

IN THE MATTER OF

MIA ROSE PRODUCTS, INC., ET AL.

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

Docket C-3509. Complaint, July 19, 1994--Decision, July 19, 1994

This consent order prohibits, among other things, a California-based corporation and its officer from making any representation about the efficacy or performance of any air cleaning, air freshening, or insecticidal product, unless the respondents possess and rely upon competent and reliable scientific evidence to substantiate the representation.

Appearances

For the Commission: *Linda K. Badger and Jeffrey Klurfeld.*

For the respondents: *Pro se.*

COMPLAINT

The Federal Trade Commission, having reason to believe that Mia Rose Products, Inc., a corporation, and Mia Palencar, 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 proceeding by it in respect thereof would be in the public interest, alleges:

PARAGRAPH 1. Respondent Mia Rose Products, Inc. is a California corporation, with its principal office or place of business at 3555-B Harbor Gateway South, Costa Mesa, California.

Respondent Mia Palencar is an officer of the corporate respondent. Individually or in concert with others, she formulates, directs and controls the acts and practices of the corporate respondent, including the acts and practices alleged in this complaint. Her principal office or place of business is the same as that of the corporate respondent.

PAR. 2. Respondents have advertised, labeled, offered for sale, sold, and distributed non-aerosol air freshening sprays, including Air Therapy and Pet Air, and other products to consumers. Air Therapy and Pet Air contain the same active ingredient, "d-limonene," which

is produced by distilling the essential oils from citrus fruit or certain other plants.

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 and promotional materials for Air Therapy, including but not necessarily limited to the attached Exhibits A-C. These advertisements and promotional materials contain the following statements:

A. Air Therapy “PURIFIES ... FRESHENS ... PROTECTS ... the air you breathe.” (Exhibit A).

B. “AIR THERAPY 100% NATURAL AIR PURIFYING MIST.” (Exhibit A).

C. “SAFELY ELIMINATES: Odors, Smoke, Pollen, Household Insects. PERFECT FOR: Home, Office, Fans, Filters, Ventilation Systems.” (Exhibit A).

D. “CONCENTRATED - ONE SPRAY DOES IT!” (Exhibit A).

E. “PURIFY your air while you freshen it... 100% Natural Ingredients - 100% Effective.” (Exhibit B).

F. “ELIMINATE ODORS, SMOKE, ALLERGY-CAUSING POLLEN, AIRBORNE BACTERIA, cleansing the air while still maintaining natural pureness. CIGARETTE AND CIGAR SMOKE is eliminated instantly as each droplet ATTRACTS AND ABSORBS SMOKE when misted HIGH in the air.” (Exhibit B).

G. “Air Therapy remains simple with no unnecessary artificial ingredients or additives that actually harm the mucous membranes and only temporarily mask the existing odors.” (Exhibit B).

H. “Highly CONCENTRATED ... GUARANTEED--NON-TOXIC--Long Lasting. 100 TIMES STRONGER than conventional products. One spray does it!” (Exhibit B).

I. “More than an air freshener.” (Exhibit C).

PAR. 5. Through the use of the statements contained in the advertisements and promotional materials referred to in paragraph four, including but not necessarily limited to the advertisements and promotional materials attached as Exhibits A-C, respondents have represented, directly or by implication, that Air Therapy:

A. Is effective in cleaning or purifying indoor air.

B. Is more effective in cleaning or purifying indoor air than conventional air cleaning products.

C. Eliminates smoke when sprayed in the air.

D. Eliminates pollen when sprayed in the air.

- E. Eliminates airborne bacteria when sprayed in the air.
- F. Eliminates household insects when sprayed in the air.
- G. Eliminates, rather than masks, odors when sprayed in the air.

PAR. 6. In truth and in fact:

- A. Air Therapy is not effective in cleaning or purifying indoor air.
- B. Air Therapy is not more effective in cleaning or purifying indoor air than conventional air cleaning products.
- C. Spraying Air Therapy into the air does not eliminate smoke.
- D. Spraying Air Therapy into the air does not eliminate pollen.
- E. Spraying Air Therapy into the air does not eliminate airborne bacteria.
- F. Spraying Air Therapy into the air does not eliminate household insects.
- G. Spraying Air Therapy into the air masks, rather than eliminates, odors.

