

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TENNESSEE
AT CHATTANOOGA**

FEDERAL TRADE COMMISSION,)	
)	
Plaintiff,)	
)	Case No. 1:15-cv-00033-HSM-CHS
v.)	
)	
LOU LENTINE, individually and as)	
an officer of VIATEK CONSUMER)	
PRODUCTS GROUP INC., and)	
)	
VIATEK CONSUMER PRODUCTS)	
GROUP INC., a corporation,)	
)	
Defendants.)	
)	

**STIPULATED ORDER FOR PERMANENT INJUNCTION AND
MONETARY JUDGMENT**

Plaintiff, the Federal Trade Commission (“FTC” or “Commission”), filed its Complaint for Civil Penalties, Injunction and Other Relief (“Complaint”), for a permanent injunction, civil penalties, and other equitable relief in this matter, pursuant to Sections 5(a), 5(l), 13(b), and 16(a) of the Federal Trade Commission Act (“FTC Act”), 15 U.S.C. §§ 45(a), 45(l) 53(b), and 56(a)(1). Defendants have been represented by the attorneys whose names appear hereafter. Through counsel, having filed a joint motion, the Commission and Defendants stipulate to the entry of this Stipulated Order for Permanent Injunction and Monetary Judgment (“Order”) to resolve all matters in dispute in this action between them.

THEREFORE, IT IS ORDERED as follows:

FINDINGS

1. This Court has jurisdiction over this matter.
2. The Complaint charges that Defendants violated the Commission Order entered on March 14, 2003 in FTC Docket No. 9303 (2003) (“2003 Commission Order”) and engaged in deceptive acts or practices in violation of Section 5(a) of the FTC Act, 15 U.S.C. § 45(a).
3. Defendants neither admit nor deny any of the allegations in the Complaint, except as specifically stated in this Order. Only for purposes of this action, Defendants admit the facts necessary to establish jurisdiction.
4. Defendants waive any claim that they may have under the Equal Access to Justice Act, 28 U.S.C. § 2412, concerning the prosecution of this action through the date of this Order, and agree to bear their own costs and attorney fees.
5. Defendants waive any claim that they may have against the Commission, its employees, representatives, or agents that relate to this action.
6. Defendants and the Commission waive all rights to appeal or otherwise challenge or contest the validity of this Order.
7. Entry of this Order is in the public interest.

DEFINITIONS

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

1. **“Defendants”** means the Individual Defendant and the Corporate Defendant, individually, collectively, or in any combination.
2. **“Corporate Defendant”** means Viatek Consumer Products Group Inc. and its successors and assigns.

3. **“Individual Defendant”** means Lou Lentine.
4. **“Pest Control Product”** means any product, including, but not limited to, Viatek Mosquito Shield Bands and any wristband product, designed, advertised, or intended to repel, control, or eliminate any pest, including, but not limited to, rodents and insects.
5. **“Competent and reliable scientific evidence”** means tests, analyses, research, or studies that have been conducted and evaluated in an objective manner by qualified persons and are generally accepted in the profession to yield accurate and reliable results.

ORDER

I. PROHIBITION AGAINST UNSUBSTANTIATED CLAIMS

IT IS ORDERED that Defendants, Defendants’ officers, agents, and employees, and all other persons in active concert or participation with any of them, who receive actual notice of this Order, whether acting directly or indirectly, are permanently restrained and enjoined from:

A. In connection with promoting or offering for sale any Pest Control Product, making any representation, expressly or by implication, about the benefits, performance, or efficacy of any such product, including, but not limited to, that such product:

1. protects or prevents users from being bitten by mosquitoes;
2. creates a vapor barrier that protects or prevents any person within five feet of the product from being bitten by mosquitoes; or
3. protects or prevents users from being bitten by mosquitoes for 96 to 120 hours;

unless the representation is non-misleading, and, at the time such representation is made, Defendants possess and rely upon competent and reliable scientific evidence that is sufficient in

quality and quantity based on standards generally accepted in the relevant scientific fields, when considered in light of the entire body of relevant and reliable scientific evidence, to substantiate that the representation is true; and

