

UNITED STATES OF AMERICA
FEDERAL TRADE COMMISSION

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In the Matter of)	
)	
SERIOUS ENERGY, INC.,)	Docket No.
a corporation.)	
)	
)	

COMPLAINT

The Federal Trade Commission, having reason to believe that Serious Energy, Inc. (“respondent”) has violated the provisions of the Federal Trade Commission Act, and it appearing to the Commission that this proceeding is in the public interest, alleges:

1. Respondent Serious is a Delaware corporation with its principal office or place of business at 1250 Elko Drive, Sunnyvale, CA 94089. Respondent does business under its own name and formerly did business under the name “Serious Materials, Inc.”
2. Respondent manufactures, advertises, offers for sale, sells, and/or distributes windows, including “SeriousWindows” replacement window lines. Respondent distributes these windows to independent dealers and installers who in turn sell them to consumers for residential use.
3. The acts and practices of respondent alleged in this complaint have been in or affecting commerce, as “commerce” is defined in Section 4 of the Federal Trade Commission Act.
4. Respondent has disseminated or has caused the dissemination of advertising and promotional materials, including printed advertisements, website advertising, and other promotional materials provided to window dealers and installers, including but not necessarily limited to the attached Exhibits A through D. Respondent’s dealers and installers disseminated or caused the dissemination of these advertisements and promotional materials to consumers. The advertisements and promotional materials contain the following statements or depictions:

A. SeriousWindows Printed Promotional Material:

Guaranteed to reduce your heating and cooling use by up to 49%*. When you replace all of your old windows with SeriousWindows 600 Series, you’ll not only improve your living comfort and your home’s value, but you can significantly lower your heating and cooling consumption. If you spend \$300 a month in heating and cooling, with Quantum2 windows you can

potentially save up to 49%, that's a savings of over \$14,400 in a decade. That's why we say SeriousWindows 600 products are an annuity, because they will pay for themselves over time.

* Energy savings may vary and depends on numerous factors and variables pertaining to your windows and dwelling. Cost savings in this example does not include any energy cost increases.

Exhibit A (SeriousWindows 600 Quantum 2 Series Brochure).

B. SeriousWindows Printed Promotional Material:

SeriousWindows

SAVES MORE ENERGY THAN ANY OTHER WINDOW. PERIOD.

.....

- Reduces heating & cooling costs by up to 50%.*

.....

* According to internal modeling with ResFen software & modeling parameters established by the Efficient Windows Collaborative.

Exhibit B (Print Brochure).

C. SeriousWindows Energy Savings Pledge:

49%

FUEL SAVINGS PLEDGE

.....

ENERGY SAVINGS PLEDGE

This Pledges a savings of at least 49% of "Energy Consumption" for heating and cooling this residence at the address shown below during the 12 month period beginning with the date of this Pledge. If energy savings are less than 49% of the previous 12 months' energy consumption, the homeowner will be reimbursed the difference between actual savings and 49% of energy cost for the previous 12 months. In the event energy savings are less than 49% of the previous 12 months' energy consumption, the homeowner should notify the SeriousWindows™ Quantum2 Dealer who will provide the homeowner with the necessary forms to file for benefits under this Pledge.

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Exhibit C.

D. SeriousWindows Printed Promotional Material:

Cut Your Energy Bills By Up to 40% SeriousWindows 501 Series offers some of the most energy efficient residential windows on the market today. You'll save money on heating and cooling costs, as well as energy. If you spend \$200 a month on heating and cooling that's \$2,400 a year. SeriousWindows 501 products cut 40% off that figure and would save you \$960 in just the first year and over \$9,600 over the next decade.

Exhibit D (SeriousWindows 501 Series Brochure).

5. Many factors determine the savings homeowners can realize by replacing their windows, including the home's geographic location, size, insulation package, and existing windows. Consumers who replace single or double-paned wood or vinyl-framed windows – common residential window types in the United States – with SeriousWindows replacement windows are not likely to achieve a 40% or 49% reduction in residential energy consumption or heating and cooling costs.

6. Through the means described in Paragraph 4, respondent has represented, expressly or by implication, that:

- A. Consumers who replace windows with SeriousWindows 600 Quantum 2 Series windows are likely to achieve residential energy savings of 49%;
- B. Consumers who replace windows with SeriousWindows 600 Quantum 2 Series windows are likely to save 49% on residential heating and cooling costs;
- C. Consumers who replace windows with SeriousWindows 501 Series windows are likely to achieve residential energy savings of 40%; or
- D. Consumers who replace windows with SeriousWindows 501 Series windows are likely to save 40% on residential heating and cooling costs.

7. Through the means described in Paragraph 4, respondent has represented, expressly or by implication, that it possessed and relied upon a reasonable basis that substantiated the representation(s) set forth in Paragraph 6 at the time that the representation(s) were made.

8. In truth and in fact, respondent did not possess and rely upon a reasonable basis that substantiated the representation(s) set forth in Paragraph 6 at the time that the representation(s) were made. Therefore, the representation set forth in Paragraph 7 was false or misleading.

9. Respondent provided to its independent dealers and installers promotional materials referred to in Paragraph 4. By doing so, respondent provided them with the means and instrumentalities for the commission of deceptive acts or practices. Therefore, respondent's provision of such materials to its dealers and installers, as described in Paragraph 4 above, constitutes a deceptive act or practice.

10. Respondent's practices, 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 ___ day of _____ 2012, has issued this complaint against respondent.

By the Commission.

SEAL:

Donald S. Clark
Secretary