

IN THE MATTER OF
RETAIL FURNITURE DEALERS' ASSOCIATION OF
ST. LOUIS, ET AL.

COMPLAINT, FINDINGS, AND ORDER IN REGARD TO THE ALLEGED VIOLATION
OF SEC. 5 OF AN ACT OF CONGRESS APPROVED SEPT. 20, 1914

Docket 2757. Complaint, Apr. 9, 1936—Decision, Dec. 31, 1936

Where the retail furniture dealers' association of St. Louis, members of which were engaged in the purchase of furniture and allied products including, usually, electric refrigerators and radios, from various manufacturers, distributors, wholesalers, jobbers, and dealers in many different States, and in reselling such furniture and merchandise at retail to various members of the consuming public in Missouri and Illinois and in other States of the trade area adjacent thereto, and some of the members of which were, during the time herein concerned, engaged in commerce between and among the different States and in trade, business, and commerce which had a direct and substantial effect upon interstate commerce in furniture and allied products, including electric refrigerators and radios, and some of the members of which, thus engaged, were in substantial competition with others similarly engaged in the purchase and sale at retail and distribution of such products; and the officers and executive board members of said association; in pursuance of objects for which created and to enhance and promote the volume of trade, business, and profits of its members, and incident to certain policies, sales methods, and trade practices which they sought to have and, which, to some extent, were put into effect by manufacturers, distributors, wholesalers, and jobbers engaged in interstate commerce and trading in area in question—

- (a) Requested such wholesalers, jobbers, and manufacturers, selling furniture and allied products in area in question, to adopt, follow and adhere to policy and practice that no sales of such products be made by them directly to ultimate consumer or to their own employees, except for latter's personal use, or to contractors, institutions, hotels, apartment-house operators, real-estate dealers, or large industrial plants, and that requests from ultimate consumers to buy merchandise from them, to be billed through some retail dealer, be refused, and such customer be required to purchase from a "regular" retailer, and that no sales or deliveries be made by them to homes of ultimate consumers and no merchandise be sold to salesmen for any furniture retailer unless sold, billed, and delivered to such dealer;
- (b) Requested such wholesalers, etc., to adopt, follow and adhere to policy and practice that no orders for merchandise be accepted by them from dealers in cities other than St. Louis, Mo., or East St. Louis, Ill., where delivery thereof was to be made in said two last-named cities, and that no merchandise at any time be donated by them or placed on consignment basis with anyone, except for short period for window or floor display only;
- (c) Requested such wholesalers, etc., to adopt, follow, and adhere to policy and practice that they do not sell merchandise to concerns who sell at retail and who, in so doing, hold themselves out to public and to their customers as contract home furnishers operating on basis similar to that of whole-

salers, and also that they do not go upon the sales floor of any retailer and talk to purchasers or prospective purchasers of line of merchandise offered for sale in particular retail store or department thereof; and

Where said association, in order to make such sales methods, policies and practices effective and require compliance therewith by all such manufacturers, etc., trading in said area, acting through its officers and executive board—

(d) Announced adoption by it of aforesaid selling methods, policies and practices in bulletins and letters distributed among its members and sent to manufacturers and distributors, and set forth, in bulletins or circulars to its members, names of manufacturers and distributors who cooperated or agreed to cooperate in enforcement of such sales methods and policies adopted by it;

(e) Acquainted manufacturers and distributors with names of those who, it asserted, were not entitled and should not be permitted to buy furniture at wholesale prices, and sought and obtained promises and assurances of cooperation by manufacturers, wholesalers and jobbers to the end that all ultimate consumers of merchandise would be refused the advantage of buying at wholesale and would be required to purchase merchandise only through regular retail stores; and

Where some of said association members, following discussion and the advocating of the adoption by the association of the policy that all members impose a carrying charge, in addition to the advertised cash price, for merchandise sold on installments or deferred payment plan, and acting without authority from the association—

(f) Interviewed certain manufacturers, distributors, jobbers, and wholesalers engaged in interstate commerce in trade area in question, in furtherance of their desire that said manufacturers, etc., adopt a policy of selling only to such retailers in said area as impose such a carrying charge, and intimated, in some cases, that they did not intend to purchase products handled by such manufacturers, etc., as later sold or continued to sell the same to those retailers who did not use or impose such charges, with capacity and tendency to instill in the minds of said manufacturers, etc., belief that it, i. e., the association, had adopted and was pursuing practices and policies above set forth and requiring all its members to impose a carrying charge on installment or deferred payment plan merchandise, as above set forth, and was attempting to compel them to desist from selling their respective lines to dealers competing with the members who did not conform in the above respects and to induce some of said manufacturers, etc., to believe that if they persisted in selling their products to such non-conforming furniture dealers, association members would cease buying said lines from them, and with tendency, as result thereof, to impel latter to refuse to sell their said lines to those furniture dealers in and around said named cities and who did not thus conform; and

With capacity and tendency, by reason of said plan, program, and undertaking, and acts and practices and selling methods and policies in pursuance thereof in trade area in and around said cities and in Missouri, Illinois, and adjoining States, to (1) monopolize in certain of said members business of dealing in and distributing furniture and allied products, including electric refrigerators and radios, (2) lessen and restrain competition in said line of products and deprive purchasing and consuming public of

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advantages in price, service, and other considerations which they would receive and enjoy under conditions of normal, unobstructed, free, and fair competition therein, (3) substantially increase cost to purchasers of such products, (4) discriminate against some business enterprises which were or had been engaged in selling and distributing same, (5) obstruct, hamper, and interfere with normal and natural flow of trade in commerce in furniture and allied products into, through, and from said trade area, and (6) prejudice and fetter the public and manufacturers, producers, distributors, and competing retailers who did not conform to their program or methods or did not desire to do so:

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

Mr. Walter B. Wooden and Mr. Allen C. Phelps, for the Commission.

Mason, Spalding & McAtee, of Washington, D. C., for Manne Brothers Furniture Co. and some thirty-four other concerns as members of said respondent association, and for Peter M. Igoe, as president of said association and for various other officers of said association, and for Benjamin Weisman and various other members of the executive board of said association (for some of which various respondents there also appeared as counsel and attorneys all but the last three, below named, who alone represented their respondent clients).

Greensfelder & Grand, of St. Louis, Mo., for Manne Brothers Furniture Co., American Furniture Co., Wellston Furniture Co., Joseph Manne, and Joseph Lasky.

Burnett, Stern & Liberman, of St. Louis, Mo., for Union-May-Stern Co. and Benjamin Weisman.

Mr. A. B. Frey, of St. Louis, Mo., for Goldman Bros., Inc., and Stanley Goldman.

Eliot, Blayney & Bedal, of St. Louis, Mo., for Lammert Furniture Co. and Martin Lammert.

Igoe, Carroll & Keefe, of St. Louis, Mo., for Hellrung & Grim House Furnishing Co., Igoe House Furnishing Co., and Peter M. Igoe.

