IN THE MATTER OF

GRAND RAPIDS EXCHANGE, INC., ALSO TRADING AS DENIS FURNITURE COMPANY

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

Docket 3703. Complaint, Feb. 8, 1939—Decision, June 12, 1941

Where a corporation engaged in wholesale distribution of household furniture at Brooklyn under its corporate name, and in retail sale thereof under separate trade name at New York City, in interstate sale of its said products, in competition with many who thus sell and distribute household furniture which was manufactured and had its origin in the city of Grand Rapids, Mich., and others who sell and distribute such furniture which was neither made nor originated there and who do not misrepresent their business, the quality or the origin or manufacture of their said products or that they own or conduct a factory or factories where such furniture is made—

Represented and implied that its said household furniture was manufactured at Grand Rapids, Mich., that its places of business were exchanges or headquarters or central offices for the Grand Rapids furniture industry, of which it was the authorized agency, and that it sold and distributed only Grand Rapids furniture made in its own factory at Grand Rapids, Mich., through use of its corporate name, together with the words "Factory and Show Rooms", on its letterheads, invoices and other printed matter, and prominent display on conspicuous signs at its aforesaid place of business of the statements "THE ORIGINAL GRAND RAPIDS EXC. INC. FURNITURE Main Show Rooms," "FIRST visit GRAND RAPIDS FURNITURE EXC. INC. SALES ROOMS," and "Authorized Agent for GRAND RAPIDS Exch. Show Rooms," and through statements of its officers, agents and employees, that it was "The only authorized agent in New York City handling Grand Rapids Furniture," that it was "One of the two places in New York where a dealer can get Grand Rapids Furniture," and that "We are the real McCoy because we have our factory in Grand Rapids, Mich., and the name of it is the Grand Rapids Furniture Company";

The facts being it dealt and traded extensively in household furniture of other origin and manufacture, and sold or distributed only a small portion of furniture made at Grand Rapids, Mich.—the furniture products of which are preferred and bought by a substantial number of the purchasing public—and it did not own, operate or control a factory, was not the headquarters or central office or exchange for the Grand Rapids Furniture industry, was not an authorized agent thereof or, as aforesaid indicated, a factory or headquarters of such furniture, from which a substantial portion of said public prefers to purchase as securing advantages not ordinarily obtainable through middlemen and others who do not deal exclusively in such furniture;

With effect of misleading and deceiving a substantial portion of the purchasing public, and of causing a number of members of such public mistakenly and erroneously to believe that said representations and implications were true,

whereby trade in commerce was diverted unfairly to it from its competitors; to their injury and that of the public:

Held, That such acts and practices, as above set forth, were all to the prejudice of the public and competitors, and constituted unfair methods of competition in commerce and unfair and deceptive acts and practices therein.

Before *Mr. Miles J. Furnas* and *Mr. John W. Addison*, trial examiners.

Mr. John R. Phillips, Jr., for the Commission.

Mr. Nathan R. Shapiro, of New York City, for respondent.

COMPLAINT

Pursuant to the provisions of the Federal Trade Commission Act, and by virtue of the authority vested in it by said act, the Federal Trade Commission, having reason to believe that Grand Rapids Exchange, Inc., a corporation, also trading as "Denis Furniture Company," hereinafter referred to as respondent, has violated the provisions of said Act, and it appearing to the 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, Grand Rapids Exchange, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of New York, with its offices and principal place of business located at 55 Hope Street in the city of Brooklyn, State of New York, and also trades under the style and name of "Denis Furniture Company" at 2182 Third Avenue in the city of New York, State of New York. Said respondent is engaged in the wholesale distribution of household furniture under its corporate name, at Brooklyn, and in the retail sale thereof under its trade name of "Denis Furniture Company" at New York City, as aforesaid:

Respondent caused and causes its household furniture, when sold, to be transported from its places of business in New York and Brooklyn, in the State of New York, to the purchasers thereof located in the States of the United States other than the State of New York and in the District of Columbia.

Respondent now maintains, and for more than three years last past has maintained, a course of trade in household furniture, distributed and sold by it in commerce between and among the various States of the United States and in the District of Columbia.

PAR. 2. In the course and conduct of its business, as aforesaid, the respondent is, and for more than three years last past has been, in competition with corporations, individuals and partnerships engaged in the sale and distribution of household furniture, in commerce, be-

tween and among the various States of the United States and in the District of Columbia.

Among the competitors of respondent are many corporations, individuals and partnerships who sell and distribute, in said commerce, household furniture, manufactured and having its origin in the city of Grand Rapids, Mich., and others selling and distributing household furniture not having been manufactured nor having its origin in said city of Grand Rapids, who do not misrepresent their business, the quality, nor the origin of the manufacture of their household furniture, or that they own or conduct a factory or factories where such household furniture is manufactured.

