

IN THE MATTER OF
NATIONAL FURNITURE STORES, INC., ET AL.

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

Docket C-1968. Complaint, July 12, 1971—Decision, July 12, 1971

Consent order requiring a Spokane, Wash., seller and distributor of furniture and other merchandise to cease misrepresenting the customary retail price of its merchandise, deceptively using the words "half price" and "less than half price," using such words as "unprecedented public sale" and similar expressions to import distress selling, misrepresenting savings available to purchasers, and failing to maintain records adequate to justify pricing claims.

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 National Furniture Stores, Inc., a corporation, and Arnold W. Barnes and Leonard St. Marie, 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 National Furniture Stores, Inc., is a corporation organized, existing and doing business under and by vir-

tue of the laws of the State of Washington, with its principal office and place of business located at North 1230 Division Street, Spokane, Washington.

Respondents Arnold W. Barnes and Leonard St. Marie are individuals and are officers and directors of the corporation. They formulate, direct and control the acts and practices of the corporate respondent, including the acts and practices hereinafter set forth. Their business 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 furniture and other merchandise at retail to members of the public.

PAR. 3. In the course and conduct of their business as aforesaid, respondents caused, and for some time last past have caused, their said merchandise, when sold, to be shipped from their places of business in the States of Washington and Idaho to purchasers thereof located in various other States of the United States, and continue to cause their said merchandise, when sold, to be shipped from places of business in the State of Washington to purchasers thereof located in 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 aforesaid business, and for the purpose of inducing the purchase of their furniture and other merchandise, the respondents have made and are now making numerous statements and representations in advertisements inserted in newspapers of general interstate circulation, and on radio and television signals broadcast interstate.

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

UNPRECEDENTED PUBLIC SALE!

100% Total Stock Sale * * *

ENTIRE CONTENTS UP FOR PUBLIC GRABS * * *

FORCED TO SELL All Surplus FURNITURE!

Regardless of Costs or Losses

* * * must be sold at whatever price is available on the public market * * *

Certified Store-Wide Reductions up to 78% Off!

One-of-a-kind Door Busters:

* * *

\$269.95 Hide-Away Sofa Sleeper w/Full Size Mattress.....	\$100
\$229.95 Admiral Family Size Refrigerator.....	\$125

Entire Stock LAMPS $\frac{1}{2}$ PRICE!

\$19.95 Full or Twin-Size Padded Headboards, \$8

Less than $\frac{1}{2}$ Price!

\$79.95 Maple Bunk Beds, \$38

Less than $\frac{1}{2}$ Price!

MATTRESS AND BOX SPRINGS, NAME BRANDS
PRICED AS LOW AS * * * \$18

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

1. That the higher stated prices, accompanied by the words "Regular" or "Reg.," or unaccompanied by descriptive language, were the prices at which the advertised articles were sold or offered for sale in good faith for a reasonably substantial period of time by the respondents, in the recent regular course of their business, and that purchasers of such articles would save an amount equal to the difference between the advertised higher prices and the lower offering prices corresponding thereto.

2. That purchasers of merchandise advertised in conjunction with the phrases, " $\frac{1}{2}$ price," "less than $\frac{1}{2}$ price," "up to 78% off," or terms of comparable import and meaning, would realize a savings of the stated fractional or percentage amount from the actual prices at which the merchandise so advertised was sold or offered for sale in good faith for a reasonably substantial period of time, by respondents, in the recent regular course of their business.

3. That, during the period advertised as "Unprecedented Public Sale . . . regardless of costs or losses," and by other terminology importing circumstances of distress, substantially all merchandise at the respondents' premises was for sale at prices or amounts representing a substantial and significant reduction from the prices at which such merchandise was sold or offered for sale in good faith by respondents for a reasonably substantial period of time in the recent, regular course of their business.

4. That widely recognized makes of mattress and box springs were for sale for as little as \$18, and that other articles advertised for sale at stated offering prices were available for retail purchase at such stated prices, at the advertised premises.