Thompson, Mitchell, Thompson & Young, of St. Louis, Mo., for Rhodes-Burford House Furnishing Co.

Jeffries, Simpson & Plummer, of St. Louis, Mo., for Gregson Furniture Co. and Shirley D. Gregson.

Lewis, Rice, Tucker, Allen & Chubb, of St. Louis, Mo., for Dau, The House Furnisher, Inc. and Fred C. Dau, as treasurer and member of the executive board of said association.

Mr. Jerome M. Steiner, of St. Louis, Mo., for Ideal Furniture Co. and Chas. Steiner.

Mr. Albert L. Schmidt, of St. Louis, Mo., for Mosley-Thuner Furniture Co. and James A Mosley.

Mr. George C. Foster, of St. Louis, Mo., for John Alt Furniture Co.

Mr. Max Sigoloff, of St. Louis, Mo., for J. D. Carson, Inc. Lauer Furniture Co. and National House Furnishing Co.

Mr. Maurice Schechter, of St. Louis, Mo., for Geitz House Furnishing Co.

Mr. King G. McElroy, of St. Louis, Mo., for J. C. Geitz Sewing Machine and Furniture Co.

Mr. John C. Kappel, Jr., of St. Louis, Mo., for Frank L. Schaab Stove and Furniture Co.

Mr. S. Sylvan Agatstein, of St. Louis, Mo., for Joseph Agatstein.

Mr. Karol A. Korngold, of St. Louis, Mo., for Biederman Furniture Co.

Mr. Henry H. Oberschelp, of St. Louis, Mo., for Kroemeke Furniture Co. and The Warring Furniture Co.

Mr. Edward K. Schwartz, of St. Louis, Mo., for Quality Furniture Co.

COMPLAINT¹

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 respondents hereinabove designated, have been and are 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, Retail Furniture Dealers' Association of St. Louis, is a non-profit corporation organized under the laws of the State of Missouri, by virtue of a certain decree and order made and entered by the Circuit Court of the city of St. Louis, Mo., on December 17, 1923; that said corporation was organized for the expressed purpose of promoting the interest of, and to secure friendly connections between, retail furniture dealers in the city of St Louis, State of Missouri; to promote and combine the influence and intelligence of its members; for the protection of their trade against im-

¹ Extensive enumeration in Par. 3 of the complaint of respondents joined as members of respondent association, may, with certain exceptions set forth in the footnote to said paragraph, be found in the findings, *infra*, at page 374, and is, for said reason, omitted from the complaint as published in the interest of brevity, as are similarly omitted, as likewise included in the findings, *infra*, lists of respondent officers and of respondent members of the executive board enumerated in Par. 4 of the complaint and set forth, with two exceptions noted in the footnote to said complaint, in the findings, *infra*, at page 376.

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sition, injustice, or encroachment upon their common rights and interests; to foster and interchange thoughts and ideas for their mutual benefit as a result of the experience and ability of all; to urge and encourage national, state, and city legislation for the furtherance of the interest of just laws; to secure for its members equitable treatment in all their business dealings with manufacturers of, and dealers in, furniture supplies; to recommend the abolishment of the practice of some manufacturers and wholesale furniture dealers of peddling and selling goods at retail to the detriment of the retail line of business; to disseminate knowledge and information among its members relating to and in connection with the retail furniture business; to give and hold furniture and household shows and exhibits from time to time; to do such other acts and things as do or may tend to accomplish the purpose of the said corporation and are within the laws of the State of Missouri and the United States; that the principal office and place of business of said Association is located at 926 Chemical Building, St. Louis, Mo.

PAR. 2. That for some years prior to August 1, 1933, said respondent corporation was not active, but on or about said date it was informally recognized by agreement among the respondent members hereinafter named, who theretofore had been members or who, upon said date or subsequent thereto, voluntarily became members of said Association; that on said date certain amended bylaws were adopted for the regulation of said corporation which vested the government and control thereof in the officers, and an executive board composed of the president, vice president, and representatives of six members of said Association elected by the members. The said bylaws provide that the members of said corporation shall be composed of individuals, firms, and corporations who carry a stock of furniture or kindred wares, engaged as principals in retailing the same from their own place of business in the city of St. Louis, Mo.

PAR. 3. That the following named respondents have been and are members of said respondent Association and as such have exercised the privileges of and assumed the liabilities incident to such membership, to wit:^{*}

PAR. 4. That the following named respondents have been or are officers of said respondent Association, to wit:^{*}

^{*} The extended enumeration of respondents which follows in the complaint at this point, is also included in the findings, *infra*, at page 374, with certain exceptions, as to which the case was closed or dismissed, as set forth in order closing, etc., on page 385, *infra*, and is, for said reason, omitted here in the interest of brevity.

^{*} The various individuals named as past or present officers of said association in the complaint at this point, may be found set forth in the corresponding paragraph of the findings, *infra*, at page 376, and are accordingly omitted here in the interest of brevity.

The following named respondents have been or are members of the executive board of said respondent Association, in addition to the presidents and vice presidents above named, to wit:⁴

PAR. 5. That the several members of said respondent Association, in the course and conduct of their respective businesses, purchase furniture and allied products, including, in most cases, electric refrigerators and radios, from various manufacturers, distributors, wholesalers, jobbers, and dealers located in many different States of the United States, and cause said commodities so purchased to be transported from the State of origin thereof, being States other than the States of Missouri and Illinois, to, into and through various States of the United States, and into the States of Missouri and Illinois; that said respondent members resell said furniture and merchandise at retail to various members of the consuming public located in the States of Missouri and Illinois and in other States in the trade area adjacent thereto; that said commodities are ordinarily purchased at wholesale or from the manufacturer by said member respondents with the intention and for the purpose of reselling and delivering the same at retail to purchasers located in the States of Missouri and Illinois, and States adjacent thereto, such resales being made from the respective places of business of said respondents, where said goods are assembled and displayed for sale for varying periods of time; that said respondent members, upon sales at retail being made to purchasers, deliver and transport or cause to be delivered and transported said goods so shipped into the States of Missouri and Illinois to the purchasers thereof located in the States of Missouri and Illinois, and other States adjacent thereto; that said respondent members are, and have been during all the time herein mentioned, engaged in commerce between and among different States of the United States, and all of said respondents above named are and have been engaged in trade, business and commerce having a direct effect upon interstate commerce in furniture and allied products, including electric refrigerators and radios.

