

UNITED STATES OF AMERICA
BEFORE FEDERAL TRADE COMMISSION

COMMISSIONERS: Robert Pitofsky, Chairman
Mary L. Azcuenaga
Janet D. Steiger
Roscoe B. Starek, III
Christine A. Varney

In the Matter of)
)
)
FILTRATION MANUFACTURING, INC.,)
 a corporation, and) DOCKET NO. C-3702
)
GARY L. SAVELL,) DECISION AND ORDER
HORACE R. ALLEN, and)
BRANDON R. CLAUSEN,)
 individually and as officers)
 of said corporation.)
)
)
)

The Federal Trade Commission having initiated an investigation of certain acts and practices of respondents, Filtration Manufacturing, Inc., Gary L. Savell, Horace R. Allen and Brandon R. Clausen, and the respondents having been furnished thereafter with a copy of a draft of the complaint which the Cleveland Regional Office 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 attorneys, 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 aforesaid draft of 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, 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 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, now in further conformity with the procedure prescribed in § 2.34 of its

Rules, the Commission hereby issues its Complaint, makes the following jurisdictional finding and enters the following Order:

1. Respondent Filtration Manufacturing, Inc., is a corporation organized, existing, and doing business under and by virtue of the laws of the State of Alabama with its office and principal place of business at 1110 Montlimar Place, Suite 290, Mobile, Alabama 36609.

Respondent Gary L. Savell is the President, Chief Executive Officer, and an owner and director of the corporate respondent. He formulates, directs and controls the policies, acts and practices of said corporation, and his address is the same as that of said corporation.

Respondent Horace R. Allen is the Secretary, Treasurer, and an owner and director of the corporate respondent. He formulates, directs and controls the policies, acts and practices of said corporation, and his address is the same as that of said corporation.

Respondent Brandon R. Clausen is the Vice President, and an owner and director of the corporate respondent. He formulates, directs and controls the policies, acts and practices of said corporation, and his address is the same as that of said corporation.

2. The Commission has jurisdiction of the subject matter of this proceeding and of the respondents, and the proceeding is in the public interest.

DEFINITIONS

For the purposes of this Order, the following definitions apply:

1. The term "air cleaning product" or "product" means any device, equipment or appliance designed or advertised to remove, treat or reduce the level of any contaminant(s) in the air.
2. The term "contaminant(s)" refers to one or more of the following: fungal (mold) spores, pollen, lint, tobacco smoke, household dust, animal dander or any other gaseous or particulate matter found in indoor air.

ORDER

I.

IT IS ORDERED that respondents Filtration Manufacturing Inc., a corporation, its successors and assigns, and its officers, and Gary L. Savell, individually and as an officer of said corporation, Horace R. Allen, individually and as an officer of said corporation, and Brandon R. Clausen, individually and as an officer of said corporation, and respondents' 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 the Allergy 2000 or any other air cleaning product in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

- A. Making any representation, in any manner, directly or by implication, regarding the performance, health or other benefits, or efficacy of such product, unless, at the time of making such representation, respondents possess and rely upon competent and reliable evidence which, when appropriate, must be competent and reliable scientific evidence that substantiates such representation.
- B. Making any representation, directly or by implication, that any air cleaning product will perform under any set of conditions, including household living conditions, unless at the time of making the representation(s) respondents possess and rely upon competent and reliable scientific evidence that substantiates such representation(s) either by being related to those conditions or by having been extrapolated to those conditions by generally accepted procedures.

For purposes of this Order, "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.

II.

IT IS FURTHER ORDERED that respondents Filtration Manufacturing, Inc., a corporation, its successors and assigns, and its officers, and Gary L. Savell, individually and as an officer of said corporation, Horace R. Allen, individually and as an officer of said corporation, and Brandon R. Clausen, individually and as an officer of said corporation, and respondents' agents, representatives and employees, directly or through any partnership, corporation, subsidiary, division or other device, in connection

with the manufacturing, labeling, advertising, promotion, offering
for sale, sale or distribution of the Allergy 2000 air cleaning

product or any substantially similar product in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from using the name "Allergy 2000" or any other trade name that represents, directly or by implication, that such product will relieve allergy symptoms unless, at the time of making the representation, respondents possess and rely upon competent and reliable scientific evidence that substantiates such representation.

III.

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

- A. All materials that were relied upon in disseminating such representation; and
- B. All tests, reports, studies, surveys, demonstrations, or other evidence in their possession or control that contradict, qualify, or call into question such representation, or the basis relied upon for such representation, including complaints from consumers, and complaints or inquiries from governmental organizations.

IV.

IT IS FURTHER ORDERED that respondent Filtration Manufacturing, Inc., its successors and assigns, shall:

- A. Within thirty (30) days after the date of service of this Order, provide a copy of this Order to each of respondent's current principals, officers, directors, and managers, and to all personnel, agents, and representatives having sales, advertising, or policy responsibility with respect to the subject matter of this Order; and
- B. For a period of ten (10) years from the date of service of this Order, provide a copy of this Order to each of respondent's principals, officers, directors, and managers, and to all personnel, agents, and representatives having sales, advertising, or policy responsibility with respect to the subject matter of this Order within three (3) days after the person assumes his or her position.

V.

IT IS FURTHER ORDERED that respondents Gary L. Savell, Horace R. Allen and Brandon R. Clausen shall, for a period of ten (10) years from the date of service of this Order, notify the Commission within thirty (30) days of the discontinuance of their present business or employment and of their affiliation with any new business or employment involving the manufacturing, labeling, advertising, marketing, promotion, offering for sale, sale or distribution of any air filter or substantially similar device. Each notice of affiliation with any new business or employment shall include respondent's new business address and telephone number, current home address, and a statement describing the nature of the business or employment and his duties and responsibilities.

VI.

IT IS FURTHER ORDERED that respondents shall notify the Commission at least thirty (30) days prior to any proposed change in the corporate respondent, such as dissolution, assignment, or sale resulting in the emergence of a successor corporation, the creation or dissolution of subsidiaries, or any other change in the corporation which may affect compliance obligations arising under this Order.

VII.

IT IS FURTHER ORDERED that respondents shall, within sixty (60) days after service of this Order, and at such other times as the 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.

VIII.

This Order will terminate on January 6, 2017, or twenty 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 paragraph in this Order that terminates in less than twenty 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 paragraph.

Provided further, that if such complaint is dismissed or a federal court rules that the respondent 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 paragraph as though the complaint was never 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.

Donald S. Clark
Secretary

SEAL

ISSUED: January 6, 1997