

Complaint

IN THE MATTER OF

KRYTON COATINGS INTERNATIONAL, INC.

CONSENT ORDER, ETC., IN REGARD TO ALLEGED VIOLATIONS OF
SEC. 5 OF THE FEDERAL TRADE COMMISSION ACT

Docket C-4052; File No. 0123060

Complaint, June 14, 2002--Decision, June 14, 2002

This consent order addresses advertising representations made about “Multi-Gard” – a residential coating product also known as Liquid Siding, Liquid Vinyl, or Multi-Gard R-20 – by Respondents Kryton Coatings International, Inc. and Procraft, Inc. The order, among other things, prohibits the respondents from making any representation about the benefits, performance or efficacy of any liquid siding or coating product – including (1) that such product reduces energy loss, energy costs, energy consumption, or utility bills; (2) any R-value associated with such product; or (3) such product’s insulation qualities as compared to any other materials, including insulation materials – unless, at the time of making such representation, respondents possess and rely upon competent and reliable scientific evidence that substantiates the representation. The order also requires the respondents to notify Multi-Gard distributors and wholesalers about this action, and to send them a copy of the order.

Participants

For the Commission: *Hampton Newsome, Robert M. Frisby, Joni Lupovitz, Elaine D. Kolish and Janis K. Pappalardo.*

For the Respondent: *Edward A. Geltman, Squire, Sanders & Dempsey, L.L.P.*

COMPLAINT

The Federal Trade Commission, having reason to believe that Procraft, Inc. and Kryton Coatings International, Inc., corporations, ("respondents") have violated the provisions of the Federal Trade Commission Act, and it appearing to the Commission that this proceeding is in the public interest, alleges:

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1a. Respondent Kryton Coatings International, Inc. is a Tennessee corporation with its principal office or place of business at 1701 Louisville Drive, Suite C, Knoxville, Tennessee 37921.

1b. Respondent Procraft, Inc. is a Tennessee corporation with its principal office or place of business at 1701 Louisville Drive, Suite C, Knoxville, Tennessee 37921.

2. Respondents cooperated and acted together in carrying out acts and practices hereinafter set forth.

3. Respondents have advertised, offered for sale, sold, and distributed a residential coating product known as Multi-Gard to the public under the trade names Liquid Siding, Liquid Vinyl, and Multi-Gard R-20 ("Multi-Gard").

4. The acts and practices of respondents alleged in this complaint have been in or affecting commerce, as "commerce" is defined in Section 4 of the Federal Trade Commission Act.

5. Respondents have disseminated or have caused to be disseminated advertisements for Multi-Gard, including but not necessarily limited to the attached Exhibits A through E. These advertisements contain the following statements:

- a. This specialized, permanent coating employs a thin layer of super insulating ceramic microspheres, which dry to the thickness of a credit card and provide insulation equal to seven inches of fiberglass batting (R-20).
[Exhibit A (Procraft and Kryton print ad)]
- b. Liquid Siding is guaranteed to cut utility bills up to 40 percent.
[Exhibit A]
- c. The space shuttle uses this same ultra-thin ceramic technology in protecting its vulnerable under-belly from the 200-degrees-below-zero cold of outer space to the more

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than 2,000-degree heat of re-entry into the Earth's atmosphere.
[Exhibit A]

d. It Cuts Energy Loss by up to 40%

Using space-age NASA technology, Multi-Gard R-20® employs a thin layer of super insulating "Ceramic Microspheres" which dry to the thickness of a credit card, providing insulation equal to 7 inches of fiber glass batting.
[Exhibit B (Kryton Internet ad)]

e. The space shuttle uses similiar [sic] ultra-thin ceramic technology in protecting it's [sic] vulnerable under belly from the 200 degrees below zero COLD of outer space to the more than 2000 degrees HEAT of re-entry into Earth's atmosphere. MultiGard R-20® is as effective a solution on Earth as it is in space.
[Exhibit B]

f. It adds R-20 to the exterior wall reducing energy costs up to 40%!
[Exhibit C (Procraft brochure)]

g. NASA Technology at work for you Today!!
[Exhibit C]

h. Microscopic in size, Ceramic Microspheres [graphic of tightly packed layers of spheres] .. align [sic] to form an impenetrable Thermal-barrier.
[Exhibit C]

i. Customer 2: I want to reduce my utilities up to 40% with liquid siding.. Where do I find it?

PB: You gotta call Pro craft!

