

Complaint

107 F.T.C.

IN THE MATTER OF
SUNBEAM CORPORATION

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

Docket C-3181. Complaint, Feb. 11, 1986—Decision, Feb. 11, 1986

This consent order requires a Pittsburgh, Pa. marketer of Oster brand air cleaners, among other things, to cease misrepresenting the ability of air cleaners to eliminate or help eliminate indoor pollutants. Additionally, respondent is required to have competent and reliable substantiation for all future claims about its products' efficacy.

Appearances

For the Commission: *Jeffrey Klurfeld* and *Harold G. Sodergren*.

For the respondents: *Edward J. Momkus*, in-house counsel, Oak Brook, 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 Sunbeam Corporation, a corporation, hereinafter sometimes referred to as "Sunbeam" or 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 Delaware corporation with its principal place of business at 2 Oliver Plaza, Pittsburgh, Pennsylvania.

PAR. 2. Respondent, through its Oster Division, manufactures, advertises, offers for sale and sells electric air cleaning appliances, including but not limited to the Oster Models "402" and "404" (hereinafter referred to as "air cleaning appliances").

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

PAR. 4. Respondent has disseminated and caused the dissemination of advertising for air cleaning appliances in national magazines, newspapers and catalogues, and radio and television broadcasts. In addition, respondent has distributed product brochures and other

sales literature directly to consumers or to dealers for display or distribution to consumers prior to or at the time of sale.

PAR. 5. Typical of respondent's statements and representations, but not necessarily inclusive thereof, are those found in the advertisements and promotional materials attached hereto as Exhibits A, B, C, D and E.

PAR. 6. Through the use of the statements and representations referred to in Paragraph Five, and other statements and representations contained in advertisements and promotional materials not specifically set forth herein, respondent has represented, and now represents, directly or by implication, the following claims:

a. The air cleaning appliances effectively help clean or effectively help remove formaldehyde gas, gases from tobacco smoke, and/or other gases from the air people breathe under household or office conditions.

b. The air cleaning appliances remove or eliminate a substantial amount of formaldehyde gas, gases from tobacco smoke, and/or other gases from the air people breathe under household or office conditions.

c. The air cleaning appliances "chemically destroy" formaldehyde gas, gases from tobacco smoke, and/or other gases from the air people breathe under household or office conditions.

PAR. 7. In truth and in fact, the direct or implied representations set forth in Paragraph Six are and were false and misleading, for reasons including but not limited to the following:

a. Respondent's air cleaning appliances do not effectively help clean or effectively help remove formaldehyde gas, gases from tobacco smoke, or other gases from the air people breathe under household or office conditions.

b. Respondent's air cleaning appliances do not remove or eliminate a substantial amount of formaldehyde gas, gases from tobacco smoke, or other gases from the air people breathe under household or office conditions.

c. Respondent's air cleaning appliances do not "chemically destroy" formaldehyde gas, gases from tobacco smoke, or other gases from the air people breathe under household or office conditions.

Therefore the direct or implied statements and representations set forth in Paragraph Six are false and misleading.

PAR. 8. Through the use of the advertisements and promotional materials referred to in Paragraph Five, and others not specifically set forth herein, respondent has represented, directly or by implica-

tion, that it possessed and relied upon a reasonable basis for those representations.

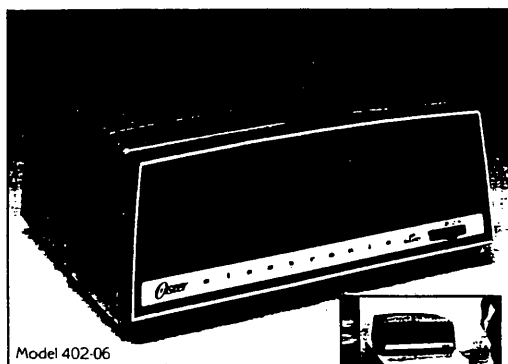
PAR. 9. In truth and in fact, respondent did not possess and rely upon a reasonable basis for making such representations because, *inter alia*, respondent either did not conduct appropriate tests or did not properly extrapolate test results by generally accepted procedures to advertised room, household or office conditions. Therefore, respondent's representations are false and misleading.

PAR. 10. The acts and practices of respondent as alleged in this complaint constitute unfair and deceptive acts or practices in or affecting commerce in violation of Section 5 of the Federal Trade Commission Act, as amended.

EXHIBIT A-1

Oster deluxe triple-cleaning Electronic Air Cleaners

with Electrostatic Precipitators
the professional method of cleaning the air of visible and invisible pollutants



Model 402-06



For Use in Homes and Small Offices

Electronic Air Cleaner

The basic unit can clean 2016 cubic feet of air twice per hour (14' x 18' x 8'). The two-speed, solid-state power module gives quiet operation on Low, and an effective high-volume movement on High. The efficient centrifugal air mover uses only 35 watts to keep your energy consumption down. Front intake, top clean air vent, and light weight (10 lbs.) combine for easy shelf or table placement.

Uses: Homes, sick rooms, small offices, waiting rooms, beauty shops, barber shops, labs, darkrooms.

Model 402-06 Brown Woodgrain

INSIDE AIR MAY BE UP TO THREE TIMES DIRTIER THAN OUTSIDE AIR

According to recent studies, the air in your home, place of business or anywhere people gather, is probably up to 3 times dirtier than outside air — so dirty that up to 2 billion particles of pollutants exist in just one cubic foot of air! These pollutants include pollen, dust, smoke, bacteria, viruses, gases, and odors. 90% of these pollutants are so small they are invisible. These invisible particles are critical since visible particles fall from the air by themselves in five minutes or less. Invisible particles can remain suspended without a sophisticated cleaning system.

IT'S THE SAME SYSTEM USED IN U.S. SUBS

All Oster Electronic Electrostatic Precipitator Air Cleaners benefit from Oster's years of expertise as a marketer of commercial air cleaners — the kind you see in restaurants and other public gathering places. Further, this unique air cleaning system was designed and engineered by Oster's development engineering personnel, in collaboration with the people who supply U.S. Navy submarines. This enclosed environment has an abnormally high concentration of stagnant and dirty air. Now, that technology, developed for the U.S. Navy and being utilized commercially, is available for home and office use.

IT HELPS REMOVE POLLEN, DUST, SOOT, MOLD SPORES, LINT

Here's how the Oster triple-cleaning system works: The first mechanical pre-filter helps remove the larger visible pollutants. Some of these are pollen, dust, soot, mold spores, lint. This filter is easily serviced by washing in soapy water every 6 to 8 weeks.

IT HELPS REMOVE INVISIBLE POLLUTANTS, SUCH AS SMOKE

The second filter is the incredible electronic electrostatic precipitator, which uses collecting plates that are constantly charged by a solid-state power source. This permanent filter helps remove the critical invisible pollutants (90% of pollutants in the air are invisible). It differs greatly from the electrostatic fiber filters in some cleaners which are charged only before they are put in the unit. (The one-time electrostatic charge dissipates with use and the filter must be replaced.) Bacteria, insecticide dust, tobacco smoke, cooking smoke and film, even certain viruses are among those invisible pollutants removed. The filter is so extraordinary, it actually helps remove pollutants from the air up to 500 TIMES SMALLER* (one two-millionth of an inch) than inexpensive consumer air fresheners and purifiers! This cell also is easily serviced and should be washed in soapy water, or a dishwasher, every 6 to 8 weeks for household use (more often for commercial use).



pollen



smoke



bacteria



mold spores



soot



dust



lint



formaldehyde



cooking odors



household odors

dust smoker bacteria mold spores paint dust fat formaldehyde cooking odors household odor

he third specially formulated charcoal/chemical filter completes the cleaning process with a unique contamination control. This filter absorbs gases and odors from the air and chemically destroys them: Formaldehyde (a gas released from insulation, paneling, wallboard, plywood), pet odors, bathroom odors, kitchen and cooking odors like fish, garlic, and vinegar are removed. Even pungent chemical odors caused by various hair "perm" products are neutralized. Compare this with the ordinary consumer air fresheners and purifiers that simply mask unpleasant odors by adding fragrances — these fragrances actually increase the pollution level. This filter remains effective for 3 to 6 months. Replacement filters are easily installed.

Oster's Electronic Air Cleaning System will help remove pollutants so effectively that walls, furniture, drapes, windows, carpets need less cleaning. You do less dusting. In addition, it helps you protect expensive audio and video equipment from damage-causing dust.

