

IN THE MATTER OF

MORGAN COMPANY TRADING AS ROWE FURNITURE
COMPANY, ET AL.CONSENT ORDER, ETC., IN REGARD TO ALLEGED VIOLATION OF THE
FEDERAL TRADE COMMISSION ACT

Docket C-2530. Complaint, Aug. 21, 1974—Decision, Aug. 21, 1974

Consent order requiring a Billings, Mont., seller of home furnishings, among other things to cease using deceptive price advertising and failing to maintain adequate records to substantiate any advertised pricing claims.

Appearances

For the Commission: *Arnold E. Howard.*

For the respondents: *James W. Thompson, McNamer & Thompson,*
Billings, Mont.

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 Morgan Company, a corporation doing business as Rowe Furniture Company, and Raul B. Hoyt, individually and as an officer of said corporation, hereinafter referred to as respondents, have violated the provisions of said Act, and that a proceeding in respect thereof would be in the public interest, issues its complaint stating its charges in that respect as follows:

PARAGRAPH 1. Respondent Morgan Company 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 33rd and 1st Avenue North, Billings, Mont.

Respondent Raul B. Hoyt is an individual and an officer of Morgan Company. He formulates, directs and controls the policies, 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 business of advertising, offering for sale, sale and distribution of home furnishings including, but not limited to, furniture, carpeting, mattresses and box springs.

Complaint

84 F.T.C.

PAR. 3. In the course and conduct of their business as aforesaid, respondents cause advertisements for said merchandise to be published in media of interstate circulation which are designed and intended to induce persons to purchase said merchandise.

In the further course and conduct of their business, respondents ship merchandise from their place of business to retail customers located in a state other than that from which said shipments originate.

Respondents maintain, and at all times mentioned herein have maintained, a course and conduct of business 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 furniture and other merchandise, respondents have made certain statements and representations concerning such merchandise in their advertisements in media of interstate circulation.

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

King Koil Spinal Guard

TWIN SIZE SETS-Reg. \$179 * * * * *SALE \$129
 FULL SIZE SETS-Reg. \$199 * * * * * SALE \$149
 QUEEN SIZE SETS-Reg. \$269 * * * * * SALE \$198
 KING SIZE SETS-Reg. \$379 * * * * * SALE \$298

ONE ROLL OF CARPET, 38-2/3 YARDS,
 Closeout — Green high-lo Loop, Avlin Polyester Reg. \$432 * * * \$199

ENGLANDER ROYAL SUITE COLLECTION
 TWIN SIZE SET—Mfg. Suggested Retail \$139 * * * \$99
 FULL SIZE SET—Mfg. Suggested Retail \$159 * * * \$119
 QUEEN SIZE SET—Mfg. Suggested Retail \$279 * * * \$219
 KING SIZE SET—Mfg. Suggested Retail \$319 * * * \$269

END TABLES — COFFEE TABLES — LAMPS
 — PICTURES & MISCELLANEOUS
 MANY REDUCED 1/2 AND MORE!

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 word "Reg.," or words or terms of similar import and meaning, 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 business, and that purchasers of such articles would

Complaint

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 phrase "Many Reduced 1/2 and More!," or words, terms or symbols of similar import and meaning, would realize a savings of the stated fractional 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 business.

3. That certain higher stated price amounts accompanied by the phrase "Mfg. Suggested Retail," or words or terms of similar import and meaning, did not appreciably exceed the prices at which such merchandise has usually and customarily been sold at retail in the trade area where the representations appeared.

PAR. 6. In truth and in fact:

1. The higher stated prices, accompanied by the word "Reg.," or words of similar import and meaning, were not the prices at which the advertised articles were sold or offered for sale in good faith for a reasonably substantial period of time by respondents, 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 phrase "Many Reduced 1/2 and More!," or words, terms or symbols of similar import and meaning, did not realize savings of the stated fractional 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 business.

3. The higher stated price amounts accompanied by the phrase "Mfg. Suggested Retail," or words or terms of similar import and meaning, appreciably exceeded the prices at which such merchandise has usually and customarily been sold at retail in the trade area where the representations appeared.

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 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 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

Decision and Order

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 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 sixty (60) 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 Morgan Company 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 33rd and 1st Avenue North, Billings, Mont.
Respondent Raul B. Hoyt is an officer of Morgan Company. He

formulates, directs and controls the policies, acts and practices of said corporation, and his 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 Morgan Company, a corporation, and its officers, and Raul B. Hoyt, individually and as an officer of said corporation, and respondents' successors, assigns, agents, representatives, and employees, directly or through any corporation, subsidiary, division, or other device, in connection with the advertising, offering for sale, sale or distribution of home furnishings or other articles of merchandise, in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from

1. Using the word "Reg.," or words or terms of similar import and meaning, to refer to any price amount unless said amount is the price at which such merchandise has been 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.
2. Representing directly or by implication that any amount, accompanied or unaccompanied by descriptive language, is respondents' usual and customary retail price for an article of merchandise unless such amount is not in excess of the price or prices at which said article has been 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.
3. Using the words "Many Reduced 1/2 and More!," or words, terms or symbols of similar import and meaning, except in specific reference to articles which have been 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, at prices no less than the indicated multiple of the offering price so described or alluded to.
4. Using the words "Mfg. Suggested Retail" or words or terms of similar import and meaning unless the merchandise so described is regularly and in good faith offered for sale at this or a higher price by respondents or by a substantial number of the principal retail outlets in the trade area; *Provided, however*, That this order shall not apply to point-of-sale offering and display of merchandise which is preticketed by the manufacturer or distributor thereof and the removal of which preticketed price is impossible or impractical.
5. Misrepresenting in any manner that savings are available to

purchasers or prospective purchasers of respondents' merchandise, or the amount of such savings.

6. Failing to maintain, for at least six months after publication and dissemination of all advertising they are relied upon to support, adequate business records (a) which disclose the facts upon which are based any and all savings claims, including comparisons to respondents' former prices and to trade area prices or values of same or comparable merchandise, and similar representations of the type described in this order, and (b) from which the validity of any and all such savings claims and representations can be determined.

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 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, in the event of such discontinuance or affiliation. Such notice shall include the 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

BOISE CASCADE CORPORATION, ET AL.

Docket 8958. Interlocutory Order, Aug. 26, 1974

Order denying respondents' motions for discontinuance or suspension of proceeding until discovery in eleven (11) private treble damage cases allegedly involving same underlying facts and industry practices as those challenged in this proceeding.

Appearances

For the Commission: L. Barry Costilo, Ira S. Nordlicht, Hugh F. Bangasser, Bradley D. Stam, Edward M. Ricci and Amy R. Richter.