

this order, file with the Commission a report in writing setting forth in detail the manner and form in which they have complied with the order to cease and desist.

IN THE MATTER OF
MONUMENTAL ENGINEERING INC., ET AL.

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

Docket 8253. Complaint, Dec. 29, 1960—Decision, June 13, 1961

Consent order requiring two associated concerns in Glen Burnie, Md., and Norfolk, Va., engaged in selling prefabricated shell houses consisting only of foundation, exterior walls, roof, and studs for interior partitions, to cease representing falsely in newspaper advertising and in illustrated

1092

Complaint

promotional literature that their said homes were finished and inhabitable by purchasers.

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 Monumental Engineering Inc., a corporation, and Richard A. Brown, Thomas A. Brown and James D. Brown, individually and as officers of said corporation, and Monumental Homes Corporation, a 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 Monumental Engineering Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of Maryland, with its principal office and place of business located at the Mewshaw Building, 2 Crain Highway, NW, in the City of Glen Burnie, State of Maryland.

Respondents Richard A. Brown, Thomas A. Brown and James D. Brown are individuals and are officers of the said Monumental Engineering Inc. They formulate, direct and control the acts and practices of the said corporate respondent, including the acts and practices hereinafter set forth. Their address is the same as that of the said Monumental Engineering Inc.

Respondent Monumental Homes Corporation is a corporation organized, existing and doing business under and by virtue of the laws of the State of Virginia, with its principal office and place of business located at 991 South Military Highway in the City of Norfolk, State of Virginia.

Respondent Monumental Homes Corporation is the wholly-owned subsidiary of the said Monumental Engineering Inc.

PAR. 2. Respondents are now, and for some time last past have been, engaged in the advertising, offering for sale, sale and distribution of prefabricated shell homes to the public.

PAR. 3. In the course and conduct of their business, respondents now cause, and for some time last past have caused, their said product, when sold, to be shipped from their place of business and factory in the State of Maryland to purchasers thereof located in various other States of the United States and in the District of Columbia, and maintain, and at all times mentioned herein have maintained, a substantial course of trade in said products in commerce, as "commerce" is defined in the Federal Trade Commission Act.

Complaint

58 F.T.C.

PAR. 4. In the course and conduct of their business, and for the purpose of inducing the sale of their said homes, respondents have made certain statements and pictorial representations with respect to the extent or degree to which said homes are completed, in newspaper advertisements and in promotional literature mailed to prospective purchasers.

The following statements and representations are illustrative and typical of those contained in said newspaper advertisements:

(a) Lot Owners! . . . Only \$3995 for a Three Bedroom Rancher . . . If you are tired of renting—don't want to live in crowded conditions, and you own your own lot or can acquire one, call or write us today!!!! And with no red tape you start owning and living in your own home now! . . . constructed including foundation . . . your home paid for in 7 yrs. or less . . .

Pictured in said advertisement is an attractive, fully constructed house of ample proportions.

(b) Lot Owners buy now! Begin to enjoy your home this summer stop paying rent . . .! Only \$3,995 for a 48 ft. Rancher completely erected including foundation . . .

Pictured in said advertisement is an attractive, fully constructed house of ample proportions.

(c) Message to all lot owners! . . . buy a Monumental Home . . . Only \$3,995 constructed including foundation as shown. A 48 foot Rancher constructed including foundation. *ALL THIS FOR NO MONEY DOWN!* And your home is completely paid for in 7 yrs. or less! . . .

Pictured in said advertisement is an attractive, fully constructed house of ample proportions.

In the promotional literature sent by respondents to prospective purchasers who make inquiry pursuant to the foregoing and other advertisements, there are cutaway pictures of homes and pictures of completed homes and various representations such as the following:

. . . Foundation installed . . . Homes completely erected . . . Homes meet all building codes . . . Brass Hardware throughout . . . From Maine to the Carolinas! Hundreds of magnificent Monumental Homes are providing gracious family living comfort and security to discriminating property owners like yourselves!

