

IN THE MATTER OF
THE RIGHT START, INC., ET AL.

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

Docket C-3444. Complaint, June 30, 1993--Decision, June 30, 1993

This consent order prohibits, among other things, a California-based mail-order company, and its president, from making false and unsubstantiated advertising claims regarding the "Air Purifier," a small electric air filter, and the "Travel Tray," a foam board tray that is used to hold children's snacks and toys when they are riding in an automobile. The respondents are prohibited from representing that the use of any air filtering device can reduce the risk, alleviate, prevent, or cure respiratory problems, unless the representations are substantiated by competent and reliable scientific evidence. In addition, the company is prohibited from representing that any product it sells has been approved or endorsed, unless the endorsement is supported by an objective test conducted by qualified persons.

Appearances

For the Commission: *C. Steven Baker* and *Catherine R. Fuller*.
For the respondents: *John Rawls, Blanc, Williams, Johnston & Kronstadt*, Los Angeles, CA.

COMPLAINT

The Federal Trade Commission, having reason to believe that The Right Start, Inc. ("Right Start"), a corporation, and Stanley M. Fridstein, individually and as an officer of said corporation ("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 Right Start is a California corporation, with its principal office or place of business located at 5334 Sterling Center Drive, Thousand Oaks, California.

Respondent Stanley M. Fridstein is an officer of the corporate respondent. Individually or in concert with others, he formulates, directs and controls the acts and practices of the corporate respondent, including the acts and practices alleged in this complaint. His principal office or place of business is the same as that of the corporate respondent.

PAR. 2. Respondents have advertised, offered for sale, sold and distributed numerous products for infants and children through a mail order catalog, including a product known as the Air Purifier, which product is a small electric air filter, and a product known as the Travel Tray, which product is a foam board tray for use in automobiles to hold children's snacks and toys.

PAR. 3. The acts and practices of respondents alleged in this complaint have been in or affecting commerce, as "commerce" is defined in Section 4 of the Federal Trade Commission Act.

PAR. 4. Respondents have disseminated or have caused to be disseminated advertisements for the Air Purifier and Travel Tray, including, but not necessarily limited to, the attached Exhibits 1-2. These advertisements contain the following statements:

1. That the "Air Purifier extracts unhealthy bacteria and pollutants out of the air before they can harm your child." (Exhibit 1).
2. That the Air Purifier "emits negative ions which help combat respiratory problems." (Exhibit 1).
3. That the Air Purifier "is recommended by Good Housekeeping for allergy sufferers." (Exhibit 1).
4. That the Travel Tray "... [i]s Consumer Product Safety Commission approved for ages 18 mos. and over." (Exhibit 2).

PAR. 5. Through the use of the statements contained in the advertisements referred to in paragraph four, including but not necessarily limited to the advertisements attached as Exhibits 1-2, respondents have represented, directly or by implication, that:

1. Use of the Air Purifier can significantly reduce a child's risk of bacterial infection.
2. The Air Purifier emits negative ions which alleviate respiratory problems.

3. The Air Purifier is recommended by Good Housekeeping magazine as an effective product for removing allergens from the air.

4. The Travel Tray has been evaluated by the Consumer Product Safety Commission ("CPSC") and found to be safe for use in automobiles for children 18 months and older.

PAR. 6. In truth and in fact:

1. Use of the Air Purifier cannot significantly reduce a child's risk of bacterial infection.

2. The negative ions emitted by the Air Purifier do not alleviate respiratory problems.

3. The Air Purifier is not recommended by Good Housekeeping magazine as an effective product for removing allergens from the air.

4. The Travel Tray has not been evaluated by the Consumer Product Safety Commission ("CPSC") and found to be safe for use in automobiles for children 18 months and older.

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

PAR. 7. Through the use of the statements contained in the advertisements referred to in paragraph four, including but not necessarily limited to the advertisements attached as Exhibit 1, respondents have represented, directly or by implication, that at the time they made the representations set forth in paragraph five (1) and (2), respondents possessed and relied upon a reasonable basis that substantiated such representations.

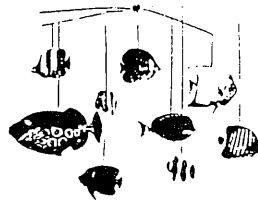
PAR. 8. In truth and in fact, at the time they made the representations set forth in paragraph five (1) and (2) respondents did not possess and rely upon a reasonable basis that substantiated such representations. Therefore, the representation set forth in paragraph seven was, and is, false and misleading.

PAR. 9. The acts and practices of respondents as 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

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EXHIBIT 1

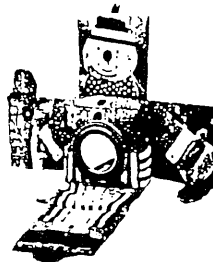


There's something fishy about this mobile.

Our Tropical Fish Mobile features several award-winning photographs of beautifully detailed tropical fish. About twice the size of regular mobiles, its colors are guaranteed to dazzle both babies and adults. It also comes with a fascinating booklet detailing the mysteries of these deep sea beauties. Measures 21" diameter x 18" high. Some assembly required.

Tropical Fish Mobile, #1001, \$16.95 (1 lb.)

\$16.95



Box unfolds into a sight and sound adventure.

Our soft, colorful Jack In The Box is a funnier than he looks. Although he starts out as a little baby, his long flaps, held closed by velcro tabs, unfold into arms and legs. He's even a fully-voiced motor on his tongue. Squeaky-bum and he squeaks. Baby love him because he's so soft and cuddly, also stimulating. Putting him together again is a wonderful way to develop hand-eye coordination and sequencing abilities. Safe, washable, and all done in one box. Jack In The Box, #1012, \$20.95 (1 lb.)

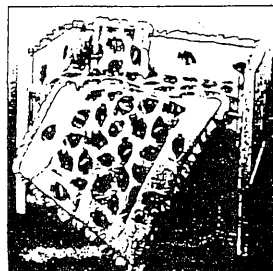
\$20.95



The air in your nursery should be as pure as your child.

Ach, how frustrating is it to have a nursery crisscrossed with dust? Children are doing everything you can to keep the air in your child's nursery clean. But Air Purifier extracts actual dust and pollutants out of the so many tiny particles in your child's nursery. It will even remove smoke, pollen, and other respiratory irritants common in so many nurseries. And it's designed to be used in nurseries for children up to 12 years old. Measures 14" x 14" x 14". Washable, safe, and easy to use.

Air Purifier #1004, \$20.95 (1 lb.) \$20.95
Extra Filter Refills, #1005, \$20.95 (1 lb.) \$20.95



Fiesta Fish Bedding

There's nothing fishy about this colorful aquatic-inspired design. The polka-dot fish is a dream in clean and the design will swim away with your little fish.

Fiesta Fish Bedding

Comforter, #1006, \$45.95 (1 lb.) \$45.95

Bumper, #1007, \$20.95 (1 lb.) \$20.95

Dust Ruffle, #1008, \$20.95 (1 lb.) \$20.95

Pillow, #1009, \$20.95 (1 lb.) \$20.95

Full Sheet, #1010, \$20.95 (1 lb.) \$20.95

Full Sheet, #1011, \$20.95 (1 lb.) \$20.95

Full Sheet, #1012, \$20.95 (1 lb.) \$20.95

Full Sheet, #1013, \$20.95 (1 lb.) \$20.95

Full Sheet, #1014, \$20.95 (1 lb.) \$20.95

Full Sheet, #1015, \$20.95 (1 lb.) \$20.95

Full Sheet, #1016, \$20.95 (1 lb.) \$20.95

Full Sheet, #1017, \$20.95 (1 lb.) \$20.95

Full Sheet, #1018, \$20.95 (1 lb.) \$20.95

Full Sheet, #1019, \$20.95 (1 lb.) \$20.95

Full Sheet, #1020, \$20.95 (1 lb.) \$20.95

Full Sheet, #1021, \$20.95 (1 lb.) \$20.95

Full Sheet, #1022, \$20.95 (1 lb.) \$20.95

Full Sheet, #1023, \$20.95 (1 lb.) \$20.95

Full Sheet, #1024, \$20.95 (1 lb.) \$20.95

Full Sheet, #1025, \$20.95 (1 lb.) \$20.95

Full Sheet, #1026, \$20.95 (1 lb.) \$20.95

Full Sheet, #1027, \$20.95 (1 lb.) \$20.95

Full Sheet, #1028, \$20.95 (1 lb.) \$20.95

Full Sheet, #1029, \$20.95 (1 lb.) \$20.95

Full Sheet, #1030, \$20.95 (1 lb.) \$20.95

Full Sheet, #1031, \$20.95 (1 lb.) \$20.95

Full Sheet, #1032, \$20.95 (1 lb.) \$20.95

Full Sheet, #1033, \$20.95 (1 lb.) \$20.95

Full Sheet, #1034, \$20.95 (1 lb.) \$20.95

Full Sheet, #1035, \$20.95 (1 lb.) \$20.95

Full Sheet, #1036, \$20.95 (1 lb.) \$20.95

Full Sheet, #1037, \$20.95 (1 lb.) \$20.95

Full Sheet, #1038, \$20.95 (1 lb.) \$20.95

Full Sheet, #1039, \$20.95 (1 lb.) \$20.95

Full Sheet, #1040, \$20.95 (1 lb.) \$20.95

Full Sheet, #1041, \$20.95 (1 lb.) \$20.95

Full Sheet, #1042, \$20.95 (1 lb.) \$20.95

Full Sheet, #1043, \$20.95 (1 lb.) \$20.95

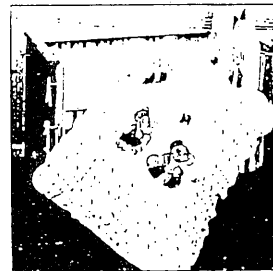
Full Sheet, #1044, \$20.95 (1 lb.) \$20.95

Full Sheet, #1045, \$20.95 (1 lb.) \$20.95

Full Sheet, #1046, \$20.95 (1 lb.) \$20.95

Full Sheet, #1047, \$20.95 (1 lb.) \$20.95

Full Sheet, #1048, \$20.95 (1 lb.) \$20.95



Elephant Memories

What bedding set could offer more big-time fun than our playful Elephant Memories? This polka-dot, elephant bedding set incorporates wonderfully playful elephant appliques guaranteed to get your little elephant from your little polka-dot.

Elephant Memories Bedding

Comforter, #1049, \$45.95 (1 lb.) \$45.95

Headboard Bumper, #1050, \$20.95 (1 lb.) \$20.95

Dust Ruffle, #1051, \$20.95 (1 lb.) \$20.95

Pillow, #1052, \$20.95 (1 lb.) \$20.95

Full Sheet, #1053, \$20.95 (1 lb.) \$20.95

Full Sheet, #1054, \$20.95 (1 lb.) \$20.95

Full Sheet, #1055, \$20.95 (1 lb.) \$20.95

Full Sheet, #1056, \$20.95 (1 lb.) \$20.95

Full Sheet, #1057, \$20.95 (1 lb.) \$20.95

Full Sheet, #1058, \$20.95 (1 lb.) \$20.95

Full Sheet, #1059, \$20.95 (1 lb.) \$20.95

Full Sheet, #1060, \$20.95 (1 lb.) \$20.95

Full Sheet, #1061, \$20.95 (1 lb.) \$20.95

Full Sheet, #1062, \$20.95 (1 lb.) \$20.95

Full Sheet, #1063, \$20.95 (1 lb.) \$20.95

Full Sheet, #1064, \$20.95 (1 lb.) \$20.95

Full Sheet, #1065, \$20.95 (1 lb.) \$20.95

Full Sheet, #1066, \$20.95 (1 lb.) \$20.95

Full Sheet, #1067, \$20.95 (1 lb.) \$20.95

Full Sheet, #1068, \$20.95 (1 lb.) \$20.95

Full Sheet, #1069, \$20.95 (1 lb.) \$20.95

Full Sheet, #1070, \$20.95 (1 lb.) \$20.95

Full Sheet, #1071, \$20.95 (1 lb.) \$20.95

Full Sheet, #1072, \$20.95 (1 lb.) \$20.95

Full Sheet, #1073, \$20.95 (1 lb.) \$20.95

Full Sheet, #1074, \$20.95 (1 lb.) \$20.95

Full Sheet, #1075, \$20.95 (1 lb.) \$20.95

Full Sheet, #1076, \$20.95 (1 lb.) \$20.95

Full Sheet, #1077, \$20.95 (1 lb.) \$20.95

Full Sheet, #1078, \$20.95 (1 lb.) \$20.95

Full Sheet, #1079, \$20.95 (1 lb.) \$20.95

Full Sheet, #1080, \$20.95 (1 lb.) \$20.95

Full Sheet, #1081, \$20.95 (1 lb.) \$20.95

Full Sheet, #1082, \$20.95 (1 lb.) \$20.95

Full Sheet, #1083, \$20.95 (1 lb.) \$20.95

Full Sheet, #1084, \$20.95 (1 lb.) \$20.95

Full Sheet, #1085, \$20.95 (1 lb.) \$20.95

Full Sheet, #1086, \$20.95 (1 lb.) \$20.95

Full Sheet, #1087, \$20.95 (1 lb.) \$20.95

Full Sheet, #1088, \$20.95 (1 lb.) \$20.95

Full Sheet, #1089, \$20.95 (1 lb.) \$20.95

Full Sheet, #1090, \$20.95 (1 lb.) \$20.95

EXHIBIT

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 the respondents having been furnished thereafter with a copy of a draft of complaint which the Chicago Regional Office 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 attorney, and counsel for the Commission having thereafter executed an agreement containing a consent order, an admission by the 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 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 respondents have 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 procedures prescribed in Section 2.34 of its Rules, the Commission hereby makes the following jurisdictional findings and enters the following order:

1. Respondent The Right Start, Inc., is a corporation organized, existing, and doing business under and by virtue of the laws of the State of California, with its office and principal place of business at 5334 Sterling Center Drive, Thousand Oaks, California.

Respondent Stanley Fridstein is an officer of said corporation. He formulates, directs and controls the policies, acts and practices of said corporation, and his principal office and place of business is located at the above stated address.

2. The acts and practices of the respondents alleged in this complaint have been in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act.

3. 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

I.

It is ordered, That respondents Right Start, a corporation, its successors and assigns, and its officers, and Stanley M. Fridstein, individually and as an officer of said corporation, and respondents' 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 filtering device, in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from representing, in any manner, directly or by implication, that use of any such product can: (1) reduce the risk of bacterial infection, or (2) alleviate, prevent or cure respiratory problems, unless such representation is true and, at the time of making such representation, respondents possess and rely upon competent and reliable scientific evidence that substantiates the representation. For purposes of this order, "competent and reliable scientific evidence" shall mean tests, analyses, research, studies or other evidence based on the expertise of professionals in the relevant area, that has been conducted and evaluated in an objective manner by persons qualified to do so, using procedures generally accepted in the profession to yield accurate and reliable results.

II.

It is further ordered, That respondents Right Start, a corporation, its successors and assigns, and its officers, and Stanley M. Fridstein, individually and as an officer of said corporation, and respondents'

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 product, in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from representing, in any manner, directly or by implication, that such product has been recommended, approved or endorsed by a person, group, or public or private organization that is an expert with respect to the endorsement message unless the recommendation, approval or endorsement is supported by an objective and valid evaluation or test of the product conducted by persons qualified to do so, using procedures generally accepted by experts in the science or profession to yield accurate and reliable results.

III.

It is further ordered, That for three (3) years after the date of the last dissemination of any representations covered by this order, respondents, or their successors and assigns, shall maintain in written form and upon request make available to the Federal Trade Commission for inspection and copying:

A. All materials that come into their possession from a vendor or any other source and that were relied upon in disseminating such representation; and,

B. All materials, tests, reports, studies, surveys, demonstrations or other evidence which come into their possession or control from a vendor or any other source that contradict, qualify, or call into question such representation, or the basis relied upon for such representation, including complaints from consumers.

IV.

It is further ordered, That respondents shall, within thirty (30) days after the date of service upon them of this order, and for three (3) years thereafter, distribute a copy of this order to each current and future officer, employee, agent and/or representative engaged in

the preparation or placement of advertising or other promotional materials covered by this order and shall obtain from each such person a signed statement acknowledging receipt of the order.

V.

It is further ordered, That respondents and their successors and assigns 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 under this order and that respondents shall require, as a condition precedent to the closing of any sale or other disposition of all or substantial part of their assets, that the acquiring party file with the Commission, prior to the closing of such sale or other disposition, a written agreement to be bound by the provisions of the order.

VI.

It is further ordered, That for a period of five (5) years from the date of service of this order, the individual respondent 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 to 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.

VII.

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.

Complaint

116 F.T.C.

IN THE MATTER OF

YKK (U.S.A.) INC.

CONSENT ORDER, ETC., IN REGARD TO ALLEGED VIOLATION OF
SEC. 5 OF THE FEDERAL TRADE COMMISSION ACT*Docket C-3445. Complaint, July 1, 1993--Decision, July 1, 1993*

This consent order prohibits, among other things, a New Jersey-based manufacturer and seller of zippers from requesting, suggesting, or advocating that any competitor: raise, fix or stabilize prices or price levels; cease providing free equipment or other discounts; cease providing any services or products or engage in any other pricing action. In addition, the respondent is prohibited from entering into, attempting to enter into, adhering to, or maintaining any combination, conspiracy, agreement, plan or program with any competitor to fix, raise, establish, maintain or stabilize prices or service levels.

Appearances

For the Commission: *Richard B. Dagen, Michael E. Antalics and James C. Egan.*

For the respondent: *James Lundquist, Barnes, Richardson & Colburn, Washington, D.C.*

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 YKK (U.S.A.) Inc., a corporation, hereinafter sometimes referred to as respondent or "YKK," 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 YKK (U.S.A.) Inc. is a corporation organized, existing and doing business under and by virtue of