

IN THE MATTER OF
FURNITURE SHOWROOMS OF CLARKSVILLE, INC., ET AL.
CONSENT ORDER, ETC., IN REGARD TO THE ALLEGED VIOLATION
OF THE FEDERAL TRADE COMMISSION ACT

Docket C-2506. Complaint, Mar. 21, 1974—Decision, Mar. 21, 1974

Consent order requiring a Clarksville, Tenn. retailer and distributor of furniture and related merchandise, among other things to cease misrepresenting selling prices and mark-ups.

Appearances

For the Commission: *H. Marshall Korschun.*

For the respondents: *Daniel, Harvill, Batson & Nolan*, Clarksville, Tenn.

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 Furniture Showrooms of Clarksville, Inc., a corporation, and Robert L. Norris, individually and as an officer of said corporation, hereinafter sometimes 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 Furniture Showrooms of Clarksville, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of Tennessee with its principal office and place of business located at 119 College Street, Clarksville, Tenn.

Respondent Robert L. Norris is an officer of the corporate respondent. He formulates, directs and controls the acts and practices of the corporate respondent including the acts and practices hereinafter set forth. His 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 related merchandise to the public at retail.

PAR. 3. In the course and conduct of their business as aforesaid, respondents now cause, and for some time last past have caused, their said merchandise, when sold, to be shipped from their place of business in the State of Tennessee to purchasers thereof located in various 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 sale of their merchandise, the respondents have made, and are now making, numerous statements and representations, orally and on tags and labels attached to merchandise, through billboard advertising, and by signs on respondents' store and service vehicles. Included in these statements and representations is the claim that merchandise is sold for "Cost plus 10%."

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

Respondents' selling prices for furniture and related merchandise represent a 10% mark-up over wholesale cost.

PAR. 6. In truth and in fact:

Respondents' furniture and related merchandise are not customarily sold at prices representing a 10% mark-up over wholesale cost. In fact, respondents' mark-up over wholesale cost is substantially more than 10%.

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

PAR. 7. In the course and conduct of their aforesaid business, and at all times mentioned herein, respondents have been, and are, in substantial competition, in commerce, with corporations, firms and individuals in the sale of merchandise of the same general kind and nature as that sold by respondents.

PAR. 8. The respondents' use of the aforesaid false, misleading and deceptive statements, representations, and acts and practices, have had, and now have, 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 complete, and into the purchase of substantial quantities of respondents' merchandise by reason of said erroneous and mistaken belief.

PAR. 9. The acts and practices of the respondents as set forth above were, and are all to the prejudice 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 Atlanta Regional 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 Section 2.34(b) of its rules, the Commission hereby issues its complaint, makes the following jurisdictional findings, and enters the following order:

1. Respondent Furniture Showrooms of Clarksville, Inc. is a corporation, existing and doing business under and by virtue of the laws of the State of Tennessee, with its office and principal place of business located at 119 College Street, Clarksville, Tenn.

Respondent Robert L. Norris is an officer of said corporation. He formulates, directs and controls the policies, acts and practices of said corporation, and his principal office and place of business is located at the above stated address.

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 Furniture Showrooms of Clarksville, Inc., a corporation, its successors and assigns, and its officers, and Robert L. Norris, individually, and as an officer of Furniture Showrooms of Clarksville, Inc., and respondents' agents, representatives and employees directly or through any corporation, subsidiary, division or any 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:

Representing, orally, visually or in writing, directly or by implication, that any product or service may be purchased for any dollar amount or percentage over wholesale cost unless substantial sales are made at the stated mark-up over respondents' actual wholesale cost, or misrepresenting in any manner respondents' selling prices and mark-ups.

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 for a period of three (3) years respondents maintain records which disclose the factual basis for any representation of respondents' cost or special prices for any products or services.

It is further ordered, That respondents notify the Commission at least 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 individual respondent named herein promptly notify the Commission of the discontinuance of his present business or employment and of his affiliation with a new business or employment. Such notice shall include respondent's current business address and a statement as to the nature of the business or employment in which he is engaged as well as a description of his duties and responsibilities.

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

AL FRADKIN COMPANY, ET AL.

CONSENT ORDER, ETC., IN REGARD TO THE ALLEGED VIOLATIONS
OF THE TRUTH IN LENDING AND FEDERAL TRADE COMMISSION
ACTS

Docket C-2507. Complaint, Mar. 25, 1974—Decision, Mar. 25, 1974.

Consent order requiring a Baltimore, Md., retailer of furniture, appliances and clothing, among other things to cease violating the Truth in Lending Act by failing to disclose