

IN THE MATTER OF
OWENS-CORNING FIBERGLAS CORPORATION

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

Docket C-2842. Complaint, Sept. 30, 1976 — Decision, Sept. 30, 1976

Consent order requiring a Toledo, Ohio, manufacturer, seller, and distributor of fibrous glass products, among other things to cease misrepresenting the amount of energy or money the consumer can save as a result of installing respondent's insulation; misrepresenting the basis for savings claims; misrepresenting the insulation characteristics of its product; and failing to disclose pertinent facts and conditions which are significant to the customer and which affect the savings claim made. Further, respondent must maintain accurate records of documentation which supports advertising claims made.

Appearances

For the Commission: *Vivian Soljanik*.

For the respondent: *William L. Kreutz* and *Steven M. Mayer*, Toledo, Ohio.

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 Owens-Corning Fiberglas Corporation, a corporation, hereinafter referred to as respondent, has 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 Owens-Corning Fiberglas Corporation is a corporation organized, existing and doing business under and by virtue of the laws of the State of Delaware, with its principal office and place of business located at Fiberglas Tower, Toledo, Ohio.

PAR. 2. Respondent Owens-Corning Fiberglas Corporation is now, and for some time last past has been, engaged in the manufacture, advertising, offering for sale, sale, and distribution of fibrous glass products, including but not limited to, residential building insulation products, which, when sold, are shipped to purchasers located in various States of the United States. Thus, respondent maintains, and at all times mentioned has maintained, a substantial course of trade in said fibrous glass building insulation products.

PAR. 3. Respondent Owens-Corning Fiberglas Corporation, at all

times mentioned herein, has been and now is in substantial competition in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act, with individuals, firms, and corporations engaged in the sale and distribution of building insulation products of the same general kind and nature as those produced and sold by respondent.

PAR. 4. In the course and conduct of its said business, Owens-Corning Fiberglas Corporation has disseminated and caused the dissemination of advertisements concerning the aforementioned fibrous glass insulation products for residential buildings in commerce transmitted by television stations located in various States of the United States and in the District of Columbia having sufficient power to carry such broadcasts across state lines for the purpose of inducing, and which were likely to induce, directly or indirectly, the purchase of said fibrous glass insulation products for use in residential buildings.

PAR. 5. Typical of the representations and statements contained in said advertisements disseminated as aforesaid, but not all inclusive thereof, are the television advertisements for which storyboards have been reproduced and attached to this complaint, Exhibits A and B, and made a part hereof.

PAR. 6. Through the use of said advertisements, and others similar thereto not specifically set out herein, respondent has represented, directly or by implication, that Owens-Corning Fiberglas Corporation had a reasonable basis from which to conclude that consumers could realize the amount of dollar savings stated in the advertisement as a result of installing respondent's fibrous glass insulation in the consumer's attic.

PAR. 7. In truth and in fact, at the time that Owens-Corning Fiberglas Corporation made the savings claims set forth in the aforesaid advertisements, respondent had no reasonable basis from which to conclude that consumers could realize the amount of dollar savings stated in said advertisements as a result of installing Owens-Corning Fiberglas Corporation insulation in their attic.

Therefore, the statements and representations set forth in Paragraph Six were and are deceptive or unfair acts or practices.

PAR. 8. By and through the use of the aforesaid advertisements, and others of similar import and meaning, respondent has represented, directly or by implication, that the dollar savings stated in respondent's advertisements approximate or equal the savings that an owner of a home with an average attic can realize.

PAR. 9. In truth and in fact, at the time respondent made the representations alleged in Paragraph Eight, respondent did not possess

or rely upon a reasonable basis for making these representations. Therefore, the said advertisements were and are unfair or deceptive.

PAR. 10. By and through the use of the aforesaid advertisements, and others of similar import and meaning, respondent has represented, directly or by implication, that:

1. Consumers will save the dollar amount stated in respondent's advertisement as the result of installing respondent's fibrous glass building insulation in their attic.

2. The conditions upon which respondent's savings claims are based represent the average or typical attic.

PAR. 11. In truth and in fact:

1. In a substantial number of instances, consumers will not save the dollar amount stated in respondent's advertisement as the result of installing respondent's fibrous glass building insulation in their attic.

2. The conditions upon which respondent's savings claims are based do not represent the average or typical attic.

Therefore, the statements and representations made in respondent's aforesaid advertisements were and are false, misleading, and deceptive.

PAR. 12. Respondent's aforesaid advertisements, and others of similar import and meaning, failed to disclose certain material facts and conditions which affect the amount of money and energy a home owner can save by installing respondent's fibrous glass building insulation in his or her attic. Therefore, the representations contained in said advertisements were and are unfair or deceptive.

PAR. 13. The use by respondent of the aforesaid unfair or deceptive statements, representations, and practices has had, and now has, the capacity and tendency to mislead members of the consuming public into the erroneous and mistaken belief that such statements and representations were and are true, and into the purchase of substantial quantities of Owens-Corning Fiberglas Corporation fibrous glass insulation for residential buildings.

PAR. 14. The aforesaid acts and practices of respondent as herein alleged were and are all to the prejudice and injury of the public and of respondent's competitors, and constituted, and now constitute, unfair or deceptive acts in commerce or unfair methods of competition in commerce, in violation of Section 5 of the Federal Trade Commission Act.

Complaint

88 F.T.C.

Title: "Flint/Saginaw \$150"
 Product: Owens-Corning Fiberglas insulation
 Agency: Ogilvy & Mather Inc., 2 E. 48th St., N.Y. 10017

ATTACHMENT A



MAN: Wanna save about \$150* a year with one day's work?

Insulate your attic yourself with Fiberglas 6 inches thick.

You'll save a \$150 a year in fuel.

With an average attic.

Right here in the Flint/Saginaw area.*

Owens-Corning Fiberglas.

At your building supply dealers, or call an insulation contractor.

Spend a day in your attic—save \$150* a year.

(VO) Already have some insulation? Increase it to 6 inches. You'll save too.

*All commercials keyed to individual markets

Owens-Corning is Fiberglas



Complaint

ATTACHMENT B

Title: "Birmingham \$175"
 Product: Owens-Corning Fiberglas insulation
 Agency: Ogilvy & Mather Inc., 2 E. 48th St., N.Y. 10017



MAN: Wanna save about \$175* a year with one day's work?



Insulate your attic yourself with Fiberglas 6 inches thick.



You'll save a \$175 a year on air conditioning and heating.*



With an average attic.



Right here in Birmingham.*



Owens-Corning Fiberglas.



At your building supply dealers, or call an insulation contractor.



Spend a day in your attic—save \$175* a year.



(VO) Already have some insulation? Increase it to 6 inches. You'll save too.

*All commercials keyed to individual markets.

Owens-Corning is Fiberglas



DECISION AND ORDER

The Federal Trade Commission having initiated an investigation of certain acts and practices of the respondent named in the caption hereof, and respondent having been furnished thereafter with a copy of a draft of complaint which the Cleveland Regional Office proposed to present to the Commission for its consideration and which, if issued by the Commission, would charge respondent with violation of the Federal Trade Commission Act; and

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

The Commission having thereafter considered the matter and having determined that it had reason to believe that the respondent has violated the said Act, and that complaint should issue stating its charges in that respect, and having thereupon accepted the executed consent agreement and placed such agreement on the public record for a period of sixty (60) days, and having duly considered comments filed thereafter pursuant to Section 2.34 of its Rules, now in further conformity with the procedure prescribed in Section 2.34(b) of its Rules, the Commission hereby issues its complaint, makes the following jurisdictional findings, and enters the following order:

1. Respondent Owens-Corning Fiberglas Corporation is a corporation organized, existing, and doing business under and by virtue of the laws of the State of Delaware, with its principal office and place of business located at Fiberglas Tower, Toledo, Ohio.
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 Owens-Corning Fiberglas Corporation, a corporation, its successors and assigns, and respondent's officers, agents, representatives and employees, directly or through any corporation, subsidiary, division, or other device, in connection with consumer advertising, offering for sale, sale or distribution of fibrous glass insulation for residential buildings, in or affecting commerce, as

“commerce” is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

(1) Misrepresenting, in any advertising or sales promotion material, directly or by implication, that respondent has a reasonable basis for statements or representations which are made concerning the amount of energy or money the consumer can save as a result of installing said insulation.

(2) Making any statements or representations in any advertising or sales promotion material, directly or by implication, concerning the insulating characteristics of said insulation or the savings in money or energy which consumers can realize as a result of installing said insulation, unless at the time of such representation, respondent has a reasonable basis for such statements or representations. Such reasonable basis shall consist of competent scientific, engineering, or other objective material or industry-wide standards based on such material.

(3) Misrepresenting, in any advertising or sales promotion material, directly or by implication, the amount of energy or money which a consumer can save as the result of installing said insulation.

(4) Misrepresenting, in any advertising or sales promotion material, directly or by implication, the facts, conditions, or assumptions upon which energy or money savings claims are based.

(5) Failing to disclose in advertising or sales promotion material containing money or energy savings claims, facts and conditions which, within the confines of the medium being used, are significant to the consumer and which affect the amount of money and energy a consumer can save by installing said insulation.

It is further ordered, That respondent Owens-Corning Fiberglas Corporation, a corporation, its successors and assigns, and respondent's officers, agents, representatives and employees, directly or through any corporation, subsidiary, division or other device, in connection with consumer advertising, offering for sale, sale or distribution of fibrous glass insulation for residential buildings, in or affecting commerce, as “commerce” is defined in the Federal Trade Commission Act, do forthwith cease and desist from failing to maintain and produce accurate records which may be inspected by Commission staff members upon reasonable notice:

(a) which consist of documentation in support of any claims included in advertising or sales promotion material, insofar as the text of such material is prepared or is authorized and approved by any person who is an officer or employee of respondent Owens-Corning Fiberglas Corporation, or of any division or subdivision of respondent, or by any advertising agency engaged by respondent or by any such division or subsidiary, which concern the insulating characteristics of said insula-

tion or the savings which consumers can realize from the installation of said insulation; and

(b) which provided the basis upon which respondent relied as of the time those claims were made; and

(c) which shall be maintained by respondent for a period of three (3) years from the date such advertising or sales promotion material was last disseminated.

It is further ordered, That the respondent corporation shall forthwith distribute a copy of this order to each of its operating divisions selling or distributing said insulation.

It is further ordered, That respondent notify the Commission at least thirty (30) days prior to any proposed change in the corporate respondent which may affect compliance obligations arising out of the order, such as dissolution, assignment, or sale resulting in the emergence of a successor corporation, the creation or dissolution of subsidiaries engaged in the domestic sale or distribution of fibrous glass insulation for residential buildings.

It is further ordered, That respondent 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 it has complied with this order.

Commissioner Dole not participating by reason of absence.

IN THE MATTER OF

UNITED STATES MARKETING INSTITUTE, ET AL.

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

Docket C-2844. Complaint, Sept. 30, 1976 — Decision, Sept. 30, 1976

Consent order requiring a Los Angeles, Calif., idea promotion firm, among other things, to cease misrepresenting its ability to promote ideas, inventions or products that will or may result in financial gains for its clients; misrepresenting the nature or value of its services; failing to disclose relevant information including the fact it does not provide any legal protection recognized by the United States Patent Office, and that serious consequences could result from this lack of patent protection. Further, the order prohibits the company from accepting any money from a client other than a percentage of royalties or other financial gain derived through its efforts.

Appearances

For the Commission: *George Gregores.*

For the respondents: *James Ginsburg, Freshman, Marantz, Comsky & Deutsch, Beverly Hills, Calif.*

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 United States Marketing Institute, a corporation, and Louis Lindstrom, individually and as an officer of said corporation, hereinafter sometimes referred to as respondents, have violated the provisions of said Act, and it appears 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:

I. DEFINITIONS

1. For purposes of this complaint the following definitions shall apply:

- A. "Idea" shall mean any idea, invention or product;
- B. "Client" shall mean any party that has entered into an agreement with respondents for the "promotion" of an "idea;"
- C. "Financial gain" shall mean an amount of money greater than the amount of money paid by a "client" to respondents;
- D. "Promotion" shall mean the evaluation, development, manufac-