

IN THE MATTER OF

G.C. THORSEN, INC.

CONSENT ORDER, ETC., IN REGARD TO ALLEGED VIOLATION OF
SEC. 5 OF THE FEDERAL TRADE COMMISSION ACT*Docket C-3467. Complaint, Oct. 8, 1993--Decision, Oct. 8, 1993*

This consent order prohibits, among other things, an Illinois manufacturer of aerosol cleaning products from representing that any product containing an ozone-depleting substance is ozone friendly or that it will not damage or deplete the ozone in the upper atmosphere and from making environmental benefit claims for any product unless the respondent possesses competent and reliable evidence to substantiate the claims.

Appearances

For the Commission: *Ralph E. Stone* and *Jeffrey Klurfeld*.

For the respondent: *Stephen T. Moore, Hinshaw & Culbertson*,
Rockford, IL.

COMPLAINT

The Federal Trade Commission, having reason to believe that G.C. Thorsen, Inc., a corporation, also trading and doing business as G.C. Electronics, Inc., hereinafter sometimes referred to as 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. G.C. Thorsen, Inc. is a Delaware corporation, with its principal office or place of business at 1801 Morgan Street, Rockford, Illinois.

PAR. 2. Respondent has advertised, labeled, offered for sale, sold, and distributed computer and office equipment care and maintenance products containing the hydrochlorofluorocarbon ("HCFC") known as chlorodifluoromethane ("HCFC-22") to the public, includ-

ing the aerosol cleaning products known as "Air-Duster" and "Airjet II."

PAR. 3. The acts and practices of respondent alleged in this complaint have been in or affecting commerce, as "commerce" is defined in Section 4 of the Federal Trade Commission Act, 15 U.S.C. 44.

PAR. 4. Respondent has disseminated or has caused to be disseminated advertisements, including product labeling and point of sale materials for Air-Duster and Airjet II, including but not necessarily limited to, the attached Exhibits A - C.

The product labeling on the front of the Air-Duster (Exhibit A) and Airjet II (Exhibit B) cans includes the following statements:

Ozone friendly
Environmentally responsible

The aforementioned product labeling also includes the following depiction:



The product labeling on the back of the aforementioned cans includes the following statement:

Contains HCFC-22, an EPA designated product that adheres to the Montreal Protocol in respect for concerns about depletion of the Earth's ozone layer.

The point of sale materials for Airjet II (Exhibit C) include the depiction mentioned above and the following statements:

Environmentally responsible
EPA designated CFC replacement
This is an aerosol that contains HCFC-22 (an EPA designated substitute for CFC's).
Made with HCFC-22 EPA designated substitute. Formulated with chemistry that satisfies the Montreal Protocol.
Does not contain CFC's or other ozone damaging components.

PAR. 5. Through the statements referred to in paragraph four in product labeling (Exhibits A and B) and point of sale materials (Exhibit C), respondent has represented, directly or by implication, that:

1. There are no ingredients in respondent's products that deplete the earth's ozone layer.
2. There are no ingredients in respondent's products that harm or damage the environment.
3. HCFC-22 is an EPA-approved chemical or an EPA-approved substitute for CFCs that complies with the Montreal Protocol, and does not contribute to the depletion of the earth's ozone layer.

PAR. 6. In truth and in fact, respondent's products contain the ozone-depleting chemical HCFC-22, a hydrochlorofluorocarbon, which harms or damages the environment by contributing to the depletion of the earth's ozone layer and which is not an EPA-approved chemical or an EPA-approved substitute for CFCs (chlorofluorocarbons) that complies with the Montreal Protocol. Therefore, the representations set forth in paragraph five were, and are, false and misleading.

PAR. 7. Through the statements contained in paragraph four, including but not limited to product labeling attached as Exhibits A and B and point of sale materials attached as Exhibit C, respondent has represented, directly or by implication, that at the time it made the representations set forth in paragraph five, respondent possessed and relied upon a reasonable basis that substantiated such representations.

PAR. 8. In truth and in fact, at the time it made the representations set forth in paragraph five, the respondent 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 respondent 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, 15 U.S.C. 45(a).

Complaint

116 F.T.C.

EXHIBIT A

AIR-DUSTER® **STERLING**

10-002

OZONE FRIENDLY

AIR-DUSTER

Removes Dust Without Scratching

Cleans hard to reach places in:

- Computers
- Typewriters
- Tape Decks
- Keyboards
- CD Players
- Fax Machines
- Photo Equipment

USE EYE PROTECTION TO PROTECT FROM AIRBORNE PARTICLES

PURPOSE: A highly compressed air-blast gun which allows AIR-DUSTER to blow away and remove dust and fine foreign particles in hard to reach places.

NOTE: If can is tilted too far from vertical, an extremely cold liquid spray will result. This spray could cause eye injury and has the potential to freeze skin if applied directly. Use with care.

CAUTIONS: Contains under pressure. Do not spray into face or flame. Combustion could produce toxic by-products. Do not store at temperatures above 120°F as can could burst violently. Do not puncture or incinerate. Use with adequate ventilation. Contains very fine particles.

Contains HCFC-22, an EPA designated product that adheres to the Montreal Protocol in respect for concerns about depletion of the Earth's ozone layer.

WARNING: Use only as directed. Intentional misuse by inhaling can be harmful or fatal.

Non-refillable. Federal law forbids transportation if released pressure up to 625,000 P.S.I. and five years imprisonment (49 U.S.C. § 803). May be retained by air transportation.

D.O.T. 4-0003 240/200 M1119

KEEP OUT OF REACH OF CHILDREN

0 101511 13321 2

NOT VENT. P.A.C.
NO. 4313,271
3097051
M 2 00194

Manufactured by GC Electronics

CONTENTS UNDER PRESSURE
Read Carefully cautions on back panel
Contents: 12 AVDP 1/2 Net

G.C. THORSEN, INC.

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EXHIBIT B

GC ELECTRONICS
10-8475

OZONE FRIENDLY
AIRJET II

Removes Dust Without Scratching

Cleans hard to reach places in:

- Computers
- Tape Decks
- CD Players
- Photo Equipment
- Typewriters
- Keyboards
- Fax Machines

CONTENTS UNDER PRESSURE
Read Carefully. Cautions on Back Panel
Contents: 12 AVDP Ounces Net

10-8475

PURPOSE: A highly compressed gas to provide a portable "air hose" for blowing away dust and fine particles intended for use in electronics, optics, etc.

NOTE: If can is tilted too far from vertical, an extremely cold liquid spray will result. This spray could shatter optics (etc.) and can freeze skin almost instantly; use with care.

CAUTION: Contents under pressure. Do not spray near heat or flame, combustion could produce toxic by-products. Do not store at temperatures above 120°F as can could burst violently. Do not puncture or incinerate. Use with adequate ventilation; contents may displace oxygen.

Contains HCFC-22, an EPA designated product that adheres to the Montreal Protocol in respect for concerns about depletion of the Earth's ozone layer.

WARNING: Use only as directed. Intentional misuse by concentrating and inhaling can be harmful or fatal.

Non-refillable. Federal law forbids transportation if refilled, penalty up to \$25,000 fine and five years imprisonment (49 U.S.C. 1808).
Not permitted for air transportation.
D.O.T.-E-9393 240/300 M1119

KEEP OUT REACH OF CHILDREN



NOT VENT. PAT.
NO. 4,613,874
309 204
10-8475



USE EYE PROTECTION

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116 F.T.C.

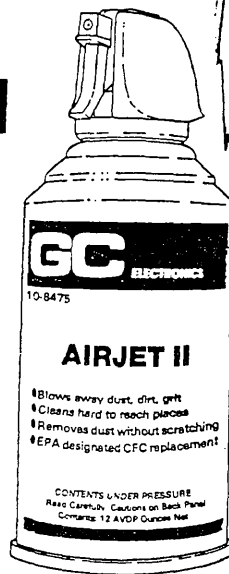
EXHIBIT C

NEW!*Environmentally Responsible***AIRJET II**

- Blows away dust, dirt, grit
- Cleans hard to reach places
- Removes dust without scratching
- EPA designated CFC replacement

A miniature and portable "air-compressor" for removing dirt, dust and grit that can not normally be removed or reached easily. This is an aerosol can that contains highly compressed HCFC-22 (an EPA designated substitute for CFC's). Provides a powerful blast of "air". A long extension tube is included for hard to reach places. Non-toxic, odor-free, and leaves no residue. Provides hundreds of "blasts".

No. 10-8475 12 Oz. Aerosol



*Does not
contain CFC's
or other
ozone damaging
components.*



1 Doz./Box

DECISION AND ORDER

The Federal Trade Commission, having initiated an investigation of certain acts and practices of the respondent named in the caption hereof, and the respondent having been furnished thereafter with a copy of a draft of complaint which the 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 the respondent of all the jurisdictional facts set forth in the aforesaid draft of complaint, a statement that the signing of said agreement is for settlement purposes only and does not constitute an admission by respondent that the law has been violated as alleged in such complaint, and waivers and other provisions as required by the Commission's Rules; and

The Commission having thereafter considered the matter and having determined that it had reason to believe that the respondent has violated the said Act, and that complaint should issue stating its charges in that respect, and having thereupon accepted the executed consent agreement and placed said 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 G.C. Thorsen, Inc. is a corporation organized, existing, and doing business under and by virtue of the laws of the State of Delaware, with its office and principal place of business located at 1801 Morgan Street, Rockford, Illinois.

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

DEFINITIONS

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

"*Class I ozone-depleting substance*" means a substance that harms the environment by destroying ozone in the upper atmosphere and is listed as such in Title 6 of the Clean Air Act Amendments of 1990, Pub. L. No. 101-549, and any other substance which may in the future be added to the list pursuant to Title 6 of the Act. Class I substances currently include chlorofluorocarbons, halons, carbon tetrachloride and 1,1,1-trichloroethane.

"*Class II ozone-depleting substance*" means a substance that harms the environment by destroying ozone in the upper atmosphere and is listed as such in Title 6 of the Clean Air Act Amendments of 1990, Pub. L. No. 101-549, and any other substance which may in the future be added to the list pursuant to Title 6 of the Act. Class II substances currently include hydrochlorofluorocarbons.

I.

It is ordered, That respondent, G.C. Thorsen, Inc., a corporation, also trading and doing business as G.C. Electronics, Inc., 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, labeling, 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 that any such product containing any Class I or Class II ozone-depleting substance is "ozone friendly," "environmentally responsible," "does not contain CFCs" or "does not contain ozone damaging components," or,

by words, depictions, or symbols representing directly or by implication, that any such product will not deplete, destroy, or otherwise adversely affect ozone in the upper atmosphere.

II.

It is further ordered, That respondent G.C. Thorsen, Inc., a corporation, also trading and doing business as G.C. Electronics, Inc., 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, labeling, 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 any product offers any environmental benefit, unless at the time of making such representation, respondent possesses and relies upon competent and reliable evidence, which when appropriate must be competent and reliable scientific evidence, that substantiates such representation. For the 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.

III.

It is further ordered, That three (3) years from the date that the respondent makes any representation covered by this order, the respondent shall maintain and upon written request make available to the Federal Trade Commission for inspection and copying:

A. All materials that the respondent relied upon in disseminating any representation covered by this order.

B. All tests, reports, studies or surveys, analyses, or other materials in the possession or control of the respondent that contradict, qualify, or call into question any representation covered by this order or the basis on which the respondent relied for such representation.

IV.

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

V.

It is further ordered, That the respondent shall distribute a copy of this order to each of its operating divisions and to each of its officers, agents, representatives or employees engaged in the preparation or placement of advertisements, promotional materials, product labels, or other sales materials covered by this order.

VI

It is further ordered, That the respondent shall, within sixty (60) days after service of this order upon it, 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 it has complied with this order.

IN THE MATTER OF

SYNCHRONAL CORPORATION, ET AL.

Docket 9251. Interlocutory Order, Oct. 8, 1993

ORDER AMENDING COMPLAINT

It is hereby ordered, That the September 9, 1993, Order Amending Complaint is superseded by the issuance of this order.

Pursuant to the Commission's Order dated August 6, 1993, and complaint counsel's subsequent Motion to Amend Complaint,

It is further ordered, That the amended complaint attached hereto should issue.

It is further ordered, That respondent shall answer the amended complaint within thirty days of service on him.

AMENDED COMPLAINT

The Federal Trade Commission, having reason to believe that Synchronal Corporation, Synchronal Group, Inc., Smoothline Corporation, and Omexin Corporation, corporations; Ira Smolev, individually and as a former officer and director of Synchronal Corporation and Synchronal Group, Inc.; Richard E. Kaylor, individually and as a former officer and director of Synchronal Corporation, Synchronal Group, Inc., Smoothline Corporation, and Omexin Corporation; Thomas L. Fenton, individually and as a former officer and director of Synchronal Corporation and Synchronal Group, Inc.; and Ana Blau a/k/a Anushka, and Steven Victor, M.D., individually, 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: