

FEDERAL TRADE COMMISSION DECISIONS

Findings, Opinions and Orders

IN THE MATTER OF

TRISTATE HOUSEHOLD GOODS TARIFF CONFERENCE, INC.

DISMISSAL ORDER IN REGARD TO ALLEGED VIOLATION OF SEC. 5 OF THE
FEDERAL TRADE COMMISSION ACT

Docket 9184. Complaint, Sept. 18, 1984—Order Dismissing Complaint, July 5, 1985

The Federal Trade Commission has dismissed the complaint in this matter since the collective ratemaking activities of respondent are immunized by the state action doctrine. The Commission has found that "further prosecution of this matter does not appear to be in the public interest."

COMPLAINT

Pursuant to the provisions of the Federal Trade Commission Act, and by virtue of the authority vested in it by said Act, the Federal Trade Commission, having reason to believe that Tristate Household Goods Tariff Conference, Inc., a corporation, hereinafter sometimes referred to as "respondent," has violated the provisions of said Act, and it appearing to the Commission that a proceeding by it in respect thereof would be in the public interest, hereby issues its complaint stating its charges as follows:

For the purposes of this complaint the use of the present tense includes the past tense and the following definitions apply:

Carrier means a common carrier of property by motor vehicle.

Intrastate transportation means the pickup or receipt, transportation and delivery of property for compensation wholly within any State of the United States by a carrier authorized by that State to engage therein.

Tariff means a publication and any supplements thereto stating the rates of a carrier for the intrastate transportation of property, excluding general rules and regulations.

Member means any carrier or other person that pays dues or belongs to Tristate Household Goods Tariff Conference, Inc. or to any successor corporation.

Rate means a charge, payment or fixed price according to a ratio, scale or standard for direct or indirect transportation service.

Collective rate means any rate or charge established under any contract, agreement, understanding, plan, program, combination or conspiracy between two or more competing carriers, or between any carrier and respondent.

PARAGRAPH 1. Respondent, Tristate Household Goods Tariff Conference, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of Delaware, with its office and principal place of business located at 410 N. Governor Printz Boulevard, PA Route 291, Lester, Pennsylvania. Respondent publishes and issues tariffs containing rates for the intrastate transportation of property on behalf of its member carriers.

PAR. 2. Carriers engaging in intrastate transportation of property within Pennsylvania do so under certificates of public convenience and necessity granted by the Pennsylvania Public Utilities Commission. Such carriers are subject to rate regulation by the said Commission and are required to charge just and reasonable rates. Carriers in Pennsylvania are required to charge the rates filed once they have been accepted by the said Commission.

PAR. 3. The statute which provides for regulation of carriers engaged in the intrastate transportation of property within Pennsylvania does not compel, command, authorize or otherwise provide for the establishment, operation or continuation of collective rates among carriers or others on their behalf.

PAR. 4. Except to the extent that competition has been restrained as herein alleged, respondent's members are now in competition among themselves and with other carriers.

PAR. 5. Respondent's membership consists of approximately 450 carriers engaging in intrastate transportation of property within Pennsylvania. Respondent's members are entitled to and do, among other things, vote for and elect the officers and directors of respondent. The control, direction and management of respondent are vested in the Board of Directors, which employs a general manager who acts as chief administrative officer of the corporation with direct charge of and supervision over the affairs of the corporation.

PAR. 6. The acts and practices of respondent set forth in Paragraph Eight are in or affecting commerce as "commerce" is defined in the Federal Trade Commission Act, as amended, and respondent is subject to the jurisdiction of the Federal Trade Commission. Respondent's acts and practices:

from businesses and other private parties to respondent's members for rendering intrastate transportation services;

(B) Affect respondent's members' purchase and use of equipment and other goods and services which are shipped across state lines; and

(C) Are supported by the receipt of dues and fees which are sent across state lines.

PAR. 7. Shippers use the intrastate services of respondent's members to transport property from warehouses and distribution centers in Pennsylvania to customers in Pennsylvania, which property was originally shipped into Pennsylvania from other states. For such intrastate deliveries of property from warehouses and distribution centers, carriers charge shippers or shippers' customers the intrastate rates published by respondent. These intrastate shipping charges are factors which influence the prices of such property. The intrastate delivery services of these carriers are an essential and integral part of the interstate business transactions of such shippers. Thus, the activities of these carriers have a substantial and direct effect upon interstate commerce.

PAR. 8. Respondent, its members, officers, directors, and others are engaging in a combination, conspiracy, agreement, concerted action or unfair and unlawful acts, policies and practices, the purpose or effect of which is to unlawfully hinder, restrain, restrict, suppress or eliminate competition among carriers engaged in the intrastate transportation of property within Pennsylvania.

Pursuant to and in furtherance thereof, respondent, its members and others engage in the following acts, policies and practices, among others:

(A) Initiating, preparing, developing, disseminating, and taking other actions to establish and maintain collective rates for the intrastate transportation of property within Pennsylvania;

(B) Participating in the collective rates; and

(C) Filing collective rates with the Pennsylvania Public Utilities Commission.

PAR. 9. The acts and practices of respondent, its members and others as alleged in Paragraph Eight have the effect of:

(A) Fixing, stabilizing, raising, maintaining, or otherwise interfering or tampering with the rates charged by carriers for the intrastate transportation of property within Pennsylvania;

(B) Restricting, restraining, hindering, preventing or frustrating rate competition among carriers for the intrastate transportation of property within Pennsylvania;

(C) Depriving shippers patronizing carriers for intrastate transpor-

tation of property within Pennsylvania of the benefits of free and open competition in the provision of said services; and

(D) Depriving consumers in Pennsylvania of the benefits of free and open competition in the intrastate transportation of property.

PAR. 10. The acts, policies and practices of respondent, its members and others, as herein alleged, are all to the prejudice and injury of the public and constitute unfair methods of competition in or affecting commerce in violation of Section 5 of the Federal Trade Commission Act, as amended. The acts and practices of respondent, as herein alleged, are continuing and will continue in the absence of the relief herein requested.

ORDER DISMISSING COMPLAINT

The Commission has considered this matter on complaint counsel's unopposed motion that the complaint be withdrawn.

In this case respondent has argued that its collective ratemaking activities are immunized by the state action doctrine. Complaint counsel now represents that all the elements of a state action defense as articulated by the Supreme Court in *Southern Motor Carriers Rate Conference v. United States*, 105 S.Ct. 1721 (1985), are available to the respondent. Accordingly, further prosecution of this matter does not appear to be in the public interest. The complaint is therefore dismissed.

Complaint

IN THE MATTER OF
ASSOCIATED MILLS, INC.

CONSENT ORDER, ETC., IN REGARD TO ALLEGED VIOLATION OF SEC. 5 OF
THE FEDERAL TRADE COMMISSION ACT

Docket 9169. Complaint, Oct. 24, 1983—Decision, July 23, 1985

This consent order requires the Chicago, Ill. manufacturer and seller of the Pollenex Pure Air "99" Air Cleaner/Deodorizer Model 699, among other things, to cease representing, contrary to fact, that this portable household air cleaning appliance removes most tobacco smoke and substantially all ragweed pollen and dust from the air people breathe under household conditions and that the appliance effectively filters all the air in a 14 foot × 18 foot room in less than an hour. The order also bars the firm from misrepresenting the ability of any such appliance or equipment to clean or remove any quantity of indoor air contaminants, or the conditions of use under which the appliance would remove the contaminants. Further, the company is required to possess competent and reliable evidence to support any claim relating to the performance characteristics of such appliance; and maintain written records of all materials that substantiate, contradict, or qualify performance claims.

