

given.
2. Furnishing any means or instrumentalities to others by and through which they may mislead the public as to any of the matters set forth in paragraph 1, above.

It is further ordered, That the respondents herein 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.

IN THE MATTER OF
KENRON AWNING & WINDOW CORPORATION ET AL.

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

Docket 8459. Complaint, Jan. 16, 1962—Order, Dec. 10, 1962

Order dismissing, without decision on the merits and without prejudice to the Commission's right to summarily issue a new complaint covering the same facts, complaint charging two corporate manufacturers of aluminum storm windows and doors and fiberglass awnings, with common officers and places of business in Chicago and Brookfield, Wis., with misrepresenting prices, qualifications of salesmen, quality of product, guarantees, interest charges, etc.

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 Kenron Awning & Window Corporation and Kenron Awning & Window Corporation of Wisconsin, corporations, and Bernard H. Feld, Allan C. Hamann and Sidney L. Ordower, individually and as officers of said corporations, hereinafter referred to as respondents, have violated the provisions of the 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, Kenron Awning & Window Corporation, is a corporation organized, existing and doing business under and by virtue of the laws of the State of Illinois, with its office and principal place of business located at 3450 West Peterson Avenue, Chicago, Ill.

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Respondent, Kenron Awning & Window Corporation of Wisconsin, is a corporation organized, existing and doing business under and by virtue of the laws of the State of Wisconsin, with its office and principal place of business located at 4251 North 124th Street, Brookfield, Wis.

Respondent Bernard H. Feld, Allan C. Hamann and Sidney L. Ordower are officers of the corporate respondents. They cooperate and act together in formulating, directing and controlling the acts and practices of the corporate respondents, including the acts and practices hereinafter set forth. Their business address is 3450 West Peterson Avenue, Chicago, Ill.

PAR. 2. Respondents are now, and for some time last past have been, engaged in the manufacture, offering for sale, sale and distribution of aluminum storm windows and doors and fiberglass awnings to the public and in the installation thereof.

PAR. 3. In the course and conduct of their business, respondents now cause and for some time last past have caused, their said products, when sold, to be shipped and transported from their place of manufacture in the State of Illinois 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 their said business, as aforesaid, respondents employ salesmen or representatives who call upon prospective purchasers and solicit the purchase of their products. In the course of such solicitation, said salesmen or representatives have made many statements or representations, directly or by implication, to prospective purchasers of their product. Typical, but not all inclusive of said statements or representations, are the following:

1. That the respondents' products are sold at cost and that the products can be bought at a wholesale or dealer's price.
2. That of two prices quoted to the customer, the salesmen or representatives are able to sell at the lower price because they are executives or officials of the company and not salesmen and therefore have authority to reduce the price.
3. That the prospective customers are contacted during the "off season" or "slack season" and that the products are being sold at a reduced price in order to keep the respondents' factory working.
4. That salesmen are graduates of a home improvement academy, thereby implying that they are specially qualified to advise home owners concerning home improvements.

5. That the respondents have received many awards for the quality of their products.

6. That the products of the respondents are fully guaranteed and if there are any defects in the material or workmanship, such will be corrected free of charge.

7. That if a loan is secured from the bank recommended by the salesman or representative of the respondents the interest rate will be 11% a year.

PAR. 5. Said statements are false, misleading and deceptive. In truth and in fact:

1. The prices quoted for respondents' products are not cost or wholesale or dealer's prices but the usual and regular retail prices.

2. Respondents' salesmen and representatives are not executives or officials, but are ordinary salesmen working on a commission and with no special or unusual authority to reduce prices.

3. Sales of the respondents' products are made at all times of the year, and not in any "off season" or "slack season" without reduction in price for that reason.

4. Respondents' salesmen or representatives are not graduates of a home improvement academy and have no special training except in selling techniques as to respondents' particular products.

5. Respondents' products have not received any awards for merit.

6. Respondents do not guarantee their products, except to a very limited extent, and do not make any repairs or adjustment in accordance with the guarantee.

7. The interest rate charged by the bank recommended by the salesman or representative of the respondent is greatly in excess of 11% a year.

PAR. 6. In the conduct of their business, at all times mentioned herein, respondents have been in substantial competition, in commerce, with corporations, firms and individuals in the sale of products of the same general kind and nature as that sold by respondents.

PAR. 7. 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 said statements and representations were, and are, true and into the purchase of substantial quantities of respondents' products by reason of said erroneous and mistaken belief.

PAR. 8. The aforesaid acts and practices of respondents, as herein alleged, were, and are, all to the prejudice and injury of the public and of respondents' competitors and constituted, and now constitute, unfair

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methods of competition in commerce and unfair and deceptive acts and practices in commerce, in violation of Section 5(a)(1) of the Federal Trade Commission Act.

ORDER DISMISSING COMPLAINT

This matter having come on to be heard upon the parties' joint petition for permission to appeal from the hearing examiner's order denying their joint motion for certification to the Commission of the question whether the consent order procedure should be made available to the parties; and

It appearing that the extensive delays and controversies encountered in this proceeding stem from the language employed in the Commission's complaint and proposed order and that further delay and controversy can best be avoided by withdrawing said complaint and proposed order for the purpose of redrafting and eventual reservice pursuant to Part 3 of the Commission's Rules of Practice; and therefore

It is ordered, That the complaint in this matter be, and it hereby is, dismissed without decision on the merits and without prejudice to the Commission's right to summarily issue a new complaint covering the same or substantially similar alleged facts.

It is further ordered, That the Bureau of Deceptive Practices forthwith prepare and submit for Commission consideration a new complaint and proposed order appropriate to the circumstances.

By the Commission, Commissioner Elman concurring in the dismissal of the complaint.

IN THE MATTER OF

ELDER AND JOHNSTON COMPANY ET AL.

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