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

PAR. 7. Respondents have disseminated or have caused to be disseminated advertisements and promotional materials for Pet Air, including but not necessarily limited to the attached Exhibit D. These advertisements and promotional materials contain the following statements:

- A. "PET AIR PURIFIES ... FRESHENS ... PROTECTS ... the air you share." (Exhibit D).
- B. "PET AIR is a SAFE, 100% extremely effective method of CLEANING THE AIR, purifying while it protects you and your pets, environment." (Exhibit D).
- C. "ELIMINATE ANIMAL ODORS & SMOKE, ODOR-CAUSING-airborne bacteria, cleansing the air while still maintaining natural pureness." (Exhibit D).
- D. "Each droplet contains millions of active electrical charges (ions), nature's own air cleaners, that ATTRACT AND NEUTRALIZE offensive odors and continually cleanse the air of odor-causing bacteria, allergy-causing pollen, pet dander and harmful microscopic pollutants." (Exhibit D).
- E. "PET AIR remains simple with no unnecessary artificial ingredients or additives that actually harm the mucus membranes and only temporarily mask the existing odors." (Exhibit D).

F. "ONE SPRAY DOES IT! ADVANTAGES: Highly CONCENTRATED ... GUARANTEED--NON-TOXIC ... Long Lasting. 100 TIMES STRONGER than conventional products." (Exhibit D).

PAR. 8. Through the use of the statements contained in the advertisements and promotional materials referred to in paragraph seven, including but not necessarily limited to the advertisements and promotional materials attached as Exhibit D, respondents have represented, directly or by implication, that Pet Air:

- A. Is effective in cleaning or purifying indoor air.
- B. Is more effective in cleaning or purifying indoor air than conventional air cleaning products.
- C. Eliminates smoke when sprayed in the air.
- D. Eliminates pollen when sprayed in the air.
- E. Eliminates airborne bacteria when sprayed in the air.
- F. Eliminates pet dander when sprayed in the air.
- G. Eliminates, rather than masks, odors when sprayed in the air.

PAR. 9. In truth and in fact:

- A. Pet Air is not effective in cleaning or purifying indoor air.
- B. Pet Air is not more effective in cleaning or purifying indoor air than conventional air cleaning products.
- C. Spraying Pet Air into the air does not eliminate smoke.
- D. Spraying Pet Air into the air does not eliminate pollen.
- E. Spraying Pet Air into the air does not eliminate airborne bacteria.
- F. Spraying Pet Air into the air does not eliminate pet dander.
- G. Spraying Pet Air into the air masks, rather than eliminates, odors.

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

PAR. 10. Through the use of the statements contained in the advertisements and promotional materials referred to in paragraphs four and seven, including but not necessarily limited to the advertisements and promotional materials attached as Exhibit A-D, respondents have represented, directly or by implication, that Air Therapy and Pet Air are more effective than conventional air freshening products.

PAR. 11. Through the use of the statements contained in the advertisements and promotional materials referred to in paragraphs four and seven, including but not necessarily limited to the advertisements and promotional materials attached as Exhibits A-D, respondents have represented, directly or by implication, that at the time they made the representations set forth in paragraphs five, eight, and ten, respondents possessed and relied upon a reasonable basis that substantiated such representations.

PAR. 12. In truth and in fact, at the time they made the representations set forth in paragraphs five, eight and ten, respondents did not possess and rely upon a reasonable basis that substantiated such representations. Therefore, the representation set forth in paragraph eleven was, and is, false and misleading.

PAR. 13. The acts or 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 A

PURIFIES...

FRESHENS...

PROTECTS...
the air you breathe

AIR THERAPY.
100% NATURAL
AIR PURIFYING MIST

Contains essential oils distilled
from *real citrus*...nothing else!

SMITH LUMINATES	PERFECT FOR:
• Odors • Pollen	• Home • Fans, Filters
• Smoke • Household Insects	• Office • Ventilation Systems

CONCENTRATED - ONE SPRAY PER HOUR

Available in 1 fl. oz., 5 fl. oz.
& 16 fl. oz. Bottles

NON-ALCOHOL
CHEMICAL-FREE
RECYCLABLE

MIA ROSE®
PRODUCTS, Inc.
1-714-662-5465
1-800-292-6339

C-3509
B157619

EXHIBIT B



"Refresh Your Life"™

C-3509
B157619

PURIFY your air
while you freshen it

Chemical-Free Cruelty-Free

CONTENTS:

Pure essential oils distilled from real citrus
and exotic herbs, nothing else!

