

IN THE MATTER OF
KINNEY DRUGS, INC.

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

Docket 9227. Complaint, April 19, 1989—Decision, July 1, 1991*

This consent order prohibits, among other things, a pharmaceutical firm from organizing or entering into any agreement among pharmacy firms to withdraw from or refuse to enter into a third-party payer prescription drug plan; for ten years, from stating or communicating to any pharmacy firm the intent to enter into or refuse to enter into any third-party payer prescription drug plan; and for eight years, from providing comments or advice to any pharmacist or pharmacy firm on the desirability or appropriateness of entering into or refusing to enter into any third-party prescription drug plan.

Appearances

For the Commission: *Karen G. Bokat and Michael D. McNeeley.*

For the respondent: *Robert J. Leader, Case & Leader, Gouveneur, N.Y.*

DECISION AND ORDER

The Commission having heretofore issued its complaint charging the respondent Kinney Drugs, Inc. with a 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 notice of the contemplated relief; 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 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The Secretary of the Commission having thereafter withdrawn this

*Complaint previously published at 114 FTC 327 (1991).

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 (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 Kinney Drugs, Inc. is a corporation organized, existing and doing business under and by virtue of the laws of the State of New York, with its office and principal place of business located at 29 Main Street, in the City of Gouverneur, State of New York.

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 the order, the following definitions shall apply:

A. "*Kinney*" means Kinney Drugs, Inc., its directors, officers, agents, employees, divisions, subsidiaries, successors and assigns;

B. "*Third-party payer*" means any person or entity that provides a program or plan pursuant to which such a person or entity agrees to pay for prescriptions dispensed by pharmacies to individuals described in such plan or program as eligible for such coverage ("Covered Persons"), and includes, but is not limited to, health insurance companies; prepaid hospital, medical, or other health service plans, such as Blue Cross and Blue Shield plans; health maintenance organizations; preferred provider organizations; prescription service administrative organizations; and health benefit programs for government employees, retirees or dependents;

C. "*Participation agreement*" means any existing or proposed agreement, oral or written, in which a third-party payer agrees to reimburse a pharmacy for the dispensing of prescription drugs to Covered Persons, and the pharmacy agrees to such payment from the third-party payer for such prescriptions dispensed during the term of the agreement;

D. "*Pharmacy firm*" means any partnership, sole proprietorship or corporation, including all of its subsidiaries, affiliates, divisions and joint ventures, that owns, controls or operates one or more pharmacies, including the directors, officers, employees, and agents of such partnership, sole proprietorship or corporation as well as the directors, officers, employees, and agents of such partnership's, sole proprietorship's or corporation's subsidiaries, affiliates, divisions and joint ventures, but excludes any partnership, sole proprietorship or corporation, including all of its subsidiaries, affiliates, divisions and joint ventures, which own, are owned by, control or are under common control with Kinney. The words "subsidiary", "affiliate", and "joint venture" refer to any firm in which there is partial (10% or more) or total ownership or control between corporations.

II.

It is ordered, That Kinney, directly, indirectly, or through any corporate or other device, in or in connection with its activities in or affecting commerce, as "commerce" is defined in Section 4 of the Federal Trade Commission Act, shall forthwith cease and desist from:

A. Agreeing or combining, attempting to agree or combine, or taking any action in furtherance of any agreement or combination, advocating an agreement, or organizing or cooperating with any pharmacy firm(s) to (1) boycott, refuse to enter into, withdraw from, or not participate in, any participation agreement or (2) threaten to boycott, threaten to refuse to enter into, threaten to withdraw from, or threaten not to participate in, any participation agreement;

B. For a period of ten (10) years after the date this order becomes final, stating or communicating in any way to any pharmacy firm the intention or decision of Kinney with respect to entering into, refusing to enter into, threatening to refuse to enter into, participating in, threatening to withdraw from, or withdrawing from any existing or proposed participation agreement into which Kinney and the other pharmacy firm have entered, could enter or are considering entering;

C. For a period of eight (8) years after the date this order becomes final, advising any pharmacy firm with respect to entering into, refusing to enter into, participating in, or withdrawing from any existing or proposed participation agreement into which Kinney and the other pharmacy firm have entered, could enter or are considering entering.

Provided that, nothing in this order shall prevent Kinney from:

(1) Exercising rights permitted under the First Amendment to the United States Constitution to petition any federal or state government executive agency or legislative body concerning legislation, rules or procedures, or to participate in any federal or state administrative or judicial proceeding;

(2) Subcontracting, preparing joint bids, or otherwise jointly undertaking with pharmacy firms to provide prescription drug services under a participation agreement if requested to do so in writing by the third-party payer; or

(3) Communicating to the public truthful, nondeceptive statements concerning any existing or proposed participation agreement.

III.

It is further ordered, That Kinney:

A. Provide a copy of this order within thirty (30) days after the date this order becomes final to each officer, director, employee pharmacist who is employed in New York state, and each employee whose responsibilities include recommending or deciding whether to enter into any participation agreement, and each employee who regularly attends meetings on Kinney's behalf that include representatives of other pharmacies; and

B. For a period of five (5) years after the date this order becomes final, provide each new director and each employee who enters a position described in paragraph A a copy of the order within ten (10) days of the date the employee or director assumes the new position.

IV.

It is further ordered, That Kinney:

A. File a verified, written report with the Commission within ninety (90) days after the date this order becomes final, and annually thereafter for five (5) years on the anniversary of the date this order becomes final, and at such other times as the Commission may, by written notice to Kinney, require, setting forth in detail the manner and form in which it has complied and is complying with this order;

B. For a period of five (5) years after the date this order becomes final, maintain and make available to Commission staff for inspection

and copying upon reasonable notice all documents generated by Kinney or that come into Kinney's possession, custody, or control regardless of source, that embody, discuss or refer to the decision or upon which Kinney relies in deciding whether to enter into any participation agreement in which Kinney participates, has participated, or has considered participating; and

C. Notify the Commission at least thirty (30) days prior to any proposed change in Kinney such as, assignment or sale resulting in the emergence of a successor corporation or association, change of name, change of address, dissolution, the creation, sale or dissolution of a subsidiary, or any other change that may affect compliance with this order.

Commissioner Azcuenaga dissenting.

IN THE MATTER OF
JAMES E. KRAHULEC

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

Docket 9227. Complaint, April 19, 1989—Decision, July 1, 1991*

This consent order prohibits, among other things, Mr. Krahulec from organizing or entering into any agreement with any pharmacy firms to boycott, withdraw from or refuse to enter into a third-party payer prescription drug plan; for ten years, from organizing, sponsoring, or attending a meeting of pharmacy firms at which persons make any statements concerning the pharmacy firm's intent to enter into or refuse to enter into any third-party payer prescription drug plan; for ten years, from communicating to any pharmacy firm, other than Mr. Krahulec's employer, any information concerning any pharmacy firm's intention to enter into or refuse to enter into any third-party payer prescription drug plan; and for eight years, from providing comments or advice to any pharmacist or pharmacy firm on the desirability or appropriateness of entering into or refusing to enter into any third-party payer prescription drug plan.

Appearances

For the Commission: *Karen G. Bokat and Michael D. McNeely.*

For the respondent: *William J. Guzick, Skadden, Arps, Slate, Meagher & Flom, Washington, D.C.*

DECISION AND ORDER

The Commission having heretofore issued its complaint charging the respondent James E. Krahulec with a 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 notice of the contemplated relief; and

The respondent, his 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 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 previously published at 114 FTC 327 (1991).

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 (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 Krahulec is an individual employed by Rite Aid Corporation in Rite Aid Corporation's principal offices at Railroad Ave. and Trindle Road, Shiremantown, Pennsylvania.