Intercom: Yes, you can save up to 40% on your utilities

[Exhibit D (Procraft television ad script)]

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- j. It cuts utility bills up to 40%
[Exhibit E (Procraft radio ad script)]

6. Through the means described in Paragraph 5, respondents have represented, expressly or by implication, that Multi-Gard:

- a. provides insulation equivalent to seven inches of fiberglass batting;
- b. provides an insulation value of R-20;
- c. reduces energy loss, energy costs or utility bills by up to 40%; and
- d. performs the same insulation function as the ultra-thin ceramic technology on the space shuttle.

7. Through the means described in Paragraph 5, respondents have represented, expressly or by implication, that they possessed and relied upon a reasonable basis that substantiated the representations set forth in Paragraph 6, at the time the representations were made.

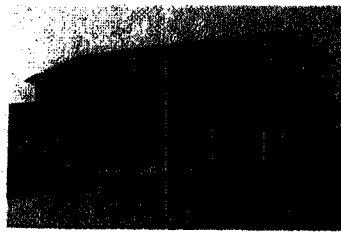
8. In truth and in fact, although the use of Multi-Gard and caulking may seal air leaks and cracks in buildings and, as a result, may reduce energy costs in some cases, respondents did not possess and rely upon a reasonable basis that substantiated the representations set forth in Paragraph 6, at the time the representations were made. Therefore, the representation set forth in Paragraph 7 was, and is, false or misleading.

9. The acts and practices of respondents as alleged in this complaint constitute unfair or deceptive acts or practices, in or affecting commerce, in violation of Section 5(a) of the Federal Trade Commission Act.

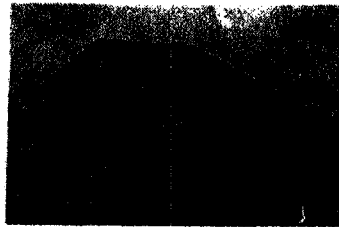
THEREFORE, the Federal Trade Commission this fourteenth day of June, 2002, has issued this complaint against respondents.

Liquid Siding®

*An Evolution In
Home Improvement*



Liquid Siding® is perfect for wood, clapboard, asbestos, stucco, masonry, brick, block and aluminum siding. And is the permanent solution to a maintenance free cedar home



People have come to our booths at Home Shows Nationwide and said, "We've been looking all over for your product!" The product to which they refer is Liquid Siding, an energy-efficient exterior coating manufactured by Kryton Coatings International. Liquid Siding is an evolutionary alternative to painting or vinyl siding. This specialized, permanent coating employs a thin layer of super insulating ceramic microspheres, which dry to the thickness of a credit card and provide insulation equal to seven inches of fiberglass batting (R-20). Today, more than 2000 homes have been improved with this product. Liquid Siding is guaranteed to cut utility bills up to 40 percent. Liquid Siding is designed for people who have to paint their home or for those considering vinyl siding, it adheres to all surfaces except vinyl and glass. Unlike paint, Liquid Siding won't mold or mildew, fade, split, crack, peel, blister or chip. The product was invented in Canada approximately 35 years ago, using space-age NASA technology. The space shuttle uses this same ultra-thin ceramic technology in protecting its vulnerable under-belly from the 200-degrees-below-zero cold of outer space to the more than 2,000-degree heat of re-entry into the Earth's atmosphere. Liquid Siding was originally developed as an exterior coating for coastal lighthouses. A test site at Point Atkinson in West Vancouver, Canada, is used to measure the product's performance. As a result of the products superior durability on the test site, the warranty has been increased from it's original guarantee of 10

years. The product now carries a non-prorated, 25-year warranty. Liquid Siding performed particularly well for Mobile Army Surgical Hospitals in Algeria. That MASH unit reported the need for six generators to maintain a temperature of 65 degrees prior to installation of the product and only two generators afterward. Kryton is currently investing \$1.5 million into a new manufacturing plant in Knoxville Tennessee, which projects it will employ approximately 50 people. The product is installed by local contractors, with a 100-percent customer satisfaction guarantee. Liquid Siding comes in hundreds of colors, and it's more affordable than premium siding. Liquid Siding looks like paint and works like magic. For more information, call the number below. Those who mention this article will receive a 15% discount.