PAR. 6. That in the course and conduct of their said businesses, said respondent members are in substantial or potential competition with other persons, firms and corporations engaged in the sale at retail and distribution of furniture and allied products, including electric refrigerators and radios, in the States of Missouri and Illinois, and in the trade area extending into other States adjacent thereto;

⁴The various individuals named at this point as past or present members of the executive board of respondent association, are set forth in Par. 4 of the findings, with the exception of two individuals, as to whom case was closed, as set forth in order closing, etc., on page 385, *infra*, and aforesaid enumeration is accordingly not published here in the interest of brevity.

that said competitors likewise purchase their wares, at wholesale or from manufacturers, in various States of the United States, and transport them or cause them to be transported to, into and through States other than the States of Missouri and Illinois to their respective places of business in said trade area and resell and deliver the same at retail to consumers located in the States of Missouri and Illinois, and States other than the State in which said competitors' respective places of business are located; that said competitors are engaged in commerce between and among the different States of the United States and in trade, business and commerce having a direct effect upon interstate commerce in furniture and allied products, including electric refrigerators and radios.

PAR. 7. That respondents are banded and allied together in said Retail Furniture Dealers' Association of St. Louis to carry into effect the regulations, sales methods, requirements, and trade practices hereinafter described, and to enhance and promote the volume of trade, business and profits of said respondent members. And the respondents, namely, said Association, its officers, executive board, and members, during and in the period of more than three years last past have agreed, conspired, combined and confederated together and with others, and have united in and pursued a common and concerted course of action and undertaking among themselves and with others, to adopt, follow, carry out, enforce, and maintain, in a number of States comprising the trade area in and surrounding the cities of St. Louis, Mo., and East St. Louis, Ill., certain policies, sales methods and trade practices, hereafter described, which respondents attempted to or did, by coercion and compulsion, impose upon and require the adoption and observance of by retail furniture dealers in said trade area who were not members of said Association, and by manufacturers, distributors, wholesalers, and jobbers trading in said area, to the substantial or potential prejudice and injury of ultimate purchasers and consumers generally.

PAR. 8. That said policies, regulations, requirements, sales methods, and trade practices, referred to in the preceding paragraph, specifically consist of the following:

(A) As affecting retail furniture dealers in said trade area, and the purchasing public:

1. The practice and requirement that all retail furniture dealers charge as a cash price to ultimate consumers of merchandise the retail price suggested, set, or required by the manufacturer, distributor, or jobber of such merchandise.

2. The practice and requirement that in all sales of merchandise made to ultimate consumers on deferred time or installment pay-

ments there be added and imposed, by retail furniture dealers, a separate uniform carrying charge over the regular advertised retail cash price of such merchandise, for the extension of credit by a retail dealer to the customer and for the privilege extended to the purchaser of paying the purchase price in installments over an agreed period of time.

(B) As affecting manufacturers, distributors, and jobbers selling furniture and allied products in said trade area, and the purchasing public:

1. The practice and requirement that no sales of furniture or allied products be made by manufacturers, distributors, or jobbers, directly to the ultimate consumer thereof, to employees of such manufacturers, distributors, and jobbers, except for the personal use of said employees, or to contractors, institutions, hotels, apartment house operators, real estate dealers, or large industrial plants.

2. The practice and requirement that no orders for merchandise be accepted by such manufacturer, distributor, wholesaler, or jobber from dealers in cities other than St. Louis, Mo., or East St. Louis, Ill., where delivery thereof is to be made in St. Louis or East St. Louis.

3. The practice and requirement that requests from ultimate consumers to buy merchandise from such manufacturer, distributor, wholesaler, or jobber to be billed through some retail dealer be refused, and such ultimate consumer be required to purchase from a "regular" retail dealer.

4. The practice and requirement that no merchandise may at any time be donated by such manufacturers, distributors, wholesalers, or jobbers, or placed on a consignment basis with anyone, except for a short period of time for window or floor display purposes only.

5. The practice and requirement that no sales or deliveries of merchandise shall be made by such manufacturers, distributors, wholesalers, or jobbers to homes of ultimate consumers, and no merchandise shall be sold to salesmen for any retail furniture dealer unless the same is sold to, billed, and delivered to such dealer.

6. The practice and requirement that manufacturers, distributors, wholesalers, and jobbers shall not sell merchandise to concerns who sell at retail, and who in so doing hold themselves out to the public and to their retail customers as contract home furnishers operating on a basis similar to that of wholesalers.

7. The practice and requirement that no manufacturer, distributor, wholesaler, or jobber shall go upon the sales floor of any retail dealer and talk to purchasers or prospective purchasers of the line

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of merchandise offered for sale in that retail store or department thereof.

PAR. 9. That said so-called carrying charge was and is used by and imposed upon the purchasing public by respondent members, who variously designate the same as a service charge, budget charge, credit charge, time payment plan, and other like terms; but however designated, said carrying charge was and is usually represented to the public by respondent members as being an interest charge on deferred payments of the purchase price, at the rate of one-half of one percent per month, or six percent per annum. Such representations so made to the public by respondent members were and are false and misleading, since in truth and in fact the said carrying charge in no case constitutes an interest charge at said rate upon deferred payments of the purchase price. On the contrary it is either an interest charge on the entire principal amount of said deferred payments for the full installment period, in which case the purchaser is charged interest on installment payments of the principal after the same are liquidated, or it is intended to and does include items other than interest, estimated in advance as to amount, such as office and accounting expense, the expense incident to repossession of chattels in case of default by some purchasers in the payment of deferred installments, loss of or damage to chattels repossessed from defaulting purchasers, legal and collection expense and other items attributable to defaulting purchasers. The true nature and make-up of said carrying charge is not in most cases divulged to the purchaser, and the imposition by respondent members of such carrying charge upon purchasers of furniture and allied products on installment payments as above set forth, substantially prejudices and injures those members of the purchasing public who are unable to pay cash for their purchases for such products and those installment purchasers who do not default in their obligations, and unfairly and unreasonably enhances the price of such commodities to such purchasers, with a resulting discrimination against them.

PAR. 10. That for the purpose of making such sales methods, policies and requirements effective and of requiring compliance therewith by all competing retail dealers in furniture and allied products in the several states constituting the trade area adjacent to St. Louis, by manufacturers, distributors, and jobbers trading therein, and by the ultimate purchasing public located therein, said respondent Association, acting through its officers and executive board, and with the knowledge, consent, approval, and active cooperation and participation of respondent members, did the following things:

1. Issued bulletins, circulars, and other printed matter, and distributed the same among its members, and caused the same to be sent

to manufacturers, distributors, and others, in which printed matter the respondent Association announced the adoption by it on behalf of its members of the selling methods, policies, and requirements above described.

2. Issued bulletins and circulars, which it sent to its members and to manufacturers, distributors, and others, in which bulletins and circulars were set forth the names of retail furniture dealers who did not observe, or who failed or refused to follow or abide by the sales methods and policies adopted as aforesaid by the said Association.

3. Issued bulletins and circulars listing the names and products of manufacturers and distributors who did not follow, or who failed or refused to abide by its said sales methods and policies which bulletins and circulars were distributed by it among its members and others, with the result that certain of its members thereafter refused to buy, or threatened not to buy further merchandise from such offending manufacturers and distributors.

