

Complaint

66 F.T.C.

IN THE MATTER OF

SOLMICA, INC., ET AL.

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

Docket C-817. Complaint, Aug. 25, 1964—Decision, Aug. 25, 1964

Consent order requiring five affiliated home improvement companies headquartered in St. Louis, Mo., to cease misrepresenting the quality of their aluminum siding and other products, that their customers receive special discounts, that their imitation stone is genuine, and deceptively guaranteeing their products.

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 Solmica, Inc., a corporation, and Saul Schmidt and Leon A. Moel, individually and as officers of said corporation, and Solmica of St. Louis, Inc., Solmica of the South, Inc., Solmica of Georgia, Inc., and Solmica of Nashville, Tennessee, corporations, 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 Solmica, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of Missouri, with its principal office and place of business located at 4636 Easton Avenue, in the city of St. Louis, State of Missouri.

Respondents Saul Schmidt and Leon A. Moel are officers of the corporate respondent Solmica, Inc. They formulate, direct and control the acts and practices of said corporate respondent, including the acts and practices hereinafter set forth. Their address is the same as that of the corporate respondent, Solmica, Inc.

Respondent Solmica of St. Louis, Inc., is a subsidiary of and is controlled by Solmica, Inc. It is a corporation organized, existing and doing business under and by virtue of the laws of the State of Missouri, with its principal office and place of business located at 2501 South Kingshighway Boulevard, in the city of St. Louis, State of Missouri.

Respondent Solmica of the South, Inc., is a subsidiary of and is controlled by Solmica, Inc. It is a corporation organized, existing and

doing business under and by virtue of the laws of the State of Tennessee, with its principal office and place of business located at 2357 Lamar Avenue, in the city of Memphis, State of Tennessee.

Respondent Solmica of Georgia, Inc., is a subsidiary of and is controlled by Solmica, Inc. It is a corporation organized, existing and doing business under and by virtue of the laws of the State of Georgia, with its principal office and place of business located at 708 Spring Street, in the city of Atlanta, State of Georgia.

Respondent Solmica of Nashville, Tennessee is a subsidiary of and is controlled by Solmica, Inc. It is a corporation organized, existing and doing business under and by virtue of the laws of the State of Tennessee, with its principal office and place of business located at 1529 Demondruen Street, in the city of Nashville, State of Tennessee.

PAR. 2. Respondents are now, and for some time last past have been, engaged in the advertising, offering for sale, sale and distribution of aluminum siding and related home improvement products to wholesalers and directly 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 products, when sold, to be shipped from their place of business in the State of Missouri to purchasers thereof located in various other States of the United States, 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 purchase of their siding materials and other products, respondents have made numerous statements and representations by means of the oral solicitations of their employees and representatives.

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

1. That in return for the use of the houses of prospective purchasers as models to demonstrate and advertise respondents' siding and other products after purchase and completion of the improvements, such purchasers will receive a reduced or special discount price.

2. That purchasers of respondents' siding and other products will receive a bonus, commission or other compensation from respondents when sales are made to others as a result of such demonstrations or advertising.

PAR. 5. In truth and in fact:

1. The houses of purchasers of respondents' siding and other products are not intended to be used and are not used as models to demon-

Complaint

66 F.T.C.

strate or advertise respondents' siding, and such purchasers do not receive a reduced or special discount price.

2. Purchasers of respondents' siding and other products do not receive a bonus, commission or other compensation from respondents because no sales are made as a result of using the purchasers' houses for demonstrations or advertising.

Therefore, the statements and representations as set forth in Paragraph Four hereof were and are false, misleading and deceptive.

PAR. 6. In the course and conduct of their business, and for the purpose of inducing the purchase of their siding materials and other products, respondents have made statements and representations in advertisements in newspapers, magazines and on television, and in direct mail advertising, respecting the thickness of their siding, the nature of their simulated stone and offers of free merchandise.

