

fur product is not misbranded, falsely invoiced or falsely advertised when the respondents have reason to believe that such fur product may be introduced, sold, transported, or distributed in commerce.

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.

IN THE MATTER OF

ADF WAREHOUSE, INC., ET AL.

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

Docket 8645. Complaint, Aug. 28, 1964—Decision, Dec. 12, 1964

Order requiring a furniture dealer in College Park, Md., to cease representing falsely in advertising that their furniture was obtained from model homes or apartments and afforded purchasers substantial savings, that their furniture described as "Danish" and "Danish Modern" was manufactured in Denmark, and that their merchandise was fully guaranteed.

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 ADF Warehouse, Inc., a corporation, and Maxwell Auslander and Elena Auslander, 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 ADF Warehouse, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the District of Columbia, with its principal office and place of business located at 8503 Baltimore Boulevard in the city of College Park, the State of Maryland.

Respondent Maxwell Auslander and Elena Auslander 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. Their address is the same as that of the corporate respondent.

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PAR. 2. Respondents are now, and for some time last past have been engaged in the advertising, offering for sale, sale and distribution of furniture, home furnishings and other merchandise to the public. Respondents operate furniture outlets in the States of Maryland and Virginia and in the District of Columbia.

PAR. 3. In the course and conduct of their business, respondents now cause, and for some time last past have caused, their said merchandise when sold, to be shipped from their places of business in the District of Columbia and the States of Virginia and Maryland to purchasers thereof located in various States of the United States and in the District of Columbia, 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 aforesaid business, and for the purpose of inducing the purchase of their furniture, home furnishings and merchandise, respondents have made numerous statements with respect to price, source, savings, guarantees and limited supply, in advertisements inserted in newspapers having a wide circulation in the District of Columbia, the States of Maryland and Virginia, and the various other States of the United States and in advertising materials disseminated and distributed by and through the United States mail.

Among and typical, but not all inclusive of said statements are the following:

MODEL HOME FURNITURE SALE!
 BUY THE GROUP OF YOUR CHOICE
 BUY ONLY THE ITEMS YOU NEED AND SAVE
 30% to 60%.
 EVERYTHING IS BRAND NEW AND FULLY
 GUARANTEED
 A.D.F. AUSLANDER'S DECORATOR FURNITURE WAREHOUSE

Interior Decorators
 Maryland-Washington, Virginia.

I have on hand several rooms of furniture which you may have seen displayed in a number of model homes and apartments. The luxurious furnishings, can now be bought at *substantial reductions* from the price you would normally have to pay in stores.

* * * * *

I want you to come in and see this furniture now. I have only nine groups and they must be disposed of by next week. If you will come in now you will have first choice of the largest selection. * * * Don't miss this chance to buy beautiful furniture at tremendous savings.

Very truly yours,

MACK AUSLANDER.

DANISH MODERN MODEL HOME FURNITURE

PAR. 5. Through the use of the aforesaid statements and representations and others similar thereto but not specifically set out herein, respondents represent and have represented, directly or by implication, that:

(a) Furniture and home furnishings offered for sale by respondents have been withdrawn or obtained from model homes or apartments.

(b) By virtue of having been withdrawn from or obtained from a model home or apartment, purchasers of said merchandise are afforded substantial savings.

(c) The furniture and home furnishings described as "Danish" and "Danish Modern" was manufactured in the Country of Denmark.

(d) Merchandise offered for sale was unconditionally guaranteed for an unlimited period of time.

(e) The quantity of certain merchandise was limited and that purchasers must order immediately to obtain said merchandise.

PAR. 6. In truth and in fact:

(a) Furniture and home furnishings offered for sale by respondents have not been withdrawn or obtained from model homes or apartments.

(b) Purchasers of said merchandise are not afforded substantial savings by virtue of said furniture having been withdrawn or obtained from a model home or apartment.

(c) The furniture and home furnishings described in said advertisements as "Danish" and "Danish Modern" was not manufactured in the Country of Denmark.

(d) The merchandise advertised as "completely guaranteed" was not so guaranteed, and the advertisements failed to set forth the nature and extent of the guarantee and the manner in which the guarantor will perform.

