

4 of the Fur Products Labeling Act labels which do not conform to the requirements of the aforesaid Act and the Rules and Regulations promulgated thereunder.

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
MARTIN-MARIETTA CORPORATION

CONSENT ORDER, ETC., IN REGARD TO THE ALLEGED VIOLATION OF THE FEDERAL TRADE COMMISSION ACT AND SEC. 7 OF THE CLAYTON ACT

Docket 8280. Complaint, Jan. 27, 1961—Decision, Mar. 12, 1963*

Consent order requiring one of the largest domestic producers of concrete pipe, cement, lime, construction aggregates, and a variety of other products, which had in the 20 years since its organization in 1930 already acquired 20 concerns, to divest itself absolutely within 2 years of properties acquired in or since 1953, including 60 concrete pipe plants and businesses, two lime plants, and 13 crushed stone, sand and gravel quarries, plants or quarry sites, and in such manner as to establish the properties as going concerns and effective competitors; and to desist for 10 years from acquiring any concrete, lime or construction aggregates corporation and for 7 years any cement producer, both within specified territories.

COMPLAINT

The Federal Trade Commission, having reason to believe that the party respondent named in the caption hereof and hereinafter more particularly designated and described, has violated and is now violating the provisions of Section 5 of the Federal Trade Commission Act (U.S.C. Title 15, Sec. 45), and Section 7 of the Clayton Act (U.S.C. Title 15, Sec. 18), as amended, and approved December 29, 1950, 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 as follows:

PARAGRAPH 1. (a) Respondent American-Marietta Company,** hereinafter sometimes referred to as American-Marietta, is a corporation

*Reported as amended on Feb. 6, 1963 by adding Par. 4(a)(5).

**Martin-Marietta Corporation substituted for American-Marietta Company by hearing examiner's order of April 4, 1962.

doing business under and by virtue of the laws of the State of Illinois. Respondent's executive offices are located at 101 East Ontario Street, Chicago 11, Illinois.

(b) American-Marietta is now, and for several years last past has been, directly and indirectly, engaged in the manufacture and sale of concrete sewer pipe, concrete pressure pipe, and other concrete pipe products. American-Marietta is now, and for several years last past has been, one of the largest manufacturers, if not the largest manufacturer, of concrete pipe in the United States.

(c) American-Marietta manufactures, in the approximately 100 plants of its Concrete Products Division, reinforced concrete sewer and culvert pipe, prestressed concrete bridge decks, concrete construction components, irrigation pipe, and machinery relating to concrete pipe. The principal product of this group is reinforced concrete sewer and culvert pipe, of which American-Marietta is one of the Nation's leading producers.

(d) American-Marietta is one of the Nation's substantial producers of cement. Said product is manufactured by American-Marietta's Standard Lime and Cement Company, Dragon Cement Company, Southern Cement Company and Dewey Cement Company Divisions, in six plants located in West Virginia, Pennsylvania, Maine, Alabama, Oklahoma and Iowa. American-Marietta is among the Nation's 10 largest cement producers in terms of plant capacity. Most of American-Marietta's raw materials requirements for these operations can be met from reserves owned by the company.

(e) American-Marietta is engaged in the manufacture of lime and other limestone products, including chemical, metallurgical and hydrated lime, magnesite and dead burned dolomite. Production is carried on by respondent's Southern Cement Company Division and the Standard Lime and Cement Company Division, in 10 plants located in Illinois, Michigan, Ohio, Pennsylvania, Tennessee, Virginia, West Virginia and Alabama. American-Marietta is one of the largest producers of lime in the United States.

(f) American-Marietta is one of the Nation's largest suppliers of adhesives and resins to the plywood, hardboard and paper industries; a leading manufacturer of industrial finishes and chemical coatings; one of the largest producers of maintenance paints; one of the world's leading producers and technical developers of sulfur and vat dyes, one of the Nation's leading producers of printing inks; and the Nation's largest manufacturer of sponge and dust mops. Respondent's Master Builders Division, the world's largest producer of admixtures for concrete manufactures Pozzolith a patented product which is essential in the manufacturers' specifications for numerous important construction projects. Respondent also produces and sells a

number of other products, including metal powders, metal pigments, metallic abrasives, grinding machinery and dust collecting equipment, sealants, electrical fittings and accessories, brick and tile, and construction aggregates such as sand, gravel and crushed stone.

