

UNITED STATES OF AMERICA
FEDERAL TRADE COMMISSION

COMMISSIONERS: Jon Leibowitz, Chairman
William E. Kovacic
J. Thomas Rosch
Edith Ramirez
Julie Brill

In the Matter of

ORECK CORPORATION,
a corporation.

DOCKET NO.

COMPLAINT

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

1. Respondent Oreck Corporation is a Delaware corporation with its principal office or place of business at 565 Marriott Drive, Suite 300, Nashville, Tennessee 37214.
2. Respondent has manufactured, advertised, labeled, offered for sale, sold, and distributed products to the public, including the Oreck Halo vacuum cleaner and the Oreck ProShield Plus portable air cleaner. Respondent offers these products direct to consumers by telephone and through numerous websites, including www.oreck.com, www.healthier-home.com, www.oreckhalo.com, and www.oreckpureair.com, as well as through company-owned and franchised retail stores and third-party retail outlets. The Oreck Halo and the Oreck ProShield Plus are “devices,” within the meaning of Sections 12 and 15 of the Federal Trade Commission Act.
3. The acts and practices of respondent alleged in this complaint have been in or affecting commerce, as “commerce” is defined in Section 4 of the Federal Trade Commission Act.
4. The Oreck Halo is an upright vacuum cleaner that has a built-in light chamber and a HEPA filter bag. The light chamber generates ultraviolet light in the C spectrum onto floor surfaces while vacuuming. Respondent promotes the Oreck Halo as effective, through normal use, in killing virtually all bacteria, viruses, germs, mold, and allergens that exist on carpets and other floor surfaces.

5. The Oreck Proshield Plus is a portable room air cleaner. Containing an electrostatic precipitator, the Oreck Proshield Plus uses a process called electrostatic attraction to trap airborne particles. Respondent promotes the Oreck ProShield Plus as effective, through normal use, in killing virtually all bacteria, viruses, germs, mold, and allergens that exist in the air of an average-sized household room.

6. Respondent has disseminated or has caused to be disseminated advertisements for the Oreck Halo and Oreck ProShield Plus, including but not necessarily limited to the attached Exhibits A through N. These advertisements contain the following statements and depictions:

A. <http://www.oreck.com/flu-fighters/index.cfm>, accessed 12/9/09 (Exhibit A)



The new Oreck ProShield™ Plus Air Purifier with Helios Shield™ captures and destroys many airborne viruses like the flu.

You can do something about the air in your home. Twice every hour, the new Oreck ProShield Plus cleans and re-circulates the air in a 12' x 1 8' room. In in-home testing, the ProShield helped deliver up to a 99% reduction in particles down to .1 microns.*”

The Oreck Halo® kills many germs on your floor while you vacuum.

Now you and your family can enjoy a healthier clean. This is the only vacuum in the world that uses powerful UV-C light to kill many of the germs that could be living on your floors. UV-C technology is not new. It's used to sanitize hospital operating rooms and to purify drinking water”

B. Oreck Halo and ProShield Plus Print Advertisement (Exhibit B)

“Introducing the Oreck Flu Fighters.

Help stop the flu on virtually any surface and in the air in your home.

Captures Viruses

The NEW Oreck ProShield™ Plus Air Purifier with Helios Shield™ can capture and destroy many airborne viruses like the flu.

You can do something about the air in your home. Twice every hour, the new Oreck ProShield Plus cleans and re-circulates the air in a 12' x 1 8' room. In in-home testing, the ProShield helped deliver up to a 99% reduction in airborne particles down to .1 microns.*

....

Now you and your family can enjoy a healthier clean. This is the only vacuum in the world that uses powerful UV-C light to kill many of the germs that could be living on your floors. UV-C technology is not new. It's used to sanitize hospital operating rooms and to purify drinking water supplies. See for yourself just how effective it is and what a fantastic job it does on all types of floor surfaces.*”

[The advertisement contains the following statement in small print: “*Results may vary. Extent of killing on surfaces depends on microorganism exposure time. The Oreck Halo vacuum cleaner is not intended for use in the cure, mitigation, treatment or prevention of any disease or medical condition, including asthma or allergies.”]

