

Complaint

71 F.T.C.

IN THE MATTER OF

REPUBLIC CONSTRUCTION COMPANY, INC., ET AL.

CONSENT ORDER, ETC., IN REGARD TO THE ALLEGED VIOLATION OF THE
FEDERAL TRADE COMMISSION ACT*Docket C-1164. Complaint, Jan. 31, 1967—Decision, Jan. 31, 1967*

Order requiring a Fern Park, Fla., distributor of residential aluminum siding and roofing to cease using false pricing and savings claims and other misrepresentations to sell its 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 Republic Construction Company, Inc., a corporation, and Lester Mossman and Irving Kaplow, 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 Republic Construction Company, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of Florida, with its principal office and place of business located at Routes 17 and 92 in the city of Fern Park, in the State of Florida.

Respondents Lester Mossman and Irving Kaplow are officers of 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 aluminum siding to the general 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 in the State of Florida 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 product in commerce, as "commerce" is defined in the Federal Trade Commission Act.

PAR. 4. In the course and conduct of their aforesaid 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 in verbal statements to prospective purchasers 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 prices.

2. Homes of prospective purchasers had been specially selected as model homes for the installation of the 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 receive enough commissions to enable them to obtain respondents' products at little or no cost.

3. Purchasers of respondents' products would receive enough commissions for providing referrals who subsequently bought respondents' products to enable them to obtain respondents' products at little or no cost.

4. Respondents' salesmen or representatives are representatives or agents of 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 offered at special or reduced prices 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 prices at which respondents' products are sold vary from customer to customer depending on the resistance of the prospective customer.

2. 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 few, if any, purchasers received enough, if any, commissions to enable them to obtain respondents' products at little or no cost.

3. Few, if any, purchasers of respondents' products received enough, if any, commissions from referrals who subsequently purchased respondents' products to enable them to obtain respondents' products at little or no cost.

4. Respondents' salesmen or representatives are not represent-

atives or agents of the Kaiser Aluminum and Chemical Corporation and purchasers do not deal directly with the manufacturers 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 substantial competition, in commerce, with corporations, firms and individuals in the sale of residential aluminum siding 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 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. 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 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 complaint, 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 Republic Construction Company, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of Florida, with its office and principal place of business located at Routes 17 and 92, in the city of Fern Park, State of Florida.

Respondents Lester Mossman and Irving Kaplow 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 Republic Construction Company, Inc., a corporation, and its officers, and Lester Mossman and Irving Kaplow, 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 aluminum 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. 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; or that any commission is given 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.

3. Any commission is given by respondents to purchasers of respondents' products for referrals who subsequently purchased respondents' products.

4. Respondents' salesmen or representatives are represent-

Order

71 F.T.C.

atives 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.
