

IN THE MATTER OF

PURITAN-BENNETT AERO SYSTEMS COMPANY

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

Docket C-3217. Complaint, Aug. 25, 1987—Decision, Aug. 25, 1987

This consent order prohibits, among other things, an El Segundo, California seller of fire and smoke protection masks from making deceptive advertising claims that any emergency escape mask or hood can absorb, remove or filter out any hazardous gas associated with fire, or that any mask or hood can protect users from any fire hazards, unless the claim is substantiated and supported by a scientific test. Respondent is required to retain for three years all test reports or materials it uses as substantiation for claims and is also required to make specified disclosures on its packaging and in advertisements.

Appearances

For the Commission: *Joel Winston and Susan Cohn.*

For the respondents: *Daniel C. Weary and Robin Foser, Blackwell, Sanders, Matheny, Weary, & Lombardi, Kansas City, Mo.*

COMPLAINT

The Federal Trade Commission, having reason to believe that Puritan-Bennett Aero Systems Company, a corporation ("respondent"), has 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 Puritan-Bennett Aero Systems Company is a California corporation with its office and principal place of business at 111 Penn Avenue, El Segundo, California. It is a wholly-owned subsidiary of Puritan-Bennett Corporation.

PAR. 2. Puritan-Bennett Aero Systems has been engaged in the advertising, marketing, distribution and sale to the public of the Escape Fire and Smoke Hood ("Escape Hood" or "Hood").

PAR. 3. The acts and practices of Puritan-Bennett Aero Systems alleged in this complaint have been in or affecting commerce.

PAR. 4. Typical of Puritan-Bennett Aero Systems' advertising and promotional material for the Escape Hood, but not necessarily all inclusive thereof, is the attached Exhibit A. The aforesaid material contains the following statements:

a. "IN CASE OF FIRE: ESCAPE! Introducing ESCAPE Fire and Smoke Hood, the best way to increase your chance of surviving a fire."

b. "ESCAPE is designed to protect eyesight, minimize panic and filter out toxic fumes for a reasonable amount of time. With this extra time, your chances for escape from fire are greatly enhanced."

c. "Fires can generate searing, intense heat. Worse they normally develop dense clouds of smoke. And the burning materials give off poisonous fumes. Without effective protection against these hazards, your chances for escape will be slim indeed. Now you can have that effective protection against fire and smoke! It's called ESCAPE, and it is . . . capable of . . . removing 99% of all smoke particles and absorbing most toxic gases."

PAR. 5. Through the use of the statements referred to in paragraph four and others in advertisements not specifically set forth herein, Puritan-Bennett Aero Systems has represented, directly or by implication, that:

a. The Escape Hood will absorb or filter out all significant noxious or poisonous gases associated with fires.

b. The Escape Hood will protect the user from all significant hazards associated with gases in fires for a reasonable amount of time.

PAR. 6. In truth and in fact:

a. The Escape Hood will not absorb or filter out all significant noxious or poisonous gases associated with fires, because it does not absorb or filter out carbon monoxide, a lethal gas associated with fires.

b. The Escape Hood will not protect the user from all significant hazards associated with gases in fires for a reasonable amount of time, because it does not absorb or filter out carbon monoxide, a lethal gas associated with fires.

Therefore, the representations set forth in paragraph five were, and are, false and misleading.

PAR. 7. In the advertising and sale of the Escape Hood, Puritan-Bennett Aero Systems has failed to disclose adequately to consumers that the Hood does not absorb or filter out carbon monoxide, a lethal gas associated with fires. This fact would be material to consumers in their decisions on whether to purchase or how to use the Escape Hood. The failure to disclose this fact, in light of the representations made as alleged in paragraph five, is a deceptive practice.

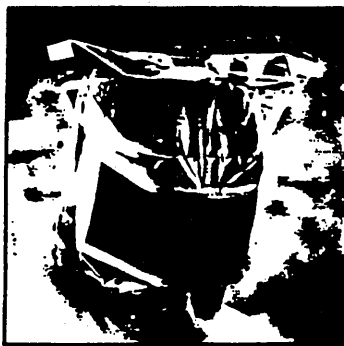
PAR. 8. The acts and practices of Puritan-Bennett Aero Systems alleged in this complaint constitute unfair or deceptive acts or practices in or affecting commerce in violation of Section 5(a) of the Federal Trade Commission Act.

