

UNITED STATES OF AMERICA
BEFORE FEDERAL TRADE COMMISSION

In the Matter of
INSTITUTE OF STORE PLANNERS,
a corporation.
Docket No. C-4080

COMPLAINT

Pursuant to the provisions of the Federal Trade Commission Act, as amended, 15 U.S.C. § 41 et seq., and by virtue of the authority vested in it by said Act, the Federal Trade Commission, having reason to believe that the Institute of Store Planners ("Respondent" or "ISP"), a corporation, has violated and is violating the provisions of Section 5 of the Federal Trade Commission Act, 15 U.S.C. § 45, and it appearing to the Commission that a proceeding by it in respect thereof would be in the public interest, hereby issues this Complaint stating its charges as follows:

PARAGRAPH ONE: Respondent Institute of Store Planners, is a corporation organized and existing under the laws of the State of New York with its principal office and place of business at 25 North Broadway, Tarrytown, New York 10591.

PARAGRAPH TWO: Respondent is a professional association organized for the purpose, among others, of serving the interests of its members. It has approximately 860 members. ISP's members consist of professional design practitioners who provide architectural, store design, store planning, merchandise planning, traffic flow planning, fixture design, lighting design, in-store graphics, and visual presentation services to retail stores. Its members also consist of trade members, such as, fabricators and suppliers of products and materials used in store design, as well as general contractors who provide labor and project management services and build the projects.

PARAGRAPH THREE: The general business practices of Respondent and its members, including the acts and practices herein alleged, are in or affecting "commerce" as defined in the Federal Trade Commission Act, as amended, 15 U.S.C. § 45.

PARAGRAPH FOUR: Respondent engages in substantial activities for the economic benefit of its members. At all times relevant to this Complaint, Respondent is and has been organized in substantial part for the profit of its members, and is therefore a corporation within the meaning of Section 4 of the Federal Trade Commission Act, as amended, 15 U.S.C. § 44.

PARAGRAPH FIVE: Many of Respondent's members provide store planning services for a fee or are employed by store planning or design firms that provide store planning services for a fee. Except to the extent that competition has been restrained as herein alleged, many of ISP's members have been and are now in competition among themselves and with others.

PARAGRAPH SIX: Respondent acting as a combination of its members, and in agreement with at least some of its members, has acted to restrain price and non-price competition among its members and others.

PARAGRAPH SEVEN: In furtherance of the combination and agreement alleged in Paragraph Six, Respondent has adopted and maintained provisions in its *ISP Code of Ethics* that state, among other things, "a member shall not render professional services without compensation" (*ISP Code of Ethics* Section 2) and "a member shall not knowingly compete with another member on the basis of professional charges, or use donations as a device for obtaining professional advantage" (*ISP Code of Ethics* Section 3). The Code further provides that "a member shall not offer his services in a competition except as provided by such competition codes as the Institute may establish" (*ISP Code of Ethics* Section 4).

PARAGRAPH EIGHT: The purpose, effects, tendency, or capacity of the combination, agreement, and acts or practices described in Paragraphs Six and Seven, have been and are to restrain competition unreasonably and to injure consumers by:

- A. discouraging and restricting price competition among store planners; and
- B. depriving consumers and other users of store planners' services of the benefit of free and open competition among store planners.

PARAGRAPH NINE: The combination, agreement, and acts or practices described above constitute unfair methods of competition and unfair acts and practices in violation of Section 5 of the Federal Trade Commission Act, as amended, 15 U.S.C. § 45. Such combination, agreement, and acts or practices, or the effects thereof, are continuing and will continue or recur in the absence of the relief herein requested.

WHEREFORE, THE PREMISES CONSIDERED, the Federal Trade Commission on this twenty-seventh day of May, 2003, issues its Complaint against ISP.

By the Commission.

Donald S. Clark
Secretary

SEAL