

Complaint

59 F.T.C.

DECISION OF THE COMMISSION AS TO RESPONDENT WILLIAM J. KRAUS

Pursuant to Section 3.21 of the Commission's Rules of Practice, the initial decision of the hearing examiner shall, on the 6th day of September 1961, become the decision of the Commission.

IN THE MATTER OF

CRAWFORD INDUSTRIES, INC., ET AL.

CONSENT AND DEFAULT ORDERS, ETC., IN REGARD TO THE ALLEGED VIOLATION
OF THE FEDERAL TRADE COMMISSION ACT

Docket 8423. Complaint, June 2, 1961—Decisions, Sept. 6, 1961, and Oct. 10, 1961

Consent order dated Sept. 6, 1961, and the same order issued in default Oct. 10, 1961, requiring an individual and a corporation, respectively, in Pikesville, Md., to cease selling home repairs through bait advertising, false savings claims, and other misrepresentations, as in the orders below specified.

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 Crawford Industries, Inc., a corporation, and Joseph Silver, alias James Crawford, and Irving Zimmerman, individually and as officers of the said corporation, hereinafter referred to as respondents, have 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 Crawford Industries, Inc., is a corporation organized and existing under and by virtue of the laws of the State of Maryland. Its office and principal place of business is located at 5107 Baltimore Avenue, Hyattsville, Maryland.

Respondents Joseph Silver, alias James Crawford, whose address is 5385 West Montgomery Avenue, Philadelphia, Pennsylvania, and Irving Zimmerman, whose address is 21 Randall Street, Pikesville, Maryland, are officers of the respondent corporation. They formulate, direct and control the acts and practices of the respondent corporation, including those hereinafter set forth.

PAR. 2. Respondents are now, and for some time last past have been, engaged in advertising, offering for sale, and sale of home repairs, including the furnishing and installation of aluminum siding, jalousies and awnings, recreation rooms and porch enclosures.

PAR. 3. In the course and conduct of their business, respondents now cause, and for some time last past have caused, materials used in home repairs, when sold, to be shipped from their place of business in the State of Maryland and elsewhere, to purchasers thereof located in other States of the United States and in the District of Columbia, 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 their business, and for the purpose of inducing the sale of their services and various materials, respondents have made certain statements and representations with respect thereto in newspapers of general distribution and through oral statements made by the individual respondents or their salesmen. By and through the use of said statements, respondents have represented, directly or by implication, that:

1. They offer to install porches and other improvements at certain advertised prices.

2. No building permits are necessary in order to make the home improvements.

3. After completion of the improvements, the homes or buildings of the purchasers would be used to demonstrate the work done by respondents and the purchasers would receive a commission for work done on other homes as a result of the demonstration.

4. Crawford Industries, Inc., offers substantial savings (as much as 50% on special offers) to its customers and that special financing (as low as \$1.25 per week and up to five years to pay) is provided if desired.

5. Crawford Industries, Inc., performs all work to be done without the employment of subcontractors.

6. Crawford Industries, Inc., is the manufacturer of the materials sold by it.

PAR. 5. The aforesaid representations are false, misleading and deceptive. In truth and in fact:

1. The offer to install porches and other improvements at certain advertised prices was not a bona fide offer but was made for the purpose of obtaining leads as to persons interested in purchasing home improvements.

2. In many instances building permits were necessary in order to make the home improvements and it was necessary, in several instances, to remove or substantially change the home improvements made, pursuant to contract made by the home owner and respondents, because of the lack of a building permit, to the injury and damage of the home owner.

3. Respondents do not use the homes or buildings of their purchasers for demonstration purposes and do not pay commissions to such purchasers for work done by respondents on other homes or buildings.

4. No savings of any kind are afforded by Crawford Industries, Inc., to customers who deal with respondents instead of competing contractors, and no financing or terms are provided by respondents over and beyond referral to the usual sources of credit available to the general public.

5. Crawford Industries, Inc., relies entirely upon the services of subcontractors.

6. Crawford Industries, Inc., does not manufacture any of the materials sold by it.

PAR. 6. The use by respondents 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 such statements and representations were, and are, true and into the purchase of substantial quantities of respondents' materials and services by reason of said erroneous and mistaken belief.

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 constituted, and now constitute, unfair and deceptive acts and practices in commerce, within the intent and meaning of the Federal Trade Commission Act.

Mr. Ames W. Williams for the Commission.

Mr. Miles R. Eisenstein, Baltimore, Md., for the respondent.

INITIAL DECISION AS TO RESPONDENT IRVING ZIMMERMAN
BY WALTER R. JOHNSON, HEARING EXAMINER

In the complaint dated June 2, 1961, respondent Irving Zimmerman, individually and as an officer of Crawford Industries, Inc., a corporation, is charged with violating the provisions of the Federal Trade Commission Act.

On July 6, 1961, respondent Irving Zimmerman and his attorney entered into an agreement with counsel in support of the complaint for a consent order.

The respondents Crawford Industries, Inc., a corporation, and Joseph Silver, alias James Crawford, individually and as an officer of said corporation, are not parties to the aforementioned agreement and are subject to further proceedings.

Under the foregoing agreement, the respondent admits the juris-

dictional facts alleged in the complaint. The parties agree, among other things, that the cease and desist order there set forth may be entered without further notice and have the same force and effect as if entered after a full hearing. The agreement includes a waiver by the respondent of all rights to challenge or contest the validity of the order issuing in accordance therewith. The agreement further recites that it is for settlement purposes only and does not constitute an admission by the respondent that he has violated the law as alleged in the complaint.

The hearing examiner finds that the content of the agreement meets all of the requirements of Section 3.25(b) of the Rules of the Commission.

The hearing examiner being of the opinion that the agreement and the proposed order provide an appropriate basis for disposition of this proceeding as to said respondent, the agreement is hereby accepted and it is ordered that the agreement shall not become a part of the official record of the proceeding unless and until it becomes a part of the decision of the Commission. The following jurisdictional findings are made and the following order issued.

1. Individual respondent, Irving Zimmerman, 21 Randall Street, Pikesville, Maryland, is an officer of the corporate respondent.

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 Irving Zimmerman, individually and as an officer of Crawford Industries, Inc., a corporation, and respondent's representatives, agents and employees, directly or through any corporate or other device, in connection with the offering for sale or sale of any services or materials, or both, in connection with the repair, remodeling, construction or renovating of homes or other buildings, in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from representing, directly or by implication, that:

1. Respondent offers to sell any services or materials when such offer is not a bona fide offer to sell such services or materials.

2. A building permit is not required to make additions or improvements to buildings, unless such is the fact.

3. The homes or other buildings of respondent's purchasers will be used for demonstration purposes, or that such purchasers will be paid a commission for work done by respondent on other homes or buildings, as a result of such demonstrations.

Decision

59 F.T.C.

4. Purchasers realize savings in dealing with respondent from prices charged by others, or that any financing is available to purchasers other than the usual sources of credit available to the general public.

5. Any work done pursuant to respondent's contract with purchasers is done by respondent.

6. Respondent manufactures any of the materials sold by him.

DECISION OF THE COMMISSION AND ORDER TO FILE REPORT OF
COMPLIANCE

Pursuant to Section 3.21 of the Commission's Rules of Practice, the initial decision of the hearing examiner shall, on the 6th day of September 1961, become the decision of the Commission; and accordingly:

It is ordered, That Irving Zimmerman, individually and as an officer of Crawford Industries, Inc., a corporation, shall, within sixty (60) days after service upon him of this order, file with the Commission a report in writing setting forth in detail the manner and form in which he has complied with the order to cease and desist.

Mr. Ames W. Williams and *Mr. Herbert L. Blume* for the Commission.

INITIAL DECISION BY WALTER R. JOHNSON, HEARING EXAMINER

The Federal Trade Commission on June 2, 1961, issued its complaint herein charging that Crawford Industries, Inc., a corporation, and Joseph Silver, alias James Crawford, and Irving Zimmerman, individually and as officers of said corporation, had violated the provisions of the Federal Trade Commission Act in certain particulars.

The said respondents, with the exception of Joseph Silver, alias James Crawford, were duly served with a copy of the complaint, wherein the 16th day of August 1961, at 10 o'clock was fixed as the time and Federal Trade Commission Building, Washington, D.C., as the place when and where a hearing would be had, before a hearing examiner of said Commission, on the charges set forth in the complaint, at which time and place respondents would have the right under said Act to appear and show cause why an order should not be entered requiring respondents to cease and desist from the violation of law charged in the complaint.

This decision does not dispose of the matter as to the respondent Irving Zimmerman, individually and as an officer of the named corporation, and in respect to said respondent the charges of the complaint remain pending.

Respondent Joseph Silver, alias James Crawford, was not individually served with copy of the complaint and the complaint should therefore be dismissed without prejudice as to him.

Hearing was had at the time and place fixed in the complaint and the respondent Crawford Industries, Inc., a corporation, failed to file answer and failed to appear at said hearing. Pursuant to the Commission's Rules of Practice for Adjudicative Proceedings, the hearing examiner, without further notice to said respondent, found the facts, as they pertain to said respondent, to be as alleged in the complaint, and at said time and place hearing was had to determine the form of order.

The hearing examiner finds the following facts as set forth in the complaint are true:

Respondent Crawford Industries, Inc., is a corporation organized and existing under and by virtue of the laws of the State of Maryland. Its office and principal place of business is located at 5107 Baltimore Avenue, Hyattsville, Maryland.