Complaint

110 F.T.C.

EXHIBIT A

IN CASE OF FIRE: ESCAPE!



Introducing ESCAPE Fire and Smoke Hood, the best way to increase your chance of surviving a fire.

Have you ever been trapped in a fire? And tried to escape without some sort of protection? Let's hope you never have to. Because it can be a terrifying experience.

Fire at home. A hotel fire. Fire in an office building or hospital. Fire aboard an airliner. A boat or ship fire. They're all dangerous. Fires can generate searing, intense heat. Worse, they normally develop dense clouds of smoke. And the burning materials give off poisonous fumes. Without effective protection against these hazards, your chances for escape will be slim indeed.

Now you can have that effective

protection against fire and smoke! It's called ESCAPE, and it is a combination of two elements: (1) a thin transparent hood made of DuPont KAPTON, capable of withstanding flames of 1200°F and (2) a four-layer filter capable of removing 99% of all smoke particles and absorbing most toxic gases. Oxygen is freely passed.

The ESCAPE Fire and Smoke Hood weighs only 2½ ounces and folds into a compact sealed plastic pouch measuring 7" x 5½" x ¾" (thick). It can be carried in a pocket, purse or briefcase. You can take your own ESCAPE with you at all times, and provide one for each member of your family for their protection.

Putting on the ESCAPE hood is as simple as 1-2-3:



1. Open: Break seal of plastic pouch and tear along dotted line to open. Remove hood from pouch.



2. To Put On: Open hood at bottom with both hands, and pull over head and down around neck.



3. To Secure: Hood's elastic neck band automatically seals around neck.

NOTE: The ESCAPE Fire and Smoke Hood carries no guarantee other than the three-rear filter system efficiency maintained when plastic seal remains unbroken. ESCAPE is designed to protect eyesight, minimize panic and filter out toxic fumes for a reasonable amount of time. With this extra time, your chances for escape from fire are greatly enhanced.

**A product of PURITAN-BENNETT AERO SYSTEMS CO.,
El Segundo, Fountain Valley, CA, Lenexa, KS**

ESCAPE FIRE AND SMOKE HOOD \$49.50 Postpaid. Order yours today from the Puritan-Bennett Aero Systems Co. Distributor:
ATLANTIC AVIATION SUPPLY CO.
P.O. Box 11170
Wilmington, DE 19850.

Include local, state and federal taxes, where applicable.

Please send me _____ Escape Hood(s) in \$49.50 ea.

I enclose ☐ Money Order ☐ Certified Check

Charge my ☐ MASTERCARD ☐ VISA

Card number _____ Exp. date _____

Name _____

Address _____

City _____ State _____ Zip _____

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, and its parent corporation, Puritan-Bennett Corporation, 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 parent corporation, and counsel for the Commission having thereafter executed an agreement containing a consent order, an admission by the respondent and its parent corporation 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 or its parent corporation 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 a 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 Puritan-Bennett Aero Systems Company is a corporation organized, existing and doing business under and by virtue of the laws of the State of California, with its offices and principal place of business at 111 Penn Avenue, El Segundo, California.

2. Puritan-Bennett Corporation is a corporation organized, existing and doing business under and by virtue of the laws of the State of Delaware, with its offices and principal place of business at 9401 Indian Creek Parkway, P.O. Box 25905, Overland Park, Kansas.

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

ORDER

I.

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

(1) "*The Escape Fire and Smoke Hood*" shall mean the over-the-head transparent Kapton hood manufactured by Cybertronics, Ltd., a British company.

(2) "*Competent and reliable scientific test*" shall mean a test in which persons with skill and expert knowledge in the field to which the test pertains conduct the test and evaluate its results in an objective manner using testing, evaluation, and analytical procedures that ensure accurate and reliable results.

II.

It is ordered, That respondent Puritan Bennett Aero Systems Company, a corporation, its parent corporation, Puritan-Bennett Corporation, their successors and assigns, (hereinafter collectively "the companies"), and their 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 Escape Fire and Smoke Hood or any other emergency escape mask or hood, 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:

a. That the mask or hood is capable of absorbing, removing, filtering out, or otherwise protecting the user from any hazardous gas associated with fire unless, at the time the representation is made, the representation is true and the companies possess and rely upon a reasonable basis consisting of a competent and reliable scientific test that substantiates the representation.

b. That the mask or hood can protect the user from any hazards associated with fire unless, at the time the representation is made, the representation is true and the companies possess and rely upon a reasonable basis consisting of a competent and reliable scientific test that substantiates the representation.

