

the vacation of the order herein would be equitable and in the public interest:

It is ordered, That respondent's petition be, and it hereby is, granted, and that the order to cease and desist previously entered in this proceeding be, and it hereby is, set aside.

Commissioner Anderson not participating.

IN THE MATTER OF

BERNARD SAMUELS ET AL. TRADING AS PENNCRAFT
METALS CO.

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

Docket C-498. Complaint, May 14, 1963—Decision, May 14, 1963

Consent order requiring Philadelphia distributors of home improvement products, including aluminum siding, aluminum storm windows and doors, and aluminum and fiber glass awnings, to cease using bait advertisements in newspapers which were not bona fide offers to sell but were made for the purpose of obtaining leads to prospective buyers whom, when contacted, they discouraged from buying the advertised products and instead, tried to sell much higher priced products.

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 Bernard Samuels and Louis Hurwitz, individually and as copartners trading as Penncraft Metals Co., 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. Respondents Bernard Samuels and Louis Hurwitz are individuals and copartners trading as Penncraft Metals Co., with their principal office and place of business located at 5315 North Fifth Street in the city of Philadelphia, State of Pennsylvania.

PAR. 2. Respondents are now, and for some time last past have been, engaged in the advertising, offering for sale, sale and distribution of aluminum siding, aluminum storm windows and doors, aluminum and fiber glass awnings and other home improvement products.

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 from their place of business in the State of

Pennsylvania 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 business as aforesaid, and for the purpose of inducing the purchase of their said home improvement products and services in connection therewith, respondents have made various statements in advertisements in newspapers of general circulation. Among and typical, but not all inclusive, of such statements are the following:

ALUMINUM OR FIBERGLAS AWNINGS
PATIO AWNING SPECIAL
\$49 96" x 120" COMPLETE

COMBINATION SCREEN & STORM
ALUMINUM WINDOWS
6 FOR \$43.00 DELIVERED COMPLETE

ALUMINUM SIDING
HOUSE AS LOW AS \$179

CALL NOW — DAY — NIGHT — SUNDAY
OR MAIL COUPON
WA 4-9676

OUT OF TOWN CALL COLLECT

* * * * *

PENNCRAFT METALS CO. 5339 N. 5TH ST.

PAR. 5. By and through the use of said statements in said advertisements and others of similar import but not specifically set out herein, respondents represented that they were making a bona fide offer to sell the aluminum and fiber glass awnings, the combination screen and storm aluminum windows, and the aluminum siding at the prices specified in the advertising.

PAR. 6. In truth and in fact respondents' offers were not bona fide offers to sell the said awnings, storm windows and screens, and siding at the advertised prices but were made for the purpose of obtaining leads and information as to persons interested in the purchase of said products for improvement of their homes. After obtaining leads through response to said advertisements, respondents' salesmen called upon such persons but made no effort to sell said products at the advertised prices. Instead, they exhibited miniature models of the products or samples of the material of which they were made in demonstrating that they were manifestly unsuitable for the purpose intended and disparaged the advertised products in such a manner as to discourage their purchase and attempted to and frequently did sell much higher priced products. Therefore, the statements and representations as set forth in Paragraphs 4 and 5 hereof were false, misleading and deceptive.

PAR. 7. 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 home improvement products and services of the same general kind and nature as those sold by respondents.

PAR. 8. The use by respondents of the aforesaid false, misleading or 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 and services by reason of said erroneous and mistaken belief.

PAR. 9. 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 methods of competition in commerce and unfair acts and practices in commerce in violation of Section 5 of the Federal Trade Commission Act.

DECISION AND ORDER

The Commission having heretofore determined to issue its complaint charging the respondents named in the caption hereof with violation of the Federal Trade Commission Act, and the respondents having been served with notice of said determination and with a copy of the complaint the Commission intended to issue, together with a proposed form of order; and

The respondents and counsel for the Commission having thereafter executed an agreement containing a consent order, an admission by respondents of all the jurisdictional facts set forth in the complaint to issue herein, a statement that the signing of said agreement is for settlement purposes only and does not constitute an admission by respondents that the law has been violated as set forth in such complaint, and waivers and provisions as required by the Commission's rules; and

The Commission, having considered the agreement, hereby accepts same, issues its complaint in the form contemplated by said agreement, makes the following jurisdictional findings, and enters the following order:

1. Respondents Bernard Samuels and Louis Hurwitz are individuals and copartners trading as Penncraft Metals Co., with their principal office and place of business located at 5315 North Fifth Street in the city of Philadelphia, State of Pennsylvania.

2. The Federal Trade Commission has jurisdiction of the subject

matter of this proceeding and of the respondents, and the proceeding is in the public interest.

ORDER

It is ordered, That respondents Bernard Samuels and Louis Hurwitz, individually and as copartners trading as Penncraft Metals Co., or under any other trade name, and respondents' representatives, agents and employees, directly or through any corporate or other device, in connection with the offering for sale, sale or distribution of aluminum siding, aluminum storm windows or doors, aluminum or fiber glass awnings, or any other product or services in connection with the improvement, repair or remodeling of homes or other buildings, in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. Advertising or offering any products for sale for the purpose of obtaining leads or prospects for the sale of different products unless the advertised products are capable of adequately performing the function for which they are offered and respondents maintain an adequate and readily available stock of said products.
2. Disparaging in any manner or refusing to sell any product advertised.
3. Using any advertising, sales plan or procedure involving the use of false, deceptive or misleading statements or representations which are designed to obtain leads or prospects for the sale of other merchandise.
4. Representing directly or indirectly that any products or services are offered for sale when such offer is not a bona fide offer to sell said products or services.

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

WARNER COMPANY

ORDER, ETC., IN REGARD TO THE ALLEGED VIOLATION OF SEC. 7 OF THE
CLAYTON ACT