

Syllabus

IN THE MATTER OF

JOSEPH GREENSPAN, INCORPORATED, TRADING AS
GRAND RAPIDS UPHOLSTERING COMPANY

COMPLAINT (SYNOPSIS), FINDINGS, AND ORDER IN REGARD TO THE ALLEGED
VIOLATION OF SEC. 5 OF AN ACT OF CONGRESS APPROVED SEPT. 26, 1914

Docket 1887. Complaint, Dec. 17, 1930—Decision, Apr. 27, 1931

Where the city of Grand Rapids, Mich., had long come to be a large and important furniture and manufacturing center in this country and to be generally so known, and the furniture industry and manufacturers of said city had long since come to enjoy a wide popularity, good will and demand throughout the country for their product; and thereafter a corporation engaged in purchase, and sale at retail, of furniture bought by it from manufacturers and wholesalers in New York City and vicinity, and doing no manufacturing other than that involved in upholstering frames of living room furniture bought by it as above set forth, nor agent of nor representing any Grand Rapids furniture manufacturer, nor authorized by any such manufacturer to sell his product at factory prices.

Displayed on business cards distributed to public the name and legend "Grand Rapids Upholstering Co., Makers of Upholstered Furniture", and on signs at its place of business such legends as "Grand Rapids Furniture"; "Furniture Mfr Selling Direct to The Public Retail at Wholesale Prices", "Furniture manufacturers selling direct to the public retail at wholesale prices"; "Furniture—See it made on the premises—Manufacturers selling direct to the public—Save the retailers' Profits", and featured its said trade name including words "Grand Rapids", in its advertisements in newspapers of general circulation together with such statements as "From factory to you"; "Our newly adopted policy demands selling direct to the public at our original dealers' Prices", "Buy now at the same price dealers pay", "When manufacturers start selling direct to the public you can expect big things", "Manufacturers? Yes. Buy now at wholesale prices";

With effect of deceiving and misleading public into believing it to be a manufacturer offering furniture made by it in Grand Rapids, of the quality and characteristics associated with furniture there made, and sold direct from manufacturer to public, with profits of middlemen thereby eliminated, and with capacity and tendency so to mislead and deceive, and unfairly to divert sales to it from wholesalers and retailers dealing in furniture made in aforesaid city, those dealing in furniture not there made and not so represented through trade names and otherwise, manufacturers in said city and elsewhere selling direct to the consuming public, and manufacturers located elsewhere who do not falsely represent themselves as Grand Rapids manufacturers, but represent facts truthfully as to place of manufacture, and dealers who do not in any way represent themselves as agents or representatives of manufacturers to whom latter sell their furniture at factory prices:

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

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Mr. Edward E. Reardon for the Commission.

Mr. Herman S. Fried, of New York City, for respondent.

SYNOPSIS OF COMPLAINT

Reciting its action in the public interest pursuant to the provisions of the Federal Trade Commission Act the Commission charged respondent, a New York corporation engaged in the purchase of furniture from manufacturers and wholesalers in the vicinity of New York City, and in the sale thereof as bought by him, complete, except for living room furniture, frames of which he purchased as above set forth and upholstered himself, at his place of business, in New York, with using misleading trade name, misrepresenting business status and connections, and advertising falsely or misleadingly in said respects, and as to source or origin of products dealt in, in violation of the provisions of section 5 of such act, prohibiting use of unfair methods of competition in interstate commerce.

Respondent, as charged, engaged as above set forth, and with no connection with furniture manufacturers of Grand Rapids, Mich., long favorably known as furniture manufacturing center, nor selling any of their products, displays, as alleged, such signs in his place of business as "Grand Rapids Furniture", "Furniture Mf'r Selling Direct to The Public Retail at Wholesale Prices", "Furniture—See it made on the premises—Manufacturers selling direct to the public—Save the retailers' profit", and in his advertisements in newspapers, prominently displaying his trade name, makes such statements as "From factory to you", "Our newly adopted policy demands selling direct to the public at our original dealers' prices", "When manufacturers start selling direct to the public you can expect big things".

Said acts, as alleged, have capacity and tendency to deceive and mislead, and effect of misleading and deceiving the public as to the manufacture, quality and characteristics of the furniture thus dealt in by respondents and the advantages in price to such public in purchase from respondent, and the further tendency to unfairly divert sales from competitors of respondent engaged as manufacturers and/or dealers in Grand Rapids or elsewhere, or in Grand Rapids furniture or otherwise, without misrepresenting the fact as to their said furniture; all to the prejudice of the public and respondent's competitors.¹

Upon the foregoing complaint, the Commission made the following

¹ Allegations and findings are substantially identical, the case not having been contested.

REPORT, FINDINGS AS TO THE FACTS, AND ORDER

Pursuant to the provisions of an act of Congress approved September 26, 1914 (38 Stat. 717), the Federal Trade Commission on the 17th day of December, 1930, issued its complaint against the respondent, Joseph Greenspan, Inc., and caused the same to be duly served upon the respondent, as required by law, on the 18th day of December, 1930, charging the respondent with the use of unfair methods of competition in interstate commerce in violation of said act.

More than thirty days having elapsed from the day of service of the complaint upon respondent and no request for an extension of time having been made and no extension of time to answer having been granted; and the respondent having failed to file an answer, and, under the Rules of Practice and Procedure of the Commission, failure to file an answer within the time provided by said rules being deemed an admission of all the allegations of the complaint and to authorize the Commission to find them to be true and to waive hearing on the charges set forth in the complaint, of all which the respondent had due notice and knowledge:

Thereupon the Commission having duly considered the record and being fully advised in the premises, makes this its findings as to the facts and conclusion:

FINDINGS AS TO THE FACTS

PARAGRAPH 1. Respondent is a corporation, incorporated and doing business under the laws of the State of New York, with its place of business in the city and State of New York and engaged in the business of selling household furniture at retail.

In the course of respondent's business it makes sales of furniture at retail to persons located outside the State of New York and causes said furniture in performance of said sales to be transported from the city and State of New York and delivered to such purchasers at their respective locations outside the State of New York. In the course and conduct of said business, respondent is in competition with other individuals, partnerships, and corporations engaged in the sale and shipping of furniture in commerce from New York City and State into other States.

PAR. 2. For three years last past respondent has conducted a retail business, buying furniture for resale, from furniture manufacturers and wholesale dealers in the city of New York and vicinity, except living room furniture, the frames for which respondent purchases mainly from manufacturers or wholesale dealers in the city of New

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York and vicinity and upholsters at its place of business in New York City.

In the course of its business as aforesaid respondent has displayed at its place of business various signs carrying the following legends: "Grand Rapids Furniture"; "Furniture Mf'r Selling Direct to The Public Retail at Wholesale Prices." Respondent has displayed also in its show windows and near the entrance to its store signs which read: "Furniture manufacturers selling direct to the public—retail at wholesale prices"; "Furniture—See it made on the premises—Manufacturers selling direct to the public—Save the retailers' profits."

In the course of its business as aforesaid, respondent has caused to be published in newspapers which have a general circulation in the State of New York and neighboring States, advertisements displaying prominently its trade name, describing various articles of furniture and bearing the legends: "From factory to you"; "Our newly adopted policy demands selling direct to the public at our original dealer's prices"; "Buy now at the same price dealers pay"; "When manufacturers start selling direct to the public you can expect big things"; "Manufacturers? Yes. Buy now at wholesale prices." Respondent uses and distributes to the public also a business card on which appears "Grand Rapids Upholstering Co., Makers of Upholstered Furniture, Joseph Greenspan, 39 W. 14th St., New York."

PAR. 3. The respondent does not manufacture furniture at Grand Rapids or anywhere else, except so far as he upholsters a part of his stock, namely, living room chairs, etc., in New York City. Respondent is not an agent or representative of a manufacturer or manufacturerers of Grand Rapids; or authorized to sell by, or has sold for, any Grand Rapids manufacturer, furniture at factory or manufacturer's prices.

PAR. 4. The city of Grand Rapids, Mich., has been for many years and is now a large and important center of the manufacture of furniture in this country. This fact is generally known to the public throughout the United States and the furniture industry and furniture manufacturers of Grand Rapids have for many years enjoyed and now enjoy a wide popularity, good-will and demand throughout the country as representing and making furniture, including household furniture of a dependable quality and desirable characteristics.

PAR. 5. The acts of respondent as set out in paragraph 2 hereof are calculated and have the capacity and tendency to, and do, deceive and mislead the public into the belief that the respondent is a manufacturer of furniture and that the furniture it offers for sale is

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made (1) in the city of Grand Rapids, Mich., and (2) by respondent, and is of the quality and desirable characteristics associated in the public mind with the furniture manufactured in that city; and that respondent sells said furniture direct from manufacturer to the public thereby eliminating the profits of middlemen; whereas, in truth and in fact respondent purchases said furniture which it offers for sale and sells, mainly from manufacturers and wholesalers located in New York City and vicinity; and little or none of said furniture is made in the city of Grand Rapids, Mich., and none of it is made by respondent, except as to upholstering as aforesaid.

