

Complaint

35 F. T. C.

IN THE MATTER OF

GRAND RAPIDS FURNITURE CO., INC.

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

Docket 4463. Complaint, Feb. 11, 1941—Decision, July 13, 1942

Where a corporation, engaged in competitive interstate sale and distribution of furniture—

Represented, through use of its corporate name, including words "Grand Rapids," and through use, occasionally, of words "Grand Rapids" and "Grand Rapids Furniture" separately and independently of its corporate name, in newspapers of interstate circulation, and by radio broadcasts, that furniture offered and sold by it, or a major portion thereof, was manufactured in Grand Rapids, Mich.;

The facts being that while in its early days it did purchase a major portion of its furniture from manufacturers in Grand Rapids—long known as an important center of the furniture industry, products of which, by reason of their reputation, for quality, style, and other desirable characteristics, are preferred by a substantial portion of the purchasing public, so that dealers frequently use as a selling point said origin—such purchasing had declined until in recent years it obtained not over 5 percent from the city in question, and none of the specific articles referred to in said advertisements were in fact made there;

With tendency and capacity of misleading and deceiving a substantial portion of the purchasing public in said respect, and result of thereby causing such public to purchase substantial quantities of its furniture because of such mistaken belief, whereby trade was unfairly diverted to it from its competitors who do not misrepresent the place of origin of their products:

Held, That such acts and practices, under the circumstances 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*, trial examiner.

Mr. J. R. Phillips, Jr., and *Mr. Carrel F. Rhodes* for the Commission.

Mr. Aaron Heller and *Mr. Sol Eigen*, of Passaic, 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 Grand Rapids Furniture Co., Inc., a corporation, hereinafter referred to as re-

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spondent, 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 Furniture Co., Inc., is a corporation, organized, existing, and doing business under and by virtue of the laws of the State of New Jersey, with its office and place of business located at 300-302 Monroe Street in the city of Passaic, State of New Jersey. Respondent is now, and for several years last past has been, engaged in the sale and distribution of household furniture to purchasers located at points in the various States of the United States, and causes and has caused said household furniture, when so sold, to be transported from its place of business in the city of Passaic, State of New Jersey, to purchasers thereof in the State of New Jersey and to purchasers located in other States of the United States. Respondent now maintains, and for more than 5 years last past has maintained, a course of trade in said household furniture in the State of New Jersey and 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 5 years last past has been, in competition with corporations, individuals, and partnerships located in the various States of the United States other than the State of New Jersey, who are 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 the respondent are many corporations, individuals, and partnerships who sell and distribute in New Jersey and in said commerce between and among the various other States of the United States household furniture manufactured and having its origin in the city of Grand Rapids, State of Michigan, and others selling and distributing household furniture not having been manufactured in or having its origin in the city of Grand Rapids, and who do not misrepresent their business nor the quality or origin of their household furniture.

PAR. 3. In the course and conduct of its aforesaid business, and for the purpose of inducing the purchase of its said furniture, respondent employs and displays, and for more than 5 years last past has employed and displayed in its corporate name, in signs on the building in which its business is located, and upon its stationery and invoices, and in other ways, the words "Grand Rapids." Respondent has further repre-

sented by advertisements appearing in newspapers and other periodicals or advertising media of general circulation, the following:

Grand Rapids Furniture Co., Inc.

Grand Rapids Furniture Presents Endure for Many a Christmas to Come!

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, a fact generally known to the public throughout the United States, and furniture manufactured there has for many years enjoyed and now enjoys a widespread popularity, reputation, good will, and demand throughout the United States as possessing dependable quality and other desirable characteristics. By reason of the widespread reputation, popularity, and good will enjoyed by furniture made in Grand Rapids, Mich., throughout the United States, there is a substantial portion of the purchasing public which prefers to purchase household furniture manufactured in the city of Grand Rapids, believing that in so doing it secures a superior quality and other advantages not ordinarily obtainable in furniture manufactured and originating in places other than Grand Rapids, Mich.

PAR. 5. Through the use of the statements and representations hereinabove set forth and others similar thereto not specifically set out herein, the respondent has represented that the furniture sold by it is manufactured in Grand Rapids, Mich., and that the respondent deals exclusively in furniture manufactured and originating in the city of Grand Rapids, Mich.

PAR. 6. The aforesaid representations made by respondent are false and misleading. In truth and in fact, only a very small portion of the furniture sold by respondent is made in Grand Rapids, Mich. The respondent, in truth and in fact, sells furniture manufactured and originating generally in cities other than the city of Grand Rapids, Mich.