- C. Oreck Halo 30-minute Infomercial (Exhibit C, transcript, and Exhibit D, DVD containing ad)

[Announcer]: “Your floors look clean but are they really...even if it looks clean there can be germs, mold, bacteria, viruses, dust mite and flea eggs living right under your feet. Tracked in on your shoes or carried in by your pet. Did you know that you can find over 100,000 dust mites on one square yard of carpet and dust mites have been linked to indoor allergies and asthma. Plus there can be up to 2,500 bacteria, a common cause of infections on just one square inch of tile. But it gets worse! You could find up to 200,000 bacteria on just one square inch of carpet.”

....

[Announcer]: “Ordinary vacuums pick up dirt, but may leave germs behind and harsh chemicals like bleach can ruin carpet. But now you can kill and reduce many germs and bacteria on all your floors, while you vacuum. Introducing the revolutionary Oreck Halo-the only germ-killing UVC vacuum!”

[The advertisement depicts a woman quickly vacuuming up all simulated germs. On the screen, the following statement appears in small white print superimposed at the bottom of the screen for a few seconds: “Simulation only. Results may vary. Extent of killing on surfaces depends on microorganism exposure time. The Oreck Halo vacuum cleaner is not intended for use in the cure, mitigation, treatment or prevention of any disease or medical condition, including asthma or allergies.”]

....

[Announcer]: “The light chamber in the Oreck Halo has killed up to 99.9% of bacteria exposed to its light in one second or less.”

[The advertisement depicts a woman vacuuming up all simulated germs. On screen, the statements appear: “Killed up to 99.9% of bacteria in laboratory testing.” and “One second or less.”]

....



[Andrea Jackson]: “The Oreck Halo light chamber has been tested and shown to kill up to 99.9% of certain common germs, plus dangerous pathogens like E. Coli and MRSA. Best of all, the many germs it kills can then be vacuumed up without a trace, thanks to superior vacuum technology that could only come from Oreck.”

[The advertisement depicts a man quickly vacuuming up all simulated germs. On screen, the following statement appears: “Reduced up to 99.9% of common germs in laboratory testing.” The advertisement also contains the following statement in small white print superimposed at the bottom of the screen: “Simulation only. Results may vary. Extent of killing on surfaces depends on microorganism exposure time. The Oreck Halo vacuum cleaner is not intended for use in the cure, mitigation, treatment or prevention of any disease or medical condition, including asthma or allergies. Do not attempt to look into Oreck Halo light. See Owner’s Manual for safety and other instructions.”]

....

[Announcer]: “In laboratory testing the Halo light chamber can kill flu virus and e.coli bacteria in as little as .33 seconds. There is no extra work and no extra cleaning.”

[The advertisement depicts a man in lab coat vacuuming, followed by the following chart:

	UP TO 99.9% KILL	SECONDS
	INFECTIOUS HEPATITIS	0.40
	INFLUENZA	0.33
	BACILLUS ANTHRACIS ANTHRAX	0.44
	E. COLI	0.33
	MYCOBACTERIUM TUBERCULOSIS	0.50
	SALMONELLA ENTERITIDIS	0.38

The advertisement then calls out from the chart the times relating to the flu virus and e. coli bacteria.]

....

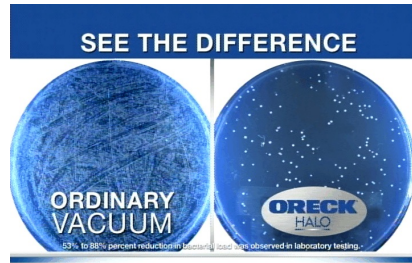
[Stan Kikkert]: “I’m Stan Kikkert. In carpets, we can commonly find staphylococcus. Basically we did a simple experiment. I applied staphylococcus to the surface of various carpet samples. Some of those samples were vacuumed two passes from the Oreck Halo vac. Some received four passes, some received six passes. In addition, I did this experiment in parallel with a conventional vacuum, one that did not have an ultra-violet light. After performing the vacuuming, I swabbed the carpets, and transferred those swabs onto some auger Petri dishes. What we saw was a conventional vacuum is not effective at removing microorganisms from the carpet. The Oreck Halo vac was successful at removing bacteria from the surface of carpet samples. That reduction was approximately 80%, with each set of two passes.”