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

... Solmica is the first and ONLY aluminum siding with four coats of durable plastic bonded to the aluminum! This plastic coating makes Solmica 5 times thicker than other aluminum siding.

*	*	*	*	*	*	*
Solmica is not like any other aluminum siding, either! Four layers of durable plastic make it four times thicker than ordinary aluminum siding!						
*	*	*	*	*	*	*
SOLMICA STONE						
*	*	*	*	*	*	*

FREE SARAN WRAP

I understand that this card is my entry in the Fabulous Big Wheel Sweepstakes. I also understand that I will receive 1 year supply of Saran Wrap for spending a few minutes with your representative and listening to the complete story of Solmica Plasticlad Aluminum siding. There is no obligation * * * nothing to buy!

PAR. 7. By and through the use of the above-quoted statements and representations, and others of similar import not specifically set out herein, respondents represent, directly or by implication, that:

1. Respondents' aluminum siding is four times thicker, or five times thicker, than all other aluminum siding.

2. Respondents' so-called "SOLMICA STONE" is genuine stone in its natural state.

3. All persons who fill out and mail an entry card in respondents' "Homeowner Sweepstakes" contest will receive a one year supply of Saran Wrap. The only obligation is to listen to the sales talk of one of respondents' representatives.

PAR. 8. In truth and in fact:

1. Respondents' aluminum siding is neither five times thicker nor four times thicker than all other aluminum siding.

2. Respondents' so-called "SOLMICA STONE" is not genuine stone in its natural state.

3. Many persons who entered respondents' "Homeowner Sweepstakes" contest and met all of its requirements did not receive any Saran Wrap after being contacted by a representative of respondents.

Therefore, the statements and representations as set forth in Paragraph Six and Seven hereof were and are false, misleading and deceptive.

PAR. 9. In the course and conduct of their business, and for the purpose of inducing the purchase of their siding materials, respondents have made statements and representations in advertisements in newspapers, on television, and in direct mail advertising respecting their guarantee.

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

GUARANTEED AGAINST

Cracking, Chipping, or Peeling

Won't Rust—Won't Warp—Won't Rot

* * * * *

* * * its guaranteed for life against warping, cracking, chipping or peeling.

* * * * *

NEW INCOMPARABLE PLASTIC FINISH BAKED ON

LIFETIME ALUMINUM GUARANTEED FOR LIFE!

against cracking, peeling, chipping.

Won't Rust—Won't Warp—Won't Rot!

* * * * *

ALL-NEW SOLMICA PLASTICLAD ALUMINUM SIDING * * * GUARANTEED FOR 20 YEARS!

* * * * *

20 YEAR GUARANTEE IN WRITING!

PAR. 10. Through the use of the aforesaid statements and representations, respondents have represented, directly or by implication, that their siding materials are unconditionally guaranteed, unconditionally guaranteed for the life of the structure to which applied or the life of the purchaser or some other unspecified "life" or life span, or unconditionally guaranteed for twenty years.

PAR. 11. In truth and in fact, respondents' siding materials are not unconditionally guaranteed, guaranteed for the life of the structure to which applied or the life of the purchaser or some other unspecified

"life" or life span, or unconditionally guaranteed for twenty years. Respondents' guarantee is subject to substantial limitations and conditions respecting the duration thereof and the extent and manner of performance thereunder.

PAR. 12. By and through the use of the aforesaid acts and practices, respondents place in the hands of others the means and instrumentalities by and through which they may mislead and deceive the public as to the thickness of their siding materials, the nature of their simulated stone siding, offers of free merchandise, and the nature of their guarantee.

PAR. 13. 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 siding materials of the same general kind and nature as that sold by respondents.

PAR. 14. 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' products by reason of said erroneous and mistaken belief.