4. Issued bulletins and circulars to its said members and to others, setting forth the names of manufacturers and distributors who cooperated, or agreed to cooperate, in the enforcement of the said sales methods and policies adopted by the said Association, which bulletins suggested and proposed that the members of the Association should patronize such manufacturers and distributors who cooperated or agreed to cooperate with the said Association.

5. Appointed a committee of its members, with instructions to inform, and which committee members did inform, manufacturers and distributors that, unless such manufacturers and distributors agreed to and did cooperate with the respondent Association, then the members of the said Association would discontinue buying the line of merchandise sold by such manufacturers and distributors.

6. Acquainted manufacturers and distributors with the names of those persons or concerns engaged in competitive businesses with its members, who, so respondents asserted, were not entitled and should not be permitted to buy furniture at wholesale prices.

7. Sought and obtained promises and assurances of cooperation by manufacturers, wholesalers, and jobbers to the end that all ultimate consumers of merchandise would be refused the advantage of buying at wholesale, and would be required to purchase merchandise only through regular retail stores.

PAR. 11. The capacity, tendency, and effect of said plan, program, agreement, combination, conspiracy, confederation, and undertaking, and the said acts and practices and selling methods and policies of said respondents in pursuance thereof, hereinabove set forth, are

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and have been in the trade area in and around the cities of St. Louis, Mo. and East St. Louis, Ill., the States of Missouri and Illinois, and adjoining States:

1. To monopolize in said respondent members, and "regular" dealers, the business of dealing in and distributing furniture and allied products, including electric refrigerators and radios.

2. To unreasonably lessen, eliminate, restrain, stifle, hamper, and suppress competition in the said retail furniture and allied products trade and industry, and to deprive the purchasing and consuming public of advantages in price, service, and other considerations which they would receive and enjoy under conditions of normal and unobstructed or free and fair competition in said trade and industry; and to otherwise operate as a restraint upon and a detriment to the freedom of fair and legitimate competition in such trade and industry.

3. To fix prices at which furniture and allied products, including electric refrigerators and radios, are sold at retail in said trade area.

4. To substantially increase the cost to purchasers of such furniture and allied products.

5. To suppress, eliminate and discriminate against small business enterprises which are or have been engaged in selling and distributing furniture and allied products.

6. To obstruct, hamper and interfere with the normal and natural flow of trade and commerce in furniture and allied products, into, through and from said trade area; and to injure respondents' competitors in unfairly diverting business and trade from them, depriving them thereof, and otherwise driving or "freezing" them out of business.

7. To prejudice and injure the public, and manufacturers, producers, dealers, distributors, and others who do not conform to respondents' program or methods, or who do not desire to conform to them, but are compelled to do so by the concerted action of respondents herein alleged.

PAR. 12. The above alleged acts and things done by respondents have a dangerous tendency unduly to hinder competition in the furniture and allied products trade in said trade area, and to create a monopoly thereof in the hands of respondents, and constitute unfair methods of competition in commerce within the 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, entitled "An Act to create a Federal Trade Commission, to define its powers and duties, and for other purposes," the Federal Trade Commission, on the 9th day of April, A. D., 1936, issued and served its complaint in this proceeding upon respondents, Retail Furniture Dealers Association of St. Louis, and its officers, executive board, and members, as hereinafter particularly designated and enumerated, charging them with the use of unfair methods of competition in commerce in violation of the provisions of said act. Thereafter, said respondents, after having filed their answers to said complaint, filed herein a certain stipulation as to the facts to be taken as the only facts in this proceeding and in lieu of testimony which might be adduced in support of and in opposition to the complaint and answers herein, which said stipulation has been approved by the Commission. And said respondents, in said stipulation as to the facts so filed by them, consented that the Commission might proceed upon the statements of fact therein contained, including such inferences as it may draw from such facts, to make its findings and its conclusion based thereon and to enter its order disposing of the proceeding without presentation of argument or the filing of briefs. Thereafter, the proceeding regularly came on for final hearing before the Commission on the said complaint, the answers thereto and said stipulation as to the facts, and the Commission having duly considered the same and being now fully advised in the premises, finds that this proceeding is in the interest of the public and makes this its findings as to the facts and its conclusion drawn therefrom:

FINDINGS AS TO THE FACTS

PARAGRAPH 1. Respondent, Retail Furniture Dealers Association of St. Louis, is a non-profit corporation organized under the laws of the State of Missouri, by virtue of a certain decree and order made and entered by the Circuit Court of the city of St. Louis, Mo., on December 17, 1923; that said corporation was organized for the following expressed purposes: Promoting the interest of, and to secure friendly connections between retail furniture dealers in the city of St. Louis, State of Missouri; to promote and combine the influence and intelligence of its members; for the protection of their trade against imposition, injustice, or encroachment upon their common rights and interests; to foster and interchange thoughts and ideas for their mutual benefits as a result of the experience and ability of all; to urge and encourage national, State, and city legislation for the

furtherance of the interest to just laws; to secure for its members equitable treatment in all their business dealings with manufacturers of, and dealers in, furniture supplies; to recommend the abolishment of the practice of some manufacturers and wholesale furniture dealers of peddling and selling goods at retail to the detriment of the retail line of business; to disseminate knowledge and information among its members relating to, and in connection with, the retail furniture business; to give and hold furniture and household shows and exhibits from time to time; to do such other acts and things as do or may tend to accomplish the purpose of the said corporation and are within the laws of the State of Missouri and the United States; that the principal office and place of business of said association is located at 926 Chemical Building, St. Louis, Mo.

PAR. 2. The membership of said respondent association is composed of individuals, firms, and corporations who carry a stock of furniture or kindred wares, and who are engaged as principals in retailing the same from their own places of business in the city of St. Louis, Mo., or the city of East St. Louis, Ill. That under the bylaws which have been regularly adopted for the regulation of said respondent association, the government and control thereof is vested in the officers, consisting of a president, a vice-president, a secretary, and a treasurer, and in an executive board composed of the president, vice-president, and representatives of six members of said respondent association elected by the members.

PAR. 3. That the following named respondents have been and are members of said respondent association, and as such have exercised the privileges of and assumed the liabilities incident to such membership, to wit:

Manne Brothers Furniture Company, a corporation organized under the laws of the State of Missouri, with its principal office and place of business at 5613-15 Delmar Boulevard, St. Louis, Mo.

Unlon-May-Stern Company, a corporation organized under the laws of the State of Missouri, with its principal office at 1120-30 Olive Street, St. Louis, Mo.

Goldman Bros., Inc., a corporation organized under the laws of the State of Missouri, with its principal office and place of business at 1182 Olive Street, St. Louis, Mo.

Lammert Furniture Co., a corporation organized under the laws of the State of Missouri, with its principal office and place of business at 911-921 Washington Ave., St. Louis, Mo.

Hellrung & Grim House Furnishing Co., a corporation organized under the laws of the State of Missouri, with its principal office and place of business at 906 Washington Boulevard, St. Louis, Mo.

Stein Furniture Company, a copartnership, with its principal office and place of business at 900 Franklin Street, St. Louis, Mo.

American Furniture Co., a corporation organized under the laws of the State of Missouri, with its principal office and place of business at 708 Franklin Avenue, St. Louis, Mo.

Rhodes-Burford House Furnishing Co., a corporation organized under the laws of the State of Kentucky, with its principal office and place of business at 317 North 11th Street, St. Louis, Mo.

Gregson Furniture Co., a corporation organized under the laws of the State of Missouri, with its principal office and place of business at 4230 North Broadway, St. Louis, Mo.

Dau, The House Furnisher, Inc., a corporation organized under the laws of the State of Missouri, with its principal office and place of business at 2730 North Grand Avenue, St. Louis, Mo.

Ideal Furniture Co., a proprietorship with its principal office and place of business at 5955 Easton Avenue, St. Louis, Mo.

Iless-Dickman Furniture Co., a corporation organized under the laws of the State of Missouri, with its principal office and place of business at 2814-2818 Chippewa Avenue, St. Louis, Mo.

Mosley-Thuner Furniture Co., a corporation organized under the laws of the State of Missouri, with its principal office and place of business at 2122 South Broadway Street, St. Louis, Mo.

John Alt Furniture Co., a corporation organized under the laws of the State of Missouri, with its principal office and place of business at 1510 South Broadway Street, St. Louis, Mo.

Arnold Furniture Co., a corporation organized under the laws of the State of Missouri, with its principal office and place of business at 5000 Gravois Avenue, St. Louis, Mo.

Buettner Furniture Co., a corporation organized under the laws of the State of Missouri, with its principal office and place of business at 1007 Olive Street, St. Louis, Mo.

J. D. Carson, Inc., a corporation organized under the laws of the State of Missouri, with its principal office and place of business at 1116 Olive Street, St. Louis, Mo.

Dyer Bros., a copartnership with its principal office and place of business at 1422 North Grand Avenue, St. Louis, Mo.

Eagle Furniture Co., a corporation organized under the laws of the State of Missouri, with its principal office and place of business at 1001 Franklin Avenue, St. Louis, Mo.

Gausmann-Parker House Furnishing Co., a corporation organized under the laws of the State of Missouri, with its principal office and place of business at 8206 North Broadway, St. Louis, Mo.

Geltz House Furnishing Co., a corporation organized under the laws of the State of Missouri, with its principal office and place of business at 4706 Easton Avenue, St. Louis, Mo.

J. C. Geltz Sewing Machine and Furniture Co., a corporation organized under the laws of the State of Missouri, with its principal office and place of business at 1315 North Market Street, St. Louis, Mo.

General Furniture Company, a proprietorship with its principal office and place of business at 2000 South Jefferson Street, St. Louis, Mo.

Home Furniture Co., a corporation organized under the laws of the State of Missouri, with its principal office and place of business at 4203 Manchester Avenue, St. Louis, Mo.

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Hub Furniture Co., a corporation organized under the laws of the State of Missouri, with its principal office and place of business at 701 Washington Avenue, St. Louis, Mo.

Igoe House Furnishing Co., a corporation organized under the laws of the State of Missouri, with its principal office and place of business at 2741 North Grand Avenue, St. Louis, Mo.

Kassing Goesen House Furnishing Co., a corporation organized under the laws of the State of Missouri, with its principal office and place of business at 2607 North 14th Street, St. Louis, Mo.

Knost Bockwinkel Furniture Home, Inc., a corporation organized under the laws of the State of Missouri, with its principal office and place of business at 3211 Olive Street, St. Louis, Mo.

Kobusch & Cornwall Home Furnishers, Inc., a corporation organized under the laws of the State of Missouri, with its principal office and place of business at 3601 West Florissant Avenue, St. Louis, Mo.

Lauer Furniture Co., a corporation organized under the laws of the State of Missouri, with its principal office and place of business at 825 North Sixth Street, St. Louis, Mo.

National House Furnishing Co., a corporation organized under the laws of the State of Illinois, with its principal office and place of business at 132 Collinsville Avenue, East St. Louis, Ill.

Prossers Furniture and Storage Co., a corporation organized under the laws of the State of Missouri, with its principal office and place of business at 3218 Olive Street, St. Louis, Mo.

Frank L. Schaab Stove and Furniture Co., a corporation organized under the laws of the State of Missouri, with its principal office and place of business at 2022 South Broadway, St. Louis, Mo.

Steiner-Schwartz Furniture Co., a corporation organized under the laws of the State of Missouri, with its principal office and place of business at 2600 North 14th Street, St. Louis, Mo.

Wellston Furniture Co., a corporation organized under the laws of the State of Missouri with its principal office and place of business at 5911 Easton Avenue, St. Louis, Mo.

Westhus Furniture Co., a corporation organized under the laws of the State of Missouri, with its principal office and place of business at 2001 South Broadway, St. Louis, Mo.

PAR. 4. That the following named respondents have been or are officers of said respondent association, to wit:

Peter M. Igoe, president, representing respondent, Igoe House Furnishing Co., 2741 North Grand Avenue, St. Louis, Mo.

Joseph Manne, president, representing respondent, Manne Brothers Furniture Company, 5613-15 Delmar Boulevard, St. Louis, Mo.

Joseph B. Hellrung, vice president and treasurer, representing respondent, Hellrung & Grimm House Furnishing Co., 906 Washington Boulevard, St. Louis, Mo.

Shirley D. Gregson, vice president, representing respondent, Gregson Furniture Co., 4230 North Broadway, St. Louis, Mo.

Fred C. Dau, treasurer, representing respondent, Dau, The House Furnisher, Inc., 2730 North Grand Avenue, St. Louis, Mo.

Gail B. Ussery, secretary, 926 Chemical Building, St. Louis, Mo.

The following named respondents have been or are members of the executive board of said respondent association, in addition to the presidents and vice presidents above named, to wit:

Benjamin Weisman, representing respondent, Union-May-Stern Company, 1120-30 Olive Street, St. Louis, Mo.

Martin Lammert, 3rd, representing respondent, Lammert Furniture Co., 911-921 Washington Avenue, St. Louis, Mo.

Joseph B. Hellrung, representing respondent, Hellrung & Grimm House Furnishing Co., 906 Washington Boulevard, St. Louis, Mo.

Joseph Agatstein, representing respondent, Stein Furniture Company, 900 Franklin Street, St. Louis, Mo.

Joseph Lasky, representing respondent, American Furniture Co., 703 Franklin Avenue, St. Louis, Mo.

Fred C. Dau, representing respondent, Dau, The House Furnisher, Inc., 2730 North Grand Avenue, St. Louis, Mo.

Chas. Steiner, representing respondent, Ideal Furniture Co., 5955 Easton Avenue, St. Louis, Mo.

