

... of mangrove, which in fact the wood is of veneered construction.

Complaint

77 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 the Weiman Co., Inc., a corporation, 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 Weiman Co., 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 16-112 Merchandise Mart, Chicago, Illinois.

PAR. 2. Respondent is now, and for some time last past has been, engaged in the manufacturing, advertising, offering for sale, sale and distribution of household furniture to retailers for resale to the public.

PAR. 3. In the course and conduct of its business as aforesaid, respondent causes, and for some time last past has caused, its products, when sold, to be shipped and transported from its places of business in the States of Illinois, North Carolina and South Carolina to purchasers thereof located in various other States of the United States other than the State of origination and the District of Columbia, and maintains, and at all times mentioned herein has maintained, a substantial course of trade in said products in commerce, as "commerce" is defined in the Federal Trade Commission Act.

PAR. 4. In the course and conduct of its aforesaid business, and for the purpose of inducing others to purchase its furniture, respondent has made, and is now making, directly or by implication, in its promotional materials, catalogs, brochures, price lists and newspaper mats, various statements and representations with respect to the composition of its household furniture. A substantial portion of said advertising and promotional materials is displayed by retailers to prospective purchasers at the time of sale.

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

(a) Prima Vera, Palisander, fruitwood tops, stump walnut and cherry woods;

(b) Finish: Royal Court Fruitwood, Finish: Provence Fruitwood, Finishes . . . Fruitwood . . . Mahogany and Mahogany finish;

- (c) Foam;
- (d) Naugahyde and Naugahyde seats;
- (e) Spanish, Italian, French, Mediterranean and English;
- (f) Solid mahogany, crotch Mahogany, and mahogany;
- (g) Carvings, delicate carvings, bold carvings, impressive carvings, richly carved overlays and carved end panels.

PAR. 5. By and through the use of the above-quoted statements and representations, and others of similar import and meaning but not expressly set out herein, the respondent has represented, and is now representing, directly or by implication, that:

(a) The exposed surfaces of certain of its furniture as referred to in Paragraph Four (a) are constructed of solid *prima vera*, solid palisander, solid fruitwood, solid walnut, solid cherry and solid mahogany, respectively;

(b) The exposed surfaces of certain of its furniture as referred to in Paragraph Four (b) are constructed of solid fruitwood and solid mahogany, respectively;

(c) The stuffing of certain of its furniture and the mattresses as referred to in Paragraph Four (c) are composed of solid latex foam rubber;

(d) The exposed surface of certain of its furniture as referred to in Paragraph Four (d) is covered in whole or in part from the skin or hide of an animal or that the covering of furniture is leather, top grain leather, or split leather;

(e) Certain of its furniture as referred to in Paragraph Four (e) is of Spanish, Italian, French, Mediterranean or English origin;

(f) The exposed surface of certain of its furniture as referred to in Paragraph Four (f) is constructed of solid mahogany (*Swietenia*);

(g) Portions of the exposed surface of certain of its furniture as referred to in Paragraph Five (g) is made by cutting or carving.

PAR. 6. In truth and in fact:

(a) The exposed surfaces of such furniture referred to in Paragraph Four (a) are constructed of a combination of veneers of the woods named and other solid woods;

(b) The exposed surfaces of such furniture referred to in Paragraph Four (b) are constructed of woods other than the woods named;

(c) The stuffing of such furniture and the mattresses as referred to in Paragraph Four (c) are composed of polyurethane foam rather than latex foam rubber;

(d) The exposed surface of such furniture referred to in Para-

graph Four (d) is covered with a fabric, backed with vinyl, having the appearance of leather and is not covered in whole or in part with the skin or hide of an animal;

(e) Such furniture referred to in Paragraph Four (e) is manufactured in the United States and is not imported from Spain, Italy, France, the Mediterranean countries or England;

(f) The exposed surface of such furniture referred to in Paragraph Four (f) is constructed of solid or veneered woods of genus Khaya or "African Mahogany" and is not constructed of Mahogany (Swietenia) wood;

(g) Those portions of the exposed surface of such furniture referred to in Paragraph Four (g) is molded and not made by cutting or carving.

Therefore, the statements and representations as set forth in Paragraphs Four and Five hereof were, and are, false, misleading and deceptive.

PAR. 7. A substantial amount of respondent's furniture which is displayed, offered for sale, sold or placed in the hands of others for display and sale purposes, has the appearance of being made of solid wood but contains exposed surfaces in part of veneered construction. The fact of such veneered construction is not disclosed on such furniture or on tags or labels attached thereto.