B. In connection with promoting or offering for sale any product that is not a Pest Control Product, making any representation, expressly or by implication, about the benefits, performance, or efficacy of such product, unless at the time the representation is made, Defendants possess and rely on competent and reliable evidence that is sufficient in quality and quantity based on standards generally accepted in the relevant profession, when considered in light of the entire body of relevant and reliable evidence, to substantiate that the representation is true, provided that, when appropriate based on standards generally accepted in the relevant profession, such evidence must be competent and reliable scientific evidence. For the purposes of this sub-Part, “competent and reliable evidence” means tests, analyses, research, studies, or other evidence based on the expertise of professionals in the relevant area, that have been conducted and evaluated in an objective manner by qualified persons, using procedures generally accepted in the profession to yield accurate and reliable results.

II. PROHIBITION AGAINST MISREPRESENTATIONS

IT IS FURTHER ORDERED that Defendants, Defendants’ officers, agents, and employees, and all other persons in active concert or participation with any of them, who receive actual notice of this Order, whether acting directly or indirectly, in connection with promoting or offering for sale any product are permanently restrained and enjoined from misrepresenting, or assisting others in misrepresenting, expressly or by implication:

A. That the benefits of any product are scientifically proven; or

B. The existence, contents, validity, results, conclusions, or interpretations of any test, study, or research.

III. PROHIBITION AGAINST VIOLATING FTC ORDER

IT IS FURTHER ORDERED that Defendants, Defendants' officers, agents, and employees, and all other persons in active concert or participation with any of them, who receive actual notice of this Order, whether acting directly or indirectly, are hereby permanently enjoined from violating the Federal Trade Commission's Order entered on March 14, 2003 in *In the Matter of Lentek International, Inc., Joseph Durek, and Lou Lentine*, FTC Docket No. 9303. A copy of the Commission's 2003 Order is attached to this Order.

IV. JUDGMENT FOR EQUITABLE MONETARY RELIEF

IT IS FURTHER ORDERED that:

A. Judgment in the amount of Three Hundred Thousand Dollars (\$300,000.00) is entered in favor of the Commission against Individual Defendant and Corporate Defendant, jointly and severally, as equitable monetary relief.

B. Defendants are ordered to pay to the Commission Three Hundred Thousand Dollars (\$300,000.00). Such payment must be made within 7 business days of entry of this Order by electronic fund transfer in accordance with instructions to be provided by a representative of the Commission.

C. All money paid to the Commission pursuant to this Section may be deposited into a fund administered by the Commission or its designee to be used for equitable relief, including consumer redress and any attendant expenses for the administration of any redress fund. If a representative of the Commission decides that direct redress to consumers is wholly or partially impracticable or

money remains after redress is completed, the Commission may apply any remaining money for such other equitable relief (including consumer information remedies) as it determines to be reasonably related to Defendants' practices alleged in the Complaint. Any money not used for such equitable relief is to be deposited to the U.S. Treasury as disgorgement. Defendants have no right to challenge any actions the Commission or its representatives may take pursuant to this Subsection.

V. ADDITIONAL MONETARY PROVISIONS

IT IS FURTHER ORDERED that:

- A. Defendants relinquish dominion and all legal and equitable right, title, and interest in all assets transferred pursuant to this Order and may not seek the return of any assets.
- B. The facts alleged in the Complaint will be taken as true, without further proof, in any subsequent civil litigation by or on behalf of the Commission, including in a proceeding to enforce its rights to any payment or monetary judgment pursuant to this Order, such as a nondischargeability complaint in any bankruptcy case.
- C. The facts alleged in the Complaint establish all elements necessary to sustain an action by the Commission pursuant to Section 523(a)(2)(A) of the Bankruptcy Code, 11 U.S.C. § 523(a)(2)(A), and this Order will have collateral estoppel effect for such purposes.
- D. Defendants acknowledge that their Taxpayer Identification Numbers (Social Security Numbers or Employer Identification Numbers), which Defendants must submit to the

Commission, may be used for collecting and reporting on any delinquent amount arising out of this Order, in accordance with 31 U.S.C. § 7701.

