

Complaint

IN THE MATTER OF
A. M. DRUCKMAN, DOING BUSINESS AS LINCOLN CHAIR
& NOVELTY COMPANY

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

Docket 4445. Complaint, Jan. 10, 1941—Decision, July 16, 1941

Where an individual engaged, as pretended manufacturer, in offer and interstate sale and distribution to retailers, of wooden furniture and allied items which he caused to be transported from the factories where made, bearing labels and shipping tags of Lincoln Chair & Novelty Co., trade name employed by him, and shipped to purchasers under his bill of lading; In advertisements in trade magazines, catalogs, and circulars distributed to retailers, recognizing a preference on the part of purchasers for dealing directly with a manufacturer—

(a) Represented and implied that said Lincoln Chair & Novelty Co., made the merchandise in question, and that it maintained, controlled or operated factories for such purposes in Massachusetts, New York, Indiana, and Missouri, through such statements as "We make a complete line of: Sunroom Suites, Dinette Suites," etc., and "FACTORIES: Gardner, Mass., Jamestown, N. Y., Richmond, Ind., Springfield, Mo.," and "* * * shipped f. o. b. our New York State Plant" or "* * * our Missouri Plant"; and

(b) Represented that the offices for such factories were located at its business address in New York City, through such statements as "EXECUTIVE OFFICES. 146 West 46th Street, New York, N. Y." following or adjacent to enumeration of its supposed factories, and statements in catalogs and circulars that, while all merchandise was shipped f. o. b. factory, all correspondence and orders were to be directed to the executive offices in New York City; Facts being the merchandise thus advertised was not made by such Lincoln Chair & Novelty Co., he did not own, operate, or control any furniture factories making it, and was not connected with any which maintained executive offices at his business address in New York City;

With effect of causing a substantial number of the purchasing public to believe that he was the manufacturer of the merchandise offered and sold by him, whereby many prospective purchasers had been and were likely to be influenced and induced to purchase from him the products so represented: *Held*, That such acts and practices, under the circumstances set forth, were all to the injury and prejudice of the public, and constituted unfair and deceptive acts and practices in commerce.

Mr. Eldon P. Schrup for the Commission.

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 A. M. Druckman, an individual, trading and doing business under the name and style

Complaint

33 F. T. C.

of Lincoln Chair & Novelty Co., 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 A. M. Druckman, an individual, is a furniture distributor trading and doing business under the name and style of Lincoln Chair & Novelty Co., with his office and place of business located at 146 West Forty-sixth Street, New York, N. Y.

Respondent is now and for more than 1 year last past has been engaged in the business of the offering for sale and the sale to retail dealers of wooden furniture and allied items made in and obtained from factories not owned, controlled, or operated by the respondent.

Respondent's method of doing business is to offer such merchandise for sale under the name of the Lincoln Chair & Novelty Co. as the maker, in advertisements inserted in trade magazines having interstate circulation and in catalogs and circulars distributed through the mails by respondent, to retail dealers located throughout the various States of the United States and in the District of Columbia.

Respondent, in response to and in fulfillment of orders thereby obtained and caused to be transmitted to respondent's New York business address, causes such merchandise, when sold, to be transported from the factory or factories wherein made, to the purchasers of the same located in a State or States other than the State or States wherein such shipments originated or in the District of Columbia.

Merchandise so advertised, offered for sale, and sold by respondent and shipped to purchasers by said factories on respondent's order, bears the labels and shipping tags of the Lincoln Chair & Novelty Co. and is shipped under respondent's bill of lading. Said merchandise, upon shipment, is billed to the respondent by said factories and the respondent in turn then bills his customers.

Respondent maintains and at all times mentioned herein has maintained a course of trade in said wooden furniture and allied items in commerce among and between the various States of the United States and in the District of Columbia.

