

Complaint

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mission 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

CELTIC CONSTRUCTION COMPANY, INC., ET AL.

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

Docket 8349. Complaint, Apr. 13, 1961—Decisions, Aug. 30, 1961

Identical consent orders requiring a home repair firm in Wheaton, Md., and two of its officers to cease representing falsely in advertising in newspapers that their work and materials were unconditionally guaranteed; that their concern was Washington's largest remodeling contractor and did all their own work, without sub-contractors; and that they offered substantial savings from their usual prices and provided special family financing.

As to respondent Richard J. Mooney, the same order was issued in default on Dec. 14, 1961, p. 1321 herein.

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 Celtic Construction Company, Inc., a corporation, and Charles H. Deeringer, Richard J. Mooney, and Patrick M. Spalding, 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 Celtic Construction Company, Inc., is a corporation organized and existing under and by virtue of the laws of the State of Maryland. Its office and principal place of business is located at 2413 Blueridge Avenue, Wheaton, Maryland.

Individual respondents Charles H. Deeringer, 11 South Tollgate Road, Owings Mills, Maryland; Richard J. Mooney, 4447 Wrenwood Avenue, Baltimore, Maryland, and Patrick M. Spalding, 406 Winston Road, Baltimore, Maryland, are officers of the respondent corporation. These individuals formulate, direct and control the acts of the respondent corporation, including those 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 advertising, offering for sale, and sale of, home repairs, including the furnishing and installation of aluminum storm windows, siding, roofing, dormer windows, screens, jalousies, carports, gutters, plumbing fixtures and various other kinds of building materials and appurtenances.

PAR. 3. In the course and conduct of their business, respondents now cause, and for some time last past have caused, their said products, when sold, to be shipped from their place of business in the State of Maryland, and elsewhere, to purchasers thereof located in 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.

PAR. 4. In the course and conduct of their business, and for the purpose of inducing the sale of their services and various materials, respondents have made certain statements and representations with respect thereto in various newspapers of wide and general distribution. By and through the use of such statements respondents have represented, directly or by implication:

1. That the work performed by them and the materials used are unconditionally guaranteed.
2. That respondent Celtic Construction Company, Inc., is Washington's largest remodeling contractor.
3. That respondent Celtic Construction Company, Inc., performs all work to be done without the employment of sub-contractors.
4. That respondent Celtic Construction Company, Inc., offers substantial savings to its customers, from its usual and customary prices and that special family financing is provided, if desired.

PAR. 5. The aforesaid representations are false, misleading and deceptive. In truth and in fact:

1. Respondents' purported guarantees are not unconditional and, in the few instances where a purported guarantee was made in writing at the insistence of the customer, the terms and limitations were not set forth.
2. Celtic Construction Company, Inc., is not the largest remodeling contractor doing business in Washington.
3. Celtic Construction Company, Inc. relies almost entirely upon the services of sub-contractors.

4. No savings from respondents' usual and customary prices are in fact afforded by Celtic Construction Company, Inc., to customers and no special family financing is provided by the respondents over and beyond the usual sources of financing available to the general public.

PAR. 6. In the course and conduct of their business, at all times mentioned herein, the respondents have been in substantial competition in commerce with corporations, firms and individuals engaged in the sale of materials and services of the same general kind and nature as that sold by respondents.

PAR. 7. 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 such statements and representations were, and are, true and into the purchase of substantial quantities of respondents' materials and services 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. 8. 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. Ames W. Williams supporting the complaint.

Mr. Wm. Graham Boyce, Jr. of *Musgrave, Preston & Boyce*, for respondents, Baltimore, Md.

[Respondent *Patrick M. Spalding*, *pro se.*]

INITIAL DECISION AS TO CELTIC CONSTRUCTION COMPANY, INC., A CORPORATION, ITS OFFICERS, AND CHARLES H. DEERING [AND PATRICK M. SPALDING], INDIVIDUALLY AND AS OFFICER[S] OF SAID CORPORATION
BY JOHN B. POINDEXTER, HEARING EXAMINER

On April 13, 1961, the Federal Trade Commission issued a complaint charging that the above-named respondents had violated the provisions of the Federal Trade Commission Act. The complaint alleged that for the purpose of inducing the sale of their services and materials, respondents had made certain false, misleading and

deceptive statements and representations with respect to various kinds of building materials and appurtenances.