(e) The quantity of merchandise for sale was not limited and the offers of said merchandise did not have to be accepted within a limited time as adequate quantities were available.

Therefore, the statements and representations set forth in paragraphs four and five hereof were and are false, misleading and deceptive.

PAR. 7. In the conduct of their business, and at all times mentioned herein, respondents have been in substantial competition in commerce, with corporations, firms and individuals in the sale of furniture and home furnishings of the same general kind and nature as that 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 state-

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ments 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.

Mr. Samuel J. Rozel supporting the complaint.

Mr. John S. Yodice, 5151 Wisconsin Avenue, NW., Washington, D.C., for the respondents.

INITIAL DECISION BY ABNER E. LIPSCOMB, HEARING EXAMINER

NOVEMBER 3, 1964

1. On August 22, 1964, the Federal Trade Commission issued its complaint in this proceeding charging the respondents named above with the dissemination of false and misleading advertisements concerning prices, savings, supply, sources of material, and guarantee claims for furniture sold in the greater Washington area of Washington, D.C., Virginia and Maryland, in violation of Section 5 of the Federal Trade Commission Act.

2. At the hearing held in this proceeding in Washington, D.C., on November 2, 1964, counsel for the respondents appeared in behalf of the corporate respondent and the two individual respondents, and orally moved for permission to withdraw his answer previously filed herein on behalf of all respondents. His motion for the withdrawal of respondents' answer was granted. Counsel for the respondents then stated that he had nothing further to present.

3. Counsel supporting the complaint thereupon moved that the respondents be held in default; whereupon the hearing examiner, in accordance with Rule 3.5(c) of the Commission's Rules of Practice for Adjudicative Proceedings, ruled that the respondents were in default. He then offered counsel an opportunity to submit proposed findings as to the facts and conclusions which opportunity they declined. Counsel then indicated that they desired to make no further statements. The hearing examiner announced that he would in due course issue an initial decision based upon the allegations of the complaint; and the hearing was thereupon adjourned.

4. Because of the allegations of facts and conclusions set forth in

the complaint, and the default of the respondents, the hearing examiner finds the facts and conclusions in this proceeding to be as follows:

5. Respondent ADF Warehouse, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the District of Columbia, with its principal office and place of business located at 8503 Baltimore Avenue in the city of College Park, the State of Maryland.

6. Respondents Maxwell Auslander and Elena Auslander 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. Their address is the same as that of the corporate respondent.

7. Respondents are now, and for some time last past have been engaged in the advertising, offering for sale, sale and distribution of furniture, home furnishings and other merchandise to the public. Respondents operate furniture outlets in the States of Maryland and Virginia and in the District of Columbia.

8. In the course and conduct of their business, respondents now cause, and for some time last past have caused, their said merchandise when sold, to be shipped from their places of business in the District of Columbia and the States of Virginia and Maryland to purchasers thereof located in various States of the United States and in the District of Columbia, 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.

9. In the course and conduct of their aforesaid business, and for the purpose of inducing the purchase of their furniture, home furnishings and merchandise, respondents have made numerous statements with respect to price, source, savings, guarantees and limited supply, in advertisements inserted in newspapers having a wide circulation in the District of Columbia, the States of Maryland and Virginia, and the various other States of the United States and in advertising materials disseminated and distributed by and through the United States mail.

10. Among and typical, but not all inclusive of said statements, are the following:

MODEL HOME FURNITURE SALE!
BUY THE GROUP OF YOUR CHOICE
BUY ONLY THE ITEMS YOU NEED AND SAVE 30% to 60%.

EVERYTHING IS BRAND NEW AND FULLY GUARANTEED

Initial Decision

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A.D.F. AUSLANDER'S DECORATOR FURNITURE WAREHOUSE

Interior Decorators
Maryland-Washington, Virginia.

I have on hand several rooms of furniture which you may have seen displayed in a number of model homes and apartments. The luxurious furnishings can now be bought at *substantial reductions* from the price you would normally have to pay in stores.

* * * * *

I want you to come in and see this furniture now. I have only nine groups and they must be disposed of by next week. If you will come in now you will have first choice of the largest selection. * * * Don't miss this chance to buy beautiful furniture at tremendous savings.

Very truly yours,

MACK AUSLANDER.