[On-screen depiction]

[On screen in above depiction in small white print at the bottom of the screen: “53% to 88% percent reduction in bacterial load was observed in laboratory testing.”]

[Stan Kikkert]: “We see that repeated use of the Oreck Halo vac, you get a repeated reduction in the amount of bacteria that’s present on the surface of the carpet samples.”



[On-screen depiction]

[On screen in above depiction in small white print at the bottom of the screen: “53% to 88% percent reduction in bacterial load was observed in laboratory testing.”]

....

[Dr. Charles Gerba]: “To assess the effectiveness of the Oreck Halo, we looked at the numbers of bacteria in five different households. And I want to show you the results, because they’re rather dramatic. Let me start with the Rosser home, where you can see the number of bacteria on the baby’s carpeting before and after the use of the Oreck Halo-over a 90% reduction.”



[On-screen depiction]

[On screen in above depiction in small white print at the bottom of the screen: “Results may vary. Extent of killing on surfaces depends on microorganism exposure time. Bacteria colonies were incubated for comparison based on colony growth. Results may not represent actual bacteria levels present prior to incubation.”]

[Consumer endorser]: “Now I know firsthand! I mean the results are right in front of my face. It makes such a difference. That’s just amazing.”

[Dr. Charles Gerba]: “Well, let’s take a look at the results from the Harber’s kitchen tile floor. This is before and after. You can see the effectiveness of the Oreck Halo - here over 90% reduction.”

[Woman's voice; close-up of two simulated Petri dishes-before and after-"Harber Family" heading]: "I can't believe how much the Oreck Halo eliminated, and how, just by using the Halo for the thirty days. . . I just couldn't be happier with the results."

[Dr. Charles Gerba]: "Let's move on to the Squier household. You can see the large numbers of bacteria here, and in this case we reduced the number of bacteria by more than 99.9%."

[Consumer endorser]: "The bacteria was almost gone, so I know that if I continued to use the Oreck Halo, it's gonna remove more bacteria each time it's being used."

[Dr. Charles Gerba]: "Let's move on to the Coble home-the hardwood bedroom floors, you can see more than a 90% reduction."

[Consumer endorser]: "Couldn't even express the night and day results."

....

- D. Oreck Halo 60-second Television Commercial (Exhibit E, transcript, and Exhibit F, DVD containing ad)

[Announcer]: "Chances are allergens and illness triggers are in your home...living right under your feet. Dirt and debris you can see and germs, bacteria and dust mites that you can't see. So how do you get from here..."



[Depiction of simulated germs, bacteria and dust mite eggs deep below the surface of a carpet]

to here?"



[Depiction of woman quickly vacuuming up all simulated mold, bacteria, germs and viruses]

[On screen in above depiction in small white print at the bottom of the screen: “Simulation only. Results may vary. Extent of killing on surfaces depends on microorganism exposure time. Not intended to cure, treat or prevent any disease or medical condition. Do not attempt to look into Oreck Halo light. See Owner’s Manual for safety and other instructions.”]

[Announcer]: “With the incredible germ killing vacuum so revolutionary it could only be an Oreck.

....

The secret is the patented Halo Light chamber that creates a powerful germicidal wavelength of UV-C light that can kill and reduce up to 99.9% of germs and bacteria helping you give your floors a healthier clean.”

[The advertisement depicts the Oreck Halo’s UV-C light killing germs. On the screen, the following statement appears in small white print superimposed at the bottom of the screen for a few seconds: “Results may vary. Extent of killing on surfaces depends on microorganism exposure time. The Oreck Halo vacuum cleaner is not intended to cure, treat or prevent any disease or medical condition, including asthma or allergies.”]

[Announcer]: “. . . and learn how the Oreck Halo can help you give your home a healthier clean.”

[The advertisement depicts the Oreck Halo eliminating all germs below the vacuum]

E. Oreck Halo Print Advertisement (Exhibit G)

“Goodbye bacteria, viruses, mold, and germs. Hello barefoot clean!

Introducing the powerful new Oreck Halo.™ The only UV-C germ-killing vacuum.

