and Frank B. Shapiro, are now, and at all times hereinafter mentioned were, partners, doing business under the trade name and style of Shapiro & Sons, with place of business in the city of Baltimore, in the State of Maryland, engaged in the manufacture of men's clothing and its sale, and transportation when sold to purchasers in the various States of the United States, in competition with other per-

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