PAR. 3. In the course of its aforesaid business and for the purpose of inducing the purchase of its household furniture by members of the purchasing public, respondent uses, and has used, for the last three years, its corporate name, and prominently displays certain conspicuous signs on its principal place of business in the city of Brooklyn, and also at its retail store in the city of New York, the arrangement and the wording of the signs being as follows:

THE ORIGINAL
GRAND
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Exc. Inc.
FURNITURE
Main Show Rooms

Also:

FIRST
visit
GRAND
RAPIDS
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E
Exc. Inc.
SALES ROOMS

Also:

Authorized Agent
For
GRAND
RAPIDS Exch.
Show Rooms

Respondent also makes oral representations to its purchasers and prospective purchasers through its officers, agents and employees as being "The only authorized agent in New York City handling Grand Rapids Furniture"; also that it is "One of the two places in New York where a dealer can get Grand Rapids Furniture"; that "We are the real McCoy because we have our factory in Grand Rapids, Mich., and the name of it is the Grand Rapids Furniture Company."

Respondent also uses its corporate name, to wit: "Grand Rapids Exchange, Inc.", to appear variously on its letterheads, invoices and other printed matter, accompanied with the words and phrases "Factory and Showrooms," which are used and circulated by the respondent through the United States mails and otherwise to its customers and prospective customers located in the various States of the United States and in the District of Columbia.

PAR. 4. The city of Grand Rapids, Mich., has been for many years, and is now, a large and important center of the furniture industry in the United States, which fact is generally known to the public throughout the United States, and furniture manufactured in said city of Grand Rapids has for many years enjoyed, and now enjoys, a widespread popularity, reputation, good will and demand throughout the United States as being furniture of dependable quality and other desirable characteristics.

PAR. 5. By means and in the manner aforesaid, respondent represents and implies that said household furniture is manufactured at Grand Rapids, Mich.; that its places of business are exchanges, implying that its said places of business are headquarters or central offices for the Grand Rapids furniture industry; that it is the authorized agency for the Grand Rapids furniture industry; that only Grand Rapids furniture is sold and distributed by it; that such household furniture is manufactured in its own factory at Grand Rapids, Mich., and that it controls or operates its own factory.

By reason of the widespread reputation, popularity and good will among the public throughout the United States enjoyed by the aforesaid furniture industry of Grand Rapids, Mich., and its products, there are among the members of the purchasing public a substantial number who prefer to purchase household furniture manufactured and having its origin in said city of Grand Rapids, and to purchase

the same from a factory or a headquarters of the Grand Rapids furniture industry, believing that in so doing they secure better prices, superior quality and other advantages not ordinarily obtainable when purchasing through middlemen and others who do not deal exclusively in Grand Rapids furniture.

Respondent sells or distributes only a small portion of household furniture originating and manufactured at Grand Rapids, Mich. It does not own, operate, or control a factory, and is not the headquarters or central offices nor exchange for the Grand Rapids furniture industry. Respondent is not an authorized agent handling Grand Rapids furniture, but deals and trades extensively in household furniture of other origin, make, and manufacture.

PAR. 6. Respondent's acts and practices, as hereinabove alleged, have had, and do have, the tendency and capacity to, and do, mislead and deceive a substantial portion of the purchasing public, and have caused, and do cause, a number of members of the purchasing public mistakenly and erroneously to believe that said representations and implications are true and that the respondent's places of business as aforesaid are actually the New York headquarters, central office and exchanges of the Grand Rapids furniture industry; that the respondent is the authorized agency for Grand Rapids furniture; that respondent deals exclusively in furniture manufactured in Grand Rapids, Mich., and that it owns, operates and controls its own factory or factories. As a result thereof, trade in said commerce has been, and is, diverted unfairly to the respondent from its competitors to the injury of said competitors and to the injury of the public.

PAR. 7. The acts and practices of the respondent, as herein alleged, are all to the prejudice of the public and respondent's competitors and constitute unfair methods of competition in commerce and unfair and deceptive acts and practices in commerce within the intent and meaning of the Federal Trade Commission Act.

REPORT, FINDINGS AS TO THE FACTS, AND ORDER

Pursuant to the provisions of the Federal Trade Commission Act, the Federal Trade Commission, on February 8, 1939, issued, and on February 9, 1939, served its complaint in this proceeding upon respondent, Grand Rapids Exchange, Inc., a corporation, charging it with the use of unfair methods of competition and unfair and deceptive acts and practices in commerce in violation of the provisions of said act. After the issuance of said complaint and the filing of respondent's answer, the Commission, by order entered herein, granted respondent's motion for permission to withdraw said answer and to substitute therefor an answer admitting all the material allegations

of fact set forth in said complaint and waiving all intervening procedure and further hearing as to said facts, which substitute answer was duly filed in the office of the Commission. Thereafter, this proceeding regularly came on for final hearing before the Commission on the said complaint and substitute answer, and the Commission, having duly considered the matter 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, Grand Rapids Exchange, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of New York, with its offices and principal place of business located at 55 Hope Street in the city of Brooklyn, State of New York, and also trades under the style and name of Denis Furniture Co. at 2182 Third Avenue in the city of New York, State of New York. Said respondent is engaged in the wholesale distribution of household furniture under its corporate name, at Brooklyn, and in the retail sale thereof under its trade name of Denis Furniture Company at New York City, as aforesaid.