Appearances

For the Commission: *Judith Wilkenfeld, Elizabeth Toni Guarino and Reid Horowitz.*

For the respondents: *Robert L. Wald and Mark Schattner, Wald, Harkrader & Ross, Washington, D.C.*

COMPLAINT

Pursuant to the provisions of the Federal Trade Commission Act, as amended, and by virtue of the authority vested in it by said Act, the Federal Trade Commission, having reason to believe that Associated Mills, Inc., hereinafter referred to as respondent, has violated the provisions of said Act, and it appearing to the Commission that a proceeding by it in respect thereof would be in the public interest, hereby issues its complaint stating its charges in that respect as follows:

PARAGRAPH 1. Respondent is a corporation organized, existing and doing business under and by virtue of the laws of the State of Illinois, with its office and principal place of business located at 111 N. Canal Street, Chicago, Illinois.

PAR. 2. Respondent is now, and at all times relevant to this com-

plaint has been, engaged in the manufacture and sale of a portable, electric household air cleaning appliance, the Pollenex Pure Air "99" Air Cleaner/Deodorizer Model 699 (hereinafter referred to in the complaint as "air cleaning appliance"), and other products to the public.

PAR. 3. Respondent operates in various States of the United States and in the District of Columbia. Respondent's manufacture, sale and distribution of air cleaning appliances mentioned herein constitutes maintenance of a substantial course of trade in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act.

PAR. 4. Respondent at all times mentioned herein has been and now is in competition with individuals, firms and corporations engaged in the sale of household air cleaning appliances and other products.

PAR. 5. In the course and conduct of its business, and for the purpose of promoting the sale and distribution of household air cleaning appliances, respondent has disseminated and caused the dissemination of advertising for household air cleaning appliances in national magazines, newspapers and catalogs distributed by the mail and across state lines. Respondent has also placed air cleaning appliance advertisements with television stations having sufficient power to broadcast across state lines and into the District of Columbia. In addition, respondent has distributed by mail or other means, product brochures and other sales literature directly to consumers or to dealers for display or distribution to consumers prior to or at the time of sale.

PAR. 6. Typical statements and representations in said advertisements and promotional materials, disseminated as previously described, but not necessarily inclusive thereof, are found in advertisements and promotional materials attached hereto as Exhibits A, B, C, D, E, F and G.

PAR. 7. Through the use of the statements and representations referred to in Paragraph Six and other representations contained in advertisements and promotional materials not specifically set forth herein, respondent has represented, and now represents directly or by implication, the following claims:

- a. The air cleaning appliance eliminates tobacco smoke from the air people breathe under household living conditions.
- b. The air cleaning appliance cleans the air of or removes most tobacco smoke from the air people breathe under household living conditions.
- c. The air cleaning appliance "takes out 99% of ragweed pollen"

d. The air cleaning appliance removes 80% of the dust from the air people breathe under household living conditions.

e. One air cleaning appliance effectively filters all the air in a 14 foot \times 18 foot room in approximately 25 minutes.

PAR. 8. In truth and in fact, the direct or implied representations set forth in Paragraph Seven are false, for reasons including but not limited to the following:

a. The air cleaning appliance does not eliminate, does not clean the air of and does not remove most tobacco smoke from the air people breathe under household living conditions. Independent tests, when extrapolated by generally accepted procedures to advertised room conditions, show that the air cleaning appliance optimally can remove no more than 12% of tobacco smoke from the indoor air people breathe.

b. Respondent's tests and independent tests, when extrapolated by generally accepted procedures to advertised room conditions, show that the air cleaning appliance cannot remove 99% of ragweed pollen or 80% of dust from the indoor air people breathe.

c. Independent tests show that the air cleaning appliance cannot effectively filter all the air in a 14 foot \times 18 foot room in approximately 25 minutes or in less than an hour.

Therefore, the direct or implied representations set forth in Paragraph Seven are false and misleading.

PAR. 9. Through the use of the advertisements and promotional materials referred to in Paragraph Six and other advertisements and promotional materials not specifically set forth herein, respondent has represented, directly or by implication, that it possessed and relied upon a reasonable basis for the representations set forth in Paragraph Seven at the initial dissemination of the representations and each subsequent dissemination. In truth and in fact, respondent did not possess and rely upon a reasonable basis for making such representations because, *inter alia*, respondent either did not conduct appropriate tests or did not properly extrapolate test results by generally accepted procedures to advertised room conditions. Therefore, respondent's representations are false and misleading.

PAR. 10. The use by respondent of the aforesaid false and misleading representations, and the placement in the hands of others of the means and instrumentalities by and through which others may use the aforesaid statements and representations, have had the capacity and tendency to mislead consumers into the erroneous and mistaken belief that said representations are true and complete and to induce such persons to purchase air cleaning appliances sold by respondent by reason of said erroneous and mistaken belief.

PAR. 11. The aforesaid acts and practices of respondent, as herein alleged, were and are all to the prejudice and injury of the public and of respondent's competitors, and constituted and now constitute unfair and deceptive acts or practices in or affecting commerce and unfair methods of competition in violation of Section 5 of the Federal Trade Commission Act, as amended.

Complaint

EXHIBIT A



ASSOCIATED MILLS INC.

COMPANY: Associated Mills, Inc.
PRODUCT: Pollenex Pure Air "99"
COMMERCIAL TITLE: "George Burns 699 Pollenex"
COMMERCIAL NO.: YAPP0056
LENGTH: 2:35



WHEN I SMOKE CIGARS AT HOME MY FRIENDS NEVER OBJECT.



BECAUSE I'VE GOT A POLLENEX PURE AIR "99".



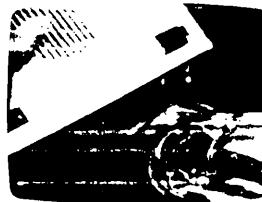
SMOKE GRABBER 6 STAGE FILTER WITH ACTIVATED CHARCOAL.



IT REMOVES SMOKE, POLLEN AND DUST... EVERYTHING BUT YOUR RELATIVES!



SMOKE GOES IN HERE...



CLEAN AIR COMES OUT HERE.



AND IT'S EXTRA LARGE FILTER TAKES OUT 99% OF RAGWEED POLLEN.



THESE ARE MY FRIENDS. THEY'RE CRAZY ABOUT MY PURE AIR "99" FROM POLLENEX.



(LOCAL DEALER TAG)

Complaint

106 F.T.C.

EXHIBIT B

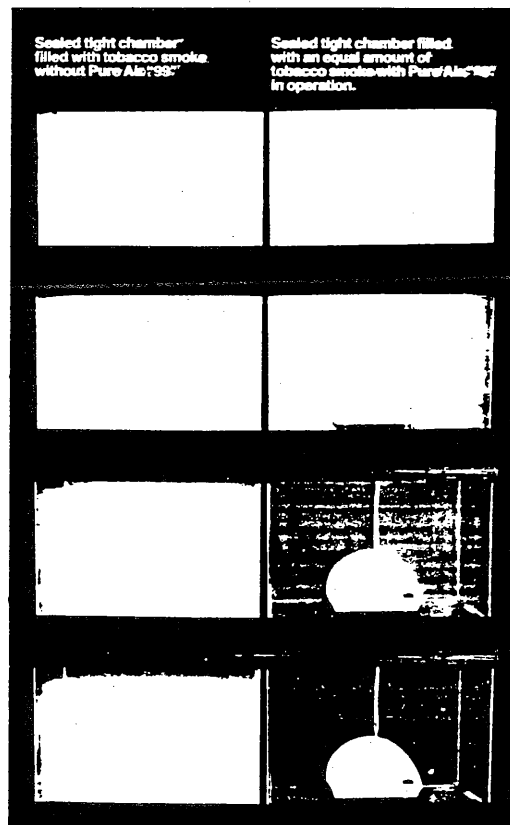


Clears the air of smoke in minutes. Lab tests prove it!