PAR. 5. Through the use of the aforesaid statements, representations and pictures, respondents represent that their said homes, as offered at the aforestated prices, are constructed, completed and finished to such an extent or degree as to be inhabitable by the purchasers thereof.

PAR. 6. Said statements, representations and pictures are false, misleading and deceptive. In truth and in fact said homes, as offered at the aforestated prices, are not constructed, completed and finished to such an extent or degree as to be inhabitable by the purchasers thereof. Said houses are only shells and consist of little more than the foundation, exterior walls, roof and studs for inte-

rior partitions. They do not include flooring, sub-flooring, wiring, plumbing, heating, interior trim and finish and various other requisite and expensive components necessary to make the houses inhabitable.

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

PAR. 8. The use by respondents of the aforesaid false, misleading and deceptive statements, representations 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' product by reason of said erroneous and mistaken belief. As a consequence thereof, substantial trade in commerce has been, and is being, unfairly diverted to respondents from their competitors and substantial injury has thereby been, and is being, done to competition in commerce.

PAR. 9. The aforesaid acts and practices of 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 and deceptive acts and practices and unfair methods of competition, in commerce, within the intent and meaning of the Federal Trade Commission Act.

Mr. Terral A. Jordan for the Commission.

Rollins, Smalkin, Weston & Andrew, by *Mr. Edward C. Mackie*, of Baltimore, Md., for respondents.

INITIAL DECISION BY EDGAR A. BUTTLE, HEARING EXAMINER

On December 29, 1960, the Federal Trade Commission issued its complaint against the above-named respondents charging them with violating the provisions of the Federal Trade Commission Act in connection with the advertising, offering for sale, sale and distribution of prefabricated shell homes. On February 9, 1961, the respondents and counsel supporting the complaint entered into an agreement containing a consent order to cease and desist in accordance with section 3.25(a) of the Rules of Practice and Procedure of the Commission. On March 6, 1961, the parties entered into a supplemental agreement.

Under the foregoing agreements, the respondents admit the jurisdictional facts alleged in the complaint and agree, among other

Decision

58 F.T.C.

things, that the cease and desist order there set forth may be entered without further notice and shall have the same force and effect as if entered after a full hearing. The agreements include a waiver by the respondents of all rights to challenge or contest the validity of the order issuing in accordance therewith; and recites that the said agreements shall not become a part of the official record unless and until they become a part of the decision of the Commission, and that they are for settlement purposes only, do not constitute an admission by the respondents that they have violated the law as alleged in the complaint, and that said complaint may be used in construing the terms of the order. The hearing examiner finds that the content of the said agreements meets all the requirements of section 3.25(b) of the Rules of Practice.

This proceeding having now come on for final consideration by the hearing examiner on the complaint and the aforesaid agreements for consent order, and it appearing that said agreements provide for an appropriate disposition of this proceeding, the aforesaid agreements are hereby accepted and are ordered filed upon becoming part of the Commission's decision in accordance with section 3.21 of the Rules of Practice; and in consonance with the terms of said agreements, the hearing examiner makes the following jurisdictional findings and order:

1. Respondent Monumental Engineering Inc., is a corporation existing and doing business under and by virtue of the laws of the State of Maryland, with its office and principal place of business located at Mewshaw Building, 2 Crain Highway, N.W., in the City of Glen Burnie, State of Maryland.

Respondents Richard A. Brown, Thomas A. Brown and James D. Brown are individuals and are officers of the said Monumental Engineering Inc. They formulate, direct and control the acts and practices of the said corporate respondent. Their address is the same as that of the said Monumental Engineering Inc.

Respondent Monumental Homes Corporation is a corporation organized, existing and doing business under and by virtue of the laws of the State of Virginia, with its principal office and place of business located at 991 South Military Highway in the City of Norfolk, State of Virginia. Respondent Monumental Homes Corporation is the wholly-owned subsidiary of the said Monumental Engineering Inc.

2. The Federal Trade Commission has jurisdiction of the subject matter of this proceeding and of the respondents hereinabove named. The complaint states a cause of action against said respondents un-

1092

Complaint

der the Federal Trade Commission Act, and this proceeding is in the interest of the public.