(SIZE OF PARTICLES)

100 10 1 0.1

Gas Vapor Dust Smoke Virus

Bacteria

Electronic Air Cleaners

Inexpensive Mask-type Air Fresheners and Purifiers

Airborne Living Organisms

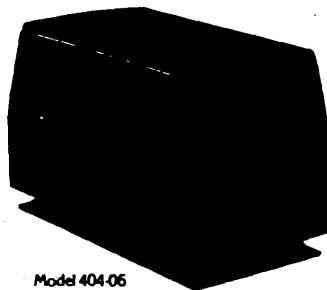
Minerals

Smoke

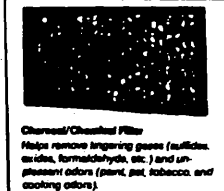
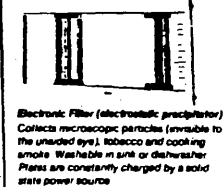
Visible with Unaided Eye

Visible with Electron Microscope

Derived from APHIS Bulletin 1961, Food Inspection



Mechanical Filter (Room)
Helps remove larger particles: pollen, dust, etc. Washable in sink; reusable



The deluxe model can clean 2016 cubic feet of air six times per hour (14' x 18' x 8'). The two speed solid state power module allows you to run the unit on High when needed or on Low during quiet periods. The efficient radial air mover uses only 80 watts to keep your energy consumption down. Front air intake and rear clean air vent.

Model 404-06 Brown Woodgrain

Oster
Division of Sunbeam Corporation
Chicago, Illinois 60642

Complaint

EXHIBIT B-1

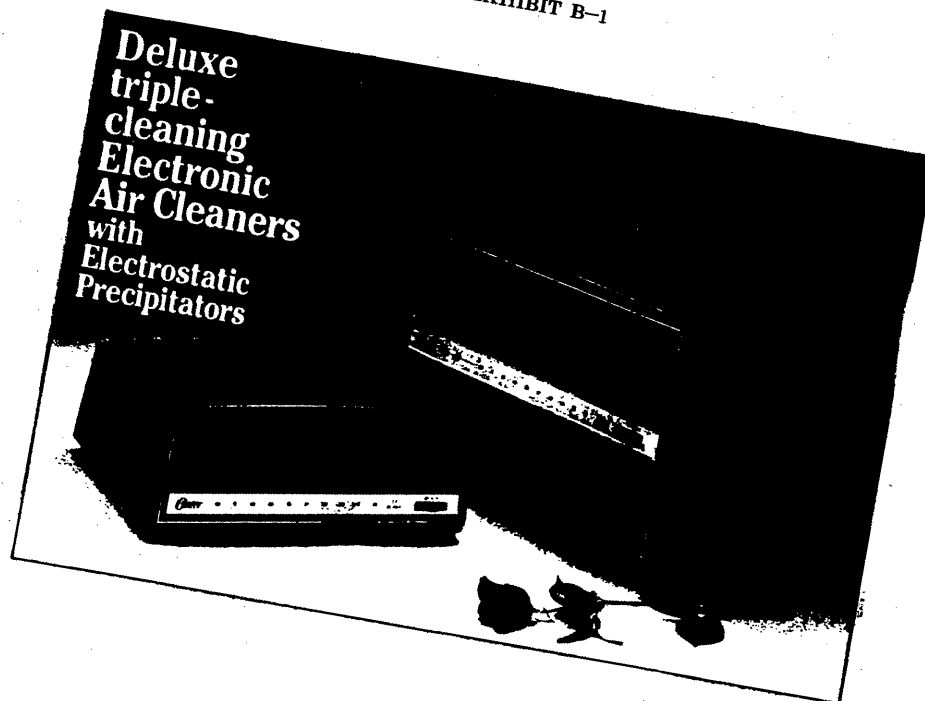
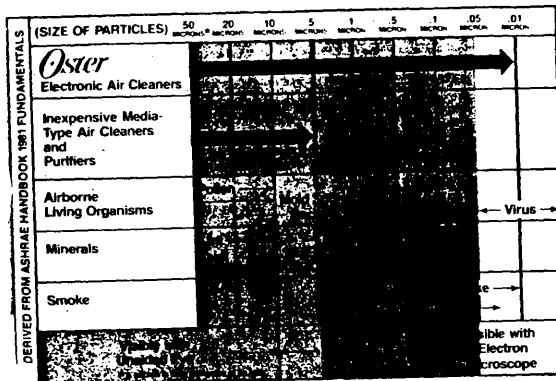