Respondent caused and causes its household furniture, when sold, to be transported from its places of business in New York and Brooklyn, in the State of New York, to the purchasers thereof located in the States of the United States other than the State of New York and in the District of Columbia.

Respondent now maintains, and for more than three years last past has maintained, a course of trade in household furniture, distributed and sold by it in commerce between and among the various States of the United States and in the District of Columbia.

PAR. 2. In the course and conduct of its business, as aforesaid, the respondent is, and for more than three years last past has been, in competition with corporations, individuals, and partnerships engaged in the sale and distribution of household furniture, in commerce, between and among the various States of the United States and in the District of Columbia.

Among the competitors of respondent are many corporations, individuals and partnerships who sell and distribute, in said commerce, household furniture, manufactured and having its origin in the city of Grand Rapids, Mich., and others selling and distributing household furniture not having been manufactured nor having its origin in said city of Grand Rapids, who do not misrepresent their business, the quality, nor the origin of the manufacture of their

household furniture, or that they own or conduct a factory or factories where such household furniture is manufactured.

PAR. 3. In the course of its aforesaid business and for the purpose of inducing the purchase of its household furniture by members of the purchasing public, respondent uses, and has used, for the last three years, its corporate name, and prominently displays certain conspicuous signs on its principal place of business in the city of Brooklyn, and also at its retail store in the city of New York, the arrangement and the wording of the signs being as follows:

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Exc. Inc.

FURNITURE

Main Show Rooms

Also:

FIRST

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GRAND

RAPIDS

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Exc. Inc.

SALES ROOMS

Also:

Authorized Agent

For

GRAND

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Show Rooms

Respondent also makes oral representations to its purchasers and prospective purchasers through its officers, agents and employees as being "The only authorized agent in New York City handling Grand Rapids Furniture"; also that it is "One of the two places in New York where a dealer can get Grand Rapids Furniture"; that "We are the real McCoy because we have our factory in Grand Rapids, Mich., and the name of it is the Grand Rapids Furniture Company."

Respondent also uses its corporate name, to wit: "Grand Rapids Exchange, Inc.," to appear variously on its letterheads, invoices and other printed matter, accompanied with the words and phrases "Factory and Showrooms," which are used and circulated by the respondent through the United States mails and otherwise to its customers and prospective customers located in the various States of the United States and in the District of Columbia.

PAR. 4. The city of Grand Rapids, Mich., has been for many years, and is now, a large and important center of the furniture industry in the United States, which fact is generally known to the public throughout the United States, and furniture manufactured in said city of Grand Rapids has for many years enjoyed, and now enjoys, a widespread popularity, reputation, good will and demand throughout the United States as being furniture of dependable quality and other desirable characteristics.

PAR. 5. By means and in the manner aforesaid, respondent represents and implies that said household furniture is manufactured at Grand Rapids, Mich.; that its places of business are exchanges, implying that its said places of business are headquarters or central offices for the Grand Rapids furniture industry; that it is the authorized agency for the Grand Rapids furniture industry; that only Grand Rapids furniture is sold and distributed by it; that such household furniture is manufactured in its own factory at Grand Rapids, Mich., and that it controls or operates its own factory.

By reason of the widespread reputation, popularity and good will among the public throughout the United States enjoyed by the aforesaid furniture industry of Grand Rapids, Mich., and its prod-

ucts, there are among the members of the purchasing public a substantial number who prefer to purchase household furniture manufactured and having its origin in said city of Grand Rapids, and to purchase the same from a factory or a headquarters of the Grand Rapids furniture industry, believing that in so doing they secure better prices, superior quality and other advantages not ordinarily obtainable when purchasing through middlemen and others who do not deal exclusively in Grand Rapids furniture.

Respondent sells or distributes only a small portion of household furniture originating and manufactured at Grand Rapids, Mich. It does not own, operate or control a factory, and is not the headquarters or central offices nor exchange for the Grand Rapids furniture industry. Respondent is not an authorized agent handling Grand Rapids furniture, but deals and trades extensively in household furniture of other origin, make and manufacture.

