

**UNITED STATES OF AMERICA  
FEDERAL TRADE COMMISSION**

**COMMISSIONERS:**      **Timothy J. Muris, Chairman**  
                                 **Sheila F. Anthony**  
                                 **Mozelle W. Thompson**  
                                 **Orson Swindle**  
                                 **Thomas B. Leary**

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<b>In the Matter of</b>	)	<b>DOCKET NO. C-4084</b>
	)	
<b>THE LASER VISION INSTITUTE, LLC, )</b>	)	
<b>a corporation, et al.</b>	)	<b>DECISION AND ORDER</b>
	)	
	)	

The Federal Trade Commission having initiated an investigation of certain acts and practices of the respondents named in the caption hereof, and the respondents having been furnished thereafter with a copy of a draft of complaint which the Bureau of Consumer Protection proposed to present to the Commission for its consideration and which, if issued by the Commission, would charge respondents with violation of the Federal Trade Commission Act; and

The respondents, their attorney, and counsel for Federal Trade Commission having thereafter executed an agreement containing a consent order, an admission by the respondents of all the jurisdictional facts set forth in the aforesaid draft of complaint, a statement that the signing of said agreement is for settlement purposes only and does not constitute an admission by respondents that the law has been violated as alleged in such complaint, 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 have violated the said Act, and that complaint should issue stating its charges in that respect, and having thereupon accepted the executed consent agreement and placed such agreement on the public record for a period of thirty (30) days for the receipt and



3. "Refractive surgery services" shall mean any surgical procedure designed to improve the focusing power of the eye by permanently changing the shape of the cornea.
4. "Device," shall mean as defined in Section 15 of the Federal Trade Commission Act, 15 U.S.C. § 55.
5. "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 advertising, promotion, offering for sale, or sale of LASIK surgery services or any other refractive surgery services, in or affecting commerce, shall not represent, in any manner, expressly or by implication, that such services:

- A. Eliminate the need for glasses and contacts for life;
- B. Eliminate the need for reading glasses; or
- C. Eliminate the need for bifocals,

unless, at the time it is made, respondents possess and rely upon competent and reliable scientific evidence that substantiates the representation.

II.

IT IS FURTHER ORDERED that respondents, directly or through any corporation, subsidiary, division, or other device, in connection with the advertising, promotion, offering for sale, or sale, of LASIK refractive surgery services or any other refractive surgery services, in or affecting commerce, shall not make any representation, in any manner, expressly or by implication, about the efficacy, safety, unless, at the time it is made, respondents possess and rely, e

- A. That consumers will receive a free consultation that determines their candidacy for LASIK or any other refractive surgery services,
- B. The cost to consumers to have their candidacy for refractive surgery services determined, or
- C. The information consumers will receive during a consultation for refractive surgery services.

IV.

Nothing in this order shall prohibit respondents from making any representation for any device that is permitted in labeling for such device under any new medical device application approved by the Food and Drug Administration.

V.

IT IS FURTHER ORDERED that respondent The Laser Vision Institute, LLC, and its successors and assigns, and respondents Marco Musa, Max Musa, and Marc' Andrea Musa 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 Laser Vision Institute, LLC, and its successors and assigns, and respondents Marco Musa, Max Musa, and Marc' Andrea Musa shall deliver a copy of this order to all current and future principals, officers, and directors, and to all current and future employees, agents, 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. Respondents 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.

## VII.

IT IS FURTHER ORDERED that respondent The Laser Vision Institute, LLC., 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, 600 Pennsylvania Avenue, N.W., Washington, D.C. 20580.

## VIII.

IT IS FURTHER ORDERED that respondents Marco Musa, Max Musa, and Marc' Andrea Musa, for a period of five (5) years after the date of issuance of this order, shall notify the Commission of the discontinuance of their individual current business or employment, or of their individual affiliation with any new business or employment in the eye care industry. The notice shall include 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 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.

## IX.

IT IS FURTHER ORDERED that respondent The Laser Vision Institute, and its successors and assigns, and respondents Marco Musa, Max Musa, and Marc' Andrea Musa shall, within sixty (60) days after 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.

## X.

This order will terminate on July 8, 2023, 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,

- 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.

Donald S. Clark  
Secretary

ISSUED: July 8, 2003.  
SEAL