- Tests showed that in a matter of minutes approximately 85% of the tobacco smoke in the chamber containing Pure Air "99"™ had dissipated.
- Filter material proven in tests over 30 years on purifiers retailing up to \$400.
- **Electrostatic dust and dirt trap.** Air passing through this basic filter material, consisting of thousands of interconnecting fibers, creates a highly effective natural electrostatic charge that captures and holds dust and dirt.
- Filter proven to remove dust, pollen and other impurities from the air.
- Activated charcoal proven to remove smoke and other household odors.
- Bigger filter capacity than major competitors.
- Long-lasting lemon-lime fragrance proven to freshen air.
- Use on table, counter or mount on wall.
- Two speeds of air re-circulation.
- Backed by Pollenex' name and \$3,000,000 Network Prime Time TV.
- Local TV, in top markets (over 300 GRP's per market).
- Network TV, game shows.



Watch for
George Burns
as TV
spokesperson
for Pure Air "99"™
starting Sept. 1.



#1 Pollenex
No. 1 in health care
appliances.

See us at the Hardware Show, Booths ME-1002, ME-1101

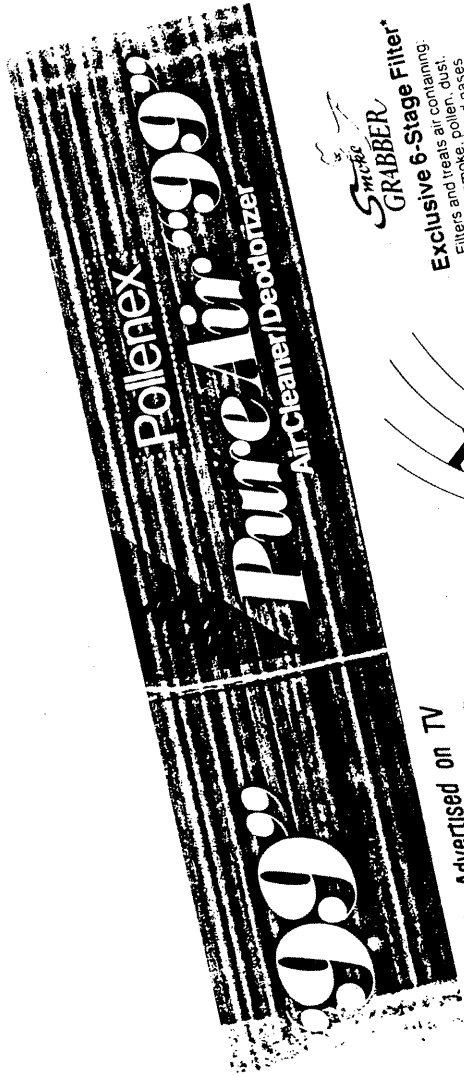
PURE AIR '99' with the proven filter



ASSOCIATED MILLS, INC.

Complaint

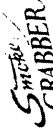
EXHIBIT C



AS Advertised on TV



"IT REMOVES SMOKE, POLLEN
AND DUST - EVERYTHING BUT
YOUR RELATIVES!"



- "6-Stage" Filter with Activated Charcoal
- More powerful
- Larger filter
- Quiet setting for sleeping



Exclusive 6-Stage Filter*

Filters and treats air containing:

tobacco smoke, pollen, dust, household odors and gases

Impingement fibers intercept larger airborne particles of pollen, dust and dirt.

Fibers are impregnated with a unique coating that holds particles in the filter material.

ACTIVATED CHARCOAL absorbs household gases and odors from tobacco smoke, cooking and other sources.

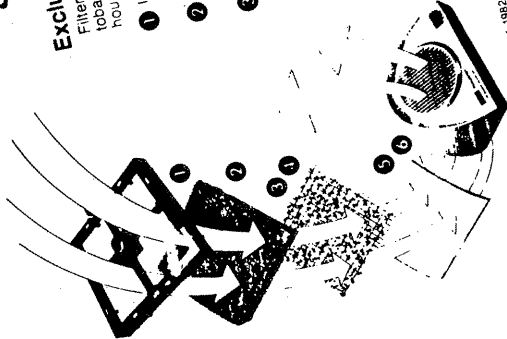
ABSORBEAD™ Crystals attract even more smoke and other odors.

Final Filter removes smoke and air-borne pollutants.

Special coating on final filter provides electrostatic action that holds captured minute smoke and other particles.

Recommended for rooms approximately 18' x 14' x 8'

© 1982 Associated Mills, Inc. 111 N. Canal St. Chicago, IL 60606



© 1982 ASSOCIATED MILLS, INC.

Complaint

106 F.T.C.

EXHIBIT D

PollenexTM
Pure Air '99
**Air Cleaner/
 Deodorizer**
 With Fragrance Control
 Model 699

**INSTRUCTIONS
 AND
 WARRANTY**

© 1991 Associated Mills, Inc.



LIMITED WARRANTY

The product listed is warranted to be free from defects in material and workmanship under normal use and service for a period of 90 days from date of sale to consumer. The manufacturer's obligation shall be limited to repairing or replacing F.O.B. Chicago, Ill. 60606, any part of the product which is defective. Such warranty shall not apply to defects resulting from accidents, abuse or misuse if you must return the product for reasons of malfunction, the following action and steps are required:

- Package the product securely to protect from damage or breakage in shipment.
- Ship prepaid to Associated Mills by most convenient method.

This warranty gives you specific legal rights and you may also have other rights which vary from state to state. Return of owner registration card is not a condition precedent to warranty coverage.

ASSOCIATED MILLS, INC.
 111 N. Canal, Chicago, IL 60606

ASSOCIATED MILLS, INC.
 111 N CANAL
 CHICAGO, IL 60606

POSTCARD

PLACE
STAMP
HERE

Complaint

5

HOW YOUR POLLENEX® PURE AIR™ '99™ MODEL 699 WORKS
 You have purchased one of the latest air filtration systems for the home or office.
 Your Model 699 Pure Air '99™ air cleaner and deodorizer has a specially designed fan that forces air through the unique Pollenex® Stage 4™ filter that helps clean and deodorize air polluted with pollen, dirt, and odors to smoke.



- EXCLUSIVE "STAGE 4™" FILTERING SYSTEM**
1. Unique Pollenex® filtering material, written up in medical journals and proven in use for over 30 years. A natural electrostatic dust and dirt trap.
 2. ACTIVATED CHARCOAL to remove smoke and other odors.
 3. ARSONBEADS™ to help trap dust and lint.
 4. Final filter for final air check.

HOW TO OPERATE YOUR POLLENEX® PURE AIR™ '99™
 Snap out filter on base of unit and remove from plastic wrap. Re-install filter with side latch top. Snap back in place. Do not have unit connected to electrical outlet while you are removing or replacing filter. Have switch in "off" position. To operate plug cord into electric outlet. Turn switch to either HI or LOW speed and your unit is in operation. Unit operates from 110 to 120 volts AC, 60Hz.

WHERE TO USE YOUR POLLENEX® PURE AIR™ '99™
 Use it anywhere in the home or office, where you like to enjoy fresher air: kitchen, bath, bedroom, living room, dining room, powder room, pet areas, sick room, or private office conference room, reception area.

HOW TO GET THE MOST FROM YOUR POLLENEX® PURE AIR™ '99™
 You'll enjoy fresher air continuously if you run the unit constantly. It's built for that kind of service. Works effectively in filtering about the same amount of air as would normally be contained in a room in 15 to 20 minutes. That's why you're recirculating, cleaning and deodorizing air every quarter of an hour or so, when your unit is set on high speed. When you first turn on unit, if possible, shut doors and windows in the room. Let unit run on high speed in the closed room for about 30 minutes. That way you'll get an initial concentration of effort. Then you can open the doors, and the unit will continue working effectively.

HOW TO USE THE EXCLUSIVE FRAGRANCE CONTROL
 Fragrance beads and their control are located in the center of the frame covering Stage 1 of the filter. Dial OFF for no scent, HI or LO for a light citrus scent.

WHAT ABOUT THE POLLENEX® "STAGE 4™" FILTER?
IMPORTANT: If you choose to enjoy the light citrus fragrance you will notice that it will gradually diminish. Effectiveness of filter is not diminished by absence of the odor and is designed to have a long life. If the unit runs constantly, the filter will need replacement only once every two to three months. Replacement filters are available at your Pollenex® Pure Air '99™ dealer. If he is temporarily out of stock, write Associated Mills/Pollenex®, 111 N. Canal St., Chicago, IL 60606 for the name of another nearby dealer.

HOW TO CARE FOR YOUR POLLENEX® PURE AIR™ '99™
 This unit needs no lubrication. It is engineered to give long useful service with a minimum of care. The exterior housing is made of high impact plastic. To remove dust or fingerprints just use mild soap on a wet cloth. Use a dry cloth to wipe off excess water. Do not use harsh industrial detergents.
CAUTION: Be sure to unplug unit before cleaning. Do not immerse unit in water. It will cause permanent damage to unit and could be very dangerous to you.

Associated Mills Inc. • 111 N. Canal Street • Chicago, IL 60606

Pollenex®
Pure Air™ '99™ Air Cleaner Deodorizer
OWNER REGISTRATION CARD
 COMPLETE AND MAIL WITHIN 90 DAYS.

Model 699 Other

NAME _____
 ADDRESS _____
 CITY _____ STATE _____ ZIP _____
 PHONE _____
 MODEL NO. _____
 SERIAL NO. _____
 PURCHASE DATE _____
 PURCHASE PRICE _____
 SALES TAX _____
 TOTAL PRICE _____

21. Please Check off:

ARE YOU

1. Purchaser/Co-purchaser
 2. Gift Recipient
 3. Employee of purchaser
 4. Person other than above completing card
 5. In purchaser's household

22. Your Age

1. Under 18
 2. 18-24
 3. 25-34
 4. 35-44
 5. 45-54
 6. 55-64
 7. 65-74
 8. 75-84
 9. 85-94
 10. 95 and over

23. You Are

1. Male
 2. Female
 3. Other

24. Who primarily decided to buy?

1. Myself
 2. My spouse
 3. My child
 4. My friend
 5. My neighbor
 6. My salesperson
 7. My family
 8. Myself and family

25. Marital Status

1. Married
 2. Single
 3. Widowed
 4. Divorced
 5. Other

26. Who will use?

1. Self only
 2. Self and others
 3. Other only
 4. Self and other

27. Purchase Recommended By

1. Dealer
 2. Friend
 3. Family
 4. Neighbor
 5. Other

28. How did you hear about this product?

1. Advertisement
 2. Salesperson
 3. Store display
 4. Mail
 5. Friend
 6. Family
 7. Neighbor
 8. Other

29. How did you see this product?

1. In store
 2. In catalog
 3. In newspaper
 4. In magazine
 5. In television commercial
 6. In radio commercial
 7. In direct mail
 8. In other publication
 9. Other

30. How did you purchase this product?

1. In store
 2. In catalog
 3. In newspaper
 4. In magazine
 5. In television commercial
 6. In radio commercial
 7. In direct mail
 8. In other publication
 9. Other

31. How did you pay for this product?

1. Cash
 2. Check
 3. Credit card
 4. Other

32. How long have you owned this product?

1. Less than 1 month
 2. 1-3 months
 3. 4-6 months
 4. 7-12 months
 5. 13-24 months
 6. 25-36 months
 7. 37-48 months
 8. 49-60 months
 9. 61-72 months
 10. 73-84 months
 11. 85-96 months
 12. 97-108 months
 13. 109-120 months
 14. More than 120 months

33. For what main purpose was product purchased? Check only one.

A. To help clean the air
 B. To help deodorize the air
 C. To help clean the filter
 D. To help clean the unit
 E. To help clean the room
 F. To help clean the car
 G. To help clean the house
 H. To help clean the office
 I. To help clean the school
 J. To help clean the hospital
 K. To help clean the factory

FEDERAL TRADE COMMISSION DECISIONS
Complaint

EXHIBIT E

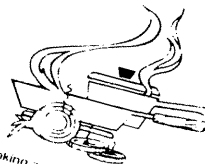
106 F.T.C.

For people who care about the air they breathe!

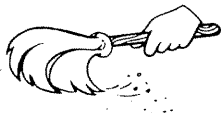


Over 35 million people are bothered by pollen in the air.

Millions of people in millions of homes and offices would love to breathe fresher air instead of air contaminated with irritating pollutants like pollen and dust, tobacco smoke, cooking and other household odors.



Cooking and other household odors are most obvious.



Dust is a common household problem.



Over 75% of all adults don't smoke. Many find breathing in smoke offensive.

Pollenex

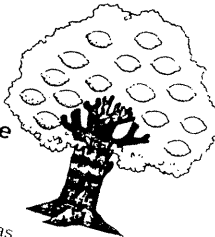
Pure Air "99"

AIR CLEANER & DEODORIZER



Model 699
2 Speeds

Helps keep air fresh and fragrant. Like having a lemon-lime tree in your room.



Leaves behind a light lemon-lime fragrance as it recirculates air in the room.

Pollenex—The name that stands for air filtering for 30 years.

Complaint

106 F.T.C.

EXHIBIT F

POLLENEX.....PROFIT EDITION

Booming Sales Predicted for Indoor Air Cleaner

Over 102,000,000 Americans are Bothered by tobacco smoke

The trend toward non smokers has been increasing rapidly over recent years. Moreover, those who find being subjected to tobacco smoke offensive, are increasing substantially in number.

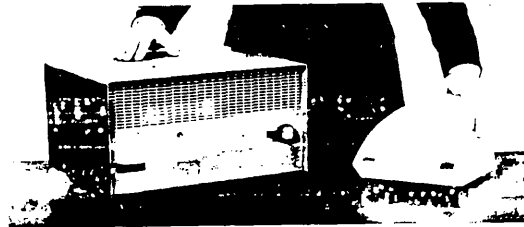
The Pure Air "99" is ideal for homes and offices that are subjected to tobacco smokers and where treatment of air containing tobacco smoke is desirable for a variety of reasons.

New way to deal with household odors without chemical sprays

Homes collect odors like they collect dust. Chemical sprays that mask them are not only expensive but not the most desirable way to eliminate odors.

With homes tightly sealed today, to save energy costs, cooking odors, bathroom odors, pet odors, tobacco odors and all kinds of household odors are offensive and embarrassing.

