

UNITED STATES OF AMERICA
BEFORE FEDERAL TRADE COMMISSION

In the Matter of
RBR PRODUCTIONS, INC.,
a corporation, and
RICHARD ROSENBERG,

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File No. 942 3322

- (a) Any further procedural steps;
- (b) The requirement that the Commission's decision contain a statement of findings of fact and conclusions of law;
- (c) All rights to seek judicial review or otherwise to challenge or contest the validity of the order entered pursuant to this agreement; and
- (d) Any claim under the Equal Access to Justice Act.

4. This agreement shall not become part of the public record of the proceeding unless and until it is accepted by the Commission. If this agreement is accepted by the Commission it, together with the draft of complaint contemplated thereby, will be placed on the public record for a period of sixty (60) days and information in respect thereto publicly released. The Commission thereafter may either withdraw its acceptance of this agreement and so notify the proposed respondents, 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 respondents of facts, other than jurisdictional facts, or of violations of law as alleged in the draft of complaint here attached.

7. Proposed respondents have read the proposed complaint and order contemplated hereby. They understand that once the order has been issued, they will be required to file one or more compliance reports showing that they have fully complied with the order. Proposed respondents further understand that they may be liable for civil penalties in the amount provided by law for each violation of the order after it becomes final.

ORDER

DEFINITIONS

For the purposes of this Order:

1. "Competent and reliable scientific evidence" shall mean tests, analyses, research, studies, or other evidence based upon the expertise of professionals in the relevant area, that has 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. "Volatile organic compound" ("VOC") shall mean any compound of carbon which participates in atmospheric photochemical reactions as defined by the U.S. Environmental Protection Agency at 40 C.F.R. §51.100(s), and as subsequently amended. When the final rule was promulgated, 57 Fed. Reg. 3941 (February 3, 1992), the EPA definition excluded carbon monoxide, carbon dioxide, carbonic acid, metallic carbides or carbonates, ammonium carbonate and certain listed compounds that EPA has determined are of negligible photochemical reactivity.

I.

IT IS ORDERED that respondents, RBR Productions, Inc., a corporation, its successors and assigns, and its officers, and Richard Rosenberg, individually and as an officer and director of said corporation, and respondents' agents, representatives, and employees, directly or through any partnership, corporation, subsidiary, division, or other device, in connection with the manufacturing, labeling, advertising, promotion, offering for sale, sale, or distribution of Let's Dance and Let's Touch disinfectants, in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from misrepresenting, in any manner, directly or by implication, that:

- A. Let's Dance concentrate is non-corrosive to skin or eyes, non-toxic, or does not pose a risk of adverse health effects;
- B. Let's Touch concentrate is non-toxic or does not pose a risk of adverse health effects; or
- C. Let's Dance and Let's Touch use dilutions are classified as non-toxic under the Federal Hazardous Substances Act regulations.

II.

IT IS FURTHER ORDERED that respondents, RBR Productions, Inc., a corporation, its successors and assigns, and its officers, and Richard Rosenberg, individually and as an officer and director of said corporation, and respondents' agents, representatives, and employees, directly or through any partnership, corporation, subsidiary, division, or other device:

A. In connection with the manufacturing, labeling, advertising, promotion, offering for sale, sale, or distribution of Let's Dance and Let's Touch disinfectants, in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from representing, in any manner, directly or by implication, that:

1. Let's Dance or Let's Touch use dilutions are non-toxic or do not pose a risk of adverse health effects;
2. Let's Dance or Let's Touch concentrates or use dilutions are less toxic than quaternary ammonium compound disinfectants or any other disinfectant or product;
3. Let's Dance is biodegradable;
4. Let's Dance is safe for the environment after ordinary use; and

B. In connection with the manufacturing, labeling, advertising, promotion, offering for sale, sale, or distribution of Let's Go spray or any other product containing any volatile organic compound, through the use of such terms as "environmental formula," "environmental formula, freon free, ozone friendly," "environmental formula, will not harm the ozone, contains no freon, chlorofluorocarbons, methylene chloride, or 1,1,1-

trichloroethane," or any other term or expression, that any such product will not harm the environment; and

C. In connection with the manufacturing, labeling, advertising, promotion, offering for sale, sale, or distribution of any disinfectant or aerosol product in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from representing, in any manner, directly or by implication, that such product will offer any absolute or comparative health, safety, or environmental benefit;

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

III.