**LIQUID
SIDING**
Permanent Exterior Coating®

Call Toll Free

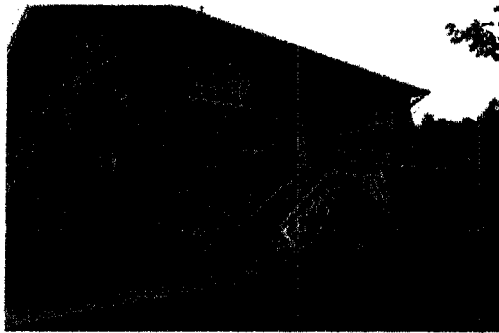
For more information about Liquid Siding visit the manufacturer's web site at www.kryton.net

EXHIBIT B

Liquid Vinyl--Multi-Gard R-20®



What is Multi-Gard R-20®?



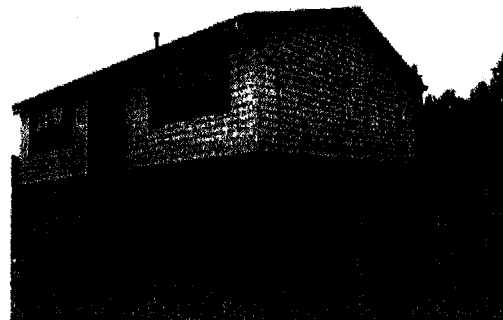
Before

pounding hail and tropic humidity; all without chipping, cracking, blistering, or peeling. Yes, Multi-Gard R-20® is the most durable, energy saving and maintenance free protection available for any home or commercial building.

It Cuts Energy Loss by up to 40%

Using space-age NASA technology, Multi-Gard R-20® employs a thin layer of super insulating "Ceramic Microspheres" which dry to the thickness of a credit card, providing insulation equal to 7 inches of fiber glass batting.

This is a highly unique, specialized permanent exterior coating designed to beautify, insulate and protect your home. Multi-Gard R-20® was originally developed as an exterior coating for coastal lighthouses. For over 25 years, single applications of Multi-Gard R-20® have been withstanding the harshest elements; crashing ocean waves, driving rains, hurricane force winds, dry desert heat, arctic cold,



After



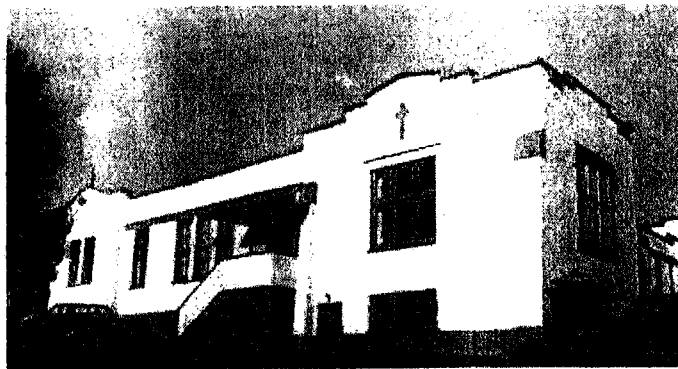
Before

The space shuttle uses similiar ultra-thin ceramic technology in protecting it's vulnerable under belly from the 200 degrees below zero COLD of outer space to the more than 2000 degrees HEAT of re-entry into Earth's atmosphere. Multi-Gard R-20® is as effective a solution on Earth as it is in space.

Proven to Protect, Beautifully

Warranted for 25 years, not to chip, crack, blister or peel, Multi-Gard R-20® has been tested to stretch up to 645% bridging new settlement cracks as they occur.

Multi-Gard R-20's ® anti-static formula is proven to resist clinging dirt, giving your home or building the superior custom look of always having been painted, day after day, season after season.



After

[Click here to view our online presentation for Multi-Gard R-20®](#)

WHEN YOU ONLY WANT TO DO IT ONCE!

For more information please contact us at:
1-888-8Kryton

© 1998 Kryton Coatings International. All rights reserved.



NASA Technology at work for you Today!!

