

Syllabus

IN THE MATTER OF

GRAND RAPIDS FACTORY SHOW ROOMS, INC., MORRIS
ZISBLATT, MEYER ZISBLATT, SAM ZISBLATT, AND
LILLIAN ZISBLATT.COMPLAINT, FINDINGS, AND ORDER IN REGARD TO THE ALLEGED VIOLATION
OF SEC. 5 OF AN ACT OF CONGRESS APPROVED SEPT. 26, 1914*Docket 4626. Complaint, Nov. 6, 1941—Decision, Oct. 12, 1942*

Where a corporation and the two individuals directing its management, policies and operations; engaged in the interstate sale and distribution of household furniture—

- (a) Represented that their furniture was made in Grand Rapids, Mich, important center of the furniture industry, through display of their corporate name "Grand Rapids Factory Show Rooms, Inc." upon signs on the building in which their business was located, upon their business cards and those of their salesmen, and upon their stationery and invoice forms, and through statements and words to such effect by their officers, agents, and salesmen to prospective purchasers; and
- (b) Represented that their corporation owned, operated, or controlled a factory at Grand Rapids, and that their furniture was sold direct from the factory to the consumer at wholesale prices, without addition of the middleman's profit, through words "Factory Show Rooms" in its aforesaid corporate name displayed as above set forth; and also through display of words "Direct from Factory to You," and through oral statements by its officers, agents, and salesmen that its sales were made direct from the factory to the consumer and consequently at better prices than retail dealers could give, and that its prices were wholesale prices;

The facts being that only a small portion of their furniture was made in Grand Rapids, Mich., furniture of which is in widespread demand as possessing dependable qualities and other desirable characteristics; it did not own, operate, or control a furniture factory in said city or elsewhere; its sales were not made direct from the factory, but were resales at retail of furniture purchased from factories or wholesalers; said place of business was not a factory show room but a retail store; and prices charged by it were higher than the usual current wholesale prices;

With tendency and capacity to mislead and deceive a substantial portion of the purchasing public—which prefers, for reasons above indicated, to purchase household furniture made in said city, and also to buy direct from the factory as securing advantages not ordinarily obtained through retail channels, and considers that there are advantages in buying from a concern with a large volume of business indicated by "Factory Show Rooms"—into the mistaken belief said representations were true; and with effect of causing such public, because of such belief, to purchase substantial quantities of furniture from aforesaid corporation:

Complaint

35 F. T. C.

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

Before *Mr. John P. Bramhall*, trial examiner.

Mr. J. R. Phillips, Jr. and *Mr. James M. Hammond* for the Commission.

Mr. Louis Libert, of New York City, 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 Trade Commission, having reason to believe that Grand Rapids Factory Show Rooms, Inc., a corporation, and Morris Zisblatt, Meyer Zisblatt, Sam Zisblatt, and Lillian Zisblatt, hereinafter referred to as respondents, have 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 Factory Show Rooms, Inc., hereinafter referred to as respondent corporation, is a corporation, organized under the laws of the State of New Jersey, with its office and place of business at 165 Ward Street, city of Paterson, State of New Jersey, and the respondents Morris Zisblatt, Meyer Zisblatt, Sam Zisblatt, and Lillian Zisblatt are the incorporators, officers, directors, and executive employees of respondent corporation, and direct its management, policies, and operations. Said individual respondents have acted in concert and in cooperation each with the other, and with said corporate respondent, in doing the acts and things hereinafter alleged.

PAR. 2. Under the control and direction of said individual respondents, respondent corporation is now, and has been for more than 1 year last past, engaged in the business of selling and distributing household furniture. Said respondent sells said furniture to purchasers situated in various States of the United States, and in the District of Columbia, and causes said furniture, when sold, to be transported from the aforesaid place of business in the State of New Jersey to purchasers thereof located in various other States of the United States, and in the District of Columbia. Respondent corporation maintains, and at all times mentioned herein has maintained, a course of trade in commerce in said household furniture among and between various States of the United States, and in the District of Columbia.

