

IN THE MATTER OF
NORTH AMERICAN PHILIPS CORPORATION

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

Docket C-3180 Complaint, Feb. 10, 1986—Decision, Feb. 10, 1986

This consent order requires a New York City marketer of Norelco Clean Air Machines, among other things, to cease misrepresenting the ability of air cleaners to eliminate or help eliminate indoor pollutants or the irritation they cause, the results of smoke chamber demonstrations or other tests, surveys or demonstrations of air cleaning appliances. Additionally, respondent is required to have competent and reliable substantiation for all future claims about its products' efficacy.

Appearances

For the Commission: *Brinley H. Williams, Judith P. Wilkenfeld, Donald G. D'Amato and Elizabeth T. Guarino.*

For the respondents: *Richard E. Dori and William B. Gerwig, in-house counsel, New York City.*

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 North American Philips Corporation, a corporation, 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 Delaware, with its office and principal place of business located at 100 E. 42nd Street, New York, New York.

PAR. 2. Respondent is now, and at all times relevant to this complaint has been, engaged in the manufacture and sale of portable, electric household air cleaning appliances, the Norelco Clean Air Machine, Models 0999, 1900, 1905, 1910, 1920, 1930 and 1940 (hereinafter referred to in the complaint as "air cleaning appliances"), 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 air cleaning appliances, respondent has disseminated and caused the dissemination of advertising for 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 and to dealers for display or distribution to consumers prior to or at the time of sale.

PAR. 6. Typical of such advertisements and promotional materials, disseminated as previously described, but not necessarily inclusive thereof, are the advertisements and promotional materials attached hereto as Exhibits A-E.

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

a. The air cleaning appliances remove substantially all or clean substantially all tobacco smoke, dust, and pollen from the air people breathe under household living conditions.

b. The air cleaning appliances effectively help remove or effectively help clean tobacco smoke, dust and pollen from the air people breathe under household living conditions.

c. One air cleaning appliance "recirculates" all the air in a 14 foot x 18 foot room every 30-45 minutes.

d. Its smoke chamber demonstrations, depicted in the advertisements attached hereto as Exhibits A through C, among other advertisements, constitute proof or accurately or visually demonstrate that the air cleaning appliances will:

(1) remove substantially all or clean substantially all tobacco smoke, dust, pollen and other pollutants and impurities from the air people breathe under household living conditions;

(2) effectively help remove or effectively help clean tobacco smoke, dust, pollen and other pollutants and impurities from the air people breathe under household living conditions;

(3) eliminate substantially all or effectively help eliminate the irritation tobacco smoke, dust, and pollen can cause under household living conditions;

(4) provide a healthy home environment for consumers when used under household living conditions.

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. Respondent's tests and independent tests, when extrapolated by generally accepted procedures to household living conditions, show that the air cleaning appliances do not remove substantially all or clean substantially all tobacco smoke, dust and pollen from the air people breathe under household living conditions.

b. Respondent's tests and independent tests, when extrapolated by generally accepted procedures to household living conditions, show that the air cleaning appliances do not effectively help remove or effectively help clean tobacco smoke, dust and pollen from the air people breathe under household living conditions.

c. Respondent's tests and independent tests show that the air cleaning appliances cannot recirculate all the air in a 14 foot $\times$ 18 foot room every 30-45 minutes.

d. Respondent's tests and independent tests, when extrapolated by generally accepted procedures to household living conditions, show that respondent's smoke chamber demonstrations do not constitute proof or accurately or visually demonstrate that the air cleaning appliances will:

(1) remove substantially all or clean substantially all tobacco smoke, dust, pollen and other pollutants and impurities from the air people breathe under household living conditions;

(2) effectively help remove or effectively help clean tobacco smoke, dust, pollen and other pollutants and impurities from the air people breathe under household living conditions;

(3) eliminate substantially all or effectively help eliminate the irritation tobacco smoke, dust, and pollen can cause under household living conditions;

(4) provide a healthy home environment for consumers when used under household living conditions.

