

Complaint

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IN THE MATTER OF

HILCO HOMES CORPORATION

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

Docket C-1568. Complaint, July 28, 1969—Decision, July 28, 1969

Consent order requiring a Philadelphia, Pa., housing and building contractor to cease using bait tactics, false advertising, and deceptive pricing representations, and failing to disclose that settlement and other costs are to be borne by the purchaser of its houses.

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 Hilco Homes Corporation, a corporation, hereinafter referred to as respondent, has 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 Hilco Homes Corporation is a corporation organized, existing and doing business under and by virtue of the laws of the State of Pennsylvania, with its office and principal place of business formerly located at 70th Street off Essington Avenue, in the city of Philadelphia, State of Pennsylvania, with present address 7320 Old York Road, Philadelphia, Pennsylvania.

PAR. 2. Respondent has engaged in the manufacturing, advertising, offering for sale, sale, distribution and construction of houses, garages, other structures, and other products to the public.

PAR. 3. In the course and conduct of its business, respondent caused its products, when sold, to be shipped from its place of business in the State of Pennsylvania 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 its aforesaid business, and for the purpose of inducing the purchase of its products, respond-

ent has made numerous statements and representations in newspaper and magazine advertisements, advertising circulars and other promotional material and in the oral representations made by its representatives, agents or employees with respect to the nature of its offer, the terms and conditions of sale, financing requirements, degree of completion, and other characteristics of its products.

Typical and illustrative of the statements and representations in said advertising and promotional material, but not all-inclusive thereof, are the following:

We'll custom-build your dream home
 * * * and lend you the money to buy it!
 100% completed
 HILCO HOMES
 start as low as
 \$69
 per month on your lot
 (25 year mortgage)

(Picture of
 Winston Model)

Ask us about the Hilco
 "Pitch-in-Plan" that
 lets you have a dream
 home for as little as
 \$49 a month on your lot

NO DOWN PAYMENT * * * NO CLOSING OR SETTLEMENT COSTS
 LONG-TERM PERMANENT FINANCING * * * if you own your own lot

PAR. 5. By and through the use of the aforesaid pictures, statements and representations, and others of similar import and meaning, but not specifically set out herein, and in the oral statements and representations of its representatives, agents or employees, respondent has represented, directly or by implication, that:

1. The offer set forth in said advertisement was a genuine and bona fide offer to sell houses of the kind therein illustrated and described at the price and on the terms and conditions therein stated.
2. A house of the kind illustrated and described was offered for sale at \$69 per month under a 25-year mortgage.
3. A house of the kind illustrated and described was offered for sale at \$49 per month on a "Pitch-in-Plan" basis.
4. A 100% complete, custom-built house of the kind illustrated and described was offered for sale for the monthly payments and

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under the prices, terms and conditions stated; and that respondent's other houses were custom-built and 100% completed when purchased.

5. Respondent offered a house of the kind illustrated and described and respondent's other houses at the price and on the terms and conditions stated, to the owner of an unimproved lot or parcel of real estate upon which said house is to be built.

6. A house of the kind illustrated and described and respondent's other houses were sold and financed without the payment of closing or settlement cost.

7. A house of the kind illustrated and described and respondent's other houses were sold and financed without a downpayment or other initial payment of money.

PAR. 6. In truth and in fact:

1. The offer set forth above was not a genuine or bona fide offer to sell houses of the kind illustrated and described in the said advertisement and at the prices and on the terms and conditions stated. Said offer was made for the purpose of obtaining leads as to persons interested in the purchase of respondent's products. After obtaining such leads, respondent's dealers or representatives, called upon such prospective purchasers or negotiated with such purchasers in the offices or places of business of respondent, and dealers or representatives, and at such times and places made no effort to sell the houses at the prices and on the terms and conditions stated but induced such purchasers to purchase their houses at higher monthly payments and under terms and conditions different from the stated terms and conditions.

2. A house of the kind illustrated and described was not offered for sale for \$69 per month under a 25-year mortgage. Respondent sold a different and less expensive house for the stated monthly amount and in few, if any, instances offered a mortgage for 25 years. Respondent failed to disclose and quote the terms involved in the purchase of the house illustrated and described.

3. A house of the kind illustrated and described was not offered for sale for \$49 per month on a "Pitch-in-Plan" basis. Respondent offered to sell a different and less expensive house for said amount, and failed to disclose the terms involved in the purchase of the house illustrated on the said "Pitch-in-Plan" basis.

4. A 100% complete, custom-built house of the kind illustrated and described was not offered for sale at the prices, terms and conditions stated. The illustrated and described house could not

be purchased at the prices, terms and conditions stated and the house which could be purchased under the prices, terms and conditions stated was a prefabricated incomplete house and did not include all of the various items normally included in a completed home such as landscaping, driveways, walks, water, sanitation systems, and an oven in an otherwise equipped kitchen.

Generally, respondent's houses were not 100% complete when purchased but were incomplete houses which required additional items and fixtures at extra cost to the purchaser thereof which fact respondent failed to reveal.