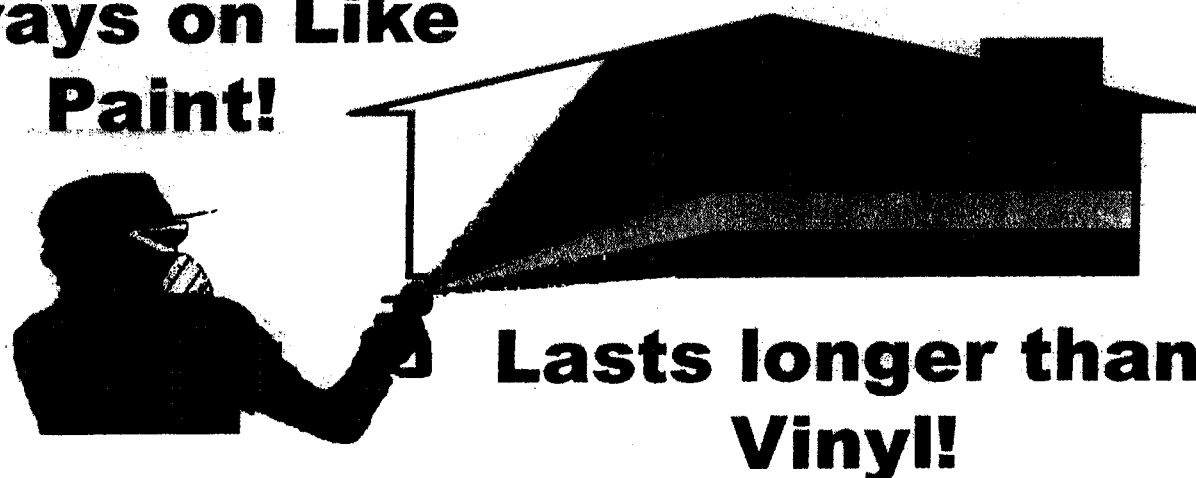
EXHIBIT C

MULTI-GARD R-20

Permanent Exterior Coating



**Sprays on Like
Paint!**



**Lasts longer than
Vinyl!**

**Has More Benefits than Both with
None of the Problems.**

Tomorrow's siding solution is here Today...Liquid Siding

**Transferable 25
year Warranty!**

**It adds R-20 to
the exterior wall
reducing energy
costs up to 40%!**

LIQUID



SIDING

**The look, color
and feel of
fresh paint!**

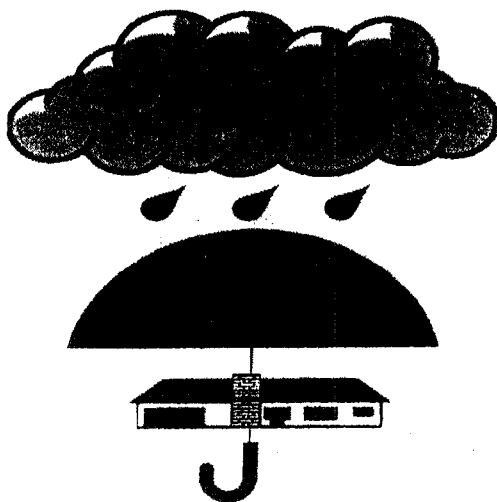
**Used in over 40
countries world
wide!**

PRO
000013

VISIT OUR WEBSITE @ WWW.KRYTON.NET

Vapor Permeable • Non-Toxic • Environmentally Friendly

Block stone masonry, block, stucco, & metal! It's your Permanent Solution!



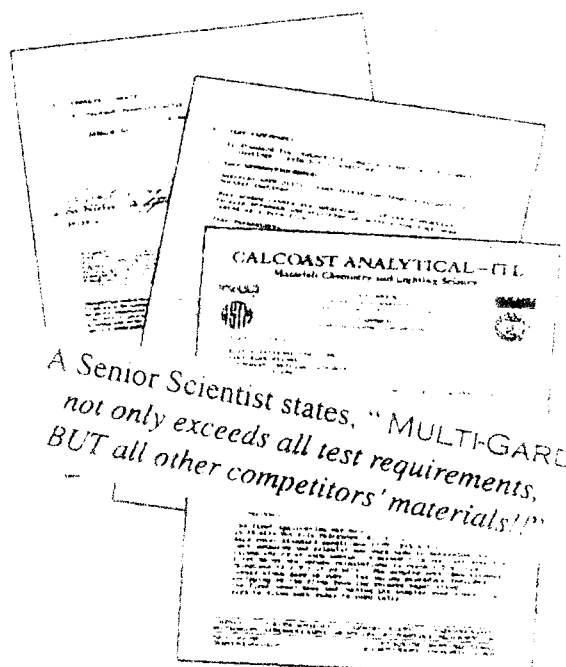
Moisture Attacks!

All construction materials are porous and retain water. Swelling produces cracks, dry rot causes your home's frame to weaken, moisture breeds hazardous bacteria. Rather than masking exterior problems with paint or vinyl siding, MULTI-GARD R-20 is the only solution allowing your home to breathe. Our exclusive Dura-Plas resin, combined with Titanium Dioxide, repels water, yet allows trapped moisture to escape. MULTI-GARD R-20's high level of waterproof protection and vapor permeability will add years of life and safety to your home. All this with added bonus of always giving your home the instant curb appeal of having just been painted.

VISIT OUR WEBSITE @ WWW.KRYTON.NET

Proven to Protect, Beautifully

The World's leading test laboratories have proven MULTI-GARD R-20's ability to withstand all climates. Warranted for 25 years, not to chip, crack, blister or peel, MULTI-GARD R-20 has been tested to stretch up to 645% bridging new settlement cracks as they occur. MULTI-GARD R-20's anti-static formula is proven to resist clinging dirt, giving your home the superior custom look of always having just been painted, day after day, season after season. As the ultimate bonus in beauty and protection, MULTI-GARD R-20 comes in 100's of UV radiation resistant colors to match any décor. Unlike "covering" your home with paint or vinyl siding, MULTI-GARD R-20 becomes a Beautiful and Durable "skin" for your home, with MULTI-GARD R-20, beauty and durability truly is "skin-deep".



Kryton's Choice Contractor

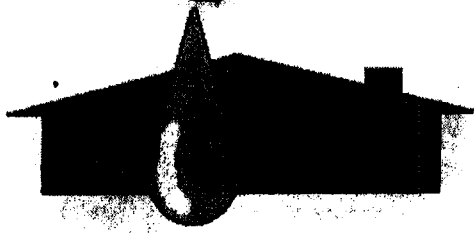
**Toll Free
(877) 776-2723**

PRD 0000015

- ✓ Call **NOW** for a special discount
- ✓ Professionally applied
- ✓ Licensed, bonded and insured
- ✓ Fully transferable warranty
- ✓ 100% financing available

Stain Resistant • Fade Resistant • Energy Efficient • Warranted for a Full 25 Years

LIQUID SIDING



Sunday, April 27, 1997

The Knoxville News-Sentinel

REAL ESTATE



**JAMES
DULEY**

**Sensible
Home**

Cost-effective coats Insulating paints do more than make home look pretty

Q: My house is hot in the summer, and my heating bills are too high in the winter. Will painting the walls with residential-type, insulating, ceramic-filled paint help? Is it durable and washable?

A: Insulating ceramic-filled interior and exterior paint

and flat plasters. The plasters create a heat reflecting (not visually reflective) and dissipating surface. The micro-spheres create the insulation barrier.

This paint rolls on many times thicker, up to 15 mils (thousandths of an inch), than ordinary wall paint.

If you have a problem with

(finer than a human water-based acrylic) cleanup. As the paint spheres get tightly form an insulating barrier.

Several new paint combinations of hollow micro-

*Enclosed is the info
you requested!*

**WWW.KRYTON.NET
VISIT OUR
WEBSITE @**

Knoxville, TN 37921
1701 Louisville Dr.



MANUFACTURER'S DISCOUNT COUPON

Kryton Coatings International will provide a free-estimate for customers interested in knowing more about Multi-Gard R-20™.

A Certified Coating Specialist will meet with all homeowners to explain the coating process, evaluate the application for your home, and provide you with a complete coating cost. While introducing the product, Kryton Coatings International will also offer a 10% discount off the total cost of the job.



10% Deducted From the Total Price of Your Job

Present this coupon for a 10% discount on the Multi-Gard R-20™ system. Discount valid only during the first inspection visit.

PRO 0000016



Making A Difference...
Through Quality Programs

ALPHA MEDIA

C O N C E P T S

Client: Pro Craft

Date: 10/8/97

Title: Paint Boy Stock

Audio

Customer: Where do I find
Liquid Siding?

PB: Bert..Where's the Liquid
Siding?

Voice: It's not available in stores.
Call Pro Craft to have it professionally
installed.

Customer 2: I want to reduce my
utilities up to 40% with Liquid Siding..
Where Do I find it?

PB: You gotta call Pro Craft!

Customer 3: I want that Liquid Siding..you
know it lasts for 20 years. I'll never have
to paint my house again.

Intercom: Attention Shoppers, you can't
get liquid siding in stores! Yes, you can
save up to 40% on your utilities and yes
it lasts for 20 years...Call Pro Craft now!!

Video

Paint Boy Stocking Shelf
Customer approaches.

Paint Boy calls stock room on walkie
talkie.

Voice off Camera
800 Number appears

Paint Boy stocking shelf

Paint Boy and Customer look up and
listen to intercom like the voice of
God is speaking.

Pro Craft Logo with 800 number

If you've thought about putting vinyl siding on your home, stop and listen to me. Hi folks, this is Ed Brantley for Liquid Siding. That's right, Liquid Siding. Now you can get the same look & results as vinyl siding by painting on Liquid Siding distributed by ProCraft. You get the look, the color and the feel of fresh paint. But it's stronger than vinyl. It lasts longer than vinyl. It has more benefits than both do and none of the problems. This is the absolute best product that you could put on your house. I've seen it. It's remarkable. It cuts utility bills up to 40% and it saves time cause you don't have to paint anymore. And during this special offer we'll offer Liquid Siding for your home at a cost too low to mention on the air. It's fire resistant, mildew resistant, fade resistant and energy efficient. It's got a 25-year warranty. It's used worldwide & we'll give you a free in home estimate. Call toll free 1-877ProCraft. That's 1-877ProCraft. Call right now for Liquid Siding.

Decision and Order

DECISION AND ORDER

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

The respondents, their attorney, and counsel for the Commission having thereafter executed an agreement containing a consent order, an admission by the respondents of all the jurisdictional facts set forth in the draft complaint, 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 alleged in such complaint, or that the facts as alleged in such complaint, other than jurisdictional facts, are true, 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 respondents have violated the said Act, and that a 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 thirty (30) days for the receipt and consideration of public comments, and having duly considered the comment filed thereafter by interested parties pursuant to Section 2.34 of the Rules, the Commission hereby issues its complaint, makes the following jurisdictional findings, and enters the following order:

1a. Respondent Kryton Coatings International, Inc. is a Tennessee corporation with its principal office or place of business at 1701 Louisville Drive, Suite C, Knoxville, Tennessee 37921.

Decision and Order

- 1b. Respondent Procraft, Inc. is a Tennessee corporation with its principal office or place of business at 1701 Louisville Drive, Suite C, Knoxville, Tennessee 37921.
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

DEFINITIONS

For purposes of this order, the following definitions shall apply:

1. "Competent and reliable scientific evidence" shall mean tests, analyses, research, studies, or other evidence based on the expertise of professionals in the relevant area, that have been conducted and evaluated in an objective manner by persons qualified to do so, using procedures generally accepted in the profession to yield accurate and reliable results.
2. Unless otherwise specified, "respondents" shall mean Procraft, Inc. and Kryton Coatings International, Inc., corporations, and their successors and assigns.
3. "Commerce" shall mean as defined in Section 4 of the Federal Trade Commission Act, 15 U.S.C. § 44.

I.

IT IS ORDERED that respondents, and their officers, agents, representatives, and employees, directly or through any corporation, subsidiary, division, or other device, in connection with the manufacturing, labeling, advertising, promotion, offering for sale, sale, or distribution of Liquid Siding, Multi-Gard, Multi-Gard R-20, Liquid Vinyl, or any other liquid siding or coating product, in or affecting commerce, shall not make any representation, in any manner, expressly or by implication:

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- A. that such product reduces energy loss, energy costs, energy consumption, or utility bills;
- B. about any R-value associated with such product;
- C. about such product's insulation qualities as compared to any other materials, including insulation materials; or
- D. about the benefits, performance, or efficacy of such product,

unless, at the time of making such representation, respondents possess and rely upon competent and reliable scientific evidence that substantiates the representation.

II.

IT IS FURTHER ORDERED that respondents shall, for five (5) years after the last date of dissemination of any representation covered by this Order, maintain and upon request make available to the Federal Trade Commission for inspection and copying:

- A. All advertisements and promotional materials containing the representation;
- B. All materials that were relied upon in disseminating the representation; and
- C. All tests, reports, studies, surveys, demonstrations, or other evidence in their possession or control that contradict, qualify, or call into question the representation, or the basis relied upon for the representation, including complaints and other communications with consumers or with governmental or consumer protection organizations.

III.

IT IS FURTHER ORDERED that respondents shall deliver a copy of this order to all current and future principals, officers, directors, managers, and to all current and future employees, and

Decision and Order

outside advertising agencies or consultants having responsibilities with respect to the subject matter of this order, and shall secure from each such person a signed and dated statement acknowledging receipt of the order. Respondents shall deliver this order to current personnel within thirty (30) days after the date of service of this order, and to future personnel within thirty (30) days after the person assumes such position or responsibilities. Respondents shall retain the signed, dated statements acknowledging receipt of the order for a period of five (5) years and upon request make them available to the Federal Trade Commission for inspection and copying.

IV.

IT IS FURTHER ORDERED that respondents shall, within thirty (30) days after the date of service of this order, send by first class certified mail, return receipt requested, to each purchaser for resale of Liquid Siding, Multi-Gard, Multi-Gard R-20, Liquid Vinyl, or any other liquid siding or coating product with which respondents have done business since January 1, 1999, the form attached as Attachment A and a copy of this order. The mailing shall not include any other documents.

V.

IT IS FURTHER ORDERED that respondents shall notify the Commission at least thirty (30) days prior to any change in the corporations that may affect compliance obligations arising under this order, including but not limited to a dissolution, assignment, sale, merger, or other action that would result in the emergence of a successor corporation; the creation or dissolution of a subsidiary, parent, or affiliate that engages in any acts or practices subject to this order; the proposed filing of a bankruptcy petition; or a change in the corporate name or address. Provided, however, that, with respect to any proposed change in the corporation about which respondents learn less than thirty (30) days prior to the date such action is to take place, respondents shall notify the Commission as soon as is practicable after obtaining such knowledge. All notices required by this Part shall be sent by

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certified mail to the Associate Director, Division of Enforcement, Bureau of Consumer Protection, Federal Trade Commission, Washington, D.C. 20580.

VI.

IT IS FURTHER ORDERED that respondents shall, within sixty (60) days after the date of service of this order, and at such other times as the Federal Trade Commission may require, file with the Commission a report, in writing, setting forth in detail the manner and form in which they have complied with this order.

VII.

This order will terminate on June 14, 2022, or twenty (20) years from the most recent date that the United States or the Federal Trade Commission files a complaint (with or without an accompanying consent decree) in federal court alleging any violation of the order, whichever comes later; provided, however, that the filing of such a complaint will not affect the duration of:

- A. Any Part in this order that terminates in less than twenty (20) years;
- B. This order's application to any respondent that is not named as a defendant in such complaint; and
- C. This order if such complaint is filed after the order has terminated pursuant to this Part.

Provided, further, that if such complaint is dismissed or a federal court rules that the respondents did not violate any provision of the order, and the dismissal or ruling is either not appealed or upheld on appeal, then the order will terminate according to this

Decision and Order

Part as though the complaint had never been filed, except that the order will not terminate between the date such complaint is filed and the later of the deadline for appealing such dismissal or ruling and the date such dismissal or ruling is upheld on appeal.

By the Commission.

Decision and Order

ATTACHMENT A

[To be printed on respondents' letterhead]

BY CERTIFIED MAIL,
RETURN RECEIPT REQUESTED

[date]

Dear [purchaser for resale]:

This letter is to inform you that Kryton Coatings International, Inc., and Procraft, Inc. have settled a civil dispute with the Federal Trade Commission ("FTC") regarding advertising claims for the Multi-Gard residential coating product, also known as Liquid Siding, Liquid Vinyl, and Multi-Gard R-20 (collectively referred to hereinafter as "Multi-Gard").

As part of that settlement, the FTC issued a consent order to cease and desist, which prohibits certain claims for Multi-Gard unless, at the time such claims are made, we possess and rely upon competent reliable scientific evidence. A copy of the order is attached. We consented to the issuance of the order for settlement purposes only and without admitting any of the FTC's allegations. The order requires us to request that our distributors and wholesalers stop using or distributing advertisements or promotional materials containing claims challenged by the FTC, unless we have competent reliable scientific evidence to support these claims. As one of our distributors or wholesalers, we are required to send you this letter as part of this settlement.

Specifically, the FTC order prohibits us from making any claims about Multi-Gard related to:

1. its ability to reduce energy loss, energy costs, energy consumption, or utility bills;
2. any R-value associated with the product;

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3. its insulation qualities as compared to any other materials, including insulation materials; or
4. the benefits, performance, or efficacy of Multi-Gard

unless we have competent and reliable scientific evidence.

We request your assistance by asking you to discontinue using, distributing, or relying on any advertising or promotional material for Multi-Gard previously received from us. Please also notify any of your customers who resell these products and who may have such materials to discontinue using those promotional materials.

We shall be modifying our advertising and promotional material to comply with this order. New suggested advertising and promotional materials will be sent under separate cover.

Thank you very much for your assistance.

Sincerely,

Nat Campbell, Jr.
President
Kryton Coatings International, Inc.

Christopher Scheevel
President
Procraft, Inc.