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

PAR. 9. Through the use of the statements and representations contained in the advertisements and promotional materials referred to in Paragraph Six, and others not specifically set forth herein, respondent has represented, and now represents, directly or by implication, that:

a. The air cleaning appliances remove substantially all, clean substantially all, effectively help remove or effectively help clean "other pollutants and impurities" from the air people breathe under household living conditions.

b. The air cleaning appliances eliminate substantially all or effectively help eliminate the irritation tobacco smoke, dust and pollen can cause under household living conditions.

c. The air cleaning appliances will provide a healthy home environment for consumers when used under household living conditions.

PAR. 10. Through the use of the statements and representations contained in the advertisements and promotional materials referred to in Paragraph Six, and other advertisements and promotional materials not specifically set forth herein, respondent has represented, and now represents, directly or by implication, that it possessed and relied upon a reasonable basis for the representations set forth in Paragraphs Seven and Nine at the initial dissemination of the representations and each subsequent dissemination.

PAR. 11. In truth and in fact, at such times referred to in Paragraph Ten, respondent did not possess and rely upon a reasonable basis for making the representations set forth in Paragraphs Seven and Nine because, *inter alia*, respondent either did not conduct appropriate tests or did not properly utilize generally accepted procedures to extrapolate test results to household living conditions. Therefore, respondent's representations set forth in Paragraphs Seven and Nine are false and misleading.

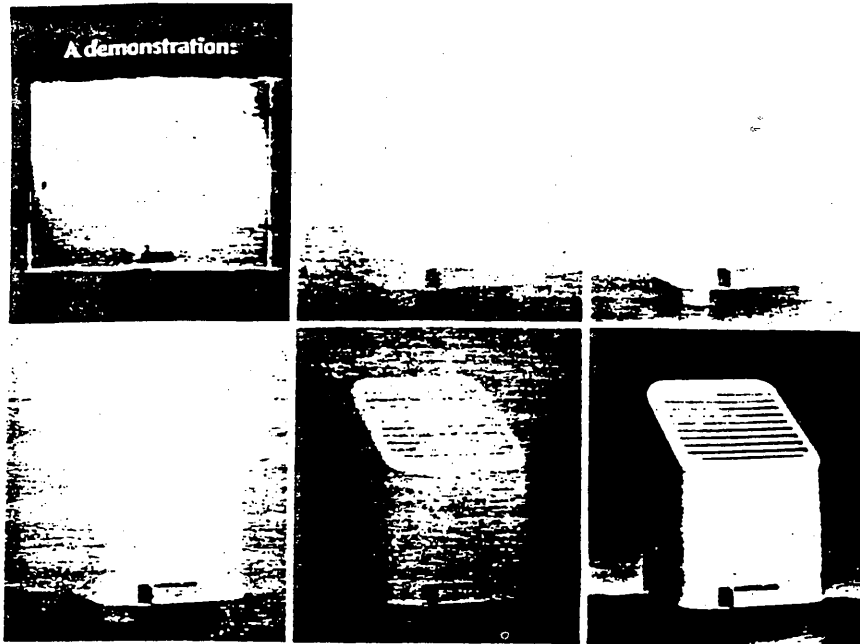
PAR. 12. The use by respondent of the aforesaid false and misleading representations, and the placement in the hands of others of the means and instrumentalities by and through which others may use the aforesaid false and misleading representations, have had the capacity and tendency to mislead consumers 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. 13. The aforesaid acts and practices of respondent, as herein alleged, were and are all to the prejudice and injury of the public, 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

107 F.T.C.

EXHIBIT A



Introducing the Clean Air Machine. Fresh from Norelco.

There's probably something inside your home that you never even think of cleaning.

The air.

But with all the discomforting impurities and pollutants floating around in it, it's one thing you should clean quite often.

That's why Norelco is demonstrating how effectively its new Clean Air Machine™ works, in this smoke-filled container we prepared for our test.

As you can see, the Clean Air Machine™ actually cleans your air. By removing odors, dirt and other

contaminants that are naturally found inside every room of your home. No matter how clean.

With its quiet, efficient motor, the Clean Air Machine™

draws in offending tobacco smoke, pet and cooking odors, dust, even pollen. Traps them in a specially formulated filter. And sends out clean, fresh, citrus-scented air.

Thus, eliminating the irritation and suffering that smoke-filled rooms can cause.