PAR. 15. 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 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 Commission having heretofore determined to issue its complaint charging the respondents named in the caption hereof with violation of the Federal Trade Commission Act, and the respondents having been served with notice of said determination and with a copy of the complaint the Commission intended to issue, together with a proposed form of order; and

The respondents and counsel for the Commission having thereafter executed an agreement containing a consent order, an admission by respondents of all the jurisdictional facts set forth in the complaint to issue herein, 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 set forth in such com-

plaint, and waivers and provisions as required by the Commission's rules; and

The Commission, having considered the agreement, hereby accepts same, issues its complaint in the form contemplated by said agreement, makes the following jurisdictional findings, and enters the following order:

1. Respondent Solmica, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of Missouri, with its office and principal place of business located at 4636 Easton Avenue, in the city of St. Louis, State of Missouri.

Respondents Saul Schmidt and Leon A. Moel are officers of the above corporation and their address is the same as that of the above corporation.

Respondent Solmica of St. Louis, Inc., is a subsidiary of and is controlled by Solmica, Inc. and is a corporation organized, existing and doing business under and by virtue of the laws of the State of Missouri, with its office and principal place of business located at 2501 South Kingshighway Boulevard, in the city of St. Louis, State of Missouri.

Respondent Solmica of the South, Inc., is a subsidiary of and is controlled by Solmica, Inc., and is a corporation organized, existing and doing business under and by virtue of the laws of the State of Tennessee, with its office and principal place of business located at 2357 Lamar Avenue, in the city of Memphis, State of Tennessee.

Respondent Solmica of Georgia, Inc., is a subsidiary of and is controlled by Solmica, Inc., and is a corporation organized, existing and doing business under and by virtue of the laws of the State of Georgia, with its office and principal place of business located at 708 Spring Street, in the city of Atlanta, State of Georgia.

Respondent Solmica of Nashville, Tennessee is a subsidiary of and is controlled by Solmica, Inc., and is a corporation organized, existing and doing business under and by virtue of the laws of the State of Tennessee, with its office and principal place of business located at 1529 Demondreun Street, in the city of Nashville, State of Tennessee.

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, Solmica, Inc., a corporation, and its officers, and Saul Schimdt and Leon A. Moel, individually and as officers of said corporation, and Solmica of St. Louis, Inc., Solmica

of the South, Inc., Solmica of Georgia, Inc., and Solmica of Nashville, Tennessee, corporations, and their 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 siding materials or any other product in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. Representing, directly or by implication, that any reduced price, special price, allowance or discount is granted by respondents in return for the use of the purchaser's house or other building as a demonstration unit or for the furnishing of any other service or facility by the purchaser.

2. Representing, directly or by implication that respondents will pay a bonus, commission or any other compensation to purchasers or prospective purchasers on sales made as a result of demonstrating or advertising the purchaser's or prospective purchaser's house or building.

3. Representing, directly or by implication, that respondents' aluminum siding is five times thicker or four times thicker than all other aluminum siding; or representing, in any manner, that the thickness of their siding materials is other than respondents can affirmatively establish is the fact.

4. Representing, directly or by implication, that respondents' "SOLMICA STONE" or any other substantially similar product is genuine stone in its natural state; or representing, in any manner, that the quality or composition of their simulated stone is other than respondents can affirmatively establish is the fact.

5. Representing, directly or by implication, that persons will receive a gift of a specified article of merchandise, or anything of value, unless respondents establish that the item offered as a gift was in fact delivered to each eligible person.

6. Representing, directly or by implication, that respondents' products are unconditionally guaranteed when there are any conditions or limitations to such guarantee.

7. Using the word "Life" or any other term of the same import in referring to the duration of a guarantee of a product without clearly and conspicuously disclosing the life to which such reference is made; or representing, in any manner, that the duration of a guarantee is other than respondents can affirmatively establish is the fact.

8. Representing, directly or by implication, that respondents' products are guaranteed unless the identity of the guarantor, the

nature and extent of the guarantee and the manner in which the guarantor will perform thereunder are clearly and conspicuously disclosed in immediate conjunction with any such representation.

9. Furnishing any means or instrumentalities to others whereby the public may be misled as to any of the matters or things prohibited by the above provisions of this order.

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