

IN THE MATTER OF  
NEWTRON PRODUCTS COMPANY, INC., ET AL.  
CONSENT ORDER, ETC., IN REGARD TO ALLEGED VIOLATION OF  
SEC. 5 OF THE FEDERAL TRADE COMMISSION ACT

*Docket C-3375. Complaint, Mar. 16, 1992--Decision, Mar. 16, 1992*

This consent order prohibits, among other things, an Ohio company and its principals from making any representations regarding the performance characteristics of any air cleaning product, unless it possesses competent and reliable evidence to substantiate those claims.

*Appearances*

For the Commission: *Joel C. Winston and Janet M. Evans.*

For the respondents: *Toby Singer, Jones, Day, Reavis & Pogue,*  
Washington, D. C.

COMPLAINT

The Federal Trade Commission, having reason to believe that Newtron Products Co., Inc., a corporation, and Michael S. Duty and Donald G. Attermeyer, individually and as officers and directors of said corporation, hereinafter sometimes referred to as respondents, have violated the provisions of the Federal Trade Commission Act, and it appearing to the Commission that a proceeding by it would be in the public interest, hereby issues its complaint stating its charges as follows:

PARAGRAPH 1. Respondent Newtron Products Co., Inc. ("Newtron" or "corporate respondent") is a corporation organized, existing, and doing business under and by virtue of the laws of the State of Ohio. Newtron's office and principal place of business is located at 3874 Virginia Avenue, P.O. Box 27175, Cincinnati, Ohio.

Respondents Michael S. Duty and Donald G. Attermeyer are officers and directors of Newtron. They formulate, direct and control the acts and practices of said corporate respondent. Their address is the same as that of respondent Newtron.

The aforementioned respondents cooperated and acted together in carrying out the acts and practices hereinafter set forth.

PAR. 2. Respondents, at all times mentioned herein, have maintained a substantial course of business, including the acts and practices hereinafter set forth, which are in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act.

PAR. 3. Respondents advertise, offer for sale, sell and distribute the Newtron Electrostatic Air Cleaner ("Air Cleaner") to the public as a product designed to remove indoor air contaminants, including fungal spores (mold) and pollen.

PAR. 4. Respondents have disseminated or caused the dissemination of advertisements and other promotional materials for the Air Cleaner. Typical of respondents' advertisements and promotional materials, but not necessarily all-inclusive thereof, are the advertisements attached hereto as Exhibits A-E. The aforesaid advertisements and promotional materials contain the following statements and depictions:

"The Newtron is the only air cleaner on the market that has been tested in 'before and after' studies in homes of allergy sufferers. The findings are documented on the enclosed test copy: NEWTRON removed 100% of the pollen and 94% of the mold spores from the air." [Exhibit A]

[Depiction of graphs showing 94% removal of 'indoor spores' and 100% removal of 'indoor pollen' followed by caption:] "The above test conducted by the University of California, San Diego School of Medicine verifies NEWTRON'S effectiveness: 'The NEWTRON electrostatic air cleaner causes a significant decrease in airborne pollen and mold spores.'" [Exhibit B]

[Depiction of graphs showing 94% 'spore count' and 100% 'pollen count' reduction followed by caption:] "Spore and pollen removal tests conducted in homes of allergy sufferers." [Exhibit C]

"Newtron Electrostatic Air Cleaner eliminate up to 100% of irritants from indoor air." [Graph depicting 94% removal of 'spore count' and 100% removal of 'pollen count' followed by caption:] "Spore and pollen removal tests conducted in homes of allergy sufferers." [Exhibit D]

"Newtron High Efficiency Static Air Cleaner ELIMINATES pollen, mold spores" [followed by graphs depicting 100% reduction of 'pollen count,' 94% reduction of 'spore count'] [Exhibit E]

PAR. 5. Through the statements referred to in paragraph four, and others not specifically set forth herein, respondents have represented, directly or by implication, that:

1. The Air Cleaner removes 94% of fungal spores from the air people breathe under household living conditions.
2. The Air Cleaner removes 100% of pollen from the air people breathe under household living conditions.

PAR. 6. Through use of the statements and depictions referred to in paragraph four and others not specifically set forth herein, respondents have represented, directly or by implication, that at the time they made the representations set forth in paragraph five, respondents possessed and relied upon a reasonable basis, consisting of competent and reliable scientific tests, for such representations.

PAR. 7. In truth and in fact, at the time respondents made the representations set forth in paragraph five, the tests relied on by respondents were not competent and reliable to substantiate the representations. Therefore, the representation set forth in paragraph six was, and is, false and misleading.