The compact Clean Air Machine™ is economical to use, too. Costing only pennies a week for continuous, 24-hour use. And each replaceable filter is designed to last approximately 3 months, with average use.

So provide a healthy home environment for your family and friends. With the new Norelco Clean Air Machine.™ After all, if it can clean the air in our demonstration, think how it'll clean the air in your home.



Easy-to-replace
Clean Air Machine™ filter

Norelco Clean Air Machine.™ Because your air gets dirty, too.

©1980 North American Philips Corporation, Consumer Products Division, High Ridge Park, Stamford, CT 06904

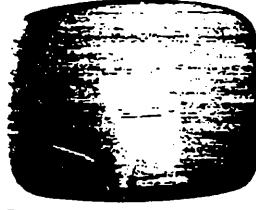
EXHIBIT B

NORELCO — CLEAN AIR MACHINE

"FRESH FROM NORELCO"



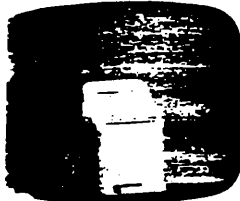
There's probably something in your
hat never gets cleaned.



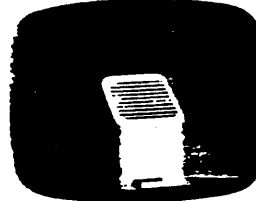
The air.



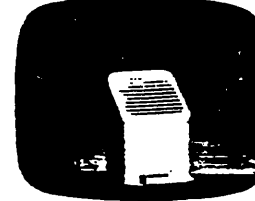
That's why Norelco is demonstrating its
new Clean Air Machine in this smoke-
filled container.



The Clean Air Machine actually removes
impurities and pollutants.



Its quiet motor draws in tobacco smoke,
pet and cooking odors, even dust.



traps them in a replaceable filter, and
sends out fresh, clean, citrus-scented air.



Clean Air Machine. Fresh from
Norelco.



Put one to the test in your home.



STORE NAME

Complaint

107 F.T.C.

EXHIBIT C

Radio TV Reports

41 East 42nd Street New York, N.Y. 10017
(212) 599-5500

PRODUCT
PROGRAM

THE NORELCO CLEAN AIR MACHINES 83-01040
TODAY 1/20/83 30 SEC.
WNBC-TV (NEW YORK) 7.41AM
REVISION OF COMMERCIAL 82-19368



(MUSIC) ANNCR: Watch
The Norelco Clean Air
Machine help fight dirty
air with clean air.



2. Inside this smoke filled
container.



3. The Clean Air Machine
with its new electrostatic
multi-layer filter



4. works like a magnet,
to help trap pollutants



such as tobacco smoke,
pet and cooking odors,
even dust and pollen.



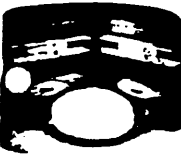
6. The result, cleaner, fresher
air.



7. So help fight your dirty
air with clean air.



8. The Norelco Clean Air
Machines. Fresh from
Norelco.



For maximum
effectiveness.



10. change your filter often.
And be sure it's a universal
filter from Norelco.
(MUSIC OUT)

ALSO AVAILABLE IN COLOR VIDEO-TAPE CASSETTE

Radio TV Reports, Inc. endeavors to assure the accuracy of material supplied by it. It cannot be responsible for mistakes or omissions.

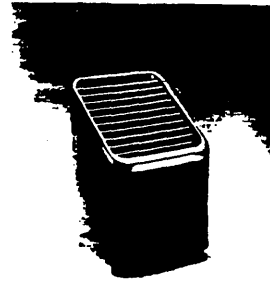
EXHIBIT D

The Norelco Clean Air Machine...

Helps remove offensive tobacco smoke, cooking odors, pet odors, dust, even pollen from the air.



Norelco Clean Air Machine II HB1920
The deluxe dual speed air cleanser that filters the air even more efficiently and more effectively. Engineered and constructed with 3.0 or 0.1 power the Clean Air Machine II is big enough to clear larger rooms but compact enough to fit on a desk or table. Simulated wood grain fits perfectly into any decor at the home or office. Energy efficient quiet motor and 3 position side switch.