PAR. 2. Respondent in the conduct of his business in the course of trade in commerce as aforesaid, has inserted and caused to be inserted in trade magazines having interstate circulation various advertisements containing, among other things, with reference to the merchandise offered for sale and sold by the Lincoln Chair & Novelty Co., the following statements:

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693

Complaint

We make a complete line of:

Sunroom Suites	Boudoir Chairs
Dinette Suites	Cricket Chairs
Bedroom Suites	Juvenile Chairs
Tables	Novelties

(Picture of Table and specifications)

* * * * *

Write for our complete catalog and advise if we should place you on our mailing list for monthly circulars.

FACTORIES:

Gardner, Mass.
Jamestown, N. Y.
Richmond, Ind.
Springfield, Mo.

LINCOLN CHAIR & NOVELTY CO.
EXECUTIVE OFFICES.
146 West 46th Street, New York, N. Y.

PAR. 3. Respondent, in the conduct of his business in the course of trade in commerce as aforesaid, has distributed and caused to be distributed through the mails and otherwise to retail dealers located throughout the various States of the United States and in the District of Columbia certain catalogs and circulars advertising the merchandise offered for sale and sold by the Lincoln Chair & Novelty Co., and containing, among others, with reference to said merchandise, the following statements:

Most of the numbers in this circular are made at our plant at Gardner, Mass., although we are illustrating a few numbers that are made at our associate plants located in Missouri and New York States.

* * * * *
These items are shipped f. o. b., our New York State Plant.

* * * * *
These items are shipped f. o. b., our Missouri Plant.

Said catalogs and circulars also state that while all merchandise is shipped f. o. b., factory, all correspondence and orders are to be directed to our executive offices in New York City.

PAR. 4. Respondent through and by the use of the statements hereinabove set forth in paragraphs 2 and 3, supra, and by means of other statements similar thereto not specifically set out herein, represents and implies and causes to be represented and implied to prospective purchasers and purchasers of the merchandise so advertised, offered for sale and sold by respondent, that the Lincoln Chair & Novelty Co. makes such merchandise; that said company maintains, controls, or operates factories for such purpose in Massachusetts, New York, Indiana, and Missouri, and that the executive offices for said factories are located at the respondent's business address, 146 West Forty-sixth Street, New York, N. Y.

The statements, representations, and implications made and caused to be made by respondent as aforesaid, are grossly exaggerated, false, misleading, and untrue. In truth and in fact the merchandise so advertised, offered for sale and sold by respondent is not made by the Lincoln Chair & Novelty Co., nor does respondent or said company own, operate, or control any furniture factories wherein the said merchandise is made. Further, the respondent or the Lincoln Chair & Novelty Co. is not connected with nor are there any furniture factories who maintain their executive offices at respondent's business address at 146 West Forty-sixth Street, New York, N. Y., for respondent has at such address only a small office or offices wherein respondent's business transactions are carried on in the manner and method as hereinbefore described.

PAR. 5. Respondent's aforesaid statements, representations, and implications made and disseminated as aforesaid have had, and now have, the capacity and tendency to, and do, mislead and deceive a substantial number of prospective purchasers and purchasers into the erroneous and mistaken belief and impression that the statements, representations, and implications as contained in respondent's said advertisements in trade magazines and in respondent's said catalog and circular advertisements are true, and many of such prospective purchasers and purchasers have been and are likely to be thereby influenced and induced, both directly and indirectly, to purchase from respondent the merchandise so advertised.

PAR. 6. The aforesaid acts and practices of the respondent as herein alleged are all to the prejudice and injury of the respondent and constitute 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 January 10, 1941, issued and subsequently served its complaint in this proceeding upon respondent, A. M. Druckman, an individual, trading and doing business under the name and style of Lincoln Chair & Novelty Co., charging him with the use of unfair and deceptive acts and practices in commerce in violation of the provisions of said act. After the issuance of said complaint the respondent filed his answer thereto, in which answer he admitted all the material allegations of fact set forth in said complaint and waived all intervening procedure and further hearing as to said facts. Thereafter the proceeding regularly came on for final hearing before the Commission on the said complaint and the

answer thereto; 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, A. M. Druckman, an individual, is a furniture distributor trading and doing business under the name and style of Lincoln Chair & Novelty Co., with his office and place of business formerly located at 146 West Forty-sixth Street, New York, N. Y., but now at 142 East Thirty-second Street, New York, N. Y.

Respondent is now and for more than 1 year last past has been engaged in offering for sale and selling wooden furniture and allied items to retail dealers located throughout the United States. Respondent offers such merchandise for sale as a manufacturer thereof under the name Lincoln Chair & Novelty Co. In response to and in fulfillment of orders obtained, respondent causes such merchandise when sold to be transported from the factory or factories where such merchandise is manufactured to the purchasers thereof located in States other than the State wherein such shipments of merchandise originate and in the District of Columbia.

Merchandise so advertised, offered for sale, and sold by respondent and shipped to purchasers by said factories on respondent's order, bears the labels and shipping tags of the Lincoln Chair & Novelty Co. and is shipped under respondent's bill of lading. Said merchandise, upon shipment, is billed to the respondent by said factories and the respondent in turn then bills his customers.

Respondent maintains and at all times mentioned herein has maintained a course of trade in said wooden furniture and allied items in commerce among and between the various States of the United States and in the District of Columbia.

PAR. 2. Respondent, in the conduct of his said business in commerce as aforesaid, has inserted in trade magazines circulated among retailers various advertisements containing, among other things, the following representations and statements:

*	*	*	*	*	*	*	*
We make a complete line of:							
Sunroom Suites				Boudoir Chairs			
Dinette Suites				Cricket Chairs			
Bedroom Suites				Juvenile Chairs			
Tables				Novelties			

(Picture of Table and
specifications)

* * * * *

Findings

33 F. T. C.

Write for our complete catalog and advise if we should place you on our mailing list for monthly circulars.

FACTORIES:

Gardner, Mass.
Jamestown, N. Y.
Richmond, Ind.
Springfield, Mo.

LINCOLN CHAIR & NOVELTY CO.

EXECUTIVE OFFICES.

146 West 46th Street, New York, N. Y.

PAR. 3. Respondent, in the conduct of his said business in said commerce as aforesaid, has distributed and caused to be distributed through the mails and otherwise to retail dealers located at various points in the several States of the United States and in the District of Columbia certain catalogs and circulars advertising said merchandise which contain, among others, the following representations and statements:

Most of the numbers in this circular are made at our plant at Gardner, Mass., although we are illustrating a few numbers that are made at our associate plants located in Missouri and New York states.

These items are shipped f. o. b., our New York State Plant.

These items are shipped f. o. b., our Missouri Plant.

Said catalogs and circulars also state that while all merchandise is shipped f. o. b. factory, all correspondence and orders are to be directed to the executive offices in New York City.

PAR. 4. Respondent through and by the use of the statements hereinabove set forth, and by means of other statements similar thereto not specifically set out herein, represents and implies to prospective purchasers and purchasers of the merchandise so advertised, offered for sale, and sold by respondent, that the Lincoln Chair & Novelty Co. makes such merchandise; that said company maintains, controls, or operates factories for such purpose in Massachusetts, New York, Indiana, and Missouri, and that the executive offices for said factories are located at the respondent's business address in New York City.

The statements, representations, and implications made and caused to be made by respondent as aforesaid are deceptive, false, and misleading. In truth and in fact the merchandise so advertised, offered for sale, and sold by respondent is not made by the Lincoln Chair & Novelty Co., nor does respondent or said company own, operate, or control any furniture factories wherein the said merchandise is made. The respondent is not connected with any furniture factory which maintains executive offices at respondent's business address in New York City.

