

Complaint

IN THE MATTER OF

GREATER KANSAS CITY GAS FURNACE AND AIR
CONDITIONING COMPANY, INC., ET AL.

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

Docket C-1541. Complaint, June 6, 1969—Decision, June 6, 1969

Consent order requiring a Kansas City, Missouri, distributor of furnaces and other heating equipment, to cease making false representations to prospective customers that the condition of their furnace is defective, unsafe, or hazardous.

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 the Greater Kansas City Gas Furnace and Air Conditioning Company, Inc., a corporation, and Dennis G. Svejda, individually and as an officer of said corporation, hereinafter referred to as respondents, have violated the provisions of the 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 Greater Kansas City Gas Furnace and Air Conditioning Company, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of Missouri, with its principal office and place of business located at 3315 Troost, Kansas City, Missouri.

Respondent Dennis G. Svejda is an officer of the corporate respondent. He formulates, directs and controls the acts and practices of the corporate respondent, including the acts and practices hereinafter set forth. His 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 sale and distribution of furnaces, heating equipment and parts therefor to the purchasing public, and in the repair and servicing of heating equipment.

PAR. 3. In the course and conduct of their business, respondents now cause, and for some time last past have caused, their products, when sold, to be shipped from their principal place of

business in the State of Missouri to purchasers thereof located in the States of the United States other than the State in which the shipments originated. In the course of the repairing of furnaces, heating equipment or the parts thereof, respondents have sent their employees to repair and service such furnaces, heating equipment and the parts thereof at the homes of customers located in States of the United States other than the State in which the principal office and place of business of the corporate respondent was located, and at all times mentioned herein respondents have maintained a substantial course of trade in commerce, as "commerce" is defined in the Federal Trade Commission Act.

PAR. 4. In the course and conduct of their business, as aforesaid, and for the purpose of selling their products or services, respondents, directly and through representatives, employ many unfair and deceptive practices. Among and typical of such practices are the following:

(1) Respondents through phone solicitations and otherwise offer low cost cleaning services, thereby gaining access to home owners' heating plants or equipment.

(2) Respondents' salesmen and servicemen falsely represent to the owner of a furnace or heating equipment that the said furnace or heating equipment is defective, is not repairable, or is dangerous to use, to the extent that continued use will result in asphyxiation, carbon monoxide poisoning, fires or other damage.

(3) The employees and representatives of respondents, by misrepresenting the condition of furnaces to the owners, and misrepresenting the danger inherent in continued use of such furnaces, have caused the furnace owners to purchase furnaces or parts from respondents, which they would not have otherwise purchased.

PAR. 5. In the course and conduct of their business at all times mentioned herein, respondents have been in substantial competition in commerce with corporations, firms and individuals in the sale, repair and servicing of furnaces, heating equipment and the parts thereof of the same general kind and nature as sold, repaired or serviced by respondents.

PAR. 6. The use by respondents of the aforesaid acts and practices in connection with the conduct of their business has had, and now has, the capacity and tendency to mislead and deceive a substantial number of the public, to cause many owners

of furnaces and heating equipment, through fear of continuing to use such equipment, to discard such furnaces and heating equipment before the completion of the useful life of such products and to purchase furnaces, heating equipment and parts thereof sold by respondents, or to contract for extensive but unnecessary repairs of existing furnaces and heating equipment. As a result thereof, trade has been unfairly diverted to respondents from their competitors and substantial injury has thereby been, and is being, done to competition in commerce.

PAR. 7. 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 and deceptive acts and practices and unfair methods of competition in commerce within the intent and meaning 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 Greater Kansas City Gas Furnace and Air Conditioning Company, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of Missouri, with its office and principal place of business located at 3315 Troost, Kansas City, Missouri.

Respondent Dennis G. Svejda is an officer of said corporation and his 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 Greater Kansas City Gas Furnace and Air Conditioning Company, Inc., a corporation, and its officers, and Dennis G. Svejda, individually and as an officer of said corporation, and respondents' agents, representatives and employees, directly or through any corporate or other device, in connection with the sale, repair or servicing of furnaces, heating equipment or the parts thereof, or any other product, 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:

(a) Respondents will clean a prospective customer's furnace or heating equipment for a nominal fee unless, as a matter of fact, such offer is a bona fide offer to inspect or to clean such furnace or heating equipment;

(b) Any furnace, heating equipment or parts thereof are defective, not repairable or repairable only at extensive cost, unless such are the facts;

(c) The continued use of any furnace, heating equipment or parts thereof is dangerous or hazardous to the health of the owner thereof or his family, due to escaping carbon monoxide, fire or other causes, unless such are the facts;

(d) A furnace which has been inspected by respondents' employees cannot be used without danger of asphyxiation, gas poisoning, fires or other damage, when such is not a fact;

2. Misrepresenting in any manner the condition of any

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furnace, heating equipment or the parts thereof which have been inspected by respondents or their employees.

It is further ordered, That respondents:

a. 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 secure from each such salesman or other person a signed statement acknowledging receipt of said order.

b. Distribute a copy of this order to each of their 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.