Norelco Clean Air Machine HB1905
Designed and constructed with Norelco quality. An economical to use electrical appliance that effectively helps remove tobacco smoke, odors, pollen, even dust from the air. Compact design and simulated wood grain make it the perfect air cleanser for every room in the home or office. Convenient on off switch.



At home: It doesn't cover odors, it helps remove them.



At the office: Helps eliminate the irritation smoke filled rooms can cause.



Norelco Clean Air Machine HB1900
The air cleanser that clears the air. A compact energy efficient air filtration system that costs only pennies a day to recirculate fresher clean air. A proven success story that generates high turnover and repeat customer purchase. The Clean Air Machine has a convenient on off switch.



In a car: Plugs into a cigarette lighter to help remove smoke, odors, and dust from the air.

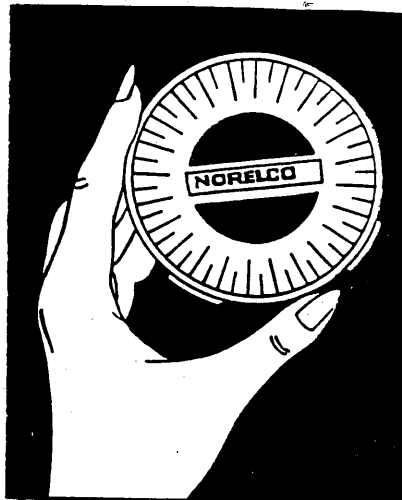
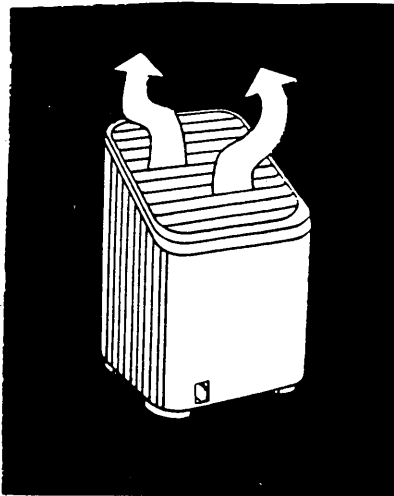


Norelco Clean Air Machine: Works to help filter tobacco smoke, dust, pollen, even pet odors from the air.

EXHIBIT E

Draws in polluted air...Cleaner air flows out.

Easy to replace filters work up to 3 months. Designed to fit Rush Hampton Ecologizer*. Special see-through design helps you judge when the filter needs to be changed. Convenient dating label on every filter serves as a reminder.

**Quality Features**

- Removes tobacco smoke, odors, dust, pollen and odor causing bacteria and fungi from the air.
- High powered, energy efficient; quiet motor, only 16 watts.
- Filters air through absorbent, citrus scented particles.
- Recirculates the air of a 14'x18' room approximately every 30-45 minutes
- Convenient ON/OFF switch.

Specifications: Model HB1900

Dimensions: 5"x7½"x5": approx.
 Voltage: 120V AC 60Hz
 Power: 16 Watts
 Weight: 2 lbs.
 Cord Length: 6 Ft.
 Switch: ON/OFF slide

Norelco

North American Philips Corporation
 Consumer Products Divisions
 High Ridge Park
 Stamford, Ct. 06904



This symbol on the product's nameplate means it is listed by Underwriters Laboratories, Inc.

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 Consumer Protection 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 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 North American Philips Corporation is a corporation organized, existing and doing business under and by virtue of the laws of the State of Delaware, with its office and principal place of business located at 100 East 42nd Street, New York, 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

PART I

It is ordered, That respondent North American Philips Corporation, 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 Norelco Clean Air Machine Models 0999, 1900, 1905, 1910, 1920, 1930, or 1940, or other air clean-

ers with similar performance specifications, 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, by the use of the words "cleans," "clears," "removes," "eliminates," or any other words or phrases that the reasonable consumer would interpret as meaning "substantially all," that such appliances, under household living conditions, clean the air of substantially all or remove substantially all tobacco smoke, dust, or pollen from the air that people breathe.

B. Representing, directly or by implication, contrary to fact, by the use of the words "helps clean," "helps clear," "helps remove," "helps eliminate," or any other words or phrases that the reasonable consumer would interpret as meaning effective removal, that any such appliance, under household living conditions, effectively helps clean the air of, or effectively helps remove a substantial portion of tobacco smoke, dust, or pollen from the air that people breathe.