PAR. 6. In truth and in fact:

1. The higher stated prices, accompanied or unaccompanied by descriptive language, were not the prices at which the advertised articles were sold or offered for sale in good faith for a reasonably sub-

stantial period of time by respondents, in the recent regular course of their business, and purchasers thereof would not save amounts equal to the difference between the advertised higher prices and the lower offering prices corresponding thereto.

2. Purchasers of merchandise advertised in conjunction with the phrases, "1/2 price," "less than 1/2 price," "up to 78% off," or terms of comparable import and meaning, did not realize savings of the stated fractional or percentage amount from the actual prices at which the merchandise so advertised was sold or offered for sale in good faith for a reasonable substantial period of time, by respondents, in the recent regular course of their business.

3. During the period advertised as "Unprecedented Public Sale . . . regardless of costs or losses," and by other terminology importing circumstances of distress, substantially all merchandise at the respondents' premises was not in fact for sale at prices or amounts representing a substantial and significant reduction from the prices at which such merchandise was sold or offered for sale in good faith by respondents for a reasonably substantial period of time in the recent regular course of their business.

4. Widely recognized makes of mattress and box springs were not in fact available for sale for as little as \$18 at the respondents' premises during the advertised sale, and certain other articles advertised for sale at stated offering prices were not then available for retail purchase at such stated prices, but at higher prices.

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

PAR. 7. In the the course and conduct of their aforesaid business, and at all times mentioned herein, respondents have been, and now are, in substantial competition in commerce with corporations, firms and individuals engaged in the sale of furniture and other merchandise 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, acts 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 the 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 Seattle Field Office 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 respondents 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 respondents have 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 National Furniture Stores, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of Washington, with its office and principal place of business located at North 1230 Division Street, Spokane, Washington.

Respondents Arnold W. Barnes and Leonard St. Marie are officers of said corporation. They formulate, direct and control the policies, acts and practices of said corporation and their address is the same as that of said corporation.

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 National Furniture Stores, Inc., a corporation, and their officers, and Arnold W. Barnes and Leonard St. Marie, 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 advertising, offering for sale, sale or distribution of furniture 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 that any amount, accompanied or unaccompanied by descriptive language, is respondents' usual and customary retail price of merchandise unless such amount is the price at which the merchandise has in fact been usually and customarily sold at retail by respondents in the recent regular course of their business.

2. Using the words "half price," "less than half price," "up to 78% off," or words or symbols of comparable import and meaning, except in specific reference to articles which have been sold or offered for sale in good faith for a reasonably substantial period of time, by respondents, in the recent regular course of business, at prices not less than the indicated multiple of the offering price so described or alluded to.

3. Using the words "Unprecedented Public Sale," "Forced to Sell Regardless of Costs or Losses," "Up for Public Grabs," or other words or symbols importing circumstances of distress, unless the merchandise so described or alluded to has been reduced in price, by an amount or proportion of practical significance to respondents' customers and prospective customers, from the actual bona fide price or prices at which it has been offered for sale in good faith by respondents for a reasonably substantial period of time in the recent, regular course of their business.

4. Misrepresenting in any manner that savings are available to purchasers of respondents' merchandise, or the amount of such savings.

5. Failing to maintain, for at least six months after publication and dissemination of all advertising they are relied upon to support, business records (a) which disclose the facts upon which are based any and all savings claims by or for respondents, including comparisons to respondents' former prices and to trade area prices or values of the same or comparable merchandise, and similar representations of the type described in Para-

21

Complaint

graphs 1-4 of this order, and (b) from which the validity of any and all such savings claims and representations can be determined.

6. Representing in advertising that any article is for sale at a stated offering price when such article is not, in fact, conspicuously and readily available for retail purchase at such price at respondents' advertised premises.

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 respondents 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 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

TOMMY M. BUFFINGTON DOING BUSINESS AS T. BUFF
SALES, ETC.

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

Docket C-1969. Complaint, July 12, 1971—Decision, July 12, 1971

Consent order requiring a Littleton, Colo., individual engaged in the business