DANISH MODERN MODEL HOME FURNITURE

11. Through the use of the aforesaid statements and representations and others similar thereto but not specifically set out herein, respondents represent and have represented, directly or by implication, that:

(a) Furniture and home furnishings offered for sale by respondents have been withdrawn or obtained from model homes or apartments.

(b) By virtue of having been withdrawn from or obtained from a model home or apartment, purchasers of said merchandise are afforded substantial savings.

(c) The furniture and home furnishings described as "Danish" and "Danish Modern" were manufactured in the country of Denmark.

(d) Merchandise offered for sale was unconditionally guaranteed for an unlimited period of time.

(e) The quantity of certain merchandise was limited and that purchasers must order immediately to obtain said merchandise.

12. In truth and in fact:

(a) Furniture and home furnishings offered for sale by respondents have not been withdrawn or obtained from model homes or apartments.

(b) Purchasers of said merchandise are not afforded substantial savings by virtue of said furniture having been withdrawn or obtained from a model home or apartment.

(c) The furniture and home furnishings described in said adver-

tisements as "Danish" and "Danish Modern" were not manufactured in the country of Denmark.

(d) The merchandise advertised as "completely guaranteed" was not so guaranteed, and the advertisements failed to set forth the nature and extent of the guarantee and the manner in which the guarantor will perform.

(e) The quantity of merchandise for sale was not limited and the offers of said merchandise did not have to be accepted within a limited time as adequate quantities were available.

13. Therefore, the statements and representations set forth in Paragraphs 10 and 11 hereof were and are false, misleading and deceptive.

14. In the conduct of their business, and at all times mentioned herein, respondents have been in substantial competition in commerce, with corporations, firms and individuals in the sale of furniture and home furnishings of the same general kind and nature as that sold by respondents.

15. 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.

16. 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.

17. Because of the foregoing findings of facts and conclusions of law,

It is ordered, That respondents ADF Warehouse, Inc., a corporation, and its officers, Maxwell Auslander and Elena Auslander, individually and as officers 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 or distribution of furniture, home furnishings or other 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, that furniture or home furnishings offered for sale have been withdrawn or obtained from model homes or apartments: *Provided, however*, That it shall

be a defense in any enforcement proceeding instituted for violation hereof, for respondents to affirmatively establish the truth of such representations.

2. Representing directly or by implication that purchasers of said merchandise are afforded savings by virtue of said merchandise having been withdrawn or obtained from a model home or apartment: *Provided, however*, That it shall be the defense in any enforcement proceeding instituted for violation hereof for respondents to affirmatively establish the truth of any such representation.

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

4. Representing directly or by implication by the use of the words "Danish," "Danish Modern," or any other words or terms of similar import or meaning, or in any other manner, that domestically manufactured furniture is manufactured in the country of Denmark; or misrepresenting in any other manner the country of origin of respondents' merchandise.

5. Representing, directly or by implication that merchandise is guaranteed unless the nature and extent of the guarantee, the identity of the guarantor, and the manner in which the guarantor will perform thereunder are clearly and conspicuously disclosed.

6. Representing, directly or by implication,

(a) That the supply of merchandise being advertised is limited, or

(b) That any offer is limited in point of time or in any other manner: *Provided, however*, That it shall be the defense in any enforcement proceeding instituted for violation of (a) hereof for respondents to affirmatively establish that an adequate supply was, in fact, not available to respondents and under (b) hereof to affirmatively establish that any represented restriction or limitation was actually imposed and in good faith adhered to by respondents

FINAL ORDER

No appeal from the initial decision of the hearing examiner having been filed, and the Commission having determined that the case should not be placed on its own docket for review and that pursuant to Section 3.21 of the Commission's Rules of Practice (effective August 1, 1963), the initial decision should be adopted and issued as the decision of the Commission:

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Complaint

It is ordered, That the initial decision of the hearing examiner shall, on the 12th day of December, 1964, become the decision of the Commission.

It is further ordered, That ADF Warehouse, Inc., a corporation, and Maxwell Auslander and Elena Auslander, individually and as officers of said corporation, shall, within sixty (60) days after service of this order upon them, file with the Commission a report in writing, signed by each respondent named in this order, setting forth in detail