VI. CUSTOMER INFORMATION

IT IS FURTHER ORDERED that Defendants, Defendants' officers, agents, servants, and employees, and all other persons in active concert or participation with any of them, who receive actual notice of this Order, whether acting directly or indirectly, are permanently restrained and enjoined from:

A. failing to provide sufficient customer information to enable the Commission to efficiently administer consumer redress. If a representative of the Commission requests in writing any information related to redress, Defendants must provide it, in the form prescribed by the Commission, within 14 days; and

B. disclosing, using, or benefitting from customer information, including the name, address, telephone number, email address, social security number, other identifying information, or any data that enables access to a customer's account (including a credit card, bank account, or other financial account), that either Defendant obtained prior to entry of this Order in connection with the sale of the Viatek Mosquito Shield Band.

Provided, however, that customer information may be disclosed, to the extent requested by a government agency or required by law, regulation, or court order.

VII. ORDER ACKNOWLEDGMENTS

IT IS FURTHER ORDERED that Defendants obtain acknowledgments of receipt of this Order:

- A. Each Defendant, within 7 days of entry of this Order, must submit to the Commission an acknowledgment of receipt of this Order sworn under penalty of perjury.
- B. For 15 years after entry of this Order, Individual Defendant for any business that he, individually or collectively with the Corporate Defendant, is the majority owner or controls directly or indirectly, and Corporate Defendant, must deliver a copy of this Order to: (1) all principals, officers, directors, and LLC managers and members; (2) all employees, agents, and representatives who participate in conduct related to the subject matter of the Order; and (3) any business entity resulting from any change in structure as set forth in the Section titled Compliance Reporting. Delivery must occur within 7 days of entry of this Order for current personnel. For all others, delivery must occur before they assume their responsibilities.
- C. From each individual or entity to which a Defendant delivered a copy of this Order, that Defendant must obtain, within 30 days, a signed and dated acknowledgment of receipt of this Order.

VIII. COMPLIANCE REPORTING

IT IS FURTHER ORDERED that Defendants make timely submissions to the Commission:

- A. Sixty days after entry of this Order, each Defendant must submit a compliance report, sworn under penalty of perjury:
1. Each Defendant must: (a) identify the primary physical, postal, and email address and telephone number, as designated points of contact, which representatives of the Commission may use to communicate with Defendant; (b) identify all of that

Defendant's businesses by all of their names, telephone numbers, and physical, postal, email, and Internet addresses; (c) describe the activities of each business, including the goods and services offered, the means of advertising, marketing, and sales, and the involvement of the other Defendant (which Individual Defendant must describe if he knows or should know due to his own involvement); (d) describe in detail whether and how that Defendant is in compliance with each Section of this Order; and (e) provide a copy of each Order Acknowledgment obtained pursuant to this Order, unless previously submitted to the Commission.

2. Additionally, the Individual Defendant must: (a) identify all telephone numbers and all physical, postal, email and Internet addresses, including all residences; (b) identify all business activities, including any business for which such Defendant performs services whether as an employee or otherwise and any entity in which such Defendant has any ownership interest and has direct or indirect control; and (c) describe in detail such Defendant's involvement in each such business, including title, role, responsibilities, participation, authority, control, and any ownership.

B. For 15 years after entry of this Order, each Defendant must submit a compliance notice, sworn under penalty of perjury, within 14 days of any change in the following:

1. Each Defendant must report any change in: (a) any designated point of contact; or (b) the structure of the Corporate Defendant or any entity that Defendant has any ownership interest in or controls directly or indirectly that may affect compliance obligations arising under this Order, including: creation, merger, sale, or dissolution of

the entity or any subsidiary, parent, or affiliate that engages in any acts or practices subject to this Order.

2. Additionally, the Individual Defendant must report any change in: (a) name, including aliases or fictitious name, or residence address; or (b) title or role in any business activity, including any business for which such Defendant performs services whether as an employee or otherwise and any entity in which such Defendant has any ownership interest and has direct or indirect control, and identify the name, physical address, and any Internet address of the business or entity.