PAR. 8. Through the statements referred to in paragraph four and others not specifically set forth herein, respondents have represented, directly or by implication, that scientific studies conducted in the homes of allergy sufferers prove that the Air Cleaner removes 94% of fungal spores and 100% of pollen from the air people breathe under household living conditions.

PAR. 9. In truth and in fact, the studies conducted in the homes of allergy sufferers relied on by respondents do not prove that the Air Cleaner removes 94% of fungal spores and 100% of pollen from the air people breathe under household living conditions. Therefore, the representation set forth in paragraph eight was, and is, false and misleading.

PAR. 10. The acts and practices of respondents, as herein alleged, have constituted, and now constitute, unfair or deceptive acts or practices in or affecting commerce in violation of Section 5(a) of the Federal Trade Commission Act.

Commissioner Yao not participating.

## EXHIBIT A

Newtron Products  
Manufacturer of the Newtron Air Cleaner...  
The Physician's Choice

Thank you for your recent inquiry about the NEWTRON Static-Electric Air Cleaner. Enclosed is a portfolio of product information for your review.

Whether you suffer from allergies or just want a cleaner, healthier indoor environment, NEWTRON is the answer.

- The NEWTRON is the only air cleaner on the market that has been tested in "before and after" studies in homes of allergy sufferers. The findings are documented on the enclosed test copy: NEWTRON removed 100% of the pollen and 94% of the mold spores from the air. Also enclosed is a test conducted by the Air Filter Testing Laboratory in Louisville, Kentucky which demonstrates that the NEWTRON will remove cigarette smoke.

- Allergy Specialists throughout the country have used the NEWTRON in their own homes to determine its effectiveness. Based upon their evaluations, physicians are prescribing the NEWTRON for allergic patients. (See a sampling of quotations we received from participating physicians).

- The NEWTRON retails for less than installed electronic air cleaning equipment and the only maintenance required is a periodic water flush. Since the NEWTRON is static-electric, it does not produce any ozone.

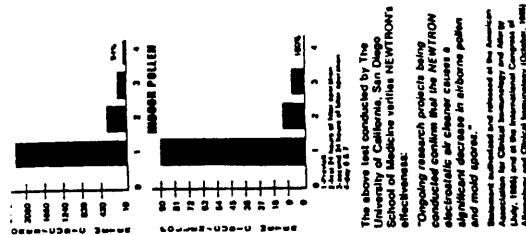
After you have had an opportunity to examine the enclosed data, please contact the authorized NEWTRON dealer listed below for pricing and availability:

3874 Virginia Avenue, P.O. Box 27175, Cincinnati, Ohio 45227-0175, 513/561-7373, 1-800/543-9149.

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Complaint

## EXHIBIT B



The above test conducted by The University of California, San Diego School of Medicine verifies NEWTRON's effectiveness:

"Ongoing research projects being conducted confirm that the NEWTRON Electrostatic Air Cleaner removes up to 100% of airborne pollen and mold spores."

Statement authorized and released at the American Association for Clinical Immunology and Allergy (AACI), 1988 and the International Congress on Allergy and Clinical Immunology (ICACI), 1988.

### NEWTRON IS EFFECTIVE.

The NEWTRON Electrostatic Air Cleaner removes up to 100% of the pollen, dust and mold spores. It is the only air cleaner that removes the most harmful and irritating pollutants, such as pollen, dust, mold spores, and other airborne pollutants, without emitting harmful ozone, prevalent in electronic air cleaners.

### NEWTRON IS EFFICIENT.

The NEWTRON Electrostatic Air Cleaner does not use electricity and needs no wiring. It simply inserts in the forced air heating and cooling system in place of the existing filter. The NEWTRON is a permanent and requires minimal maintenance.

### NEWTRON IS ECONOMICAL.

The NEWTRON Electrostatic Air Cleaner costs approximately one-third the cost of other air cleaners. NEWTRON has no moving parts to replace. When prescribed by a doctor, NEWTRON qualifies for reimbursement under many health plans and is tax deductible.

Hundreds of doctors, who personally evaluated the NEWTRON, have verified its effectiveness.

"I feel (NEWTRON) has a significant role in the total management of the allergy patient."

Allergist Ann Arbor, Michigan

"(NEWTRON) reduced sneezing, itching, watery eyes."

Otolaryngologist Ogden, Utah

"It helps to a great extent in the management of respiratory allergies."

