

Complaint

21 F. T. C.

IN THE MATTER OF
THOMASVILLE CHAIR COMPANY

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

Docket 2589. Complaint, Oct. 18, 1935—Order, Dec. 20, 1935

Consent order requiring respondent, its officers, etc., in connection with the advertisement, offer for sale, and sale in interstate commerce of household or other furniture, to cease and desist from—

- (a) Advertising or in any other way representing, directly or by implication, that articles of furniture made or sold by it and not made from wood derived from trees of the genus *Swietenia* of the *Meliaceae* family, otherwise known as Mahogany, are "Mahogany" or "Mah";
- (b) Advertising or in any other way representing, directly or by implication, that articles of furniture made or sold by it and not made from wood derived from the genus *Juglans*, of the tree family known as Walnut or *Juglandaceae*, are "walnut" or "oriental walnut"; or
- (c) Using word "walnut", either independently or in connection or conjunction with word "oriental", or with any other word or words, in its advertising matter of whatever character, so as to represent, import, imply, or have capacity or tendency to confuse, mislead or deceive purchasers into belief that said articles of furniture are made, either in whole or in part, from wood derived from trees of the Walnut or *Juglandaceae* family, when such is not the fact.

Mr. T. H. Kennedy for the Commission.

COMPLAINT

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, having reason to believe that the Thomasville Chair Company, a corporation, has been and is using unfair methods of competition in commerce as "commerce" is defined in said act, and it appearing to said Commission that a proceeding by it in respect thereof would be in the public interest, hereby issues its complaint, stating its charges in that respect as follows:

PARAGRAPH 1. Respondent is a corporation organized, existing, and doing business under and by virtue of the laws of the State of North Carolina, with its principal place of business at Thomasville in the State of North Carolina. Respondent is now and for a number of years last past has been engaged in the manufacture of a general line of bedroom and dining room furniture and to some extent of other miscellaneous furniture lines and in the sale and distribution of said

products in commerce between and among the various States of the United States. In the course of its said business, respondent has at all times herein referred to, used and does now use the name of Finch Furniture Company along with its own corporate name in consummating its business transactions. Said Finch Furniture Company is a fictitious name applied by respondent to one of the divisions or departments of respondent's business. Respondent causes its said products when so sold to be transported from its said place of business in Thomasville, N. C., or other State of origin into and through other States of the United States to purchasers of said products. Respondent's customers are wholesale furniture dealers, furniture jobbers, and retail furniture dealers. In the course and conduct of its said business, respondent is in competition with other individuals, partnerships, and corporations engaged in the sale and distribution of similar products in commerce between and among various States of the United States.

PAR. 2. In connection with and in the conduct of its said business, respondent caused advertising matter, statements, invoices and other writings to be distributed in interstate commerce among its customers and prospective customers situated in States other than the State of origin of such distribution, in which said writings certain of its products were represented, designated and referred to as "Solid Mahogany" and as "Mahogany" while other products were represented and designated as "Oriental Walnut" and "Walnut." Invoices listed said products as "Mah." or as "Wal." and which products so advertised and invoiced were sold and shipped in interstate commerce; when in truth and in fact (a) said products designated "Mahogany" or "Mah." were made of woods other than Mahogany wood and (b) said products designated "Walnut" or "Wal." were made of woods other than walnut wood.

PAR. 3. By means of said designations and descriptions of its said products as set forth in paragraph 2 hereof, respondent places in the hands of respondent's customers the means whereby said respondent's customers may commit a deception and fraud upon the purchasing public by enabling said respondent's customers to represent that said products are made of mahogany wood or of walnut wood respectively and display respondent's said designations and descriptions as evidence and confirmation of the truth of said representations. The aforesaid representations made by respondent have had the capacity and tendency to cause said respondent's customers to resell said products as and for furniture made of mahogany wood or walnut wood and thus eventually cause the purchasing public to purchase said products made of woods other than mahogany or of woods

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other than walnut in the belief that the articles so purchased are made of mahogany wood or walnut wood respectively.

PAR. 4. There were and are among the competitors of said respondent, Thomasville Chair Company, many who have dealt in and sold and who deal in and sell similar products to those herein referred to made of mahogany or of walnut who have rightfully and truthfully represented and who rightfully and truthfully represent their said products to be made of mahogany or walnut wood respectively and the above alleged acts and practices of the said respondent have tended to and do tend to divert and have diverted and do divert business from and have tended to and do tend otherwise to prejudice and injure said competitors; and there were and are among the competitors of said respondent many who have dealt in and sold and who deal in and sell similar products to those herein referred to not made of mahogany wood or walnut wood respectively and who have rightfully and truthfully represented and who rightfully and truthfully represent said products not to be made of mahogany wood or walnut wood respectively; and the above alleged acts and practices of said respondent have tended to and do tend to divert and have diverted and do divert business from and have tended to and do tend to otherwise prejudice and injure said competitors.

