

inter cigarettes, unless such Government or agency investigation has so found."

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IN THE MATTER OF  
GREAT SOUTHWESTERN LAND COMPANY, INC., ET AL.  
ORDER OF DISMISSAL, ETC., IN REGARD TO THE ALLEGED VIOLATION OF THE  
FEDERAL TRADE COMMISSION ACT

*Docket 8562. Complaint, Mar. 15, 1963—Decision, Feb. 26, 1968*

Order dismissing a complaint which charged an Albuquerque, New Mexico, land development company with selling land through misrepresentation.

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 Great Southwestern Land Company, Inc., a corporation, and Robert N. Golubin and Lyn Allen, individually and as officers of the 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 Great Southwestern Land Company, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of New Mexico, with its principal office and place of business located at Suite 720, First National Bank Building, Albuquerque, New Mexico.

Respondents Robert N. Golubin and Lyn Allen 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 and sale of parcels of real estate located in two separate areas of Taos County in the State of New Mexico to the public in various parts of the United States by means of the United States mails and through agents and sales representatives. The two areas are known as Carson Estates and Tres Piedras Estates.

PAR. 3. Respondents, in conducting the business aforesaid, have sent and transmitted, and have caused to be sent and transmitted, contracts, deeds, checks and other papers and documents of a commercial nature from their place of business in the State of New Mexico to purchasers and prospective purchasers located in various States other than the State of New Mexico, and have thus engaged in extensive commercial intercourse, in commerce, as "commerce" is defined in the Federal Trade Commission Act.

PAR. 4. Respondents, for the purpose of inducing the purchase of said parcels of real estate, have maintained exhibits at trade fairs held in various parts of the United States at which members of the public have been invited to fill out a registration form with the representation that they may win a free lot of land. All persons filling out said forms subsequently receive by mail a notice, and advertising material, indicating that they have been awarded a  $\frac{1}{4}$  acre lot free, the only obligation being to pay so-called "closing costs."

Persons responding to the above offer then receive a deed to a  $\frac{1}{4}$  acre lot, together with further advertising, or a call by a salesman, urging them to buy an additional lot of the same size at a higher price. Among and typical, but not all inclusive, of the statements appearing in said advertising and promotional material are the following:

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## Register for Free Land.

You have been awarded a  $\frac{1}{4}$  acre building lot \* \* \* in our new resort area subdivision, Carson Estates, Taos County, New Mexico \* \* \*. We have chosen this method of good will advertising \* \* \*. This is a free lot \* \* \*. Your only expense is \* \* \* closing cost of \$49.30 \* \* \*. You may claim your award by enclosing check \* \* \* with the accompanying Land Award Certificate \* \* \*.

Invigorating mountain air \* \* \* abundant forests, trout streams, crystal lakes, ski areas, hunting grounds, cultural centers \* \* \* all are within easy reach of Carson Estates \* \* \* fishing just minutes away \* \* \* hunting within walking distance \* \* \* skiing but a few miles away.

Every ranchette \* \* \* fronts on a graded road \* \* \* readily accessible \* \* \*. The gently rolling terrain of Carson Estates is covered with verdant growth \* \* \*.

Dollar value for penny prices \* \* \* specially limited number of  $\frac{1}{4}$  acre resort ranchettes only \$495 \* \* \* closing costs of \$49.30 are paid but once.

Telephone and electricity run parallel with Highway 111 and will be brought onto the individual's property as he builds \* \* \* water is obtained by private well \* \* \* it is our understanding that water can be obtained at approximately 75 feet \* \* \* heating is obtained by use of butane, fuel oil, electricity or wood \* \* \*.

Essentially the same statements have been made for the area known as Tres Piedras Estates.

PAR. 5. By and through the use of the above quoted statements and others of similar import not specifically set out herein, and by the use of pictures and photographs and statements made by respondents' salesmen, respondents have represented that:

1. Persons filling out the registration forms may win a free lot of land and that such persons have been awarded a  $\frac{1}{4}$  acre lot as part of an advertising plan, the only expense required being the payment of closing costs of \$49.30.
2. The land offered for sale is located within close proximity to forests, fishing streams, lakes, ski areas, hunting grounds and cultural centers.
3. Each lot of said land fronts on a graded road and is readily accessible from an established highway.
4. Said land is covered with verdant growth and every part of said land is suitable as a homesite.
5. Said land offers value greatly in excess of the price asked and that the lots available at the price of \$495 are limited in number.
6. Telephone service and electricity are readily available to purchasers of said land and will be brought to the purchaser's property when he builds thereon.

7. Water is available by private well at an approximate depth of 75 feet and that butane gas, fuel oil, and electricity are available for heating.

PAR. 6. In truth and in fact:

1. None of the persons filling out the registration forms win or receive a free lot of land. Every person who fills out said form is offered a lot of land upon payment of \$49.30 which is not for closing costs but is the price of said lot.

2. Said land is not located within close proximity to forests, fishing streams, lakes, ski areas, hunting grounds or cultural centers.

3. All lots of said land do not front on a graded road and are not readily accesible from an established highway.

4. Said land is not covered with verdant growth nor is every part of said land suitable as a homesite.

5. Said land does not offer value greatly in excess of the price asked and the lots available at the price of \$495 are not limited in number.

6. Telephone service and electricity are not readily available to purchasers of said land and there is no assurance that said utilities will be brought to the purchaser's property when he builds thereon.

7. Water is not available by private well at a depth of approximately 75 feet. In fact, it is necessary to drill to a depth of several hundred feet to obtain water. Butane gas, fuel oil or electricity are not available for heating.

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

PAR. 7. At all times herein mentioned respondents have been, and are, in substantial competition in commerce, with corporations, firms and individuals in the sale of products of the same general kind and nature as those sold by respondents.

PAR. 8. The use by respondents of the aforementioned false, misleading and deceptive statements, representations and practices has had, and now has, the capacity and tendency to mislead and deceive a substantial portion of the purchasing public into the erroneous and mistaken belief that such statements were, and are, true, and into the purchase of substantial quantities of respondents' products because of said mistaken and erroneous belief.

PAR. 9. 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.

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## ORDER DISMISSING COMPLAINT

This matter is before the Commission upon the motion of complaint counsel, filed November 27, 1967, requesting the Commission to remove this proceeding from the suspense calendar and to dismiss the complaint on the ground that there is not sufficient public interest in the matter to warrant further proceedings; and

It appearing to the Commission that the complaint herein was issued March 15, 1963, and that the matter was placed on the suspense calendar May 31, 1963, until further order of the Commission since it appeared that the individual respondents named in the complaint were defendants in a criminal proceeding in the United States District Court for the District of New Mexico, charged with use of the mails to defraud on matters relating to those in this proceeding; and

The Commission having determined that because the evidence which covered a period prior to March 1963 is now old and stale the complaint should be dismissed:

*It is ordered*, That the complaint be, and it hereby is, dismissed without prejudice, however, to the right of the Commission to issue a new complaint or to take such further or other action against the respondents at any time in the future as may be warranted by the then existing circumstances.