Enclosure as stated

Analysis

Analysis of Proposed Consent Order to Aid Public Comment

The Federal Trade Commission has accepted, subject to final approval, an agreement for entry of a proposed consent order from Kryton Coatings International, Inc. and Procraft, Inc. (“respondents”). The agreement would settle a proposed complaint by the Federal Trade Commission that respondents engaged in unfair or deceptive acts or practices in violation of Section 5(a) of the Federal Trade Commission Act.

The proposed consent order has been placed on the public record for thirty (30) days for reception of comments by interested persons. Comments received during this period will become part of the public record. After thirty (30) days, the Commission will again review the agreement and the comments received and will decide whether it should withdraw from the agreement or make final the agreement's proposed order.

This matter concerns advertising representations made about “Multi-Gard” (also known as Liquid Siding, Liquid Vinyl, or Multi-Gard R-20), a residential coating product. The proposed administrative complaint alleges that respondents violated the FTC Act by disseminating ads that made unsubstantiated performance claims about Multi-Gard. The proposed complaint further alleges that respondents represented that Multi-Gard: 1) provides insulation equivalent to seven inches of fiberglass batting; 2) provides an insulation value of R-20; 3) reduces energy loss, energy costs or utility bills by up to 40%; and 4) performs the same insulation function as the ultra-thin ceramic technology on the space shuttle. The proposed complaint alleges that respondents represented that they had a reasonable basis for these claims. The proposed complaint further alleges that, although the use of Multi-Gard and caulking (which is provided as part of the application service for Multi-Gard) may seal air leaks and cracks in buildings and, as a result, may reduce energy costs in some cases, respondents did not possess and rely upon a reasonable basis that substantiated their claims.

Analysis

The proposed consent order contains provisions designed to prevent respondents from engaging in similar acts and practices in the future. Part I of the order prohibits respondents from making any representation about the benefits, performance or efficacy of any Liquid Siding, Multi-Gard, Multi-Gard R-20, Liquid Vinyl, or any other liquid siding or coating product, including: that such product reduces energy loss, energy costs, energy consumption, or utility bills; any R-value associated with such product; or such product's insulation qualities as compared to any other materials, including insulation materials, unless, at the time of making such representation, respondents possess and rely upon competent and reliable scientific evidence that substantiates the representation.

Part IV requires respondents to notify Multi-Gard distributors and wholesalers about this action and send them a copy of the consent order. The form of the notice is provided in Attachment A to the order. The remainder of the proposed order contains provisions regarding record-keeping, distribution of the order, notification of changes in corporate status, the filing of a compliance report, and termination of the order.

The purpose of this analysis is to facilitate public comment on the proposed order, and it is not intended to constitute an official interpretation of the agreement and the proposed order or to modify their terms in any way.

Complaint

IN THE MATTER OF

SOLVAY S.A.

CONSENT ORDER, ETC., IN REGARD TO ALLEGED VIOLATIONS OF
SEC. 7 OF THE CLAYTON ACT AND SEC. 5 OF THE
FEDERAL TRADE COMMISSION ACT

Docket C-4046; File No. 0210067

Complaint, April 29, 2002--Decision, June 21, 2002

This consent order addresses the acquisition by Respondent Solvay S.A. -- whose United States operations produce, among other things, polyvinylidene fluoride ("PVDF"), a fluoropolymer used in applications such as highly durable architectural coatings, wire and cable jacketing, fiber optic raceways, chemical processing equipment, and semiconductor manufacturing equipment -- of Ausimont S.p.A. from Italenergia S.p.A. The order, among other things, requires the respondent to divest the Solvay Fluoropolymers Business -- including its Decatur, Alabama plant and its interest in a joint venture that manufactures the main raw material for PVDF -- to an acquirer approved by the Commission. The order also requires the respondent to provide the acquirer with a royalty-free license to Solvay intellectual property -- including detailed information about the respondent's production of PVDF at its two plants in Alabama and France -- and the scope of the license allows the acquirer to manufacture or sell PVDF anywhere in the world. An accompanying Order to Hold Separate and Maintain Assets requires the respondent to preserve the Solvay Fluoropolymers Business as a viable, competitive, and ongoing operation until the divestiture is achieved.

Participants

For the Commission: *Robert S. Tovsky, Eric Sprague, Oded Pincas, Barbara Shapiro, Jacqueline Tapp, Jessica Rosen, Richard Liebeskind, Daniel P. Ducore, John Howell, Charissa P. Wellford and Mary T. Coleman.*

For the Respondent: *D. Stuart Meiklejohn, Sullivan & Cromwell.*