EXHIBIT B-2



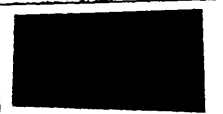
Electronic Air Cleaner Specifications



The Oster unit can clean 2016 cubic feet of air twice per hour (14' x 18' x 8'). The two-speed solid state power module gives quiet operation on Low, and an effective high velocity movement on High. The efficient centrifugal air mover uses only 40 watts to keep your energy consumption down. Front intake, top clean air vent, and light weight combine for easy shelf or table placement.

Uses: Homes, small offices, waiting rooms, beauty shops, barber shops, labs, darkrooms.

402-06 Woodgrain Ship. wt. 10 lb.
Charcoal Replacement Filter for 402-06 (8-5/8" x 4-1/4" x 1/2")
939-43 Ship. wt. 1/4 lb.



Mechanical Filter (Foam)
Helps remove larger particles: pollen, dust, soot, etc. Washable in sink, reusable.



Electronic Filter (electrostatic precipitator)
Collects microscopic particles (invisible to the unaided eye), tobacco and cooking smoke. Washable in sink or dishwasher. Plates are constantly charged by a solid state power source.



Fungi



Smoke



Bacteria



Mold Spores



Rept



Dust

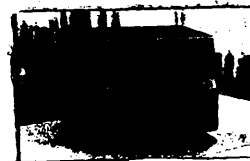


EXHIBIT C



OSTER CHARCOAL/CHEMICAL FILTER HELPS DESTROY ODORS AND CONTAMINANTS LISTED BELOW:

OXIDES

nitrogen dioxide	toxic, irritating gas, smog component, tobacco smoke
nitrogen oxide	toxic, irritating gas, smog component
sulfur dioxide	toxic, irritating gas, smog component

MERCAPTANS

butyl mercaptan	stench (skunk odor)
ethyl mercaptan	stench (similar to butyl mercaptan)
methyl mercaptan	odorant in natural gas

ALKALOIDS

indole	putrefaction of proteins
nicotine	tobacco smoke
skatole	putrefaction of proteins —feces

AMINES

ammonia	sharp odor, urine, tobacco smoke
cadaverine	bacterial decomposition of proteins
putrescine	bacterial decomposition of proteins
trimethylamine	fish odor

SULFUR COMPOUNDS

allyl disulfide	garlic oil
carbon disulfide	organic solvent (odor similar to hydrogen sulfide)
hydrogen sulfide	rotten eggs, feces, tobacco smoke
sulfur dioxide	heavy, oppressive odor, smog component

ORGANIC ACIDS

acetic acid	vinegar
butyric acid	odor of rancid butter
caprylic acid	decomposition of animal fats and oils
isovaleric acid	decomposition of animal fats and oils
propionic acid	sharp odor (similar to vinegar)

ALDEHYDES

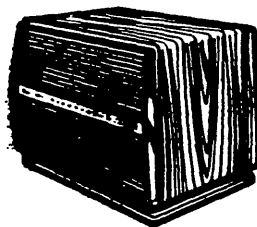
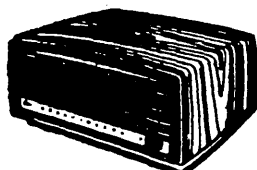
acetaldehyde	sharp, acrid odor
butyraldehyde	sharp, acrid odor
acrolein	pungent odor, tobacco smoke

PHENOLS

chlorophenol	germicide
cresol	prime ingredient in creosote
phenol	germicide

OTHER

mercury	cumulatively toxic vapor
ozone	irritating odor at high concentrations, smog component
tetrachloroethylene	ether-like odor
trichloroethylene	sweet-smelling solvent
turpentine	paint remover
vinyl chloride	plastics industry chemical
hydrogen cyanide	toxic gas, tobacco smoke



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EXHIBIT D

Think of it as a breath of fresh air. 24 hours a day.

Recent studies have shown that recirculated air in well-insulated buildings can be up to three times dirtier than the air outside. But there's good news, too.

