

IN THE MATTER OF

DOMENICO DEL VECCHIO, TRADING AS PEOPLES
HARDWARE STORESCOMPLAINT, FINDINGS, AND ORDER IN REGARD TO THE ALLEGED VIOLATION
OF SEC. 5 OF AN ACT OF CONGRESS APPROVED SEPT. 26, 1914*Docket 4495. Complaint, May 1, 1941—Decision, Aug. 12, 1941*

Where an individual engaged in competitive interstate sale and distribution of paints and other merchandise; by means of advertisements in newspapers and otherwise—

- (a) Represented that he owned and operated or controlled the plant in which his products were made, and that the prices at which they were offered represented savings of 20 to 35 percent to purchasers as compared with prices of comparable products, through such statements as "Our factory-to-you plan brings savings of 20% to 35%"; facts being he was not a manufacturer, from whom merchandise is preferably bought direct by members of the purchasing public as affording them, in their belief, a more uniform line of goods, superior quality, lower prices, and other advantages, but filled orders with products made in a plant or factory which he did not own, operate, or control, and his prices represented no such savings; and
- (b) Represented that his "Lawrence Master Painters Flat Paint" "* * * covers 1,100 square feet per gallon"; facts being such coverage could not be obtained under normal conditions of use, but only when used over a pigment sealer on a smooth surface;

With effect of deceiving a substantial portion of the purchasing public into the erroneous belief that such representations were true, and of inducing it, because of such belief, to purchase his said products, thereby unfairly diverting trade to him from his competitors, to the substantial injury of competition in commerce:

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

Mr. B. G. Wilson 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 Domenico Del Vecchio, an individual trading as Peoples Hardware Stores, herein-after referred to as respondent, has violated the provisions of the

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, Domenico Del Vecchio, is an individual trading as Peoples Hardware Stores, with his office and principal place of business located at 1434 Florida Avenue, NE., in the District of Columbia.

PAR. 2. The respondent is now, and for more than 1 year last past has been, engaged in the sale and distribution of paints and other articles of merchandise in commerce between and among various States of the United States and in the District of Columbia.

In the course and conduct of his said business, the said respondent causes his products, when sold, to be transported from his place of business in the District of Columbia to purchasers thereof located in various States of the United States and in the District of Columbia. Respondent maintains, and at all times mentioned herein has maintained, a course of trade in said products in commerce, particularly in the District of Columbia and between the District of Columbia and the States of Maryland and Virginia.

Respondent is, and at all times mentioned herein has been, in competition with other corporations, partnerships, firms, and individuals likewise engaged in the sale and distribution of paints in commerce among and between the various States of the United States and in the District of Columbia.

PAR. 3. In the course and conduct of his aforesaid business and in connection with the sale and distribution of his paint products in commerce, as herein described, the respondent has disseminated false and misleading statements and representations with reference to the comparative price and quality of his said paint products in newspapers and in other advertising media, all of which are circulated among prospective purchasers of said products located in the several States of the United States and in the District of Columbia and particularly in the various localities hereinabove set forth. Among and typical of such false and misleading statements and representations are the following:

Our factory-to-you plan bring savings of 20% to 35%.

Lawrence Master Painters Flat Paint—covers 1100 square feet per gallon.

PAR. 4. Through the use of the foregoing statements and representations, together with other statements and representations similar thereto not set out herein, the respondent represents that he owns and operates or controls the plant or factory wherein the products he sells are made or manufactured, and that the prices at which such

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products are offered for sale represent savings of 20 percent to 35 percent to the purchasers thereof as compared to the prices of the same or comparable products made of the same or comparable materials; and respondent represents that his paint designated as "Lawrence Master Painters Flat Paint" covers 1,100 square feet of surface per gallon under normal conditions.

