

Complaint

IN THE MATTER OF

ALUMINUM SHINGLE COMPANY, INC., ET AL.

CONSENT ORDER, ETC., IN REGARD TO THE ALLEGED VIOLATION
OF THE FEDERAL TRADE COMMISSION ACT*Docket C-1074. Complaint, June 14, 1966—Decision, June 14, 1966*

Consent order requiring a Great Bend, Kansas, home improvement firm, to cease using deceptive pricing and savings claims and other misrepresentations to sell its residential siding, roofing, and other products to the public.

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 Aluminum Shingle Company, Inc., a corporation, and Robert K. Marmie and John R. Soden, 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. Aluminum Shingle Company, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of Kansas, with its principal office and place of business located at 1013 McKinley Street, in the city of Great Bend, State of Kansas.

Respondents Robert K. Marmie and John R. Soden are officers of the corporate respondent. They formulate, direct and control the acts and practices of the corporate respondent, including the acts and practices hereinafter set forth. Their 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 the advertising, offering for sale, sale and distribution of residential siding, roofing and other products 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 Kansas 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 products, respondents have, by statements and representations in advertisements in various publications, in direct mail advertising, and by direct oral solicitations made by respondents or their salesmen or representatives, represented, directly or by implication, that:

(1) Respondents' products are being offered for sale at special or reduced prices, and that savings are thereby afforded purchasers from respondents' regular selling price.

(2) Purchasers of respondents' products will receive enough bonuses or commissions under the terms of respondents' supplemental contract to obtain respondents' products at little or no cost.

(3) Homes of prospective purchasers had been specially selected as model homes for the installation of respondents' products; after installation, such homes would be used as points of reference or demonstration by respondents; and, as a result of allowing their homes to be used as models, purchasers would be granted reduced prices or would receive allowances, discounts or commissions.

(4) Respondents' products will last a lifetime and will not require repainting or repairs.

(5) Respondents' salesmen or representatives are special representatives from the Kaiser Aluminum and Chemical Corporation thereby implying that purchasers would be dealing directly with the manufacturer.

PAR. 5. In truth and in fact:

(1) Respondents' products are not being offered at a special or reduced price and savings are not granted respondents' customers because of a reduction from respondents' regular selling price; in fact, respondents do not have a regular selling price but the price at which respondents' products are sold vary from customer to customer depending on the resistance of the prospective customer.

(2) Few, if any, of respondents' customers receive enough bonuses or commissions under the terms of respondents' supplemental contract to obtain respondents' products at little or no cost.

(3) Homes of prospective purchasers are not specially selected as model homes for the installation of respondents' products;

after installation, such homes are not used for demonstration or advertising purposes by respondents; and purchasers, as a result of allowing their homes to be used as models, were not granted reduced prices, nor did they receive allowances, discounts or commissions.

(4) Respondents' products will not last a lifetime and will require repainting and repairs.

(5) Respondents' salesmen or representatives are not representatives of the Kaiser Aluminum and Chemical Corporation, and purchasers do not deal directly with the manufacturer of such products but with respondents.

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

PAR. 6. In the conduct of their business, and at all times mentioned herein, respondents have been in competition, in commerce, with corporations, firms and individuals in the sale of residential siding, roofing and other products, of the same general kind and nature as that sold by respondents.

PAR. 7. The use by the respondents of the aforesaid false, misleading and deceptive statements, representations and practices 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. 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 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 Federal Trade Commission having initiated an investigation of certain acts and practices of the respondents named in the caption hereof, and the respondents having been furnished thereafter with a copy of a draft of complaint which the Bureau of Deceptive Practices proposed to present to the Commission for its consideration and which, if issued by the Commission, would charge respondents with violation of the Federal Trade Commission Act; and

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The respondents and counsel for the Commission having thereafter executed an agreement containing a consent order, an admission by the respondents of all the jurisdictional facts set forth in the aforesaid draft of complaint, a statement that the signing of said agreement is for settlement purposes only and does not constitute an admission by the respondents that the law has been violated as alleged in such complaint, and waivers and provisions as required by the Commission's rules; and

The Commission, having reason to believe that the respondents have violated the Federal Trade Commission Act, and having determined that complaint should issue stating its charges in that respect, hereby issues its complaint, accepts said agreement, makes the following jurisdictional findings and enters the following order:

1. Respondent Aluminum Shingle Company, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of Kansas, with its office and principal place of business located at 1013 McKinley Street, city of Great Bend, State of Kansas.