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 the order, the following definitions shall apply:

A. "*Mr. Krahulec*" means James E. Krahulec, his agents and employees;

B. "*Third-party payer*" means any person or entity that provides a program or plan pursuant to which such a person or entity agrees to pay for prescriptions dispensed by pharmacies to individuals described in such plan or program as eligible for such coverage ("Covered Persons"), and includes, but is not limited to, health insurance companies; prepaid hospital, medical, or other health service plans, such as Blue Cross and Blue Shield plans; health maintenance organizations; preferred provider organizations; prescription service administrative organizations; and health benefit programs for government employees, retirees or dependents;

C. "*Participation agreement*" means any existing or proposed agreement, oral or written, in which a third-party payer agrees to reimburse a pharmacy for the dispensing of prescription drugs to Covered Persons, and the pharmacy agrees to accept such payment

from the third-party payer for such prescriptions dispensed during the term of the agreement;

D. "*Pharmacy firm*" means any partnership, sole proprietorship or corporation, including all of its subsidiaries, affiliates, divisions and joint ventures, that owns, controls or operates one or more pharmacies, including the directors, officers, employees, and agents of such partnership, sole proprietorship or corporation as well as the directors, officers, employees, and agents of such partnership's, sole proprietorship's or corporation's subsidiaries, affiliates, divisions and joint ventures. The words "subsidiary", "affiliate", and "joint venture" refer to any firm in which there is partial (10% or more) or total ownership or control between corporations.

II.

It is ordered, That Mr. Krahulec, directly, indirectly, or through any device, in or in connection with his activities in or affecting commerce, as "commerce" is defined in Section 4 of the Federal Trade Commission Act, shall forthwith cease and desist from:

A. Agreeing or combining, attempting to agree or combine, or taking any action in furtherance of any agreement or combination, advocating an agreement, or organizing or cooperating with any pharmacy firm(s) to (1) boycott, refuse to enter into, withdraw from, or not participate in, any participation agreement or (2) threaten to boycott, threaten to refuse to enter into, threaten to withdraw from, or threaten not to participate in, any participation agreement;

B. For a period of ten (10) years after the date this order becomes final, organizing, sponsoring, facilitating, or attending a formal or informal meeting of representatives of pharmacy firms that Mr. Krahulec expects or reasonably should expect will facilitate communications, or continuing to conduct a formal or informal meeting of representatives of pharmacy firms at which two persons make any statement, concerning one or more firms' intentions or decisions with respect to entering into, refusing to enter into, threatening to refuse to enter into, participating in, threatening to withdraw from, or withdrawing from any existing or proposed participation agreement;

C. For a period of ten (10) years after the date this order becomes final, communicating in any way to or soliciting from any pharmacy firm other than Mr. Krahulec's employer any information concerning any pharmacy firm's intention or decision with respect to entering

into, threatening to refuse to enter into, refusing to enter into, participating in, threatening to withdraw from, or withdrawing from any existing or proposed participation agreement; and

D. For a period of eight (8) years after the date this order becomes final, advising any pharmacist not employed by Mr. Krahulec's employer or any pharmacy firm other than Mr. Krahulec's employer with respect to entering into, refusing to enter into, participating in, or withdrawing from any existing or proposed participation agreement into which Mr. Krahulec's employer and the other pharmacy firm have entered, could enter or are considering entering.

Provided that, nothing in this order shall prevent Mr. Krahulec from:

(1) Exercising rights permitted under the First Amendment to the United States Constitution to petition any federal or state government executive agency or legislative body concerning legislation, rules or procedures, or to participate in any federal or state administrative or judicial proceeding; or

(2) Communicating to the public truthful, nondeceptive statements concerning any existing or proposed participation agreement.

III.

It is further ordered, That Mr. Krahulec:

A. Shall file a verified, written report with the Commission within ninety (90) days after the date this order becomes final, and annually thereafter for five (5) years on the anniversary of the date this order becomes final, and at such other times as the Commission may, by written notice to Mr. Krahulec, require, setting forth in detail the manner and form in which he has complied and is complying with this order;

B. For a period of five (5) years after the date this order becomes final, maintain and make available to 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 Part II of the order, including, but not limited to, all documents generated by Mr. Krahulec or that come into his possession, custody, or control regardless of source, that embody, discuss or refer to the terms or conditions of any participation agreement; and

C. Notify the Commission within thirty (30) days of any change in Mr. Krahulec's employer or of any other change that may affect compliance with the order.