100% Natural Ingredients • 100% Effective

NON-AEROSOL

Use with confidence—NO FLUOROCARBONS

UNLIKE ANYTHING ON THE MARKET TODAY

(Read Your Labels)

OBJECTIVE IN PRODUCT DEVELOPMENT

To develop a superior product for today's environmental needs: One of the safest and most effective methods of cleansing the air in your personal environment. Thereby taking the place of commercial, chemical additive air fresheners and deodorizers.

ELIMINATE ODORS, SMOKE, ALLERGY-CAUSING POLLEN, AIRBORNE BACTERIA, cleansing the air while still maintaining natural pureness.

CIGARETTE AND CIGAR SMOKE is eliminated instantly as each droplet actively **ATTRACTS AND ABSORBS SMOKE** when misted **HIGH** in the air.

Air Therapy remains simple with no unnecessary artificial ingredients or additives that actually harm the mucous membranes and only temporarily mask the existing odors.

Air Therapy is also **Aroma Therapy** (healing energy from nature's scents) basically recharging your energy with ionized air.

HOW IT WORKS

Functions similarly to the ionizer machine. Each droplet contains millions of active electrical charges (ions), nature's own air cleansers, that **ATTRACT AND NEUTRALIZE** offensive odors.

MULTI-PURPOSE

- HOMES and AUTOMOBILES. SPRAY INTO CLOSETS, ashtrays, under seats. Spray directly into FANS, ventilation systems, air conditioning units.
- DOCTORS /DENTISTS OFFICE
- HOTELS/RESTAURANTS
- BOATS (pour into bilge and waste holding tanks).
- BEAUTY SALONS (perms and acrylic nail odors).
- GARAGES, CAMPERS, WORKROOMS (tar, kerosene and paint smells). Eliminates AFTER-FIRE ODORS, BURNED FOOD and FISH smells.
- Strong enough for KENNELS, CAGES and STABLES. Use after fumigation or flea bombing.
- SAFE for BABY'S NURSERY (diaper pail).

AIR THERAPY® PROVEN EFFECTIVE

MIX directly into CAT LITTER.

SPRAY directly on area where STUBBORN and SOUR odors persist or MILDEW STAINS or MUSTY odors are present, or POUR directly into urinals & garbage chutes. Use by itself or in conjunction with automatic plug-in type air purifiers—portable or permanent models. Lightly spray the filters that are contained within the machine or fill the attached cup.

"Essential oils from citrus fruit have been proven highly effective in eliminating household pests such as flies, ants, wasps, fleas and crickets through both direct contact and close exposure to the vapors. At the same time it is not only safe for humans, but smells good too."
—Science News, October 1983

ADVANTAGES

Highly CONCENTRATED ... GUARANTEED--

NON-TOXIC--Long Lasting. 100 TIMES STRONGER than conventional products. **One spray does it!**

- 1 fl. oz. POCKET SIZE--travel, auto.
- 5 fl. oz. CONVENIENT PERSONAL SIZE. (Recyclable Aluminum)--home, office, or countertop usage.
- 15 oz. ECONOMY SIZE. Easy mist top, safe CO₂ propellant.
- 16 fl. oz. INDUSTRIAL SIZE for larger areas used with any trigger sprayer or to REFILL the stone cup in our wall-mount dispenser.

Also Available:

- A unique WALL-MOUNT DISPENSER with stone filled cup and open-flow fan for continuous scent.

Mia Rose® Products Incorporated
Corporate Office (714) 662-5465
FAX (714) 662-5891
Order Desk 800-292-6339

EXHIBIT B

EXHIBIT C

Also Available in:

- Original Orange
- Extra Lime
- Spearmint

"Refresh Your Life"

100's natural purifying mist for the air you breathe...

POCKET SIZE
1.8 OZ. Non-Aerosol
Box of 30 in 144
color display.

PERSONAL SIZE
5.8 OZ. Non-Aerosol
Bottle
Bar of 12
Color display

INDUSTRIAL SIZE
16.8 OZ. Non-Aerosol
Asian hand sprayer.