PAR. 3. In the course and conduct of said business, and for the purpose of inducing the purchase of the said household furniture, respondent corporation displays, and for more than 1 year last past has displayed, upon signs on the building in which its business is located, upon its business cards, and the business cards of its salesmen, and upon its stationery and invoice forms used in said business, its corporate name Grand Rapids Factory Show Rooms, Inc., and also the words "Grand Rapids Factory Show Rooms" and "Direct From Factory To You."

Said respondent, through oral statements made by its officers, agents, and salesmen, also represents, and has represented to prospective purchasers that said furniture is manufactured in Grand Rapids, Mich.; that its sales are made directly from the factory to the consumer, and consequently at better prices than retail dealers could give; and that its prices are wholesale prices.

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 qualities and other desirable characteristics.

PAR. 5. Through the use of the statements and representations hereinabove set forth, and others similar thereto not specifically set out herein, respondent corporation has represented that the furniture sold by it is manufactured in Grand Rapids, Mich.; that the respondent owns, operates, or controls a factory at Grand Rapids; and that said furniture is sold direct from the factory to the consumer, without the addition of the middleman's profit; that the prices at which it is sold are wholesale prices.

PAR. 6. The aforesaid representations made by respondent corporation are false and misleading. In truth and in fact, only a small portion of the furniture sold by said respondent is made in Grand Rapids, Mich. Said respondent does not own, operate, or control a furniture factory in Grand Rapids, Mich., or elsewhere. Its sales are not made "direct from factory" as that phrase is generally used in the trade and understood by the public, but are in fact resales, at retail, of furniture purchased by respondent from factories or from wholesalers. Said respondent's place of business is not a factory show room, but a retail store. The prices which it charges for its wares are higher than the usual, current, wholesale prices for such wares.

PAR. 7. 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, which prefer to purchase direct from the factory, believing that in so doing it secures better prices, superior quality, and other advantages not ordinarily obtainable when such furniture is purchased through ordinary retail channels; and which believes that there are advantages in purchasing furniture from a concern having the large volume of business indicated by "factory show rooms."

PAR. 8. Respondent corporation's acts and practices, as hereinabove alleged, have had, and now have, the tendency and capacity to, and do, mislead and deceive a substantial portion of the purchasing public into the erroneous and mistaken belief that furniture purchased from said respondent is made in Grand Rapids, Mich., sold direct from the factory owned, operated, or controlled by it, at wholesale prices, and that the corporate respondent is maintaining and operating show rooms for the purpose of displaying furniture having its origin in Grand Rapids, Mich., and to cause, and do cause, a substantial portion of the purchasing public, because of such erroneous and mistaken belief, to purchase substantial quantities of furniture from the respondent corporation.

PAR. 9. The aforesaid acts and practices of the respondent, as herein alleged, are all to the prejudice and injury of the public, 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 the 6th day of November 1941, issued its complaint in this proceeding against Grand Rapids Factory Show Rooms, Inc., a corporation, and Morris Zisblatt, Meyer Zisblatt, Sam Zisblatt, and Lillian Zisblatt, individuals, charging them with the use of unfair and deceptive acts and practices in commerce in violation of the provisions of that act.

On August 21, 1942, the respondents Grand Rapids Factory Show Rooms, Inc., Meyer Zisblatt, and Sam Zisblatt filed their answer, in which answer the said respondents admitted all the material allegations of fact set forth in said complaint, and waived all intervening procedure and further hearing as to said facts. The present whereabouts of the individual respondents, Morris Zisblatt and Lil-