PAR. 5. The foregoing statements and representations are false, misleading and deceptive. In truth and in fact, the respondent does not own and operate or control, and has not owned and operated or controlled, a plant, factory or machinery for the manufacture of the products which he sells and distributes as hereinabove alleged. The respondent fills orders for such articles of merchandise with products which are made or manufactured in a plant or factory which he neither owns, operates, nor controls. The price at which the respondent offers his products for sale does not represent a saving of 20 percent to 35 percent to the purchasers of said products as compared to the prices charged by his competitors for similar products made of the same or comparable materials. The representation that respondent's "Lawrence Master Painters Flat Paint" covers 1,100 square feet per gallon, is false in that such coverage cannot be obtained under normal conditions of use and can be obtained only when used over a pigment sealer on a smooth surface.

PAR. 6. Members of the purchasing public have a preference for buying merchandise, including the products sold by respondent, and other products similar thereto, directly from the manufacturers thereof, believing that by doing so, a more uniform line of goods, superior quality, lower prices, and other advantages can be obtained.

PAR. 7. The use by the respondent of the false and misleading statements and representations referred to herein has had, and now has, the tendency and capacity to, and does, mislead and deceive a substantial portion of the purchasing public into the erroneous and mistaken belief that such statements and representations are true, and, because of such erroneous and mistaken belief, a substantial portion of the purchasing public is induced to, and does, purchase respondent's said products and trade is thereby unfairly diverted to respondent from his competitors. As a result of respondent's said practices, as herein set forth, substantial injury has been and is being done to competition in commerce between and among various States of the United States and in the District of Columbia.

REPORT, FINDINGS AS TO THE FACTS, AND ORDER

Pursuant to the provisions of the Federal Trade Commission Act, the Federal Trade Commission, on May 1, 1941, issued and served its

complaint in this proceeding upon respondent, Domenico Del Vecchio, an individual trading as Peoples Hardware Stores, charging him with the use of unfair methods of competition in commerce and unfair and deceptive acts and practices in commerce in violation of the provisions of said act. On May 31, 1941, the respondent filed his answer in which answer he admitted all of 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, Domenico Del Vecchio, is an individual trading as Peoples Hardware Stores, with his office and principal place of business located at 1434 Florida Avenue, NE., in the District of Columbia.

PAR. 2. The respondent is now, and for more than 1 year last past has been, engaged in the sale and distribution of paints and other articles of merchandise in commerce between and among various States of the United States and in the District of Columbia.

In the course and conduct of his said business, the said respondent causes his products, when sold, to be transported from his place of business in the District of Columbia to purchasers thereof located in various States of the United States and in the District of Columbia. Respondent maintains, and at all times mentioned herein has maintained, a course of trade in said products in commerce, particularly in the District of Columbia and between the District of Columbia and the States of Maryland and Virginia.

Respondent is, and at all times mentioned herein has been, in competition with other corporations, partnerships, firms, and individuals likewise engaged in the sale and distribution of paints in commerce among and between the various States of the United States and in the District of Columbia.

PAR. 3. In the course and conduct of his aforesaid business and in connection with the sale and distribution of his paint products in commerce, as herein described, the respondent has disseminated false and misleading statements and representations with reference to the comparative price and quality of his said paint products in

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newspapers and in other advertising media, all of which are circulated among prospective purchasers of said products located in the several States of the United States and in the District of Columbia and particularly in the various localities hereinabove set forth. Among and typical of such false and misleading statements and representations are the following:

Our factory-to-you plan brings savings of 20% to 35%.

Lawrence Master Painters Flat Paint—covers 1100 square feet per gallon.

PAR. 4. Through the use of the foregoing statements and representations, together with other statements and representations similar thereto not set out herein, the respondent represents that he owns and operates or controls the plant or factory wherein the products he sells are made or manufactured, and that the prices at which such products are offered for sale represent savings of 20 percent to 35 percent to the purchasers thereof as compared to the prices of the same or comparable products made of the same or comparable materials; and respondent represents that his paint designated as "Lawrence Master Painters Flat Paint" covers 1,100 square feet of surface per gallon under normal conditions.

