

sixty (60) days after service upon it of this order, file with the Commission a report, in writing, setting forth in detail the manner and form in which it has complied with this order.

IN THE MATTER OF

E. G. REINSCH, INC., ET AL.

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

*Docket 8751. Complaint, Nov. 30, 1967—Decision, Jan. 30, 1969 **

Order dismissing complaint charging a housing corporation with apartments in Arlington, Va., and two of its officers with failing to disclose in its advertising that their apartments were not available to Negro applicants.

OPINION OF THE COMMISSION

JANUARY 30, 1969

By order of September 23, 1968 [74 F.T.C. 861], the Commission dismissed the complaint in this matter with respect to those respondents who moved to dismiss on the basis of the passage of the Civil Rights Act of 1968 (Public Law 90-284) and their contention that there is now “ * * * no real possibility that the alleged restrictions as to race, color and national origin which respondents allegedly failed to reveal in advertising can be continued * * * .”¹ The Commission had previously dis-

*Commission's order of Sept. 23, 1968, 74 F.T.C. 861 dismissed the complaint as to certain respondents.

¹ E. G. Reinsch, *et al.*, Docket 8751, Order Granting Motion to Dismiss by Respondents E. G. Reinsch, Inc., Emerson G. Reinsch, Dolores G. Reinsch, and Lurein Corporation and Denying Motion to Dismiss by Respondents Henry S. Clay, Jr., and Robert E. Latham with Leave to Amend, September 23, 1968 [74 F.T.C. 861].

missed a companion case on a motion which we had interpreted as constituting an unconditional affirmation that the respondents therein would not in the future engage in any of the policies of racial discrimination which rendered the advertising subject to the Commission's charges of deception.² The other respondents in this proceeding had adopted identical language for their motion and presumably intended for the Commission to interpret it as we had previously.

By the same order of September 23, the Commission denied a motion to dismiss by respondents Henry S. Clay, Jr., and Robert E. Latham because their motion had not been based upon any indicated intent to comply with the letter and spirit of the Civil Rights Act of 1968. Rather, respondents Clay and Latham raised the issue of their individual responsibility for the acts and practices alleged and challenged in the complaint. As explained in the Commission's opinion at that time, respondents' motion was not considered an appropriate basis for dismissing the complaint as to them. However, the Commission specifically granted respondents Clay and Latham leave to amend their motion.

Consistent with the Commission's previous opinion, these two respondents have now filed an amended motion which complaint counsel does not oppose and which the hearing examiner has certified to the Commission with the recommendation that the motion be granted. The motion is based on the identical grounds as the previous motions to dismiss which the Commission has granted in this and the companion case.³ The Commission can only conclude that this motion too represents an unqualified affirmation that these respondents have discontinued and will not resume a policy of restricting the availability of their apartments on the basis of race, color or national origin.

Accordingly, the Commission is granting this motion to dismiss with the understanding that if it should appear in the future that the public interest requires further proceedings, dismissal of this complaint will in no way preclude the Commission from taking such further steps as may be appropriate under the circumstances.

Commissioner MacIntyre did not participate.

² *First Buckingham Community, Inc., et al.*, Docket 8750, Order Vacating Initial Decision and Dismissing Complaint, May 20, 1968 [73 F.T.C. 938].

³ Specifically, respondents cite the Civil Rights Act of 1968 and affirm that "no real possibility exists that the alleged restrictions in respect of race, color, and national origin which these respondents allegedly failed to reveal in advertising can be continued. * * *"

Complaint

75 F.T.C.

ORDER GRANTING MOTION TO DISMISS BY RESPONDENTS

HENRY S. CLAY, JR. AND ROBERT E. LATHAM

For the reasons stated in the accompanying opinion,

It is ordered, That the motion to dismiss of December 2, 1968, filed by and on behalf of respondents Henry S. Clay, Jr., and Robert E. Latham, be granted;

It is further ordered, That the complaint in this proceeding be, and it hereby is, dismissed with respect to all respondents.

By the Commission, with Commissioner MacIntyre not participating.