lian Zisblatt, are unknown to the Commission, and service of the complaint upon these respondents was not perfected. The proceeding regularly came on for final hearing before the Commission on the said complaint and the answer thereto of Grand Rapids Factory Show Rooms, Inc., Meyer Zisblatt, and Sam Zisblatt; and the Commission, having fully 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 Factory Show Rooms, Inc., hereinafter referred to as respondent corporation, is a corporation, organized under the laws of the State of New Jersey which heretofore had its office and place of business at 165 Ward Street in the city of Paterson, State of New Jersey, and the respondents, Meyer Zisblatt and Sam Zisblatt, are the incorporators, officers, directors, and executive employees of respondent corporation, and direct its management, policies, and operations. Further, respondents, Grand Rapids Factory Show Rooms, Inc., Meyer Zisblatt, and Sam Zisblatt, state in their answer that Grand Rapids Factory Show Rooms, Inc., discontinued its furniture business about the middle of June 1940, and that neither it nor any of the individual respondents have resumed actual participation in the furniture business since that date. The individual respondents, Meyer Zisblatt and Sam Zisblatt, have acted in concert and in cooperation each with the other and with said corporate respondent in doing the acts and things hereinafter alleged.

PAR. 2. Under the control and direction of said individual respondents, respondent corporation was prior to June 1940, engaged in the business of selling and distributing household furniture. Said respondent sold said furniture to purchasers situated in various States of the United States and in the District of Columbia and caused said furniture, when sold, to be transported from its aforesaid place of business in the State of New Jersey to purchasers thereof located in various other States of the United States and in the District of Columbia. Respondent corporation maintained prior to June 1940, a course of trade in said household furniture 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 said business and for the purpose of inducing the purchase of the said household furniture, respondent corporation for more than 1 year prior to June 1940, displayed upon signs on the building in which its business was located, upon its busi-

ness cards and the business cards of its salesmen, and upon the stationery and invoice forms used in said business, its corporate name, Grand Rapids Factory Show Rooms, Inc., and also the words "Grand Rapids Factory Show Rooms" and "Direct from factory to you."

Said respondent corporation through oral statements made by its officers, agents, and salesmen also has represented to prospective purchasers that said furniture was manufactured in Grand Rapids, Mich.; that its sales were made direct from the factory to the consumer, and consequently at better prices than retail dealers could give; and that its prices were wholesale prices.

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, goodwill, and demand throughout the United States as possessing dependable qualities and other desirable characteristics.

PAR. 5. Through the use of the statements and representations hereinabove set forth, and others similar thereto not specifically set out herein, respondent corporation has represented that the furniture sold by it was manufactured in Grand Rapids, Mich.; that it owned, operated, or controlled a factory at Grand Rapids; that said furniture was sold direct from the factory to the consumer, without the addition of the middleman's profit; and that the prices at which the furniture was sold were wholesale prices.

PAR. 6. The aforesaid representations made by respondent corporation were false and misleading. In truth and in fact, only a small portion of the furniture sold by such respondent was made in Grand Rapids, Mich. Said respondent did not own, operate, or control a furniture factory in Grand Rapids, Mich., or elsewhere. Its sales were not made "direct from factory" as the phrase is generally used in the trade and understood by the public, but were in fact resales at retail of furniture purchased by such respondent from factories or from wholesalers. Said respondent's place of business was not a factory show room but a retail store. The prices which it charged for its wares were higher than the usual, current, wholesale prices for such wares.

PAR. 7. By reason of the widespread reputation, popularity, and goodwill enjoyed by furniture made in Grand Rapids, Mich., throughout the United States, there was and now is a substantial portion of the purchasing public which prefers to purchase household furniture manufactured in the city of Grand Rapids; which prefers to purchase direct from the factory, believing that in so doing it secures better

Order

prices, superior quality, and other advantages not ordinarily obtainable when such furniture is purchased through ordinary retail channels; and which believed and still believes that there are advantages in purchasing furniture from a concern having the large volume of business indicated by "factory show rooms."

PAR. 8. The respondents' acts and practices as hereinabove found have had the tendency and capacity to mislead and deceive a substantial portion of the purchasing public into the erroneous and mistaken belief that furniture purchased from said respondents was made in Grand Rapids, Mich., sold direct from a factory owned, operated, or controlled by respondents, at wholesale prices, and that the corporate respondent was maintaining and operating show rooms for the purpose of displaying furniture having its origin in Grand Rapids, Mich.; and to cause, and have caused, a substantial portion of the purchasing public, because of such erroneous and mistaken belief, to purchase substantial quantities of furniture from the respondent corporation.