Allergist Long Island, New York

There is a relief from allergy symptoms due to airborne dust, pollen and smoke—a relief which is effective AND economical.

### NEWTRON

The ultimate air cleaner.

Indoor air pollution is an ever-increasing problem. It causes headaches, watering eyes, runny noses, coughing, sneezing and general discomfort. It affects everyone especially those with allergies.

Throughout the country, allergists and respiratory specialists are recommending NEWTRON for symptomatic relief. In fact, 95% of the doctors' patients who installed the NEWTRON air cleaner expressed relief from their respiratory symptoms.

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P. 2

The NEWTRON generates its own static charge as air flows through all materials. Vibration, static-prone parts, that are manufactured with exacting precision for close tolerances, in a unique, patented system. It is the configuration which creates the patented concept force field that attracts and holds irritating airborne pollutants, with ultimate efficiency.

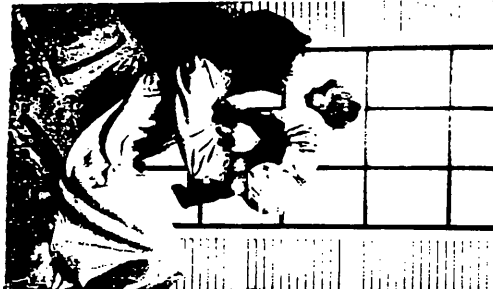
For your limited warranty  
choose standard glass, also custom.

(B)

For Dealer Material You, 1-800-842-8106

Newline Products Co.

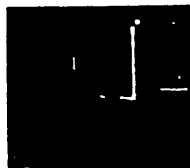
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Hundreds of doctors, who personally evaluated the NEWTRON, have verified its effectiveness.



**NEWTRON provides clean, healthy air for your family at an affordable price**



Installation is easy. Remove the filter and replace it with the NEW! cleaner.



Cleaning is simple. Flush the HE<sup>3</sup> with water. Use a mild detergent.

## EXHIBIT C

## Newton Electrostatic Air Cleaner eliminates up to 100% of irritants from indoor air.

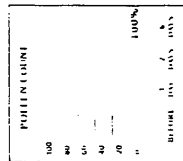
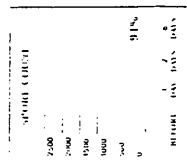
**The Newton** removes pollen, dust, dander, smoke and mold spores from indoor air more efficiently than other, more-expensive air cleaners. The Newton offers your family cleaner, healthier indoor air immediately without expensive installation or tedious maintenance...at about half the cost of electronic air cleaners.

**Effortless:** The Newton cleans the air without producing harmful ozone gas. Ozone is a major element in smog, and it can irritate the eyes, nose, throat, and respiratory system. The Newton is effective against cigarette smoke.

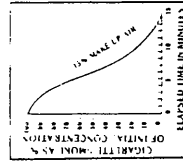
**Efficient:** The Newton replaces your existing furnace filter and installs without wiring, duct changes, or other modifications to your heating or cooling system. And, because the Newton operates on the principle of static electricity, it consumes no energy.

**Economical:** Not only is the Newton priced at less than half that of electronic units, the savings continue because the Newton never needs servicing. Further, the Newton qualifies for reimbursement under many health plans and is tax deductible.

The Newton substantially reduces airborne dust particles that settle on furniture and collect on walls and draperies. That means less dusting is required during normal housework, and less money spent on professional cleaning and redecorating services.



Spores and pollen removed, as conducted in home, of allergy sufferers.



Test conducted in Air Filter, testing laboratory, 1 hour, 10 minutes, based on particulate matter of 0.5 microns on 0.2 unit.

## Newton Electrostatic Air Cleaner for the relief of allergy symptoms.

"The Newton is the most efficient and economical form of filtration for the home."  
—Lawrence L. Lyle, M.D.,  
Texas, allergist

"Line electronic precipitators are much less efficient, produce ozone, and require excessive maintenance. A fibroplastic filter is useless and should be replaced with a filter that produces an electrostatic charge (I recommend the Newton)."

—John C. Selner, M.D.,  
Colorado, Pediatrician

"The Newton is the only one I am suggesting that patients buy."

—Charles Griffith, M.D.,  
Louisiana, allergist

"Many of my patients who had seasonal allergy are able to stop their injections after using the Newton."

—Saul H. Haddad, M.D.,  
California, allergist

"The Newton keeps the air cleaner than any previous filter we've used."

