

UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF GEORGIA
STATESBORO DIVISION

FEDERAL TRADE COMMISSION

Plaintiff,

v.

F & G International Group Holdings, LLC, a
limited liability company,

FG International, LLC, a limited liability
company, and

J. GLENN DAVIS, individually and as an
officer of FG International, LLC, and F & G
International Group Holdings, LLC,

Defendants.

CASE NO. _____

**COMPLAINT FOR PERMANENT
INJUNCTION AND OTHER
EQUITABLE RELIEF**

Plaintiff, the Federal Trade Commission (“FTC”), for its Complaint alleges:

1. The FTC brings this action under Section 13(b) of the Federal Trade Commission Act (“FTC Act”) § 15 U.S.C. 53(b), to obtain permanent injunctive relief, rescission or reformation of contracts, restitution, the refund of monies paid, disgorgement of ill-gotten monies, and other equitable relief for Defendants’ acts or practices in violation of Section 5(a) of the FTC Act, 15 U.S.C. § 45(a).

2. Defendants market their FGI-4440 Insulation Coating (“FGI-4440”) using deceptive claims related to R-values, which measure the insulating ability of materials, including home insulation.

3. Defendants claim that FGI-4440 provides “an equivalent R value greater than 30” when applied as Defendants instruct.

4. Defendants also claim that testing supports their R-value claim.

5. However, these claims are false. Therefore, Defendants cannot substantiate them. In fact, FGI-4440 has an R-value that is substantially less than one.

JURISDICTION AND VENUE

6. This Court has subject matter jurisdiction pursuant to 28 U.S.C. §§ 1331, 1337(a), and 1345.

7. Venue is proper in this District under 28 U.S.C. § 1391(b)(1) and (c)(2).

PLAINTIFF

8. The FTC is an independent agency of the United States created by statute. 15 U.S.C. §§ 41-58. The FTC enforces Section 5(a) of the FTC Act, 15 U.S.C. § 45(a), which prohibits unfair or deceptive acts or practices in or affecting commerce.

9. The FTC is authorized to initiate federal district court proceedings, by its own attorneys, to enjoin violations of the FTC Act and to secure such equitable relief as may be appropriate in each case, including rescission or reformation of contracts, restitution, the refund of monies paid, and the disgorgement of ill-gotten monies. 15 U.S.C. § 53(b).

DEFENDANTS

10. Defendant F & G International Group Holdings, LLC (“FG Group”) is a Georgia corporation with its principal place of business at 33717 Hwy. 23, Collins, Georgia 30421. FG Group transacts or has transacted business in this District and throughout the United States. At all times material to this Complaint, acting alone or in concert with others, FG Group has advertised, marketed, distributed or sold FGI-4440 to consumers throughout the United States.

11. Defendant FG International, LLC (“FG International”) is a Georgia corporation with its principal place of business at 33717 Hwy. 23, Collins, Georgia 30421. FG International transacts or has transacted business in this District and throughout the United States. At all times

material to this Complaint, acting alone or in concert with others, FG International has advertised, marketed, distributed or sold FGI-4440 to consumers throughout the United States.

12. Defendant J. Glenn Davis is the principal of FG Group and FG International (collectively, “FGI”). At all times material to this Complaint, acting alone or in concert with others, he has formulated, directed, controlled, had the authority to control, or participated in the acts and practices of FGI, including the acts and practices set forth in the Complaint. Defendant Davis resides in this District and, in connection with the matters alleged herein, transacts or has transacted business in this District.

COMMERCE

13. At all times material to this Complaint, Defendants have maintained a substantial course of trade in or affecting “commerce,” as “commerce” is defined in Section 4 of the FTC Act, 15 U.S.C. § 44.

DEFENDANTS’ BUSINESS PRACTICES

14. Defendants manufacture and market coatings for commercial applications, including “FGI-4440.”

15. Coating products are marketed for application on homes and buildings and include paint, paint with additives (such as ceramic spheres), varnishes, lacquers, and products that incorporate such coatings.

16. Defendants claim FGI-4440, “provides excellent insulation” (Exhibit A at 1) and that a coat of 0.25 mm thickness provides “an equivalent R value of 30.” (Exhibit B at 1.)

17. Since at least 2014, Defendants have disseminated or caused the dissemination of advertising, packaging, and promotional materials for their coating product, FGI-4440, including through advertisements on their website.

