

Complaint

IN THE MATTER OF

**PRINCE LIONHEART, INC.**

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

*Docket C-4117; File No. 0323245*

*Complaint, September 1, 2004--Decision, September 1, 2004*

This consent order, among other things, prohibits Respondents Prince Lionheart, Inc., and its president, Thomas E. McConnell, from representing that the “Love Bug” -- an electronic mosquito repellent device -- or any substantially similar product, (1) repels mosquitoes from a baby or any person; (2) is an effective alternative to the use of chemical products formulated to repel mosquitoes; or (3) protects babies or other persons against contracting the West Nile virus, unless the representation is true and the respondents possess competent and reliable scientific evidence that substantiates the representation. The order also prohibits unsubstantiated representations about the benefits, performance, or efficacy of any consumer electronic product. In addition, the order requires the respondents to send a letter, with a copy of the order, to any catalog company or other wholesale or retail seller to which respondents have sold the “Love Bug” since January 1, 2002.

*Participants*

For the Commission: *Carol Jennings, Robert M. Frisby, Elaine Kolish, Susan Braman and Jesse Leary.*

For the Respondents: *Thomas E. McConnell, pro se.*

**COMPLAINT**

The Federal Trade Commission, having reason to believe that Prince Lionheart, Inc., a corporation, and Thomas E. McConnell, individually and as President of the corporation (“respondents”), have violated the provisions of the Federal Trade Commission Act, and it appearing to the Commission that this proceeding is in the public interest, alleges:

## Complaint

1. Respondent Prince Lionheart, Inc., is a California corporation with its principal office or place of business at 2421 South Westgate Road, Santa Maria, California 93455.
2. Respondent Thomas E. McConnell is President of the corporation. Individually or in concert with others, he formulates, directs, or controls the policies, acts, or practices of the corporation, including the acts or practices alleged in this complaint. His principal office or place of business is the same as that of Prince Lionheart, Inc.
3. The acts and practices of respondents alleged in this complaint have been in or affecting commerce, as “commerce” is defined in Section 4 of the Federal Trade Commission Act.
4. Respondents have manufactured, advertised, labeled, offered for sale, sold, and distributed to the public an Electronic Mosquito Repeller called the “Love Bug.”
5. Respondents have disseminated or have caused to be disseminated advertisements for the Electronic Mosquito Repeller or “Love Bug,” including but not necessarily limited to the attached Exhibits A and B. These advertisements contain the following statements:

A. **“Electronic Mosquito Repeller**

Helps protect your Baby from WEST NILE VIRUS! Repels mosquitoes effectively without the mess of costly sprays or lotions, and without potential danger to infants. The Electronic Mosquito Repeller emits a safe, barely audible tone that emulates the sound of a dragonfly’s wing beat – the mosquito’s mortal enemy! Clips to strollers, playpens, carriers, car seats and more!”

[<http://www.princelionheart.com>, 8/26/03, Exhibit A]

Complaint

**B. “LOVE BUG  
KEEPS MOSQUITOES AWAY FROM BABY!**

- Love Bug repels mosquitoes by electronically duplicating the wingbeat of the dragonfly – the mosquito’s mortal enemy!
- The safe, low-level tone is barely audible to humans, but mosquitoes hear it loud and clear and run for cover.
- Clip Love Bug to a stroller or playyard and watch the mosquitoes scatter! Effective within a 20 - 30 foot radius.
- Love bug emits a safe, barely audible tone that emulates the sound of a dragonfly’s wingbeat (mosquitoes HATE dragonflies!).
- Love Bug is as effective as costly sprays or lotions but without the mess and potential danger to infants with skin sensitive to strong chemicals.”  
[product package, Exhibit B]

6. Through the means described in Paragraph 5, respondents have represented, expressly or by implication, that:

- A. The Electronic Mosquito Repeller or “Love Bug” effectively repels mosquitoes from a baby.
- B. The Electronic Mosquito Repeller or “Love Bug” is an effective alternative to the use of chemical products formulated to repel mosquitoes.
- C. Use of the Electronic Mosquito Repeller or “Love Bug” protects babies against contracting the West Nile virus.

7. In truth and in fact:

## Complaint

- A. The Electronic Mosquito Repeller or “Love Bug” does not effectively repel mosquitoes from a baby.
- B. The Electronic Mosquito Repeller or “Love Bug” is not an effective alternative to the use of chemical products formulated to repel mosquitoes.
- C. Use of the Electronic Mosquito Repeller or “Love Bug” does not protect babies against contracting the West Nile virus.

Therefore, the representations set forth in Paragraph 6 were, and are, false or misleading.

8. Through the means described in Paragraph 5, respondents have represented, expressly or by implication, that they possessed and relied upon a reasonable basis that substantiated the representations set forth in Paragraph 6, at the time the representations were made.

9. In truth and in fact, respondents did not possess and rely upon a reasonable basis that substantiated the representations set forth in Paragraph 6, at the time the representations were made. Therefore, the representation set forth in Paragraph 8 was, and is, false or misleading.

10. The acts and practices of respondents 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.

THEREFORE, the Federal Trade Commission this first day of September, 2004, has issued this complaint against respondents.



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## Safety



**Helps protect your baby from WEST NILE VIRUS! Repels mosquitoes effectively without the mess of costly sprays or lotions, and without potential danger to infants. The Electronic Mosquito Repeller emits a safe, barely audible tone that emulates the sound of a dragonfly's wing beat - the mosquito's mortal enemy! Clips to strollers, playpens, carriers, car seats and more!**

[What's New](#) | [Store Finder](#) | [Parenting](#) | [About Us](#) | [Shop Online](#)  
[Contact Us](#) | [Registration](#) | [Press](#) | [Home](#)

Exhibit A

© 2003 Prince Lionheart. All Rights Reserved.



PRINCE  
LIONHEART®



STYLE 6701



13  
buybuy BABY  
\$11.99 EACH™

# LOVE BUG™

**KEEPS MOSQUITOES AWAY FROM BABY!**



■ Love Bug repels mosquitoes by electronically duplicating the wingbeat of the dragonfly - the mosquito's mortal enemy!



■ The safe, low-level tone is barely audible to humans, but mosquitoes hear it loud and clear and run for cover.



■ Clip Love Bug to a stroller or playyard and watch the mosquitoes scatter! Effective within a 20 - 30 foot radius.

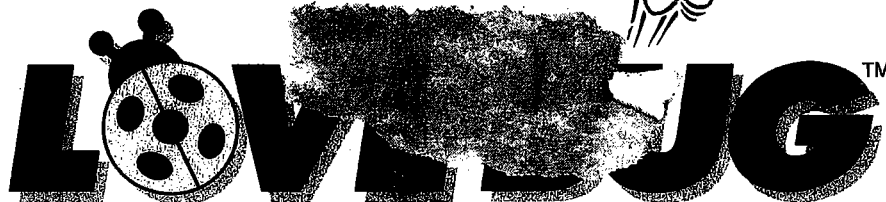
9v Battery required (not incl.)

*Exhibit B*



PRINCE  
LIONHEART.

STYLE 6701



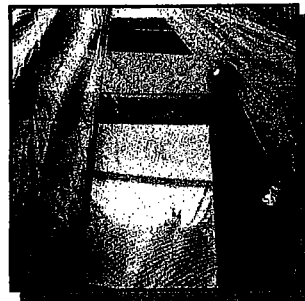
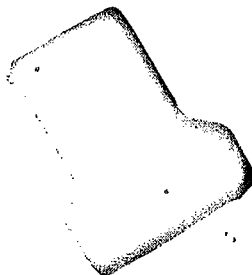
**KEEPS MOSQUITOES AWAY FROM BABY!**

■ Love Bug emits a safe, barely audible tone that emulates the sound of a dragonfly's wingbeat (mosquitoes **HATE** dragonflies!).

■ Love Bug is as effective as costly sprays or lotions but without the mess and potential danger to infants with skin sensitive to strong chemicals.

■ Effective within a 20 - 30 foot radius! The effectiveness of this product varies in individual situations.

**Directions:** Loosen screw on bottom of Love Bug and connect 9v battery to battery clip. Reposition cover and tighten screw. Flip switch and watch the mosquitoes stampede! Flashing **RED LIGHT** reminds you that Love Bug is functioning.



**Caution:** Love Bug is not a toy. Please keep out of the reach of small children.

© 1992 PRINCE LIONHEART, INC.  
2421 S. Westgate Rd.  
Santa Maria, CA 93455 USA

Made to PRINCE LIONHEART'S  
specifications in China



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Decision and Order

## **DECISION AND ORDER**

The Federal Trade Commission having initiated an investigation of certain acts and practices of the respondents named in the caption hereof, and the respondents having been furnished thereafter with a copy of a draft 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 respondent with violations of Section 5(a) of the Federal Trade Commission Act, as amended, 15 U.S.C. § 45(a); and

The respondents and counsel for the Commission having thereafter executed an agreement containing a consent order, and admission by the 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 respondents that the law has been violated as alleged in such complaint, or that the facts as alleged in such complaint, other than jurisdictional facts, are true, and waivers and other provisions as required by the Commission's Rules; and

The Commission having thereafter considered the matter and having determined that it had reason to believe that the respondents violated the said 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 thirty (30) days for the receipt and consideration of public comments, and having duly considered the comment filed thereafter from an interested person, now in further conformity with the procedure prescribed in Section 2.34 of its Rules, the Commission hereby issues its complaint, makes the following jurisdictional findings, and enters the following order:

1. Respondent Prince Lionheart, Inc., is a California corporation with its principal office or place of business at 2421 South Westgate Road, Santa Maria, California 93455.

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2. Respondent Thomas E. McConnell is President of the corporation. Individually or in concert with others, he formulates, directs, or controls the policies, acts, or practices of the corporation. His principal office or place of business is the same as that of Prince Lionheart, Inc.
3. The Federal Trade Commission has jurisdiction of the subject matter of this proceeding and of the respondents, and the proceeding is in the public interest.

**ORDER**

## 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 have 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, “respondents” shall mean Prince Lionheart, Inc., a corporation, its successors and assigns and its officers; Thomas E. McConnell, individually and as President of the corporation; and each of the above’s 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 respondents, directly or through any corporation, subsidiary, division, or other device, in connection with the manufacturing, labeling, advertising, promotion, offering

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for sale, sale, or distribution of the Electronic Mosquito Repeller or “Love Bug,” or any substantially similar product, in or affecting commerce, shall not make any representation, in any manner, expressly or by implication, that:

- A. such product repels mosquitoes from a baby or any person;
- B. such product is an effective alternative to the use of chemical products formulated to repel mosquitoes; or
- C. use of such product protects babies or other persons against contracting the West Nile virus,

unless the representation is true and, at the time it is made, respondents possess and rely upon competent and reliable scientific evidence that substantiates the representation. For purposes of this Part, “substantially similar product” shall mean any product that uses or purports to use sonic or ultrasonic technology to repel mosquitoes from the user.

II.

IT IS FURTHER ORDERED that respondents, 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 consumer electronic product, in or affecting commerce, shall not make any representation, in any manner, expressly or by implication, about the benefits, performance, or efficacy of such product, unless, at the time the representation is made, respondents possess and rely upon competent and reliable evidence, which when appropriate must be competent and reliable scientific evidence, that substantiates the representation.

III.

IT IS FURTHER ORDERED that respondent Prince

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Lionheart, Inc., and its successors and assigns, and respondent Thomas E. McConnell shall, within thirty (30) days after the date of service of this order, send, by first class certified mail, return receipt requested, to each catalog company or other wholesale or retail seller to which respondents have sold the “Love Bug” since January 1, 2002, a copy of this order together with the notice attached as Attachment A.

## IV.

IT IS FURTHER ORDERED that respondent Prince Lionheart, Inc., and its successors and assigns, and respondent Thomas E. McConnell shall, for three (3) 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.

## V.

IT IS FURTHER ORDERED that respondent Prince Lionheart, Inc., and its successors and assigns, and respondent Thomas E. McConnell shall, within thirty (30) days after the date of service of this order, deliver a copy of this order to all principals, officers, directors, and managers, and to all employees, agents, and representatives having responsibilities with respect to

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the subject matter of this order, and shall secure from each such person a signed and dated statement acknowledging receipt of the order. Respondents shall retain the signed, dated statements acknowledging receipt of the order for a period of three (3) years and upon request make them available to the Federal Trade Commission for inspection and copying.

VI.

IT IS FURTHER ORDERED that respondent Prince Lionheart, Inc., and its successors and assigns, shall notify the Commission at least thirty (30) days prior to any change in the corporation 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 respondent learns less than thirty (30) days prior to the date such action is to take place, respondent 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, Washington, D.C. 20580.

VII.

IT IS FURTHER ORDERED that respondent Thomas E. McConnell, for a period of five (5) years after the date of issuance of this order, shall notify the Commission of the discontinuance of his current business or employment, or of his affiliation with any new business or employment. The notice shall include the respondent's new business address and telephone number and a description of the nature of the business or employment and his duties and responsibilities. All notices required by this Part shall

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be sent by certified mail to the Associate Director, Division of Enforcement, Bureau of Consumer Protection, Federal Trade Commission, Washington, D.C. 20580.

## VIII.

IT IS FURTHER ORDERED that respondent Prince Lionheart, Inc., and its successors and assigns, and respondent Thomas E. McConnell shall, within sixty (60) days after the date of service of this order, and at such other 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. This report shall include a list of the names and addresses of respondents' customers who received the notice set forth in Attachment A, as required by Part III of this order.

## IX.

This order will terminate on September 1, 2024, 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

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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.

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**ATTACHMENT A**

[insert date]

Dear Prince Lionheart Customer,

This letter is to inform you that Prince Lionheart, Inc., recently settled a dispute with the Federal Trade Commission regarding advertising for our Electronic Mosquito Repeller, known as the “Love Bug.” The FTC complaint alleged that certain claims for this product are false and that we do not have a reasonable basis to substantiate the claims. Under the terms of the Stipulated Final Order that we have agreed to, we can no longer represent that:

- A. this product repels mosquitoes from a baby or any person;
- B. this product is an effective alternative to the use of chemical products formulated to repel mosquitoes; or
- C. use of this product protects babies or other persons against contracting the West Nile virus,

unless we can establish that the representation is true and supported by competent and reliable scientific evidence. Accordingly, we must instruct you to stop using advertising or promotional materials that make any of the representations prohibited by the settlement.

Sincerely yours,

Thomas E. McConnell  
President  
Prince Lionheart, Inc.

Analysis

**Analysis of Proposed Consent Order to Aid Public Comment**

The Federal Trade Commission has accepted, subject to final approval, an agreement to a proposed consent order by respondents Prince Lionheart, Inc., and Thomas E. McConnell, individually and as President of the corporation.

The proposed consent order has been placed on the public record for thirty (30) days for reception of comments by interested persons. Comments received during this period will become part of the public record. After thirty (30) days, the Commission will again review the agreement and the comments received and will decide whether it should withdraw from the agreement and take other appropriate action or make final the agreement's proposed order.

This matter concerns practices related to the advertising, offering for sale, sale, and distribution of an electronic mosquito repellent device called the "Love Bug." The Commission's complaint charged that respondents violated the Federal Trade Commission Act, 15 U.S.C. § 41 *et seq.*, by making representations that were false and for which they lacked a reasonable basis of substantiation. These representations concerned the following: the ability of the "Love Bug" to repel mosquitoes from a baby; the effectiveness of the "Love Bug" as an alternative to the use of chemical products formulated to repel mosquitoes; and the ability of the "Love Bug" to protect babies against contracting the West Nile virus.