New Pure Air "99" helps fight odors, as it filters air with the unique Pollenex "Stage 1" Filtering System. As it recirculates and helps clean and deodorize air, it leaves behind a refreshing lemon-lime fragrance.



Pollenex® has over 30 years experience in Air Filtering Systems

Pollenex® has been a pioneer in the field of indoor air filtering, for more than three decades. The basic Pollenex® filtering material has been tested in use in air filtering machines re-

taining for as much as \$400,000. The Pollenex® Pure Air "99" Model 999, is the culmination of all that testing, plus modern technology and advances in the engineering of air cleaning and deodorizing systems. You can't find a more advanced design piece of equipment for the money.

Over 23,000,000 people are bothered by Pollen in the air

The new Pure Air "99" helps filter out pollen. Independent Laboratory Testing shows over 90% effectiveness of removal of Giant Ragweed Pollen in air that passes through the Pollenex® filter.

Moreover, the Pollenex® filter in independent tests shows 80% effectiveness in removing fine dust particles that pass through the filter.

Those who care about the air they breathe, will find life pleasanter in an environment of fresher, cleaner air. Pure Air "99" is a product the whole family will appreciate.



Pollenex® filters are those that can be found in the most current, in addition to numerous other factors contribute to a system's importance as an allergen. One is the ability of a common allergen to produce pollen in large quantities, such as ragweed. A single plant of ragweed has been estimated to produce 1,000,000 pollen grains per day.

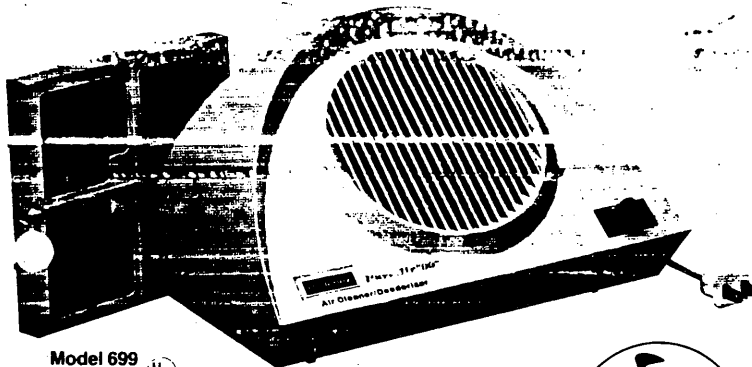
Pollenex

Pure Air "99"™

Air Cleaner/Deodorizer

Complaint

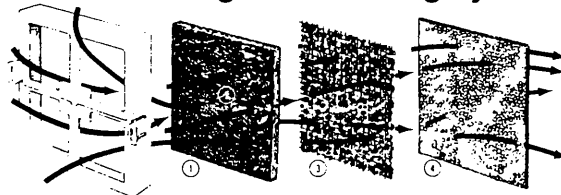
Pollenex
Pure Air "99"™
 Air Cleaner/Deodorizer



Model 699
 2 Speeds 



NEW!
 Exclusive "Stage 4"™ Filtering System



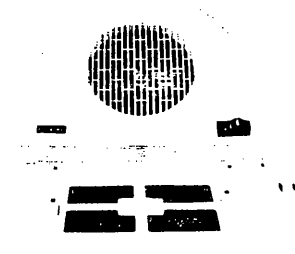
- ① Exclusive Pollenex® filtering material.
- ② Treated with activated charcoal.
- ③ PA99™ crystals saturated with lemon-lime fragrance.
- ④ Final filter for final air check.

A specially designed fan forces air through a 4-way air filtration system, helps clean and deodorize air polluted with pollen, dust, tobacco smoke, cooking odors, pet odors and other pollutants. Filters about the same amount of air as would normally be contained in a room 12' X 9' in approximately 15 minutes and it leaves behind a light lemon-lime fragrance.

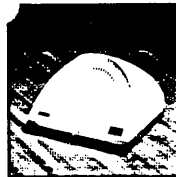
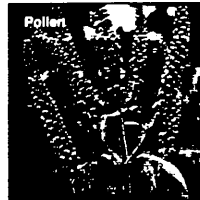
Pollenex

Pure Air "99"

Air Cleaner/Deodorizer



Filters and treats air containing:



Use on counter or table



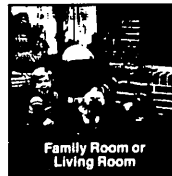
Hang on wall



Enjoy all the benefits of fresher air in any room.



Kitchen or Bathroom



Family Room or Living Room



Bedroom



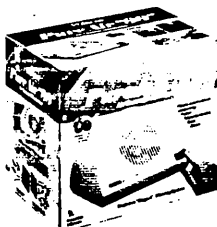
Office or Conference Room

Complaint

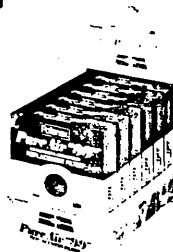
Pollenex® gives you the product, the package, and all the point-of-sale material you need to build a big booming business.



Dynamic Counter Display
Compact, contemporary design. Made of durable plastic. Motivating selling message. Can be used with unit connected or disconnected.

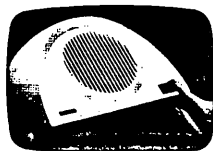


Dynamic Packaging
4-color graphics with full explanation of product, its features and benefits and where it can be used.



Replacement Filter Display
For continuous plus sales. Filters need replacing every two to three months.

PRIME TIME NETWORK T.V. AND MORE!
The biggest advertising program ever put behind an air cleaner/deodorizer.



Network T.V.
\$10 million dollars in network television advertising a select group of top T.V. shows for Fall 1981.

Network Game Shows
Targeted to the best potential market for air cleaners.

Local Market Spot T.V.
High impact, memorable spots with local dealer names in hundreds of T.V. markets.

Magazine Ads
Big space, highly informative, in-depth sell ads in top magazines, reaching the best potential customers.



- The New York Times
- Chicago Tribune
- Los Angeles Times
- Dallas Times Herald
- The Miami Herald

National Publicity Programs
All over America, in all media, people will be hearing about the amazing new Pollenex® Pure Air '89™.

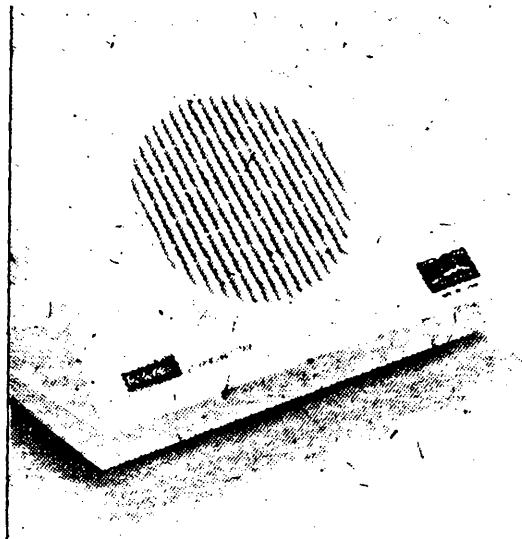
Complaint

106 F.T.C.

EXHIBIT G

**Pollenex "Pure Air 99"
Air Purifier**
Reg. 34.95, sale 23.99 less
\$4 manufacturer's rebate

Unique "smoke grabber"
filter eliminates odors,
and smoke from the air.
Six stage filtering system
with activated charcoal
has 2 continuous speeds.
Extra filters are **5.99 each.**



DECISION AND ORDER

The Commission having heretofore issued its complaint charging the respondent named in the caption hereof with violation of Section 5 of the Federal Trade Commission Act, as amended, and the respondent having been served with a copy of that complaint, together with a proposed form of order; and

The respondent, its attorneys, 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 complaint, a statement that the signing of said agreement is for settlement purposes only and does not constitute an admission by respondent 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 Secretary of the Commission having thereafter withdrawn this matter from adjudication in accordance with Section 3.25(c) of its Rules; and

The Commission having considered the matter 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 Section 3.25(f) of its Rules, the Commission hereby makes the following jurisdictional findings and enters the following order:

1. Respondent Associated Mills, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of Illinois, with its office and principal place of business located at 111 N. Canal Street, Chicago, Illinois.
2. The Federal Trade Commission has jurisdiction of the subject matter of this proceeding and of the respondent, and the proceeding is in the public interest.