(g) American-Marietta has become one of the two hundred largest industrial companies in the United States. Net sales of American-Marietta and subsidiaries in the year ended November 30, 1959, reached a record \$323,648,000, which represented a 6,000% increase over its net sales of \$5,297,146 reported in fiscal 1942. American-Marietta's net income rose to a peak of \$24,028,000 in fiscal 1959, increasing 14,000% over net income of \$169,362 in fiscal 1942. Total assets of American-Marietta and consolidated subsidiaries amounted to \$287,843,766 on November 30, 1959.

(h) A substantial portion of the aforesaid increase in sales and a substantial portion of these total assets are attributable to the acquisitions hereinafter described. In the 20 years following its incorporation in 1930 respondent acquired 20 concerns for a total combined consideration of approximately \$13 million. Since the 1950 amendment of Section 7 of the Clayton Act, however, the rate of acquisitions by American-Marietta accelerated; during this period, respondent has acquired the stock or assets of over 70 corporations at a cost of over \$250 million.

(i) American-Marietta and its subsidiaries are now, and have been for several years last past, engaged in commerce, as "commerce" is defined in the Clayton Act and in the Federal Trade Commission Act.

PAR. 2. The manufacture and sale of concrete pipe and other concrete products were undertaken by American-Marietta in about May 1953, with the acquisition of Lamar Pipe & Tile Company, a Michigan corporation, which was one of the largest, if not the largest, concrete pipe producers in that State. In a series of transactions, beginning in 1953, American-Marietta has acquired, directly or indirectly, all or part of the stock or assets of numerous corporations, including competitors, engaged in the production of concrete pipe, concrete sewer pipe and concrete pressure pipe in various geographical areas of the United States. All of these corporations, prior to and at the time of the acquisitions, were engaged in commerce, as "commerce" is defined in the Clayton Act and the Federal Trade Commission Act. Such acquisitions include, among others, the following:

(1) In July 1953 American-Marietta acquired Concrete Products Co. of America, a Pennsylvania corporation, one of the largest, if not the largest, concrete pipe manufacturers in Pennsylvania.

(2) In September 1953 American-Marietta acquired Universal Concrete Pipe Company, an Ohio corporation, thereby making respondent the country's largest

producer of concrete sewer pipe, with 32 plants strategically located from coast to coast.

(3) In December 1954 American-Marietta acquired Concrete Conduit Company, a California corporation which was one of the leading producers in concrete pipe in that State.

(4) In January 1956 American-Marietta acquired Tellyer Concrete Pipe Company, a California corporation with plants in California, New Mexico and Texas.

(5) In March 1956 American-Marietta acquired Mid-West Concrete Pipe Co., an Illinois corporation.

(6) In May 1956 American-Marietta acquired Atlantic Concrete Pipe Company, a New York corporation.

(7) In September 1956 American-Marietta acquired Parkersburg Concrete Products Co., a West Virginia corporation.

(8) In April 1957 American-Marietta acquired Hayman Concrete Pipe Company, a Delaware corporation.

(9) In April 1957 American-Marietta acquired Platte Valley Cement Tile Manufacturing Company, a Nebraska corporation, one of the leading manufacturers of concrete pipe in Nebraska.

(10) In May 1957 American-Marietta acquired Kansas City Concrete Pipe Company, a Missouri corporation.

(11) In May 1957 American-Marietta acquired Sibley Cement Company, an Iowa corporation.

(12) In June 1957 American-Marietta acquired Western Concrete Pipe Company, a Colorado corporation.

(13) In September 1957 American-Marietta acquired Sherman Concrete Pipe Co., Jacksonville, Florida.

(14) In September 1957 American-Marietta acquired Massey Concrete Products Company, a Delaware corporation.

(15) In October 1957 American-Marietta acquired White Pipe Company, a Texas corporation.

(16) In December 1957 American-Marietta acquired Empire State Concrete Pipe Company, a New York corporation; American Concrete Pipe Company, Inc., a New Jersey corporation; and American Concrete Pipe Company, Inc., a New York corporation.