PAR. 6. Respondent in the course of his business as above described is in competition in interstate commerce severally with the following manufacturers and dealers in furniture; wholesale and retail dealers in furniture manufactured in Grand Rapids, Mich.; wholesale and retail dealers in furniture not manufactured in said city of Grand Rapids who do not through trade names or otherwise represent that such furniture is manufactured in said city or is in any wise a product of the furniture industry thereof; manufacturers of furniture at Grand Rapids and elsewhere who sell the furniture which they manufacture direct to the consuming public, and manufacturers of furniture at other places than Grand Rapids, who do not represent that they manufacture at Grand Rapids but truthfully represent the facts as to the place of manufacture; wholesale and retail dealers who do not in any manner represent that they are sales agents or representatives of manufacturers, at Grand Rapids or elsewhere, through whom such manufacturers sell the furniture made by them, at factory prices. The acts of respondent as aforesaid tend unfairly to divert sales from the various classes of competitors above described.

CONCLUSION

The practices of the respondent under the conditions and circumstances set forth in the foregoing findings are to the prejudice of the public and of respondent's competitors, and are unfair methods of competition in commerce and constitute a violation of section 5 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

Pursuant to the provisions of an act of Congress approved September 26, 1914 (38 Stat. 717), the Federal Trade Commission on the 17th day of December, 1930, issued its complaint against the

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respondent, Joseph Greenspan, Inc., and caused the same to be duly served upon said respondent on the 18th day of December, 1930, as required by law, in which complaint it is charged that the respondent has been and is using unfair methods of competition in interstate commerce in violation of the provisions of section 5 of said act.

The respondent not having filed an answer to the complaint and failure to file an answer within the time provided by the Rules of Practice and Procedure of the Commission being deemed an admission of the allegations of the complaint and to authorize the Commission to find them to be true and to waive hearing on the charges set forth in the complaint, of all which the respondent had due notice and knowledge, and the Commission having made its findings as to the facts and its conclusion that the respondent has violated 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":

It is now ordered, That the respondent, Joseph Greenspan, Inc., its officers agents and employees in connection with the advertising, offering for sale or sale of furniture in interstate commerce do cease and desist from—

1. Using the terms "Factory" or "Manufacturers" on signs or in other printed matter to designate or to describe any building or place of business in or from which such furniture is sold that has only been upholstered by respondent, and unless and until the respondent actually owns and operates or absolutely controls a factory or manufacturing plant wherein furniture sold or offered for sale by the respondent is made.

2. Using the phrases "Manufacturers selling direct to the public—Save the retailers' profit," or words or phrases of like meaning, unless and until the respondent actually owns and operates or absolutely controls a factory or manufacturing plant wherein furniture sold or offered for sale by the respondent is made.

3. Using the words "Grand Rapids" as a trade name or in advertising, or in any manner, to designate or to describe furniture sold by respondent unless and until the furniture so described and sold is, in fact, manufactured at Grand Rapids, Mich.

It is further ordered, That the respondent, Joseph Greenspan, Inc., shall, within 30 days after the service upon it of this order, file with the Federal Trade Commission, a report in writing setting forth in detail the manner and form in which it has complied with the above order to cease and desist.

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IN THE MATTER OF

NOMA ELECTRIC CORPORATION

COMPLAINT AND ORDER IN REGARD TO THE ALLEGED VIOLATION OF SEC. 5
OF AN ACT OF CONGRESS APPROVED SEPT. 26, 1914

Docket 1894. Complaint, Jan. 14, 1931—Order, Apr. 27, 1931

Consent order requiring respondent to desist selling or offering Christmas tree lighting outfits at less than cost, with intent and effect of hindering, suppressing and stifling competition in such outfits and of injuring and destroying the business of its competitors, as in said order set forth.

Mr. G. Ed. Rowland for the Commission.

Mr. Marvin Farrington, of Washington, D. C., for respondent.

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 Noma Electric Corporation, hereinafter referred to as respondent, has been and is now 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. Respondent is a corporation organized and existing under the laws of the State of New York, with its office and principal place of business in the City of New York in said State. The officers of respondent are Joseph Block, president; Henri Sadaca, vice president; Joseph Brittle, secretary; and Henry Hyman, treasurer. It is and has been for more than one year last past engaged in the business of manufacturing and selling decorative electric goods, Christmas tree lighting outfits, and other products of a similar nature. It causes said products, when so sold, to be transported from its said place of business in the said State of New York into and through other States of the United States to the purchasers thereof located in the various States of the United States, other than the State of New York. In the course and conduct of its said business, respondent is in competition with other persons, partnerships and corporations engaged in the sale and distribution of similar articles of merchandise in commerce between and among various States of the United States.