ORDER

For purposes of this order, the following definitions apply:

1. The terms *air cleaning appliance or equipment* and *appliance or equipment* mean portable household electric cord connected room air cleaners (excluding ashtrays), defined more specifically as machines that (a) operate with an electrical source of power and contain a motor and fan for drawing air through a filter(s); (b) incorporate electrically charged plates in addition to a fan with a filter(s); (c) incorporate a negative ion generator in addition to a fan with a filter(s); or (d) incorporate a negative ion generator only.

2. The term *indoor air contaminants* refers to one or more contaminants including, but not limited to, tobacco smoke, household dust, pollen, or other forms of indoor air pollution.

3. The term *performance characteristics* means:

a. the power, strength or capacity of the appliance or equipment whether expressed in terms of volume of air circulated or in terms of room sizes or otherwise;

b. the cleaning, filtration, or removal ability or speed of operation of the appliance or equipment whether expressed generally or in terms of a specific contaminant, in terms of the filtering media or mechanism, or in terms of the appliance itself.

PART I

It is ordered, That respondent Associated Mills, Inc., a corporation, its successors and assigns, and its officers, agents, representatives and employees, directly or through any corporation, subsidiary, division or other device, in connection with the advertising, offering for sale, sale or distribution of the Pollenex Pure Air "99" Air Cleaner/Deodorizer Model 699 in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

A. Representing, directly or by implication, contrary to fact, that the Pollenex Pure Air "99" Air Cleaner/Deodorizer Model 699 cleans the air of most or removes most tobacco smoke from the air people breathe under household living conditions.

B. Representing, directly or by implication, contrary to fact, that the Pollenex Pure Air "99" Air Cleaner/Deodorizer Model 699 removes substantially all ragweed pollen or dust from the air people breathe under household living conditions.

C. Representing, directly or by implication, contrary to fact, that the Pollenex Pure Air "99" Air Cleaner/Deodorizer Model 699 effectively filters all the air in a 14 foot × 18 foot room in less than an hour.

PART II

It is further ordered, That respondent, its successors and assigns, and its officers, agents, representatives and employees, directly or through any corporation, subsidiary, division or other device, in connection with the advertising, offering for sale, sale or distribution of the Pollenex Pure Air "99" Air Cleaner/Deodorizer Model 699 or any other air cleaning appliance or equipment, in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act, do

A. Misrepresenting in any manner, directly or by implication, the ability of any such appliance or equipment to clean or remove indoor air contaminants.

B. Misrepresenting in any manner, directly or by implication, the ability of any such appliance or equipment to clean or remove any quantity of indoor air contaminants.

C. Misrepresenting in any manner, directly or by implication, the conditions of use under which any such appliance or equipment will clean or remove indoor air contaminants.

D. Misrepresenting in any manner, directly or by implication, the ability of any such appliance or equipment to clean air or remove indoor air contaminants from enclosures or rooms of any specified size or within any specified period of time.

PART III

It is further ordered, That respondent, its successors and assigns, and its officers, agents, representatives and employees, directly or through any corporation, subsidiary, division or other device, in connection with the advertising, offering for sale, sale or distribution of the Pollenex Pure Air "99" Air Cleaner/Deodorizer Model 699 or any other air cleaning appliance or equipment, in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

A. Representing, directly or by implication, the performance characteristics of any such appliance or equipment unless respondent possesses and relies upon a reasonable basis for such representation. A reasonable basis shall consist of competent and reliable evidence which substantiates such representation. To the extent the evidence of a reasonable basis consists of scientific or professional tests, experiments, analyses, research, studies or other evidence based on the expertise of professionals in the relevant area, such evidence shall be "competent and reliable" only if those tests, experiments, analyses, research, studies, or other evidence are conducted and evaluated in an objective manner by persons qualified to do so, using procedures generally accepted in the profession or science to yield accurate and reliable results.

B. Representing, directly or by implication, that any air cleaning appliance or equipment will perform under household living conditions, unless respondent possesses and relies upon competent and reliable scientific tests, experiments, analyses, research or studies which either relate to those conditions or which have been extrapolated by generally accepted procedures to those conditions.

PART IV

It is further ordered, That respondent, its successors and assigns, and its officers, agents, representatives and employees, directly or through any corporation, subsidiary, division or other device, in connection with the advertising, offering for sale, sale or distribution of any air cleaning appliance or equipment, in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act, shall maintain written records:

1. Of all materials relied upon in making any claim or representation covered by this order;
2. Of all test reports, studies, surveys or demonstrations in its possession that materially contradict, qualify, or call into question the basis upon which respondent relied at the time of the initial dissemination and each continuing or successive dissemination of any claim or representation covered by this order.

Such records shall be retained by respondent for a period of three years from the date respondent's advertisements, sales materials, promotional materials or post purchase materials making such claim or representation were last disseminated. Such records shall be made available to the Commission staff for inspection upon reasonable notice.

PART V

It is further ordered, That respondent shall forthwith distribute a copy of this order to each of its operating divisions and to each of its officers, agents, representatives or employees engaged in the preparation and placement of advertisements or other sales materials.

PART VI

It is further ordered, That respondent shall notify the Commission at least thirty (30) days prior to the effective date of 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 out of this order.

PART VII

It is further ordered, That respondent shall, within sixty (60) days after this order becomes final, file with the Commission a report in writing, setting forth in detail the manner and form in which it has complied with the order.

IN THE MATTER OF
HAWAII DENTAL SERVICE CORPORATION

CONSENT ORDER, ETC., IN REGARD TO ALLEGED VIOLATION OF SEC. 5 OF
THE FEDERAL TRADE COMMISSION ACT

Docket C-3158. Complaint, July 26, 1985—Decision, July 26, 1985

This consent order requires the Hawaii Dental Service Corporation ("HDS"), an organization engaged in the administration and operation of pre-paid dental care programs whose dentist members provide dental care service for a fee, among other things, to cease basing its decision to send dentists to the counties of Maui, Kauai, and Hawaii, on the approval or consent of member dentists who reside in those counties. The order bars the organization from denying membership to any dentist licensed to practice in Hawaii, based in whole or in part on the approval of other dentists in the geographic location of the dentist's proposed practice, and from inducing, encouraging, or assisting any dentist or other nongovernmental organization to take any of the prohibited actions. Within thirty days from the effective date of the order, HDS is required to remove from its constitution and bylaws or other guidelines, any provision, interpretation or policy statement that is inconsistent with the order and publish in its newsletter and another publication, a notice of such removal.

Appearances

For the Commission: *Erika Woodinski* and *Ralph E. Stone*.

For the respondents: *Wesley Ishikawa*, Honolulu, Hawaii.

