

Decision and Order

**DECISION AND ORDER**

The Commission having heretofore issued its Complaint charging the Respondents named in the caption hereof with violation of Sections 5(a) and 12 of the Federal Trade Commission Act, 15 U.S.C. §§ 45(a) and 52, as amended, and Respondents having been served with a copy of that Complaint, together with a notice of contemplated relief; and

Respondents, their attorneys, and counsel for the Commission having thereafter executed an Agreement Containing Consent Order, an admission by Respondents of all the jurisdictional facts set forth in the 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The Secretary of the Commission having thereafter withdrawn this matter from adjudication in accordance with §§ 3.25(c) of its Rules; and

The Commission having considered the matter and having thereupon accepted the executed Consent Agreement and placed such Agreement on the public record for a period of thirty (30) days, now in further conformity with the procedure prescribed in § 3.25(f) of its Rules, the Commission hereby makes the following jurisdictional findings and enters the following Order:

1. Respondent Lentek International, Inc., is a Florida corporation with its principal office or place of business at 1629 Prime Court, Suite 800, Orlando, Florida 32859.
2. Respondent Joseph Durek was the Chairman and Chief Executive Officer of the corporate respondent while the respondents engaged in the practices alleged in the complaint issued by the Federal Trade Commission. He exercised

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managerial responsibilities with respect to administrative and accounting functions; international operations; press releases and media relations; evaluation and testing of Lentek products; and labeling, packaging, and advertising of Lentek products. He resides at 5404 Monterrey Club Court, Windermere, FL 34786.

3. Respondent Lou Lentine is President of the corporate respondent. He has exercised managerial responsibilities with respect to domestic sales and operations; the manufacturing, purchasing and development of Lentek products; and the advertising of Lentek products. His principal office or place of business is the same as that of Lentek International, Inc.

4. The Federal Trade Commission has jurisdiction of the subject matter of this proceeding and of 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. "Pest control product" shall mean any PestContro, YardContro, MoleContro, FleaContro, or MosquitoContro product, or any other product utilizing sonic, ultrasonic, and/or electromagnetic technology, which is designed, advertised, or intended to repel, control, or eliminate any animal pest, including but not limited to, rodents and insects.

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3. "Air cleaning product" shall mean any Sila Air Cleaning product or any other product designed, advertised, or intended to remove, treat, or reduce the level of any pollutant(s) in the air.
4. "Indoor air pollutant(s)" or "pollutant(s)" shall mean one or more of the following: dust, smoke, soot, pollen, mold, mildew, fungi, bacteria, germs, cigarette smoke, smog, car exhaust, car fumes, pet dander, dust mites, dead skin flakes, chemical fumes, benzene, ammonia, chloroform, formaldehyde, benzopyrene, hydrocarbons, trichloroethylene, and xylene, or any other gaseous, microbial, or particulate matter found in indoor or vehicular air.
5. Unless otherwise specified, "respondents" shall mean Lentek International, Inc., a corporation, its successors and assigns and its officers; Joseph Durek, individually; Lou Lentine, individually and as an officer of the corporation; and each of the above's agents, representatives, and employees.
6. "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 for sale, sale, or distribution of any air cleaning product, in or affecting commerce, shall not represent, in any manner, expressly or by implication, that:

- A. such product will eliminate, remove, clear, clean, neutralize, sanitize, oxidize, control or reduce any indoor air pollutant in a user's environment; or
- B. use of such product prevents, reduces the incidence of, or provides relief from any medical or health-related condition,

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unless, at the time of making such representation, 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 manufacturing, labeling, advertising, promotion, offering for sale, sale, or distribution of any pest control product, in or affecting commerce, shall not make any representation, in any manner, expressly or by implication, that such pest control product will:

- A. repel, control, or eliminate, temporarily or indefinitely, any rodent, insect, or other animal pests; or
- B. repel, control, or eliminate, any rodent, insect, or other animal pest in a desired area or an area of a certain size,

unless, at the time of making such representation, respondents possess and rely upon competent and reliable scientific evidence that substantiates the representation.

III.

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 the PestContro Original, PestContro Deluxe, or any substantially similar product, in or affecting commerce, shall not make any representation, in any manner, expressly or by implication, that such product will alter the electromagnetic field inside the walls or wiring of a home in a manner that drives away insects, rodents, and other animal pests, 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

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purposes of this Part, “substantially similar product” shall mean any pest control product that uses or purports to use electromagnetic technology.

## IV.

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 the MosquitoContro products, 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 user’s body; or
- B. such product is an effective alternative to the use of chemical pesticides or other products formulated to kill or repel mosquitoes,

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’s body.

## V.

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 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

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competent and reliable scientific evidence, that substantiates the representation.

VI.

IT IS FURTHER ORDERED that respondent Lentek International, Inc., and its successors and assigns, and respondents Joseph Durek and Lou Lentine 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.

VII.

IT IS FURTHER ORDERED that respondent Lentek International, Inc., and its successors and assigns, and respondents Joseph Durek and Lou Lentine shall deliver a copy of this order to all current and future principals, officers, directors, and managers, and to all current and future employees 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, by certified mail return receipt requested, a copy of this order to all current and future agents and representatives having responsibilities with respect to the subject matter of this order, and

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shall maintain a record of all such agents and representatives to whom the order was delivered. 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. Respondents shall retain the signed, dated statements acknowledging receipt of the order, and the records, including return receipts, showing the agents and representatives to whom the order was delivered by mail, for a period of five (5) years and upon request make these documents available to the Federal Trade Commission for inspection and copying.

## VIII.

IT IS FURTHER ORDERED that respondent Lentek International, 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.

## IX.

IT IS FURTHER ORDERED that respondents Joseph Durek and Lou Lentine, for a period of ten (10) years after the date of issuance of this order, shall notify the Commission of the

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discontinuance of their current business or employment, or of their affiliation with any new business or employment involving the sale of consumer products or services. 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 be sent by certified mail to the Associate Director, Division of Enforcement, Bureau of Consumer Protection, Federal Trade Commission, Washington, D.C. 20580.

X.

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IT IS FURTHER ORDERED that respondent Lentek International, Inc., and its successors and assigns, and respondents Joseph Durek and Lou Lentine 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.

XI.

This order will terminate on March 14, 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, 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.



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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.