PAR. 5. The foregoing statements and representations are false, misleading, and deceptive. In truth and in fact, the respondent does not own and operate or control, and has not owned and operated or controlled, a plant, factory, or machinery for the manufacture of the products which he sells and distributes. The respondent fills orders for such articles of merchandise with products which are made or manufactured in a plant or factory which he neither owns, operates, nor controls. The price at which the respondent offers his products for sale does not represent a saving of 20 percent to 35 percent to the purchasers of said products as compared to the prices charged by his competitors for similar products made of the same or comparable materials. The representation that respondent's "Lawrence Master Painters Flat Paint" covers 1,100 square feet per gallon, is false in that such coverage cannot be obtained under normal conditions of use and can be obtained only when used over a pigment sealer on a smooth surface.

PAR. 6. Members of the purchasing public have a preference for buying merchandise, including the products sold by respondent, and other products similar thereto, directly from the manufacturers thereof, believing that by doing so, a more uniform line of goods, superior quality, lower prices, and other advantages can be obtained.

PAR. 7. The use by the respondent of the false and misleading statements and representations referred to herein has had, and now has, the tendency and capacity to, and does, mislead and deceive a substantial portion of the purchasing public into the erroneous and mistaken belief that such statements and representations are true, and, because of such erroneous and mistaken belief, a substantial portion of the purchasing public is induced to, and does, purchase respondent's said products and trade is thereby unfairly diverted to respondent from his competitors. As a result of respondent's said practices, as herein set forth, substantial injury has been and is being done to competition in commerce between and among various States of the United States and in the District of Columbia.

CONCLUSION

The aforesaid acts and practices of the respondent, as herein found, are all to the prejudice and injury of the public and of 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 he 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, Domenico Del Vecchio, an individual, trading as Peoples Hardware Stores, or under any other name or names, his representatives, agents, and employees, directly or through any corporate or other device, in connection with the offering for sale, sale, and distribution of paint products in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. Representing, directly or indirectly, that the products sold and distributed by respondent are made or manufactured by him.

2. Representing, directly or indirectly, that respondent's products are offered for sale at savings of 20 percent to 35 percent, or at any other savings, in excess of the actual savings from the prices charged by respondent's competitors for similar products made of the same or comparable ingredients.

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3. Representing, directly or indirectly, that respondent's paint designated "Lawrence Master Painters Flat Paint," or designated by any other name, or any other paint composed of comparable ingredients, by whatsoever name it may be designated, will cover 1,100 square feet of surface per gallon, or any comparable area, unless it is also stated in a manner equally as conspicuous that such coverage is possible only over a pigment sealer and on a smooth surface.

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
ROCKFORD FURNITURE FACTORIES, INC.

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

Docket 4503. Complaint, May 14, 1941—Decision, Aug. 12, 1941

Where a corporation, with office and principal place of business in Newark,

N. J., engaged in interstate sale and distribution of furniture at retail—
Represented, directly or indirectly, that it was a manufacturer of furniture and owned, operated, or controlled the plants or factories in which the furniture dealt in by it was made, and that such furniture was manufactured in Rockford, Ill., through adoption and use of corporate name including words "Rockford Furniture Factories," and through designating as "Rockford Furniture Showrooms" building and rooms in which its said furniture was displayed, and featuring its said corporate name on letter-heads, sales contracts and other printed and advertising matter, and its said latter, designation about the building and rooms in question, and printing the same on order blanks, code price cards, and other literature used in connection with the display, solicitation, and sale of its furniture; Notwithstanding it was not a manufacturer of furniture, but purchased it on the open market, and stocked and sold very little, if any, furniture made exclusively in Rockford, Ill.;

With effect of misleading and deceiving a substantial portion of the purchasing public into the erroneous belief (1) that it was a manufacturer, for dealing with whom directly, there is a marked preference, due to the belief that the profit of the middleman may be thereby eliminated and lower prices, more favorable terms, and other advantages obtained, and (2) that its said furniture was made in Rockford, Ill., long known as an important part of the furniture industry, products of which had long enjoyed a widespread popularity and demand; and of inducing a substantial portion of the purchasing public to buy its furniture as a result of such mistaken belief: Held, That such acts and practices, under the circumstances set forth, were all to the prejudice and injury of the public, and constituted unfair and deceptive acts and practices in commerce.

Mr. J. V. Buffington for the Commission.

Mr. Samuel S. Ferster, of Newark, N. J., 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 Rockford Furniture Factories, Inc., a corporation, 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