III.

It is further ordered, That the following notice shall be included in all advertising and promotional materials for the Escape Fire and Smoke Hood, or any other emergency mask or hood manufactured or

sold by the companies that is incapable of absorbing, removing, filtering or otherwise providing significant protection from carbon monoxide, if that advertising or promotional material expressly or impliedly represents that the device protects the user from any hazard associated with fire:

NOTICE: This device does not filter carbon monoxide—a lethal gas associated with fire.

Nothing contrary to, inconsistent with, or in mitigation of the above required language shall be used in any such advertising or promotional material. In print advertising and promotional material, the above required language shall appear in at least ten-point bold type print, in close conjunction with the representation. In any television advertising, film, videotape or slide promotional material, the above required language shall be included both orally and visually in a manner designed to ensure clarity and prominence. In radio advertising, the above required language shall be read in a clear manner.

IV.

It is further ordered, That the following statement shall be included on all package labels for the Escape Fire and Smoke Hood, or any other emergency mask or hood manufactured or sold by the companies that is incapable of absorbing, removing, filtering or otherwise providing significant protection from carbon monoxide:

WARNING: This device does not filter carbon monoxide—a lethal gas associated with fire.

The above required language shall be printed in at least ten-point bold type print. Nothing contrary to, inconsistent with or in mitigation of the above required language shall be used on any such package label.

V.

It is further ordered, That the companies shall deliver by certified mail or in person a copy of this order to all present and future distributors and sub-distributors of the Escape Fire and Smoke Hood, or any other emergency mask or escape hood marketed by either of the companies, and instruct such distributors and sub-distributors in writing not to make any of the representations, directly or by implication, prohibited by this order. Delivery shall be made within thirty (30) days after the date of service on the companies of this order to all such present distributors and sub-distributors. For all such future

distributors and sub-distributors, delivery shall be made prior to the time said distributors begin distribution of the product.

VI.

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

1. All materials upon which the company relied to substantiate any claim or representation covered by this order, and
2. All test reports, studies, surveys, or other materials in its possession or control or of which it has knowledge that contradict, qualify, or call into question such representation or the basis upon which the company relied for such representation.

VII.

It is further ordered, That each company shall notify the Commission at least thirty (30) days prior to any proposed change in the company 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.

VIII.

It is further ordered, that the companies 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 or intend to comply with this order.

IN THE MATTER OF
ALLEGHANY CORPORATION

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

Docket C-3218. Complaint, Sept. 9, 1987—Decision, Sept. 9, 1987

This consent order allows, among other things, a New York City title insurance company to acquire Safeco Title Insurance Co. by requiring respondent to divest two title plants to alleviate concerns that acquisition could reduce competition in the production and sale of title information in Cook County, Ill. and Los Angeles County, Calif. Respondent is also required to continue to honor all Chicago Title and Trust Company and Safeco plant access contracts that expire pending divestiture.

Appearances

For the Commission: *Michael Antalics* and *Andrew Goodson*.

For the respondents: *John C. Christie, Jr., Bell, Boyd, & Lloyd*,
Washington, D.C.

COMPLAINT

The Federal Trade Commission, having reason to believe that respondent Alleghany Corporation, a corporation subject to the jurisdiction of the Commission, through one of its subsidiaries, has entered into an agreement that violates Section 5 of the Federal Trade Commission Act, as amended, (15 U.S.C. Section 45); that through this agreement Alleghany Corporation has agreed to acquire certain assets of Safeco Corporation; and that such acquisition, if consummated, would constitute a violation of Section 7 of the Clayton Act, as amended (15 U.S.C. Section 18); and it appearing that a proceeding in respect thereof would be in the public interest, hereby issues its Complaint, pursuant to Section 11 of the Clayton Act (15 U.S.C. Section 21) and Section 5(b) of the Federal Trade Commission Act (15 U.S.C. Section 45(b)), stating its charges as follows:

I. DEFINITION

1. For purposes of this Complaint, the term "*title plant*" means a privately owned set of records regarding the ownership of and interests in real property that is maintained by obtaining information from the public records on a daily or regular basis and is indexed, posted or otherwise organized to update data regarding specific land