



practices of said corporation, and his address is the same as that of said corporation.

Proposed 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. Proposed respondents admit all the jurisdictional facts set forth in the draft of complaint here attached.

3. Proposed respondents waive:

(a) Any further procedural steps;

(b) The requirement that the Commission's decision contain a statement of findings of fact and conclusions of law; and

(c) All rights to seek judicial review or otherwise to challenge or contest the validity of the order entered pursuant to this agreement.

4. This agreement shall not become part of the public record of the proceeding unless and until it is accepted by the Commission. If this agreement is accepted by the Commission, it, together with the draft of complaint contemplated thereby, will be placed on the public record for a period of sixty (60) days and information in respect thereto publicly released. The Commission thereafter may either withdraw its acceptance of this agreement and so notify the proposed respondents, in which event it will take such action as it may consider appropriate, or issue and serve its complaint (in such form as the circumstances may require) and decision, in disposition of the proceeding.

5. This agreement is for settlement purposes only and does not constitute an admission by proposed respondents that the law has been violated as alleged in the draft of complaint here attached, or that the facts as alleged in the draft complaint, other than the jurisdictional facts, are true.

6. This agreement contemplates that, if it is accepted by the Commission, and if such acceptance is not subsequently withdrawn by the Commission pursuant to the provisions of § 2.34 of the Commission's Rules, the Commission may, without further notice to proposed respondents, (1) issue its complaint corresponding in form and substance with the draft of complaint here attached and its decision containing the following order to cease and desist in disposition of the proceeding and (2) make information public in respect thereto. When so entered, the order to cease and desist

shall have the same force and effect and may be altered, modified, or set aside in the same manner and within the same time provided by statute for other orders. The order shall become final upon service. Delivery by U.S. Postal Service of the complaint and decision containing the agreed-to order to proposed respondents' address as stated in this agreement shall constitute service. Proposed respondents waive any right they may have to any other manner of service. The complaint may be used in construing the terms of the order, and no agreement, understanding, representation, or interpretation not contained in the order or in the agreement may be used to vary or contradict the terms of the order.

7. Proposed respondents have read the proposed complaint and order contemplated hereby. They understand that once the order has been issued, they will be required to file one or more compliance reports showing that they have fully complied with the order. Proposed respondents further understand that they may be liable for civil penalties in the amount provided by law for each violation of the order after it becomes final.

#### **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.
  
1. 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.
  
- A. 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
- A. 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
- A. 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.

I.

**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.

I.

**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.

I.

This Order will terminate twenty years from the date of its issuance, 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;
- A. This Order's application to any respondent that is not named as a defendant in such complaint; and
- A. 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.

Signed this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_.

**FILTRATION MANUFACTURING, INC.,**  
a corporation.

BY: \_\_\_\_\_

GARY L. SAVELL,  
individually and as President and  
Chief Executive Officer of  
Filtration Manufacturing, Inc.

\_\_\_\_\_  
HORACE R. ALLEN,  
individually and as Secretary and  
Treasurer of Filtration  
Manufacturing, Inc.

\_\_\_\_\_  
BRANDON R. CLAUSEN,  
individually and as Vice President  
of Filtration Manufacturing, Inc.

\_\_\_\_\_  
THOMAS J. COLLIN  
Attorney for respondents Filtration  
Manufacturing, Inc.; Gary L.  
Savell; Horace R. Allen; and  
Brandon R. Clausen.

**FEDERAL TRADE COMMISSION**

\_\_\_\_\_  
BRINLEY H. WILLIAMS  
Attorney  
Cleveland Regional Office

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MICHAEL MILGROM  
Attorney  
Cleveland Regional Office

**APPROVED:**

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PHILLIP L. BROYLES  
Director  
Cleveland Regional Office

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JOAN Z. BERNSTEIN  
Director  
Bureau of Consumer Protection



corporate respondent, including the acts and practices alleged in this complaint.

Respondent Brandon R. Clausen is the Vice President, and an owner and director of the corporate respondent. His principal office or place of business is the same as that of the corporate respondent. Individually or in concert with others, he formulates, directs, and controls the acts and practices of the corporate respondent, including the acts and practices alleged in this complaint.

**PARAGRAPH TWO:** Respondents have manufactured, labeled, advertised, promoted, offered for sale, sold, and distributed the "Allergy 2000" air filters.

**PARAGRAPH THREE:** 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.

**PARAGRAPH FOUR:** Respondents have disseminated or have caused to be disseminated advertisements and promotional materials for the Allergy 2000 air filters, including but not necessarily limited to the attached Exhibits A through G. These advertisements contain the following statements and depictions:

- A. *Prescribe the ultimate in care for your patient's indoor air today!*

\* \* \*

*Clearly improving the quality of air your patients breathe can be an important step to improving their overall health.*

*How? By prescribing the Allergy 2000 air conditioning filter. This super high efficiency four-stage electrostatic air filter with advanced state-of-the-art materials and a computerized design to provide the perfect mixture of air filtration and air flow.*

*Studies by independent labs have confirmed that the Allergy 2000 gathers an exceptionally wide range of indoor contaminants, including microscopic germ-carrying particles of 5 microns or less. By contrast, most commercially purchased fiberglass filters are only 7% efficient in stopping dirt, dust, pollen, etc. passing through it, according to ASHRAE.*

*The extremely low resistance of the Allergy 2000 means less strain on the air conditioning unit, which means higher efficiency and energy savings—so it can literally pay for itself! (Exhibit A.)*

- B. *Isn't it time you stopped leaving your family's health up in the air? Introducing the amazing Allergy 2000. The last air conditioning filter you'll ever buy.*

*\* \* \**

*Superior arrestance capability, 83% average with 85% peak. Superior loading capacity, 150 grams holding capacity.*

*\* \* \**

*The ultimate care for your air!*

*The Allergy 2000 represents the absolute state-of-the-art in air conditioning filter technology, providing the perfect mixture of air filtration and air flow. Scientific studies have shown that it gathers an exceptionally wide range of indoor contaminants, including microscopic germ-carrying particles. In fact, the ALLERGY 2000 can be paid for by some health insurance when prescribed by a doctor! Considering all the contaminants floating around in the air, installing an ALLERGY 2000 may be the best thing you will ever do for the health of you and your family. (Exhibit B.)*

- C. *Traps allergy causing contaminants: Dust, Pollen, Mold Spores, Pet Dander & Smoke.*

*\* \* \**

*Traps more particles while maintaining greater air flow.*

*\* \* \**

*For a cleaner, healthier indoor environment! (Exhibit C.)*

D.           *The Ultimate Care for your indoor air!*

\* \* \*

*Among the lowest initial resistance in the industry, .13, meaning less strain on the unit, higher efficiency and energy savings.*

\* \* \*

*Your indoor pollution solution! (Exhibit D.)*

E.           *The cold and flu season, traditionally only associated with the winter months (when people are forced to stay indoors), has gradually expanded to almost year-round. Why? One key factor may well be that buildings are now much more tightly sealed and energy efficient. They just don't "breathe" like they used to, and the air in them is more polluted than ever.*

*What can you do to help? Plenty. You can treat these illnesses before they become illnesses. You can treat the cause instead of the effects. You can treat the air.*

*How? By prescribing the Allergy 2000 air filter for your patients suffering from sinus or respiratory ailments. The Allergy 2000's unique design and construction removes many allergy and disease-causing contaminants from the air before they're inhaled. The result—a cleaner, healthier indoor environment. (Exhibit E.)*

F.           *Constructed of durable space-age materials, ALLERGY 2000's unique design uses static electricity to attract and hold indoor pollutants and germ-carrying particles of 5 microns or less.*

\* \* \*

*Superior arrestance capabilities, 85% peak.*

*Superior loading capacity, 150 grams psi.  
(Exhibit F.)*

G.           *DID YOU KNOW . . .*

- *That common house dust is more dangerous than outside dust? (Environmental Protection Agency.)*
- *That indoor air is found to be up to 70 times more polluted than outdoor air?*
  
- *That 50% of all illnesses are either caused or aggravated by polluted indoor air? (American College of Allergists.) (Exhibit G.)*

**PARAGRAPH FIVE:** Through the use of the trade name, Allergy 2000, and the statements and depictions contained in the advertisements and promotional materials referred to in PARAGRAPH FOUR, including but not necessarily limited to the advertisements and promotional materials attached as Exhibits A through G, respondents have represented, directly or by implication, that:

- A. Use of the Allergy 2000 filter will substantially reduce the incidence of allergies caused by indoor allergens under household living conditions.
- B. Use of the Allergy 2000 filter will substantially reduce the amount of disease-causing germs in the air people breathe under household living conditions.
- C. Use of the Allergy 2000 filter will substantially reduce the incidence of disease caused by germs in the air people breathe under household living conditions.
- D. People living in homes using the Allergy 2000 air filter will be healthier and have fewer illnesses than they would if a conventional filter were used.
- E. The Allergy 2000 air filter removes substantially all of the airborne contaminants, including allergens, from the air people breathe under household living conditions.
- F. Replacement of conventional air filters with the Allergy 2000 will result in lower utility bills for households.

**PARAGRAPH SIX:** Through the use of the statements and depictions contained in the advertisements and promotional materials referred to in PARAGRAPH FOUR, including but not

necessarily limited to the advertisements and promotional materials attached as Exhibits A through G, respondents have represented, directly or by implication, that at the time they made the representations set forth in PARAGRAPH FIVE, respondents possessed and relied upon a reasonable basis that substantiated such representations.

**PARAGRAPH SEVEN:** In truth and in fact, at the time they made the representations set forth in PARAGRAPH FIVE, respondents did not possess and rely upon a reasonable basis that substantiated such representations. Therefore, the representation set forth in PARAGRAPH SIX was, and is, false and misleading.

**PARAGRAPH EIGHT:** The acts and practices of respondents as alleged in this complaint constitute unfair or deceptive acts or practices and the making of false advertisements in or affecting commerce in violation of Section 5(a) of the Federal Trade Commission Act.

THEREFORE, the Federal Trade Commission this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, has issued this complaint against respondents.

By the Commission.

Donald S. Clark  
Secretary

[Exhibits A-G attached to paper copies, but not available in electronic format.]

**ANALYSIS OF PROPOSED CONSENT ORDER  
TO AID PUBLIC COMMENT  
(FILTRATION MANUFACTURING, INC.)**

The Federal Trade Commission has accepted, subject to final approval, an agreement to a proposed consent order from Filtration Manufacturing, Inc., a corporation (FMI), and Gary L. Savell (Savell), Horace R. Allen (Allen) and Brandon R. Clausen (Clausen). FMI manufactures and sells air filters for use in residential heating systems, under the brand name Allergy 2000, among others. The proposed consent order has been placed on the public record for sixty (60) days to receive the comments of interested persons. Comments received during this period will become part of the public record. After sixty (60) days, the Commission will again review the agreement and will decide whether it should withdraw from the agreement or make final the agreement's proposed order.

The Commission's complaint charges that FMI, deceptively advertised that 1) use of the Allergy 2000 filter will substantially reduce the incidence of allergies caused by indoor allergens under household living conditions; 2) use of the Allergy 2000 will substantially reduce the amount of disease-causing germs in the air people breathe under household living conditions; 3) use of the Allergy 2000 will substantially reduce the incidence of disease caused by germs in the air people breathe under household living conditions; 4) people who use the Allergy 2000 in their homes will be healthier and have fewer illnesses than they would if they used a conventional filter; and, 5) the Allergy 2000 removes substantially all of the airborne contaminants, including allergens, from the air people breathe under household living conditions. The complaint charges that FMI lacked substantiation for these claims. The complaint charges that these claims were made through advertisements and promotional materials and through use of the trade name "Allergy 2000."

In addition to the health-related claims listed above, the complaint also charges that FMI deceptively advertised that consumers would have lower utility bills if they replaced conventional filters with the Allergy 2000. The complaint charges that FMI lacked substantiation for this claim, too.

The complaint charges that Savell, Allen and Clausen formulated and controlled the affairs of FMI, including the acts and practices charged in the complaint.

The proposed order contains provisions designed to prevent misrepresentations related to these specific matters and others. Paragraph I of the proposed order prohibits FMI, Savell, Allen and Clausen (the respondents) from making any representation regarding the performance, health or other benefits, or efficacy of any air cleaning product (which is defined) unless they can substantiate the claims with competent and reliable evidence. If the representation states or implies a level of performance under household conditions, then the evidence that substantiates the representation must either be related to such conditions or must have been extrapolated to household conditions by generally accepted procedures.

Paragraph II prohibits the respondents from using the trade name Allergy 2000 or any

other name that represents that the product will relieve allergy symptoms unless they can substantiate the representation.

Paragraphs III, IV, VI, and VII are compliance and reporting provisions that require the respondents to maintain for five (5) years the records on which they rely to substantiate any representation covered by the order, to provide copies of the order to certain employees of FMI, to notify the Commission in the event of changes in FMI that may affect compliance obligations arising out of the order, and to file a compliance report with the Commission within sixty (60) days after the order becomes final. Paragraph V requires Savell, Allen and Clausen to notify the Commission of any change in their business affiliation.

Paragraph VIII provides that the order will terminate automatically twenty years from the date it becomes final unless the Commission has brought an action in federal court alleging a violation of the order. In that case, the order will terminate twenty years from the date that the federal court action is filed.

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