18. In these materials, Defendants describe FGI-4440 in terms of R-values and R-value equivalents. For example, they claim that “FGI-4440 ... provid[es] for extreme insulation value. At 10 mils (0.25 mm) thickness the K value is 0.002 WmK or an equivalent R value of 30.” *See* Exhibit B at 1.

19. R-value is a measurement of resistance to heat flow. *See* FTC’s Trade Regulation Rule Concerning the Labeling and Advertising of Home Insulation (“R-value Rule” or “Rule”), 16 C.F.R. Part 460 (initially issued in 1980 and last amended in 2019). The greater the R-value, the greater the reduction in heat flow, and the more energy may be saved to heat or cool a building. 70 Fed. Reg. 31,258 (2005).

20. Different products have different R-values. For example, fiberglass batt is among the most common insulating materials in the United States. It generally has an R-value of R-3.0 to R-3.8 per inch. Other popular insulation materials, polyisocyanurate or polyurethane foam, have R-values of R-5.6 to R-8.0 per inch. Consumers typically apply those materials several inches thick to provide the desired level of insulation. By comparison, hardwood has an R-value of R-0.9 per inch. Poured concrete has an R-value of about R-0.08 per inch, making it a poor insulator.

21. The U.S. Department of Energy recommends levels of insulation for homes. It divides the country into eight climate zones and lists R-values for each zone. The Southern District of Georgia is in Zone 2 and Zone 3. The Department recommends homes here should have R-30 to R-60 insulation in the attic. Thus, if a home in this District is using fiberglass batt (at R-3.8 per inch), then it should have at least 7-8 inches of the batt in its attic to obtain the R-30 level.

22. On April 15, 2019, the FTC informed Defendants of its investigation into their R-value and insulation claims and requested substantiation for the claims.

23. On October 1, 2019, the FTC informed Defendants that it intended to file a lawsuit against them. In response, Defendants removed certain claims from their website, but certain insulation claims still appear.

24. Defendants' conduct is ongoing as of the filing of this Complaint.

25. Based on the facts and violations of law alleged in this Complaint, the FTC has reason to believe that Defendants are violating or are about to violate laws enforced by the Commission.

DEFENDANTS CLAIM FGI-4440 PROVIDES AN R-VALUE GREATER THAN 30

26. Defendants market FGI-4440 as an "Insulation Coating." *See* Exhibit B at 1. On FGI's website and in email communications with potential purchasers of their product, Defendants provided a data sheet in which they claim that FGI-4440 is "an extremely unique ultimate performance insulation, corrosion and moisture protection coating." *Id.*

27. In the data sheet, Defendants claim that FGI-4440 is "an epoxy ceramic based coating that is impervious to heat and water providing for extreme insulation value." *Id.* They specify that at 0.25mm thickness, FGI-4440 provides an equivalent R value of 30 or greater. They list a number of ASTM tests below these claims, including tests for "Thermal Conductance" and "Thermal Conductivity." *Id.*

28. In the data sheet, Defendants further claim that FGI-4440 "is not just reflective, it is truly insulation... It can get dirty, lose its reflectivity, and it will still insulate." *Id.*

29. In emails to potential purchasers of their product, Defendants repeat the claim that FGI-4440 is a thermal barrier, and not merely a reflective coating.

30. As principal of FGI, Defendant J. Glenn Davis formulated, or directed the formulation of, Defendants' data sheets, marketing emails, website, and other marketing communications containing Defendants' false R-value claims.

**DEFENDANTS' R-VALUE AND R-VALUE EQUIVALENT
CLAIMS ARE FALSE OR UNSUBSTANTIATED**

31. FGI-4440 does not significantly restrict heat flow, much less to the extent claimed by Defendants. Indeed, the R-value of FGI-4440 applied at the recommended thickness is considerably less than one.

DEFENDANTS CLAIM THAT TESTING ESTABLISHES THEIR R-VALUE

32. Defendants expressly claim that testing supports their R-value claim of 30.

33. Their website, for example, included a "Product Data Sheet" that listed ASTM 518 Thermal Conductance and ASTM 518 Thermal Conductivity tests.

34. Defendants' purported test results, however, do not support Defendants' R-value claims. Defendants instruct consumers to apply FGI-4440 at a thickness of 10 mils (0.25 mm) thickness. At such a thickness, FGI-4440 yields an R-value significantly less than one.