After issuance and service of the complaint, Celtic Construction Company, Inc., a corporation, and Charles H. Deeringer, individually and as an officer of said corporation (hereinafter referred to as respondents), entered into a separate agreement for a consent order. The agreement has been approved by the Director and the Assistant Director of the Bureau of Litigation and disposes of the matters complained about. The proceeding as to Richard J. Mooney and Patrick M. Spalding will be disposed of in a separate initial decision.*

The pertinent provisions of said agreement[s] are as follows: Respondents admit all jurisdictional facts; the complaint may be used in construing the terms of the order[s]; the order[s] shall have the same force and effect as if entered after a full hearing and the said agreement[s] shall not become a part of the official record of the proceeding unless and until [they] become a part of the decision of the Commission; the record herein shall consist solely of the complaint and the agreement[s]; respondents waive the requirement that the decision must contain a statement of findings of fact and conclusions of law; respondents waive further procedural steps before the hearing examiner and the Commission, and the order[s] may be altered, modified, or set aside in the manner provided by statute for other orders; respondents waive any right to challenge or contest the validity of the order[s] entered in accordance with the agreement[s] and the signing of said agreement[s] is for settlement purposes only and does not constitute admission[s] by respondents that they have violated the law as alleged in the complaint.

Upon consideration of the allegations of the complaint and the provisions of the agreement[s] and the proposed order[s], the hearing examiner is of the opinion that such order[s] constitute a proper disposition of this proceeding insofar as it relates to respondents Celtic Construction Company, Inc., and its officers, and Charles H. Deeringer [and Patrick M. Spalding], individually and as officer[s] of said corporation. Accordingly, the hearing examiner finds that the acceptance of such agreement[s] will be in the public interest and hereby accepts such agreement[s], makes the following jurisdictional findings and issues the following order[s].

* Respondent Patrick M. Spalding on the same date signed a separate consent order as indicated by the inserts in the initial decision and order to cease and desist below. The same order was served in default on respondent Richard J. Mooney on Dec. 14, 1961, p. 1321 herein.

Order

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JURISDICTIONAL FINDINGS

1. Respondent Celtic Construction Company, Inc., is a corporation organized and existing under and by virtue of the laws of the State of Maryland. Its office and principal place of business is located at 2413 Blueridge Avenue, Wheaton, Maryland.

2. Individual respondent Charles H. Deeringer, 11 South Tollgate Road, Owings Mills, Maryland, is an officer of the corporate respondent. His business address is the same as that of the corporate respondent.

[1. Individual respondent Patrick M. Spalding, 406 Winston Road, Baltimore, Maryland, is an officer of the corporate respondent. His business address is 2413 Blueridge Avenue, Wheaton, Maryland.]

3. 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 Celtic Construction Company, Inc., a corporation, and its officers, and Charles H. Deeringer [and Patrick M. Spalding], individually and as officer[s] of said corporation, and respondents' representatives, agents and employees, directly or through any corporate or other device, in connection with the offering for sale or sale of services or materials, or both, in connection with the repair, remodeling, construction or renovating of any building, in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

A. Representing, directly or by implication:

1. That the work performed by them or the materials used, are guaranteed, unless the nature and extent of the guarantee and the manner in which the guarantor will perform are clearly set forth.

2. That Celtic Construction Company, Inc., is Washington's largest remodeling contractor, or misrepresenting in any manner the size or extent of respondents' business.

3. That all work is performed by the respondents; or that any work is done by them that is not in accordance with the facts.

4. That any savings are afforded to the purchaser of respondents' services and/or materials from respondents' usual and customary price, unless the price at which they are offered constitutes a reduction from respondents' usual and customary price in the recent regular course of business.

5. That special financing is afforded to customers.

B. Misrepresenting in any manner the amount of savings available to purchasers of respondents' services and/or materials or the amount by which the price of said services and/or materials is reduced from the price charged by respondents in the recent regular course of business.

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[s] of the hearing examiner shall on the 30th day of August 1961, become the decision[s] of the Commission; and, accordingly:

It is ordered, That respondents Celtic Construction Company, Inc., a corporation, its officers, and Charles H. Deeringer [and Patrick M. Spaulding], individually and as officer[s] of said corporation shall within sixty (60) days after service upon them of these order[s], 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.