There is a lot more that could be living in your home than just your family and pets. Dust-mites, fleas and their eggs, mold, bacteria, germs, and microorganisms that cause flu, diarrhea and upset stomachs could be living there, too. Now there's an amazingly powerful new vacuum that was designed to help protect your family from many of those microscopic, uninvited guests. It's the new Oreck Halo with exclusive germ-killing UV-C Technology.

Technology proven in hospitals. The new Oreck Halo can kill many bacteria, viruses, dust mite eggs, and even mold on any floor surface.* That's due to its powerful UV-C light. This is the same light used to disinfect hospital operating rooms and purify drinking water. You get a healthier clean.

...”

[Small print at bottom of ad: “Results may vary. Extent of killing on surfaces depends on exposure time. Instant killing is considered exposure times of one second or less. The Oreck Halo vacuum cleaner is not intended for use in the cure, mitigation, treatment, or prevention of any disease or medical condition, including asthma or allergies. Bag filters 99.95% of all particles captured down to 0.3 microns.”]

F. Oreck Halo Print Advertisement (Exhibit H)

“Make sure your child is the only thing crawling on your floors.

Millions of germs, viruses and bacteria could be living on **your** floor and can trigger asthma and allergy attacks, colds, and flu.

... .



When the light is on, germs are gone.

...”

G. Oreck Halo Print Advertisement (Exhibit I)

“The Oreck Halo helps you fight the flu.

Now you can enjoy a healthier clean, thanks to the Oreck Halo.

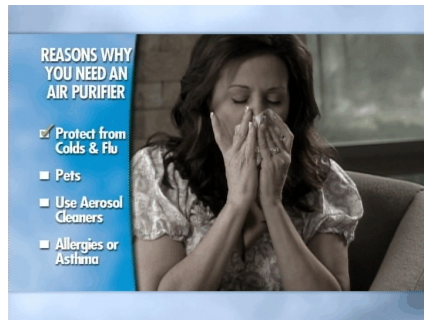
This is the only vacuum in the world that uses powerful UV-C light to kill many of the germs that could be living on your floors, such as the flu. UV-C technology is not new. It's used to sanitize hospital operating rooms and to purify drinking water. Plus the Oreck Halo is hypo-allergenic. It traps 99.9% of particulates down to 0.3 microns.



....”

- H. Oreck ProShield Plus 30-minute Infomercial (Exhibit J, transcript, and Exhibit K, DVD containing ad)

[David Oreck]: “Here are a couple of questions. Do you want to protect your family from exposure to colds and flu this season in your home? Do you have pets? Do you ever use aerosol cleaners? Does anyone in your family have allergies or asthma? Now, if you answered ‘yes’ to any of these questions, that’s where my new Pro Shield Plus Air Purifier comes in.”



[On-screen depiction of woman sneezing]

....

[Announcer]: “Our country is facing what some are calling the worst flu season in years. Now more than ever we should be aware of the airborne germs and viruses that could be in our home.”

....

[Host]: “Well, now you can fight back with this, the new Oreck ProShield Plus, the air purifier that circulates the air to capture and kill many of the potentially

harmful things that may be in it. I know how harmful they can be because my health was severely affected for several years by indoor air pollution. So when the folks at Oreck asked me to host this show I told them I wanted to see proof that the ProShield Plus worked in real homes for real families, and not just in a laboratory. Their response? No problem.”

....

[Tony Frassrand]: “Well, our independent air quality specialist did an initial test in the Vaccher’s home and found that they had an incredibly high number of particles in their air. We then turned on the Oreck ProShield Plus that was placed in the center of the living room, and the ProShield Plus got to work cleaning the air. Our independent air quality specialist retested the air over a short period of time to see how the Oreck ProShield Plus performed. What’d you find?”

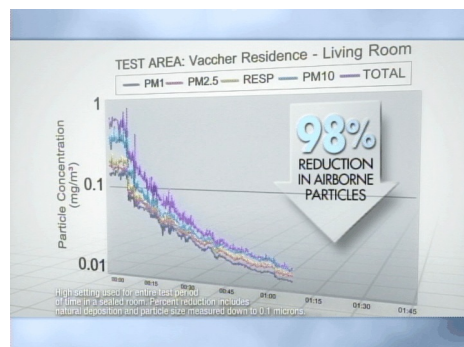
[Indoor Air Quality Specialist]: “Well what I found was that we had a 98% reduction.”

