

IN THE MATTER OF

FOOD SERVICE EQUIPMENT INDUSTRY INC., ET AL.

SET ASIDE ORDER IN REGARD TO ALLEGED VIOLATION OF
SEC. 5 OF THE FEDERAL TRADE COMMISSION ACT*Docket 4433. Consent Order, Oct. 15, 1941--Set Aside Order, Sept. 21, 1995.*

This order reopens a 1941 consent order--which prohibited the Food Service from selling certain equipment through anyone other than recognized dealers, and from selling equipment directly to buyers--and sets aside the consent order, as to respondent Food Service Equipment Distributors Association, pursuant to the Commission's Sunset Policy Statement, under which the Commission presumes that the public interest requires terminating competition orders that are more than 20 years old.

ORDER REOPENING PROCEEDING
AND SETTING ASIDE ORDER

On June 30, 1995, the Foodservice Equipment Distributors Association, formerly known as Food Service Equipment Industry, Inc. ("FEDA") filed its Petition To Reopen and Set Aside Consent Order ("Petition") in this matter. FEDA requests that the Commission set aside the 1941 order pursuant to Rule 2.51 of the Commission's Rules of Practice, 16 CFR 2.51, and the Statement of Policy With Respect to Duration of Competition Orders and Statement of Intention to Solicit Public Comment With Respect to Duration of Consumer Protection Orders, issued July 22, 1994, published at 59 Fed. Reg. 45,286-92 (Sept. 1, 1994) ("Sunset Policy Statement"). In the Petition, FEDA affirmatively states that it has not engaged in any conduct violating the terms of the order. The Petition was placed on the public record, and the thirty-day comment period expired on August 18, 1995. No comments were received.

The Commission in its July 22, 1994, Sunset Policy Statement said, in relevant part, that "effective immediately, the Commission will presume, in the context of petitions to reopen and modify existing orders, that the public interest requires setting aside orders in effect for more than twenty years."¹ The Commission's order in Docket No. 4433 was issued on October 15, 1941, and has been in

¹ See Sunset Policy Statement, 59 Fed. Reg. at 45, 289.

effect for approximately 54 years. Consistent with the Commission's July 22, 1994, Sunset Policy Statement, the presumption is that the order should be terminated. Nothing to overcome the presumption having been presented, the Commission has determined to reopen the proceeding and set aside the order in Docket No. 4433 as to respondent Foodservice Equipment Distributors Association.

Accordingly, *It is ordered*, That this matter be, and it hereby is, reopened;

It is further ordered, That the Commission's order in Docket No. 4433 be, and it hereby is, set aside as to respondent Foodservice Equipment Distributors Association, as of the effective date of this order.

IN THE MATTER OF

ALPINE INDUSTRIES, INC., ET AL.

CONSENT ORDER, ETC., IN REGARD TO ALLEGED VIOLATION OF
SEC. 5 OF THE FEDERAL TRADE COMMISSION ACT*Docket C-3614. Complaint, Sept. 22, 1995--Decision, Sept. 22, 1995*

This consent order prohibits, among other things, two Minnesota-based sister companies and their principal officer from making unsubstantiated claims about the ability of any air cleaning product to eliminate, remove, clear or clean any indoor air pollutant -- or any quantity of indoor air pollutants -- from a user's environment.

Appearances

For the Commission *Kerry O'Brien, Linda Badger, Jeffrey Klurfeld and Joan Bernstein.*

For the respondents: *William Erhart, Marvin & Erhart, Anoka, MN.*

COMPLAINT

The Federal Trade Commission, having reason to believe that Alpine Industries, Inc., a corporation, Living Air Corp., a corporation, and William J. Converse, individually and as an officer of Alpine Industries, Inc. and Living Air Corp. ("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 Alpine Industries, Inc. is a Tennessee corporation, with its principal office or place of business at 9199 Central Avenue N.E., Blaine, Minnesota.

Respondent Living Air Corp. is a Tennessee corporation, with its principal office or place of business at 11673 Tulip Street, Coon Rapids, Minnesota.

Respondent William J. Converse is an officer of Alpine Industries, Inc. and Living Air Corp. Individually or in concert with others, he formulates, directs and controls the acts and practices of