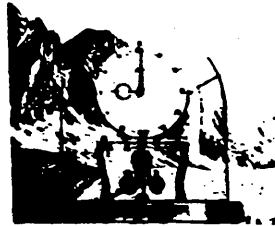
Now you can give your home or office a breath of fresh air, 24 hours a day, with the new Oster Electronic Air Cleaner. Oster's triple-cleaning system was engineered by the people who supply air cleaners to the U.S. Navy. It is one of the most efficient air cleaning systems available for use in the home.

*The Oster Electronic Air Cleaner filters air mechanically, electronically and chemically, and helps remove odors and particles as small as .01 micron (less than four ten-millionths of an inch across)... pollutants up to 500**

(SIZE OF PARTICLES)	10	5	1	.5	.1	.05	.01	.005	.001
Oster									
Electronic Air Cleaners									
Inexpensive									
Mechanical									
Air Cleaners									
and									
Purifiers									
Airborne									
Living Organisms									
Minerals									
Smoke									
Visible with									
Unaided Eye									

times smaller than those removed by inexpensive air cleaners and purifiers. It helps remove smoke, grease, soot and dust particles, pollen and mold spores, bacteria, and even some viruses from the air you breathe, leaving it cleaner and fresher smelling. Helps protect costly stereo equipment from damaging dust — and you'll find yourself dusting less often, too!

Here's how Oster's triple-cleaning system works: Large particles (over 10 microns) are eliminated by a mechanical filter. Smaller particles (down to .01 micron) are captured by an electronically powered electrostatic precipitator that



gives each particle a positive electrical charge and then traps it on a negatively charged plate. The air then passes through a charcoal and odoroxidant filter, which helps trap odors and gases and chemically destroys them.

The Oster Electronic Air Cleaner's attractively styled, simulated wood-grain cabinet blends with nearly any decor. And the two speed, solid state power module is designed for years of quiet, dependable operation. Two models to choose from: The basic unit can clean 2,016 cu. ft. of air (a 14' x 18' x 8' room) twice per hour... the deluxe model can clean 2,016 cu. ft. of air six times per hour. Both models give you cleaner, fresher smelling air 24 hours a day.

For your nearest Oster Air Cleaner dealer, call toll free 800-356-7837. In Wisconsin, 414-332-8300.



The NEW
Oster Electronic
Air Cleaner.

Oster

Division of Burdick Corporation
Milwaukee, Wisconsin 53217

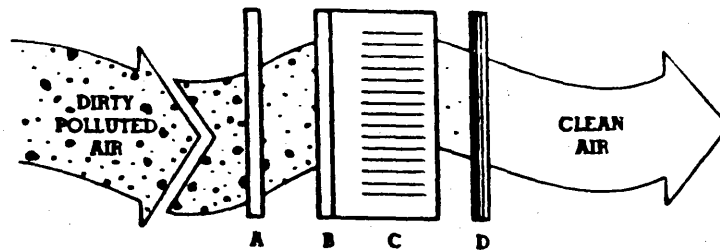
© Oster 1983
TM Oster

EXHIBIT E

HOW THE OSTER AIR CLEANER WORKS

Your electronic air cleaner is a highly efficient dirt remover and collector. It helps remove dust, pollen, fumes, smoke and other microscopic particles from the air by the use of a triple filtration system.

1. Dirty air is drawn into the unit by a fan. A foam filter (A) helps remove the larger visible particles—dust, pollen, and lint.
2. The smaller particles pass through an electrical field in the electronic cell (B) and are given a positive electrical charge.
3. The charged particles pass through a series of oppositely charged collecting plates (C) in the cell and are attracted to and held by the negatively charged plates until they are removed by washing.
4. The clean air then passes through a special charcoal and chemical filter (D) which helps absorb and destroy gases in the air that cause odors.

**IMPORTANT SAFETY INSTRUCTIONS**

This unit is equipped with a polarized attachment plug (the plug having one blade wider than the other). This plug will fit in a polarized outlet only one way. This is a safety feature. If you are unable to insert the plug fully in the outlet, reverse the plug. If it still will not fit, contact a qualified electrician. Never use with an extension cord unless plug can be fully inserted. Do not attempt to defeat the safety purpose of the polarized plug.