[Tony Frassrand]: “98% reduction.”

[Consumer endorsers]: “Wow!”

....

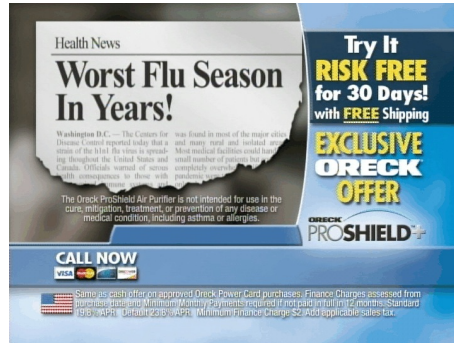
[Tony Frassrand]: “Remember, before the ProShield Plus, the Vaccher family was battling an extremely high number of particulates in their air. In fact, the air in their home was more polluted than the air outside. But, the ProShield Plus helped remove 98% of those harmful particles out of the air. Well, if it can happen here in the Vaccher home then it can surely happen for you too.”



[On screen in above depiction in small white print at the bottom of the screen: “High setting used for entire test period of time in a sealed room.

Percent reduction includes natural deposition and particle size measured down to 0.1 microns.”]

[Announcer]: “And here’s a special announcement. Our country is facing what some are calling the worst flu season in years. With the existing flu pandemic on the rise, now more than ever we should be aware of airborne germs and viruses that can be in our homes.”



[On screen in above depiction in small white print at the bottom of the screen: “The Oreck ProShield Air Purifier is not intended for use in the cure, mitigation, treatment, or prevention of any disease or medical condition, including asthma or allergies.”]

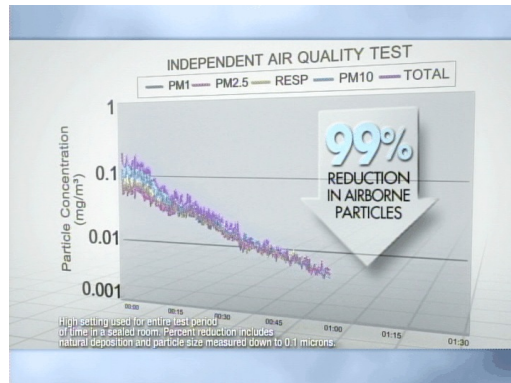
[Announcer]: “That’s why when you order now, David Oreck will give you \$50.00 off his new Oreck ProShield Plus. That’s how committed Oreck is to the well being of your family and it’s a smart way to help reduce your chance of exposure to colds and flu in your home.”



[Host]: “Few things are more beautiful than flowers in bloom. Unfortunately, that can also mean pollen is in the air. And for some of us, that can mean more than just an occasional sneeze. No wonder so many families with allergy and asthma sufferers love the ProShield Plus.”

....

[David Oreck]: “In fact, independent testing proved the ProShield Plus helped produce an astounding 99% reduction in airborne particles in a room in an actual home. And it can do the same in your home.”



[On screen in above depiction in small white print at the bottom of the screen: “High setting used for entire test period of time in a sealed room. Percent reduction includes natural deposition and particle size measured down to 0.1 microns.”]

...”

I. Oreck ProShield Plus 120-second Television Commercial (Exhibit L, transcript, and Exhibit M, DVD containing ad)

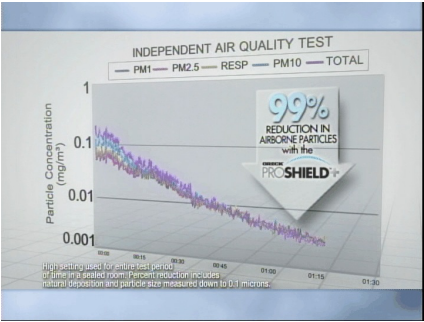
[Announcer]: “Attention. The federal government warns we could be in for the worst flu season in decades. So how are you going to fight back the millions of microorganisms that could be riding on the airborne dust in your home?”