ORDER

It is ordered, That respondents Monumental Engineering Inc., a corporation, and its officers, and Richard A. Brown, Thomas A. Brown and James D. Brown, individually and as officers of said Monumental Engineering Inc., and Monumental Homes Corporation, a corporation, and its officers, and respondents' representatives, agents and employees, directly or through any corporate or other device, in connection with the offering for sale, sale or distribution of houses or other buildings or structures in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from representing, directly or indirectly, that said products are constructed, finished or completed to any degree or extent greater than is the fact or include any parts of components not actually included therein.

DECISION OF THE COMMISSION AND ORDER TO FILE REPORT OF COMPLIANCE

Pursuant to section 3.21 of the Commission's Rules of Practice, the initial decision of the hearing examiner shall, on the 13th day of June, 1961, become the decision of the Commission; and, accordingly:

It is ordered, That 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 the order to cease and desist.

IN THE MATTER OF

ROBERT M. BENT CO., INC.

CONSENT ORDER, ETC., IN REGARD TO THE ALLEGED VIOLATION OF THE
FEDERAL TRADE COMMISSION AND THE WOOL PRODUCTS LABELING ACTS

Docket 8282. Complaint, Jan. 27, 1961—Decision, June 13, 1961

Consent order requiring a Boston, Mass., manufacturer to cease violating the Wool Products Labeling Act by labeling and invoicing as "85% cashmere, 15% wool", woolen stocks which contained a substantial quantity of other fibers than cashmere and wool, and by failing to label certain wool products as required.

COMPLAINT

Pursuant to the provisions of the Federal Trade Commission Act and the Wool Products Labeling Act of 1939, and by virtue of the

Complaint

58 F.T.C.

authority vested in it by said Acts, the Federal Trade Commission, having reason to believe that Robert M. Bent Co., Inc., a corporation, hereinafter referred to as respondent, has violated the provisions of said Acts, and the Rules and Regulations promulgated under the Wool Products Labeling 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 Robert M. Bent Co., Inc. is a corporation organized, existing and doing business under and by virtue of the laws of the Commonwealth of Massachusetts, with its principal office and place of business located at 326 Congress Street, Boston, Massachusetts.

PAR. 2. Subsequent to the effective date of the Wool Products Labeling Act of 1939, and more especially since 1954, respondent has manufactured for introduction into commerce, offered for sale in commerce, sold, transported, distributed, delivered for shipment, and introduced into commerce, as "commerce" is defined in said Act, wool products, as "wool products" are defined therein.

PAR. 3. Certain of said wool products were misbranded by the respondent within the intent and meaning of Section 4(a)(1) of the Wool Products Labeling Act and the Rules and Regulations promulgated thereunder in that they were falsely and deceptively labeled or tagged with respect to the character and amount of the constituent fibers contained therein.

Among such misbranded wool products were woolen stocks, labeled or tagged by respondent as "85% cashmere, 15% wool," whereas in truth and in fact said products contained a substantial quantity of fibers other than cashmere and wool.

PAR. 4. Certain of said wool products were further misbranded by respondent in that they were not stamped, tagged or labeled as required under the provisions of Section 4(a)(2) of the Wool Products Labeling Act and in the manner and form as prescribed by the Rules and Regulations promulgated under said Act.

PAR. 5. Respondent, in the course and conduct of its business, as aforesaid, was and is in competition in commerce with other individuals, corporations, and firms likewise engaged in the manufacture and sale of wool products.

PAR. 6. The acts and practices, as set forth herein were and are in violation of the Wool Products Labeling Act of 1939 and the Rules and Regulations promulgated thereunder and constituted and now constitute unfair and deceptive acts and practices and unfair methods of competition in commerce within the intent and meaning of the Federal Trade Commission Act.

PAR. 7. In the course and conduct of its business, as aforesaid, respondent has made various statements concerning its products in sales invoices. Among and typical of said statements were the following:

85% cashmere, 15% wool.