DEFENDANTS' CLAIMS ARE MATERIAL

35. Defendants make express claims that insulation is one of the purposes of FGI-4440.

36. Defendants' claims as to the R-value of FGI-4440 concern its efficacy in providing insulation.

37. On multiple occasions, Defendants made their claims in direct response to buyer inquiries about the insulation value of FGI-4440.

VIOLATIONS OF THE FTC ACT

38. Section 5(a) of the FTC Act, 15 U.S.C. § 45(a), prohibits “unfair or deceptive acts or practices in or affecting commerce.” Misrepresentations and unsubstantiated claims constitute deceptive acts or practices prohibited by Section 5(a) of the FTC Act.

COUNT I
False or Unsubstantiated Performance Claims

39. In numerous instances in connection with the advertising, promotion, offering for sale, or sale of FGI-4440, as described in Paragraphs 14-37, Defendants have represented, directly or indirectly, expressly or by implication, that FGI-4440 has an insulation value or insulation equivalent value of R-30 when used at normal levels.

40. The representations set forth in Paragraph 39 are false or misleading, or were not substantiated at the time the representations were made.

41. Therefore, the making of the representations set forth in Paragraph 39 constitute deceptive acts or practices in violation of Section 5(a) of the FTC Act, 15 U.S.C. § 45(a).

COUNT II
False Establishment Claim of R-values

42. In numerous instances in connection with the advertising, promotion, offering for sale, or sale of FGI-4440, as described in Paragraphs 14-37, Defendants have represented, directly or indirectly, expressly or by implication, that testing establishes R-values and R-value equivalents of R-30 for FGI-4440.

43. In truth and in fact, testing does not establish these R-values.

44. Therefore, the representations set forth in Paragraph 42 are false or misleading and constitute deceptive acts or practices in or affecting commerce in violation of Section 5(a) of the FTC Act, 15 U.S.C. § 45(a).

CONSUMER INJURY

45. Consumers are suffering, have suffered, and will continue to suffer substantial injury as a result of Defendants' violations of the FTC Act. In addition, Defendants have been unjustly enriched as a result of their unlawful acts or practices. Absent injunctive relief by this Court, Defendants are likely to continue to injure consumers, reap unjust enrichment, and harm the public interest.

THIS COURT'S POWER TO GRANT RELIEF

46. Section 13(b) of the FTC Act, 15 U.S.C. § 53(b), empowers this Court to grant injunctive and such other relief as the Court may deem appropriate to halt and redress violations of any provision of law enforced by the FTC. The Court, in the exercise of its equitable jurisdiction, may award ancillary relief, including rescission or reformation of contracts, restitution, the refund of monies paid, and the disgorgement of ill-gotten monies, to prevent and remedy any violation of any provision of law enforced by the FTC.

PRAYER FOR RELIEF

47. Wherefore, Plaintiff FTC, pursuant to Section 13(b) of the FTC Act, 15 U.S.C. § 53(b), and the Court's own equitable powers, requests that the Court:

- A. Award Plaintiff such ancillary relief as may be necessary to avert the likelihood of consumer injury during the pendency of this action and to preserve the possibility of effective final relief, including a preliminary injunction;
- B. Enter a permanent injunction to prevent future violations of the FTC Act by Defendants;
- C. Award such relief as the Court finds necessary to redress injury to consumers resulting from Defendants' violations of the FTC Act, including but not limited

to, rescission or reformation of contracts, restitution, the refund of monies paid, and the disgorgement of ill-gotten monies; and

D. Award Plaintiff the costs of bringing this action, as well as such other and additional relief as the Court may determine to be just and proper.

Dated: July 28, 2020

Respectfully Submitted,

ALDEN F. ABBOTT
General Counsel

s/ Anna M. Burns
ANNA M. BURNS
Georgia Bar #558234
Federal Trade Commission
225 Peachtree Street, NE, Suite 1500
Atlanta, GA 30303
Tel: 404-656-1350
Fax: 404-656-1379
aburns@ftc.gov

PHILIP Z. BROWN
Federal Trade Commission
600 Pennsylvania Ave., NW
Maildrop CC-9528
Washington, DC 20580
Tel: 202-326-2979
Fax: 202-326-3197
pbrown1@ftc.gov
Pro hac vice pending

Counsel for Plaintiff Federal Trade Commission

EXHIBIT A

■ US and CA - 1.888.507.8762 ■ Outside US - 1.912.388.4700 ■ Site map ■ Questions ■ Email

Unique Coatings ...



FG International, LLC

Sales Service Solutions About Us Contact Us



Ceramic Thermal Transfer FGI-400HR able to withstand temperatures up to 1800 degrees Fahrenheit.....[details](#)



FGI-6500 the extreme corrosion abrasion protection coating is UV, Weather, Chemical, Salt and Abrasion Resistant.....[details](#)



Anti-Algae Marine FGI-375 Provides Ships Increased Performance, reduce drag, reduce maintenance, algae can't stick. [details](#)

FGI Announces New Maintenance Division.



FGInternational has created a Maintenance Division to help our clients with application/installation of our line of coatings designed for roof repair, maintenance, roof leaks, and to help support installation of metal roofing materials in addition to FGI coatings like FGI4440 Insulation...[learn more](#)

Insured and licensed, general liability and workers compensation, qualified professionals from your area ...[read more](#)

FGI-8000 Cool Pave Coat



FGI-8000 COOL PAVE COAT is an epoxy based coating that is impervious to heat and water. Can be applied directly over asphalt and concrete in one coat thus saving labor cost of typical multi-coat systems. FGI- 8000 offers unmatched protection against heat and cold extremes...[learn more](#)



FGI-4440 Covers Rust & Insulates

Introducing FGI-4440: FGI - 4440 is an extremely unique ultimate performance insulation and moisture protection coating.

FGI - 4440 is an epoxy coating that is easy to apply and provides excellent insulation to surfaces. Impervious to water, FGI-4440 can even be applied under salt water.

Applied properly, FGI-4440 protects, insulates, and prevents water leakage with great flexibility. Can be applied directly over rust; offers unmatched protection against rust, heat and cold extremes, mildew, alkali, UV rays, AC oil and residue.

Adheres to all surfaces with remarkable flexibility...[more](#)

BUY COATINGS HERE 1.888.507.8762
for prices and shipping info



Home :: Sales :: Service :: Solutions :: About Us :: Contact Us :: Email

Copyright 2005-2017. All rights reserved [FG International, LLC](#)
 33717 Hwy 23 - Collins, Ga. 30421, USA
 Tel.: (US and CA) 1.888.507.8762 - (Outside US) 1.912.388.4700 - Fax.: 1.630.604.7984

EXHIBIT B

FGI – 4440 Insulation Coating

Unique Coatings – Extreme Results

Description

FGI-4440 is an extremely unique ultimate performance insulation, corrosion and moisture protection coating. FGI-4440 is an epoxy ceramic based coating that is impervious to heat and water providing for extreme insulation value. At 10 mils (0.25 mm) thickness the K value is 0.002 WmK or an equivalent R value of 30. The 4440 is not just reflective, it is truly insulation. It can get dirty, lose its reflectivity, and it will still insulate because of the type components that we have incorporated into the product. Also provides for up to 68% sound reduction based on independent tests. Because it is “wetter than water”, FGI-4440 can even be applied under salt water. Applied properly, FGI-4440 warrants against damage from standing water and can remain under water permanently with no harm to the coating. Can be applied directly over rust and offers unmatched protection against heat and cold extremes, mildew, alkali, UV, oils and grease. FGI-4440 can be applied to a dry or wet surface making rain a non issue when it comes to application time. It is water proof and can be applied equally well direct to Metal, PVC, Concrete, EPDM and capsheet The 4440 can also be applied to wood, stucco, sheetrock, virtually any substrate. Adheres to practically all surfaces, including EPDM, with remarkable flexibility. It is probably easier to say what surfaces the 4440 can not be applied to.....the few surfaces the 4440 is not recommended to be applied directly are Teflon, high-plasticized vinyl's, polyethylene, and silicone rubber. However, by utilizing our primer the 4440 can even be applied to polyethylene. The product maintains flexibility to prevent cracking. Very easy to use with long pot life, high insulation, high reflectivity, high emissivity, encapsulates friability of virtually all roof material, chemically inert finish, withstands acids, alkalis, animal fats, grease and oils, encapsulates asbestos, so no tear off or landfill waste. Withstands 2.5 inch hail at 140 mph. Stops Thermal shock thus extending roof life.

ASTM Test Battery:

ASTM B117 500 hour Salt fog test –Passed
ASTM 518 Thermal Conductance 2.61 Btu(h)(ft²)(F) Excellent
ASTM 518 Thermal Conductivity 0.0139 Btu(in)/(h)(ft²)(F), metric 0.002 w/m/K, Excellent
ASTM D-2240 Hardness 85 Shore Durometer
ASTM E108-91A UBC32-7 Class A Fire Rated
ASTM D-638 Tensile Strength 1393 PSI
ASTM E-96 Water Vapor Transmission 0.7 perms
ASTM G-53 500 hour accelerated weathering test, bend double with no cracking, highly flexible
ASTM 1640, D-92, D-1644A, D-2196, D-696, D-570, C-836, D-1652, D-1259
Flexibility is retained in sub-zero conditions (down to -92 F)

Features & Benefits

- **Very High Insulation Capacity**
- **Can be applied over Wet Surface and remain under water**
- **Very Little Prep Work over Rusty Metal**
- **UV, Weather, Chemical, Salt and Abrasion Resistant**
- **Extreme Adhesion to Substrate**
- **Extremely Durable Wear Surface**
- **No Top-Coat necessary**
- **Contains No Zinc, Lead or Chromates**
- **Typical Applications: Roofs, metal buildings, ducts, concrete walls, basements, etc.**

Application Methods

FGI-4440 may be applied by brush, roller, or spray. Surfaces should be free of loose rust, mill scale, paint, grease, oil and of any other film-forming foreign material. An example of the prep work needed is to water blast with high-pressure (3,000 psi MIN) water to thoroughly clean off all debris, dirt, and other contaminates. The result shall be to have a clean tight substrate. Optimum results are obtained if the surface is dry although entirely satisfactory protection is obtained if the surface is damp and/or wet. Surplus water should be removed to prevent excessive bubbling of the coating. Applied properly, one 13.3 mil wet coat dries to 10 mils making it impervious to water, providing for unsurpassed insulative properties and flexibility.

No primer is needed on metal surfaces thereby reducing total job cost. Airless spray is the most efficient application method for larger projects. Brushes and rollers may be used for detail work such as edge termination, filling of voids, pinholes, and small cracks.

MIXING: Prior to combining Part A and Part B, mechanically mix Part A pail and Part B pail for 2 minutes, then thoroughly mechanically combine and mix (4 to 1 ratio) 4 Parts Base (part "B") with 1 Part Activator (part "A") for 5 minutes in the 5 gallon pail (or for 1 minute in one gallon pail), with a power mixer until all streaks and/or lumps disappear and the mixture has uniform color and consistency. Be sure to allow mixing blade to rub on sides and bottom of container to recombine any settling. Allow to stand (or ingest)

for 45 minutes to one hour before adding thinner or beginning application. Use of thinner increases possibility of sag and reduces dry film thickness. Thinner also retards cure time. For best results, use just as it comes from the pail. However, thinner (use **new** lacquer thinner) can be added to the product with no harm to the coating. Thinning will necessitate applying more coats to achieve the desired mil thickness.

Any overspray and equipment must be cleaned immediately with acetone, toluene, xylene, or MEK.

FGI-4440 is 75% solids. Approx. Pot Life: 4 to 6 hours at 80 F. Drying time 1 to 2 hours at 80 F. Curing time: Initial: 8 hours at 80 F, Complete: 3 days at 80 F. Apply 13.3 mils (.0133 inches or 0.337 mm) wet to achieve a final dry mil thickness of 10 mils (0.010 inches or 0.254 mm). FGI-4440 will cover approximately 120 square feet (11.2 sq meters) per gallon at 10 mils (0.254 mm) thickness. If second coat is needed wait till first coat is tacky dry, usually one to two hours in 80 F. An example of the suggested Spray Equipment: Graco 5900 with 0.021 to 0.035 tip size with 3000 PSI capability and typically a reversible self-cleaning tip. Remove all filters from gun and hose, including bung hose. Contact FGI representatives for specific applications.

Use in well ventilated area; if not possible, use a NIOSH approved self contained breathing apparatus or vapor filters on a mask. Protective gloves and safety glasses must be worn at all times. Only very high abrasion will remove the coating. Caution: With the extreme adhesion characteristics of this product all safety procedures must be followed.

Storage Stability & Shelf Life

The shelf life of FGI - 4440 is one year when stored in original, unopened container. Store cans in a well ventilated and covered area away from extreme heat and moisture. Please contact your FGI representative if you have any questions about product usability.

Additional information is available at www.fginternational.net

Health, safety and environmental information are provided for this product in the Materials Safety Data Sheet. This gives details of potential hazards, precautions and First Aid measures, together with environmental effects and disposal of used products. Before using the product other than directed, please contact FGI for consultation.