C. Each Defendant must submit to the Commission notice of the filing of any bankruptcy petition, insolvency proceeding, or similar proceeding by or against such Defendant within 14 days of its filing.

D. Any submission to the Commission required by this Order to be sworn under penalty of perjury must be true and accurate and comply with 28 U.S.C. § 1746, such as by concluding: “I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed on: _____” and supplying the date, signatory’s full name, title (if applicable), and signature.

E. Unless otherwise directed by a Commission representative in writing, all submissions to the Commission pursuant to this Order must be emailed to DEbrief@ftc.gov or sent by overnight courier (not the U.S. Postal Service) to: Associate Director for Enforcement, Bureau of Consumer Protection, Federal Trade Commission, 600 Pennsylvania Avenue NW, Washington, DC 20580. The subject line must begin: FTC v. Lou Lentine and Viatek Consumer Products Group Inc.

IX. RECORDKEEPING

IT IS FURTHER ORDERED that Defendants must create certain records for 15 years after entry of the Order, and retain each such record for 5 years. Specifically, the Corporate Defendant, in connection with any business that sells Pest Control Products, and the Individual Defendant, for any business that he, individually or collectively with Corporate Defendant, is a majority owner or controls directly or indirectly, must create and retain the following records:

- A. accounting records showing the revenues from all goods or services sold;
- B. personnel records showing, for each person providing services, whether as an employee or otherwise, that person's: name; addresses; telephone numbers; job title or position; dates of service; and (if applicable) the reason for termination;
- C. records of all consumer complaints and refund requests whether received directly or indirectly, such as through a third party, and any response;
- D. all records necessary to demonstrate full compliance with each provision of this Order, including all submissions to the Commission; and
- E. a copy of each unique advertisement or other marketing material, and all substantiation for the claims made in the advertisement or marketing material.

X. COMPLIANCE MONITORING

IT IS FURTHER ORDERED that, for the purpose of monitoring Defendants' compliance with this Order, including any failure to transfer any assets as required by this Order:

- A. Within 14 days of receipt of a written request from a representative of the Commission, each Defendant must: submit additional compliance reports or other requested information, which must be sworn under penalty of perjury; appear for depositions; and produce documents for

inspection and copying. The Commission is also authorized to obtain discovery, without further leave of court, using any of the procedures prescribed by Federal Rules of Civil Procedure 29, 30 (including telephonic depositions), 31, 33, 34, 36, 45, and 69.

B. For matters concerning this Order, the Commission is authorized to communicate directly with each Defendant. Defendant must permit representatives of the Commission to interview any employee or other person affiliated with either Defendant who has agreed to such an interview. The person interviewed may have counsel present.

C. The Commission may use all other lawful means, including posing, through its representatives as consumers, suppliers, or other individuals or entities, to Defendants or any individual or entity affiliated with Defendants, without the necessity of identification or prior notice. Nothing in this Order limits the Commission's lawful use of compulsory process, pursuant to Sections 9 and 20 of the FTC Act, 15 U.S.C. §§ 49, 57b-1.

XI. RETENTION OF JURISDICTION

IT IS FURTHER ORDERED that this Court retains jurisdiction of this matter for purposes of construction, modification, and enforcement of this Order.

IT IS SO ORDERED:

Dated this 6th day of June, 2016.

/s/ Harry S. Mattice, Jr.
HARRY S. MATTICE, JR.
UNITED STATES DISTRICT JUDGE

The parties, by their respective counsel, hereby consent to the terms and conditions of the Order as set forth above and consent to the entry thereof.

SO STIPULATED AND AGREED:

**FOR PLAINTIFF
FEDERAL TRADE COMMISSION**

/s/ Susan E. Arthur
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Date: 5/23/16

FOR DEFENDANTS:

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Date: 3/22/16

DEFENDANTS: Lou Lentine and

Viatek Consumer Products Group Inc.

/s/ Louis F. Lentine
LOU LENTINE, INDIVIDUALLY AND
AS AN OFFICER OF VIATEK CONSUMER
PRODUCTS GROUP INC.

Date: 3/22/16