"Refresh Your Life"

Purifies
Freshens
Protects
the air you breathe. **NATURALLY**

1.8 OZ. Non-Aerosol
Box of 30 in 144
color display.

Air Therapy

C-3509
B157619
EXHIBIT C

EXHIBIT D

PET AIR

FOR PETS & THE PEOPLE
WHO LOVE THEM!



PURIFIES, FRESHENS & PROTECTS THE AIR YOU SHARE... ...NATURALLY

PET AIR is a **SAFE**, 100% extremely effective method of **CLEANING THE AIR**, purifying, while it protects you and your pets' environment. Experience the longlasting effect of **REAL**, natural citrus scents.

PET AIR contains **IONS** (active electrical charges) that are nature's own air cleaners. Ions **ATTRACT, NEUTRALIZE** and **ABSORB ALL** pet **ODORS** in seconds when misted **HIGH** in the air or directly on source of odor. Eliminates **SMOKE**, too.

Use **PET AIR** for household pests (fleas, flies, ants and crickets). The scent of real citrus keeps insects away from pet beds and carpets.

"Essential oils from citrus fruit have been proven highly effective in eliminating household pests such as flies, ants, wasps, fleas and crickets through both direct contact and close exposure to the vapors. At the same time it is not only safe for humans, but smells good too."

-Science News, October, 1983

CONTENTS

A concentrated clear liquid derived from a perfect blend of organic essential oils. Our essential oils are pure concentrated oils distilled from **CITRUS FRUITS AND HERBS, NOTHING ELSE.**

OBJECTIVE IN PRODUCT DEVELOPMENT

To develop a superior product for today's pet owners' needs: **ELIMINATE ANIMAL ODORS & SMOKE, ODOR-CAUSING** airborne bacteria, cleansing the air while still maintaining natural freshness. **PET AIR** remains simple with no unnecessary, artificial ingredients or additives that actually harm mucus membranes and only temporarily mask the existing odors.

**UNLIKE ANYTHING ON THE MARKET
TODAY**

HOW IT WORKS

Functions similarly to the ionization machine. Each droplet contains millions of active electrical charges (ions), nature's own air cleaners, that **ATTRACT AND NEUTRALIZE** offensive odors and continually cleanse the air of odor-causing bacteria, allergy-causing pollen, pet dander and harmful microscopic pollutants.

CRUELTY FREE

NO HARMFUL CHEMICALS

MULTI-PURPOSE

- KENNELS, CAGES and STABLES, use after fleabombing and fumigation
- DOG HOUSES — PET BEDDING
- Spray directly in CAT LITTER
- GARBAGE CHUTES and BINS
- CAMPERs, GARAGES, TENTS
- BOATS, MOTELS — anywhere you take your pet

ENVIRONMENTAL BENEFITS

The balance of **NATURAL INGREDIENTS** eliminates the need for chemical preservatives or additives of any kind. **PET AIR** is also **AROMA THERAPY** (healing energy from nature's scents) basically recharging you & your **PET'S ENERGY** with ionized air.

ONE SPRAY DOES IT!

ADVANTAGES

Highly **CONCENTRATED... GUARANTEED—NON-TOXIC—** will not harm you, your pet or our natural environment. Long Lasting. **100 TIMES STRONGER** than conventional products.



Mia Rose® Products Incorporated
Corporate Office (714) 662-5465
FAX (714) 662-5891
Order Desk 800-292-6339

EXHIBIT D

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 San Francisco 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 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 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 Mia Rose Products, 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 located at 3555-B Harbor Gateway South, in the City of Costa Mesa, State of California.

Respondent Mia Rose Palencar is an officer of said corporation. She formulates, directs, and controls the policies, acts and practices of said corporation, and her principal office and place of business is located at the above stated address.

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

I.

It is ordered, That respondents Mia Rose Products, Inc., a corporation, its successors and assigns, and its officers, and Mia Palencar, 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 manufacturing, labeling, advertising, promotion, offering for sale, sale or distribution of Air Therapy, Pet Air or any substantially similar 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:

- A. Such product is effective in cleaning or purifying indoor air.
- B. Such product is more effective in cleaning or purifying indoor air than conventional air cleaning products.
- C. Spraying such product into the air eliminates smoke.
- D. Spraying such product into the air eliminates pollen.
- E. Spraying such product into the air eliminates airborne bacteria.
- F. Spraying such product into the air eliminates household insects.
- G. Spraying such product into the air eliminates pet dander.
- H. Spraying such product into the air eliminates rather than masks odors.

