

UNITED STATES OF AMERICA
FEDERAL TRADE COMMISSION

_____)
In the Matter of)
)
American Plastic Manufacturing, Inc.,) File No. 122 3291
a corporation.)
_____)

AGREEMENT CONTAINING CONSENT ORDER

The Federal Trade Commission ("Commission") has conducted an investigation of certain acts and practices of American Plastic Manufacturing, a corporation ("proposed respondent"). Proposed respondent, having been represented by counsel, is willing to enter into an agreement containing a consent order resolving the allegations contained in the attached draft complaint. Therefore,

IT IS HEREBY AGREED by and between American Plastic Manufacturing, by its duly authorized officers, and counsel for the Commission that:

1. Proposed respondent American Plastic Manufacturing, Inc., a Washington corporation with its principal office or place of business at 526 South Monroe Street, Seattle, WA 98108.
2. Proposed respondent neither admits nor denies the allegations in the draft complaint, except as specifically stated in this order. Only for purposes of this action, proposed respondent admits the facts necessary to establish jurisdiction.

C. All rights to seek judicial review or otherwise to challenge the order entered pursuant to this agreement are waived.

4. This agreement shall not become part of the public record until it is accepted by the Commission. If this agreement is accepted, together with the draft complaint, will be placed on the public record and information about it publicly released. The Commission may withdraw its acceptance of this agreement and so notify proposed respondent.

will take such action as it may ~~code~~ 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 This agreement contemplates that, if it is accepted by the Commission, and if such acceptance is not ~~subsequently~~ withdrawn by the Commission pursuant to the provisions of Section 2.34 of the Commission's Rules, the Commission may, without further notice to proposed respondent, (1)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.

6. Proposed respondent has read the draft complaint and consent order. It understands that it may be liable for civil penalties in the amount provided by law and other appropriate relief for each violation of the order after it becomes final.

ORDER

DEFINITIONS

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

1. "Clearly and Prominently" means follows:
 - A. In print communications, the disclosure shall be presented in a manner that stands out from the accompanying text, so that it is sufficiently prominent, because of its type size, contrast, location, or other characteristics, for an ordinary consumer to notice, read and comprehend it;
 - B. In communications made through an electronic medium (such as television, video, radio, and interactive media such as the Internet, online services, and software), the disclosure shall be presented simultaneously in both the audio and visual portions of the communication. In any communication presented solely through visual or audio means, the disclosure shall be made through the same means through which the communication is presented. In any communication disseminated by means of an interactive electronic medium such as software, the Internet, or online services, the disclosure must be unavoidable. Any audio disclosure shall be delivered in a volume and cadence sufficient for an ordinary consumer to hear and comprehend it. Any visual disclosure shall be presented in a manner that stands out in the context in which it is presented, so that it is

5. "Customary disposal" means any disposal method whereby respondent's products ultimately will be disposed of in a landfill, in an incinerator, or in a recycling facility

6. "Degradable" includes biodegradable, oxo-biodegradable, degradable, or photodegradable, or any variation thereof.

7. "Landfill" means a municipal solid waste landfill that receives household waste. "Landfill" does not include landfills that are operated as bioreactors or those that are actively managed to enhance decomposition.

8. Unless otherwise specified, "respondent" means American Plastic Manufacturing, a corporation, and its successors and assigns.

I.

IT IS ORDERED that

- B. That any such product, package, or service offers any environmental benefit, unless the representation is true, not misleading, and, at the time it is made, respondent possesses and relies upon competent and reliable evidence, which when appropriate must be competent and reliable scientific evidence, that substantiates the representation.

II.

IT IS FURTHER ORDERED that respondent 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 Commission for inspection and copying:

- A. All advertisements, labeling, packaging and promotional materials containing the representations specified in Part I
- B. All materials that were relied upon in disseminating the representations specified in Part I
- C. All tests, reports, studies, surveys, demonstrations, or other evidence in its 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; and
- D. All acknowledgments of receipt of this order, obtained pursuant to Part III.

III.

IT IS FURTHER ORDERED that respondent shall deliver a copy of this order to current and future subsidiaries, current and future principals, officers, directors, and managers, and to all current and future employees, agents, and representatives having responsibilities relating to the subject matter of this order. Respondent shall secure from each such person a signed and dated statement acknowledging receipt of the order, with any electronic signatures complying with the requirements of the E-Sign Act, 15 U.S.C. § 7001 et seq. 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.

IV.

IT IS FURTHER ORDERED that respondent 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, dissolution, assignment, sale, merger, or other action that would result in the emergence of a successor entity; 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 business or 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,

Signed this _____ day of _____, 2013.

FEDERAL TRADE COMMISSION

AMERICAN PLASTIC
MANUFACTURING, INC.

KATHERINE JOHNSON
KORIN EWING FELIX
ELISA K. JILLSON
Counsel for the FTC

JEWEL VUONG
Vice President
American Plastic Manufacturing, Inc.

APPROVED:

JAMES A. KOHM
Associate Director
Division of Enforcement

JESSICA RICH
Director
Bureau of Consumer Protection