PAR. 5. The Commission concludes from the elaborate plan followed by respondent to conceal from his customers the fact that he is not the manufacturer of products offered for sale and sold by him that he recognizes a preference on the part of purchasers for dealing directly with a manufacturer and, therefore, the inducing value of his false representations that he is the manufacturer of the products offered for sale and sold by him. The acts and practices of respondent have had, and now have, the capacity and tendency to, and do, mislead a substantial number of the purchasing public and cause them to believe that respondent is the manufacturer of the merchandise offered for sale and sold by him. As a result of such erroneous and mistaken belief many prospective purchasers and purchasers have been, and are likely to be, influenced and induced thereby to purchase from respondent the products so advertised and represented.

CONCLUSION

The acts and practices of the respondent as herein described are all to the injury and prejudice of the public and constitute 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 he waives all intervening procedure and further hearings as to said facts, and the Commission having made its findings as to the facts and its conclusion that said respondent has violated the provisions of the Federal Trade Commission Act.

It is ordered, That the respondent A. M. Druckman, an individual, trading and doing business under the name and style of Lincoln Chair & Novelty Co., or any other name, his agents, representatives, 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 representing directly or by implication:

1. That respondent is the manufacturer of products which are not made or manufactured in a plant owned and operated or directly and absolutely controlled by him.

Order

33 F. T. C.

2. That respondent's business address is the executive office of factories located elsewhere.

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

Complaint

IN THE MATTER OF
REPUBLIC YEAST CORPORATION

COMPLAINT, FINDINGS, AND ORDER IN REGARD TO THE ALLEGED VIOLATION
OF SUBSEC. (A) OF SEC. 2 OF AN ACT OF CONGRESS APPROVED OCT. 15, 1914,
AS AMENDED BY AN ACT OF CONGRESS APPROVED JUNE 19, 1936

Docket 4367. Complaint, Oct. 30, 1940—Decision, July 18, 1941

Where a corporation engaged in the manufacture of bakers' yeast, and in the competitive interstate sale and distribution thereof—

- (a) Discriminated in price between competing purchasers of its said product of like grade and quality, through different prices allowed or extended, making use, among other things, of a pricing policy under which its said yeast was sold to customers competitively engaged in the sale and distribution of bread and allied products, who purchased approximately equivalent quantities and at concurrent periods of time, at prices of 10, 11, 12, 13, and 14 cents per pound;
- (b) Discriminated in price between purchasers by furnishing to certain of them free of charge with their purchases, large quantities of its yeast in varying amounts, so that customers purchasing quantities ranging from 78 pounds to 1,554 pounds at prices ranging from 12 to 10 cents secured their yeast at actual costs ranging from 3.4 to 5.8 cents; while contemporaneously selling its yeast to other customers, competitively engaged with those thus favored, at prices of 10, 11, and 12 cents a pound, but with no free product furnished therewith; and
- (c) Discriminated between competing purchasers by granting to certain of them cash discounts of 1 or 2 percent, which it did not grant to others who paid in the same manner and within the same time as those so favored;

Result of which discriminations in price, under which beneficiaries were given substantial advantages constituting vital factors in competition, and not falling within the saving provisos of the Act in question, might be substantially to injure competition in the line of commerce involved, and also to injure competition between those of its purchasers in the baking industry who received the discriminatory benefits and those who did not:

Held, That said corporation, by so discriminating in price between different competing purchasers of its said bakers' yeast of like grade and quality violated the provisions of section 2 (a) of the Clayton Act, as amended by the Robinson-Patman Act.

Mr. P. C. Kolinski for the Commission.

COMPLAINT

The Federal Trade Commission having reason to believe that the party respondent named in the caption hereof and hereinafter more particularly designated and described, since June 19, 1936, has violated and is now violating the provisions of subsection (a) of section 2 of the Clayton Act, as amended by the Robinson-Patman Act approved June 19, 1936 (U. S. C. title 15, sec. 13), hereby issues its complaint, stating its charges with respect thereto as follows: