

Complaint

IN THE MATTER OF

ALLEN CARPET SHOPS, INC., ET AL.

CONSENT ORDER, ETC., IN REGARD TO THE ALLEGED VIOLATION OF THE
FEDERAL TRADE COMMISSION ACT*Docket C-531. Complaint, July 26, 1963—Decision, July 26, 1963*

Consent order requiring Jamaica, Long Island, retailers of floor carpeting and rugs to cease representing falsely in advertisements in newspapers that they were offering their products at half price and less, when such prices were actually bait offers; that the offers applied to all their stock, and that they had a sufficient quantity on hand to meet the demand; and that sales were limited to specified periods.

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 Allen Carpet Shops, Inc., a corporation, and Jack Allen, Irving Allen, Edward Allen and William Snyder, individually and as officers of said corporation, and Martin Herman, individually and as General Manager 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 Allen Carpet Shops, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of New York, with its principal office and place of business located at 90-28 Van Wyck Expressway, Jamaica, Long Island, New York.

Respondents Jack Allen, Irving Allen, Edward Allen, and William Snyder are individuals and are officers of the corporate respondent. Respondent Martin Herman is an individual and is the general manager of the corporate respondent. Said individuals formulate, direct and control the policies, acts and practices of said corporate respondent, including the acts and practices hereinafter set forth. Their address is the same as that of the corporate respondent.

PAR. 2. Respondents are now, and for some time last past have been, engaged in the advertising, offering for sale, sale and distribution of floor carpeting, rugs and other merchandise to the purchasing public.

PAR. 3. In the course and conduct of their business, respondents now cause, and for some time last past have caused, their said

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merchandise, when sold, to be shipped from their places of business in the State of New York 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 merchandise in commerce as "commerce" is defined in the Federal Trade Commission Act.

PAR. 4. In the course and conduct of their business, and for the purpose of inducing the purchase of said merchandise, respondents have made numerous statements and representations in advertisements inserted in newspapers of general circulation respecting the price, savings, bona fide character of offers to sell, and the availability of said merchandise.

Typical and illustrative of said statements and representations, but not all inclusive thereof, are the following:

ALLEN'S ½ PRICE BROADLOOM SALE. NEVER SO MUCH 1ST QUALITY BROADLOOM FOR SO LITTLE AT ALLEN CARPET SHOPS!

* * * * *

PARTIAL LISTING OF BROADLOOM SALE PRICED AT 50% SAVINGS.

* * * * *

RUGS! SAVE ½ ON THOUSANDS OF ROOM SIZE RUGS!
 EVERY BROADLOOM IN ALLEN'S STOCK REDUCED 20% TO 60%.
 2-DAY GIVE-AWAY BROADLOOM SALE! * * *
 100% NYLON DEEP TEXTURED TWEED—4.99 sq. yd. SALE PRICED
 ALL WOOL LOOP MODERN TEXTURED—5.99 sq. yd. SALE PRICED
 100% NYLON FASHION LUSTRE VELVET 6.99 sq. yd. SALE PRICED
 MONDAY (VETERAN'S DAY) & TUESDAY * * * LOWEST BROAD-
 LOOM PRICES THIS YEAR.
 RIPPLE TEXTURED NYLON PILE TWEED—5.99
 VELVET PLUSH 100% NYLON PILE—6.99
 NYLON PILE DEEP LOOP WEAVE—8.49
 OUR GREATEST BROADLOOM & RUG SALE EVER—ELECTION DAY
 SALE * * * FOR 24 HRS. WE'VE SLASHED PRICES TO A
 DARING LOW * * *
 ALL WOOL PILE DESIGNER LOOP—5.99 sq. yd.
 100% NYLON PILE VELVET PLUSH—6.99 sq. yd.
 CONT. FILAMENT NYLON PILE LOOP—7.99 sq. yd.

PAR. 5. By and through the use of the aforesaid statements and representations, and others of similar import and meaning, not specifically set out herein, respondents represent and have represented, directly or by implication:

a. Through the use of the terms and expressions, "50% SAVINGS", "½ PRICE BROADLOOM SALE", "SAVE ½" and "REDUCED 20% to 60%", that said carpeting and rugs have been usually and customarily sold by respondents at retail in the recent, regular course of business at prices higher than the presently offered prices by the percentage or fractional

amounts stated and that purchasers of said carpeting and rugs would realize savings equal in amount to the difference between said alleged regular selling prices and the prices at which said carpeting and rugs were offered.

b. That the prices set out in said advertisements in connection with the terms "SALE", "SALE PRICED" and "LOWEST . . . PRICES THIS YEAR" were reductions from and lower than the prices at which the carpeting and rugs referred to had been usually and regularly sold by respondents in the recent, regular course of business and that the difference between the prices at which said carpeting and rugs were now offered for sale and the prices at which respondents sold said carpeting in the recent, regular course of business represented savings to the purchasers thereof.

c. That said offers to sell carpeting and rugs at the aforestated reduced prices were genuine, bona fide offers to sell the carpeting and rugs at the prices advertised.

d. That said offers to sell rugs and carpeting at the aforestated reduced prices were applicable to all or a substantial part of respondents' general stock or to all or a substantial part of designated kinds or styles of rugs or carpeting.

e. That there was a sufficient quantity of the advertised merchandise on hand to meet the reasonably anticipated demand.

f. That certain of the said sales at alleged reduced prices were limited to specified days or periods of time.

PAR. 6. In truth and in fact:

a. Said carpeting and rugs offered for sale at "50% SAVINGS", "1/2 PRICE BROADLOOM SALE", "SAVE 1/2", "REDUCED 20% to 60%" had not been usually and customarily sold by respondents at retail in the recent regular course of business at prices higher than the presently offered prices by the percentage or fractional amounts stated and purchasers of said carpeting and rugs did not realize savings equal in amount to the difference between said alleged regular selling prices and the prices at which said carpeting and rugs were now offered.

b. The prices set out in said advertisements in connection with the terms "SALE", "SALE PRICED" and "LOWEST . . . PRICES THIS YEAR" were not reductions from or lower than the prices at which the carpeting and rugs referred to had been sold by respondents in the recent, regular course of business and purchasers of said carpeting and rugs did not realize savings equal in amount to the difference between said alleged higher selling prices and the prices at which said carpeting and rugs were now offered.

c. Said offers to sell carpeting and rugs at the aforestated reduced prices were not genuine, bona fide offers to sell the carpet-

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ing and rugs at the prices advertised. On the contrary respondents' said offers were made for the purpose of developing leads as to prospective purchasers of respondents' merchandise at respondents' higher regular prices.

d. Said offers to sell rugs and carpeting at the aforesaid reduced prices were not applicable to all or a substantial part of respondents' stock or to all or a substantial part of designated kinds or styles of rugs or carpeting.

e. There was not a sufficient quantity of the advertised merchandise on hand to meet reasonably anticipated demands.

f. Said sales at the alleged reduced prices were not limited to certain days or certain periods of time.

Therefore, the statements and representations as set forth in paragraphs 4 and 5 hereof were and are false, misleading and deceptive.

PAR. 7. In the conduct of their business; at all times mentioned herein, respondents have been in substantial competition, in commerce, with corporations, firms and individuals in the sale of carpeting and rugs of the same general kind and nature as those sold by respondents.

PAR. 8. The use by respondents of the aforesaid false, misleading and deceptive statements, representations and practices has had, and now has, the capacity and tendency to mislead members of the purchasing public into the erroneous and mistaken belief that said statements and representations were and are true and into the purchase of substantial quantities of respondents' merchandise by reason of said erroneous and mistaken belief.

PAR. 9. 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 methods of competition in commerce and unfair and deceptive acts and practices in commerce, in violation of Section 5 of the Federal Trade Commission Act.

DECISION AND ORDER

The Federal Trade Commission having initiated an investigation of certain acts and practices of the respondents named in the caption hereof, and the respondents having been furnished thereafter with a copy of a draft of complaint which the Bureau of Deceptive Practices proposed to present to the Commission for its consideration and which, if issued by the Commission, would charge respondents with violation of the Federal Trade Commission Act; and

The respondents and counsel for the Commission having thereafter executed an agreement containing a consent order, an admission by the respondents of all the jurisdictional facts set forth in the aforesaid draft of complaint, a statement that the signing of said agreement is for settlement purposes only and does not constitute an admission by the respondents that the law has been violated as alleged in such complaint, and waivers and provisions as required by the Commission's rules; and

The Commission, having reason to believe that the respondents have violated the Federal Trade Commission Act, and having determined that complaint should issue stating its charges in that respect, hereby issues its complaint, accepts said agreement, makes the following jurisdictional findings and enters the following order:

1. Respondent Allen Carpet Shops, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of New York, with its office and principal place of business located at 90-28 Van Wyck Expressway, Jamaica, Long Island, New York.

Respondents Jack Allen, Irving Allen, Edward Allen, and William Snyder are officers of the corporate respondent. Respondent Martin Herman is the general manager of the corporate respondent. Their address is the same as that of the corporate respondent.

2. The Federal Trade Commission has jurisdiction of the subject matter of this proceeding and of the respondents, and the proceeding is in the public interest.

ORDER

It is ordered, That respondents, Allen Carpet Shops, Inc., a corporation, and its officers, and Jack Allen, Irving Allen, Edward Allen and William Snyder, individually and as officers of said corporation, and Martin Herman, individually and as General Manager of said corporation, and respondents' agents, representatives and employees, directly or through any corporate or other device, in connection with the offering for sale, sale and distribution of carpeting, rugs or other articles of merchandise in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. Representing, directly or by implication, through the use of the expressions " $\frac{1}{2}$ PRICE BROADOOM SALE," "50% SAVINGS", "SAVE $\frac{1}{2}$ ", "REDUCED 20% to 60%", or any other words, terms or expressions of similar import or meaning, that merchandise has

been sold by respondents in the recent, regular course of their business at a price which is in excess of the price at which said merchandise has been usually and regularly sold by respondents at retail in the recent, regular course of their business; or otherwise misrepresenting the respondents' usual and customary retail selling price of such merchandise.

2. Representing, directly or by implication, that the prices at which merchandise is offered for sale are a reduction from or offer savings from the respondents' usual and customary regular selling price unless the prices at which said merchandise is offered in fact constitute a reduction from or savings from respondents' usual and customary retail selling price of the said merchandise in the recent, regular course of their business.

3. Misrepresenting in any manner the savings available to purchasers of respondents' merchandise.

4. Representing, directly or by implication, that carpeting, rugs or other articles of merchandise are offered for sale when such offer is not a bona fide offer to sell the merchandise so, and as, offered.

5. Representing, directly or by implication, that certain prices, terms or conditions of sale are applicable to all or a substantial part of respondents' stock of merchandise or to all or a substantial part of certain kinds or styles of rugs, carpeting or other articles of merchandise when such prices, terms or conditions of sale are restricted to lesser quantities or amounts of said merchandise.

6. Advertising limited quantities of said carpeting, rugs or other articles of merchandise for sale without clearly and conspicuously revealing that quantities of said merchandise are inadequate to meet reasonable demands.

7. Representing, directly or by implication, that the sale of carpeting, rugs or other merchandise at certain prices, terms or conditions is limited to specified days or periods of time, when said limitation is not actually observed.

It is further 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 this order.

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IN THE MATTER OF

JUVENILE FURNITURE MANUFACTURING COMPANY
ET AL.

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

Docket C-532. Complaint, July 26, 1963—Decision, July 26, 1963

Consent order requiring Louisville, Ky., retailers of children's and youth's furniture to cease representing falsely, through use of the word "manufacturing" in their corporate name and such statements in advertising as "Get Down to Earth Prices From The Factory", that they were manufacturers of the merchandise; and advertising falsely in newspapers, by use of a higher "Reg." and a lower "Now" price, that their usual prices were reduced by the difference, and that they had "Stores From Coast to Coast" when they actually had only two.

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 Juvenile Furniture Manufacturing Company, a corporation, and Mary Deen Gerstle, Irvine Gerstle and Joseph F. Lusk, individually and as officers 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 Juvenile Furniture Manufacturing Company is a corporation organized, existing and doing business under and by virtue of the laws of the State of Kentucky, with its principal office and place of business located at 810 E. Broadway in the city of Louisville, State of Kentucky.

Respondents Mary Deen Gerstle, Irvine Gerstle, and Joseph F. Lusk are officers of the corporate respondent. They formulate, direct and control the acts and practices of the corporate respondent, including the acts and practices hereinafter set forth. The address of Mary Deen Gerstle is the same as that of the corporate respondent; the address of Irvine Gerstle is 3909 Reading Road, Cincinnati, Ohio; and, the address of Joseph F. Lusk is 1191 E. Broadway, Louisville, Kentucky.