O. W. Dickman, representing respondent, Hess-Dickman Furniture Co., 2814-2818 Chippewa Avenue, St. Louis, Mo.

James A. Mosley, representing respondent, Mosley-Thuner Furniture Co., 2122 South Broadway, St. Louis, Mo.

PAR. 5. That some of the several members of said respondent association, in the course and conduct of their respective businesses, purchase furniture and allied products, including, in most cases, electric refrigerators and radios, from various manufacturers, distributors, wholesalers, jobbers, and dealers located in many different States of the United States and cause said commodities so purchased to be transported from the State of origin thereof, including States other than the States of Missouri and Illinois, to, into and through various States of the United States, and into the States of Missouri and Illinois; that some of said members resell said furniture and merchandise at retail to various members of the consuming public located in the States of Missouri and Illinois and in other States of the trade area adjacent thereto; that said commodities are ordinarily purchased at wholesale or from the manufacturer by some of said members with the intention and for the purpose of reselling and delivering the same at retail to purchasers located in the States of Missouri and Illinois, and States adjacent thereto, such resales being made from the respective places of business of said members, where said goods are assembled and displayed for sale for varying periods of time; that some of said members, upon sales at retail being made to purchasers deliver and transport or cause to be delivered and transported said goods so sold into the States of Missouri and Illinois to the purchasers thereof located in the States of Missouri and Illinois, and other States adjacent thereto; that some of said

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members of said respondent association are, and have been during all the time herein mentioned, engaged in commerce between and among different States of the United States, and some of said members above named are and have been engaged in trade, business and commerce having a direct and substantial effect upon interstate commerce in furniture and allied products, including electric refrigerators and radios.

PAR. 6. That in the course and conduct of their said businesses, some of said members of said respondent association are in substantial competition with other persons, firms and corporations engaged in the sale at retail and distribution of furniture and allied products, including electric refrigerators and radios, in the States of Missouri and Illinois, and in the trade area extending into other States adjacent thereto; that said competitors likewise purchase their wares, at wholesale or from manufacturers in various States of the United States, and transport them or cause them to be transported to, into and through States other than the States of Missouri and Illinois to their respective places of business in said trade area and resell and deliver the same at retail to consumers located in the States of Missouri and Illinois, and States other than the State in which said competitors' respective places of business are located; that said competitors are engaged in commerce between and among the different States of the United States and in trade, business and commerce having a direct and substantial effect upon interstate commerce in furniture and allied products, including electric refrigerators and radios.

PAR. 7. That in pursuance of the objects for which said respondent association was incorporated, and for the purpose of enhancing and promoting the volume of trade, business and profits of its members in the course and conduct of its activities, the said Retail Furniture Dealers Association of St. Louis, acting through its officers, executive board, and agents has sought to put into effect, and has to some extent put into effect, certain policies, sales methods and trade practices hereafter described. That said respondent association has for the period from August 1, 1933 to May 27, 1935, pursued a course of action to adopt, follow, carry out, enforce, and maintain in a number of States comprising the trade area in and surrounding the cities of St. Louis, Mo. and East St. Louis, Ill., certain policies, sales methods and trade practices, hereafter described, which said respondent association attempted to or did by persuasion require the adoption and observance of by manufacturers, distributors, wholesalers, and jobbers engaged in interstate commerce and trading in said area.

PAR. 8. That said policies, requirements, sales methods, and trade practices, referred to in the preceding paragraph, specifically consist of the following:

Requests to wholesalers, jobbers, and manufacturers selling furniture and allied products in said trade area that they adopt, follow, and adhere to:

1. The policy and practice that no sales of furniture or allied products be made by manufacturers, distributors, or jobbers, directly to the ultimate consumer thereof, to employees of such manufacturers, distributors, and jobbers, except for the personal use of said employees, or to contractors, institutions, hotels, apartment house operators, real estate dealers, or large industrial plants.

2. The policy and practice that no orders for merchandise be accepted by such manufacturer, distributor, wholesaler, or jobber from dealers in cities other than St. Louis, Mo., or East St. Louis, Ill., where delivery thereof is to be made in St. Louis or East St. Louis.

3. The policy and practice that requests from ultimate consumers to buy merchandise from such manufacturer, distributor, wholesaler, or jobber to be billed through some retail dealer be refused, and such ultimate consumer be required to purchase from a "regular" retail dealer.

4. The policy and practice that no merchandise may at any time be donated by such manufacturers, distributors, wholesalers, or jobbers, or placed on a consignment basis with anyone, except for a short period of time for window or floor display purposes only.

5. The policy and practice that no sales or deliveries of merchandise shall be made by such manufacturers, distributors, wholesalers, or jobbers to homes of ultimate consumers, and no merchandise shall be sold to salesmen for any retail furniture dealer unless the same is sold to, billed and delivered to such dealer.

6. The policy and practice that manufacturers, distributors, wholesalers, and jobbers shall not sell merchandise to concerns who sell at retail, and who in so doing hold themselves out to the public and to their retail customers as contract home furnishers operating on a basis similar to that of wholesalers.

7. The policy and practice that no manufacturer, distributor, wholesaler, or jobber shall go upon the sales floor of any retail dealer and talk to purchasers or prospective purchasers of the line of merchandise offered for sale in that retail store or department thereof.

PAR. 9. That for the purpose of making such sales methods, policies and practices effective and of requiring compliance therewith by all manufacturers, distributors, and jobbers trading therein, said

respondent association, acting through its officers and executive board, did the following things:

(1) Issued bulletins and letters and distributed the same among its members, and caused the same to be sent to manufacturers and distributors, in which printed matter the respondent association announced the adoption by it of the selling methods, policies, and practices above described.

(2) Issued bulletins or circulars to its said members, setting forth the names of manufacturers and distributors who cooperated, or agreed to cooperate in the enforcement of the said sales methods and policies adopted by the said association.

(3) Acquainted manufacturers and distributors with the names of those persons or concerns who respondent association asserted were not entitled and should not be permitted to buy furniture at wholesale prices.

(4) Sought and obtained promises and assurances of cooperation by manufacturers, wholesalers, and jobbers to the end that all ultimate consumers of merchandise would be refused the advantage of buying at wholesale, and would be required to purchase merchandise only through regular retail stores.

PAR. 10. That in addition to the foregoing, some of the said members of respondent association, at association meetings, discussed and advocated the adoption by the association of the policy that all members thereof impose a carrying charge in addition to the advertised cash price for merchandise sold on installments or deferred payment plan; that without authority from such association said members interviewed certain manufacturers, distributors, jobbers, and wholesalers engaged in interstate commerce in said trade area in furtherance of their desire that manufacturers, wholesalers, and jobbers adopt a policy of selling only to retail dealers in said area who impose such a carrying charge; that in some cases during said interviews some of said members did intimate that they did not intend to purchase products handled by such manufacturer, distributor, jobber, or wholesaler if the latter sold or continued to sell such products to those retail dealers who did not use or impose such carrying charges.

