

**UNITED STATES OF AMERICA  
FEDERAL TRADE COMMISSION**

**COMMISSIONERS:**     **Jon Leibowitz, Chairman  
J. Thomas Rosch  
Edith Ramirez  
Julie Brill  
Maureen K. Ohlhausen**

	)	
<b>In the Matter of</b>	)	
	)	<b>Docket No. C-4362</b>
<b>WINCHESTER INDUSTRIES,</b>	)	
<b>a partnership.</b>	)	
	)	

**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 the respondent having been furnished thereafter with a copy of a draft of a Complaint which the Bureau of Consumer Protection proposed to present to the Commission for its consideration and which, if issued, would charge the 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 complaint, a statement that the signing of the agreement is for settlement purposes only and does not constitute an admission by the respondent that the law has been violated as alleged in such complaint, or that any of 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 respondent has violated the Feder



4. “Competent and reliable scientific evidence” shall mean tests, analyses, research, or studies that have been conducted and evaluated in an objective manner by qualified persons, that are generally accepted in the profession to yield accurate and reliable results, and that are sufficient in quality and quantity based on standards generally accepted in the relevant scientific fields, when considered in light of the entire body of relevant and reliable scientific evidence, to substantiate that a representation is true.

5. “Covered product or service” mea

unless the representation is non-misleading and, at the time of making such representation, respondent possesses and relies upon competent and reliable scientific evidence to substantiate that all or almost all consumers are likely to receive the maximum represented savings or reduction.

Provided, however, that if respondent represents that consumers who replace their windows with respondent's windows achieve up to or a specified amount or percentage of energy savings or reduction in heating and cooling costs under specified circumstances, or if respondent guarantees or pledges up to or a specified amount or percentage of energy savings or reduction in heating and cooling costs under specified circumstances, it must disclose those circumstances clearly and prominently in close proximity to such representation, guarantee, or pledge and it must substantiate that all or almost all consumers are likely to receive the maximum represented, guaranteed, or pledged savings or reduction under those circumstances (*eg* , when replacing a window of a specific composition in a building having a specific level of insulation in a specific region).

## II.

**IT IS FURTHER ORDERED** that respondent, 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 any covered product or service in or affecting commerce, shall not make any representation, directly or indirectly, expressly or by implication, including through the use of endorsements or trade names:

- A. That any specific number or percentage of consumers who replace their windows with respondent's windows achieve energy savings or reduction in heating and cooling costs; or
- B. About energy consumption, energy savings, energy costs, heating and cooling costs, U-factor, SHGC, R-value, K-value, insulating properties, thermal performance, or energy-related efficacy of any covered product or service;

unless the representation is non-misleading and, at the time of making such representation, respondent possesses and relies upon competent and reliable scientific evidence to substantiate that such representation is true.

**III.**

**IT IS F**

## VI.

**IT IS FURTHER ORDERED** that respondent Winchester Industries, and its successors and assigns, shall notify the Commission at least thirty (30) days prior to any change in the partnership 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; 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 partnership name or address. Provided, however, that, with respect to any proposed change in the partnership about which respondent learns less than thirty (30) days prior to the date such action is to take place, respondent shall notify the Commission as soon as is practicable after obtaining such knowledge. Unless otherwise directed by a representative of the Commission in writing, all notices required by this Part shall be emailed to [Debrief@ftc.gov](mailto:Debrief@ftc.gov) or sent by overnight courier (not the U.S. Postal Service) to: Associate Director for Enforcement, Bureau of Consumer Protection, Federal Trade Commission, 600 Pennsylvania Avenue NW, Washington, DC 20580. The subject line must begin: “

upheld on appeal, then the order will terminate according to this 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, Commissioner Rosch and Commissioner Ohlhausen not participating.

Donald S. Clark  
Secretary

SEAL  
ISSUED: May 16, 2012