For the purposes of this order, “substantially similar product” shall mean any air cleaning or air freshening product which contains d-limonene as its sole active ingredient.

II.

It is further ordered, That respondents, Mia Rose Products, Inc., a corporation, its successors and assigns, and its officers, and Mia Palencar, 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 manufacturing, labeling, advertising, promotion, offering for sale, sale, or distribution of any air cleaning, air freshening, or insecticidal 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, the efficacy or performance of any such product, unless such representation is true, and at the time of making such representation, respondents possess and rely upon competent and reliable evidence, which when appropriate must be competent and reliable scientific evidence, that substantiates such 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.

III.

It is further ordered, That for five (5) years after the last date of dissemination of any representation covered by this order, respondents, or their successors and assigns, shall maintain and upon request make available to the Federal Trade Commission for inspection and copying:

A. All materials that were relied upon in disseminating such representation; and

B. All tests, reports, studies, surveys, demonstrations, or other evidence in their possession or control 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 the provisions of this order shall not apply to the printing on cans of Air Therapy or Pet Air which were manufactured prior to September 1, 1993, and shipped by respondents to distributors or retailers prior to four (4) months from the date of issuance of this order.

V.

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

VI.

It is further ordered, That the individual respondent shall, for a period of five (5) years after the date of service of this order upon her, promptly notify the Commission, in writing, of her discontinuance of her present business or employment and of her affiliation with a new business or employment. For each such new affiliation, the notice shall include the name and address of the new business or employment, a statement of the nature of the new business or employment, and a description of respondent's duties and responsibilities in connection with the new business or employment.

VII.

It is further ordered, That the corporate respondent shall, within ten (10) days from the date of service of this order upon them, distribute a copy of this order to each of its officers, agents, representatives, independent contractors, and employees involved in the preparation and placement of advertisements or promotional materials, or is in communication with customers or prospective customers, or who have any responsibilities with respect to the subject matter of this order; and for a period of five (5) years, from the date of issuance of this order, distribute a copy of this order to all of respondent's future such officers, agents, representatives, independent contractors, and employees.

VIII.

It is further ordered, That respondents shall, within sixty (60) days from the date of 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 with this order.

IN THE MATTER OF

DETROIT AUTO DEALERS ASSOCIATION, INC., ET AL.

CONSENT ORDER, ETC., IN REGARD TO ALLEGED VIOLATION OF
SEC. 5 OF THE FEDERAL TRADE COMMISSION ACT*Docket 9189. Complaint,* Dec. 20, 1984--Decision, July 20, 1994*

This consent order prohibits, among other things, the association of motor vehicle dealers and a former officer, James Daniel Hayes, from entering into, continuing or carrying out any agreement to establish, fix or maintain any hours of operation of any dealer in the Detroit area. In addition, the consent order requires the respondent association to amend its bylaws to comply with the provisions of the order, and to place, in the city's two daily newspapers for four consecutive weeks, at least four advertisements a week stating that certain area dealers are required by the Commission order to maintain extended hours (at least 62 hours a week) for a one-year period and listing the dealers subject to the requirement.

Appearances

For the Commission: *Ernest A. Nagata and Mary Lou Steptoe.*

For the respondents: *Martin E. Crandall, Stringari, Fritz, Krager, Ahearn & Crandall, Detroit, MI. Howard E. O'Leary, Dykema, Gossett, Spencer, Goodnow & Trigg, Washington, D.C. Lawrence F. Raniszeski, Colombo & Colombo, Bloomfield Hill, MI. Christopher J. MacAvoy, Collier, Shannon & Scott, Washington, D.C. Fred L. Woodworth, Dykema, Gossett, Spencer, Goodnow & Trigg, Detroit, MI. Glenn A. Mitchell, Stein, Mitchell & Mezines, Washington, D.C. John F. Youngblood, Abbott, Nicholson, Quilter, Esshaki & Youngblood, Detroit, MI.*

DECISION AND ORDER

The Federal Trade Commission having issued its two count complaint charging the respondents named in the complaint issued in this matter on December 20, 1984, with violation of Section 5 of the Federal Trade Commission Act, as amended, 15 U.S.C. 45; and the respondents having been served with a copy of that complaint, together with a notice of contemplated relief; and

* Complaint previously published at 108 FTC 193 (1986).