

Commission.

It is further ordered, That the respondent shall, within sixty (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 the order to cease and desist.

IN THE MATTER OF

RICHARD C. PRATT, INC., DOING BUSINESS AS
PRATT FURNITURE COMPANY ET AL.

CONSENT ORDER, ETC., IN REGARD TO THE ALLEGED VIOLATION OF THE
FEDERAL TRADE COMMISSION ACT

Docket 8329. Complaint, Mar. 16, 1961—Decision, June 15, 1961

Consent order requiring a Spokane, Wash., furniture dealer to cease advertising falsely in newspapers and on attached labels that excessive amounts were their usual retail prices and the customary prices in their trade area for mattresses and that the sale price afforded substantial savings; that the mattresses were guaranteed for 15 years, and were "Custom crafted".

Complaint

58 F.T.C.

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 Richard C. Pratt, Inc., a corporation, doing business as Pratt Furniture Company, and Richard C. Pratt, individually and as an officer of said corporation, 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 Richard C. Pratt, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of Washington. Respondent Richard C. Pratt is an individual and is President of said corporation. Said individual formulates, directs and controls the acts and practices of the corporate respondent, including the acts and practices hereinafter set forth. Both respondents' principal office and place of business is located at 215 North Post Street, Spokane, Washington.

PAR. 2. Respondents are now, and for some time last past have been, engaged in advertising, offering for sale, selling and distributing furniture products, including mattresses and bedding, at retail to members of the purchasing public. Their volume of business is substantial.

PAR. 3. In the course and conduct of their business, respondents now cause, and for some time last past have caused, their said products, including mattresses and bedding, when sold, to be shipped from their place of business in the State of Washington to purchasers thereof located in various other States of the United States and maintain, and at all times mentioned herein have maintained, a substantial course of trade in said products in commerce, as "commerce" is defined in the Federal Trade Commission Act.

PAR. 4. At all times mentioned herein respondents have been, and are now, in direct and substantial competition with other corporations, firms and individuals engaged in the offering for sale, sale and distribution of like merchandise in commerce, as "commerce" is defined in the Federal Trade Commission Act.

PAR. 5. In the course and conduct of their business, as aforesaid, and for the purpose of inducing the purchase of their merchandise by members of the purchasing public, respondents have made various statements in newspapers of general interstate circulation.

1123

Complaint

Among and typical of such statements, but not limited thereto, are the following:

In the Spokane "Spokesman-Review" issue of April 26, 1959:

A famous maker! A sensational purchase! 600 pieces at terrific reductions for Pratt's bedding spectacular . . . (Followed by depictions of four mattresses and springs, with the following amplifying statements:)

\$20 saving on The Duchess . . . \$29.98. (This mattress and spring as depicted bears a label showing a pre-ticketed price that is partly obliterated.)

\$25 saved on Contour Sleeper . . . \$39.98. (This mattress and spring as depicted also bears a label setting forth a partially obliterated pre-ticketed price.)

\$33 saved on Sleeping Beauty . . . \$49.98. (This mattress and spring as depicted bears a label setting forth the name Sleeping Beauty and a pre-ticketed price of \$99.50.)

\$39 saved on Super Rest DeLuxe . . . \$59.98. (This mattress and spring as depicted bears a label setting forth: "Super Rest DeLuxe \$119.50", and also bears a ribbon or streamer setting forth: "15 year guarantee".)

Sleep twice as well—for half the price. Four all-time favorites! Custom crafted! . . .

In the Spokane "Spokesman-Review" issue of November 8, 1959:

Your old bedding is worth plenty to us. Spectacular trade-in sale! Pratt's give \$30 for your old mattress & spring regardless of condition. (There is also set forth a depiction of a mattress and spring bearing a ribbon or streamer containing the following: 15 year guarantee.)

Said advertisement also sets forth what purports to be a manufacturer's label with the following:

Englander	\$109.95
Sleep Products	DeLuxe

Your old set makes full down payment.
\$79.95.

PAR. 6. Through use of the aforesaid statements and others of similar import not specifically set forth herein respondents represented, directly or indirectly, that:

(a) The specified amounts set forth in such advertisements are the usual and customary retail prices charged by respondents for such mattresses in the recent regular course of their business.

(b) Certain specified savings will be afforded to purchasers of such mattresses.

(c) Such mattresses are fully and unconditionally guaranteed for 15 years (or for other designated periods of time).

(d) Such mattresses were custom crafted or were manufactured pursuant to specifications and designs furnished to the manufacturers thereof by respondents or their customers.

(e) The amounts set forth in such advertisements are the usual and customary prices at which said merchandise is usually and

customarily sold at retail in the trade area or areas where such representations are made.

PAR. 7. The aforesaid statements and representations hereinabove set forth, as well as others of similar import not specifically referred to herein, are false, misleading and deceptive. In truth and in fact:

(a) The amounts set forth in such advertisements were in excess of the price at which respondents usually and customarily sold such mattresses in the recent regular course of their business.

(b) The specified savings will not be afforded to purchasers of respondents' mattresses since the price at which such mattresses were offered did not constitute a reduction, to the extent indicated, from the price at which respondents usually and customarily sold such mattresses in the recent regular course of their business.

(c) Respondents' guarantees are limited and conditioned in several respects, which limits and conditions are not set forth in respondents' said statements and representations. Furthermore, neither the name of the guarantor nor the manner in which he will perform under such guarantee is set forth in such statements.

(d) Respondents' mattresses were not custom crafted for many, if not all, of such mattresses were from the regular stock of certain manufacturers and suppliers and were not manufactured pursuant to specifications and designs furnished to said manufacturers and suppliers by respondents or their customers.

(e) The amounts set forth in such advertisements were substantially in excess of the prices at which the advertised products were usually and customarily sold in retail in the trade area or areas where the representations were made.

PAR. 8. In the course and conduct of their business as aforesaid, respondents have offered for sale and sold mattresses to which were affixed woven labels which set forth certain amounts or prices, thereby representing that such amounts and prices were the usual and customary prices charged by respondents for such mattresses in the recent regular course of their business.

PAR. 9. In truth and in fact, the amounts and prices set forth on such woven labels affixed to many of the said mattresses offered for sale and sold by respondents were greatly in excess of the usual and customary prices charged by respondents for such mattresses in the recent regular course of their business.

PAR. 10. The use by respondents of the aforesaid false, misleading and deceptive statements, representations and practices has had, and now has, the tendency and capacity to mislead and deceive members of the purchasing public into the erroneous and mistaken

1123

Decision

belief that said statements and representations were and are true and into the purchase of substantial quantities of respondents' products including mattresses and bedding by reason of such erroneous and mistaken belief. As a consequence thereof, substantial trade in commerce has been, and is being, unfairly diverted to respondents from their competitors and substantial injury has thereby been, and is being, done to competition in commerce.

PAR. 11. The aforesaid acts and practices of respondents, as herein alleged, were and are all to the prejudice and injury of the public and of respondents' competitors and constituted, and now constitute, unfair and deceptive acts and practices and unfair methods of competition, in commerce, within the intent and meaning of the Federal Trade Commission Act.

Mr. John J. McNally supporting the complaint.
No appearance for the respondents.

INITIAL DECISION BY WALTER K. BENNETT, HEARING EXAMINER

The complaint in this matter was issued by the Federal Trade Commission on March 16, 1961 and duly served on respondents. It charged respondents, a corporation and its president, with unfair and deceptive acts and practices and unfair methods of competition in commerce in the advertising, offering for sale, selling and distributing of furniture products including mattresses and bedding. The alleged practices included advertising of fictitious prices and savings and the issuance of misleading guarantees.

On April 14, 1961, Counsel supporting the complaint presented an agreement dated April 10, 1961 and executed by Richard C. Pratt Inc., Richard C. Pratt individually and himself which would dispose of this matter by the entry of a consent order to cease and desist the practices alleged. Said agreement and order were duly approved by the Director and the Assistant Director of the Bureau of Litigation.

The hearing examiner finds that said agreement includes all of the provisions required by Section 3.25(b) of the Rules of the Commission, that is:

A. An admission by all the respondent parties thereto of jurisdictional facts;

B. Provisions that:

1) The complaint may be used in construing the terms of the order;

2) The order shall have the same force and effect as if entered after a full hearing;

Order

58 F.T.C.

3) The agreement shall not become a part of the official record of the proceeding unless and until it becomes a part of the decision of the Commission;

4) The entire record on which any cease and desist order may be based shall consist solely of the complaint and the agreement;

5) The order may be altered, modified, or set aside in the manner provided by statute for other orders;

C. Waivers of:

1) The requirement that the decision must contain a statement of findings of fact and conclusions of law;

2) Further procedural steps before the hearing examiner and the Commission.

3) Any right to challenge or contest the validity of the order entered in accordance with the agreement.

In addition the agreement contains the following permissive provision: A statement that the signing of said agreement is for settlement purposes only and does not constitute an admission by respondents that they have violated the law as alleged in the complaint.

Having considered said agreement, including the proposed order, and being of the opinion that they provide an appropriate basis for settlement and disposition of this proceeding; the hearing examiner hereby accepts the agreement but orders that it shall not become a part of the official record unless and until it becomes a part of the decision of the Commission.

The following jurisdictional findings are made and the following order issued:

1. Respondent Richard C. Pratt, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of Washington, trading and doing business as Pratt Furniture Company. Respondent Richard C. Pratt is an individual and is President of said corporation. Both respondents' principal office and place of business is located at 215 North Post Street in the City of Spokane, State of Washington.

2. The Federal Trade Commission has jurisdiction of the subject matter of this proceeding and of the respondents.

ORDER

It is ordered, That Richard C. Pratt, Inc., a corporation, and its officers, doing business as Pratt Furniture Company or under any other trade name or names, and Richard C. Pratt, individually or as an officer of said corporation, and respondents' representatives, agents or employees, directly or through any corporate or other device, in connection with the offering for sale, sale or distribution

in commerce, as "commerce" is defined in the Federal Trade Commission Act, of furniture products including mattresses and bedding, do forthwith cease and desist from:

1. Representing, directly or by implication, that:

(a) Any amount is respondents' usual or regular retail price of merchandise when it is in excess of the price at which said merchandise has been usually or regularly sold by respondents in the recent regular course of their business.

(b) Any amount is the price of merchandise in respondents' trade area when it is in excess of the price at which said merchandise has been usually or regularly sold in said trade area.

(c) Any amount set forth in labels or price tickets attached to merchandise, or in depictions of such merchandise, or set forth in any other manner, is the usual or regular retail price of such merchandise, when such amount is in excess of the price at which such merchandise has been usually or regularly sold at retail in the trade area or areas where the representations are made.

(d) Any savings will be afforded, to purchasers of such merchandise, from respondents' advertised price unless such price constitutes a reduction from the price at which such merchandise has been usually or regularly sold by respondents in the recent regular course of their business.

(e) Any saving is afforded in the purchase of merchandise from the price in respondents' trade area unless the price at which such merchandise is offered constitutes a reduction from the price at which such merchandise has been usually or regularly sold in said trade area.

2. Representing, directly or by implication, that guarantees are unlimited or unconditional, or from utilizing the term "guarantee" or words of similar import, unless there are set forth conspicuously and in immediate conjunction therewith the nature and extent of the guarantee, the name of the guarantor, and the manner of the guarantor's performance thereunder.

3. Representing, through the use of the term "custom crafted" or other terms of similar import, that such products were manufactured pursuant to specifications and designs furnished by respondents or their customers to the manufacturer thereof prior to manufacture.

DECISION OF THE COMMISSION AND ORDER TO FILE REPORT OF COMPLIANCE

Pursuant to Section 3.21 of the Commission's Rules of Practice, the initial decision of the hearing examiner shall, on the 15th day

of June, 1961, become the decision of the Commission; and, accordingly:

It is ordered, That the respondents herein shall within sixty (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 the order to cease and desist.