PAR. 11. The Commission concludes from the foregoing that the capacity and tendency of the aforesaid activities of respondents, as set forth in paragraphs 8, 9, and 10 above, was to instill into the minds of some of said manufacturers, distributors, jobbers, and wholesalers the belief that said respondent association had adopted and was pursuing the practices and policies above set forth and was requiring all its members to impose a carrying charge in addition to

the advertised cash price for merchandise sold on installments or deferred payment plan, and the belief that respondent association was attempting to compel such manufacturers, distributors, jobbers, and wholesalers to desist from selling their respective lines of merchandise to dealers competing with respondent members, who did not conform to such practices and policies and who did not impose such carrying charges upon their customers; that the capacity and tendency of said activities was to induce some of said manufacturers, distributors, jobbers, and wholesalers to believe that if they persisted in selling their said merchandise to furniture dealers who did not conform to such policies and practices or who did not impose such carrying charges, the members of respondent association would cease buying such lines of merchandise from said manufacturers, distributors, jobbers, and wholesalers, and as a result had the tendency to impel the latter to refuse to sell their lines of merchandise to furniture dealers in and around St. Louis, Mo., and East St. Louis, Ill., who did not conform to such practices and policies and who did not impose said carrying charges upon their respective customers.

PAR. 12. The Commission further concludes that the capacity and tendency of said plan, program, and undertaking, and the said acts and practices and selling methods and policies of said respondents in pursuance thereof, are and have been in the trade area in and around the cities of St. Louis, Mo., and East St. Louis, Ill., the States of Missouri and Illinois, and adjoining States:

(1) To monopolize in certain respondent members, the business of dealing in and distributing furniture and allied products, including electric refrigerators and radios.

(2) To lessen and restrain competition in the said line of commerce, and to deprive the purchasing and consuming public of advantages in price, service and other considerations which they would receive and enjoy under conditions of normal, unobstructed, free and fair competition in said line of commerce.

(3) To substantially increase the cost to purchasers of such furniture and allied products.

(4) To discriminate against some business enterprises which are or have been engaged in selling and distributing furniture and allied products.

(5) To obstruct, hamper and interfere with the normal and natural flow of trade and commerce in furniture and allied products, into, through, and from said trade area.

(6) To prejudice and fetter the public and manufacturers, producers, distributors and competing retail dealers who do not conform to respondents' program or methods, or who did not desire to do so.

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CONCLUSION

The aforesaid acts and practices of the respondents are 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, 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 on the complaint of the Commission, the answers of the respondents, and the stipulation as to the facts executed by the respondents, Retail Furniture Dealers' Association of St. Louis, and its officers, executive board, and members, as hereinafter designated and enumerated, said stipulation having been heretofore filed herein, and the Commission having made its findings as to the facts and its conclusion that said respondents have 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 ordered, That respondent, Retail Furniture Dealers' Association of St. Louis, and its officers, executive board, members, agents, representatives, and employees, particularly the following:

Manne Brothers Furniture Company, a corporation;
Union-May-Stern Company, a corporation;
Goldman Bros., Inc., a corporation;
Lammert Furniture Co., a corporation;
Hellrung & Grimm House Furnishing Co., a corporation;
Stein Furniture Company, a co-partnership;
American Furniture Co., a corporation;
Rhodes-Burford House Furnishing Co., a corporation;
Gregson Furniture Co., a corporation;
Dau, The House Furnisher, Inc., a corporation;
Ideal Furniture Co., a proprietorship;
Hess Dickman Furniture Co., a corporation;
Mosley-Thuner Furniture Co., a corporation;
John Alt Furniture Co., a corporation;
Arnold Furniture Co., a corporation;
Buettner Furniture Co., a corporation;
J. D. Carson, Inc., a corporation;
Dyer Bros., a co-partnership;
Eagle Furniture Co., a corporation;
Gausmann-Parker House Furnishing Co., a corporation;
Geitz House Furnishing Co., a corporation;
J. C. Geitz Sewing Machine and Furniture Co., a corporation;
General Furniture Company, a proprietorship;

Home Furniture Co., a corporation;
 Hub Furniture Co., a corporation;
 Igoe House Furnishing Co., a corporation;
 Kassing Goesen House Furnishing Co., a corporation;
 Knost Bockwinkel Furniture Home, Inc., a corporation;
 Kobusch & Cornwall Home Furnishers, Inc., a corporation;
 Lauer Furniture Co., a corporation;
 National House Furnishing Co., a corporation;
 Prossers Furniture and Storage Co., a corporation;
 Frank L. Schaab Stove and Furniture Co., a corporation;
 Steiner-Schwarz Furniture Co., a corporation;
 Wellston Furniture Co., a corporation;
 Westhus Furniture Co., a corporation;

members of said association; and

Peter M. Igoe, Joseph Manne, Joseph B. Hellrung, Shirley D. Gregson, Fred C. Dau, Gail B. Ussery, Benjamin Weisman, Martin Lammert, 3rd, Joseph Agatstein, Joseph Lasky, Charles Steiner, O. W. Dickman, and James A. Mosley, as officers or executive board members of said association, in connection with the purchase, sale and distribution of furniture and allied products, including radios and electric refrigerators in interstate commerce in and around St. Louis, Mo., and East St. Louis, Ill., and elsewhere, in pursuance of any agreement or understanding forthwith cease and desist from:

I. Adopting, following, carrying out, enforcing, maintaining, or attempting to put into effect any of the following policies, standards, sale methods, practices, requirements, or usage, to wit:

1. The collective policy and practice that retail furniture dealers require on all sales of merchandise made to ultimate consumers on deferred time or installment payments that there be added and imposed a separate uniform carrying charge over the regular advertised retail cash price of such merchandise, for the extension of credit by such retail dealers to customers and for the privilege extended to purchasers of paying the purchase price in installments over an agreed period of time.

2. The policy and practice that no sales of furniture or allied products shall be made by manufacturers, distributors, wholesalers or jobbers directly to employees of such manufacturers, distributors, wholesalers or jobbers, except for the personal use of said employees, or to contractors, institutions, hotels, apartment house operators, real estate dealers, or large industrial plants.

3. The policy and practice that no orders for merchandise shall be accepted by such manufacturers, distributors, wholesalers, or jobbers from dealers in cities other than St. Louis, Mo., or East St. Louis, Ill., where delivery thereof is to be made in St. Louis or East St. Louis.

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4. The policy and practice that requests from ultimate consumers to buy merchandise from such manufacturers, wholesalers, distributors, or jobbers to be billed through some retail dealer be refused, and such ultimate consumer be required to purchase from a "regular" retail dealer.

5. The policy and practice that no merchandise may at any time be donated by such manufacturers, distributors, wholesalers or jobbers or placed on a consignment basis with anyone, except for a short period of time for window or floor display purposes only.