Commissioner Azcuenaga dissenting.

Complaint

114 F.T.C.

IN THE MATTER OF

ZIPATONE, INC., ET AL.

CONSENT ORDER, ETC., IN REGARD TO ALLEGED VIOLATION OF
SEC. 5 OF THE FEDERAL TRADE COMMISSION ACT*Docket C-3336. Complaint, July 9, 1991—Decision, July 9, 1991*

This consent order prohibits, among other things, a Hillside, Ill., based manufacturer of artists' materials from representing that any product containing a Class I ozone-depleting substance will not damage the environment, and from making any unsubstantiated claims that any product containing an ozone-depleting substance offers environmental benefits.

*Appearances*For the Commission: *Michael Dershowitz.*For the respondents: *Benjamin E. Beale, Jr., officer of Zipatone, Inc., Hillside, IL.*

COMPLAINT

The Federal Trade Commission, having reason to believe that Zipatone, Inc., a corporation, and Benjamin E. Beale Jr., individually and as an officer of said corporation, hereinafter sometimes referred to as respondents, have violated the provisions of the Federal Trade Commission Act, and it appearing to the Commission that a proceeding by it in respect thereof would be in the public interest, alleges:

PARAGRAPH 1. Respondent Zipatone, Inc. is an Illinois corporation, with its office and principal place of business located at 150 Fencil Lane, Hillside, Illinois.

Respondent Benjamin E. Beale Jr. is an officer of the corporate respondent named herein. He formulates, directs, and controls the acts and practices of the corporate respondent. His address is the same as that of the corporation.

PAR. 2. Respondents have advertised, offered for sale, sold and distributed certain spray products to the public, including Zipatone Spray Cement, a product which contains the chemical 1,1,1 - Trichloroethane.

PAR. 3. The acts and practices of respondents alleged in this complaint have been in or affecting commerce.

PAR. 4. Respondents have disseminated or have caused to be disseminated advertisements for Zipatone Spray Cement. Typical examples of respondents' advertisements and product labeling, but not necessarily all inclusive thereof, are attached hereto as Exhibits A and B.

The aforesaid advertising (Exhibit A) includes the following statement:

"Zipatone's time saving spray products use only ecologically safe propellants. You get the job done quickly without damaging the environment."

The aforesaid product labeling (Exhibit B) includes the following statement:

ECOLOGICALLY-SAFE PROPELLANT

PAR. 5. Through the use of statements referred to in paragraph four in its advertising and product labeling, respondents have represented directly or by implication that:

1. Zipatone Spray Cement contains no ingredients that are damaging to the environment.
2. Use of Zipatone Spray Cement will not have a detrimental effect on the earth's ecology.

PAR. 6. In truth and in fact, Zipatone Spray Cement contains a harmful ozone depleting chemical, 1,1,1 - Trichloroethane, which will cause damage to the environment and the earth's ecology by contributing to the depletion of the earth's ozone layer. Therefore, the representations set forth in paragraph five were, and are, false and misleading.

PAR. 7. Through the statements and representations referred to in paragraphs four and five, respondents have represented, directly or by implication, that at the time they made such representations, respondents possessed and relied upon a reasonable basis for such representations.

PAR. 8. In truth and in fact, at the time respondents made such representations, respondents did not possess and rely upon a reasonable basis for such representations. Therefore, the representations set forth in paragraph seven were, and are, false and misleading.

PAR. 9. The acts and practices of respondents as alleged in this complaint constitute unfair or deceptive acts or practices in or affecting commerce in violation of Section 5(a) of the Federal Trade Commission Act.

Complaint

EXHIBIT A

Zipatone Spray Products

Zipatone spray products use only specially safe propellants. You get the job done quickly without damaging the environment.

Zipatone Plastic Spray code number 3100
 Zipatone Plastic Spray is a specially formulated, transparent coating that protects plastic from abrasion, staining, and discoloration. Zipatone Plastic Spray can be used to protect plastic items such as car radios, pencil and pen cases.

Zipatone Matte Fixative code number 3110
 Zipatone Matte Fixative is a transparent, colorless, non-toxic coating that will adhere the finest of powders and pigments to a variety of plastic and metal surfaces. It is used to coat car radios and other plastic items. It is also used to coat metal surfaces such as gun barrels and rifle scopes.

Zipatone Spray Adhesive code number 3120
 Zipatone Spray Adhesive has a quick-dry, tack-free adhesive that is suitable for most plastics and metals. It is used to repair cracked plastic and metal parts. It will not seep through plastic and metal joints.

Zipatone Glass Cleaner (Optical) code number 3130
 Zipatone Glass Cleaner (Optical) is a specially formulated glass cleaner that is safe for use on all types of glass. It is used to clean car windows, mirrors, and other glass surfaces. It is also used to clean optical lenses and other precision glass surfaces.

Zipatone Spray Cement code number 3140
 Zipatone Spray Cement is a specially formulated cement that is used to repair cracked and chipped plastic and metal surfaces. It is also used to repair damaged car radios and other plastic items.

Note: The above description of Zipatone products may vary from time to time without notice.

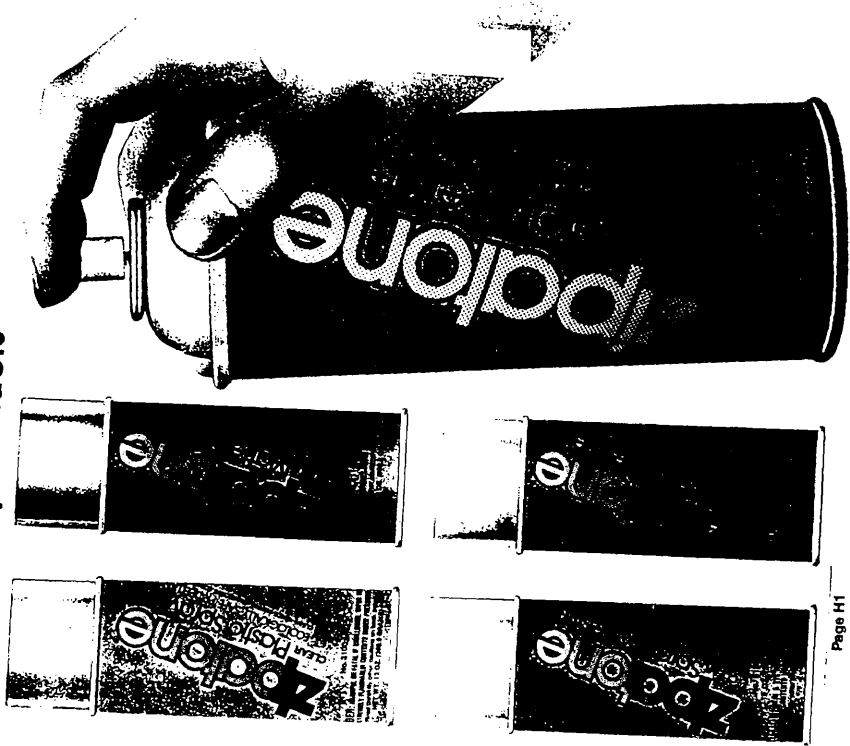


EXHIBIT B

Zipatone® Spray Cement

THE DENSE SPRAY ADHESIVE WITH A QUICK, STRONG TACK. IDEAL FOR MOUNTING OF STICKERS, LABELS, CORK, FABRIC, CARDBOARD, STYROFOAM, PLASTIC SHEETING, WALLPAPER, FOIL, RIGID FOR GRAPHIC ARTS PASTEUR.

NET WT. 2.75 LBS.

