



Office of Commissioner  
Rohit Chopra

UNITED STATES OF AMERICA  
Federal Trade Commission  
WASHINGTON, D.C. 20580

## STATEMENT OF COMMISSIONER ROHIT CHOPRA

*In the Matter of Aromaflage  
Commission File Number 1623234*

*September 27, 2018*

Today, the Federal Trade Commission is approving a settlement with Melissa and Michael Fensterstock to address their conduct that exploited the recent Zika epidemic. The settlement includes no restitution for consumers, no disgorgement of their ill-gotten gains, and no admission of facts or liability.

The Fensterstocks claimed that their fragrance would protect customers from Zika and other insect-borne diseases as effectively as traditional repellants. Based on facts uncovered in our staff's thorough investigation, the Fensterstocks had reason to know this claim was not only baseless, but actually contradicted by the research *they commissioned*. The Fensterstocks grew their business by exposing their customers to health risks related to the Zika virus, including serious birth defects.

The Fensterstocks were extremely successful at promoting this ploy, doubling down on their deception at every turn. In the [New York Times](#), Melissa Fensterstock spoke about how the company fielded daily calls from customers about Zika. In an interview with the [Guardian](#), she noted that Aromaflage was "selling very well, especially given the scare." In a television interview on Bloomberg, she claimed her "scientific background" helped her "really understand what we can and cannot say about our product . . ." (She studied neuroscience at Johns Hopkins, bioscience enterprise at the University of Cambridge, and holds an MBA from Harvard Business School.) Aromaflage was featured by the style editor of the [Today](#) show, and was even listed as one of [Oprah's Favorite Things](#).

I don't believe the Fensterstocks purposely sought to expose their customers to serious health risks. Instead, it seems the thrill and allure of attention and financial success got the best of them. At the same time, their misconduct was extremely serious.

Given all these factors, I believe our settlement is too lenient and does not do enough to fence in the Fensterstocks. In other cases involving egregious misconduct,<sup>1</sup> the FTC has sought permanent injunctions<sup>2</sup> and significant relief for consumers in federal court. While I respect the ongoing concerns within the Commission about our extremely scant resources, I worry that this is not a just outcome. As

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<sup>1</sup> The investigation suggests that the Fensterstocks actually misrepresented the results of a study they commissioned, thereby placing the health of their customers at risk. See [Compl.](#) ¶ 12. In my view, this makes the Fensterstocks' conduct more egregious than what is found in typical substantiation cases.

<sup>2</sup> The order finalized today is valid only for twenty years. In my view, a court-ordered permanent injunction against false and misleading claims about health and safety would have been more appropriate given the particular facts and circumstances in this matter.

the Fensterstocks pursue new business ventures, their investors and customers will need to keep a watchful eye over them.

Thousands of entrepreneurs and business owners work hard and play by the rules, including in the health and beauty products sectors. These honest businesses are harmed when they have to compete with companies that cheat their customers. The Federal Trade Commission must protect these honest business owners and operators from unfair business practices by ensuring that those who break the law are fully held to account.