[Announcer]: “And those dust particles could carry things like germs, cold and flu viruses, bacteria, mold and allergens. And could be spreading illnesses like the influenza virus and when your front door closes you and your family are sealed in with that pollution.”

[The advertisement depicts simulated particles floating in a typical livingroom]

[Announcer]: “Now, you can fight back with the new Oreck ProShield Plus Air Purifier. The new ProShield Plus features two air-purification innovations only available from Oreck. Powerful fans circulate the air through the ProShield Plus and Oreck’s patented Truman Cell electrostatically charges many dust particles, allergens, germs and viruses pulling them out of the air like a magnet. And for odors, Oreck’s brand new Helios Shield uses ultraviolet light to smash the molecular structure of gases and odors. In fact, in-home testing shows that the

new ProShield Plus helped deliver up to a 99% reduction in airborne particles down to .1 microns.”



[On-screen depiction of graph showing 99% reduction in airborne particles]

[On screen in above depiction in small white print at the bottom of the screen: “High setting used for entire test period of time in a sealed room. Percentage reduction includes natural deposition and particle size measured down to 0.1 microns.”]

[Announcer]: “. . . Try it risk free for 30 days. Keep it and enjoy the freedom of NO payment and NO interest for 1 year. Call now and fight the flu in your home air, with the new Oreck ProShield Plus air purifier.”

J. Oreck ProShield Plus Print Advertisement Provided to Franchisees (Exhibit N)



Introducing the New Oreck ProShield™+ Air Purifier. In-home testing shows the ProShield helped deliver up to 99% reduction in airborne particles down to .1 microns†.

Can capture and destroy many airborne allergens and viruses like the flu!



BACTERIA



VIRUSES



POLLEN

[The advertisement contains the following statement in small print: “High setting used for entire test period of time in a sealed room. Percent reduction includes natural deposition and particle size measured down to .1 micron.”]

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

- A. The Oreck Halo substantially reduces the risk of or prevents the flu;
- B. The Oreck Halo substantially reduces the risk of or prevents other illnesses or ailments caused by bacteria, viruses, molds, and allergens, such as the common cold, diarrhea, upset stomachs, asthma, and allergy symptoms;
- C. The Oreck Halo will eliminate all or virtually all common germs and allergens found on the floors in users’ homes;
- D. The Oreck Halo’s UV-C light is effective against germs, bacteria, dust mites, mold and viruses embedded in carpets;
- E. The Oreck ProShield Plus substantially reduces the risk of or prevents the flu;
- F. The Oreck ProShield Plus substantially reduces the risk of or prevents other illnesses or ailments caused by bacteria, viruses, molds, and allergens, such as the common cold, asthma, and allergy symptoms; and
- G. The Oreck ProShield Plus will eliminate all or virtually all airborne particles from a typical household room under normal living conditions.

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

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

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

- A. Scientific tests prove that users of the Oreck Halo will eliminate or virtually eliminate many common germs and allergens found on the floors in their homes; and
- B. Scientific tests prove that the Oreck ProShield Plus will eliminate or virtually eliminate many common viruses, germs and allergens from a typical household room under normal living conditions.

11. In truth and in fact:
- A. Scientific tests do not prove that users of the Oreck Halo will eliminate or virtually eliminate many common germs and allergens found on the floors in their homes; and
 - B. Scientific tests do not prove that the Oreck ProShield Plus will eliminate or virtually eliminate many common viruses, germs and allergens from a typical household room under normal living conditions.

Therefore, the representations set forth in Paragraph 10 were, and are, false or misleading.

12. Respondent has provided advertisements to its franchised stores for use in their marketing and sale of the Oreck Halo and the Oreck ProShield, including but not necessarily limited to the attached Exhibits B, F, G, H, and N.

13. Through the means described in Paragraph 12, respondent has provided means and instrumentalities to distributors of respondent's products in furtherance of the deceptive and misleading acts or practices alleged in Paragraphs 6 through 11.

14. The acts and practices of respondent 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 Sections 5(a) and 12 of the Federal Trade Commission Act.

THEREFORE, the Federal Trade Commission this day of , 2011, has issued this complaint against respondent.

By the Commission.

Donald S. Clark
Secretary

SEAL: