

IN THE MATTER OF

INTERNATIONAL BROTHERHOOD OF TEAMSTERS,
CHAUFFEURS, WAREHOUSEMEN AND HELPERS OF
AMERICA, LOCAL UNION 959CONSENT ORDER, ETC., IN REGARD TO ALLEGED VIOLATION OF
THE FEDERAL TRADE COMMISSION ACT

Docket C-2963. Complaint, May 9, 1979 — Decision, May 9, 1979

This consent order, among other things, requires an Anchorage, Alaska labor union local to cease entering into agreements or understandings which restrict signatory construction companies to deal only with subcontractors who agree with the same terms and conditions binding between the union and the contractors. Additionally, the order prohibits the local from taking any action that would discriminate or economically injure non-compliers.

Appearances

For the Commission: *Stevan D. Phillips.*

For the respondent: *George H. Davies, Seattle, Wash.*

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 above-named respondent has violated Section 5 of the 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:

PAR. 1. The International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of America, Local Union 959 (hereinafter sometimes referred to as "respondent" or "Local 959") is an unincorporated labor association, with its principal office and place of business located at 1200 Airport Heights Road, Anchorage, Alaska. Membership of respondent consists of approximately 15,000 individuals who are engaged as employees in various occupations in Alaska.

PAR. 2. Respondent now and for some time last past, has been engaged in the representation of its members, including the conduct of negotiations and execution of agreements with various employers engaged in the construction businesses. In the course of its activities, respondent has engaged in various acts and practices which are in or

affecting interstate commerce, within the meaning of the Federal Trade Commission Act.

PAR. 3. Respondent has agreed with certain employers engaged in the construction business, including members of the Alaska Chapter of the Associated General Contractors of America, Inc. to prevent or hinder competition among subcontractors or contractors. Such agreements provide, for work within the jurisdiction of respondent, that:

A. the employer engaged in the construction business shall not subcontract any work, except to subcontractors who agree to perform the work in accordance with all the terms and conditions of the agreement;

B. the employer engaged in the construction business shall assure that subcontractors become signatory to the agreement before the subcontractors perform any work for the business;

C. members of the bargaining unit represented by respondent shall not perform any work for other employers engaged in the construction business, except in accordance with the terms and conditions of the agreement.

PAR. 4. As a result of these agreements, subcontractors are foreclosed from or restricted in competing for work offered by employers engaged in the construction business having such an agreement with respondent.

PAR. 5. The aforementioned acts and practices constitute unfair methods of competition in violation of Section 5(a) 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 respondent having been furnished thereafter with a copy of a draft of complaint which the Seattle Regional Office 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 sixty days, and having duly considered the comments filed thereby by interested persons pursuant to Section 2.34 of its Rules, now in further conformity with the procedure prescribed in Section 2.34 of its Rules, the Commission hereby issues its complaint, makes the following jurisdictional findings, and enters the following order:

A. Respondent International Brotherhood of Teamsters, Chauffeurs, Warehousemen, and Helpers of America, Local Union 959 is an unincorporated labor association existing and doing business in the State of Alaska, with its office and principal place of business located at 1200 Airport Heights Road, Anchorage, Alaska.

B. 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 International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of America, Local Union 959, its successors and assigns, affiliated sub-divisions, officers, trustees, employees, agents and members, directly or indirectly through any other form of business organization, shall forthwith cease and desist from:

1. Entering into any agreement or understanding that requires an employer engaged in the construction business to use or deal only with third party businesses who agree to perform work on the same terms and conditions as are agreed to between such employer engaged in the construction business and respondent;

2. Entering into any agreement or understanding with an employer engaged in the construction business that requires a third party business to be signatory to a collective bargaining agreement or other type of agreement that is binding between respondent and such employer engaged in the construction business;

3. Entering into any agreement or understanding with an employer engaged in the construction business that requires respondent to agree to the same terms and conditions of employment with a third party business as are binding between respondent and such employer engaged in the construction business;

4. Taking any action which would discriminate against or

economically injure those employers engaged in the construction business which deal with third party businesses on terms other than those agreed to between such employer engaged in the construction business and respondent.

Provided, however, That respondent shall not be prohibited from engaging in any legal activity now or later authorized by federal labor law such as the right of respondent to engage in standards picketing, or entering into any agreement authorized by §8(e) of the National Labor Relations Act, 29 U.S.C. 158(e), as long as said agreement is only effective when a member of the bargaining unit represented by respondent is employed and currently working at the site of the construction, alteration, painting or repair of the building, or other work.

It is further ordered, That respondent deliver a copy of this order to each of its present business agents, officers, trustees, and labor negotiators, and secure from each such person a signed statement acknowledging receipt of said order and that respondent, for a period of three (3) years subsequent to the date of this order, deliver a copy of this order to future business agents, officers, trustees and labor negotiators and secure from each such person a signed statement acknowledging receipt of such order.

It is further ordered, That respondent's Secretary-Treasurer, for a period of three (3) years subsequent to the date of this order annually furnish to the Federal Trade Commission any collective bargaining agreements with any employer engaged in the construction business.

It is further ordered, That respondent notify the Commission at least thirty (30) days prior to any proposed change in the organizational status of the respondent such as dissolution, assignment or sale resulting in the emergence of a successor labor organization, or any other change in the respondent which may affect compliance obligations arising out of the order.

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 respondent has complied with this order.

IN THE MATTER OF
ALUMINUM COMPANY OF AMERICA, ET AL.