A. **IT IS FURTHER ORDERED** that respondents, RBR Productions, Inc., a corporation, its successors and assigns, and its officers, and Richard Rosenberg, individually and as an officer and director of said corporation, and respondents' agents, representatives, and employees, directly or through any partnership, corporation, subsidiary, division, or other device, in connection with the manufacturing, labeling, advertising, promotion, offering for sale, sale, or distribution of any product or package, in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from misrepresenting, in any manner, directly or by implication, the extent to which:

- (1) any such product or package is capable of being recycled; or,
- (2) recycling collection programs for such product or package are available.

B. **PROVIDED**, however, respondents will not be in violation of Part III.A(2) of this Order, in connection with the advertising, labeling, offering for sale, sale or distribution of any aluminum aerosol can, if it truthfully represents that such package is recyclable, provided that:

- (1) respondent discloses clearly, prominently, and in close proximity to such representation:
 - (a) that such packaging is recyclable in the few communities with recycling collection programs for aluminum aerosol cans; or

(b) the approximate number of U.S. communities with recycling collection programs for such aluminum aerosol cans; or

(c) the approximate percentage of U.S. communities or the U.S. population to which recycling collection programs for such aluminum aerosol cans are available.

For the purposes of this Order, a disclosure elsewhere on the product package shall be deemed to be "in close proximity" to such representation if there is a clear and conspicuous cross-reference to the disclosure. The use of an asterisk or other symbol shall not constitute a clear and conspicuous cross-reference. A cross-reference shall be deemed clear and conspicuous if it is of sufficient prominence to be readily noticeable and readable by the prospective purchaser when examining the part of the package on which the representation appears.

IV.

IT IS FURTHER ORDERED that for five (5) years after the last date of dissemination of any representation covered by this Order, respondents, or their successors or assigns, shall maintain and upon request make available to the Federal Trade Commission or its staff for inspection and copying:

- A. All materials that were relied upon in disseminating such representation; and
- B. All tests, reports, studies, surveys, demonstrations, or other evidence in their possession or control that contradict, qualify, or call into question such representation, or the basis relied upon for such representation, including complaints from consumers and complaints or inquiries from governmental organizations.

V.

IT IS FURTHER ORDERED that respondent RBR Productions, Inc. shall distribute a copy of this Order to each of its operating divisions and to each of its officers, agents, representatives, or employees engaged in the preparation and placement of advertisements, promotional materials, product labels or other such sales materials covered by this order.

VI.

IT IS FURTHER ORDERED that respondent RBR Productions, Inc.,

appealing such dismissal or ruling and the date such dismissal or ruling is upheld on appeal.

IX.

IT IS FURTHER ORDERED that respondents shall, within sixty (60) days after service of this Order upon them, and at such other times as the 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.

Signed this _____ day of _____, 199__.

RBR PRODUCTIONS, INC.
a corporation

By: _____
an officer of said corporation

RICHARD ROSENBERG, individually
and as an officer and director of
RBR Productions, Inc.

JANET M. EVANS
Counsel for the Federal Trade
Commission

MICHAEL DERSHOWITZ
Counsel for the Federal Trade
Commission

APPROVED:

C. LEE PEELER
Associate Director
Division of Advertising Practices

JOAN Z. BERNSTEIN
Director
Bureau of Consumer Protection

UNITED STATES OF AMERICA
BEFORE FEDERAL TRADE COMMISSION

In the Matter of)
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RBR PRODUCTIONS, INC.,) File No. 9423322
a corporation, and)
RICHARD ROSENBERG,)
individually and as an)
officer and director of)
said corporation.)
)
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COMPLAINT

The Federal Trade Commission, having reason to believe that RBR Productions, Inc., a corporation, and Richard Rosenberg, individually and as an officer and director of said corporation ("respondents"), have violated the provisions of the Federal Trade Commission Act, and it appearing to the Commission that a proceeding by it in respect thereof would be in the public interest, alleges:

PARAGRAPH ONE: Respondent RBR Productions, Inc., is a New Jersey corporation, with its offices and principal place of business located at 1010 Hoyt Avenue, Ridgefield, New Jersey 07657. From time to time, RBR Productions, Inc., does business under the name of Isabel Cristina Beauty Care Products.

Respondent Richard Rosenberg is or was at relevant times herein an officer and director of RBR Productions, Inc. Individually or in concert with others, he formulates, directs, and controls the acts and practices of the corporate respondent, including the acts and practices alleged in this complaint. His office and principal place of business is the same as that of RBR Productions, Inc.

PARAGRAPH TWO: Respondents have advertised, offered for sale, sold, and distributed products for use in beauty salons, including Let's Dance, a concentrated disinfectant product that contains o-phenylphenol, para-tertiary amylphenol and phosphoric acid and is designed to be diluted and used for disinfection of non-metal instruments and other non-metal, non-porous surfaces; Let's Touch, a concentrated disinfectant product that contains o-

phenylphenol and is designed to be diluted and used for cleaning and storage of metal beauty care instruments such as manicure scissors; and Let's Go spray, an aerosol spray that contains the volatile organic compounds ("VOCs") isobutane and propane and is designed for speeding nail glue drying.

PARAGRAPH THREE: 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.

PARAGRAPH FOUR: Respondents have disseminated or caused to be disseminated advertisements and promotional materials for Let's Dance and Let's Touch, including but not necessarily limited to the advertisements and promotional materials attached hereto as Exhibits A through D. These advertisements and promotional materials contain the following statements and depictions:

(a) Brochure front:

Let's Touch

* * *

- Sold in pre-measured packets

Let's Dance

* * *

- Ultra concentrated for ease of use and storage...

[depiction of concentrated and diluted products]

Brochure back:

Here's why the combination of scientific and beauty care industry experience of the ISABEL CRISTINA team means more professional results for you.

[depiction of concentrated and diluted products]

**Let's Touch
and Let's Dance**

* * *

- EPA registered and meet or exceed all federal OSHA and State Board requirements.
Environmentally safe, biodegradable and non toxic.
- Sold as concentrates for reduced shipping, storage and handling costs Packet-only re-orders reduce costs even more.

* * *

Let's Dance use dilution: pH 2.6
Let's Touch use dilution: pH 10.6

- Let's Dance and Let's Touch are:**
- Environmentally Safe
 - Non-Toxic
 - Non-Corrosive to Skin and Eyes
 - Bio-degradable

Comparative Disinfectants Chart						
	Let's Touch	Let's Dance	Quats	Alcohol	Ultra-Violet	Glass Bead
* * *						
No Damage to Environmental Surfaces	Yes	Yes	Yes ¹	No	No	No
Non-Corrosive to Skin and Eyes	Yes	Yes	Yes ¹	No	No	No
Non-Toxic	Yes	Yes	No ¹	No	---	---
* * *						

¹ Perhaps. Consult EPA offices.

[EXHIBIT A-chart is abbreviated]

(b) Magazine ad:

LET'S DANCE!
BECAUSE...
TOMORROW'S WORLD DEPENDS ON YOU

Environmentally Safe One Step Hospital Grade Disinfectant,
 Cleaner, and Deodorizer for Salons

[depiction of concentrated and diluted product]

Let's Dance!

- Environmentally Safe

(e) Proper Disinfection For The Beauty Industry--Video
Transcript:

* * * *

Speaker: Phenols are another group of disinfectants. They are a benzene molecule derivative -- which means they are a very safe way to disinfect. Phenols are about 3 to 5 times less toxic than Quats when ingested. Buffered Phenols are non-corrosive to skin and eyes, non-toxic, they're biodegradable, environmentally safe, and last longer than other forms of disinfection because they're not as sensitive to organic matter....

Super: Phenols
-very safe way to disinfect
-3 to 5 times less toxic than quats
-buffered phenols are non-corrosive to skin
and eyes
-biodegradable & non-toxic
-environmentally safe
-last longer-not as sensitive to organic
matter
-little residue

* * *

Speaker: Armed with the knowledge you now have, you're just beginning to get an appreciation for some of the complexities, and variables involved with just trying to keep your instruments clean. . . . You might even be thinking -- "Does a disinfecting system exist out there that answers my needs?" Well, there is, and that's where we fit in We are ISABEL CRISTINA. We have developed a superior Disinfecting System -- consisting of LET'S TOUCH AND LET'S DANCE Let's Touch and Let's Dance are extremely unique products designed specifically for people in the salon industry, by people in the salon industry. Let's Touch and Let's Dance use solutions are completely non-corrosive to the skin and eyes, non-toxic, biodegradable and environmentally safe, which means you can pour them down the drain.

Super: Let's Touch & Let's Dance

Non-corrosive to Skin & Eyes
Non-toxic
Biodegradable
Environmentally Safe

* * *

Speaker: Let's Touch comes in pre-measured packets with a mixing jar and a starting kit. A child could mix it, its so simple!

* * *

PARAGRAPH FIVE: Through the use of the statements and depictions contained in the advertisements and promotional materials referred to in PARAGRAPH FOUR, including but not necessarily limited to the advertisements and promotional materials attached as Exhibits A through D, respondents have

- d) Let's Dance will completely break down and return to nature -- i.e., decompose into elements found in nature -- within a reasonably short period of time after customary disposal.

PARAGRAPH EIGHT: Through the use of the statements and depictions contained in the advertisements and promotional materials referred to in PARAGRAPH FOUR, including but not necessarily limited to the advertisements and promotional materials attached as Exhibits A through D, respondents have represented, directly or by implication, that at the time they made the representations set forth in PARAGRAPHS FIVE and SEVEN, respondents possessed and relied upon a reasonable basis that substantiated such representations.

(g) Magazine ad:

LET'S GO

* * *

Environmental Formula -- Freon Free
Ozone Friendly

Recyclable aluminum

[EXHIBIT F]

PARAGRAPH ELEVEN: Through the use of the statements and depictions contained in the advertisements and promotional materials referred to in PARAGRAPH TEN, including but not limited to the advertisement and labeling attached as Exhibits E and F, respondents have represented, directly or by implication, that the Let's Go spray aluminum aerosol can is recyclable.

PARAGRAPH TWELVE: In truth and in fact, while the Let's Go aluminum aerosol can is capable of being recycled, there are only a few collection facilities that accept aluminum aerosol cans for recycling. Therefore, the representation set forth in PARAGRAPH ELEVEN was, and is, false and misleading.

PARAGRAPH THIRTEEN: Through the use of the statements and depictions contained in the advertisements and promotional materials referred to in PARAGRAPH TEN, including but not necessarily limited to the advertisements and labeling attached as Exhibits E and F, respondents have represented, directly or by implication, that Let's Go spray does not contain any ingredients that harm or damage the environment.

PARAGRAPH FOURTEEN: Through the use of the statements and depictions contained in the advertisements and promotional materials referred to in PARAGRAPH TEN, including but not necessarily limited to the advertisements and labeling attached as Exhibits E and F, respondents have represented, directly or by implication, that at the time they made the representations set forth in PARAGRAPHS ELEVEN and THIRTEEN, respondents possessed and relied upon a reasonable basis that substantiated such representations.