CONCLUSION

The acts and practices of the respondent corporation and the individual respondents, Meyer Zisblatt and Sam Zisblatt, as herein found, are all to the 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 respondents, Grand Rapids Factory Show Rooms, Inc., Meyer Zisblatt and Sam Zisblatt (service of the complaint not having been obtained upon the other respondents), in which answer said respondents admit all the material allegations of fact set forth in said complaint, except as to the continuation in business after June 1940, of the respondent, Grand Rapids Factory Show Rooms, Inc., and state that they waive all intervening procedure and further hearing on said facts, and the Commission having made its findings as to the facts and its conclusion that said respondents have violated the provisions of the Federal Trade Commission Act.

It is ordered, That said respondents, Grand Rapids Factory Show Rooms, Inc., a corporation, and its officers, and Meyer Zisblatt and Sam Zisblatt, individually, and as officers, of said corporation, and respondents' 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 any simulation thereof, as a part of respondents' corporate or trade name, or otherwise representing, directly or by implication, that the furniture sold by respondents is obtained principally from Grand Rapids, Mich.

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 respondents' furniture.

4. Using the term "Factory Show Rooms," or any other term of similar import, as a part of respondents' corporate or trade name or otherwise representing that respondents' place of business is a factory show room.

5. Using the phrase "Direct from factory to you," or any other phrase of similar import, to designate, describe or refer to the character of respondents' business, or otherwise representing that respondents' own or operate a factory or that respondents' furniture is sold direct from the factory to the consumer, or that the prices at which respondents sell their furniture are wholesale prices.

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

It is further ordered, That this proceeding be, and it hereby is, closed as to respondents, Morris Zisblatt and Lillian Zisblatt without prejudice to the right of the Commission, should the facts so warrant, to reopen the proceeding and resume trial thereof in accordance with its regular procedure.

Complaint.

IN THE MATTER OF

MONTGOMERY WARD & COMPANY, INC.

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

Docket 4728. Complaint, Mar. 12, 1942—Decision, Oct. 12, 1942

Where a corporation, engaged in interstate sale and distribution, by mail order, of various cosmetic preparations, among other things, directly and by implication, through advertisements disseminated by it in various ways—

(a) Represented that just as vitamins internally consumed help make a healthy body, so vitamins A and D externally applied help make the skin healthy and beautiful; and

(b) Represented that its said preparations, because of the addition of vitamins A and D would therapeutically treat or benefit the skin, and were more effective in keeping the complexion clear and smooth, helped retard the appearance of age, and would relieve skin dryness and promote beautiful, glowing skin; and that its hand preparations, because of the addition of vitamin D would aid in keeping the hands soft, smooth, and white;

The facts being that external application of vitamins will not therapeutically affect the skin as will internal consumption thereof affect the health, and ordinary application thereof by means of cold cream would have no therapeutic value; while vitamins may be absorbed to some extent through the skin under certain conditions, the effect would be systemic and not restricted to the site of the application; said creams contained so little of said vitamins that even if the entire vitamin content were carried into the blood stream, it would not affect the appearance of the skin beyond having an emollient, smoothing, and cleansing action; and its said products, either with or without the addition of vitamins, were of no value in excess of their properties as ordinary cosmetic cream preparations; and

(c) Falsely implied, through use of words "Tissue Cream" in name of preparation, or by reference thereto, that such product had therapeutic value in treating and nourishing the tissues of the skin beyond the ordinary value of a lubricant;

With effect of misleading and deceiving a substantial number of the purchasing public into the mistaken belief that said representations were true, thereby inducing purchase thereof:

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. William L. Pencke for the Commission.

Mr. Brooks Wynne, of Chicago, Ill., for respondent.

COMPLAINT

Pursuant to 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 Montgomery Ward & Co., Inc., a corpo-