

IN THE MATTER OF

**S. & M. GRAND RAPIDS FURNITURE FACTORIES, INC.,
ALSO TRADING AS S. & M. GRAND RAPIDS FURNI-
TURE COMPANY OF NEWARK, NEW JERSEY, AND
GRAND RAPIDS SHOWROOMS**

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

Docket 4642. Complaint, Nov. 24, 1941—Decision, Feb. 2, 1943

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

- (a) Represented, directly or by implication, that it was the manufacturer of such furniture, which was made in Grand Rapids, Mich., through said trade name and such statements as "Grand Rapids Furniture Factories," "Grand Rapids Furniture Company" etc., "Grand Rapids Furniture Showrooms," "From factory direct to you," and "Entrance to factory showroom," on signs on the building in which its business was located, and by newspaper advertisements, statements on tags, labels, letterheads, and invoices, and by radio broadcasts, as well as orally through its representatives;

The facts being it at no time made any of its furniture or owned or operated any manufacturing plant; and while at times it carried in its stock articles of furniture made in Grand Rapids—furniture of which enjoys a widespread reputation and is preferred by a substantial part of the purchasing public over that originating elsewhere—at least 90 percent of its furniture was made in other places;

- (b) Represented that its furniture was sold direct from the factory to the consumer, and at wholesale prices, and that its place of business was a factory showroom, through use in advertising of legends "from factory direct to you" and "Factory Showroom," as well as through statements by its agents;

The facts being its place of business was in no sense a factory showroom, it was engaged in retail business exclusively, and its prices were retail prices;

- (c) Represented that its customary prices were in excess of those at which its furniture was actually sold in the normal course of business, through tags bearing fictitious and exaggerated price markings, and orally through its representatives; and

- (d) Represented falsely that certain articles which actually formed part of its general stock were made on special order for particular customers, through use of legend "Custom Built" on labels attached thereto;

With tendency and capacity of misleading and deceiving a substantial portion of the purchasing public as to its business status, and the origin, characteristics, and value of its said products, thereby causing such public to purchase them because of such mistaken belief:

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. George Pearse and *Mr. Frederic M. P. Pearse*, 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 S. & M. Grand Rapids Furniture Factories, Inc., a corporation, also trading as S. & M. Grand Rapids Furniture Co. of Newark, N. J., and Grand Rapids Showrooms, 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, S. & M. Grand Rapids Furniture Factories, Inc., is a corporation organized, existing, and doing business under and by virtue of the laws of the State of New Jersey with its offices and principal place of business located at 123 Ferry Street in the city of Newark, State of New Jersey. Respondent trades under the names of S. & M. Grand Rapids Furniture Co. of Newark, N. J., and Grand Rapids Showrooms, as well as under its corporate name. Said 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 Newark, State of New Jersey, to purchasers thereof 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 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 aforesaid business, and for the purpose of inducing the purchase of its said furniture, respondent, for more than 5 years last past, has represented by its corporate name, by signs on the building in which its business is located, and by its stationery and invoices, and its salesmen have represented orally to prospective customers, that it is the manufacturer of the furniture it sells, and that its furniture is manufactured at Grand Rapids, Mich. Respondent has further used, in advertisements appearing in news-

papers of general circulation and in radio broadcasts, the following expressions and statements:

S. & M. Grand Rapids Furniture Factories, Inc.
S. & M. Grand Rapids Furniture Company of Newark, New Jersey.
Grand Rapids Showrooms.
From factory direct to you.
Entrance to factory showrooms.
It is grand to shop at Grand Rapids.

PAR. 3. The city of Grand Rapids, Mich., has been for many years and is now generally known to the public as a large and important center of the furniture industry in 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.

PAR. 4. Through the use of the statements and representations set forth in paragraph 2 hereof, and others similar thereto not specifically set out herein, respondent has represented that the furniture sold by it is manufactured in Grand Rapids, Mich., that the respondent deals exclusively in furniture manufactured and originating in the city of Grand Rapids, Mich., and that it owns and operates or directly controls plants or factories in which said furniture is manufactured and that its place of business is a factory showroom.

PAR. 5. 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., and respondent does not own, operate, or control a factory or factories wherein said furniture is made or manufactured; and said furniture is not sold direct from the factory to the consumer and without the addition of the middleman's profit. The prices at which said furniture is sold are not wholesale prices and respondent's place of business is not a factory showroom but a retail store. The prices which it charges for its furniture are higher than the usual, current, wholesale prices for such furniture.

PAR. 6. Respondent has affixed and caused to be affixed to the display furniture in its place of business tags such as "\$2 for \$1 sale" or which feature a purported sales price, such as \$25 furniture at less than half that price. The higher prices shown on said tags are fictitious, the so-called sales prices being the prices at which said furniture is customarily sold in the usual course of business. Oral representations are made by respondent's salesmen to the effect that the prices at which said furniture is offered for sale and sold are wholesale prices, when in

truth and in fact the so-called wholesale prices are the prices customarily asked for said furniture in the usual course of retail trade.