—Harold Arlen, M.D.,  
New Jersey, otolaryngologist

"The Newton helped both my son and me with allergic rhinitis."

—Allen White, M.D.,  
Alabama, pediatric allergist

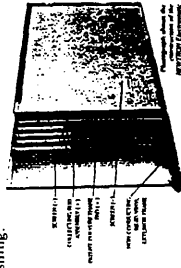
"The Newton has significantly reduced my hay fever symptoms this spring."

—J.E. Balz, M.D.,  
North Carolina, internist



### The Newton cleans safely and naturally...

The Newton generates a static charge as air flows through a wide variety of highly static-prone materials arranged in a patented configuration that achieves ultimate efficiency. This static charge attracts and holds irritating airborne pollutants until they are released by washing.



- Non-directional air flow
- Continuous blower operation recommended
- Available in standard and custom sizes
- Five-year warranty

| Standard Size:<br>Model # | Actual Size       | Minimum Maximum<br>Recommended<br>Air Flow |
|---------------------------|-------------------|--------------------------------------------|
| 1-1224                    | 1-11 1/2 x 27 1/2 | 450-900 CFM                                |
| 1-1226                    | 1-12 x 27 1/2     | 500-1000 CFM                               |
| 1-1424                    | 1-12 1/2 x 23 1/2 | 625-1250 CFM                               |
| 1-1426                    | 1-13 x 23 1/2     | 625-1250 CFM                               |
| 1-1430                    | 1-13 1/2 x 23 1/2 | 600-1200 CFM                               |
| 1-1620                    | 1-15 1/2 x 19 1/2 | 500-1000 CFM                               |
| 1-1625                    | 1-15 1/2 x 24 1/2 | 625-1250 CFM                               |
| 1-1626                    | 1-15 1/2 x 27 1/2 | 700-1400 CFM                               |
| 1-1824                    | 1-17 1/2 x 23 1/2 | 875-1750 CFM                               |
| 1-2020                    | 1-19 1/2 x 19 1/2 | 625-1250 CFM                               |
| 1-2025                    | 1-19 1/2 x 24 1/2 | 875-1750 CFM                               |
| 1-2220                    | 1-21 1/2 x 19 1/2 | 875-1750 CFM                               |
| 1-2424                    | 1-23 1/2 x 23 1/2 | 900-1800 CFM                               |
| 1-2526                    | 1-23 1/2 x 27 1/2 | 900-1800 CFM                               |
| 1-2528                    | 1-23 1/2 x 27 1/2 | 1000-2000 CFM                              |

### Installs and cleans in minutes!



To install, simply remove your existing filter and replace it with the Newton Air Cleaner.

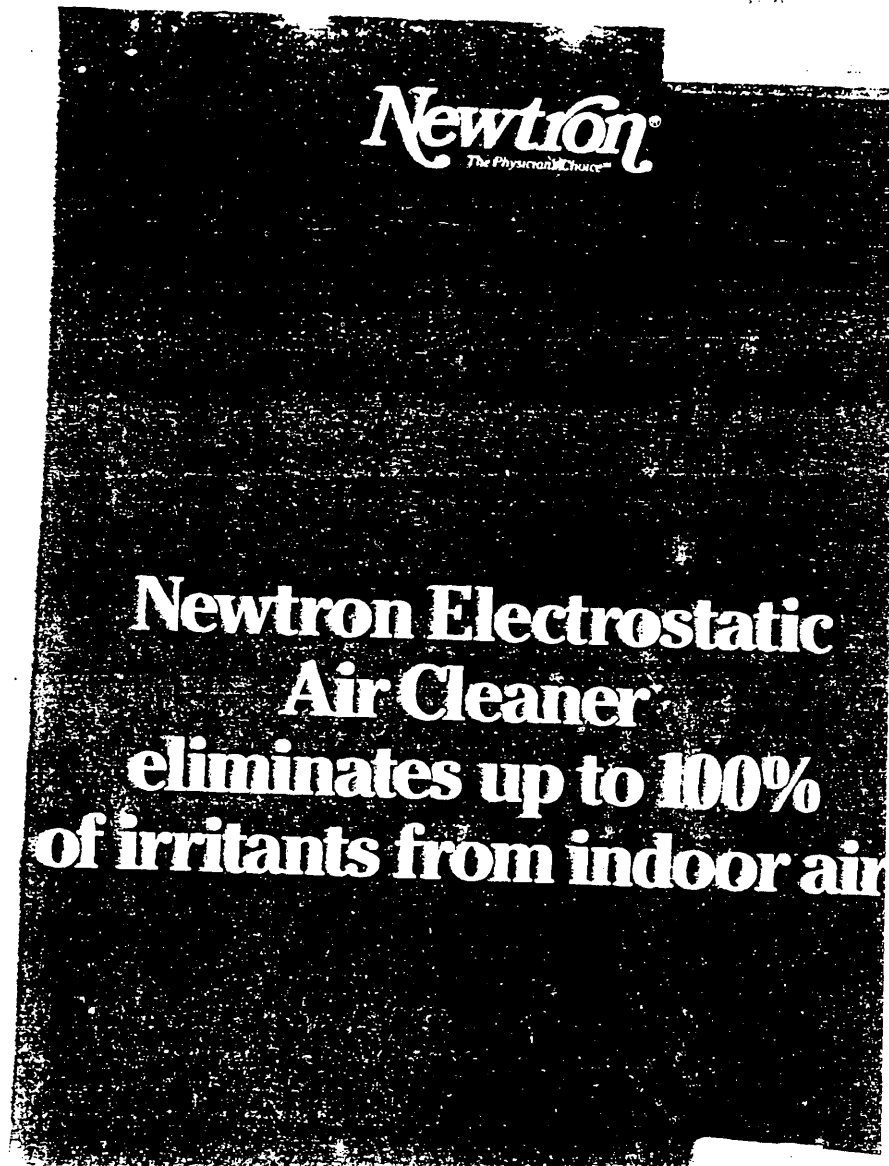


Flush the Newton with water every 60-90 days.

### The initial cost is the final cost.

Because the Newton is washable, it doesn't use expensive paper filter replacements. And the Newton has no moving parts to wear out, so you'll never have to pay to have your Newton serviced. The Newton

EXHIBIT D



Complaint Exhibit D p.2

## The Newtron Electrostatic Air Cleaner significant decrease in air

**Hundreds of physicians agree: the Newtron relieves allergy symptoms safely and economically.**

The Newtron removes pollen, dust, dander, smoke and mold spores from indoor air better than other, more expensive air cleaners. Hundreds of physicians have tested the Newtron Electrostatic Air Cleaner in their homes and offices.

*"Many of my patients who had seasonal allergy are able to stop their injections after using Newtron."*

—Souheil Habbal, M.D., California, allergist

*"I was relieved of sinusitis and post-nasal drainage within one week—it had persisted for one and a half years. I have recommended the Newtron Air Cleaner to patients and acquaintances with allergy and lung conditions."*

—Jack Haskins, M.D., Arkansas, general practitioner

*"The Newtron keeps the air cleaner than any previous filter we've used."*

—Harold Arien, M.D., New Jersey, otolaryngologist

*"The Newtron has helped both my son and me with allergic rhinitis."*

—Allen White, M.D., Alabama, pediatric allergist

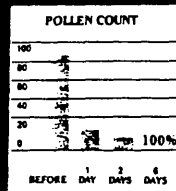
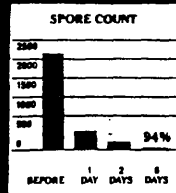
*"(The Newtron) has significantly reduced my hay fever symptoms this spring."*

—J.E. Balz, M.D., North Carolina, internist

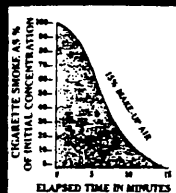
*"(The Newtron) is the only one I am suggesting that patients buy."*

—Charles Griffith, M.D., Louisiana, allergist

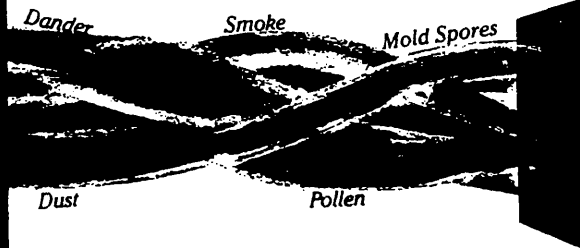
When prescribed by a doctor, the Newtron is tax-deductible. It's also reimbursable under many medical insurance plans.



Spores and pollen are removed from indoor air by the Newtron.



According to the American Lung Association, cigarette smoke is a major indoor air pollutant. The Newtron removes cigarette smoke from indoor air.



## tic Air Cleaner causes a ne pollen and mold spores.

*"...(The Newtron) is the most efficient and economical form of filtration for the home."* —Lazarus Loeb, M.D., Texas, allergist

The Newtron offers your family cleaner, healthier indoor air immediately, without expensive installation or tedious maintenance...at about half the cost of electronic air cleaners.

**Installs easily...replaces your existing furnace filter.**

The Newtron installs without wiring, duct changes, or other modifications to your heating and cooling system...it's also compatible with heat pumps.

**Cleans the air without producing harmful ozone gas.**

The Newtron cleans the air by generating natural static electricity without producing harmful ozone gas, like electronic systems. Ozone is a major component of smog, and it can irritate the eyes, nose, throat and respiratory system. —

**Easy to maintain.**

Rinse the Newtron with plain tap water every 60 to 90 days, and use a household spray cleaner to remove any grease or nicotine build-up...that's all the maintenance the Newtron ever needs.

**The initial cost is the final cost.**

Because the Newtron is washable, it doesn't use expensive paper filter replacements. And the Newtron has no moving parts to wear out, so you'll never have to pay to have your Newtron serviced. The Newtron is also cost-efficient to operate—it consumes no electricity because it generates its own energy.

**Removes cigarette smoke in minutes.**

The Newtron is effective against cigarette smoke. In laboratory tests, the Newtron effectively eliminated cigarette smoke in just minutes (see chart).

Complaint Exhibit D p.3

To install - simply remove your existing filter and replace it with the Newtron cleaner.

Flush the Newtron with water every 60-90 days.

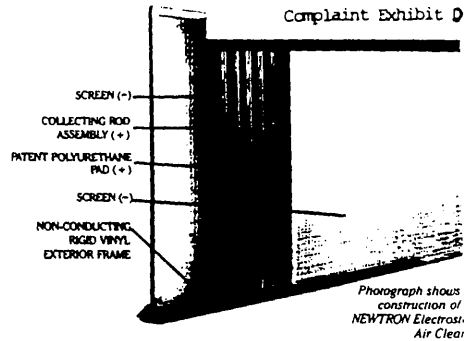


### The Newtron cleans safely and naturally. Here's how...

The Newtron cleans the air by using static electricity, which is a safe, naturally-occurring phenomenon.

The Newtron generates a static charge as air flows through grids of several types of highly static-prone materials, arranged in a patented configuration that achieves ultimate efficiency.

This static charge attracts and holds irritating airborne pollutants, until they are released by washing.



### Available in standard and custom sizes.

One-inch models recommended for residential applications; listed sizes are also available in a two-inch commercial/industrial model. Custom sizes are available at a slight extra charge.

When ordering a standard size Newtron, specify model number.

For custom sizes, specify exact finish size required. (Custom Newtrons are not returnable; manufacturing tolerances are  $\pm 1/8"$ .)

### Continuous blower operation recommended.

Any air cleaner removes only those particles that circulate through it. For continuous air cleaning, set your system blower to operate constantly.

Continual blower operation also promotes more even cooling and heating throughout your home.

### Five year warranty ensures problem-free operation.

The Newtron is covered by a limited warranty from defects in materials or workmanship for five years.

**Give your family the ultimate answer to indoor air pollution.**

**Ask your dealer about the Newtron Electrostatic Air Cleaner, or call 1-800-543-9149.**

In Ohio, 1-800-544-3753 • In the 513 Area, Call 513-561-7373 • FAX # 513-561-3673

For additional information contact:

#### Standard Sizes:

| Model # | Actual Size       | Minimum/Maximum Recommended Air Flow |
|---------|-------------------|--------------------------------------|
| 1-1224  | 1-11 1/4 x 23 1/4 | 450-900 CF                           |
| 1-1228  | 1-12 x 27 1/4     | 500-1000 CF                          |
| 1-1424  | 1-13 1/4 x 23 1/4 | 525-1050 CF                          |
| 1-1425  | 1-13 1/4 x 24 1/4 | 550-1100 CF                          |
| 1-1430  | 1-13 1/4 x 29 1/4 | 660-1315 CF                          |
| 1-1620  | 1-15 1/4 x 19 1/4 | 500-1000 CF                          |
| 1-1625  | 1-15 1/4 x 24 1/4 | 625-1250 CF                          |
| 1-1628  | 1-15 1/4 x 27 1/4 | 700-1400 CF                          |
| 1-1824  | 1-17 1/4 x 23 1/4 | 875-1350 CF                          |
| 1-2020  | 1-19 1/4 x 19 1/4 | 625-1250 CF                          |
| 1-2025  | 1-19 1/4 x 24 1/4 | 780-1560 CF                          |
| 1-2028  | 1-19 x 27 1/4     | 875-1750 CF                          |
| 1-2030  | 1-19 1/4 x 29 1/4 | 940-1880 CF                          |
| 1-2424  | 1-23 1/4 x 23 1/4 | 900-1800 CF                          |
| 1-2328  | 1-22 1/4 x 27 1/4 | 1025-2050 CF                         |

Air Flow vs. Resistance  
.16 WG at 1200 CFM

Non-Directional Air Flow

### Properties of the Newtron

Shrinkage: Water 212°F ... None  
Shrinkage: Air 250°F ... None  
Softening Range ... 320° to 330°F  
Melting Range ... 330° to 335°F  
Decomposition ... + 600°F  
Odor ... None  
Burning ... Slow  
Specific Gravity ... 0.90



Patent no: 4115082  
Air Filter Units  
Classified By  
Underwriters Laboratories, Inc.  
As To Flammability Only  
CLASS 2 862U

**Newtron**  
The Physicians' Choice

P.O. Box 27175  
3874 Virginia Avenue  
Cincinnati, Ohio 45227-0175

Complaint

EXHIBIT E

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Complaint Exhibit E

# Newtron

## High Efficiency Static Electric Air Cleaner

# Eliminates...

**pollen**

**100%**

**mold spores**

**94%**

**cigarette smoke**

**100%**

## We Guarantee It!

**Clean Air—No Grief.** The Newtron Static Electric Air Cleaner is easy to install, because it requires no sheet metal, tapcon, wiring or fittings. The Newtron can be installed in a small fraction of the time required for electronic air cleaners and created media filters—yet the Newtron cleaner will improve your indoor air 100% in just a few days.

**Need We Say More?** We'd rather leave it to experts such as Texas Allergy Control, who have eliminated more than 1000 cases of asthma and other respiratory ailments.

evaluated and now recommend the Newtron air cleaning system for patients suffering from respiratory allergies. I have written, "The Newtron Static Electric Air Cleaner is efficient, and economical form of filtration for the home." To learn how you can become an authorized dealer, call (800) 543-9149. In Okla. (515) 561-7573.

Newtron Air Cleaners are covered by a comprehensive five-year warranty and are also covered. We also back our product with a 30-day money-back guarantee for respiratory allergy sufferers.

## Newtron

Newtron Products Company  
10000 S. 10th Avenue, Suite 100  
Oklahoma City, Oklahoma 73160

## DECISION AND ORDER

The Federal Trade Commission having initiated an investigation of certain acts and practices of the respondents named in the caption hereof, and respondents 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 respondents with violation of the Federal Trade Commission Act; and

The respondents, their attorneys, and counsel for the Commission having thereafter executed an agreement containing a consent order, an admission by respondents 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 respondents of facts, other than jurisdictional facts, or of violations of law as alleged in such complaint, and waivers and other provisions as required by the Commission's Rules.

The Commission having thereafter considered the matter and having determined that it had reason to believe that the respondents have violated the said Acts, 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, and having duly considered the comments filed thereafter by interested persons pursuant to Section 2.34 of its Rules, 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. Newtron is a corporation organized, existing and doing business under and by virtue of the laws of the State of Ohio. Newtron's office and principal place of business is located at 3874 Virginia Avenue, P.O. Box 27175, Cincinnati, Ohio.

Michael S. Duty is Chief Executive Officer and director, and Donald G. Attermeyer is President and director of Newtron. Mr. Duty and Mr. Attermeyer formulate, direct, and control the acts and

practices of Newtron. Mr. Duty's and Mr. Attermeyer's address is the same as Newtron's.

2. The Federal Trade Commission has jurisdiction of the subject matter of this proceeding and of the respondents, and the proceeding is in the public interest.

#### ORDER

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

1. The terms "*air cleaning product*" or "*product*" mean any product, equipment or appliance designed or advertised to remove, treat or reduce the level of any contaminant(s) in the air.

2. The terms "*indoor air contaminant(s)*" or "*contaminant(s)*" refer to one or more of the following: fungal (mold) spores, pollen, tobacco smoke, household dust, animal dander or any other gaseous or particulate matter found in indoor air.