PAR. 6. Respondent's acts and practices, as hereinabove alleged, have had, and do have, the tendency and capacity to, and do, mislead and deceive a substantial portion of the purchasing public, and have caused, and do cause, a number of members of the purchasing public mistakenly and erroneously to believe that said representations and implications are true and that the respondent's places of business as aforesaid are actually the New York headquarters, central office and exchanges of the Grand Rapids furniture industry; that the respondent is the authorized agency for Grand Rapids furniture; that respondent deals exclusively in furniture manufactured in Grand Rapids, Michigan, and that it owns, operates, and controls its own factory or factories. As a result thereof, trade in said commerce has been, and is, diverted unfairly to the respondent from its competitors to the injury of said competitors and to the injury of the public.

CONCLUSION

The acts and practices of the respondent, as herein found, are all to the prejudice of the public and respondent's competitors and constitute unfair methods of competition in commerce and unfair and deceptive acts and practices in commerce within the intent and meaning of the Federal Trade Commission Act.

ORDER TO CEASE AND DESIST

This proceeding having been heard by the Federal Trade Commission upon the complaint of the Commission and the answer of respondent, in which answer respondent admits all the material

allegations of fact set forth in said complaint, and states that it waives all intervening procedure and further hearing as to said facts, and the Commission having made its findings as to the facts and conclusion that said respondent has violated the provisions of the Federal Trade Commission Act.

It is ordered, That the respondent, Grand Rapids Exchange, Inc., a corporation, its officers, representatives, agents, and employees, directly or through any corporate or other device, in connection with the offering for sale, sale and distribution of furniture in commerce, as commerce is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. Using the words "Grand Rapids" or "Grand Rapids Exchange," or words or terms of similar import or meaning, as a corporate or trade name or as a part of its corporate or trade name, or in any other manner, unless all furniture sold by it is manufactured in the city of Grand Rapids, Mich.;

2. Representing, directly or indirectly, that it is the authorized agency or is the central office or headquarters for the Grand Rapids Furniture industry;

3. Representing, directly or indirectly, that only furniture made in Grand Rapids, Mich., is sold or distributed by it;

4. Using the word "Factory" or otherwise representing through the use of any other word or term of similar import or meaning, or through any other means or device, or in any manner, that respondent is the manufacturer of the furniture sold by it, unless and until respondent actually owns and operates or directly and absolutely controls the plant or factory wherein such furniture is manufactured.

It is further ordered, That the respondent shall, within 60 days after service upon it of this order, file with the Commission a report in writing, setting forth in detail the manner and form in which it has complied with this order.

IN THE MATTER OF

THOMSEN-KING & COMPANY, INC., WINSHIP CORPORATION, JAMES M. WOODMAN, JESSE L. STEWART, ET AL.

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

Docket 3998. Complaint, Jan. 24, 1940—Decision, June 12, 1941

Where two corporations, which were created to continue the business of engaging in prize contests as a means of merchandising cosmetics, and which were the most recent of 16 companies organized, discontinued, or dissolved, and reorganized under the plan below set forth, over a period of some 10 years; and numerous individuals cooperating with one another, directly or indirectly, in conducting prize contests through such contest companies, which they organized, and including among their number (1) 10 partners operating "The Committee for General Investments," who, together with other investors, financed and aided the financing of one or more "prize contests" as hereinafter described, (2) a number of partners or associates, who conducted "prize contests" under various trade names such as "Woodman-Stewart Advertising Agency," and prepared advertisements used in connection therewith, and (3) some 20 others engaged, at some time during period concerned, directly or indirectly, in financing, operating or managing one or more of the aforesaid contests;

Acting in furtherance of a common plan, pursuant to which they—

I. Organized and operated some 16 corporations, or companies operating under trade names, to disseminate advertisements concerning numerous "prize contests" and induce the sale of certain cosmetics, and under which, when cited to appear before the Commission, they would, (1) in some cases, stipulate therewith to cease and desist the objectionable acts and practices, following which they would make little, if any, effort to comply, but would either discontinue or dissolve the particular company, organize a new one, and proceed with acts and practices substantially similar to, and in some instances identical with those which they had agreed to discontinue; and (2) in other instances, following issuance of complaints by Commission against one or more of their companies, they would, during the pendency of the proceedings, complete the particular contest involved and then dissolve or discontinue the particular company respondent in the proceeding concerned, filing either an admissive answer or entering a dilatory contest for purposes of delay, and then organize new companies to continue practices substantially similar to and, in some instances, identical with those involved in complaints and orders referred to;

II. Frequently changed the corporate or trade names used in promoting sale of their cosmetics, dissolving the existing company, distributing its principal and profits, and transferring its physical properties to a new concern; and

III. Employed or designated new "prize managers" for newly organized prize contests, and new officers and so-called owners of new companies, to continue such contests, the new managers, officers and owners being