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

Docket C-2964. Complaint, May 11, 1979 — Decision, May 11, 1979

This consent order, among other things, requires a Pittsburgh, Pa. producer of aluminum building products and its subsidiary, Alcoa Building Products, Inc., to cease disseminating or participating in the dissemination of advertisements which contain fuel reduction, heat loss reduction, energy savings or thermal insulation representations regarding residential aluminum siding. The order also requires that the R-value for insulating material be disclosed in advertisements which merely use the term "insulated aluminum siding" for descriptive purposes.

Appearances

For the Commission: *David W. Plottner.*

For the respondents: *Russel W. Porter, Jr., Pittsburgh, Pa.*

COMPLAINT

The Federal Trade Commission, having reason to believe that Aluminum Company of America, a corporation, hereinafter sometimes referred to as Alcoa, and Alcoa Building Products, Inc., a corporation, hereinafter sometimes referred to as ABP, have violated the provisions of Section 5 of the Federal Trade Commission Act and that a proceeding by it in respect thereof would be in the public interest, issues this complaint:

PARAGRAPH 1. Respondent Alcoa is a Pennsylvania corporation with its principal office at 1501 Alcoa Building, Pittsburgh, Pennsylvania. It dominates and controls the acts and practices of Alcoa Building Products, Inc.

Respondent Alcoa Building Products, Inc. is a Pennsylvania corporation wholly owned and operated by Alcoa as its subsidiary, with its principal office at 1200 Two Allegheny Center, Pittsburgh, Pennsylvania.

PAR. 2. Respondent Alcoa, a leading producer and fabricator of aluminum, is now, and has been, engaged in the advertising of aluminum building products, including, but not limited to, residential aluminum siding distributed and sold by its wholly-owned subsidiary, ABP.

Respondent ABP is now, and has been, engaged in the distribution, advertising, and sale of aluminum building products, including residential aluminum siding.

PAR. 3. Respondents maintain, and at all times mentioned herein have maintained, a substantial course of trade in the distribution, advertising, including that referred to in Paragraph Four, and sale of the aforementioned products in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act.

PAR. 4. Through the use of advertisements and other printed materials, respondents have made statements with regard to their residential aluminum siding. Among said statements are the following:

(a) When properly applied over reflective aluminum foil in your present exterior siding, Alcoa siding forms a protective insulating envelope that could reduce heat loss in winter and heat gain in summer. And save precious fuel.

(b) Home insulation can be beautiful.

(c) Alcoa aluminum siding: the beautiful insulator.

(d) Not so apparent are the long term fuel savings possible with Alcoa siding, but you'll know they're there when you take a look at the amount you can save after installation.

(e) As you can see, the hypothetical Wellingtons and Hamiltons saved a considerable amount of fuel after they had Alcoa siding installed.

(f) YOUR HOUSE CAN HIT BACK WHEN THE ENERGY CRISIS HITS HOME. Alcoa building products can help your house put the crunch on energy consumption. One example is Alcoa siding.

(g) Alcoa insulated siding saves on heating and cooling costs! Save on fuel bills at your house like never before! That's right Alcoa insulated siding helps insulate your home year round.

(h) You'll probably use less fuel in years to come because Alcoa siding has definite insulating advantages.

(i) You can beautify your home and insulate it at the same time with Alcoa siding.

(j) We sell insulation in 17 colors, 5 textures and 50 states. From Alaska out to Hawaii, around to Florida and up to Maine, Alcoa Building Products can do a beautiful job of insulating against both cold and heat

PAR. 5. By the use of the statements described in Paragraph Four, and others of similar meaning, respondents have represented, directly or by implication, that:

(a) Aluminum siding installed over aluminum foil, using prevalent and accepted installation methods, has significant insulation value

and will insulate pre-existing homes, thereby significantly saving energy and reducing fuel costs.

(b) The purchase of aluminum siding, regardless of type, and its subsequent installation on pre-existing homes, regardless of method of installation, is a meaningful, valuable, significant, or economical way: to insulate an older home, or to cut heat loss through the exterior walls of an older home, and, accordingly, to save energy and reduce fuel bills.

PAR. 6. In fact:

(a) (1) Plain aluminum siding installed over aluminum foil has little or no insulation value, and will not insulate pre-existing homes, thereby significantly saving energy and reducing fuel costs.

(2) Insulated aluminum siding installed over aluminum foil in pre-existing homes using prevalent and accepted installation methods frequently provides no or little insulation value, and does not result in substantial reductions in energy use and fuel costs.

(b) The purchase of aluminum siding, regardless of type, and its subsequent installation, on pre-existing homes, regardless of method of installation, is not a meaningful, valuable, significant, or economical way: to insulate an older home, or to cut heat loss through the exterior walls of an older home, and, accordingly, to save energy and reduce fuel bills.

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

PAR. 7. In the course and conduct of their business, and at all times mentioned herein, respondents have been, and now are, in substantial competition in commerce with corporations, firms, and individuals engaged in the sale of residential aluminum siding.

PAR. 8. The use by respondents of the aforesaid deceptive and unfair practices has had, and now has, the tendency and capacity to mislead and deceive a substantial portion of the purchasing public into the purchase of substantial quantities of respondents' products. Therefore, these practices were and are to the prejudice and injury of the public and constitute unfair or deceptive acts or practices in or affecting commerce, in violation of Section 5 of the Federal Trade Commission Act.