PAR. 7. The use of the words "Grand Rapids" in the corporate name of the respondent "Grand Rapids Furniture Co., Inc." and the representations made in its advertising, directly or by inference, that it deals exclusively in furniture manufactured and originating in the city of Grand Rapids, Mich., 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 furniture purchased from the said respondent is made in Grand Rapids, Mich.; and as a result of such belief, so engendered the public is induced to purchase substantial quantities of furniture from respondent, thereby unfairly diverting to respondent trade from its said competitors in commerce between and among the several States of the United States and in

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the District of Columbia who do not use the same or equivalent methods; to exclude from the furniture trade competitors in said commerce who do not use the same or equivalent methods of advertising; and to lessen competition in said furniture business and to deprive the purchasing public of the benefit of free competition in the furniture trade. The use of the said methods in the State of New Jersey by the respondent has a direct, burdensome, and retarding effect upon the normal flow of interstate commerce in furniture manufactured and originating in the city of Grand Rapids, Mich., heretofore described, moving from other States of the United States into the State of New Jersey, by reducing shipments of such furniture in interstate commerce to the State of New Jersey, retarding the normal increase in volume of such goods shipped in interstate commerce to the State of New Jersey, and in some instances causing a complete cessation of interstate movement of said Grand Rapids furniture sought to be shipped in interstate commerce to the State of New Jersey. The use of said methods by respondent has a tendency and capacity to eliminate from the furniture trade in the State of New Jersey all actual competitors from the city of Grand Rapids, Mich., who sell their furniture in the State of New Jersey and to exclude therefrom competitors who do not adopt and use said methods or equivalent methods.

PAR. 8. The aforesaid acts and practices of the respondent are all to the prejudice 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.

REPORT, FINDINGS AS TO THE FACTS, AND ORDER

Pursuant to the provisions of the Federal Trade Commission Act, the Federal Trade Commission, on February 11, 1941, issued and subsequently served its complaint in this proceeding upon the respondent, Grand Rapids Furniture Co., Inc., a corporation, charging it 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 that act. After the filing of respondent's answer, testimony and other evidence in support of the allegations of the complaint were introduced by the attorney for the Commission (no testimony or other evidence in opposition thereto being offered by the respondent), before a trial examiner of the Commission theretofore duly designated by it, which testimony and other evidence were duly recorded and filed in the office of the Commission. Thereafter, the proceeding regularly came on for final hearing before the Commission on the complaint, the

answer thereto, testimony and other evidence, report of the trial examiner upon the evidence and the exceptions to such report, briefs in support of and in opposition to the complaint, and oral argument; 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. The respondent, Grand Rapids Furniture Co., Inc., is a corporation organized and existing under the laws of the State of New Jersey, with its office and place of business located at 300-302 Monroe Street, Passaic, N. J. Respondent is now and since the year 1925 has been engaged in the sale and distribution of household furniture.

PAR. 2. In the course and conduct of its business the respondent sells and has sold its furniture to purchasers located in States of the United States other than the State of New Jersey, and causes and has caused its furniture, when sold, to be transported from its place of business in the State of New Jersey to such purchasers located in other States.

PAR. 3. In the sale and distribution of its furniture the respondent is now, and at all times mentioned herein has been, in competition with other corporations and with individuals and partnerships engaged in the sale and distribution of household furniture in commerce among and between the various States of the United States.

PAR. 4. In the course and conduct of its business and for the purpose of inducing the purchase of its furniture, respondent has advertised its furniture by various means, including the distribution of advertising circulars among prospective purchasers and the insertion of advertisements in newspapers having a circulation not only in the State of New Jersey but in other States of the United States as well. Respondent has also advertised, to a limited extent, by means of radio continuities broadcast from a radio station located in Jersey City, N. J.

In respondent's advertising the words "Grand Rapids" and "Grand Rapids Furniture" have been prominently displayed. While these words have usually been employed only as a part of and in connection with respondent's corporate name, they have occasionally been used separately and independent of the corporate name. For example, one newspaper advertisement in December 1940 contained, at the top thereof, the statement in prominent type, "Grand Rapids Furniture presents endure for many a Christmas to come." At the bottom of this advertisement the corporate name also appeared.

PAR. 5. Through the use of these advertisements, including the use of the words "Grand Rapids" in its corporate name, the respondent has represented that the furniture offered for sale and sold by it, or the major portion thereof, is manufactured in the city of Grand Rapids, Mich.

PAR. 6. In the early days of its business operations, respondent did purchase the major portion of its furniture from manufacturers located in Grand Rapids, Mich., but beginning about 1930 the proportion of such furniture sold by respondent declined rapidly, and this decline has continued down to the present time. During recent years, respondent has obtained only a very small proportion of its furniture, not over 5 percent, from Grand Rapids. The remaining 95 percent is obtained from various sources throughout the United States. None of the specific articles of furniture referred to in the advertisements mentioned above were in fact manufactured in Grand Rapids.

PAR. 7. For many years the city of Grand Rapids, Mich., has been known not only in the trade but to the purchasing public generally as a large and important center of the furniture industry. Furniture manufactured in Grand Rapids enjoys a distinct reputation for quality, style, and other desirable characteristics, and by reason of such reputation there is a preference on the part of a substantial portion of the purchasing public for such furniture. The record discloses that, when undertaking to sell furniture which is in fact manufactured in Grand Rapids, dealers frequently use successfully as a selling point the fact that the furniture is Grand Rapids furniture.

PAR. 8. The Commission finds that the use by the respondent of the representations herein referred to, including the use of the words "Grand Rapids" in respondent's corporate name, has the tendency and capacity to mislead and deceive a substantial portion of the purchasing public into the erroneous and mistaken belief that respondent's furniture is manufactured in Grand Rapids, Mich., and the tendency and capacity to cause such portion of the public to purchase substantial quantities of respondent's furniture as a result of such erroneous and mistaken belief. In consequence thereof, substantial trade has been diverted to the respondent from its competitors, among whom are those who do not misrepresent the place of origin of their products.

CONCLUSION

The acts and practices of the respondent as herein found are all to the prejudice 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, the answer of the respondent, testimony and other evidence taken before a trial examiner of the Commission theretofore duly designated by it, in support of the allegations of the complaint (no testimony or other evidence being offered by respondent), the report of the trial examiner upon the evidence and the exceptions to such report, briefs in support of and in opposition to the complaint, and oral argument, and the Commission having made its findings as to the facts and its conclusion that the respondent has violated the provisions of the Federal Trade Commission Act.

It is ordered, That the respondent, Grand Rapids Furniture Co., Inc., a corporation, and its officers, agents, representatives, and employees, directly or through any corporate or other device, in connection with the offering for sale, sale, and distribution of respondent's 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 any simulation thereof, as a part of respondent's corporate name.
2. Using the words "Grand Rapids," or any simulation thereof, to designate, describe, or refer to furniture which is not in fact manufactured in Grand Rapids, Mich.
3. Misrepresenting in any manner the place of origin or manufacture of respondent's furniture.

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.

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IN THE MATTER OF

INCOME AUDIT SERVICE CORPORATION AND
FRANK H. HIBBERDCOMPLAINT, FINDINGS, AND ORDER IN REGARD TO THE ALLEGED VIOLATION
OF SEC. 5 OF AN ACT OF CONGRESS APPROVED SEPT. 26, 1914*Docket 4715. Complaint, Feb. 25, 1942—Decision, July 13, 1942*

Where a corporation and its principal stockholder who controlled its practices and policies, engaged in the compilation and interstate sale and distribution of their "Income Audit Service" or bookkeeping and accounting or business record system, consisting of a bound ledger for recording business transactions, and of a certificate of service wherein they agreed, upon request, that they would prepare the Federal income tax returns of purchasers of said service and advise them with regard to income, Social Security, and other accounting questions; through the medium of the mails and through their salesmen and canvassers, directly and by implication—

- (a) Falsely represented that their said representatives were officers, agents, or representatives of the United States Government, and, in particular, of the Income Tax Unit of the Treasury, and that the purchase and use of a bookkeeping, accounting, or record system, and more particularly their own, was required under the laws of the Government or the rules, regulations, or orders of some department or agency thereof;
- (b) Falsely represented that their Income Audit Service emanated from, or was sold and distributed under the auspices of, the Government or said Income Tax Unit, that it was the only bookkeeping, accounting, or business record system approved by the Government or said Unit, and that all others in use must be removed and replaced by their own; and
- (c) Falsely represented that prospective purchasers who failed to purchase and use their said "Income Audit Service" and did not comply with requests or demands of their representatives or salesmen in connection with its sale would, as a result, subject themselves to arrest or imprisonment;

With effect of misleading and deceiving a substantial portion of the purchasing public into the erroneous belief that such representations were true, thereby causing it, because of such mistaken belief, to purchase substantial quantities of said "Income Audit Service":

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.

Before *Mr. Clyde M. Hadley*, trial examiner.

Mr. B. G. Wilson for the Commission.

Mr. John N. Torvestad, of Brentwood, Md., and *Mr. Hyman M. Goldstein*, of Washington, D. C., for respondents.

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