



UNITED STATES OF AMERICA  
FEDERAL TRADE COMMISSION  
WASHINGTON, D.C. 20580

Bureau of Consumer Protection  
Division of Enforcement

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October 25, 2016

**VIA FEDEX**

A. Brian Albritton, Esq.  
Phelps Dunbar LLP  
100 South Ashley Drive  
Suite 1900  
Tampa, FL 33602

Dear Mr. Albritton:

We received your submissions on behalf of your client, American Furniture Manufacturing, Inc. (“AFM” or the “Company”). During our review, we discussed concerns that certain marketing materials may have overstated the extent to which AFM furniture products are “made” or “manufactured” in the United States.

As discussed, unqualified “Made in USA” or “Manufactured in the USA” claims on Company marketing materials likely suggest to consumers that all products advertised in those materials are “all or virtually all” made in the United States. The Commission may analyze a number of different factors to determine whether a product is “all or virtually all” made in the United States, including the proportion of the product’s total manufacturing costs attributable to U.S. parts and processing, how far removed any foreign content is from the finished product, and the importance of the foreign content or processing to the overall function of the product. In this case, although AFM assembles many products in the United States, some products incorporate imported content that is significant in terms of both cost and function, including covers used to upholster furniture, “show wood” used on some upholstered furniture pieces, and motors in motorized recliners. Additionally, AFM sells a line of tables that are wholly imported.

Although AFM does not market furniture directly to end-use consumers, it distributes promotional materials to third-party retailers, which retailers rely upon to market and sell AFM furniture. As we discussed, providing third-party retailers with the means and instrumentalities to deceive consumers constitutes a violation of Section 5 of the Federal Trade Commission Act. *See, e.g., Regina Corp. v. FTC*, 322 F.2d 765, 768 (3d Cir. 1963); *FTC v. Five-Star Auto Club*, 97 F. Supp. 2d 502, 530-31 (S.D.N.Y. 2000); *FTC v. Am. Std. Credit Sys., Inc.*, 874 F. Supp. 1080, 1090-91 (C.D. Cal. 1994).

Accordingly, to avoid deceiving consumers, you explained that AFM implemented a corrective action plan to clarify its representations and provide updates to its customers. The plan included: (1) modifying the Company logo and incorporating a prominent disclosure on marketing materials; (2) eliminating unqualified U.S.-origin claims from, and making other revisions to, the AFM website; (3) updating trade publications; (4) stickering over unqualified claims in undistributed 2016 catalogues; (5) providing stickers for retail customers to apply to distributed 2016 catalogues; (6) updating the 2017 catalogue to include prominent qualifications; (7) revising furniture labels; (8) applying stickers to product packaging; and (9) sending a letter to retail customers clarifying AFM's origin claims and providing instructions on how to update marketing materials.

Based on your actions and other factors, the staff has decided not to pursue this investigation any further. This action should not be construed as a determination that there was no violation of Section 5 of the Federal Trade Commission Act, 15 U.S.C. § 45. The Commission reserves the right to take such further action as the public interest may require. If you have any questions, you can reach me at (202) 326-2377.

Sincerely,



Julia Solomon Ensor  
Staff Attorney