C. Representing, directly or by implication, contrary to fact, that any such appliance, under household living conditions, eliminates the irritation tobacco smoke, dust or pollen can cause.

D. Representing, directly or by implication, contrary to fact, that any smoke chamber demonstration constitutes proof or accurately or visually demonstrates an air cleaning appliance's capability to remove a substantial portion of tobacco smoke, dust or pollen from the air that people breathe under household living conditions.

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 Norelco Clean Air Machine Models 0999, 1900, 1905, 1910, 1920, 1930, or 1940, or other air cleaners with similar performance specifications, in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

A. Misrepresenting in any manner, directly or by implication, the ability of any such appliance or equipment to clean or remove indoor air contaminants, including but not limited to tobacco smoke, dust, and pollen.

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, including but not limited to tobacco smoke, dust, and pollen.

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 Norelco Clean Air Machine Models 0999, 1900, 1905, 1910, 1920, 1930, or 1940, or any other consumer appliance which affects the quality of air, which for purposes of this Part shall mean any air cleaner, air freshener, air conditioner, dehumidifier and smokeless ashtray, in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from advertising by or through the use of any test, survey, experiment, demonstration, study or report, or the results thereof, or any other information or evidence that appears or purports to confirm or prove any characteristic or the truth of any representation regarding any such consumer appliance which affects the quality of air, when such advertising does not accurately demonstrate, prove, support or confirm such characteristic or representation.

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 the Norelco Clean Air Machine Models 0999, 1900, 1905, 1910, 1920, 1930, or 1940, 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, any performance characteristic of any such appliance or equipment unless at the time of making the representation, 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, re-

search, studies or other evidence based on the expertise of professionals in the relevant area, such evidence shall be "competent and reliable" for purposes of the above paragraph 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 any set of conditions, including household living conditions, unless at the time of making the representation respondent possesses and relies upon competent and reliable scientific evidence substantiating the representation(s) either by being related to those conditions or by having been extrapolated to those conditions by generally accepted procedures.

For purposes of this Part of the order, the term *performance characteristic* includes, but is not limited to:

- 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 of the appliance or equipment whether expressed in terms of a specific contaminant, in terms of the filtering media or mechanism, or in terms of the appliance or equipment itself;
- c. the speed of operation; or
- d. the comparative power, strength, filtration or cleaning capacity, removal ability, or speed of operation.

PART V

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 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 VI

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 such advertisements or other such sales materials.

PART VII

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 VIII

It is further ordered, That respondent, 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
BOISE CASCADE CORPORATION

FINAL ORDER, OPINION, ETC. IN REGARD TO ALLEGED VIOLATION OF
SEC. 5 OF THE FEDERAL TRADE COMMISSION ACT AND SEC. 2 OF THE
CLAYTON ACT

Docket 9133. Complaint, April 23, 1980—Final Order, Feb. 11, 1986

This final order requires a Boise, Idaho distributor of office products to cease accepting from any supplier a net price for office products that is lower than the price at which the supplier sells the products to other retailers with whom respondent competes. The Commission ruled that respondent violated the Robinson-Patman Act by knowingly receiving wholesaler discounts on goods it sold at retail in competition with other dealers.

Appearances

For the Commission: *Arnold C. Celnicker, Chris M. Couillou, Phylliss M. Richardson and Harold E. Kirtz.*

For the respondents: *John T. Loughlin, R. Clifford Potter, Scott M. Mendel and Dennis P.W. Johnson, Bell, Boyd & Lloyd, Chicago, Ill.*

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 Boise Cascade Corporation, hereinafter sometimes referred to as respondent, has violated the provisions of Section 5 of the Federal Trade Commission Act and Section 2(f) of the Clayton Act, as amended, 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 Boise Cascade is a corporation organized, existing and doing business under and by virtue of the laws of the State of Delaware with its principal offices located at One Jefferson Square, Boise, Idaho.

PAR. 2. Respondent Boise Cascade is now, and for many years has been, engaged in the operation of an integrated forest products company. The respondent, among other activities, distributes office supplies, stationery, printing paper, coarse paper and office furniture through its distribution centers across the United States.