

GBM CORPORATION TRADING AS U.S. CONSTRUCTION CO.,
ET AL.

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

Docket C-1514. Complaint, Apr. 3, 1969—Decision, Apr. 3, 1969

Consent order requiring a Rockford, Ill., home improvement corporation to cease falsely representing that prospects' homes are specially selected, that they will be used as model homes, that purchasers are granted special reduced prices, and that the firm is affiliated with the United States Steel Company.

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 GBM Corporation, a corporation, trading and doing business as U.S. Construction Co., and Jesse D. Gregg and Del L. Young, 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 GBM Corporation is a corporation organized, existing and doing business under and by virtue of the laws of the State of Illinois, with its principal office and place of business located at 1603 Seventh Street, Rockford, Illinois. The aforesaid company was originally incorporated and did business at the above address as G & M Siding and Roofing Company. In the course and conduct of its business, hereinafter set forth, GBM Corporation has also used the trade name of U.S. Construction Co.

Respondents Jesse D. Gregg and Del L. Young 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 aluminum and steel siding products to the general public and in the installation thereof.

PAR. 3. In the course and conduct of their business as aforesaid, 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 Illinois 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 aforesaid business and for the purpose of inducing the purchase of their products, respondents and their salesmen or representatives have represented, and now represent, directly or by implication, in advertising and promotional material and in oral solicitations to prospective purchasers, that:

1. Homes of prospective purchasers have been specially selected as model homes for the installation of the respondents'

products; that after installation such homes will be used for demonstration and advertising purposes by respondents; and, that as a result of allowing their homes to be used as models, purchasers will be granted reduced prices or will receive allowances, discounts or commissions.

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

3. Respondents or their salesmen are connected or affiliated with the United States Steel Company.

4. Respondents' siding materials and installations are "guaranteed" thereby representing that said products are unconditionally guaranteed in every respect for an unlimited period of time.

PAR. 5. In truth and in fact:

1. Homes of prospective purchasers are not specially selected as model homes for the installation of respondents' products; after installations such homes are not used for demonstration and advertising purposes by respondents; and purchasers as a result of allowing or agreeing to allow their homes to be used as models are not granted reduced prices nor do they receive allowances, discounts or commissions.

2. Respondents' products are not being offered for sale at special or reduced prices, and savings are not thereby afforded respondents' customers because of a reduction from respondents' regular selling prices. In fact, respondents do not have a regular selling price but the prices at which respondents' said products are sold vary from customer to customer depending on the resistance of the prospective purchasers.

3. Neither respondents nor their salesmen are connected or affiliated with the United States Steel Company.

4. Respondents' siding materials and installations are not unconditionally guaranteed in every respect without condition or limitation for an unlimited period of time or for any other period of time. Such guarantee as may be provided is subject to numerous terms, conditions and limitations, and fails to set forth the nature and extent of the guarantee, the identity of the guarantor and the manner in which the guarantor will perform thereunder. Furthermore, in a substantial number of cases, respondents or their salesmen fail to furnish any written guarantee to the customer.

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 aforesaid business, and at all times mentioned herein, respondents have been, and now are, in substantial competition, in commerce, with corporations, firms and individuals in the sale of steel and aluminum residential siding 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 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 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

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 respondents that the law has been violated as alleged in such complaint, and waivers and other provisions as required by the Commission's Rules; and

The Commission having thereafter considered the matter and having determined that it had reason to believe that the respondents have violated the said Act, and that complaint should issue

stating its charges in that respect, and having thereupon accepted the executed consent agreement and placed such agreement on the public record for a period of thirty (30) days, now in further conformity with the procedure prescribed in § 2.34(b) of its Rules, the Commission hereby issues its complaint, makes the following jurisdictional findings, and enters the following order:

1. Respondent GBM Corporation is 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 1603 Seventh Street, Rockford, Illinois.

Respondents Jesse D. Gregg and Del L. Young 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 GBM Corporation, a corporation, trading and doing business as U.S. Construction Co., or under any other name or names, and its officers, and Jesse D. Gregg and Del L. Young, individually and as officers of said corporation, and respondents' agents, representatives and employees, directly or through any corporate or other device, in connection with the advertising, offering for sale, sale, distribution or installation of residential aluminum or steel siding or other home improvement products or services, or any other products, 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 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.

2. Representing, directly or by implication, that any reduced price, allowance, discount, commission or other compensation is granted by respondents to purchasers in return for permitting or agreeing to allow the premises on which respondents' products are installed to be used for model homes or demonstration purposes.

3. Representing, directly or by implication, that 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.

4. Representing, directly or by implication, that respondents or their salesmen are connected or affiliated with the United States Steel Company; or misrepresenting in any manner, the identity of the manufacturer or the source of any of respondents' products or the business connections or affiliations of respondents or their salesmen.

5. Representing, directly or by implication, that any of respondents' products are guaranteed, unless the nature and extent of the guarantee, the identity of the guarantor and the manner in which the guarantor will perform thereunder are clearly and conspicuously disclosed; or making any direct or implied representation that any of respondents' products are guaranteed unless in each instance a written guarantee is given to the purchaser containing provisions fully equivalent to those contained in such representations.

6. Failing to deliver a copy of this order to cease and desist to all present and future salesmen or other persons engaged in the sale of respondents' products or services, and failing to secure from each such salesman or other person a signed statement acknowledging receipt of said order.

It is further ordered, That the respondent corporation shall forthwith distribute a copy of this order to each of its operating divisions.

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.