COMPLAINT

Pursuant to the provisions of the Federal Trade Commission Act (15 U.S.C. 41 *et seq.*), and by virtue of the authority vested in it by said Act, the Federal Trade Commission, having reason to believe that the named respondent has violated the provisions of Section 5 of the Federal Trade Commission Act and that a proceeding by it in respect thereof would be in the public interest, hereby issues this Complaint, stating its charges as follows:

PARAGRAPH 1. Respondent Hawaii Dental Service Corporation ("HDS") is a dental service corporation formed pursuant to the laws of the State of Hawaii with its mailing address at 700 Bishop Street, Suite 700, Honolulu, Hawaii. HDS is engaged in the business of the administration and operation of prepaid dental care programs.

PAR. 2. Members of HDS are engaged in the business of providing dental care services for a fee. Except to the extent that competition

has been restrained as herein alleged, members of HDS have been and are now in competition among themselves and with other dentists. Members of HDS elect the board of directors of HDS.

PAR. 3. HDS engages in substantial activities which further its members' pecuniary interests. By virtue of its purposes and activities, HDS is a corporation within the meaning of Section 4 of the Federal Trade Commission Act, 15 U.S.C. 44.

PAR. 4. In the conduct of their business, members of HDS receive and treat patients from other states, receive substantial sums of money for rendering dental services, which monies flow across state lines, and use supplies which are shipped in interstate commerce. The acts or practices described below are in interstate commerce, or affect the interstate activities of HDS's members, third-party payers, other third parties, and some patients of HDS's members, and are in or affect commerce within the meaning of Section 5(a)(1) of the Federal Trade Commission Act, 15 U.S.C. 45(a)(1).

PAR. 5. One factor that consumers consider in deciding whether to purchase a prepaid dental service plan is whether the plan has an adequate supply of participating dentists. In the absence of the restraints on competition alleged in this complaint, HDS would be able to make its plan more attractive to consumers by seeking to recruit dentists and send them to be participating dentists in the counties of Maui, Kauai, and Hawaii. Such activities by HDS could increase competition among dentists and increase access to dental care in those counties.

PAR. 6. HDS has acted as a combination of at least some of its members or has agreed with at least some of its members to limit, foreclose, frustrate, or eliminate competition among dentists in the State of Hawaii by agreeing to restrictions on its ability to freely recruit and send dentists to the counties of Maui, Kauai, and Hawaii.

PAR. 7. HDS has acted in furtherance of this combination or agreement by enacting restrictions in its bylaws that prohibit HDS from recruiting and sending dentists to the counties of Maui, Kauai, or Hawaii without the approval of the majority of its members who reside in the affected county, thereby according HDS's members in these counties the power to exclude competition.

PAR. 8. Through the combination or agreement and the acts described above, certain individual members or potential members of HDS are likely to have been or are likely to be deterred from establishing practices in the counties of Maui, Kauai, and Hawaii, to the effect that:

A. Competition among dentists for patients may have been and may be limited, foreclosed, frustrated or eliminated; and

B. Consumers may have been and may be deprived of the benefits of competition among dentists.

PAR. 9. The combination or agreement and the acts described above constitute unfair methods of competition and unfair acts or practices which violate Section 5 of the Federal Trade Commission Act, 15 U.S.C. 45. Such combination or agreement is continuing and will continue absent the entry against HDS of appropriate relief.

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 complaint which the San Francisco Regional Office proposed to present to the Commission for its consideration and which, if issued by the Commission, would charge 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 of complaint, a statement that the signing of said agreement is for settlement purposes only and does not constitute an admission by respondent 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 respondent has 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 Section 2.34 of its Rules, the Commission hereby issues its complaint, makes the following jurisdictional findings and enters the following order:

1. Respondent Hawaii Dental Service Corporation is a corporation, existing and doing business under and by virtue of the laws of the State of Hawaii with its office and principal place of business located at 700 Bishop Street, Suite 700, Honolulu, Hawaii.

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

ORDER

I.

For purposes of this order, the following definitions shall apply:

A. *HDS* means respondent Hawaii Dental Service Corporation, its Board of Directors, officers, committees, representatives, agents, employees, successors, and assigns; and

B. *Member dentist* means a dentist with whom HDS has a contractual agreement to render dental care to beneficiaries of HDS dental care plans.

II.

It is ordered, That HDS, directly or indirectly, or through any corporation or other device, in connection with the administration and operation of prepaid dental care programs in or affecting commerce, as commerce is defined in the Federal Trade Commission Act, forthwith cease and desist from:

A. Basing the decision to send dentists, dentist groups, or dentist panels to the counties of Maui, Kauai, and Hawaii, in whole or in part, on the approval or consent of other member dentists who reside in those counties;

B. Denying membership in HDS to a dentist licensed to practice in the State of Hawaii based in whole or in part on the approval or consent of other member dentists to the geographic location of the dentist's proposed practice; and

C. Inducing, urging, encouraging, or assisting any dentist, group of dentists, or any other non-governmental organization to take any of the actions prohibited by Part II of this order.

III.

It is further ordered, That HDS shall:

A. Within thirty (30) days after this order becomes final, remove from its constitution and bylaws, and from any other existing policy statements or guidelines of HDS, any provision, interpretation or policy statement which is inconsistent with Part II of this order, and within sixty (60) days after this order becomes final, publish in the *Hawaii Dental Service Newsletter* and one other publication generally circulated to dentists practicing in the State of Hawaii, a notice of the

removal of such provision, interpretation, policy statement or guideline;

B. Within thirty (30) days after this order becomes final, distribute a copy of this order to each of HDS's supervisory personnel having procedural or policy responsibilities with respect to the subject matter of this order, and secure a signed statement acknowledging receipt of said order;

C. Within ninety (90) days after this order becomes final, file a written report with the Federal Trade Commission setting forth in detail the manner and form in which it has complied with this order;

D. For a period of five (5) years after this order becomes final, maintain and make available to the Commission staff, for inspection and copying upon reasonable notice, records adequate to describe in detail any action taken in connection with the activities covered by this order; and

E. Within one (1) year after this order becomes final, and annually thereafter for a period of four (4) years, file, if requested by Commission staff, a written report with the Federal Trade Commission setting forth in detail any action taken in connection with the activities covered by this order.

IV.

It is further ordered, That HDS shall notify the Commission at least thirty (30) days prior to any proposed change in HDS, such as dissolution, assignment, or sale resulting in the emergence of a successor corporation or association, or any other change in HDS which may affect compliance obligations arising out of this order.

IN THE MATTER OF
DECORATING PRODUCTS ASSOCIATION OF
CENTRAL FLORIDA

CONSENT ORDER, ETC., IN REGARD TO ALLEGED VIOLATION OF SEC. 5 OF
THE FEDERAL TRADE COMMISSION ACT

Docket C-3159. Complaint, July 26, 1985—Decision, July 26, 1985

This consent order requires Decorating Products Association of Central Florida (DPACF), an association composed of wallcovering retailers and suppliers, among other things, to cease, individually or in concert with others, engaging in conduct having the purpose or effect of fixing prices, terms or conditions of sale of wallcoverings; coercing sellers of wallcoverings to adopt or abandon any practice or policy concerning pricing, conditions of sale, distribution method, or choice of customers. DPACF is also barred from suggesting or recommending to its members that they refuse to deal or otherwise attempt to affect a supplier's pricing or distribution methods; and from assisting any affiliated organization or its members in engaging in the prohibited conduct. The organization is further required to mail a copy of the order to each of its members and to publish it in its newsletter in a timely fashion. Finally, the order obligates DPACF to require its members to agree in writing to be bound by the terms of the order as a condition of membership; and to terminate for a period of one year any member believed to have engaged in the prohibited practices after the effective date of the order.

