

UN



days and information about it publicly released. The Commission thereafter may either withdraw its acceptance of this agreement and so notify proposed respondent, in which event it will take such action as it may consider appropriate, or issue and serve its complaint (in such form as the circumstances may require) and decision in disposition of the proceeding.

5. This agreement is for settlement purposes only and does not constitute an admission by proposed respondent that the law has been violated as alleged in the draft complaint, or that the facts as alleged in the draft complaint, other than the jurisdictional facts, are true.

6. This agreement contemplates that, if it is accepted by the Commission, and if such acceptance is not subsequently withdrawn by the Commission pursuant to the provisions of Section 2.34 of the Commission's Rules, the Commission may, without further notice to proposed respondent, (1) issue its complaint corresponding in form and substance with the attached draft complaint and its decision containing the following order in disposition of the proceeding, and (2) make information about it public. When so entered, the order shall have the same force and effect and may be altered, modified, or set aside in the same manner and within the same time provided by statute for other orders. The order shall become final upon service. Delivery of the complaint and the decision and order to proposed respondent's address as stated in this agreement by any means specified in Section 4.4(a) of the Commission's Rules shall constitute service. Proposed respondent waives any right it may have to any other manner of service. The complaint may be used in construing the terms of the order. No agreement, understanding, representation, or interpretation not contained in the order or in the agreement may be used to vary or contradict the terms of the order.

7. Proposed respondent has read the draft complaint and consent order Proposed

I.

IT IS ORDERED that respondent, directly or through any corporation, partnership, subsidiary, division, trade name, or other device, in connection with the manufacturing, labeling, advertising, promotion, offering for sale, sale, or distribution of the Oreck Halo or any other vacuum cleaner, in or affecting commerce, shall not make, or assist others in making, any representation, in any manner, expressly or by implication, including through the use of a product name, endorsement, depiction, or illustration:

- A. that such product reduces the risk of or prevents the flu;
- B. that such product reduces the risk of or prevents illnesses or ailments caused by bacteria, viruses, molds, or allergens, such as the common cold, diarrhea, upset stomachs, asthma and allergy symptoms;
- C. that such product will eliminate all or virtually all germs, bacteria, dust mites, molds, viruses or allergens from a user's floor;
- D. about the ability of such product to eliminate any percent or numerical quantity of germs, bacteria, dust mites, molds, viruses or allergens from a user's floor; and
- E. that ultraviolet light is effective against germs, bacteria, dust mites, molds, viruses or allergens embedded in carpets;

unless the representation is non-misleading and, at the time it is made, respondent possesses and relies upon competent and reliable scientific evidence that is sufficient in quality and quantity based on standards generally accepted in the relevant scientific fields, when considered in light of the entire body of relevant and reliable scientific evidence, to substantiate that the representation is true.

II.

IT IS FURTHER ORDERED that respondent, directly or through any corporation, partnership, subsidiary, division, trade name, or other device, in connection with the manufacturing, labeling, advertising, promotion, offering for sale, sale, or distribution of the Oreck ProShield Plus or any other air cleaning product, in or affecting commerce, shall not make, or

- C. that such product will eliminate all or virtually all indoor airborne particles under normal living conditions; and
- D. about the ability of such product to eliminate any percent or numerical quantity of indoor air contaminants under normal living conditions;

unless the representation is non-misleading and, at the time it is made, respondent possesses and relies upon competent and reliable scientific evidence that is sufficient in quality and quantity based on standards generally accepted in the relevant scientific fields, when considered in light of the entire body of relevant and reliable scientific evidence, to substantiate that the representation is true.

III.

IT IS FURTHER ORDERED that respondent, directly or through any corporation, partnership, subsidiary, division, trade name, or other device, in connection with the manufacturing, labeling, advertising, promotion, offering for sale, sale, or distribution of any product in or affecting commerce, shall not make, or assist others in making, any representation, in any manner, expressly or by implication, including through the use of a product name, endorsement, depiction, or illustration, other than representations covered under Parts I and II of this order, about the absolute or comparative health benefits of such product, unless the representation is non-misleading, and, at the time of making such representation, the respondent possesses and relies upon competent and reliable scientific evidence that is sufficient in quality and quantity based on standards generally accepted in the relevant scientific fields, when considered in light of the entire body of relevant and reliable scientific evidence, to substantiate that the representation is true.

IV.

IT IS FURTHER ORDERED that respondent, directly or through any corporation, partnership, subsidiary, division, trade name, or other device, in connection with the manufacturing, labeling, advertising, promotion, offering for sale, sale, or distribution of any product in or affecting commerce, shall not misrepresent, or assist others in misrepresenting, in any manner, expressly or by implication, the existence, contents, validity, results, conclusions, or interpretations of any test, study, or research.

V.

IT IS FURTHER ORDERED that respondent shall, within thirty (30) days after the date of entry of this order, provide to the Commission a searchable electronic file containing the name and contact information of all consumers who purchased the Oreck Halo or the Oreck

shall be takee 6 of 10P0ee 6 of 10

IX.

IT IS FURTHER ORDERED that respondent Oreck Corporation and its successors and assigns shall deliver a copy of this order to all current and future principals, officers, directors, and other employees having primary 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 Oreck Corporation and its successors and assigns 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.

X.

IT IS FURTHER ORDERED that respondent Oreck 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 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. Unless otherwise directed by a representative of the Commission, all notices required by this Part shall be sent by overnight courier (not the U.S. Postal Service) to the Associate Director of Enforcement, Bureau of Consumer Protection, Federal Trade Commission, 600 Pennsylvania Avenue NW, Washington, DC 20580, with the subject line: In the Matter of Oreck Corporation, FTC File Number 102-3033. Provided, however, that, in lieu of overnight courier, notices may be sent by first-class mail, but only if an electronic version of such notices is contemporaneously sent to the Commission at Debrief@ftc.gov.

XI.

IT IS FURTHER ORDERED that respondent Oreck Corporation and its successors and assigns shall, within sixty (60) days after the date of service of this order, file with the Commission a true and accurate report, in writing, setting forth in detail the manner and form of its own compliance with this order. Within ten (10) days of receipt of written notice from a representative of the Commission, they shall submit additional true and accurate written reports.

XII.

This order will terminate twenty (20) years from the date of its issuance, 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 is such compl

d, howe

0.0 tr tmiss.5200 0.1.2800 0.0000 TDal0.00rul 0.0000 53.1600 0.0000 TD(ha)ieitr

Date: _____

BRIAN D. FERGEMANN
Winston & Strawn LLP
35 W. Wacker Drive
Chicago, IL 60601-9703

Attorneys for Respondents

Date: _____

MATTHEW D. GOLD
KERRY O'BRIEN
Counsel for the Federal Trade Commission

APPROVED:

JEFFREY KLURFELD
Director
Western Region

DAVID C. VLADECK
Director
Bureau of Consumer Protection

[ON ORECK CORPORATION LETTERHEAD]

IMPORTANT NOTICE ABOUT GOVER