

IN THE MATTER OF
INFRA INSULATION, INC., ET AL.

CONSENT SETTLEMENT IN REGARD TO THE ALLEGED VIOLATION
OF THE FEDERAL TRADE COMMISSION ACT

Docket 6072. Complaint, Dec. 12, 1952—Decision, July 29, 1953

Where a corporation and its two officers, engaged in the manufacture and interstate sale of their "Infra Insulation" reflective aluminum insulation, through statements in a 56-page brochure, newspaper advertisements, pamphlets and otherwise, directly or by implication—

- (1) Represented that their "Infra" insulation was 97 percent efficient; that the flow of heat through "Infra" was only 3 percent as compared with 90 percent for mass insulations, and that of all heat reaching "Infra" only 3 percent was emitted as compared with 90 percent in the case of mass; and represented thereby that the relative insulating effects of reflective, as compared with mass insulations, was indicated by the magnitude of the surface radiation coefficients of the respective materials;

When in fact the use of aforesaid numbers and expressions was fundamentally incorrect and the implication created thereby, that "Infra" insulation was many times more effective than mass insulation in retarding the flow of heat, was not correct;

- (2) Represented conductance values for the several types of their own insulation as considerably lower than the actual values, and the conductivity values for mass insulation as substantially higher than the actual;
- (3) Represented falsely that the thermal conductivity of mass insulations varied to a marked degree because of thickness orientation and internal convection, and temperature differences; when in fact the effect of temperature differences was more marked with reflective insulations than with mass insulations;
- (4) Represented falsely that "Infra" insulation was noncondensation forming and prevented all moisture and vapor flow in a construction, and that mass insulation was always or usually subject to condensation and accordingly to large accumulations of moisture;
- (5) Represented falsely that significantly less ventilation was needed in installations of "Infra" insulation than with those of mass insulation;
- (6) Represented that dust streaks on plaster resulted from dampness present in mass insulation; when in fact dust streaks are seldom so caused when mass insulation is properly installed;
- (7) Advocated a heat flow test involving radiant heat lamps for comparing the value of different types of house insulation, when such test was not in general an applicable or accurate method for making such comparison; and
- (8) Represented falsely that mineral wool insulation created a health hazard both during its installation and in place afterward;

Held, That such acts and practices were all to the prejudice and injury of the public and respondents' competitors and constituted unfair and deceptive acts and practices and unfair methods of competition in commerce.

Before *Mr. Frank Hier*, hearing examiner.

Mr. Jesse D. Kash for the Commission.

Pheiffer, Stephens & Weaver and Kirkland, Fleming, Green, Martin & Ellis, of Washington, D. C., and *Mr. Alexander Schwartz*, of New York City, for respondents.

CONSENT SETTLEMENT ¹

Pursuant to the provisions of the Federal Trade Commission Act, the Federal Trade Commission on December 12, 1952, issued and subsequently served its complaint on the respondents named in the caption hereof, charging them with unfair and deceptive acts and practices in commerce and unfair methods of competition in commerce within the intent and meaning of the Federal Trade Commission Act. The respondents Infra Insulation, Inc., a corporation, and Alexander Schwartz and Joseph R. Schwartz, individually and as officers of said corporation, desiring that this proceeding be disposed of by the consent settlement procedure provided in Rule V of the Commission's Rules of Practice, solely for the purpose of this proceeding, any review thereof and the enforcement of the order consented to and conditioned upon the Commission's acceptance of the consent settlement hereinafter set forth and in lieu of answer to said complaint filed January 27, 1953, and which, upon acceptance by the Commission of this consent settlement, is to be withdrawn from the record, hereby:

1. Admit all the jurisdictional allegations set forth in the complaint.

2. Consent that the Commission may enter the matters hereinafter set forth as its findings as to the facts, conclusion and order to cease and desist. It is understood that the respondents, in consenting to the Commission's entry of said findings as to the facts, conclusions and order to cease and desist, specifically refrain from admitting or denying that they have engaged in any of the acts or practices stated therein to be in violation of law or that such acts and practices if engaged in would be in violation of law.

3. Agree that this consent settlement may be set aside in whole or in part under the conditions and in the manner provided in Paragraph "f" of Rule V of the Commission's Rules of Practice.

The admitted jurisdictional facts, the statement of the acts and practices which the Commission has reason to believe are unlawful, the conclusion based thereon, and the order to cease and desist, all of

¹ The Commission's "Notice" announcing and promulgating the consent settlement as published herewith, follows:

The consent settlement tendered by the parties in this proceeding, a copy of which is served herewith, was accepted by the Commission on July 29, 1953, and ordered entered of record as the Commission's findings as to the facts, conclusion, and order in disposition of this proceeding.

The time for filing report of compliance pursuant to the aforesaid order runs from the date of service hereof.

which the respondents consent may be entered herein in final disposition of this proceeding, are as follows:

FINDINGS AS TO THE FACTS

PARAGRAPH 1. Corporate respondent Infra Insulation, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of New York, with its office and principal place of business located at 10 Murray Street, New York, New York. Individual respondents Alexander Schwartz and Joseph R. Schwartz are president and secretary-treasurer, respectively, of corporate respondent, with their offices and principal place of business located at the same address as corporate respondent, and as such officers, formulate, direct and control the acts and practices of the corporate respondent, including the acts and practices hereinafter set forth.

PAR. 2. The respondents are now, and for more than 1 year last past have been, engaged in the business of manufacturing and selling reflective aluminum insulation designated "Infra Insulation."

PAR. 3. In the conduct of their business, as aforesaid, respondents cause and have caused their product, when sold, to be transported from their place of business in New York to purchasers thereof located in various other states of the United States and in the District of Columbia.

Respondents maintain, and at all times mentioned herein have maintained, a course of trade in said product in commerce between and among the various states of the United States and in the District of Columbia. Their volume of trade in said product in such commerce is, and has been, substantial.

PAR. 4. In the course and conduct of their said business respondents are in competition with other corporations and with partnerships, firms and individuals engaged in the sale and distribution of insulating material in commerce between and among the various states of the United States and in the District of Columbia.

PAR. 5. In the course and conduct of their business, and for the purpose of inducing the sale of their insulating material, respondents have made, and are now making, certain statements and representations concerning the quality, value and nature of their product and various statements with reference to the product of their competitors who engage in the manufacture and sale of insulating material. The representations are made by means of statements in a brochure containing 56 pages designated "Simplified Physics of Vapor and Thermal Insulating," 5th Revised Edition 1951, and by means of advertisements in newspapers, pamphlets and other advertising media

of general circulation in various states of the United States and in the District of Columbia, the advertisements in newspapers and other advertising media being extracts from various statements made in the brochure mentioned. Among and typical of said statements are those having to do with the following subject matter and appearing on the following pages of said brochure:

1. Emissivity, absorptivity, and reflectivity values of aluminum and other materials to indicate heat flow rates in insulations. pp. 2, 7, 9, 13, 18, 31, and 39.

2. Conductance values for Infra insulation set out on the back cover of said brochure and on pp. 2, 7, 16, 39, and 47.

3. Conductivity values for mineral wool insulation in the table on the back cover and on pp. 39, 45, and 47.

4. The effects on the thermal insulating value of fibrous insulations due to thickness orientation and internal convection, temperature differences. pp. 23 and 24.

5. Statements made concerning Infra insulation and fibrous insulations as to how they behave and are affected by condensation. pp. 3, 4, 7, 9, 18, 19, 20, 26, 29, 30, 31, 32, 33, 38, 39, 42, and 47.

6. Ventilation above ceiling insulation. pp. 32 and 33.

7. The causes of dust streaks on plaster and how they are affected by insulation. pp. 42 and 43.

8. Heat flow test used to determine the value of insulating products. pp. 23, 26, and 27.

9. The health hazard involved in the use of mineral wool insulation.

PAR. 6. Through the use of the statements appearing in the brochure specifically referred to under the various subdivisions set out in Paragraph 5 hereof, respondents represented, directly or by implication:

1. That their Infra insulation is 97 percent efficient; that the flow of heat by radiation through Infra insulation is only 3 percent while it is 90 percent for mass insulations; and that of all heat reaching Infra insulation, only 3 percent is emitted while in the case of mass insulation 90 percent is emitted. By the manner of use of these figures respondents represented that the relative insulating effects of reflective, as compared with mass insulations, are indicated by the magnitude of the surface radiation coefficients of the respective materials.

2. That the conductance values set out for the several Infra insulations in various orientations are the actual values.

3. That the conductivity values set out for mass insulation are fairly representative values and the comparison between the Infra insulation values and mass insulation values are factually correct.

Findings

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4. That the thermal conductivity of mass insulations varies to a marked degree because of thickness orientation and internal convection, and temperature differences.

5. That Infra insulation is noncondensation forming and that it prevents all moisture and vapor flow in a construction and that mass insulation is always or usually subject to condensation and accordingly to large accumulations of moisture.

6. That significantly less ventilation is needed in installations of Infra insulation than with those of mass insulations.

7. That dust streaks on plaster result from dampness present in mass insulation.

8. That the heat flow test involving radiant heat lamps is a proper method of comparing the value of different types of house insulation.

9. That mineral wool insulation creates a health hazard both during the process of installation thereof and in place after installation.

PAR. 7. The aforesaid representations are false, misleading and deceptive. In truth and in fact—

1. The numbers appearing in these expressions are the radiation emissivity, absorptivity or reflectivity (as the case may be) of the material discussed. Insofar as these numbers and expressions are employed to indicate rates of heat transmission, their use is fundamentally incorrect. The quoted statements ignore the fundamental fact that the rate of transmission of heat by radiation across an air space depends not only on its effective emissivity, but also on the temperature difference of its facing surfaces, for moderate temperature differences. The quoted statements assume that the temperature difference across a space is unchanged when the space is made reflective. This is in general not the case. The relative insulating effects of reflective as compared to mass insulation are not indicated solely by the magnitude of the surface radiation coefficients of the respective materials and the implication, created by the use of these radiation coefficients, that Infra insulation is many times more effective than mass insulation in retarding the flow of heat is not correct.

2. The conductance values cited for the several types of respondents' insulation are considerably lower than the actual values.

3. The conductivity values cited for mass insulation are substantially higher than the actual values.

4. There is not a large degree of variation in the thermal conductivity of mass insulations due to thickness orientation, internal convection, temperature difference; further, the effect of temperature difference is more marked with reflective insulations than with mass insulations.

5. Condensation of water vapor on or in Infra insulation is in fact possible and in some cases probable. Infra insulation installed in accordance with respondents' instructions may not prevent the flow of vapor into or through a well. Mass insulation, if properly installed, is not ordinarily subject to condensation to the extent that any significant amount of moisture will accumulate.

6. It is not true that in all installations significantly more ventilation is required in mass insulations than installations in which respondents' product is employed.

7. Dust streaks on plaster are seldom caused by dampness that may be present in mass insulation when such insulation is properly installed.

8. The heat flow test involving radiant heat lamps advocated by respondents is not in general an applicable or accurate method for comparing Infra insulation and mass insulations installed in structures.

9. Mineral wool insulation does not create a health hazard either during the process of installation thereof or in place after installation.

PAR. 8. The statements, claims and representations made by respondents, as aforesaid, with respect to mass insulation unfairly disparage the mass insulation products sold by their competitors and they and the various other statements, claims and representations have the capacity and tendency to mislead and deceive a substantial portion of the purchasing public into the erroneous and mistaken belief that such statements, claims and representations are true and into the purchase of substantial quantities of their product because of such mistaken and erroneous belief. As a consequence thereof, substantial trade in commerce has been and is being diverted to respondents from their competitors and substantial injury has thereby been done to competition in commerce.

It was not the purpose of this proceeding to determine and the Commission has not determined the comparative merit or insulating value of respondents' product and that of their competitors.

CONCLUSION

The aforesaid acts and practices of the respondents, as herein found, are all to the prejudice and injury of the public and of respondents' competitors and 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.

ORDER TO CEASE AND DESIST

It is ordered, That the respondent Infra Insulation, Inc., a corporation, and its officers and the respondents Alexander Schwartz and Joseph R. Schwartz, 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 offering for sale, sale and distribution of their insulating material known as Infra Insulation, or of any other insulating material of substantially the same properties, 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 relative insulating effects of respondents' reflective insulation as compared with mass insulation, are indicated solely by the magnitudes of the surface radiation coefficients of the respective materials.

2. Representing, directly or by implication, that the conductance values of their insulation are lower than they are in fact.

3. Representing, directly or by implication, that the conductivity values of mass insulation are higher than they are in fact.

4. Representing, directly or by implication, that the magnitude of variations of the thermal conductivity values of mass insulation due to thickness orientation, internal convection, temperature differences, or to any other reason, are greater than they are in fact.

5. Representing, directly or by implication, that condensation of water vapors on or in their insulation is not possible or that mass insulation, when properly installed, is ordinarily subject to condensation to the extent that a significant amount of moisture will accumulate.

6. Representing, directly or by implication, that significantly more ventilation is required in all installation of mass insulation than in installations in which respondents' product is employed.

7. Representing, directly or by implication, that dust streaks on plaster are ordinarily due to dampness present in mass insulation, when such insulation is properly installed.

8. Representing, directly or by implication, that the heat flow test involving radiant heat lamps is in general a proper method of comparing the relative insulating values of different types of house insulation.

9. Representing, directly or by implication, that mineral wool insulation creates a health hazard either during the installation thereof or when in place after installation.

10. Making any false or disparaging statement with respect to the insulating products of any competitor.

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Order

It is further ordered, That the respondents 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.

	INFRA INSULATION, INC.,
(Sgd) By	ALEXANDER SCHWARTZ,
	Alexander Schwartz, <i>President</i> .
(Sgd)	ALEXANDER SCHWARTZ,
	Alexander Schwartz, individually and as an officer of said corporation.
(Sgd)	JOSEPH R. SCHWARTZ,
	Joseph R. Schwartz, individually and as an officer of said corporation.

Dated: July 2, 1953.

The foregoing consent settlement is hereby accepted by the Federal Trade Commission and ordered entered of record on this the 29th day of July 1953.

IN THE MATTER OF

H. M. PRINCE TEXTILES, INC., ET AL.

CONSENT SETTLEMENT IN REGARD TO THE ALLEGED VIOLATION OF THE
FEDERAL TRADE COMMISSION ACT AND THE WOOL PRODUCTS LABELING
ACT

Docket 6081. Complaint, Feb. 10, 1953—Decision, July 29, 1953

Where two corporations and their common officer, and three officers of a bankrupt corporation, which the first two had furnished with quantities of wool and wool stocks, together with orders, specifications, content tags and labels, and instructions for manufacturing into wool products as defined in the Wool Products Labeling Act, engaged in the sale and distribution in commerce of said wool products—

- (1) Misbranded certain blankets in that they were not stamped, etc., as required by said Act; and
- (2) Misbranded certain blankets through such false labeling as "All Wool—Excl. of ornamentation," when in fact they contained in part reused or reprocessed wool, together with substantial quantities of miscellaneous other fibers:

Held, That such acts and practices constituted misbranding in violation of the Wool Products Labeling Act and the Rules and Regulations promulgated thereunder; were to the prejudice and injury of the public; and constituted unfair and deceptive acts and practices in commerce.

Before *Mr. James A. Purcell* and *Mr. Webster Ballinger* hearing examiners.

Mr. George E. Steinmetz for the Commission.

Mr. Abner R. Sisson, of Boston, Mass., for H. M. Prince Textiles, Inc., Hugo M. Prince, and Devonshire Fabrics, Inc.

Mr. George Gruzen, of Boston, Mass., for Nathan Tarmy, Morris Tarmy, and Solomon Tarmy.

Mr. Wilfred A. Hay, of Portland, Maine, for Robert D. Schwarz, receiver.

CONSENT SETTLEMENT¹

Pursuant to the provisions of the Federal Trade Commission Act and the Wool Products Labeling Act of 1939, the Federal Trade Commission, on February 10, 1953, issued and subsequently served its complaint on the respondents named in the caption hereof, charging them

¹ The Commission's "Notice" announcing and promulgating the consent settlement as published herewith, follows:

The consent settlement tendered by the parties in this proceeding, a copy of which is served herewith, was accepted by the Commission on July 29, 1953, and ordered entered of record as the Commission's findings as to the facts, conclusion, and order in disposition of this proceeding.

The time for filing report of compliance pursuant to the aforesaid order runs from the date of service hereof.