1. Zipatone Spray Cement is a spray adhesive that is used for bonding a wide variety of materials together.

2. Zipatone Spray Cement is a quick-drying adhesive that is used for bonding a wide variety of materials together.

3. Zipatone Spray Cement is a quick-drying adhesive that is used for bonding a wide variety of materials together.

4. Zipatone Spray Cement is a quick-drying adhesive that is used for bonding a wide variety of materials together.

5. Zipatone Spray Cement is a quick-drying adhesive that is used for bonding a wide variety of materials together.

6. Zipatone Spray Cement is a quick-drying adhesive that is used for bonding a wide variety of materials together.

7. Zipatone Spray Cement is a quick-drying adhesive that is used for bonding a wide variety of materials together.

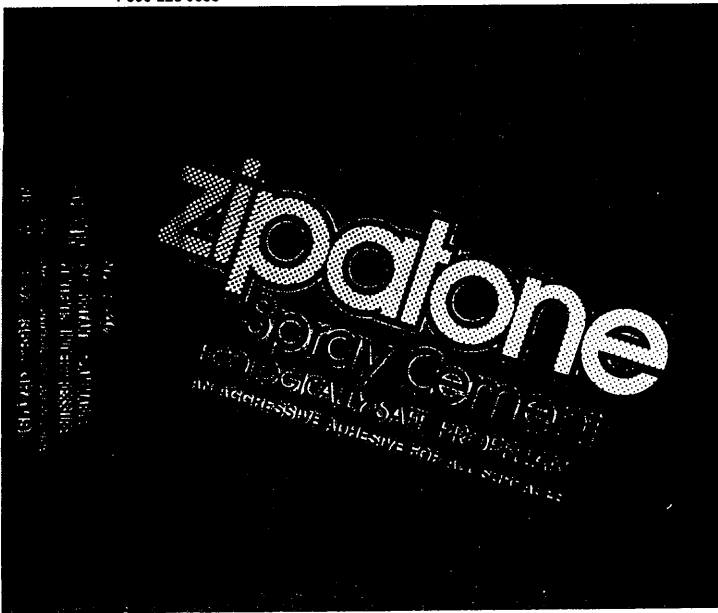
8. Zipatone Spray Cement is a quick-drying adhesive that is used for bonding a wide variety of materials together.

9. Zipatone Spray Cement is a quick-drying adhesive that is used for bonding a wide variety of materials together.

Zipatone Inc.®
ISO 9001 Certified Manufacturer
Made in U.S.A.

24-HOUR MEDICAL EMERGENCY
1-800-228-5635

Contains: 1,1,1-Trichloroethane (CAS #71-55-6)
Liquefied Petroleum Gas (CAS #68476-85-7)



DECISION AND ORDER

The Federal Trade Commission having initiated an investigation of certain acts and practices of respondents Zipatone, Inc., a corporation, and Benjamin E. Beale, Jr., individually and as an officer of said corporation, and the respondents having been furnished thereafter with a copy of a draft of complaint which the Bureau of Consumer Protection proposed to present to the Commission for its consideration and which, if issued by the Commission, would charge respondents with violation of the Federal Trade Commission Act; and

The respondents and counsel for the Commission having thereafter executed an agreement containing a consent order, an admission by the respondents of all the jurisdictional facts set forth in the aforesaid draft 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 makes the following jurisdictional findings and enters the following order:

1. Respondent Zipatone, Inc. is a corporation organized, existing and doing business under and by virtue of the laws of the State of Illinois. Zipatone, Inc. has its offices and principal place of business at 150 Fencil Lane, Hillside, Illinois.

2. Respondent Benjamin E. Beale, Jr. is an officer of said corporation. He formulates directs, and controls the acts and practices of said corporation, and his address is the same as that of Zipatone, Inc.

3. The Federal Trade Commission has jurisdiction of the subject matter of this proceeding and of the respondents and the proceeding is in the public interest.

ORDER

DEFINITIONS

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

“*Competent and reliable scientific evidence*” means such tests, analyses, research, studies, or other scientific evidence conducted and evaluated in an objective manner by persons qualified to do so, using procedures generally accepted by others in the profession to yield accurate and reliable results.

