

Complaint

IN THE MATTER OF

THE QUIGLEY CORPORATION**CONSENT ORDER, ETC., IN REGARD TO ALLEGED VIOLATIONS OF
SEC. 5 AND 12 OF THE FEDERAL TRADE COMMISSION ACT**

Docket C-3926; File No. 982 3152
Complaint, February 10, 2000 – Decision, February 10, 2000

This consent order addresses representations by respondent Quigley Corporation concerning the effectiveness of its Cold-Eeze Zinc Lozenges, Cold-Eezer Plus Zinc Gluconate Lozenges, and Kids-Eeze Bubble Gum (“Kids-Eeze”) products. The consent order prohibits the respondent from making representations that its products prevent users from contracting colds and pneumonia; will treat allergies; will reduce the severity of colds in children; and that Kids-Eeze will reduce the severity of cold symptoms in children unless it possesses and relies upon competent and reliable scientific evidence that substantiates such representations. The consent order also prohibits the respondent from making any representation that any food, drug, or dietary supplement can or will cure, treat, or prevent any disease, or have any effect on the structure or function of the human body, unless it possesses and relies upon competent and reliable scientific evidence that substantiates the representation.

Participants

For the Commission: *Daniel Kaufman, Lisa B. Kopchik, C. Lee Peeler and Michelle K. Rusk.*

For the Respondent: *Lewis Rose, Arent Fox Plotkin & Kahn, PLLC; Alan K. Palmer, Cooper, Carvin & Rosenthal; Glenn A. Mitchell, Stein, Mitchell & Mezines; and Ed Glynn, Venable, Baetjer, Howard & Civiletti, LLP.*

COMPLAINT

The Federal Trade Commission, having reason to believe that The Quigley Corporation, a corporation (“respondent”), has violated the provisions of the Federal Trade Commission Act, and it appearing to the Commission that this proceeding is in the public interest, alleges:

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1. Respondent The Quigley Corporation ("Quigley") is a Nevada corporation with its principal office or place of business at 10 South Clinton Street, Doylestown, PA 18901.

2. Respondent has manufactured, advertised, labeled, offered for sale, sold, and distributed dietary supplement products to the public, including Cold-Eezer Plus Zinc Gluconate Lozenges and Cold-Eeze Zinc Lozenges (hereinafter, collectively, "Cold-Eeze"), and Kids-Eeze Bubble Gum ("Kids-Eeze"). These products are "foods" and/or "drugs" within the meaning of Sections 12 and 15 of the Federal Trade Commission Act.

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.

4 Respondent has disseminated or has caused to be disseminated advertisements for Cold-Eeze, including but not limited to the attached Exhibits A through C, transcripts of television advertisements that appeared on QVC or Q2, home shopping cable channels run by QVC, Inc.; Exhibits D through E, advertisements that appeared on the Internet at www.quigleyco.com; and Exhibits F through H, advertisements that appeared on radio programs. These advertisements contain the following statements:

(a) C. Phillips: To have a strategy to help fight the common cold. The kids are in school. They are there right now.

...

C. Phillips: It's a breeding ground. Everything they touch -- if the child before had a cold

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and they touch that spot and they touch their noses, its off to the races.

. . .

C. Phillips: So, there's a couple of strategies. One is we can take one a day and try to see if you can beat the cold to what they call prophylactic or a preventive medicine.

Show Host: Excellent

C. Phillips: Try taking one a day. Or if the child comes home and you see that it's here . . . that they have symptoms, start treating the child. Take one every three hours. But everyone in the family should take a couple to prevent picking up that cold.

(Exhibit A, p. 2).

(b) Caller: I just wanted you to know I have a granddaughter that's 12 years old, and ever since birth when she gets a cold, it turns into bronchitis.

. . .

Caller: And so I tried these . . . and it eliminated the cold almost immediately.

C. Phillips: Well, that's really important because we have several customers we know through QVC and other places where they really can't afford to have their children even get a cold because what

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happens is this exacerbated condition appears.

Show Host: Sure.

C. Phillips: You get bronchitis, pneumonias. And here's an opportunity right in front of us to stop it right now.

Show Host: Right. Exactly.

(Exhibit A, p. 3).

(c) C. Phillips: The other thing is allergies.

Show Host: Yes.

C. Phillips: We have many, many people who have reported to us that their usual choice is to have antihistamines, which make them dopey --

Show Host: Sure.

C. Phillips: -- which make them incapable of functioning, some of them.

Show Host: Right.

C. Phillips: And we suggested they try it. So, we -- they tried it and they take one and they see how long it lasts. It does diminish the symptoms of allergies.

(Exhibit A, p. 4).

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(d) Show Host: Children can absolutely take this. In fact, I've heard . . . people will wrap one of these in cheesecloth and let their toddler suck on it so they can get the benefits from it without actually risking choking or anything.

C. Phillips: Um-hum. Yes.

(Exhibit A, p. 6).

(e) Caller: And I was glad to hear you say something about taking one a day as a preventative. We've never tried that before.

C. Phillips: Yes. Well, now's the time to try it.

Show Host: Yep.

C. Phillips: This is -- this is a strategy that may pay off big-time because it does help block as you saw in the animation. If we can stop the viruses we pick up over the day, they will not have a chance to even start.

Show Host: Perfect.

C. Phillips: Therefore, it will preclude you getting the cold.

Caller: Yes.

C. Phillips: And it's a good strategy. We highly recommend people try that.

(Exhibit A, pp. 6-7)

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(f) C. Phillips: Well not only that, but zinc is a critical, very important mineral that we all need. A lot of us are deficient in it. . . . So, not only are you preventing a cold, but you're getting that zinc which has been proven many times to have a positive effect on many conditions of the body.

Show Host: So you're getting even healthier.

C. Phillips: Absolutely.

(Exhibit A, p. 9).

(g) Show Host: And actually, if you take these on a preventative basis, you might not ever get a cold at all.

R. Pollack: Right.

(Exhibit B, p. 3)

(h) Show Host: You know, my own grandma just got over pneumonia.

R. Pollack: Hmm.

Show Host: And I'm sending her these so that she can continue to take them, and as some of the people do, take them on a preventative basis.

R. Pollack: Right. Yes.

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Show Host: I know that you have women in nursing homes --

R. Pollack: Right.

Show Host: -- and gentlemen in retirement communities who are taking these.

R. Pollack: Yes. And they find them very effective.

(Exhibit B, p. 4).

(i) C. Phillips: We're suggesting to moms, get Cold-Eezer Plus in the house.

Show Host: Um-hum.

C. Phillips: Have it ready, and at the very first hint of a cold, start applying it. But even before then, try to use it as a preventative measure, so that if you know that the child has had an exposure, which is school, they can take one a day --

Show Host: Um-hum.

C. Phillips: -- to try to prevent getting a cold.

Show Host: And you're talking about schools, I mean, everywhere you go, I mean, other children have it, other adults have it, you're just always exposed.

C. Phillips: Always exposed, exactly. You touch things.

Show Host: Um-hum.

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C. Phillips: You touch a doorknob and you go up and you touch your nose, you've got the chance to have it.

Show Host: Right.

C. Phillips: So, what we're saying is, point one, if you don't have it in the house, get some in the house so that you have it to use at the very first sign of a cold.

Show Host: Um-hum.

C. Phillips: That's the important thing. This year we're saying, have it around and take one a day. Give your child one before he goes to school, that way, it can possibly prevent that child from getting a cold.

(Exhibit C, p. 2).

(j) C. Phillips: It's also excellent for allergies.

Show Host: Oh, really?

C. Phillips: Absolutely.

(Exhibit C, p. 5)

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Internet Advertisements

- (k) Don't pass the cold in your family!
Reach for Cold-Eeze with Zigg.

You know what happens when one of the kids comes home from school with a cold . . . it seems everybody in the family gets it. Well, now you can fight back with Cold-Eeze. It's the only zinc lozenge with Zigg (zinc gluconate glycine), the only patented formula clinically proven to reduce the severity and duration of common cold symptoms.

(Exhibit D).

- (l) When the Common Cold or Allergies Strike

- Sneezing
- Sore Throat
- Teary Eyes
- Runny Nose
- Stuffy Sinus

. . . Strike Back

with Homeopathic Sugar Free
Cold-Eeze Tablets with ZIGG

(Exhibit E).

Radio Advertisements

- (m) You already know that Cold-Eeze lozenges are effective against colds, but have you ever thought of using them against your airborne allergies? The sneezing, sniffing, runny-nose and watery eyes can make you miserable. Try taking Cold-Eeze, the great tasting breakthrough lozenge you've heard so much

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about, with the zinc-gluconate glycine formula. . . . In fact, Cold Eeze is so effective, consumer testimony and preliminary findings suggest Cold-Eeze may also relieve the discomfort from airborne allergies. Try Cold-Eeze, for relief from the dreadful symptoms of hay fever, mold-spores and other airborne allergies. Homeopathic Cold-Eeze is all natural and non-sedating.

(Exhibit F).

- (n) Remember when I told you about passing the cold in your family? You know, the kids bring a cold home from school and pass it onto everybody else. Now with the phenomenal success of Cold-Eeze lozenges, many imposters are trying to copy it! Beware of these fake imitators. Cold-Eeze is the only lozenge clinically proven in two double-blind studies to reduce the duration and severity of the common cold. In fact, Cold Eeze has been so effective against common colds in families that pediatric studies are underway. Try Cold-Eeze to help protect your little ones from the nasty clutches of full-blown colds. So remember the next time one of your kids bring the sniffles home from school, stay away from those fake imitators. There's only one zinc lozenge proven to work on colds. Cold Eeze. Ask for it by name. Clinically proven Cold-Eeze, it really works.

(Exhibit G).

- (o) Allergy season is here . . . warm weather, sunshine, flowers . . . it's a terrible time to start sneezing! So attack those symptoms with Cold-Eeze.

(Exhibit H).

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5. Through the means described in Paragraph 4, respondent has represented, expressly or by implication, that:

- (a) Daily use of Cold Eeze will prevent users from contracting colds.
- (b) Use of Cold-Eeze will prevent users from contracting colds.
- (c) Use of Cold Eeze will reduce the risk of contracting pneumonia.
- (d) Use of Cold Eeze will relieve or reduce the symptoms of hay fever or allergies.
- (e) Use of Cold Eeze will reduce the severity of cold symptoms in children.
- (f) Daily use of Cold Eeze will prevent children from contracting colds.

6. Through the means described in Paragraph 4, respondent has represented, expressly or by implication, that, it possessed and relied upon a reasonable basis that substantiated the representations set forth in Paragraph 5, at the time the representations were made.

7. In truth and in fact, respondent did not possess and rely upon a reasonable basis that substantiated the representations set forth in Paragraph 5, at the time the representations were made. Therefore, the representation set forth in Paragraph 6 was, and is, false or misleading.

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KIDS-EEZE

8. Respondent has disseminated or has caused to be disseminated advertisements for Kids-Eeze, including but not limited to the attached Exhibit I that appeared on the Internet at www.quigleyco.com, and Exhibit J, statements on product packaging. These advertisements contain the following statements:

(a) Kids-Eeze Bubble Gum

[clicking on the hyper-link for Kids-Eeze displays the following text:]

Cold-Eeze Bubble Gum Formula

The same clinically proven ZIGG formula and dosage
as regular COLD-EEZE Lozenges!

(Exhibit I).

Product Packaging

(b) [Front]

KIDS-EEZE

COLD-EEZE BUBBLE GUM

REDUCES THE DURATION AND
SEVERITY OF THE COMMON COLD

[Back]

COLD-EEZE HOMEOPATHIC SUGAR-FREE

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TABLETS (FOR COLDS AND ALLERGIES)

. . .

CLINICALLY PROVEN
COLD-EEZE WITH ZIGG

(Exhibit J)

9. Through the means described in Paragraph 8, respondent has represented, expressly or by implication, that use of Kids-Eeze will reduce the severity of cold symptoms in children.

10. Through the means described in Paragraph 8, respondent has represented, expressly or by implication, that, it possessed and relied upon a reasonable basis that substantiated the representation set forth in Paragraph 9, at the time the representation was made.

11. In truth and in fact, respondent did not possess and rely upon a reasonable basis that substantiated the representation set forth in Paragraph 9, at the time the representation was made. Therefore, the representation set forth in Paragraph 10 was, and is, false or misleading.

12. The acts and practices of respondent as alleged in this complaint constitute unfair or deceptive acts or practices, and the making of false advertisements, in or affecting commerce in violation of Sections 5(a) and 12 of the Federal Trade Commission Act.

IN WITNESS WHEREOF, the Federal Trade Commission has caused its complaint to be signed by its Secretary and its official seal to be hereto affixed at Washington, D.C. this tenth day of February, 2000.

By the Commission, Commissioner Anthony dissenting and Commissioner Leary not participating.

Complaint Exhibits

Exhibit A

TRANSCRIPT OF QVC

SEPTEMBER 11, 1997

OS SCREEN:

A-36293

60 Original or Cherry Flavor Cold-Eezers
Lozenges

QVC Price \$18.25

S&H \$3.97

QVC 1-800-345-1515

The Health Connection

Show Host: See you later, Jill. It's good to see you, honey.

Jill Bauer is coming up following Health Connections. She's got the today's special value at noon. And then all of the jewelry that I have on, if you're interested, coming up at 1:00. All right. Here you go. 1-800-345-1515. We want to talk to you. We want to hear how you're doing with Cold-Eezers. How did it save you last year. How did it save your kids? How do you feel when you take them?

I'd like you to meet someone who's pretty new to QVC, Chuck Phillips, one of the founders of the Cold-Eezers company.

C. Phillips: Good morning, Patricia.

Show Host: So nice to have you here, sir

C. Phillips: Thank you. Good to be here.

Show Host: Good to see you. Now, we are ready to put Chuck through the paces this morning on the morning show. So, thank you for sticking around. I appreciate it.

C. Phillips: My pleasure, my pleasure.

Show Host: Chuck is back to tell us why Cold-Eezers are so fabulous. Perfect time of year to bring them back because we've got hay fever and allergies combined with an upcoming cold season. Already I'm starting to see lots of sniffles around QVC

C. Phillips: Yes.

Show Host: And, you know, we're so glad that you came back because I tell you what, whenever the Cold-Eezers come to town, they're gone instantly backstage. People just kind of grab little handfuls --

C. Phillips: They disappear.

Show Host: -- and then sort of scurry off with them. You're going to get lots of them, though. You get 60 for \$18.25. A-36293 is the item number in either the cherry, which you see there in the red wrapper, or the natural flavor, which you

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see in the clear wrapper. So, if you're new to QVC, if you're new to Cold-Eezers, here's why they're so great. Take it away, Chuck.

C. Phillips: Well, it's -- first of all, it's an all-natural, homeopathic product.

Show Host: Right.

C. Phillips: It's a unique product here on QVC. It has been clinically proven to reduce the duration and severity of the common cold. And what we're asking people to do is to take a little more aggressive role in caring for their family.

Show Host: Right.

C. Phillips: To have a strategy to help fight the common cold. The kids are in school. They are there right now.

Show Host: Um-hum.

C. Phillips: And school is one of the most famous places to have --

Show Host: It's a breeding ground for germs.

C. Phillips: It's a breeding ground. Everything they touch -- if the child before had a cold and they touch that spot and they touch their nose, it's off to the races.

Show Host: Sure. That's it.

C. Phillips: So, there's a couple of strategies. One is we can take one a day and try to see you can beat the cold to what they call prophylactic or a preventive medicine.

Show Host: Excellent.

C. Phillips: Try taking one a day. Or if the child comes home and you see that it's here --

Show Host: Um-hum.

C. Phillips: -- that they have symptoms, start treating the child. Take one every three hours. But everyone in the family should take a couple to prevent picking up that cold.

Show Host: This is safe for kids to take.

C. Phillips: Absolutely.

Show Host: It's certainly safe for adults. It's safe for senior citizens to take. In fact, we got a call the last time I was on the air with Cold-Eezers of a woman whose mom was in a nursing home.

C. Phillips: Yes.

Show Host: And she was taking them one a day as a preventative measure because she was surrounded by lots of other people and lots of other germs. So, it's a great step to take in maintaining your health, and it's also really helpful when you get a cold. In fact, we have someone on the phone who's used Cold-Eezers in the

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past. So, let's say good morning to Renee. Hi. Renee. I'd like you to meet Chuck Phillips.

Caller: Hi. Hi. Chuck.

C. Phillips: Hi, Renee.

Caller: I just wanted you to know I have a granddaughter that's 12 years old, and ever since birth when she gets a cold, it turns into bronchitis.

Show Host: Oh, that's tough.

C. Phillips: Uh-huh.

Caller: And so, I tried these because she was out here visiting from Illinois with me for three months, and it eliminated the cold almost immediately.

C. Phillips: Well, that's really important because we have several customers we know through QVC and other places where they really can't afford to have their children even get a cold because what happens is this exacerbated condition appears.

Show Host: Sure.

C. Phillips: You get bronchitis, pneumonia. And here's an opportunity right in front of us to stop it right now.

Show Host: Right. Exactly.

C. Phillips: Just nail it.

Caller: It -- it worked fantastic.

C. Phillips: Well, I'm glad that you had that.

Show Host: And you saw it work. Hands on experience, right, Renee?

Caller: Yes, I have. Because she was born with a weak lung and weak bronchial tubes.

Show Host: Uh-huh.

Caller: And ever since then, like I say, it goes into bronchitis or pneumonia.

Show Host: She's a little susceptible. Sure.

Caller: And I tried these and the cold just went away.

Show Host: Oh, that is excellent. Good.

C. Phillips: Well, just get a little more aggressive now. Just have her take one during cold season, one a day --

Show Host: Um-hum.

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C. Phillips: -- and that will help to prevent this from even beginning. There's reports out that tell us that over 55 percent of people who get colds end up at the doctors.

Show Host: Ugh.

C. Phillips: So, now you have the doctor's bill --

Show Host: Right.

C. Phillips: -- you have the prescription and you still have the cold and the bronchitis

Show Host: You have time off from work and you have miserable kids if they're sick. too

C. Phillips: Absolutely.

Show Host: Well, Renee, **I'm** so glad it worked for you and for your granddaughter. Thanks for being a part of our show.

Caller: Thank you.

Show Host: You take care.

Caller: And have a great day, both of you.

Show Host: Bye-bye now.

C. Phillips: **All** right. *Thank* you, Renee.

Caller: Bye-bye.

C. Phillips: Bye-bye. The other **thing** is allergies.

Show Host: Yes.

C. Phillips: We have many, many people who have reported to us that their usual choice is to have antihistamines, which make them **dopey** --

Show Host: Sure.

C. Phillips: -- which make them incapable of functioning, some of them.

Show Host: Right.

C. Phillips: And we suggested they try it. So, we -- they tried it and they take one and they see how long it lasts. **It does** diminish the symptoms of allergies and --

Show Host: **Lots** of people have asked exactly how does it work, and we actually have some animation to show you. **I'm** just showing you, **this** is what one of the Cold-Eezers **looks** like **up** close and personal. Take a look at **this**. Now --

C. Phillips: Those -- those are purple rhinoviruses.

ON SCREEN: Animation

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Show Host: Okay.

C. Phillips: And what they do is in your mouth. they lodge on the cells inside your mouth by, let's say, magnetism, electricity

Show Host: Um-hum.

C. Phillips: Positives and negatives attract

Show Host: Um-hum.

C. Phillips: So, when they lodge, they intrude and replicate themselves, kill the cell, and then you have an irritation. But --

Show Host: Now, the little blue balls there --

C. Phillips: That's Cold-Eezer Plus double positive ions. They actually go and coat the areas on the rhinovirus --

Show Host: Uh-huh.

C. Phillips: -- that it would normally use to grab on to the cell. Now, they can't because it's an effective blockage to keep them from lodging. So --

Show Host: So, now, that actual cold cell that -- what gives us a cold, the common cold virus cell, cannot attach itself to our cells.

C. Phillips: That's right. That's right.

Show Host: So. it can't dock in and we can't get sick.

C. Phillips: And that allows the body's natural function, which is mucus --

Show Host: Um-hum.

C. Phillips: -- to wash them away. It can happen within eight or nine hours. If you have a rhinovirus enter within eight or nine hours, that process is begun.

Show Host: How many of these do we have to take, Chuck?

C. Phillips: You should take one every three to four hours.

Show Host: Okay.

C. Phillips: And remember, please, it's medicine. Some -- it tastes good.

Show Host: It does.

C. Phillips: It's wonderful. But take one every three hours.

Show Host: I want to show you some of the people who are able to use this. Airline pilots are allowed to use this. Now, you know that they're not allowed to take decongestants or antihistamines or anything obviously

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C. Phillips: Exactly. Exactly

Show Host: School bus drivers can take this. Teachers can take this. Children can absolutely take this. In fact, I've heard how more people will wrap one of these in cheesecloth and let their toddler suck on it so they can get the benefits from it without actually risking choking or anything.

C. Phillips: Um-hum. Yes.

Show Host: Senior citizens can take it. Pregnant ladies can take it. Nursing moms can take it. It's perfectly safe to take. We're going to take a phone call actually.

C. Phillips: Excellent.

Show Host: We're going to head right back to the phones and say good morning to Doris. Hi, Doris. Come on in and meet Chuck Phillips.

Caller: Good morning.

C. Phillips: Good morning, Doris.

Show Host: How are you?

Caller: Just fine. We used these last year. I have a son who goes to college up in Minneapolis.

Show Host: Ah-ha.

Caller: And so, we sent them up there because he has a lot of cold weather and he has allergies.

Show Host: Yeah.

C. Phillips: Uh-huh.

Show Host: Um-hum.

Caller: And I was glad to hear you say something about taking one a day as a preventive. We've never tried that before.

C. Phillips: Yes. Well, now's the time to try it.

Show Host: Yep.

C. Phillips: This is -- this is a strategy that may pay off big-time because it does help block as you saw in the animation. If we can stop the viruses we pick up over the day, they will not have a chance to even start.

Show Host: Perfect.

C. Phillips: Therefore, it will preclude you getting the cold.

Caller: Yes.

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C. Phillips: And it's a good strategy. We highly recommend people try that.

Caller: Well, I'm going to recommend it to him when I send another package to him

Show Host: Oh, good

C. Phillips: Good.

Show Host: That's a wonderful care package to get

Caller: Yeah. It helps us all of us. Since last year, we -- my husband and I have used them and really feel like it does help to keep from getting it any worse than what we do.

Show Host: Right.

C. Phillips: That's good. Well, make sure that you understand that it's got to have what we call ZIGG, zinc gluconate glycine. It is our patented process.

Show Host: Um-hum.

C. Phillips: You're going to see other zincs out in the world, but only Cold-Eezer Plus that has ZIGG in it, zinc gluconate glycine. is the one that's clinically proven, the one that does work.

Show Host: That's the only one.

Caller: Well --

C. Phillips: So, it's -- it's a caution, but you're in the right place and I know they'll get the product to you in a -- quick.

Show Host: Seven to ten days.

Caller: Yeah. Well, we have a few left, but -- and we really like the cherry-flavored ones.

Show Host: Yeah, that's my favorite, too.

Caller: Uh-huh.

Show Host: The other one is -- Just for everybody who is watching and wondering, the other one is a little more like a citrus or an orange flavor.

C. Phillips: Um-hum.

Show Host: But I'm with you, I'm a cherry gal all the way.

Caller: Yeah. We are, too.

Show Host: Thanks for calling in and being part of our show

Caller: Uh-huh. Thank YOU.

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Show Host: Take care now. Bve-bye.

Caller: Thank you.

C. Phillips: So long.

Show Host: \$18.25. Now, you get 60 lozenges. If you want to do it as a preventative measure, that's going to be a two month supply for you. If you want to stash some in your desk at work, stash some in the glove compartment in your car. Give a couple to your kids at school, because halfway through the day if they start to get that tickle in their throat, by taking one of these, they're already taking steps ahead to prevent getting sicker and to prevent spreading it to the rest of the family. So, these do last you a rood long time.

But this is the time of year to stock up. Even if you're not suffering from hav fever and allergies, you know that cold season has pretty much started --

C. Phillips: Oh, it's started.

Show Host: -- or else it's right around the corner

C. Phillips: It's definitely started.

Show Host: Right back to the phones we go. Chuck --

C. Phillips: Okay.

Show Host: -- this time we're going to say good morning to Alice. Alice, hello. How are you doing?

Caller: Well, good morning to both of you.

Show Host: Good morning.

Caller: And I'm doing great, and, of course, ordering more Cold-Eezers

C. Phillips: All right.

Show Host: So, you've tried them in the past, have you?

Caller: Oh, absolutely. I wouldn't be without them. I've bought some for my sons who are -- they live kind of close by but they're out of the home, and we all swear by them. And I definitely do. You know, I was kind of skeptical in the beginning about colds --

Show Host: Um-hum.

Caller: -- but they really do -- as soon as you feel you've got a cold, you know, you just put one in your mouth and, oh boy, they are just fantastic. They stop it right away. And like that other lady said, I was delighted to hear this morning that you could take one every day to prevent a cold.

Show Host: Sure.

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Caller: And that's just terrific news. So, I'm going to start doing that right today

Show Host: Oh, good. Good for you.

C. Phillips: Good. Well, not only that, but zinc is a critical, very important mineral that we all need. A lot of us are deficient in it.

Show Host: Um-hum.

C. Phillips: So, not only are you preventing a cold, but you're getting that zinc which has been proven many times to have a positive effect on many conditions of the body.

Show Host: So you're getting even healthier

C. Phillips: Absolutely.

Caller: Oh, I think they're wonderful. As a matter of fact, I'm going to order more for my **sons**. Now that we can take one every day, I'm just going to go back and order some more.

Show Host: Oh, good. Good thinking.

C. Phillips: That's a **good** idea.

Show Host: Well, Alice, you sit tight **on** the lines. I'll send you back over to the operators and they can help you out, okay?

Caller: Okay.

Show Host: Take care.

Caller: Thank you very much.

Show Host: Thanks for your call, Alice.

Caller: Bye-bye.

Show Host: Bye-bye **now**.

Sixty **of** them, original flavor or cherry flavor for \$18.25. That's a great deal, and that's not a lot **of** money to spend preventing a cold. Because if you think of it, you **go to** the drugstore, you're going to spend a \$20 bill **getting** all the cold medicine **and** you're going to be out of work for a couple of days. If your kids are sick, you've got to take time off from work. It winds **up** costing a lot more than **\$18.25**.

Right back to the phones. Let's see if we can't get in one more quick call. This time we'll say good morning to Rachel. Rachel, how are you this morning?

Caller: Hi. **How** are you?

Show Host: Great. How are you doing?

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C. Phillips: Hi, Rachel.

Caller: I have to tell you a story and this is honest truth I have two kids in college

Show Host: Ah-ha.

C. Phillips: Ahh.

Caller: I gave my son the other flavor, my daughter takes the cherry, and I ran out of it

Show Host: Uh-oh.

Caller: And she already told me, ma, I think I'm catching a cold.

Show Host: Oh, no. Quick, you got to get her more Cold-Eezers.

Caller: Because -- yeah. Because in college, one person sneezes --

Show Host: Um-hum.

Caller: -- 400, 500 kids, they all catch a cold.

C. Phillips: Oh, yes.

Show Host: You're absolutely right.

C. Phillips: It goes through like lightning.

Show Host: It **runs** through those dorms.

C. Phillips: Absolutely.

Caller: I wish I had them today, I'm going to go visit her this weekend.

Show Host: Oh.

Caller: But I did two orders *again*.

Show Host: That is marvelous. **And**, you know, for you and for everybody else, you can always do **our** bill to-ship to option. QVC will --

Caller: Yes, that's how I sent it today.

Show Host: Yes. Good for you. We'll do it.

Caller: Yes. Yeah, because they have the cleansing for the face, whatever, when I order from you **people**.

Show Host: Oh.

Caller: Thank you so much. The most wonderful things with the -- you know, with the zinc and everything.

Show Host: Oh, good.

Complaint Exhibits

Caller: I take it myself.

Show Host: Good.

C. Phillips: Good.

Caller: Because last year I had the worst -- the worst bronchitis.

Show Host: Uh-oh.

Caller: And I didn't have them with me.

Show Host: Oh.

C. Phillips: Ahh.

Show Host: See that?

C. Phillips: Now you know.

Show Host: Well, now you've got them all stocked up for the season. I'm so glad.

Caller: Yes. Yeah, thank you --

Show Host: Good for you.

Caller: -- and have a good day.

Show Host: You, too.

C. Phillips: Thank you.

Show Host: ~~Take~~ care of yourself.

Caller: ~~Thank~~ you again.

Show Host: Bye-bye.

C. Phillips: Bye-bye.

Caller: Bye-bye.

Show Host: If you are sending them to someone you love, family on the other side of the country, kids away in college, use our bill to-ship to. We'll ship them to them, we'll send you the bill. You don't have to worry about it. But be sure to pick some up for yourself.

Sixty of them, two packages, 30 in each package, cherry flavor or original flavor, the Cold-Eezers lozenges, \$18.25.

Chuck Phillips, what a delight to see you. Thanks so much for being a part of our show today.

C. Phillips: Thank you, Patricia.

Complaint Exhibits

Show Host. **Good to see you, sir.**

C. Phillips: **Good to ~~see~~ you.**

Show Host: **We'll see you back.**

C. Phillips: **Okay.**

(The Cold-Eezers segment was concluded.)

Complaint Exhibits

Exhibit B

TRANSCRIPT OF QVC

JANUARY 28, 1997

Show Host: Please pick up the phone and call us at 1-800-345-1515, if you have used Cold-Eezers and you've knocked out that awful cold and you've taken care of it naturally and healthily because we have Dr. Robert Pollack joining us and we want to get going. We want to get going, we want to hear a story.

R. Pollack: Right, right.

Show Host: Hello, hello.

R. Pollack: Hello

Show Host: Good morning.

R. Pollack: Nice seeing you again.

Show Host: It's nice to have you back.

R. Pollack: Thank you.

ON SCREEN:
Dr. Robert Pollack

Show Host: We're so happy every time you come to town. And I have to tell you every time Dr. Robert is with us, he comes on and he's kind enough to leave a bag or two of the Cold-Eezers up front by the producer's desk and we all kind of pick and choose. Well, the last time you were here, they were gone.

ON SCREEN:
A-36293
60 Original or Cherry Flavor Cold-Eezers
Lozenges
QVC Price \$18.25
S&H \$3.97
QVC • 1-800-345-1515

R. Pollack: They were gone.

Show Host: By 9:00 in the morning. Everyone came down and stole them and ran

R. Pollack: Okay

Show Host: And that's what happens on air as well. We tend to get these into stock, and the next thing you know, they fly out the door.

R. Pollack: Right, because of the fact that they work

Complaint Exhibits

Show Host: They sure do

R. Pollack: They work.

Show Host: We are talking about the Cold-Eezers lozenges, and we have two flavors to choose from, your original, which is sort of a citrusy, kind of an orangy --

R. Pollack: Um-hum.

Show Host: -- and the new cherry flavor. The item number is A-36293. \$18.25, you get two packages of them, so it's 60 lozenges in all.

R. Pollack: Right.

Show Host: And just like Dr. Pollack said, they work. And tell us why they work.

R. Pollack: Well, the fact -- very simply, we've treated the zinc in a certain way, which it is zinc: just normal, natural zinc.

Show Host: Um-hum.

R. Pollack: And it plugs up the viruses, the crevices that attach to the contact points on our cells. There they --

Show Host: Yeah.

ON SCREEN: Animation

R. Pollack: There you see the picture of how the viruses are attaching to the cell.

Show Host: Um-hum.

R. Pollack: You see those little crevices that are in each side.

Show Host: Um-hum.

R. Pollack: They attach onto the cell and that's what causes the cold. They start replicating. Here we have the zinc. Notice how they plug up the crevices and they just can't attach to the cell. It's as simple as that and as effective as that. It's the first treatment that actually treats -- or is effective against the virus that causes the cold --

Show Host: Yes

R. Pollack: -- not the symptoms, the runny nose or the teary eyes.

Show Host: Right.

R. Pollack: Here, when we eliminate the virus, you eliminate the symptoms, all of them, not just one, the runny nose that you might buy something for, or the cough.

Show Host: Sure, sure.

Complaint Exhibits

R. Pollack: So, you see, that's the difference. And it happens very rapidly.

Show Host: It really does. This cuts down the actual time you spend suffering from a cold. And actually, if you take these on a preventative basis, you might not ever get a cold at all.

R. Pollack: Right. So, there we have the fact that you can see they were plugging them up.

Show Host: Sure. We're going to head off to the phones and take our first phone call of the QVC Morning Show.

 Hello, you're live on the air with Dr. Pollack and Patricia. Who's this, please?

Caller: Hello, Pat. This is Alice from (inaudible).

Show Host: Hi, Hi, Alice. How are you doing?

Caller: We're doing fine. How are you?

Show Host: Say hi to Dr. Bob.

R. Pollack: Hi. Hello, Alice.

Caller: Heilo.

Show Host: Alice, I --

Caller: We love your cold tablets.

Show Host: Um-hum.

Caller: This is our third order of them. They're very good.

R. Pollack: Well, good, I'm glad that you agree also.

Caller: Yes, we do. We've tried them, both kinds --

Show Host: Um-hum.

Caller: -- and this is the third time we ordered them.

R. Pollack: Um-hum.

Show Host: What kind of results have you seen, Alice?

Caller: Well, as soon as we start getting a runny nose or a sore throat, we take them.

R. Pollack: Cm-hum.

Show Host: And does the --

Complaint Exhibits

Caller: They help nght away.

Show Host: Yep, they sure do. So, you've made it through this winter season okay, huh"

Caller: Yes, we have.

R. Pollack: Good.

Caller: And ~~I'm~~83 years old and ~~I'm~~doing fine

R. Pollack: Bless you.

Show Host: Wonderful. That's ~~so~~ wonderful to hear. Alice, thank you very much for your phone call. Thanks for being a part of the morning show.

Caller: Thank you for talking to me.

Show Host: Our pleasure.

Caller: Okay. Bye-bye.

Show Host: Have a great day.

R. Pollack: Bye.

Show Host: Bye-bye.

You know, my own grandma just got over pneumonia.

R. Pollack: Hmm.

Show Host: And I'm sending her these so that she can continue to take them, and as some of the people do, take them on a preventative basis.

R. Pollack: Right. Yes.

Show Host: I know that you have women in nursing homes --

R. Pollack: Right.

Show Host: -- and gentlemen in retirement communities who are taking these.

R. Pollack: Yes. And they ~~find~~ them very effective.

Show Host: They sure do. And we've got --

R. Pollack: Because of ~~all~~ the people together and so on.

Show Host: Well, that's -- that's where you get germs from --

R. Pollack: Right, right.

Complaint Exhibits

Show Host: -- you know, and living in close quarters

R. Pollack: Right, correct

Show Host: Sure. We have someone else on the phone, so we'll go ahead right back to the phones and see who else is with us this morning

Hello. You're on the QVC Morning Show with Patricia and Dr. Robert Pollack and Cold-Eezers. Who's this?

Caller: This is Sandra from Portland, Oregon

Show Host: Hi

R. Pollack: Hi, Sandra.

Caller: Good morning.

R. Pollack: Good morning to **you**.

Caller: I've been -- I've been **looking** for these for a long time

Show Host: Um-hum.

Caller: **And** I just got over a bad cold and I wish I would have had them.

R. Pollack: Ahh.

Show Host: Um-hum.

R. Pollack: Right.

Caller: I recently was -- heard on a national television program that these --

Show Host: Um-hum.

Caller: -- are one of the most effective things in stopping a cold --

R. Pollack: Right.

Caller: -- in about **three** or **four** days.

Show Host: Correct.

R. Pollack: Correct. **And if you** get it right at the beginning --

Show Host: Um-hum.

R. Pollack: -- then it's possible that **you** would have even greater effect and it would be even less than the three days.

Show Host: Yes.

Complaint Exhibits

R. Pollack: When you get just the first sign and you say to yourself, uh-oh, I got that tickle or I have that --

Show Host: Right.

R. Pollack: -- you know, we know when we're going to get it

Show Host: Yeah.

R. Pollack: That's the time to have them ready, pop one in your mouth, and it's going to start like that picture you saw, immediately beginning to get an effect.

Caller: Now, what is the action of the zinc? I understand the zinc coats itself to the lining of the nose?

R. Pollack: Well, not quite. We feel that -- have you seen the pictures just before that we had on the air? It appears that the zinc --

ON SCREEN: Animation

Show Host: There you go. There it is.

R. Pollack: There they go.

Show Host: Yeah, um-hum.

R. Pollack: See, here's a virus with the crevices that you see, and they attach onto positively charged projections that are in our -- that line our nose and mouth and throat. Now, here's the zinc. Notice how they plug up the crevices --

Caller: Oh.

R. Pollack: -- and they can't attach to the cell and there is no way then that they're going to replicate and give us the cold.

Caller: Oh.

R. Pollack: That's the whole key. Now, the point is that we were talking before we came on the program --

Show Host: Right.

R. Pollack: -- there are others that are out there that are trying to imitate this, and they say because Cold-Eezer Plus has zinc and ours has zinc, they must be alike.

Show Host: Uh-uh.

R. Pollack: They're not.

Caller: No.

R. Pollack: Because in attempting to flavor them, they tie up the zinc so tightly, they can't

Complaint Exhibits

get down into those crevices that you saw in the picture and they won't work. Only Cold-Eezer Plus will do what you see -- well, here, of course, is where they're attaching again.

ON SCREEN: Animation

Show Host: Um-hum.

R. Pollack: And that's where the cold starts.

Caller: Well, thank you very much for the product. I really appreciate it.

Show Host: You're welcome, Sandra. Thank you for your phone call

Caller: Thank you very much.

Show Host: Sure. Bye-bye now.

Caller: Bye.

Show Host: Just like Dr. Robert says, these are effective and they work like no others out there, because these don't have other agents in them that prevent the zinc from doing the job they need to do.

Something else that's very important about these, they are non-medicating, they are not -- they will not make you drowsy, they are safe for pregnant ladies, they are safe for babies.

R. Pollack: Right.

Show Host: In fact, your ~~grandson~~ takes these, isn't that right?

R. Pollack: Yes, **right**. Just like that child there you see.

Show Host: Um-hum.

R. Pollack: It's safe for children, it's safe for adults.

Show Host: Yep.

R. Pollack: You are quite **right**, ~~there is~~ nothing in Cold-Eezer Plus that will stop any medication ~~from~~ working.

Show Host: Right.

R. Pollack: It doesn't really ~~matter~~. It's all-natural.

Show Host: Um-hum.

R. Pollack: We need the items anyway, the nutrients that are there.

Show Host: Yes.

Complaint Exhibits

R. Pollack: It's just that we've treated them so that they're effective against the virus. Here you have a pilot -- or a child that is there.

Show Host: Urn-hum.

R. Pollack: The mother is putting it in her backpack to take to school.

Show Host: Right, sure.

R. Pollack: And they're beginning to recognize when a child is sucking on something, and there are a lot of colds going around, chances are it's a Cold-Eezer and not just some candy.

Show Host: It's safe for your kids, it's safe for your grandkids, it's safe for --

R. Pollack: There's the pilot.

Show Host: -- pilots and school bus drivers --

R. Pollack: Right, right.

Show Host: -- and anyone who is going to be driving a vehicle at all.

R. Pollack: Oh, right. They are -- they're prevented by law from taking anything that's -- that will sedate them.

Show Host: Absolutely.

R. Pollack: Cold-Eezer Plus is the **only thing** that they're allowed to take.

Show Host: There you go. We're going to head right back to the phones and see who else is taking Cold-Eezers with **us**.

Hello. You're on the Morning Show. Who's this, please?

Caller: This **is** Margie from Philadelphia, Pennsylvania.

Show Host: Hi, Margie. **How** are **you** doing?

Caller: **I'm** fine. **How are** you both?

Show Host: Great.

R. Pollack: Okay.

Show Host: Are you **taking** Cold-Eezers, Margie?

Caller: Well, this is the first time we've ever been able to get it.

Show Host: Oh.

Caller: And **I'm** really excited, because as you just showed, I have a four-year old.

Complaint Exhibits

Show Host: Hnnm.

R. Pollack: Right.

Caller: And at school, they kept passing the colds around.

R. Pollack: Right.

Show Host: Yep.

Caller: So, I was really excited that I got through this morning.

R. Pollack: Good, good. Now you don't have to worry about that four-year old cold walking in through the door or the --

Caller: Exactly.

Show Host: Well, you ~~know~~ how it is, they bring you home gifts from school.

R. Pollack: Yeah, right.

Show Host: They bring home a picture they colored and they bring you home a cold all at the same time.

R. Pollack: Right.

Caller: Exactly. That's why I'm so excited. I was afraid to give her the zinc just by itself.

R. Pollack: Right.

Show Host: Right. Um-hum.

Caller: And with this being all-natural, then I'm really excited.

R. Pollack: Okay.

Show Host: Exactly. Well, you know, if Dr. Bob gives it to his grandson, it's got to work and it's definitely safe for kids.

R. Pollack: Right.

Show Host: So, that's super. Well, I'm glad you could get them.

Caller: Thank you.

Show Host: You were very smart to call in early.

Caller: I'm glad we got through. Thanks.

Show Host: They do tend to sell out every time we have them on air.

Complaint Exhibits

Caller: Yes, they do.

Show Host: It's a good thing you called in this morning.

Caller: Yes

Show Host: Thanks. Margie.

Caller: Thank you.

Show Host: Bye-bye now.

Caller: Bye-bye.

R. Pollack: Bye.

Show Host: You **know**, this is just about the only place that you can get them.

R. Pollack: Yes. It seems that this **is** true. And it's so wonderful that we have this national ability to get in touch **with** people and that they can get this, because you alluded to it before, the amount of money spent on just someone getting a cold is really incredible.

Show Host: Oh, it sure is.

R. Pollack: The wages that **are** concerned, if you can't get into work.

Show Host: Sure.

R. Pollack: If a child gets a cold, who's going to stay home with that —

Show Host: Mom's got to stay home.

R. Pollack: Right. It's mom **that** generally is going to be doing that.

Show Host: Sure. And those cold medicines are \$6 and \$7 a bottle.

R. Pollack: Right.

Show Host: And they **don't do anything** for your cold. They treat your symptoms.

R. Pollack: Exactly.

Show Host: They knock **you** on your **butt**. You're sleeping

R. Pollack: Right.

Show Host: Sure, you're sleeping **12 hours** a day, that's great. But they're doing nothing for the actual cold. **This** is revolutionary because it's actually doing something to prevent the cold **virus from** locking on to the respiratory cells. That's how we get sick.

Complaint Exhibits

R. Pollack: And clinically tested. They were actually clinically tested

Show Host: Yes

R. Pollack: And that's the marvelous part about it

Show Host: It jure is. Everyone at QVC has used these. All of the hosts have used them. The last time I had a cold, I used them. My cold was gone. I couldn't even believe it. in about a day and a half. I saw instant results and that was it. And I didn't take lots of them. I took one about. oh, gosh. every maybe four hours or so.

R. Pollack: Every three -- right. But see, you started early. That was the key.

Show Host: Yeah. um-hum.

R. Pollack: Right

Show Host: I'm going to unwrap this just so you can see what it looks like. There are two flavors. There's cherry, which is the newer flavor. this is what the cherry one looks like. And then there's your original. And they don't look too different, but I'm just going to hold them up so you can see. It's just a little hard candy, a little lozenge.

R. Pollack: Right

Show Host: And if you've seen Dr. Bob on before and you haven't given these a try, I really encourage you, please don't miss out on them because every time he's on air, we sell out. And we don't know when we can get him back in and get more Cold-Eezers back in.

R. Pollack: Right. right.

Show Host: You won't find these in the store probably

R. Pollack: Right.

Show Host: Probably. They either sell out very quickly --

R. Pollack: Right, correct.

Show Host: -- if you can get a store that carries them at all.

R. Pollack: Correct, yes.

Show Host: What you will find are other zinc products that are not at all like this, that don't work. that actually have ingredients added to them to prevent them from working. I know that sounds crazy, but it's true. This is it, right?

R. Pollack: Right.

Show Host: This is what you need to knock out that cold. Thank you so much.

Complaint Exhibits

R. Pollack: Thank you. It's been a pleasure

Show Host: It's nice to see you again, Dr. Poilack

R. Pollack: All right.

Show Host: The item number is **A-36293**. You're going to receive 60 of them -- that's two separate bags -- for \$18.25

R. Pollack: Right.

Show Host: What a deal.

(The Cold-Eezers segment was concluded.)

Complaint Exhibits

Exhibit C

TRANSCRIPT OF QVC

OCTOBER 2, 1997

Show Host: We're going to start off our Health Connection with something that, I guess, a lot of us -- a lot of us hopefully -- I'm actually fighting one right now

C. Phillips: Oh

Show Host: So, I'm going to start taking mine since you're here.

C. Phillips: Excellent. Start right now at the first sign

Show Host: Chuck Phillips is joining us to talk about Cold-Eezers. Thanks so much for joining us.

C. Phillips: Sure.

Show Host: We're just kind of meeting right here. So, we're going to jump in. You are, in fact -- you are the founder of the Quigley Corporation who brings us Cold-Eezers.

C. Phillips: One of the founders.

Show Host: One of the founders.

C. Phillips: Right.

Show Host: And this is something -- and if you have it, please give us a call, because many of you have used Cold-Eezers in the past. Maybe if you had the summer cold, you used them this summer. But I know the moms out there really want to hear about this.

ON SCREEN:
A-36293
60 Original or Cherry Flavor Cold-Eezers
Lozenges
QVC Price \$18.25
S&H \$3.97
QVC - 1-800-345-1515

C. Phillips: Absolutely.

Show Host: It helps reduce the symptoms of the common cold

C. Phillips: Right.

Show Host: This formula.

C. Phillips: Moms are waking up right now.

Complaint Exhibits

Show Host: Um-hum.

C. Phillips: And they're hearing that little voice --

Show Host: Um-hum

C. Phillips: -- mom, I don't feel so good. Well, what we're going to do this year is get more aggressive. we're going to attack the cold. We're suggesting to moms, get Cold-Eezer Plus in the house.

Show Host: Um-hum.

C. Phillips: Have it ready, and at the very first hint of a cold, start applying it. But even before then, try to use it as a preventative measure, so that if you know that the child has had an exposure, which is school, they can take one a day --

Show Host: Um-hum.

C. Phillips: -- to try to prevent getting a cold.

Show Host: And you're talking about schools, I mean, everywhere you go, I mean, other children have it, other adults have it, you're just always exposed.

C. Phillips: Always exposed, exactly. You touch things.

Show Host: Um-hum.

C. Phillips: You touch a doorknob and you go up and you touch your nose, you've got the chance to have it.

Show Host: Right.

C. Phillips: So, what we're saying is, point one, if you don't have it in the house, get some in the house so that you have it to use at the very first sign of a cold.

Show Host: Um-hum.

C. Phillips: That's the important thing. This year we're saying, have it around and take one a day. Give your child one before he goes to school, that way, it can possibly prevent that child from getting a cold.

Show Host: Now, what do these contain? How do these work?

C. Phillips: Well, it contains what we call ZIGG, zinc gluconate glycine.

Show Host: Um-hum.

C. Phillips: And it's a patented formula. It is homeopathic, it is all-natural. It's --

Show Host: Right. That's important I know, especially when we're talking about little ones.

C. Phillips: Little ones, right. It's non-sedating.

Show Host: So, anybody -- you're not going to fall asleep on these.

Complaint Exhibits

C. Phillips: No, you're not.

Show Host: Which a lot of cold medicines make you fall asleep

C. Phillips: They tend to make you drowsy

Show Host: Um-hum.

C. Phillips: And they sort of take the wind out of your sails --

Show Host: Right.

C. Phillips: -- and make you feel tired. Cold-Eezer Plus will not do that

Show Host: Um-hum.

C. Phillips: You take one every three hours when you're treating a cold, but as I say, let's get aggressive, let's take one a day to see if we can stop the cold from even coming onto you. Another strategy is if a child comes home, they have a cold, it's very evident, they've started to sneeze --

Show Host: Um-hum.

C. Phillips: Everyone in the family should take one or two --

Show Host: To prevent them --

C. Phillips: -- to prevent them to be infected by this infection that's now come into the house.

Show Host: Now, if-- like I said, last Saturday, I woke up with a sore throat.

C. Phillips: Right.

Show Host: So, I mean, I -- this, I should take -- you know, I didn't have them in the house, so --

C. Phillips: Oh, boy.

Show Host: Now, I have them. I'm **going** to take one now. But this will help reduce -- if it's too late, if somebody already has gotten the signs of a cold, how does it help to reduce -- what symptoms will it help reduce?

C. Phillips: It's not **too late**!

Show Host: Okay.

C. Phillips: If you've had a cold for one or two days, it will basically reduce the duration of what's **left** of the cold **nearly** in half.

Show Host: Okay. Oh, really?

C. Phillips: Sure. **So**, it's not -- it's never too late.

Show Host: Um-hum.

Complaint Exhibits

C. Phillips: The thing is, we want to be quicker. we want to catch it before it starts. and we want to even come before that and become preventative --

Show Host: Right.

C. Phillips: -- and try to anticipate things. You know when you've been infected. You've been on an airplane flight. That's recycled air.

Show Host: Um-hum.

C. Phillips: And you're breathing it in. It just takes one person on that plane --

Show Host: To be sick.

C. Phillips: -- to fill the air.

Show Host: Um-hum.

C. Phillips: And you land, take your Cold-Eeze

Show Host: Right. Because you have many -- I do that all the time. In fact, when I came back from New York, I was on a train, and I think the ~~trains~~ are similar to the planes with that ~~air~~.

C. Phillips: Sure. It's a contained space.

Show Host: And that's where I ~~think~~ I got my cold Saturday morning.

C. Phillips: Sure. Cold-Eezer ~~Plus~~ should be taken, you know --

Show Host: Right when I got ~~off~~ the ~~train~~, I should have taken one.

C. Phillips: -- as soon as you're ~~off~~ the train.

Show Host: Right.

C. Phillips: Or in the evening ~~at~~ your home and you've had most of the exposure or you've touched ~~everything~~ you're going to touch, you've washed your hands, take a Cold-Eezer ~~Plus~~.

Show Host: Now, with ~~this~~, you're going to get two bags, each contain 30 lozenges and each have 135 grams of the zinc in it, which --

C. Phillips: Well, each Cold-Eezer ~~Plus~~ lozenge has --

Show Host: Right.

C. Phillips: -- 14.2 milligrams of zinc gluconate glycine.

Show Host: Um-hum.

C. Phillips: And basically one ~~every~~ three hours to treat the cold.

Show Host: Um-hum.

Complaint Exhibits

C. Phillips: Or take one a day to try to prevent it.

Show Host: Preventive.

C. Phillips: It's also excellent for allergies

Show Host: Oh, really?

C. Phillips: Absolutely.

Show Host: We're going to go to the phones and see who's shopping with us this morning. Hi, Geraldine.

Caller: Hi. How are you this morning?

Show Host: I'm great. Now, do you have Cold-Eezers or are you picking them up?

Caller: I'm just buying them.

Show Host: Oh, good.

C. Phillips: Oh, good.

Show Host: Now, why did you decide to pick them up?

Caller: I have a grandson that lives with me that goes to preschool. He brings a cold home every season. My husband and I are sick all winter.

Show Host: Oh, no.

C. Phillips: Oh, boy.

Caller: So, we're hoping that this -- I'm going to try this and hope it will cut down the effects that we usually receive --

Show Host: Um-hum.

Caller: -- from the cold seasons. We haven't ever been this sick in years. But he brings all the fresh, nice, young germs into the house that we can't fight.

Show Host: The new germs.

Caller: Yes.

Show Host: Well, you know -- and as Chuck said, take this as a preventative, too. So, I mean, when he starts the preschool, you know, start taking maybe one a day.

C. Phillips: Right.

Show Host: And then if he brings it home, you're not going to get that.

Caller: Well, here's hoping because my husband moans.

Show Host: Oh.

Complaint Exhibits

Caller: He says, every time this kid goes to school, I'm sick.

Show Host: Um-hum.

C. Phillips: Well, have him take one a day and he will not catch it and have the child, perhaps, take one in the morning before they go to school and --

Caller: Oh, that's a good idea.

C. Phillips: -- to prevent them from even getting the cold. It's preventive medicine. It's an aggressive family strategy to stop this spreading of the cold --

Show Host: Um-hum.

C. Phillips: -- and to help the child out almost instantly.

Show Host: And it's nice, too, because it's all-natural. It's like a homeopathic way to prevent the cold and prevent the symptoms and it's also non-sedating. So, they're not going to go to preschool and be like, you know, snoozing on the side because there's no, you **know**, medicines in here to really bother you or the little ones.

C. Phillips: They won't become tired. And rest assured, it's a stocking item here at QVC. You can get Cold-Eezer Plus 24 hours a day. You can't run out.

Show Host: Right.

Caller: Well, if they work -- if they work, I guarantee you, you'll have a lifetime member.

C. Phillips: Oh, good.

Show Host: Well, and let us **know**, Geraldine. Call us back after you try them and let us know how they do work for you. Okay?

Caller: I certainly will.

Show Host: Thank you so much.

Caller: And thank you for talking to me, and you have a real nice day.

Show Host: You, too.

C. Phillips: You, too. Bye-bye.

Caller: Bye-bye.

Show Host: I want to let everyone know, too, because a lot of people think zinc, they think bad taste. You've really helped that out a lot. You have two flavors to choose from, original or cherry. I love the cherry.

C. Phillips: Yes. Well, zinc -- you can take zinc --

Show Host: Um-hum.

Complaint Exhibits

C. Phillips: -- gluconate lozenges, just tablets and let them dissolve. but they actually can make you nauseous.

Show Host: Um-hum.

C. Phillips: So, Dr. John Godfrey, the inventor of our formula, found a way to sweeten zinc gluconate --

Show Host: Um-hum.

C. Phillips: -- yet release the zinc ions to the mucosal surfaces which does the job.

Show Host: Um-hum.

C. Phillips: That's what is stopping the rhinovirus from reproducing, but it's also what we think is perhaps clamping on the nerve endings in here and telling your system that you don't need to have mucus being produced.

Show Host: Right. I think we have some tape that will show that.

C. Phillips: Yes, good.

Show Host: And maybe you can explain it again as we see it.

ON SCREEN: Animation

C. Phillips: Absolutely. It's -- you see that the purple items are your rhinovirus in and around your mouth. and **as** they come in and touch the walls of the inside of your mouth and nose, they **attach** themselves.

Show Host: Um-hum.

C. Phillips: Boom, you have **an** infection going. They intrude, they replicate, and they kill the cell and send billions more out there.

Show Host: Hmm.

C. Phillips: Now what you **see is** the blue double positive zinc ions of Cold-Eezer Plus in and around the **rhinovirus** and they actually plug up the areas that the rhinovirus normally would use to, let's say, magnetically, by forces, positive and negative like a magnet, lodge onto your cells. So, the **zinc gluconate glycine** is stopping that. The **zinc double positive ions** are preventing the rhinovirus from even having a chance to get a foothold, and it just gets washed away by the body's normal system of cleaning this area, which is mucus.

Show Host: Um-hum.

C. Phillips: So, it works rather well.

Show Host: And it will help reduce the symptoms and the duration. Not only the symptoms like the coughing --

C. Phillips: Exactly

Complaint Exhibits

Show Host: -- the sough and the stuffy nose and the sore throat and the nasal drip and the sneezing, but also the duration

C. Phillips: The duration, which is the most important thing anyway

Show Host: Because if you're out of work for three or four days, I mean, that's a long time --

C. Phillips: Yes

Show Host: -- to not get that paycheck or to just be out of work on your back and miserable I'd be miserable.

C. Phillips: Well, miserable, the agony, the misery is what you want to get rid of

Show Host: I know

C. Phillips: Absolutely.

Show Host: And as Geraldine said, you know, her husband is moaning. I mean, then the agony for everybody in the family.

C. Phillips: Oh, really, everybody is awake

Show Host: And the little ones who wake up and, you know, mom, I don't feel good, you know This is going to --

C. Phillips: And then you're into the whole thing, Mom's got to deal with this

Show Host: Um-hum.

C. Phillips: But we can stop that.

Show Host: And then she gets the cold.

C. Phillips: We can stop it --

Show Host: Preventative.

C. Phillips: -- (inaudible).

Show Host: Right.

C. Phillips: Now, there's a word about business in general, if you own a business, whether it's a single proprietor or AT&T.

Show Host: Um-hum.

C. Phillips: We suggest they take a good hard look at having Cold-Eezer Plus around for their employees.

Show Host: Mmm.

C. Phillips: Now, the United States last year lost \$2.1 billion from the common cold. We have them here at QVC.

Complaint Exhibits

Show Host: Um-hum.

C. Phillips: And they're available to most everyone here and we've heard that it works rather well.

Show Host: My mother picked them up last year for her work.

C. Phillips: Okay.

Show Host: And she works -- she has a store, and so, you have, you know, all sorts of people coming in --

C. Phillips: Sure.

Show Host: -- and employees as well that you're going to get the cold

C. Phillips: Well, of all the people to protect, your employees are very important

Show Host: Right.

C. Phillips: It costs a business approximately \$125 a day for that person to be absent.

Show Host: Um-hum.

C. Phillips: Now, if they're there, they're also spreading the cold, right? And so, I mean, it doubles the problem. Why not stop it immediately?

Show Host: Right.

C. Phillips: Have it available to the people that work for you. It's -- 55 percent of all colds end up at the doctor. It's amazing. Fifty five percent of everyone who gets a cold gets a condition that the cold began and --

Show Host: Um-hum.

C. Phillips: -- now it's gotten worse.

Show Host: So, take this as a preventative, like once a day, but also, you know, take it -- if you were not able to do the preventative, make sure you take it once it starts and reduce the symptoms and reduce the duration.

C. Phillips: Right. Real important, too, is the value of zinc. Nearly everyone in the United States is zinc deficient. There's very few places to get natural zinc.

Show Host: Um-hum.

C. Phillips: Oysters, things like this, which aren't readily available every day

Show Host: No. And some people don't like oysters.

C. Phillips: Right. And being zinc deficient puts you into various categories that are not good, let's say.

Show Host: Um-hum.

Complaint Exhibits

C Phillips: If you're taking the zinc, it will help aging, it will help immunity, it will help vision. It's good for 26 or 27 conditions of the human body. So, taking one a day, you're getting nearly the daily requirement --

Show Host: Um-hum

C Phillips: -- but you're also preventing that cold from getting a foothold on you

Show Host: Right.

C Phillips: And it stops the whole process --

Show Host: Reducing --

C Phillips: -- right in its tracks.

Show Host: -- the symptoms and the duration of the common cold. We do have cherry flavor or original. You're going to have two bags of 30 lozenges in each one. They're \$18.25. Try them out. They really, really do work. I've used them. My mom has used them. Actually, I have one right now.

C Phillips: You have one right now. There's one working right now.

Show Host: I know. There's one working right now. A-36293, and they do taste great. I like the cherry personally, but there are -- you know, the other flavor is just as good. Both of those. \$18.25.

Thank you so much, Chuck.

C Phillips: Thank you, Bonnie.

Show Host: Thanks for keeping us healthy.

C Phillips: Oh, I'll be glad to.

Show Host: I'm sorry that you weren't here Saturday morning. But now my cold will go --

C Phillips: One a day and you won't have this problem.

Show Host: That's right. Thanks so much. A-36293.

(The Cold-Eezers segment was concluded.)

Complaint Exhibits

Exhibit D

**Don't play pass the cold in your family!
Reach for Cold-Eeze® with Zigg™.**

You know what happens when one of the kids comes home from school with a cold...it seems everybody in the family gets it! Well, now you can fight back with Cold-Eeze®. It's the only zinc lozenge with Zigg™ (zinc gluconate glycine), the only patented formula clinically proven to reduce the severity and duration of common cold symptoms.



Cold-Eezes... there is no substitute!

The Quigley Corporation Makers of Cold-Eeze® with Zigg™, is proud to sponsor this year's tour of the **Wicked Tour**. Follow the Yellow Brick Road for tour engagements.

**Click Here to Enter The Cold-Eeze
Emerald Isle Sweepstakes
a Trip for 4 to Ireland!**

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Exhibit D

Complaint Exhibits

Exhibit E



When The Common Cold or Allergies Strike.....

- Sneezing
- Sore Throat
- Teary Eyes
- Runny Nose
- Stuffy Sinus

.....Strike Back
with Homeopathic Sugar Free
Cold-Eeze® Tablets with ZIGG

Exhibit E

Complaint Exhibits

Exhibit F

COLD-EEZE :60
ALLERGIES

YOU ALREADY KNOW THAT COLD-EEZE LOZENGES ARE EFFECTIVE AGAINST COLDS. BUT HAVE YOU EVER THOUGHT OF USING THEM AGAINST YOUR AIRBORNE ALLERGIES? THE SNEEZING, SNIFFLING, RUNNY-NOSE AND WATERY EYES CAN MAKE YOU MISERABLE. TRY TAKING COLD-EEZE. THE GREAT TASTING BREAKTHROUGH LOZENGE YOU'VE HEARD SO MUCH ABOUT. WITH THE ZINC-GLUCONATE GLYCINE FORMULA. COLD-EEZE IS CLINICALLY PROVEN TO REDUCE THE DURATION AND SEVERITY OF THE COMMON COLD. IN FACT, COLD-EEZE IS SO EFFECTIVE. CONSUMER TESTIMONY AND PRELIMINARY FINDINGS SUGGEST COLD-EEZE ALSO MAY RELIEVE THE DISCOMFORT FROM AIRBORNE ALLERGIES. TRY COLD-EEZE, FOR RELIEF FROM THE DREADFUL SYMPTOMS OF HAYFEVER, MOLD-SPORES AND OTHER AIRBORNE ALLERGIES. HOMEOPATHIC COLD-EEZE IS ALL NATURAL AND NON-SEDATING. SO REMEMBER THERE IS ONLY ONE COLD-EEZE, ASK FOR IT BY NAME AND GIVE IT A TRY TODAYAND TOMORROW ...OR WHENEVER YOU NEED IT!

TAGS: AVAILABLE AT RITE AID, CVS, THRIFT DRUGS, DRUG EMPORIUM. ALL FINE OUTLETS EVERYWHERE.

Complaint Exhibits

Exhibit G

COLD-EEZE :60
THE IMITATORS. ~~File~~

REMEMBER WHEN I TOLD YOU ABOUT PASSING THE COLD IN YOUR FAMILY? YOU KNOW, THE KIDS BRING A COLD HOME FROM SCHOOL AND PASS IT ONTO EVERYBODY ELSE.

NOW, WITH THE PHENOMENAL SUCCESS OF COLD-EEZE LOZENGES, MANY IMPOSTORS ARE TRYING TO COPY IT! BEWARE OF THESE FAKE IMITATORS.

COLD-EEZE IS THE ONLY LOZENGE CLINICALLY PROVEN IN TWO DOUBLE-BLIND STUDIES TO REDUCE THE DURATION AND SEVERITY OF THE COMMON COLD. IN FACT, COLD-EEZE HAS BEEN SO EFFECTIVE AGAINST COMMON COLDS IN FAMILIES THAT PEDIATRIC STUDIES ARE UNDERWAY TRY COLD-EEZE TO HELP PROTECT YOUR LITTLE ONES FROM THE NASTY CLUTCHES OF FULL-BLOWN COLDS.

SO REMEMBER THE NEXT TIME ONE OF YOUR KIDS BRING THE SNIFFLES HOME FROM SCHOOL, STAY AWAY FROM THOSE FAKE IMITATORS.

THERE'S ONLY ONE ZINC LOZENGE PROVEN TO WORK ON COLDS: COLD-EEZE. ASK FOR IT BY NAME. CLINICALLY PROVEN COLD-EEZE. IT REALLY WORKS!!

TAGS:

Complaint Exhibits

Exhibit H

COLD-EEZE

TAG #3

413-UFN
SPRING ALLERGIES

- * ALLERGY SEASON IS HERE....WARM WEATHER, SUNSHINE, FLOWERS...IT'S A TERRIBLE TIME TO START SNEEZING! SO ATTACK THOSE SYMPTOMS WITH *COLD-EEZE*.
- * *COLD-EEZE* IS NOW THE MOST EFFECTIVE AND POPULAR COLD FIGHTER IN THE COUNTRY.
- * THERE'S NO SUBSTITUTE FOR *COLD-EEZE* WHEN IT COMES TO EASING SYMPTOMS.
- * REMEMBER, WHEN YOU THINK ZINC, THINK *COLD-EEZE* THE ONLY LOZEYGE WITH "ZIGG" THAT'S ZINC GLUCONATE GLYCINE AND IT'S ONLY IN *COLD-EEZE*.
- * *COLD-EEZE* PATENTED. HOMEOPATHIC, ALL NATURAL, NON SEDATING. FAST ACTING AND CLINICALLY PROVEN.
- * NOW AVAILABLE IN FOUR SOOTHING FLAVORS TOO!
- * SO ENJOY THE SEASON, TAKE *COLD-EEZE* WITH YOU TO WORK. THE GYM OR EVEN ON VACATION.
- * THERE IS NOW **SUBSTITUTE** ANYWHERE...
- * *COLD-EEZE*, THE OFFICIAL SPONSOR OF THE NATIONAL TOURING STAGE **PRODUCTION** OF THE *WIZARD OF OZ*.

COLD-EEZE IS AVAILABLE AT.....

WALGREENS, OSCO/SAV-ON, JEWEL, DOMINICKS, K-MART, VONS,
LUCKY'S, DUANE REAOE AND FINE STORES EVERYWHERE,

Complaint Exhibits

Exhibit I



The Quigley Corporation Makers of Cold-Eeze® with Zigg™, is proud to sponsor this year's tour of The Wizard Of Oz. Follow the Yellow Brick Road for tour engagements.

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Complaint Exhibits

Cold-Eeze Bubble Gum Formula



The same clinically proven ZIGG™ formula and dosage as regular COLD-EEZE® Lozenges!

Complaint Exhibits

Exhibit J

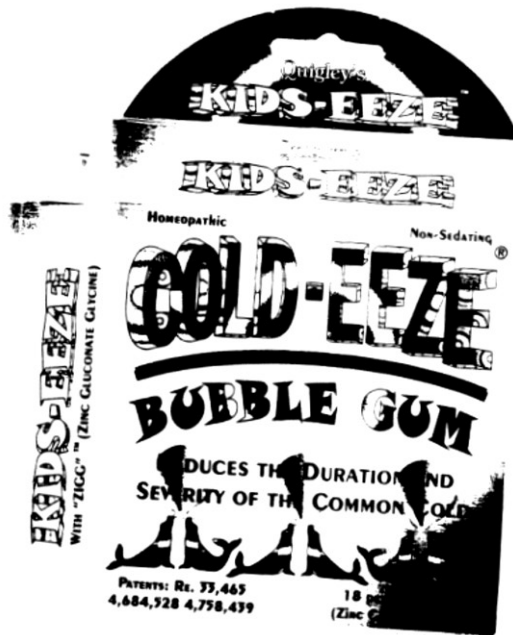


Exhibit J

Complaint Exhibits

TRY QUIGLEY CORPORATION'S OTHER FINE PRODUCTS

COLD-EEZE® HOMEOPATHIC LOZENGES IN 4 FLAVORS
COLD-EEZE® HOMEOPATHIC SUGAR-FREE TABLETS
(FOR COLDS & ALLERGIES)

BIOZYME™ NUTRITION & WEIGHT MANAGEMENT PROGRAM



Indications: To reduce the duration and symptoms of the COMMON cold (cough, sore throat, stuffy nose, sneezing, post-nasal drip, hoarseness). Non-sedating.

Ingredients: Net contents: 18 pieces, bubble gum. Each 4.5g. piece contains: Active ingredient: 13.3mg of ionic zinc from Zincum Gluconicum 2X (1104mg. zinc gluconate trihydrate) equivalent to Zincum 3X. Inactive ingredients: 4.49g. including: Sucrose, Gum base, Corn Syrup, Glycerine, Gluconic Acid, Potassium, Red 40 Lake, Red 40, and BHT (To Maintain Freshness).

Directions: For maximum effectiveness, begin treatment at first sign of cold. • Chew each piece for at least 20 minutes. Repeat every 2 to 4 hours as needed. Recommended daily dose is 5 pieces per day. To avoid minor upset, do not chew on an empty stomach. Do not eat or drink citrus fruits or juices 1/2 hour before & after chewing a piece. Otherwise, drink plenty of fluids.

Warnings: COLD-EEZE® Bubble Gum is formulated to relieve cold symptoms & may be insufficient treatment for flu. If symptoms worsen or persist beyond 7 days, consult a physician.

**CLINICALLY PROVEN
COLD-EEZE® WITH ZIGG™**

The following studies apply only to the COLD-EEZE® formulation with ZIGG™ (Zinc Gluconate Glycine), the only great tasting formulation proven effective in treating a Common Cold.

A randomized, double-blind placebo study, with 23mg. of ionic zinc in a citrus flavored lozenge, concluded that treatment of a cold with our Patented formula within 48 hours of the onset resulted in symptom relief and a 62% reduction in the duration of the common cold. Results were published in the Journal of International Medical Research, Godfrey et. al., Vol. 20, No. 3, June 1992.

A second, randomized, double-blind placebo study, with only 13.3mg. of ionic zinc in a citrus flavored lozenge, concluded patients starting treatment with our Patented formula within 24 hours of the onset, taking an average of 6 lozenges per day, resulted in a 62% reduction in the duration of common cold symptoms. Results were published in the Annals of Internal Medicine, Massad et. al., Vol. 123, No. 2, July 15, 1995, pages 87-88.

MANUFACTURED FOR & DISTRIBUTED BY
THE QUIGLEY CORPORATION
P.O. BOX 1349 - DOYLESTOWN, PA 18901 USA
EMAIL: consumer-dept@quigleyco.com
INTERNET: <http://www.quigleyco.com>
NASDAQ TRADING SYMBOL: QGAY

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Decision and Order

DECISION & 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 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 the respondent with violation of the Federal Trade Commission Act; and

The respondent, its attorneys, and counsel for the Commission having thereafter executed an agreement containing a consent order, an admission by respondent of all the jurisdictional facts set forth in the draft 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 or that the facts, as alleged in the complaint, other than jurisdictional facts, are true; and

The Commission having considered the matter and having determined that it had reason to believe that the respondent has violated the Act, and that a 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 § 2.34 of its Rules, the Commission hereby issues its complaint, makes the following jurisdictional finding and enters the following order:

1. Respondent The Quigley Corporation ("Quigley") is a Nevada corporation with its principal office or place of business at 10 South Clinton Street, P.O. Box 1349, Doylestown, PA 18901.

Decision and Order

ORDER**DEFINITIONS**

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

1. “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.
2. Unless otherwise specified, “respondent” shall mean The Quigley Corporation, its successors and assigns and its officers, agents, representatives, and employees.
3. “Commerce” shall mean as defined in Section 4 of the Federal Trade Commission Act, 15 U.S.C. § 44.

I.

IT IS ORDERED that respondent, 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 Cold-Eeze Zinc Lozenges, Kids-Eeze Bubble Gum, or any other food, drug or dietary supplement, as “food” and “drug” are defined in Section 15 of the Federal Trade Commission Act, in or affecting commerce, shall not make any representation, in any manner, expressly or by implication, that such product:

- A. will prevent users from contracting colds;

Decision and Order

- B. will reduce the risk of contracting pneumonia;
- C. will relieve or reduce the symptoms of hay fever and allergies;
- D. will reduce the severity of cold symptoms in children;
or
- E. will prevent children from contracting colds;

unless, at the time the representation is made, respondent possesses and relies upon competent and reliable scientific evidence that substantiates the representation.

II.

IT IS ORDERED that respondent, 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 food, drug or dietary supplement, as “food” and “drug” are defined in Section 15 of the Federal Trade Commission Act, in or affecting commerce, shall not make any representation, in any manner, expressly or by implication, that such food, drug or dietary supplement can or will cure, treat, or prevent any disease, or have any effect on the structure or function of the human body unless, at the time the representation is made, respondent possesses and relies upon competent and reliable scientific evidence that substantiates the representation.

III.

Nothing in this Order shall prohibit Respondent from making any representation for any drug that is permitted in labeling for such drug under any tentative final or final standard promulgated by the Food and Drug Administration, or under any new drug application approved by the Food and Drug Administration.

Decision and Order

IV.

Nothing in this order shall prohibit respondent from making any representation for any product that is specifically permitted in labeling for such product by regulations promulgated by the Food and Drug Administration pursuant to the Nutrition Labeling and Education Act of 1990.

V.

IT IS FURTHER ORDERED that respondent The Quigley Corporation, and its successors and assigns, shall, for five (5) years after the last date of dissemination of any representation covered by this order, maintain and upon request make available to the Federal Trade Commission for inspection and copying:

- A. All advertisements and promotional materials containing the representation;
- B. All materials that were relied upon in disseminating the representation; and
- C. All tests, reports, studies, surveys, demonstrations, or other evidence in their possession or control that contradict, qualify, or call into question the representation, or the basis relied upon for the representation, including complaints and other communications with consumers or with governmental or consumer protection organizations.

VI.

IT IS FURTHER ORDERED that respondent The Quigley Corporation, and its successors and assigns, shall deliver a copy of this order to all current and future principals, officers, directors, and managers, and to all current and future employees, agents,

Decision and Order

and representatives having responsibilities with respect to the subject matter of this order, and shall secure from each such person a signed and dated statement acknowledging receipt of the order. Respondent shall deliver this order to current personnel within thirty (30) days after the date of service of this order, and to future personnel within thirty (30) days after the person assumes such position or responsibilities. Respondent shall maintain and upon request, make available to the Federal Trade Commission for inspection and copying, a copy of each signed statement acknowledging receipt of the order.

VII.

IT IS FURTHER ORDERED that respondent The Quigley Corporation, and its successors and assigns, shall notify the Commission at least thirty (30) days prior to any change in the corporation(s) that may affect compliance obligations arising under this order, including but not limited to a dissolution, assignment, sale, merger, or other action that would result in the emergence of a successor corporation; the creation or dissolution of a subsidiary, parent, or affiliate that engages in any acts or practices subject to this order; the proposed filing of a bankruptcy petition; or a change in the corporate name or address. *Provided, however,* that, with respect to any proposed change in the corporation about which respondents learn less than thirty (30) days prior to the date such action is to take place, respondents shall notify the Commission as soon as is practicable after obtaining such knowledge. All notices required by this Part shall be sent by certified mail to the Associate Director, Division of Enforcement, Bureau of Consumer Protection, Federal Trade Commission, 600 Pennsylvania Avenue, N.W., Washington, D.C. 20580.

VIII.

IT IS FURTHER ORDERED that respondent The Quigley Corporation, and its successors and assigns, shall, within sixty (60) days after the date of service of this order, and at such other

Decision and Order

times as the Federal Trade 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.

IX.

This order will terminate on February 10, 2020, or twenty (20) years from the most recent date that the United States or the Federal Trade Commission files a complaint (with or without an accompanying consent decree) in federal court alleging any violation of the order, whichever comes later; *provided, however*, that the filing of such a complaint will not affect the duration of:

- A. Any Part in this order that terminates in less than twenty (20) years;
- B. This order's application to any respondent that is not named as a defendant in such complaint; and
- C. This order if such complaint is filed after the order has terminated pursuant to this Part.

Provided, further, that if such complaint is dismissed or a federal court rules that the respondent did not violate any provision of the order, and the dismissal or ruling is either not appealed or upheld on appeal, then the order will terminate according to this Part as though the complaint had never been filed, except that the order will not terminate between the date such complaint is filed and the later of the deadline for appealing such dismissal or ruling and the date such dismissal or ruling is upheld on appeal.

By the Commission, Commissioner Anthony dissenting and Commissioner Leary not participating.

Analysis to Aid Public Comment

**ANALYSIS OF PROPOSED CONSENT ORDER
TO AID PUBLIC COMMENT**

The Federal Trade Commission has accepted, subject to final approval, an agreement containing consent order from respondent the Quigley Corporation ("Quigley").

The proposed consent order has been placed on the public record for sixty (60) days for reception of comments by interested persons. Comments received during this period will become part of the public record. After sixty (60) days, the Commission will again review the agreement and the comments received and will decide whether it should withdraw from the agreement or make final the agreement's proposed order.

This matter involves alleged deceptive representations for Cold-Eeze Zinc Lozenges and Cold-Eezer Plus Zinc Gluconate Lozenges (hereinafter, collectively "Cold-Eeze") and Kids-Eeze Bubble Gum ("Kids-Eeze").

The Commission's proposed complaint alleges that Quigley made unsubstantiated representations that Cold-Eeze will prevent users from contracting colds and pneumonia; will treat allergies; will reduce the severity of colds in children; and that Kids-Eeze will reduce the severity of cold symptoms in children.

The proposed consent order contains provisions designed to prevent respondent from engaging in similar acts and practices in the future.

Part I of the proposed order prohibits the respondent from making the representations about Cold-Eeze and Kids-Eeze challenged in the complaint, unless it possesses and relies upon competent and reliable scientific evidence that substantiates the representation.

Analysis to Aid Public Comment

Part II of the proposed order prohibits respondent from making any representation that any food, drug, or dietary supplement can or will cure, treat or prevent any disease, or have any effect on the structure or function of the human body, unless it possesses and relies upon competent and reliable scientific evidence that substantiates the representation.

Part III of the proposed order allows the respondent to make any representations for any drug that are permitted in labeling for the drug under any tentative final or final Food and Drug Administration ("FDA") standard or under any new drug application approved by the FDA.

Part IV of the proposed order allows the respondent to make representations for any product that are specifically permitted in labeling for that product by regulations issued by the FDA under the Nutrition Labeling and Education Act of 1990.

Parts V through VIII require the respondent to keep copies of advertisements making representations covered by the order; to keep records concerning those representations, including material that they relied upon when making the representations; to provide copies of the order to certain of the respondents' personnel; to notify the Commission of changes in corporate structure; and to file compliance reports with the Commission.

Part IX of the proposed order is a "sunset" provision, dictating that the order will terminate twenty years from the date it is issued or twenty years after a complaint is filed in federal court, by either the United States or the FTC, alleging any violation of the order.

The purpose of this analysis is to facilitate public comment on the proposed order. It is not intended to constitute an official interpretation of the agreement and proposed order or to modify in any way their terms.

Dissenting Statement

**DISSENTING STATEMENT OF
COMMISSIONER SHEILA F. ANTHONY**

I write separately to express my view that the consent in this matter does not adequately address Quigley Corporation's conduct with respect to its marketing of the Kids-Eeze product.

Complaint

IN THE MATTER OF
TRANS UNION CORPORATION

OPINION OF THE COMMISSION, FINAL ORDER, AND INITIAL
DECISION IN REGARD TO ALLEGED VIOLATIONS OF SECTIONS 604
AND 607 OF THE FAIR CREDIT REPORTING ACT

Docket No. 9255; File No. 922 3036

Complaint, December 15, 1992 – Opinion and Final Order, March 1, 2000

In a unanimous Opinion, the Commission concluded that Trans Union Corporation (“Trans Union”), one of the three national credit bureaus, violated the Fair Credit Reporting Act (FCRA) by selling its consumer reports to target marketers who in turn solicit the consumers to purchase goods and services. As a consumer reporting agency, Trans Union received detailed credit information for over 160 million consumers from numerous credit grantors, including banks, mortgage companies, credit unions, auto dealers and others, and then compiled this information into consumer reports and sold these reports to target marketers. The Commission held that Trans Union’s disclosure of this information to entities that lacked a statutorily-defined permissible purpose for obtaining them, violated the FCRA, which protects the privacy of credit information by limiting the circumstances under which a consumer reporting agency can disclose a consumer report. In the Final Order, Trans Union is prohibited from selling consumer reports as target marketing lists to marketers lacking an authorized purpose for receiving them under the FCRA. The Final Order applies to a number of Trans Union’s target marketing list products, including its Master File/Selects products, its modeled products and its TransLink/reverse append products.

Participants

For the Commission: *Kellie A. Cosgrove, Annemarie Scanlon Harthun, Christopher W. Keller, Lucy Morris, and Jonathan A. Smollen.*

For the Respondents: *Stephen L. Agin, Elizabeth R. Bacon Ehlers, Roger L. Longtin, and Colleen E. McManus, Rudnick & Wolfe; Steven B. Feirman, Rudnick, Wolfe, Epstein & Zeidman.*