Appearances

For the Commission: *Kevin T. Cronin and Joseph Eckhaus.*

For the respondents: *J. Thomas Cardwell, Akerman, Senterfitt & Eidson, Orlando, Fla.*

COMPLAINT

Pursuant to the provisions of the Federal Trade Commission Act, as amended, 15 U.S.C. 41 *et seq.*, and by virtue of the authority vested in it by said Act, the Federal Trade Commission, having reason to believe that the respondent named in the above caption has violated the provisions of said Act and it appearing to the Commission that a proceeding by it in respect thereof would be in the public interest, hereby issues this complaint stating its charges as follows:

PARAGRAPH 1. For purposes of this complaint, the following definitions shall apply:

and commercial walls, such as simple wallpapers, vinyls, fabrics and foils.

B. *Supplier* means a manufacturer or a distributor of wallcoverings or an entity engaged in the sale of wallcoverings to others for resale to consumers.

PAR. 2. Respondent Decorating Products Association of Central Florida ("DPACF") is an unincorporated association, organized in or about May, 1980, with its mailing address at Post Office Box 183, Orlando, Florida. DPACF is a local affiliate of the National Decorating Products Association ("NDPA"). Membership in DPACF constitutes membership in NDPA. NDPA and DPACF are composed of full voting members, which are retail businesses engaged in the promotion and sale of wallcoverings, and non-voting associate members, which are suppliers of wallcoverings.

PAR. 3. DPACF was organized, *inter alia*, to facilitate the exchange of information among its members concerning methods for conducting business in the sale and distribution of wallcoverings. Its affairs are discussed and policy determined at monthly meetings presided over by DPACF's president.

PAR. 4. Full voting members of respondent are engaged in the operation of retail decorating products stores where wallcoverings are sold. Annual retail sales of wallcoverings in the United States are approximately \$1.5 billion. Except to the extent that competition has been restrained as herein alleged, full voting members of respondent have been and are now in competition among themselves and with other retail sellers of wallcoverings.

PAR. 5. Respondent engages in substantial activities which further the pecuniary interests of its members. By virtue of its purposes and its activities, respondents are corporations within the meaning of Section 4 of the Federal Trade Commission Act, *as amended*, 15 U.S.C. 44.

PAR. 6. Respondent, and its members, engage in acts and practices, including the acts and practices described below, which are in or affect commerce within the meaning of the Federal Trade Commission Act, *as amended*.

COUNT I

PAR. 7. Respondent DPACF has acted as a combination of, or has conspired with, at least some of its members to restrain competition by refusing to deal with a supplier that was planning to open a chain of retail wallcovering stores.

PAR. 8. Respondent DPACF and at least some of its members have engaged in various acts or practices in furtherance of this combination or conspiracy, including, among other things:

A. Removing, or urging and encouraging members and others to remove, certain wallcovering sample books from their store shelves;

B. Discontinuing, or urging and encouraging members and others to discontinue, promotion of the products of certain suppliers;

C. Not placing, or urging and encouraging members and others not to place, customer orders for wallcoverings through certain suppliers.

PAR. 9. The combination or conspiracy and the acts and practices alleged in Paragraphs Seven and Eight have had, or have the tendency or capacity to have, the following effects, among others:

A. Restraining competition in connection with the sale and distribution of wallcoverings;

B. Restraining the ability of suppliers to distribute wallcoverings in a manner that would place suppliers in competition with respondents' members and other retail sellers of wallcoverings;

C. Depriving consumers of the benefits of additional price, quality and service competition in connection with the purchase and sale of wallcoverings.

PAR. 10. The combination or conspiracy and the acts and practices alleged in Paragraphs Seven and Eight constitute unfair methods of competition or unfair or deceptive acts and practices by respondent in violation of Section 5 of the Federal Trade Commission Act, *as amended*, 15 U.S.C. 45.

COUNT II

PAR. 11. Respondent DPACF and others have combined or conspired between and among themselves, and with at least some of their members to restrain competition by attempting to fix or restrain the prices paid to wallcovering suppliers by retailers, and by refusing or threatening to refuse to deal with suppliers that imposed charges for cutting single rolls of wallcovering.

PAR. 12. Respondent DPACF and at least some of their members and others have engaged in various acts or practices in furtherance of these combinations or conspiracies, including, one or more of the following:

A. Threatening, and urging members to threaten, to refuse to deal with suppliers that imposed cutting charges;

B. Refusing to pay, or urging members to refuse to pay, cutting charges imposed by suppliers;

C. Publishing and circulating to suppliers, and others, statements implying that members would refuse to deal with suppliers imposing cutting charges, or urging members to refuse to pay cutting charges imposed by suppliers.

alleged in Paragraphs Eleven and Twelve have had, or have the tendency or capacity to have, the following effects, among others:

- A. Fixing, maintaining, or stabilizing prices of wallcoverings;
- B. Restraining competition in connection with the sale and distribution of wallcoverings;
- C. Depriving consumers of the benefits of additional price, quality and service competition in connection with the purchase and sale of wallcoverings.

PAR. 14. The combination or conspiracy and the acts and practices alleged in Paragraphs Eleven and Twelve constitute unfair methods of competition or unfair or deceptive acts and practices by respondent in violation of Section 5 of the Federal Trade Commission Act, *as amended*.

COUNT III

PAR. 15. Respondent DPACF has acted as a combination of, or has conspired with, at least some of its members to restrain competition by refusing or threatening to refuse to deal with suppliers engaged in the direct sale of wallcoverings to building contractors.

PAR. 16. Respondent DPACF and at least some of its members have engaged in various acts or practices in furtherance of this combination or conspiracy, including, among other things:

- A. Publishing statements urging members to refuse to deal with suppliers that sell directly to building contractors;
- B. Identifying in published statements a supplier involved in the direct sale of wallcoverings to building contractors and urging members to refuse to deal with such suppliers;
- C. Threatening and attempting to coerce suppliers into discontinuing their direct sales to building contractors.

PAR. 17. The combination or conspiracy and the acts and practices alleged in Paragraphs Fifteen and Sixteen have had, or have the tendency or capacity to have, the following effects, among others:

- A. Restraining competition in connection with the sale and distribution of wallcoverings;
- B. Depriving consumers of the benefits of additional price, quality and service competition in connection with the purchase and sale of wallcoverings.

PAR. 18. The combination or conspiracy and the acts and practices alleged in Paragraphs Fifteen and Sixteen constitute unfair methods of competition or unfair or deceptive acts and practices by respondent in violation of Section 5 of the Federal Trade Commission Act, *as amended*. These combinations or conspiracies, as well as those alleged

in Counts I and II, are continuing and will continue in the absence of appropriate relief.

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 complaint which the Bureau of Competition proposed to present to the Commission for its consideration and which, if issued by the Commission, would charge respondent with violation of the Federal Trade Commission Act; and

The respondent, its attorney, 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 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 Section 2.34 of its Rules, the Commission hereby issues its complaint, makes the following jurisdictional findings and enters the following order:

1. Respondent is an unincorporated association with its mailing address at P.O. Box 183, Orlando, Florida.
2. The Federal Trade Commission has jurisdiction of the subject matter of this proceeding and of the respondent, and the proceeding is in the public interest.

ORDER

I.

It is ordered, That for purposes of this order the following definitions shall apply:

- A. *DPACF* means the Decorating Products Association of Central