Part I of the proposed order prohibits any representation that the "Love Bug," or any substantially similar product, (A) repels mosquitoes from a baby or any person; (B) is an effective alternative to the use of chemical products formulated to repel mosquitoes; or (C) protects babies or other persons against contracting the West Nile virus, unless the representation is true and respondents possess competent and reliable scientific evidence that substantiates the representation. For purposes of this part, a "substantially similar product" means any product that

## Analysis

uses or purports to use sonic or ultrasonic technology to repel mosquitoes from the user.

Part II of the proposed order prohibits unsubstantiated representations about the benefits, performance, or efficacy of any consumer electronic product.

Part III of the proposed order requires the respondents to send a letter (Attachment A to the consent agreement), with a copy of the order, to any catalog company or other wholesale or retail seller to which respondents have sold the “Love Bug” since January 1, 2002.

Part IV of the proposed order is a record keeping provision that requires the respondents to maintain certain records for three (3) years after the last date of dissemination of any representation covered by the order. These records include: (1) all advertisements and promotional materials containing the representation; (2) all materials relied upon in disseminating the representation; and (3) all evidence in respondents’ possession or control that contradicts, qualifies, or calls into question the representation or the basis for it.

Part V of the proposed order requires distribution of the order to principals, officers, directors, and managers, and to employees, agents, and representatives having responsibilities with respect to the subject matter of the order.

Part VI of the proposed order requires that the Commission be notified of any change in the corporation that might affect compliance obligations under the order. Part VII of the proposed order requires that for a period of five (5) years, the individual respondent notify the Commission of the discontinuance of his current business or employment or of his affiliation with any new business or employment.

Part VIII of the proposed order requires the respondents to file a compliance report with the Commission.

Analysis

Part IX of the proposed order states that, absent certain circumstance, the order will terminate twenty (20) years from the date it is issued.

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

Complaint

## IN THE MATTER OF

## KFC CORPORATION

CONSENT ORDER, ETC., IN REGARD TO ALLEGED VIOLATIONS OF  
SEC. 5 AND SEC. 12 OF THE FEDERAL TRADE COMMISSION ACT*Docket C-4118; File No. 0423033**Complaint, September 9, 2004--Decision, September 9, 2004*

This consent order, among other things, prohibits Respondent KFC Corporation from representing that eating KFC fried chicken is better for a consumer's health than eating a Burger King Whopper, or that eating KFC fried chicken is compatible with "low carbohydrate" weight loss programs, unless the representation is true and, at the time it is made, the respondent possesses and relies upon competent and reliable evidence – which in certain specified cases must be competent and reliable scientific evidence – that substantiates the representation. The order also prohibits the respondent from making certain representations about the absolute or comparative amount of fat, cholesterol, sodium, calories or any other nutrient in any food it sells that contains chicken; about the compatibility of such food with any weight loss program; or about the health benefits of such food, unless the representation is true and, at the time it is made, the respondent possesses and relies upon competent and reliable evidence – which in certain specified cases must be competent and reliable scientific evidence – that substantiates the representation. In addition, the order provides that representations conveying nutrient content or health claims that the Food and Drug Administration has by regulation defined for labeling purposes will be evaluated using the same nutrient thresholds that the FDA has established for those claims.

*Participants*

For the Commission: *Shira Modell, Michelle Rusk, Heather Hippsley, Mary K. Engle and Carolyn Cox.*

For the Respondent: *James H. Sneed, McDermott, Will & Emery.*

## COMPLAINT

The Federal Trade Commission, having reason to believe that KFC Corporation, a corporation, ("respondent"), has violated the provisions of the Federal Trade Commission Act, and it appearing