#### I.

*It is ordered*, That respondent Newtron Products Co., Inc., a corporation, its successors and assigns, and its officers, and Michael S. Duty and Donald G. Attermeyer, individually and as officers of said corporation, and respondents' agents, representatives and employees, directly or through any corporation, subsidiary, division or other device, in connection with the advertising, labeling, packaging, offering for sale, sale or distribution of the Newtron Electrostatic Air Cleaner (hereinafter, "Air Cleaner") or any substantially similar device, 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, contrary to fact, that scientific tests conducted in the homes of allergy sufferers prove or establish that the Air Cleaner or device removes 94% of fungal spores or 100% of pollen from the air people breathe under household living conditions.

## II.

*It is further ordered,* That respondent Newtron Products Co., Inc., a corporation, its successors and assigns, and its officers, and Michael S. Duty and Donald G. Attermeyer, individually and as officers of said corporation, and respondents' agents, representatives and employees, directly or through any corporation, subsidiary, division or other device, in connection with the advertising, labeling, packaging, offering for sale, sale or distribution of the Air Cleaner or any other air cleaning product, in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from misrepresenting in any manner, directly or by implication, the contents, validity, results, conclusions, or interpretations of any test or study.

## III.

*It is further ordered,* That respondent Newtron Products Co., Inc., a corporation, its successors and assigns, and its officers, and Michael S. Duty and Donald G. Attermeyer, individually and as officers of said corporation, and respondents' agents, representatives and employees, directly or through any corporation, subsidiary, division or other device, in connection with the advertising, labeling, packaging, offering for sale, sale or distribution of the Air Cleaner or any other air cleaning product, 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 product unless, at the time of making such representation, respondents possess and rely upon a reasonable basis consisting of competent and reliable evidence, which substantiates the representation. To the extent such evidence consists of tests, experiments, analysis, 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.

B. Representing, directly or by implication, that any air cleaning product will perform under any set of conditions, including household living conditions, unless at the time of making the representation(s) respondents possess and rely 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.

#### IV.

*It is further ordered,* That respondents, their successors and assigns, shall, for three (3) years after the date of the last dissemination of the representation to which they pertain, maintain and upon request make available to the Federal Trade Commission or its staff for inspection and copying:

A. All materials that were relied upon by respondent(s) in disseminating any representation covered by this order; and

B. All reports, tests, studies, surveys, demonstrations or other evidence in any respondent's possession or control that contradict, qualify, or call into question such representation, or the basis upon which the respondent relied for such representation, including complaints from consumers.

#### V.

*It is further ordered,* That respondent Newtron shall distribute a copy of this order to each of its operating divisions, to each of its managerial employees, and to each of its officers, agents, representatives or employees engaged in the preparation or placement of advertising or other sales materials covered by this order and shall secure from each such person a signed statement acknowledging receipt of this order.

## VI.

*It is further ordered,* That respondents shall notify the Commission at least thirty (30) days prior to 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 the order.

## VII.

*It is further ordered,* That for a period of ten (10) years from the date of service of this order, each of the individual respondents named herein shall promptly notify the Commission in the event of the discontinuance of his present business or employment and of each affiliation with a new business or employment. Each such notice shall include the individual respondent's new business address and a statement of the nature of the business or employment in which said respondent is newly engaged as well as a description of said respondent's duties and responsibilities in connection with the business or employment. The expiration of the notice provision of this paragraph shall not affect any obligation arising under this order.

## VIII.

*It is further ordered,* That respondents shall, within sixty (60) days after service upon them of this order 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 with the requirements of this order.

Commissioner Yao not participating.

IN THE MATTER OF  
AMERICAN ENVIRO PRODUCTS, INC., ET AL.

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

*Docket C-3376. Complaint, Mar. 18, 1992--Decision, Mar. 18, 1992*

This consent order prohibits, among other things, a California-based disposable diapers company and its corporate officers from making unsubstantiated degradability or environmental benefit claims for any plastic product or plastic packaging in the future.

*Appearances*

For the Commission: *Michael Dershowitz.*

For the respondents: *Phil Rudolph* and *Paul Blankenstein,*  
*Gibson, Dunn & Crutcher,* Washington, D.C.

COMPLAINT

The Federal Trade Commission, having reason to believe that American Enviro Products, Inc., a corporation, and Robert D. Chickering and Michael V. Zullo, individually and as officers of said corporation, hereinafter sometimes referred to as respondents, have 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 American Enviro Products, Inc. ("American Enviro") is a California corporation with its office and principal place of business located at 950 Fee Anna Street, Placentia, California.

Respondents Robert D. Chickering and Michael V. Zullo are officers of the corporate respondent named herein. They formulate, direct, and control the acts and practices of the corporate respondent. Their business address is the same as that of the corporation.