(17) In December 1957 American-Marietta acquired Mid-South Concrete Pipe Company, a Tennessee corporation, and its wholly owned subsidiary Osceola Tile and Culvert Company, an Arkansas corporation.

(18) In December 1957 American-Marietta acquired Indiana Lock-Joint Concrete Pipe Company, an Indiana corporation, thereby becoming one of the largest concrete pipe producers in that State.

(19) In March 1958 American-Marietta acquired Sherman Concrete Pipe Company of Knoxville, Inc., a Tennessee corporation, and Sherman Concrete Pipe Company of Johnson City, Inc., a Tennessee corporation. These acquisitions, together with those described in Paragraph 2(b)(17) above, made respondent one of the leading producers of concrete pipe in Tennessee.

(20) In March 1958 American-Marietta acquired Lake View Concrete Tile Company, an Iowa corporation.

(21) In June 1958 American-Marietta acquired Valley Concrete Pipe & Products Company, a California corporation.

(22) In June 1958 American-Marietta acquired Carolina Concrete Pipe Company, Inc., a North Carolina corporation, thereby becoming one of the largest,

Complaint

62 F.T.C.

if not the largest, concrete pipe producers in North Carolina and South Carolina.

(23) In June 1958 American-Marietta acquired Nevada Concrete Pipe Company, a Nevada corporation.

(24) In January 1959 American-Marietta acquired Collins Concrete and Steel Pipe Company, an Oregon corporation.

(25) In January 1959 American-Marietta acquired Hammonds, Inc., and Vermont Concrete Pipe Corp., subsidiary of Hammond's Inc., Windsor, Vermont.

(26) In March 1959 American-Marietta acquired Thomas Concrete Pipe Co., an Oklahoma corporation, the largest producer of concrete pipe in Oklahoma.

(27) In November 1959 American-Marietta acquired Seattle Concrete Pipe Company, Inc., Seattle, Washington.

(28) In December 1959 American-Marietta acquired Spokane Concrete Pipe Co., Inc., Spokane, Washington.

(29) In December 1959 American-Marietta acquired Arey Pipe & Construction Co., a Texas corporation.

PAR. 3. The effect of the aforesaid acquisitions by the respondent, individually and collectively, may be substantially to lessen competition or to tend to create a monopoly in (1) the concrete pipe industry as a whole, (2) the production and sale of concrete sewer pipe, and (3) the production and sale of concrete pressure pipe in various sections of the country, in violation of Section 7 of the Clayton Act, as amended, in the following ways, among others:

1. The corporations listed in Paragraph 2 above have been or may be permanently eliminated as independent competitive factors.

2. Actual or potential competition between respondent and the corporations hereinbefore named has been or may be substantially decreased or eliminated.

3. Respondent's competitive position has been materially improved, or may be materially improved, to the actual or potential detriment of competition.

4. Respondent has become better able to inhibit entry by new producers.

5. Concentration in production and sale has been or may be substantially increased.

6. The cumulative effect of the respondent's acquisitions described in Paragraph 2 above, may be substantially to lessen competition or to tend to create a monopoly in the production and sale of concrete pipe, concrete sewer pipe and concrete pressure pipe nationwide or in certain sections of the country.

7. The foregoing acquisitions give respondent the added facilities, market, geographic position and power to actually and potentially dominate the markets in the areas in which it operates and in which the aforesaid corporations operated or might have operated, in addition to enhancing the position it enjoyed prior to the acquisitions.

PAR. 4. As a result of the acquisitions hereinafter described, American-Marietta has become one of the Nation's largest producers of

cement, and a major producer and marketer in the lime and construction aggregates industries.

(a) The cement acquisitions by respondent include among others:

(1) In November 1954, respondent acquired 78% of the common stock of Standard Lime and Stone Company, hereinafter sometimes referred to as Standard, a Maryland corporation, for a total consideration of about \$20,515,000. At the time of this acquisition by respondent and for several years prior thereto, Standard was a substantial producer of cement, limestone, and lime, and the largest cement produced in West Virginia.

(2) In November 1955 American-Marietta acquired the assets and business of Southern Cement Company, a Delaware corporation, for a total consideration of about \$14,773,000. Southern Cement Company is now, and was at the time of its acquisition by respondent, a major producer of cement and lime with two plants in Alabama, one at Roberta and another at Birmingham.