PAR. 5. The above alleged acts and practices of respondent have been and are all to the prejudice of the public and competitors of said respondent 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.

ORDER TO CEASE AND DESIST

This proceeding having come on for final hearing by the Federal Trade Commission upon respondent's answer waiving all further procedure and consenting that the Commission may make, enter and serve upon it an order to cease and desist from the unfair methods of competition charged in the complaint, and the Commission being fully advised in the premises,

It is now ordered, That the respondent, Thomasville Chair Company, a corporation, its officers, agents, representatives, and employees, in connection with the advertising, offering for sale, and sale in interstate commerce of household or other furniture, cease and desist from:

(1) Advertising or in any way otherwise representing, directly or by implication, by advertisements, advertising literature, invoices, stickers attached to the articles of furniture, or in any manner or by any means whatsoever, that articles of furniture manufactured or sold by the respondent and not made from wood derived from trees of the genus *Swietenia* of the *Meliaceae* family, otherwise known as mahogany, are "Mahogany" or "Mah."

(2) Advertising or in any way otherwise representing, directly or by implication, by advertisements, advertising literature, invoices, stickers attached to the articles of furniture, or in any manner or by any means whatsoever that articles of furniture manufactured or sold by the respondent and not made from wood derived from the genus *Juglans*, of the tree family known as walnut or *Juglandaceae*, are "walnut" or "oriental walnut."

(3) Using the word "walnut" either independently or in connection or conjunction with the word "oriental", or with any other word or words, in its advertising matter of whatever character, so as to represent, import, imply, or have the capacity or tendency to confuse, mislead or deceive purchasers into the belief that said articles of furniture are manufactured, either in whole or in part, from wood derived from trees of the walnut or *Juglandaceae* family, when such is not the fact.

It is further ordered, That respondent, Thomasville Chair Company, shall, within 60 days from the date of service upon it of this order, file with the Commission a report in writing, setting forth the manner and form in which it has complied with the order herein set forth.

Syllabus

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IN THE MATTER OF

JOSEPH M. GUERRA, TRADING AS BENTON
NOVOGRAPH COMPANYCOMPLAINT, FINDINGS, AND ORDER IN REGARD TO THE ALLEGED VIOLATION
OF SEC. 5 OF AN ACT OF CONGRESS APPROVED SEPT. 26, 1914*Docket 2465. Complaint, June 27, 1935—Order, Dec. 24, 1935*

Where an individual, engaged in printing invitations, announcements, calling cards, and other social and business stationery by a process in which the letters or designs were type printed thereon and thereafter "raised" by embossing—

Used words "engraving" and "engravers" in describing his products in newspaper and periodical advertisements circulated throughout the several States, and in circulars, sample books, etc., through such statements as "plate engraved", "Benton engraving is produced by an exclusive method", etc., "Plate engraved on fine velum", "There is no substitute for plate engraving", "Of course, you will not be content with anything less than genuine plate engraving", etc., and "exclusive engravers", in referring to his business or trade name;

The facts being he neither owned, nor operated an "engraving" company, and was not engaged in the business of engraving, or producing engraved stationery, and letters, etc., upon products in question had not been produced by application of the paper to inked plates upon which the words or designs had been cut or incised by hand, machine, etching, or other means below the surface thereof, as understood by trade and public as involved in the much more costly engraving preferred by many;

With effect of misleading and deceiving a substantial portion of the purchasing public into the erroneous belief that he owned or operated an "engraving" company and was engaged in the business of producing and selling engraved stationery, and that the letters or designs upon his said stationery were genuine engraving as known to trade and public generally, and with capacity and tendency so to do, and with result that a substantial volume of his said products was purchased by the consuming public, and trade, to a substantial extent, was diverted from competitors, including those who truthfully represent themselves as producers of and dealers in genuine engraved stationery, and those who manufacture business and social stationery without in any manner representing themselves as manufacturers of or dealers in "engraved" products, to the substantial injury of competition in commerce, and use of words "engraving", "engraved", or "engravers" in his advertising literature, as above set forth, placed in the hands of unscrupulous agents and representatives the means of misleading and deceiving customers in the aforesaid respects and causing purchase of substantial quantities of such products as a result of said erroneous beliefs:

Held, That such acts and practices were all to the prejudice of the public and competitors and constituted unfair methods of competition.