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 the draft complaint which the San Francisco Regional Office 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 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 also containing waivers and other provisions as required by the Commission's Rules; and

The Commission having thereafter considered the matter and having determined that it has 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 Sunbeam Corporation is a Delaware corporation with its offices and principal place of business located at 2 Oliver Plaza, Pittsburgh, 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

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

1. The term *indoor air contaminants* includes, but is not limited to, formaldehyde gas; other gases (e.g., sulfides, oxides); acrolein, acetaldehyde, carbon monoxide and other gases from tobacco smoke; and other gases associated with common household odors (e.g., from cooking, paint, or pets).
2. 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;
- b. the cleaning, filtration, or removal ability, or the speed of operation of the appliance or equipment, whether expressed generally or in terms of a specific contaminant, in terms of the filtering media or mechanism, or in terms of the appliance itself;
- c. the speed of operation; or
- d. the comparative power, strength, filtration or cleaning capacity, removal ability, or speed of operation.

PART I

It is ordered, That respondent Sunbeam 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 any 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. Misrepresenting in any manner, directly or by implication, the ability of any air cleaning appliance or equipment to clean, eliminate or remove any indoor air contaminant.

B. Misrepresenting in any manner, directly or by implication, the ability of any air cleaning appliance or equipment to clean, eliminate or remove any quantity of indoor air contaminants.

C. Representing, directly or by implication, contrary to fact, that respondent's models "402" or "404" air cleaners can effectively help clean, effectively help remove, chemically destroy, or remove or eliminate a substantial amount of, formaldehyde gas, gases from tobacco smoke, or other gases from the air people breathe under household or office conditions.

D. Representing, directly or by implication, any performance characteristic of any air cleaning appliance or equipment unless at the time of making such 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, research, studies or other evidence based on the expertise of professionals in the relevant area, such evidence shall be "competent and reliable" 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.

E. Representing, directly or by implication, that any air cleaning appliance or equipment will perform under a set of conditions, including household or office conditions, unless at the time of making such representation respondent possesses and relies upon competent and reliable scientific tests which either relate to those conditions or which have been extrapolated by generally accepted procedures to those 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 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 two (2) years from the date respondent's advertisements, sales materials, promotional materials or post-purchase materials making such claim or representation were last disseminated.

PART III

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, and to each of its agents, representatives or employees engaged in the preparation and placement of advertisements or other sales materials relating to any air cleaning appliance or equipment.

PART IV

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 respondent such as dissolution, assignment or sale, resulting in the emergence of a successor, the creation or dissolution

of subsidiaries, or any other change in the respondent which may affect compliance obligations arising out of this order.

PART V

It is further ordered, That respondent shall, within ninety (90) days after the date of service of this order, 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
THE ELECTRICAL BID REGISTRATION SERVICE OF
MEMPHIS, INC., ET AL.

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

Docket 9183. Complaint, Aug. 6, 1984—Final Order, Feb. 12, 1986

This final order requires a Memphis, Tenn. bid depository set up by electrical subcontractors, among other things, to cease taking disciplinary action against firms that negotiate prices after bidding is closed or that accept a contract at a price other than that filed with the registry. Additionally, respondents may not require firms using the registry to deal only with other registry participants and cannot restrict in any way negotiations between electrical subcontractors and general contractors. Further, respondents are required to reinstate any firm it suspended for violation of the illegal rules and remove the illegal provisions from its by-laws or other rules.

Appearances

For the Commission: *Truett M. Honeycutt, Douglas B. Brown and Harold E. Kirtz.*

For the respondents: *Carl H. Langschmidt, Jr., Boone, Wellford, Clark, Langschmidt & Apperton, Memphis, Tenn., for respondents The Electrical Bid Registration Service of Memphis, Inc., C.H. Dennis, Jr., James L. Overton, Wayne A. Allen and Jack Gross. James W. Watson and G. Patrick Arnoult, Watson, Arnoult & Quinn, Memphis, Tenn. for respondent The National Electrical Contractors Association, Memphis Chapter.*

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 the Electrical Bid Registration Service of Memphis, Inc., a corporation, and C. H. Dennis, Jr., individually and as an officer and director of said corporation, and James L. Overton, Wayne A. Allen, and Jack Gross, individually and as directors of said corporation, and The National Electrical Contractors Association, Memphis Chapter, a corporation, hereinafter sometimes referred to as respondents, have 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