“*Class I ozone depleting substance*” means a substance that harms the environment by destroying ozone in the upper atmosphere and is listed as such in Title 6 of the Clean Air Act Amendments of 1990, Pub. L. No. 101-549, and any other substance which may in the future be added to the list pursuant to Title 6 of the Act. Class I substances currently include chlorofluorocarbons, halons, carbon tetrachloride and 1,1,1 - Trichloroethane.

“*Class II ozone depleting substance*” means a substance that harms the environment by destroying ozone in the upper atmosphere and is listed as such in Title 6 of the Clean Air Act Amendments of 1990, Pub. L. No. 101-549, and any other substance which may in the future be added to the list pursuant to Title 6 of the Act. Class II substances currently include hydrochlorofluorocarbons.

I.

It is ordered, That respondents Zipatone, Inc. (hereinafter “Zipatone”), a corporation, its successors and assigns, and its officers, and Benjamin E. Beale, Jr., individually as an officer of said corporation, and respondents’ representatives, agents, and employees, directly or through any corporation, subsidiary, division, or other device, in connection with the advertising, labeling, offering for sale, sale, or distribution of any product, in or affecting commerce, as “commerce” is defined in the Federal Trade Commission Act, do forthwith cease and desist from representing, directly or by implication, by words, depictions, or symbols that any product containing any Class I ozone depleting substance, will not damage the environment, or is ecologically safe, or through the use of any substantially similar term or expression, including but not limited to “ozone friendly” or “ozone safe,” that any such product will not damage the environment, or that

any such product is ecologically safe, or that any such product will not deplete, destroy, or otherwise adversely affect ozone in the upper atmosphere.

II.

It is further ordered, That respondents Zipatone, a corporation, its successors and assigns, and its officers, and Benjamin E. Beale, Jr., individually as an officer of said corporation, and respondents' representatives, agents, and employees, directly or through any corporation, subsidiary, division, or other device, in connection with the advertising, labeling, offering for sale, sale, or distribution of any product, in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from representing, directly or by implication, by words, depictions or symbols, that any product containing any Class I ozone depleting substance or any Class II ozone depleting substance, or any other ozone depleting substance, offers any environmental benefits, including but not limited to any environmental benefit claims concerning the ecology, atmosphere, upper atmosphere, stratosphere or the ozone layer, unless at the time of making such representation, respondents possess and rely upon a reasonable basis, consisting of competent and reliable scientific evidence that substantiates such representation.

III.

It is further ordered, That for three years from the date that the representations to which they pertain are last disseminated, respondents shall maintain and upon request make available to the Federal Trade Commission for inspection and copying:

1. All materials that respondents relied upon in disseminating any representation covered by this order.
2. All tests, reports, studies or surveys in respondents' possession or control or of which they have knowledge that contradict any representation of respondents covered by this order.

IV.

It is further ordered, That respondents shall 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, promotional materials, product labels or other such sales materials covered by this order.

V.

It is further ordered, That respondents shall notify the Commission at least thirty (30) days prior to any proposed change in the corporation such as a 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 under this order.

VI.

It is further ordered, That the individual respondent named herein shall promptly notify the Commission in the event of the discontinuance of his present business or employment and of each affiliation with a new business or employment. In addition, for a period of five (5) years from the date of service of this order, the respondent shall promptly notify the Commission of each affiliation with a new business or employment whose activities include the sale, distribution and/or manufacturing of any cleaning or adhesive products or of his affiliation with a new business or employment in which his own duties and responsibilities involve the sale, distribution and/or manufacturing of any cleaning or adhesive products. Such notice shall include the respondent's new business address and a statement of the nature of the business or employment in which the respondent is newly engaged as well as a description of respondent's duties and responsibilities in connection with the business or employment. The expiration of the notice provision of this paragraph shall not affect any other obligation arising under this order.

VII.

It is further ordered, That respondents shall, within sixty (60) days after service of this order upon them, and at such other times as the Commission may require, file with the Commission a report, in writing, setting forth in detail the manner and form in which they have complied with this order.