Respondents Robert K. Marmie and John R. Soden are officers of said corporation and their address is the same as that of said corporation.

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 Aluminum Shingle Company, Inc., a corporation, and its officers, and Robert K. Marmie and John R. Soden, individually and as officers of said corporation, and respondents' representatives, agents, and employees, directly or through any corporate or other device, in connection with the advertising, offering for sale, sale or distribution of residential siding, roofing, or other products and services, in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from, representing, directly or by implication, that:

1. Any price for respondents' products is a special or reduced price, unless such price constitutes a significant reduction from an established selling price at which such products

have been sold in substantial quantities by respondents in the recent, regular course of their business or misrepresenting, in any manner the savings available to purchasers.

2. Respondents' customers, under the terms of respondents' supplemental contract or by any other means, are able to obtain respondents' products at little or no cost.

3. Respondents' customers will receive bonuses or commissions or compensation in any amount: *Provided, however,* That it shall be a defense in any enforcement proceeding instituted hereunder, for respondents to establish that said customers have regularly and consistently received earnings or compensations in such amount in the regular course of respondents' business.

4. The home of any of respondents' customers or prospective customers has been selected to be used or will be used as a model home or otherwise for advertising purposes.

5. Any allowance, discount or commission is granted by respondents to purchasers in return for permitting the premises in which respondents' products are to be installed to be used for model homes or demonstration purposes.

6. The products sold by respondents will last a lifetime or will never require repainting or repairs; or misrepresenting, in any manner, the efficacy, durability or efficiency of respondents' products.

7. Respondents' salesmen or representatives are representatives of the Kaiser Aluminum and Chemical Corporation or that purchasers are or will be dealing directly with the manufacturer; or misrepresenting, in any manner, the status or affiliation of respondents' salesmen or the manufacturer or the source of any of respondents' products.

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.

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IN THE MATTER OF

MIDWEST HOSIERY INCORPORATED, ET AL. formerly
known as MIDWEST HOSIERY MILLS, INC.

ORDER, ETC., IN REGARD TO THE ALLEGED VIOLATION OF THE FEDERAL
TRADE COMMISSION AND THE TEXTILE FIBER PRODUCTS
IDENTIFICATION ACTS

Docket 8676. Complaint, Dec. 22, 1965—Decision, June 16, 1966*

Order requiring a Chicago, Ill., wholesaler of men's and children's hosiery to cease misbranding, falsely labeling, and failing to disclose the true quality of its products, and stop misrepresenting itself as a manufacturer.

COMPLAINT

Pursuant to the provisions of the Federal Trade Commission Act and the Textile Fiber Products Identification Act, and by virtue of the authority vested in it by said Acts, the Federal Trade Commission, having reason to believe that Midwest Hosiery Incorporated, formerly known as Midwest Hosiery Mills, Inc., a corporation, Sidney Leibowitz, Solomon Kopman, and Ann Gruber, individually and as officers of said corporation, hereinafter referred to as respondents, have violated the provisions of the said Acts and the Rules and Regulations promulgated under the Textile Fiber Products Identification 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 Midwest Hosiery Incorporated, formerly known as Midwest Hosiery Mills, Inc., as a corporation organized, existing and doing business under and by virtue of the laws of the State of Illinois, with its office and principal place of business located at 1223 South Halsted Street, Chicago, Illinois.

Individual respondents Sidney Leibowitz, Solomon Kopman and Ann Gruber are respectively president, vice president and secretary of the corporate respondent, and formulate, direct, and control the acts, practices, and policies of the corporate respondent, including the acts and practices complained of herein. Their business addresses are the same as said corporate respondent. Respondents are wholesalers of men's and children's textile fiber socks.

PAR. 2. Subsequent to the effective date of the Textile Fiber

*Reported as amended by hearing examiner's order of February 23, 1966, by substituting "Midwest Hosiery Incorporated, formerly known as Midwest Hosiery Mills, Inc.," for the designation "Midwest Hosiery Mills, Inc."