Certain of the furniture offered for sale by the respondent carry labels containing the words "Custom Built," when in truth and in fact said furniture is not made on special order of the customer, but all of said furniture is regular stock.

PAR. 7. The use of said false and misleading representations has the tendency and capacity to, and does, deceive and mislead a substantial portion of the purchasing public into the erroneous and mistaken belief that said representations are true, and as a result the public is induced to purchase substantial quantities of such furniture from respondent.

PAR. 8. 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 November 24, 1941, issued and subsequently served its complaint in this proceeding upon the respondent, S. & M. Grand Rapids Furniture Factories, Inc., a corporation, also trading as S. & M. Grand Rapids Furniture Co. of Newark, N. J., and as Grand Rapids Showrooms, charging it with the use of 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, and in opposition thereto by the attorney for the respondent, before a trial examiner of the Commission theretofore duly designated by it, and such 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, and briefs in support of and in opposition to the complaint (oral argument not having been requested); 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, S. & M. Grand Rapids Furniture Factories, Inc., is a corporation, organized, existing, and doing busi-

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ness under and by virtue of the laws of the State of New Jersey, with its office and principal place of business located at 123 Ferry Street, Newark, N. J. Respondent also trades under the names S. & M. Grand Rapids Furniture Co. of Newark, N. J., and Grand Rapids Showrooms. Respondent is now and for a number of years last past has been engaged in the sale and distribution of household furniture.

PAR. 2. In the course and conduct of its business respondent causes and has caused its furniture, when sold, to be transported from its place of business in the State of New Jersey to purchasers thereof located in another State of the United States, to wit, the State of New York. Respondent maintains and has maintained a course of trade in its furniture in commerce between the State of New Jersey and the State of New York.

PAR. 3. In the course and conduct of its business and for the purpose of inducing the purchase of its furniture, respondent has represented, directly or by implication, that it is the manufacturer of the furniture sold by it, and that its furniture is "Grand Rapids" furniture—that is, furniture manufactured in Grand Rapids, Mich. These representations have been made by respondent through its corporate name, by means of signs on the building in which its business is located, in newspaper advertisements, by means of legends, and statements appearing on tags and labels attached to its products and on its letterheads and invoices, and by statements made in radio broadcasts. Representations to the same effect have also been made orally by respondent's agents and representatives to prospective purchasers. Among and typical of the representations used by respondent are the following:

S. & M. Grand Rapids Furniture Factories, Inc.

Grand Rapids Furniture Factories.

S. & M. Grand Rapids Furniture Company of Newark, New Jersey.

Grand Rapids Furniture Showrooms.

From factory direct to you.

Entrance to Factory Showroom.

PAR. 4. It appears from the record that in June, 1940, following an investigation by the Commission and the execution by respondent of an agreement to desist from certain practices therein set forth, respondent discontinued to some extent the use of the word "Factories" in its advertising and caused the word to be deleted from some of the signs appearing on its place of business. It retained on its building, however, the legend "Entrance to Factory Showroom," and also retained on its show windows signs reading "Grand Rapids Furniture Factories." Respondent further insists that its corporate name, which includes the word "Factories," is now used by it only in the execution of legal or formal documents, and that the name is not used in its

advertising, the trade name "S. & M. Grand Rapids Furniture Company of Newark, New Jersey" having been substituted for the corporate name. It is undisputed that respondent has continued to use the words "Grand Rapids" in all of its advertising, and that such words are in constant use by it at the present time.

PAR. 5. Respondent has not at any time manufactured any of its furniture. It has never owned nor operated any manufacturing plant, but has obtained all of its furniture from other sources. While respondent has at times carried in its stock articles of furniture manufactured in Grand Rapids, Mich., such furniture has constituted only a very small part, not over 10 percent, of respondent's entire stock. At least 90 percent of the furniture sold by respondent is manufactured in places other than Grand Rapids.

PAR. 6. For many years the City of Grand Rapids, Mich., has been generally known to the public as a large and important center of the furniture industry in the United States, and furniture manufactured in Grand Rapids enjoys a widespread reputation for quality, style, and other desirable characteristics. There is a preference on the part of a substantial portion of the purchasing public for furniture manufactured in Grand Rapids over that having its origin in other places.

PAR. 7. Respondent has further represented, through the use of its advertising of the legends "From factory direct to you" and "Factory Showroom," as well as through oral statements made by its agents and representatives, that respondent's furniture is sold direct from the factory to the consumer, that the prices at which such furniture is sold by respondent are wholesale prices, and that respondent's place of business is a factory showroom. Respondent's place of business is in no sense a factory showroom. Respondent is engaged in the retail business exclusively, and the prices at which its furniture is sold are not wholesale prices but are retail prices.

Respondent has also used fictitious price markings on certain of its furniture. For example, use has been made of tags reading "\$2.00 for \$1.00 Sale," and a table which was actually sold by respondent in the regular course of business for \$11.50 was represented as having a customary price of \$25. The further representation was made orally by one of respondent's representatives in connection with this table that the price of \$11.50 was the wholesale price. Actually, the wholesale price of the table was \$7.25, and the price of \$11.50 received by respondent was the regular and customary price at which such tables were sold by respondent in the normal course of business.

PAR. 8. Respondent has also represented, through the use of the legend "Custom Built" on labels attached to certain of its furniture, that such articles were made on special order to meet the requirements

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of particular customers. Actually, the articles in question were not made on special order but formed a part of the respondent's general stock.

PAR. 9. The Commission therefore finds that the representations made by respondent with respect to its business status and its products, as set forth herein, are false and misleading.

PAR. 10. The Commission finds further that the use by respondent of these false and misleading representations has the tendency and capacity to mislead and deceive a substantial portion of the purchasing public with respect to respondent's business status and with respect to the origin, characteristics, and value of respondent's products, and the tendency and capacity to cause such portion of the public to purchase substantial quantities of respondent's products as a result of the erroneous and mistaken belief so engendered.

CONCLUSION

The acts and practices of the respondent 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, the answer of the respondent, testimony, and other evidence in support of and in opposition to the allegations of the complaint taken before a trial examiner of the Commission theretofore duly designated by it, report of the trial examiner upon the evidence and the exceptions to such report, and briefs in support of and in opposition to the complaint (oral argument not having been requested); 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, S. & M. Grand Rapids Furniture Factories, Inc., a corporation, trading also as S. & M. Grand Rapids Furniture Co. of Newark, N. J., and as Grand Rapids Showrooms, or trading under any other name, 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 or as a part of any trade name used by respondent.

2. Using the words "Grand Rapids," or any simulation thereof, to designate, describe, or refer to any article of furniture which is not in fact manufactured in Grand Rapids, Michigan.

3. Using the word "Factory" or "Factories" or any other word of similar import, as a part of respondent's corporate name or as a part of any trade name used by respondent; or otherwise representing, directly or by implication, that respondent owns, operates, or controls any factory or manufacturing plant, or that respondent is the manufacturer of the furniture sold by it.

4. Using the words "Factory Showrooms" or any other words of similar import, to designate, describe, or refer to respondent's place of business; or otherwise representing, directly or by implication, that respondent operates or maintains a factory showroom.

5. Using the words "From factory direct to you," or any other words of similar import, in connection with respondent's business; or otherwise representing, directly or by implication, that respondent's furniture is sold direct from the factory to the consumer.

6. Representing as the customary or regular prices of respondent's furniture, prices which are in excess of those at which such furniture is regularly and customarily sold by respondent in the normal and usual course of business.

7. Representing, directly or by implication, that the prices at which respondent offers its furniture for sale are wholesale or reduced prices when in fact such prices are the usual and customary prices at which respondent sells its furniture in the normal and usual course of business.

8. Using the words "Custom Built," or any other words of similar import, to designate, describe, or refer to any furniture which is not made on special order to meet the requirements of a particular customer but forms a part of respondent's general stock.

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

PURITY PRODUCTS, INC., THE JOURNAL OF LIVING
PUBLISHING CORPORATION, AND VICTOR H.
LINDLAHRCOMPLAINT, FINDINGS, AND ORDER IN REGARD TO THE ALLEGED VIOLATION
OF SEC. 5 OF AN ACT OF CONGRESS APPROVED SEPT. 26, 1914*Docket 4021. Complaint, Feb. 6, 1940—Decision, Feb. 9, 1943*

Where a corporation engaged in interstate sale and distribution of a preparation known as "VBev" recommended for use as a tonic and to overcome certain vitamin deficiencies; the editor of a publication known as "Journal of Living" which he controlled and used as a medium for advertising said VBev; and a corporation engaged in sale and distribution of said publication; through advertisements in the mails and newspapers and periodicals, and by circulars, leaflets, pamphlets, and other advertising literature and radio broadcasts—

Represented, directly and indirectly, that "VBev" was of substantial therapeutic value in the treatment of numerous diseases and ailments including loss of sleep, nervousness, nervous indigestion, tired feeling, lack of energy, underweight, and general run-down condition, and that it supplied the necessary amounts of vitamins B₁ and G to persons suffering from a deficiency thereof;

The facts being that "VBev" was nothing more than a food supplement which supplied certain vitamins in quantities which could easily be obtained through the ingestion of ordinary food; by reason of its small content of vitamin B₁ units, it had no therapeutic value in the treatment of any condition caused by deficiency thereof and none in the treatment of the other diseases or conditions listed; nervousness, nervous indigestion, sleeplessness, etc., are symptomatic of many diseases and conditions not associated with any vitamin deficiency and may result from psychological causes such as worry and irritation; and while a hot drink before retiring may induce sleep, it has no increased value for such purpose through addition of product in question;

With tendency and capacity to mislead and deceive a substantial portion of the purchasing public into the mistaken belief that such false representations were true, thereby inducing its purchase of said preparation;

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. Arthur F. Thomas* and *Mr. Robert S. Hall*, trial examiners.

Mr. William L. Taggart for the Commission.

Mr. Julian D. Heath, of New York City, and *Mr. Irving Robert Rosenhaus*, of Newark, N. J., for respondents.