PAR. 8. The aforesaid representations and statements set out in Paragraph Seven were and are false, misleading and deceptive. In truth and in fact, respondent's said products were not composed of "85% cashmere, 15% wool," but contained substantial amounts of fibers other than cashmere and wool.

PAR. 9. The acts and practices of respondent, as set out in Paragraph Seven, of falsely identifying the constituent fibers of its wool stocks, have had and now have the tendency and capacity to mislead and deceive the purchaser of said products as to the true fiber content thereof, and to misbrand products manufactured by it in which said materials were used.

PAR. 10. The acts and practices of the respondent, as alleged in Paragraph Seven, were and are all to the prejudice and injury of the public and of respondent's competitors and constituted and now constitute unfair and deceptive acts and practices and unfair methods of competition, in commerce, within the intent and meaning of the Federal Trade Commission Act.

Mr. Harry E. Middleton, Jr., for the Commission.

Mr. Benjamin Brown, of Boston, Mass., for respondent.

INITIAL DECISION BY RAYMOND J. LYNCH, HEARING EXAMINER

Pursuant to the provisions of the Federal Trade Commission Act and the Wool Products Labeling Act and the Rules and Regulations made pursuant thereto, the Federal Trade Commission on January 27, 1961, issued and subsequently served its complaint in this proceeding against the above-named respondent.

On March 22, 1961, there was submitted to the undersigned hearing examiner an agreement between respondent and counsel supporting the complaint providing for the entry of a consent order.

Under the foregoing agreement, the respondent admits the jurisdictional facts alleged in the complaint. The parties agree, among other things, that the cease and desist order there set forth may be entered without further notice and have the same force and effect as if entered after a full hearing and the document includes a waiver by the respondent of all rights to challenge or contest the validity of the order issuing in accordance therewith. The agreement further

Order

58 F.T.C.

recites that it is for settlement by the respondent that it has violated the law as alleged in the complaint, and that the complaint may be used in construing the terms of the order.

The hearing examiner finds that the content of the agreement meets all of the requirements of section 3.25(b) of the Rules of the Commission.

The hearing examiner having considered the agreement and proposed order, and being of the opinion that they provide an appropriate basis for settlement and disposition of this proceeding, the agreement is hereby accepted, and it is ordered that said agreement shall not become a part of the official record unless and until it becomes a part of the decision of the Commission. The following jurisdictional findings are made and the following order issued.

1. Respondent Robert M. Bent Co., Inc., is a corporation existing and doing business under and by virtue of the laws of the State of Massachusetts, with its office and principal place of business located at 326 Congress Street, in the City of Boston, State of Massachusetts.

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 Robert M. Bent Co., Inc., a corporation, and its officers, and respondent's representatives, agents and employees, directly or through any corporate or other device, in connection with the introduction or manufacture for introduction in commerce, or the offering for sale, sale, transportation or distribution in commerce, as "commerce" is defined in the Federal Trade Commission Act and the Wool Products Labeling Act, of wool fibers or other wool products, as such products are defined in and subject to said Wool Products Labeling Act do forthwith cease and desist from misbranding such products by:

1. Falsely or deceptively stamping, tagging, labeling or identifying such products as to the character or amount of the constituent fibers contained therein.

2. Failing to affix labels to such products showing each element of information required to be disclosed by section 4(a)(2) of the Wool Products Labeling Act of 1939.

It is further ordered, That respondent Robert M. Bent Co., Inc., a corporation, and its officers, and respondent's representatives, agents and employees, directly or through any corporate or other

1097

Complaint

device, in connection with the offering for sale, sale or distribution of wool fibers or other merchandise, in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from, directly or indirectly:

Misrepresenting in sales invoices, shipping memoranda, or in any other manner, the fiber content of said products.

DECISION OF THE COMMISSION AND ORDER TO FILE REPORT OF COMPLIANCE

Pursuant to section 3.21 of the Commission's Rules of Practice, the initial decision of the hearing examiner shall, on the 13th day of June, 1961, become the decision of the Commission; and, accordingly:

It is ordered, That 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