PARAGRAPH FIFTEEN: In truth and in fact, at the time they made the representations set forth in PARAGRAPH ELEVEN and THIRTEEN, respondents did not possess and rely upon a reasonable

basis that substantiated such representations. Therefore, the representation set forth in PARAGRAPH FOURTEEN was, and is, false and misleading.

PARAGRAPH SIXTEEN: The acts and practices of respondents as alleged in this complaint constitute unfair or deceptive acts or practices in or affecting commerce in violation of Section 5(a) of the Federal Trade Commission Act.

Therefore, the Federal Trade Commission this _____ day of _____, 199_, has issued this complaint against respondents.

By the Commission.

Donald S. Clark
Secretary

SEAL:

[Exhibits A-F attached to paper copy of complaint, but not available in electronic form]

Analysis of Proposed Consent Order
to Aid Public Comment

The Federal Trade Commission has accepted an agreement, subject to final approval, to a proposed consent order from respondents RBR Productions, Inc., ("RBR") a New Jersey corporation, and Richard Rosenberg, an officer of RBR.

The proposed consent order has been placed on the public record for sixty (60) days for reception of comments by interested persons. Comments received during this period will become part of the public record. After sixty (60) 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.

The Commission's complaint in this matter concerns representations for the following RBR products designed for use in beauty salons: Let's Dance, a concentrated tuberculocidal disinfectant containing o-phenylphenol, paratertiary amyphenol and phosphoric acid; and Let's Touch, a concentrated tuberculocidal disinfectant product containing o-phenylphenol. The complaint charges that respondents' advertising represented Let's Dance concentrate is non-corrosive to skin and eyes, non-toxic, and does not pose a risk of adverse health effects; that Let's Touch concentrate is non-toxic and does not pose a risk of adverse health effects; and that Let's Dance and Let's Touch, when diluted for use, are classified as non-toxic under the Federal Hazardous Substances Act regulations. The complaint alleges that these claims are false and unsubstantiated. The complaint also alleges that respondents' advertising represented without adequate substantiation that Let's Dance and Let's Touch, when diluted for use, are non-toxic and do not pose a risk of adverse health effects; that Let's Dance and Let's Touch are three to five times less toxic than quaternary aluminum compound disinfectants; that Let's Dance is safe for the environment after ordinary use; and that Let's Dance will completely break down and return to nature -- i.e., decompose into elements found in nature -- within a reasonably short period of time after customary disposal.

Additional charges in the Commission's complaint concern Let's Go, a nail glue drying spray containing volatile organic chemicals and packaged in an aluminum aerosol can. The complaint alleges that respondents' advertising represented that Let's Go's aluminum aerosol can is recyclable. The complaint charges that this claim is false and unsubstantiated because, while the Let's Go aluminum aerosol can is capable of being recycled, only a few collection facilities accept aluminum aerosol cans for recycling.

Finally, the complaint alleges that respondents' advertising represented, without adequate substantiation, that Let's Go spray does not contain any ingredients that harm or damage the environment.

The proposed consent order contains provisions designed to remedy the violations charged and to prevent the respondents from engaging in similar acts in the future. Part I of the proposed order would prohibit respondents from misrepresenting that Let's Dance concentrate is non-corrosive to skin or eyes, non-toxic, or does not pose a risk of adverse health effects; that Let's Touch concentrate is non-toxic or does not pose a risk of adverse health effects; or that Let's Dance and Let's Touch use dilutions are classified as non-toxic under the Federal Hazardous Substances Act regulations.

Part II.A of the proposed order would require competent and reliable evidence, which when appropriate must be competent and reliable scientific evidence, for any representation that Let's Dance or Let's Touch use dilutions are non-toxic or do not pose a risk of adverse health effects; that Let's Dance or Let's Touch concentrates or use dilutions are less toxic than quaternary ammonium compound disinfectants or any other disinfectant or

respondent, termination of the order and filing of compliance reports.

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