Respondent Crawford Industries, Inc., is now, and for some time last past has been, engaged in advertising, offering for sale, and sale of home repairs, including the furnishings and installation of aluminum siding, jalousies and awnings, recreation rooms and porch enclosures.

In the course and conduct of its business, respondent Crawford Industries, Inc., now causes, and for some time last past has caused, materials used in home repairs, when sold, to be shipped from its place of business in the State of Maryland and elsewhere, to purchasers thereof located in other States of the United States and in the District of Columbia, and maintains and at all times mentioned herein, has maintained, a substantial course of trade in said products, in commerce, as "commerce" is defined in the Federal Trade Commission Act.

In the course and conduct of its business, and for the purpose of inducing the sale of its services and various materials, respondent Crawford Industries, Inc., has made certain statements and representations with respect thereto in newspapers of general distribution and through oral statements made by the individual respondents or their salesmen. By and through the use of said statements, respondent Crawford Industries, Inc., has represented, directly or by implication, that:

1. It offers to install porches and other improvements at certain advertised prices.
2. No building permits are necessary in order to make the home improvements.
3. After completion of the improvements, the homes or buildings of the purchasers would be used to demonstrate the work done by re-

Decision

59 F.T.C.

spondent Crawford Industries, Inc., and the purchasers would receive a commission for work done on other homes as a result of the demonstration.

4. Crawford Industries, Inc., offers substantial savings (as much as 50% on special offers) to its customers and that special financing (as low as \$1.25 per week and up to five years to pay) is provided if desired.

5. Crawford Industries, Inc., performs all work to be done without the employment of subcontractors.

6. Crawford Industries, Inc., is the manufacturer of the materials sold by it.

The aforesaid representations are false, misleading and deceptive. In truth and in fact:

1. The offer to install porches and other improvements at certain advertised prices was not a bona fide offer but was made for the purpose of obtaining leads as to persons interested in purchasing home improvements.

2. In many instances building permits were necessary in order to make the home improvements and it was necessary, in several instances, to remove or substantially change the home improvements made, pursuant to contract made by the home owner and respondent Crawford Industries, Inc., because of the lack of a building permit, to the injury and damage of the home owner.

3. Respondent Crawford Industries, Inc., does not use the homes or buildings of its purchasers for demonstration purposes and does not pay commissions to such purchasers for work done by said respondent on other homes or buildings.

4. No savings of any kind are afforded by Crawford Industries, Inc., to customers who deal with respondent instead of competing contractors, and no financing or terms are provided by respondent over and beyond referral to the usual sources of credit available to the general public.

5. Crawford Industries, Inc., relies entirely upon the services of subcontractors.

6. Crawford Industries, Inc., does not manufacture any of the materials sold by it.

The use by respondent Crawford Industries, Inc., 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 such statements and representations were, and are, true and into the purchase of substantial quantities of respondent's materials and services by reason of said erroneous and mistaken belief.

CONCLUSIONS

The aforesaid acts and practices of respondent Crawford Industries, Inc., as herein-above found, are all to the prejudice and injury of the public and constitute unfair and deceptive acts and practices within the intent and meaning of the Federal Trade Commission Act.

ORDER

It is ordered, That the respondent Crawford Industries, Inc., a corporation, and its officers, representatives, agents and employees, directly or through any corporate or other device in connection with offering for sale or sale of any services or materials, or both, in connection with the repair, remodeling, construction or renovating of homes or other buildings, in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from representing, directly or by implication, that:

1. Respondent offers to sell any services or materials when such offer is not a bona fide offer to sell such services or materials.
2. A building permit is not required to make additions or improvements to buildings, unless such is the fact.
3. The homes or other buildings of respondent's purchasers will be used for demonstration purposes, or that such purchasers will be paid a commission for work done by respondent on other homes or buildings, as a result of such demonstrations.
4. Purchasers realize savings in dealing with respondent from prices charged by others, or that any financing is available to purchasers other than the usual sources of credit available to the general public.
5. Any work done pursuant to respondent's contract with purchasers is done by respondent.
6. Respondent manufactures any of the materials sold by it.

It is further ordered, That complaint be dismissed, without prejudice, as to Joseph Silver, alias James Crawford.

DECISION OF THE COMMISSION AND ORDER TO FILE REPORT OF COMPLIANCE

This matter having come on to be heard by the Commission upon its review of the hearing examiner's initial decision filed on August 17, 1961, and the Commission having determined that said initial decision is appropriate in all respects to dispose of this proceeding:

It is ordered, That the aforesaid initial decision be, and it hereby is, adopted as the decision of the Commission.

It is further ordered, That respondent, Crawford Industries, Inc., shall, within sixty (60) days after service upon it of this order, file