5. Respondent did not offer a house of the kind illustrated and described or respondent's other houses at the prices and on the terms and conditions stated to owners of unimproved lots or parcels of real estate upon which the houses were to be constructed. Respondent required that said lot or real estate parcel be improved in certain respects and otherwise meet certain requirements imposed by the respondent before it could be used to meet respondent's requirements for purchasing and financing said houses.

6. A house of the kind illustrated and described or respondent's other houses were not sold and financed without the payment of settlement or closing costs. Respondent collected a substantial settlement or closing cost by inclusion thereof in the mortgage and/or purchase contract obligations, and failed to disclose the inclusion of such amount to the purchaser.

7. A house of the kind illustrated and described and respondent's other houses were not sold and financed without the requirement of a downpayment. In those transactions involving the purchase of respondent's houses through financing provided or arranged by respondent, the lending institution utilized by respondent obtained equitable title to the purchaser's lot or parcel of real estate together with the additions and improvements thereto by virtue of the execution of a mortgage thereon in favor of said lending institution by said purchaser, which title was in fact considered and accepted as said equity or security to constitute a downpayment on respondent's house, and a future initial payment in a substantial amount was required of a purchaser at the time of the execution of the purchase agreement.

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

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PAR. 7. By and through the use of the aforesaid acts and practices, respondent placed in the hands of others the means and instrumentalities by and through which they may mislead and deceive the public in the manner and as to the acts and practices hereinabove alleged.

PAR. 8. In the conduct of its business, and at all times mentioned herein, respondent has been 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 the respondent.

PAR. 9. The use by respondent 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 respondent's products by reason of said erroneous and mistaken belief.

PAR. 10. The aforesaid acts and practices of respondent, as herein alleged, were and are all to the prejudice and injury of the public and of respondent's 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 respondent named in the caption hereof, and the respondent 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 respondent with violation of the Federal Trade Commission Act; and

The respondent and counsel for the Commission having thereafter executed an agreement containing a consent order, an admission by the respondent 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 respondent 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 respondent has 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 described 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 Hilco Homes Corporation is a corporation organized, existing and doing business under and by virtue of the laws of the State of Pennsylvania, with its principal place of business located at 7320 Old York Road, Philadelphia, Pennsylvania.

2. The Federal Trade Commission has jurisdiction of the subject matter of this proceeding and of the respondent, and the proceeding is in the public interest.

ORDER

It is ordered, That respondent Hilco Homes Corporation, a corporation, and its officers, and respondent's agents, representatives, and employees, directly or through any corporate or other device, in connection with the advertising, offering for sale, sale or distribution or construction of houses, or other structures, or products in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. Using, in any manner, a sales plan, scheme, or device wherein false, misleading or deceptive statements or representations are made in order to obtain leads or prospects for the sale of houses or other products.

2. Making representations purporting to offer houses or other products for sale when the purpose of the representation is not sell the offered house or other product but to obtain leads or prospects for the sale of other houses or other products.

3. Representing, directly or by implication, that any houses or other products are offered for sale when such offer is not a bona fide offer to sell such houses or other products.

4. Representing, directly or by implication, that houses or other products are offered for sale for certain prices or on

stated terms, conditions or financing arrangements unless fully applicable and available with respect thereto; or misrepresenting in any manner the prices, terms, conditions and financing arrangements for respondent's houses or other products.

5. Illustrating or describing a higher-priced home in conjunction with the price of a lower-priced home.

6. Failing to quote and to disclose in advertising and promotional material the price of an illustrated or described home with equal size and conspicuousness as the price quoted for any other home.

7. Representing, directly or by implication, that respondent's houses which are not 100% complete or custom-built are 100% complete or are custom-built.

8. Failing to disclose, clearly and conspicuously, in advertising and promotional material, that respondent's houses which are incomplete homes are incomplete homes.

9. Quoting prices, terms or conditions in advertising which does not include all of the features of the house or other products illustrated or described.

10. Representing, directly or by implication, that respondent's offers are made available to owners of lots or parcels of real estate without clearly and conspicuously revealing any requirements, conditions or limitations applicable to said property such as but not limited to value, location, size or improvements.

11. Representing, directly or by implication, that houses or other products may be purchased without downpayment, settlement or closing costs, or other initial payment.

12. Failing clearly and conspicuously to disclose and separately to designate both orally and in contracts of sale or contracts of purchase or papers which list the charges of respondent's products, the amounts of the downpayment, settlement charges, closing costs, or other initial payment.

13. Furnishing any advertising and promotional material, brochures, or mailings, suggested sales talks and presentations, contracts of sale or contracts of purchase, or any other means of similar import whereby the public may be misled or deceived as to any of the matters prohibited by this order.

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

15. Failing, after the acceptance by the Commission of respondent's initial report of compliance, to submit to the Commission on June 1st of each of the succeeding three years a report: (1) describing every complaint involving the acts and practices prohibited by this order received by respondent from or on behalf of their customers during the 12 months preceding the date of the report; (2) setting forth the facts uncovered by respondent in connection with the investigation made of each such complaint; and (3) stating the action taken by respondent with respect to each such complaint.

It is further ordered, That the respondent herein shall, within 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.