6. The policy and practice that no sales or deliveries of merchandise shall be made by such manufacturers, distributors, wholesalers or jobbers to homes of ultimate consumers, and no merchandise shall be sold to salesmen for any retail furniture dealer unless the same is sold to, billed and delivered to such dealer.

7. The policy and practice that manufacturers, distributors, wholesalers and jobbers shall not sell merchandise to concerns who sell at retail, and who in so doing hold themselves out to the public and to their retail customers as contract home furnishers operating on a basis similar to that of wholesalers.

8. The policy and practice that no manufacturer, distributor, wholesaler, or jobber shall go upon the sales floor of any retail dealer and talk to prospective purchasers of the lines of merchandise offered for sale in that retail store or a department thereof.

II. Collectively advocating, recommending, or requiring by persuasion, competitive pressure, compulsion or any other method of any description, the adoption, use or maintenance of either or any of the policies or practices set forth in Paragraph I hereof, by retail furniture dealers, or by manufacturers, jobbers, distributors, wholesalers, or dealers, to be used or put into effect in the course and conduct of their business.

III. Publishing or distributing circulars, bulletins, advertisements, or printed matter of any description announcing the adoption of or advocating the use of the policies and practices set forth in Paragraph I above.

IV. Publishing or distributing circulars, bulletins, advertisements, or printed matter of any description setting forth either the names of retail furniture dealers who have, and do, or those who have not or do not use, observe, or abide by the policies and practices set forth in paragraph I above, or listing the names and products of manufacturers and distributors who have and do, or those who have not and do not follow and use the sales methods and policies set forth in said paragraph.

V. Publishing or distributing circulars, bulletins, advertisements, or printed matter of any description setting forth the names and products of manufacturers and distributors who have cooperated or agreed to cooperate in the enforcement of the said policies and practices set forth in Paragraph I above, or suggesting or proposing that the members of the respondent Association shall patronize such manufacturers and distributors who so cooperate or agree to cooperate with said Association.

VI. Informing, manufacturers, jobbers, wholesalers, or distributors, by the use of any means whatsoever, that unless they or any of them agree to, and will adopt and use the policies and practices set forth in Paragraph I above, the members of respondent Association or any of them will discontinue buying the line of merchandise sold by such manufacturers, jobbers, wholesalers, or distributors.

VII. Informing manufacturers, jobbers, wholesalers or distributors by the use of any means whatsoever, of the names of those persons or concerns who are engaged in competitive business with members of the respondent Association who refuse to follow the policies and practices set forth in Paragraph I above, or notifying or advising any such manufacturer or distributor that any such person or concern should not be permitted to buy furniture or allied products at wholesale prices.

VIII. Seeking or obtaining promises or assurances of cooperation from manufacturers or distributors to the end that all ultimate consumers of merchandise be refused the advantage of buying at wholesale and that they be required to purchase merchandise only through regular retail stores.

It is further ordered, That said respondents named herein shall within 90 days from notice hereof file with the Commission, a report in writing, stating in detail the manner in which this order is being complied with and conformed to by them.

ORDER CLOSING PROCEEDING AS TO CERTAIN RESPONDENTS¹

This matter coming on for consideration by the Commission upon the record and upon the showing which has been made as to the pres-

¹ Proceeding was also theretofore dismissed as to respondent Biederman Furniture Co. by following order entered by Commission on April 24, 1936, namely:

This matter coming on to be heard by the Commission upon the request of counsel for respondent Biederman Furniture Company of 801 Franklin Avenue, St. Louis, Missouri, for a dismissal of the above entitled proceeding as against said named respondent, and the Commission having duly considered said request and being now fully advised in the premises;

It is ordered, That the above entitled proceeding, as against respondent Biederman Furniture Company and as the same affects said respondent only, be and the same hereby is dismissed, without prejudice, however, to the right of the Commission to reinstate should conditions warrant.

ent status of certain of the respondents in the above entitled matter, and it appearing to the Commission that respondent Bly-Moss Furniture Company, a corporation, is no longer engaged in business, and that respondents, Stanley Goldman and H. R. Mains are no longer residents of St. Louis, Mo., or officers of said respondent Association; and it further appearing to the Commission that respondents, Quality Furniture Company, a corporation, Warring Furniture Company, a corporation, Kroemke Furniture Company, a proprietorship, and Luxemburg Furniture Company, a proprietorship, are not actively engaged in furthering the policies and practices of said respondent Association; and the Commission having duly considered said matters and being now fully advised in the premises;

It is ordered, That the case growing out of the complaint hereinbefore issued on the 9th day of April, A. D., 1936, be, and the same hereby is closed as to respondents hereinabove named only without prejudice to the right of the Commission, should the facts so warrant, to reopen the same and resume prosecution of the complaint in accordance with its regular procedure.

Syllabus

IN THE MATTER OF
GIACOMO LAGUARDIA TRADING AS HERBA MEDICINAL LABORATORY

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

Docket 2878. Complaint, July 15, 1936—Decision, Jan. 5, 1937

Where an individual engaged in the sale of various liquids, compounds, solutions, and other matter represented by him as derived from, compiled of, or concocted from, herbs of various kinds—

Represented, in advertisements in periodicals of interstate circulation and in advertising literature circulated throughout the various States and in other ways, that he was a great specialist on herbs, and that the commodities or various medicaments, liquids, etc., prepared by him under various trade names, such as "Stomatic Tea," "Rheumatic Tea," "Renal Tea," "Pile-Aid," and "Vegetoliva Liniment," constituted competent treatments or effective remedies for stomach and digestive disorders, and numerous ailments and conditions, including excess weight, skin ailments, pains in arms, etc., and that only at his store would herbs be found that were adapted for such various maladies, etc.;

Facts being he was not a great specialist in herbs, and herbs of like nature to those blended by him could readily be procured, and curative or therapeutic value of his various liquids, compounds, etc., was not as efficacious as represented by him, either in treatment, relief, or cure of such various ailments or diseases, and such various liquids, etc., would not reduce weight, clear skin of impurities, etc., or cure diseases of the stomach or intestines, and were not a competent or effective treatment for any diseases, etc., for which named;

With result that various members of the purchasing public throughout the various States were misled and deceived by such statements into the false belief that the same were true, and that his said various preparations had a definite curative and therapeutic effect in treatment of maladies and diseases of the body, as represented by him, and were induced to use his course of treatment rather than that of a pathologist or other physician, and of thereby causing a substantial and unfair diversion of trade to him from competitors, among whom there are those engaged in the preparation, sale and transportation in commerce of compounds and toxins and solutions for treatment, cure and remedy of diseases and ailments similar to or identical with those listed by said individual, and who do not falsely represent or exaggerate the curative or therapeutic value thereof; to the substantial injury of competition in commerce:

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

Before *Mr. John J. Keenan*, trial examiner.

Mr. Alden S. Bradley for the Commission.