Respondent's practice of displaying, offering for sale, sale and placing in the hands of others for display and sale purposes, furniture of veneered construction which has the appearance of being made of solid wood, without clear and conspicuous disclosure on such furniture, or on a tag or label attached thereto, of such veneered construction is an unfair practice and is misleading and deceptive and has the capacity and tendency to lead members of the purchasing public to believe that said furniture is constructed of solid wood.

PAR. 8. A substantial amount of respondent's furniture which is advertised, displayed, offered for sale, sold or placed in the hands of others for display and sale purposes, has the appearance of being made of wood but contains substantial exposed surfaces composed of plastic or other materials not possessing a natural wood growth structure. No clear and conspicuous disclosures are made in respondent's advertising and on such furniture, or on tags or labels attached thereto, that parts of the exposed surfaces of the furniture are made of plastic or other materials simulating wood, or in the alternative, no clear and conspicuous disclosures are made that such parts are not of wood composition.

Respondent's practice of advertising, displaying, offering for sale, sale and placing in the hands of others for display and sale purposes, furniture containing exposed surfaces made of plastic or other materials not possessing a natural wood growth structure, but having the appearance of being wood, without clear and conspicuous disclosure in all advertising and on such furniture, or on tags or labels attached thereto, of the true nature of such plastic or other materials simulating wood, or in the alternative, without clear and conspicuous disclosure that such parts are not of wood, is misleading and deceptive and has the capacity and tendency to lead members of the purchasing public to believe that said furniture is constructed solely of wood.

PAR. 9. By and through the use of the aforesaid acts and practices respondent places in the hands of jobbers, retailers, dealers and others the means and instrumentalities by and through which they may mislead and deceive the public in the manner and as to the things hereinabove alleged.

PAR. 10. In the course and conduct of its aforesaid business, and at all times mentioned herein, respondent has been, and now is, in substantial competition, in commerce, with corporations, firms and individuals in the sale of household furniture of the same general kind and nature as that sold by respondent.

PAR. 11. The use by respondent of the aforesaid false, misleading and deceptive statements, representations and practices and unfair or deceptive acts or 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 respondent's products by reason of said erroneous and mistaken belief.

PAR. 12. The aforesaid acts and practices of respondent, as herein alleged, were, and are, all to the prejudice and injury of the public and of respondent's 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 respondent named in the caption hereof, and the respondent 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 respondent with violation of the Federal Trade Commission Act; and

The respondent and counsel for the Commission having thereafter executed an agreement containing a consent order, an admission by the respondent 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 respondent that the law has been violated as alleged in such complaint, and waivers and other provisions as required by the Commission's Rules; and

The Commission having thereafter considered the matter and having determined that it had reason to believe that the respondent has violated the said Act, and that complaint should issue stating its charges in that respect, and having thereupon accepted the executed consent agreement and placed such agreement on the public record for a period of thirty (30) days, now in further conformity with the procedure prescribed in § 2.34(b) of its Rules, the Commission hereby issues its complaint, makes the following jurisdictional findings, and enters the following order:

1. Respondent 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 16-112 Merchandise Mart, Chicago, Illinois.
2. The Federal Trade Commission has jurisdiction of the subject matter of this proceeding and of the respondent, and the proceeding is in the public interest.

ORDER

It is ordered, That respondent Weiman Co., Inc., a corporation, and its officers, agents, representatives and employees, directly or through any corporate or other device, in connection with the advertising, offering for sale, sale or distribution of household furniture, or other products, in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. Using the terms "Prima Vera," "Palisander," "fruitwood," "walnut" or "cherry" or any other wood name, or any other terms of similar import or meaning, to describe furniture not having all exposed surfaces constructed of solid wood of the type named: *Provided, however*, That wood names may be non-deceptively used to describe the type of wood used in wood ve-

neer surfaces of furniture if clear and conspicuous disclosure is made in immediate conjunction with the wood name that it refers to the veneer composition: *And provided that*, When the described furniture also has exposed surfaces of solids or veneers of wood other than the type named, an additional clear and conspicuous disclosure is made in immediate conjunction with the wood name (a) of the composition of the other exposed veneered and solid parts or, in the alternative, (b) of the exact locations of the name wood veneers.

2. Using the terms "Finish: Royal Court Fruitwood," "Finish: Provence Fruitwood," "Finishes. . . Fruitwood. . . Mahogany" and "Mahogany finish" or any other wood name, or any other terms of similar import or meaning to describe furniture not having all exposed surfaces constructed of solid wood of the type named: *Provided, however*, Wood names may be nondeceptively used to describe the grain design, color of a stain finish or other type of simulated finish which has been applied to a surface composed of something other than solid wood of the type named if clear and conspicuous disclosure is made in immediate conjunction therewith that the wood name used is descriptive of the grain design, color or other simulated finish.

3. Using the term "foam" or "Foam" or any other terms of similar import or meaning to describe furniture stuffing or mattresses, or parts thereof, not composed of latex foam rubber: *Provided, however*, That the word "foam" may be nondeceptively used to describe furniture stuffing or mattresses, or parts thereof, composed of foam of a composition other than latex rubber if clear and conspicuous disclosure is made in immediate conjunction therewith of the kind of foam used.

4. Using the brand name "Naugahyde" or any other name containing the word "hide" or simulations thereof to designate or describe said product, unless wherever used such name is accompanied by such disclosure of the general nature of the product or the coating used as will clearly show that the product is not leather.

5. Using the terms "Spanish," "Italian," "French," "Mediterranean" and "English" or other terms indicative of foreign origin as descriptive of furniture manufactured in the United States; unless in immediate conjunction therewith, it is clearly and conspicuously disclosed that such terms applied to the style of the furniture and not the country or region of its origin: *Provided, however*, That nothing in this paragraph shall pro-

hibit respondent from using the terms "French Provincial," "Italian Provincial" and similar terms which have acquired a secondary meaning descriptive of the style of furniture and considered to be nondeceptive by the Commission's Guides for the Household Furniture Industry.

6. Using the terms "Solid mahogany," "crotch Mahogany," or "Mahogany" or any other word or term of similar import or meaning to describe furniture or its parts made of genus *Khaya*, also known as African Mahogany, or veneers thereof: *Provided, however*, That the word "mahogany" may be nondeceptively used if where such wood is referred to a clear and conspicuous disclosure is made in immediate conjunction therewith that such wood is genus *Khaya*, or African Mahogany, or by other terms not suggestive of solid genuine Mahogany ("*Swietenia*") : *And provided further*, That in each instance of the use of veneers of such wood, the veneered construction thereof was clearly and conspicuously disclosed in immediate conjunction therewith.

7. Using the terms "Carvings," "delicate carvings," "bold carvings," "impressive carvings," "richly carved overlays" or "carved end panels" or any other terms of similar import or meaning to refer to or describe furniture parts not made by cutting or carving.

8. Advertising, displaying, offering for sale, selling, or placing in the hands of others for display or sales purposes any furniture having the appearance of being made of solid wood, but containing exposed surfaces of veneered construction, without clear and conspicuous disclosure of such veneered construction on such furniture, or on tags or labels attached thereto.

9. Advertising, displaying, offering for sale, selling, or placing in the hands of others for display or sales purposes any furniture having the appearance of being made of wood, but containing exposed surfaces composed in whole or in part of plastic, or other materials not possessing a natural wood growth structure, without clear and conspicuous disclosure that such exposed surfaces are made of plastic, or other materials simulating wood, or in the alternative, without clear and conspicuous disclosure that such exposed surfaces are not wood; such disclosures to be made (a) in all advertising and (b) on such furniture, or on a tag or label attached thereto.

10. Misrepresenting, in any manner, or by any means, directly or indirectly, the kind or nature of the wood or other materials used in the manufacture of furniture or any part thereof or

misrepresenting in any manner the country of origin of respondent's products.

11. Furnishing to or otherwise placing in the hands of others any means or instrumentalities whereby prospective purchasers may be misled or deceived in the manner or as to the things prohibited by this order.

For the purposes of this order, exposed surfaces are those exposed to view when furniture is placed in the generally accepted position for use.

It is further ordered, That the respondent corporation shall forthwith distribute a copy of this order to each of its operating divisions.

It is further ordered, That respondent notify the Commission at least thirty (30) days prior to any proposed change in the corporate respondent such as dissolution, assignment or sale resulting in the emergence of a successor corporation, the creation or dissolution of subsidiaries or any other change in the corporation which may affect compliance obligations arising out of the order.

It is further ordered, That the respondent herein shall, within sixty (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

CHINCHILLA ASSOCIATES OF AMERICA, INC., DOING
BUSINESS AS THE HOUSE OF DIZEL, ET AL.

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

Docket C-1770. Complaint, July 15, 1970—Decision, July 15, 1970

Consent order requiring a High Point, N.C., distributor of chinchilla breeding stock and seller of chinchilla fur garments to cease and desist from making exaggerated earning claims, misrepresenting the quality of the stock,