(3) In September 1956 American-Marietta acquired the assets and business of Dragon Cement Company, Inc., a Maine corporation, for a total consideration of approximately \$28,456,000. Dragon operated the only cement plant in New England, at Thomaston, Maine, and another cement plant at Northampton, Pennsylvania.

(4) In February 1960 American-Marietta acquired the assets and business of Dewey Portland Cement Company, a Delaware corporation, in exchange for 1,471,709 common shares of American-Marietta. Total assets of Dewey Portland Cement Company, hereinafter sometimes referred to as Dewey, were \$30,420,798 on December 31, 1959. Dewey operated two cement plants, one at Davenport (Linwood), Iowa, and another at Dewey, Oklahoma. Dewey also had under construction or in operation a cement plant at Tulsa, Oklahoma.

(5) In September 1962 Martin-Marietta acquired the stock and business of Aetna Portland Cement Company, a Maine corporation, for approximately \$13,000,000. Aetna operated a cement plant at Bay City, Michigan.

(b) In very recent years, respondent has greatly increased its operations in the production and marketing of construction aggregates such as sand, gravel and crushed stone. American-Marietta has become a major factor in these industries through the acquisition of the following companies among others:

(1) Prior to 1959 American-Marietta had already established itself in the field of construction aggregates. The Standard acquisition of 1954 described above gained for respondent a position as a substantial producer of crushed limestone. In the following year, respondent acquired Whiterock Quarries Inc., a Pennsylvania corporation, a producer of crushed stone. The 1956 Dragon acquisition described above

Complaint

62 F.T.C.

brought to respondent an affiliated company, Alliance Sand Co., Inc., a producer of crushed sandstone.

(2) In April 1959 American-Marietta acquired the two largest rock-crushing firms in the Southeastern United States, Superior Stone Company and Bryan Rock and Sand Company, North Carolina corporations, for a total consideration of approximately \$30 million. In September of the same year, respondent acquired Buchanan Stone Company, a North Carolina corporation, thereby strengthening its already dominant position in this area.

(3) In August of 1959 American-Marietta acquired, for about \$8 million, the largest producers and suppliers of sand, gravel and stone in Iowa, Concrete Materials Company and Concrete Materials and Construction Company, both Iowa corporations. In February 1960 respondent acquired the assets of Beu Limestone Company, an Iowa corporation, and of Dewey, described above, two of the largest limestone producers in Iowa. Respondent thereby strengthened its already dominant position in this area.

(4) American-Marietta has thus acquired extensive sand, gravel and crushed stone quarries in several sections of the country. Its Superior Stone Company and Concrete Materials Company Divisions alone operate about 60 quarries in Virginia, North Carolina, South Carolina, Georgia, Iowa, Missouri and Kansas. In addition, respondent has acquired numerous quarries in other sections of the country including, among others, the June 1960 acquisition of the assets of Fry Coal and Stone Company, a Pennsylvania corporation, for a total consideration of about \$3,740,000.

(c) American-Marietta is now one of the largest producers of lime on the open market in the United States. This position was attained as a result of the following acquisitions, among others:

(1) The Standard acquisition, described in Paragraph 4(a)(1) above, obtained for respondent control of one of the Nation's largest producers of lime. Standard's plants are located in Tennessee, Virginia, West Virginia, Ohio, Michigan and Illinois.

(2) The acquisition of Southern Cement Company, described in Paragraph 4(a)(2) above, added to respondent's lime interests another important producer and marketer of lime, the largest in Alabama.

(3) In January 1956 American-Marietta further strengthened its position in the lime industry, and more particularly in and adjacent to Alabama, by the acquisition of Keystone Lime Works, Inc., which operated a lime plant at Keystone, Alabama.

(d) Prior to and at the time of their acquisition by American-Marietta, each of the corporations hereinbefore named in Paragraph 4(a) to (c), inclusive, was engaged in commerce, as "commerce" is defined in the Clayton Act and the Federal Trade Commission Act.

PAR. 5. The effect of the aforesaid acquisitions named in paragraph

4(a) and (b) may be substantially to lessen competition or to tend to create a monopoly in (1) the concrete pipe industry as a whole, (2) the production and sale of concrete sewer pipe, and (3) the production and sale of concrete pressure pipe, in various sections of the country in contravention of Section 7 of the Clayton Act in the following ways, among others:

(1) By tending to reduce the actual or potential competition from producers of such pipe who are not, directly or indirectly, integrated or affiliated with producers of cement or construction aggregates such as sand, gravel, and crushed stone.

(2) By tending to set into motion integration or affiliation, either directly or indirectly, by and between other producers of such pipe, other producers of cement, and other producers of construction aggregates.

(3) By tending to inhibit or prevent entry of new producers or sellers of such pipe in those sections of the country where respondent's production of such pipe is or may be served by the producers of cement or construction aggregates listed in Paragraph 4(a) and (b).

(4) By tending to enhance respondent's already dominant position in the production and sale of such pipe.

PAR. 6. The effect of the acquisitions described in Paragraph 4(a) may be substantially to lessen competition or tend to create a monopoly in the production and sale of cement in various sections of the country in violation of Section 7 of the Clayton Act, as amended, in the following ways, among others:

(1) Each of the listed cement companies has been eliminated as an independent competitive factor in the production and sale of cement.

(2) The listed companies may be wholly or partially eliminated as suppliers of cement to purchasers including respondent's competitors, who use cement in the production of concrete pipe and other concrete products.

(3) Actual or potential competition between respondent and the listed companies and among the listed companies has been or may be eliminated.

(4) Actual or potential competition generally in the production and sale of cement may be substantially lessened.

(5) Entry of new cement producers may be inhibited or prevented, and competition therein substantially lessened, by respondent's integration of the production of cement, construction aggregates, concrete pipe and other concrete products within the control of a single corporation.

(6) The historic pattern in the cement industry has been one of concerted activities to devise means and measures to do away with

competition within the industry. Concentration of productive capacity has facilitated and may further facilitate such concerted activities. The acquisitions described in Paragraph 4(a) have resulted in an increase and may result in a further increase in concentration in the production and sale of cement generally and in certain sections of the country. Against this anticompetitive pattern in the industry, the increase in concentration as a result of the acquisitions described above constitutes or may constitute a detriment to competition.

PAR. 7. The effect of the acquisitions described in Paragraph 4(b) may be substantially to lessen competition or tend to create a monopoly in the production and sale of construction aggregates and of those particular construction aggregates produced and sold by each of the corporations listed in Paragraph 4(b), in the following ways, among others:

(1) Each of the listed companies has been eliminated as an independent competitive factor.

(2) The listed companies may be wholly or partially eliminated as suppliers of construction aggregates to purchasers, including respondent's competitors, who use such aggregates in the production of concrete pipe and other concrete products.

(3) Actual or potential competition between respondent and the listed companies and among the listed companies has been or may be eliminated.

(4) Entry of new construction aggregates producers may be inhibited or prevented, and competition therein substantially lessened, by respondent's integration of the production of cement, construction aggregates, concrete pipe and other concrete products within the control of a single corporation.

(5) There has been an increase and may be a further increase in concentration in the production and sale of construction aggregates in certain sections of the country.

(6) Respondent has become one of the most important, if not the dominant factor, in the construction aggregates industry in North Carolina or in parts thereof, and in Iowa or in parts thereof, to the actual and potential detriment of competition.

PAR. 8. The effect of the acquisitions described in Paragraph 4(c) may be substantially to lessen competition or tend to create a monopoly in the production and sale of lime in various sections of the country in violation of Section 7 of the Clayton Act, as amended, in the following ways, among others:

(1) Each of the listed lime companies has been eliminated as an independent competitive factor in the production and sale of lime.

(2) Actual and potential competition between respondent and

Southern has been or may be eliminated in the production and sale of lime in every area in which they competed or might have competed.

(3) Actual or potential competition between respondent and the listed companies and among the listed companies in the production and sale of lime has been or may be eliminated.

(4) Actual or potential competition generally in the production and sale of lime may be substantially lessened.

(5) The acquisitions described in Paragraph 4(c) have resulted in an increase and may result in a further increase in concentration in the production and sale of lime generally and in certain sections of the country. Against this anticompetitive pattern in the industry, the increase in concentration as a result of the acquisitions described above constitutes or may constitute a detriment to competition.

PAR. 9. All of the foregoing acquisitions alleged and set forth hereinabove constitute a violation of Section 7 of the Clayton Act, as amended.

PAR. 10. The constant and systematic eliminations of actual and potential competitors by means of the acquisitions described above are all to the prejudice and injury of the public and constitute unfair methods of competition and unfair acts and practices within the intent and meaning of Section 5 of the Federal Trade Commission Act.

ORDER WAIVING NOTICE AND ACCEPTING AGREEMENT CONTAINING ORDER
TO CEASE AND DESIST

This matter having come before the Commission upon the hearing examiner's certification of the question whether the requirement of the Commission's Notice of July 14, 1961, requiring the filing of notice of intent to enter into a consent agreement, should be waived; and

It appearing that the failure of the respondent to file timely notice of its intention to dispose of the proceeding through entry of a consent agreement is attributable to the then uncertain state of the law and was not for the purpose of delay:

It is ordered, That the filing of notice by the parties as prescribed under the Commission's published Notice of July 14, 1961, be, and it hereby is, waived.

And it further appearing that the agreement which has now been entered into affords an adequate basis for appropriate disposition of this proceeding and should be accepted; that the Commission itself should initially decide this matter, and forthwith issue its decision and order; and that the misspelling of the word "subsidiaries" in the agreement, being clearly a typographical error, should be corrected:

The agreement, as corrected, is hereby accepted, the following jurisdictional findings are made, and the following order is entered:

1. Respondent is a corporation existing and doing business under and by virtue of the laws of the State of Maryland with its executive

Order

62 F.T.C.

office and principal place of business located at 350 Park Avenue, in the city of New York, State of New York.

2. The Federal Trade Commission has jurisdiction of the subject matter of this proceeding and of the respondent.

ORDER

It is ordered, That Martin-Marietta Corporation within a period not exceeding twenty-four (24) months after the service upon it of this order, unless extended, shall divest itself absolutely, in good faith, and to purchasers approved by the Federal Trade Commission, of the following listed plants, properties and assets, including, but not limited to, all machinery, equipment, raw material reserves, trade names, contract rights, trademarks and good will, connected therewith or a part thereof:

I

Concrete pipe plants and businesses at the following locations:

Grand Rapids, Michigan	Melbourne, Kentucky
Jackson, Michigan	Littlefield, Texas
Saginaw, Michigan	Chelsea (Memphis),
Pottstown, Pa.	Tenn.
Parkersburg, W. Va.	President Is., Tenn.
Azusa (Irwindale),	Lafayette, Indiana
Calif.	Lake View, Iowa
Binghamton, New York	Chico, California
Bridgeville, Pa.	Yuba City, Calif.
Clarksburg, W. Va.	Charlotte, N.C.
Columbus, Ohio	Columbia, S.C.
Dania, Florida	Ocala, Florida
Decatur, Alabama	Rochester, New York
Dothan, Alabama	St. Petersburg, Florida
Kenvil, New Jersey	Syracuse, New York
Louisville, Kentucky	Tampa, Florida
New Martinsville, W. Va.	Calipatria, California
Norristown, Pa.	Colton, California
Fremont, Nebraska	Dover, Delaware
Scottsbluff, Nebraska	Phoenix, Arizona
Riverside, Missouri	Albuquerque, New Mex-
Sibley, Iowa	ico
Denver, Colorado	Farmington, New Mexico
Jacksonville, Florida	El Paso, Texas
Birmingham, Alabama	Healdsburg, California

Hicksville, New York	Oklahoma City, Okla.
Lilesville, N.C.	(11th St. & Lillard Park)
Sparks, Nevada	Spokane, Washington
Portland, Oregon	Seattle, Washington
Windsor, Vermont	Fairbanks, Alaska
Lawton, Oklahoma	Anchorage, Alaska
Ada, Oklahoma	Pampa, Texas

The above listed plants were acquired, or were replacements for plants acquired, as a result of the acquisition of the following corporations and businesses, and constituted their principal assets:

- (1) Lamar Pipe and Tile Company, a Michigan corporation;
- (2) Concrete Products Co. of America, a Pennsylvania corporation;
- (3) Universal Concrete Pipe Company, an Ohio corporation;
- (4) Concrete Conduit Company, a California corporation;
- (5) Tellyer Concrete Pipe Company, a California corporation;
- (6) Mid-West Concrete Pipe Co., an Illinois corporation;
- (7) Atlantic Concrete Pipe Company, a New York corporation;
- (8) Parkersburg Concrete Products Co., a West Virginia corporation;
- (9) Hayman Concrete Pipe Company, a Delaware corporation;
- (10) Platte Valley Cement Tile Manufacturing Company, a Nebraska corporation;
- (11) Kansas City Concrete Pipe Company, a Missouri corporation;
- (12) Sibley Cement Company, an Iowa corporation;
- (13) Western Concrete Pipe Company, a Colorado corporation;
- (14) Sherman Concrete Pipe Co., Jacksonville, Florida;
- (15) Massey Concrete Products Company, a Delaware corporation;
- (16) White Pipe Company, a Texas corporation;
- (17) American Concrete Pipe Company, Inc., a New York corporation and American Concrete Pipe Company, Inc., a New Jersey corporation;
- (18) Mid-South Concrete Pipe Company, a Tennessee corporation, and its wholly owned subsidiary Osceola Tile and Culvert Company, an Arkansas corporation;

Order

62 F.T.C.

- (19) Indiana Lock-Joint Concrete Pipe Company, an Indiana corporation;
- (20) Lake View Concrete Tile Company, an Iowa corporation;
- (21) Valley Concrete Pipe & Products Company, a California corporation;
- (22) Carolina Concrete Pipe Company, Inc., a North Carolina corporation;
- (23) Nevada Concrete Pipe Company, a Nevada corporation;
- (24) Collins Concrete and Steel Pipe Company, an Oregon corporation;
- (25) Hammond's Inc., a Vermont corporation, and its subsidiary, Vermont Concrete Pipe Corp., a Vermont corporation;
- (26) Thomas Concrete Pipe Co., an Oklahoma corporation;
- (27) Seattle Concrete Pipe Company, Inc., a Washington corporation;
- (28) Arey Pipe & Construction Co., a Texas corporation;
- (29) Spokane Concrete Pipe Co., Inc., a Washington corporation.

II

Lime plants at the following locations:

Knoxville, Tennessee
Kimballton, Virginia

The above plants were acquired as a result of the acquisition of the stock of the Standard Lime and Stone Company, a Maryland corporation.

III

Aggregates (crushed stone, sand and gravel) quarries, plants, or quarry sites, at the following locations:

Aberdeen, North Carolina
Elm City, North Carolina
Garysburg, North Carolina
Goldsboro, North Carolina
Linden, North Carolina
Neverson, North Carolina
Crab Tree, North Carolina
Rolesville, North Carolina

West End, North Carolina
Greystone, North Carolina
Greensboro, North Carolina
Le Grand, Iowa
Waterloo, Iowa

The above listed quarries, plants and quarry sites, were acquired as a result of the acquisition of the following corporations and businesses, and constituted their principal assets:

- (1) Bryan Rock and Sand Company, a North Carolina corporation;
- (2) Buchanan Stone Company, Inc., a North Carolina corporation;
- (3) Beu Limestone Company, an Iowa corporation;
- (4) Northwestern Quarry Joint Venture, a company doing business in Iowa.

It is further ordered, That pending divestiture, respondent shall not make any changes in any of the machinery, buildings, equipment or other property of whatever description, of any of the listed plants, quarries or businesses, which shall impair their market value or present capacity for the production and for the sale of concrete pipe, lime, or aggregates (crushed stone, sand and gravel), or any other products they may be producing or selling, unless such market value or capacity is restored prior to divestiture.

It is further ordered, That the Martin-Marietta Corporation, in carrying out the divestitures above ordered, do so in such manner as to establish, insofar as possible, the above listed plants and properties as going concerns and effective competitors in the manufacture and sale of concrete pipe and aggregates (crushed stone, sand and gravel), and in the case of the lime plants, as a going concern or concerns, and as an effective competitor or competitors, in the production and sale of lime.

It is further ordered, That, for a period of ten (10) years from the date of service upon it of this order, respondent shall cease and desist from acquiring, directly or indirectly, through subsidiaries or otherwise, without the prior approval of the Federal Trade Commission, any part of the share capital or other assets of any corporation engaged in the production and sale of concrete pipe, lime, or aggregates (crushed stone, sand and gravel), in the following geographic areas: (a) with respect to concrete pipe, anywhere in the United States; (b) with respect to lime, anywhere east of the Mississippi River; (c) with respect to aggregates, anywhere in the States of North Carolina and

Order

62 F.T.C.

Iowa, and in the counties of the States of Virginia, South Carolina, Georgia, Kansas and Missouri listed below:

<i>Virginia</i>	Greene	<i>Kansas</i>
Pittsylvania	<i>Georgia</i>	Franklin
Albemarle	Columbia	Douglas
Nelson	McDuffie	Chautauqua
Buckingham	Richmond	Cowley
Fluvanna	Jefferson	Butler
Effingham	Burke	Greenwood
Evans	Emanuel	Sumner
Liberty	Jenkins	Sedgwick
Bryan	Screven	Harvey
Chatham	Candler	Marion
McIntosh	Bulloch	Chase
Johnson	<i>Missouri</i>	Lyon
Coffee	Worth	Jackson
Osage	Gentry	Pottawat-
Shawnee	Nodaway	omie
Jefferson	<i>South</i>	Wabaunsee
Leavenworth	<i>Carolina</i>	Morris
Elk	York	Geary
Louisa	Lancaster	Riley
Orange	Edgefield	
Madison	Aiken	

It is further ordered, That, for a period of seven (7) years from the date of service upon it of this order, respondent shall cease and desist from acquiring, directly or indirectly, through subsidiaries or otherwise, without the prior approval of the Federal Trade Commission, any part of the share capital or other assets of any corporation engaged in commerce, as "commerce" is defined in the Clayton Act, and in the production and sale of cement, anywhere in the States of the United States east of the eastern border of the States of Idaho, Utah and Arizona: *Provided, however,* That nothing in this paragraph implies that any acquisition of a cement producing plant in the United States by Martin-Marietta Corporation west of the aforementioned line would be lawful.

It is further ordered, That respondent shall, within three months from the date of service upon it of this Order, submit in writing to the Federal Trade Commission its plan for carrying out the provisions of this Order, which shall include provision for submitting periodic compliance reports, subject to Commission approval.

Commissioner MacIntyre not concurring.

Complaint

IN THE MATTER OF

E. P. SORENSEN, d/b/a BELDEN SCHOOL OF NURSING

CONSENT ORDER, ETC., IN REGARD TO THE ALLEGED VIOLATION OF THE
FEDERAL TRADE COMMISSION ACT*Docket C-320. Complaint, Mar. 15, 1963—Decision, Mar. 15, 1963*

Consent order requiring a Chicago individual, engaged in selling a correspondence course, to cease representing falsely in advertising in nationally circulated magazines, circulars, form letters, etc., that persons completing his course would become proficient auxiliary nurses, qualified to secure employment with hospitals and similar institutions.

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 E. P. Sorensen, an individual doing business as Belden School of Nursing, hereinafter referred to as the respondent, has 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 E. P. Sorensen is an individual doing business as Belden School of Nursing with his principal office and place of business located at 2525 Sheffield Avenue, Chicago, Illinois.

PAR. 2. Respondent is now and for some time last past has been engaged in the advertising, offering for sale, sale and distribution of a correspondence course of instruction in auxiliary nursing. As used hereinafter the terms "auxiliary nursing" and "auxiliary nurse" shall mean or refer to all of those persons working in the nursing field below the level of licensed practical nurse and include the job titles of unlicensed practical nurse, nursing aides, hospital attendants, doctor's office nurse, baby nurse, nurse companion, and other similar titles.

PAR. 3. In the course and conduct of his said business, respondent now causes and for some time last past has caused his said correspondence course, when sold, to be shipped from his place of business in the State of Illinois to purchasers thereof located in various other States of the United States and in the District of Columbia and maintains, and at all times mentioned herein has maintained, a substantial course of trade in said correspondence course in commerce as "commerce" is defined in the Federal Trade Commission Act.

PAR. 4. In the course and conduct of his business, at all times mentioned herein, the respondent has been in substantial competition, in