
In the Matter of)
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TENDER CORPORATION,)
a corporation.)
_____)

DOCKET NO. C-4261

DECISION AND ORDER

has been violated as alleged in the complaint.

facts as alleged in such complaint, other than jurisdictional facts, are true, and waives and other provisions as required by the rules of the court.

2. The Federal Trade Commission has jurisdiction of the subject matter of this proceeding and of the Respondent, and the proceeding is in the public interest.

ORDER

DEFINITIONS

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

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 an ordinary consumer when examining the product of the advertisement, promotional material, instructional material, package, or label on which the representation appears.

4. "Commerce" shall mean as defined in Section 4 of the Federal Trade Commission Act, 15 U.S.C. § 44.

5. "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 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.

6. "Is degradable, biodegradable, or photodegradable" shall mean that the entire product or package will completely decompose into elements found in nature within a reasonably short period of time after customary disposal.

7. "Product or package" means any towel or wipe, including but not limited to antibacterial, cleaning, lotion, sunblock, repellent wipe or any similar product, or any package containing such product, that is (a) offered for sale, sold, or distributed by respondent, under the brand name Fresh Bath, Tender, Adventure Medical Kits, or any other brand name of respondent; or (b) sold or distributed by third parties under private labeling agreements with respondent.

I.

IT IS ORDERED that respondent, directly or through any corporation, partnership, 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, shall not represent, in any manner, expressly or by implication:

- A. That any such product or package is degradable, biodegradable, or photodegradable, unless the representation is true, not misleading, and, at the time it is made, respondent possesses and relies upon competent and reliable scientific evidence that substantiates the representation; or
- B. That any such product or package offers any other 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.

such 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.

V.

IT IS FURTHER ORDERED that respondent Tender Corporation, and its successors and assigns, shall notify the Commission at least thirty (30) days prior to any change with regard to Tender Corporation or any business entity that respondent directly or indirectly controls, or has an ownership interest in, that may affect compliance obligations arising under this order including but not limited to formation of a new business entity, a 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 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.

VI.

IT IS FURTHER ORDERED that respondent Tender 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 in which respondent has complied with this order. Within ten (10) days of receipt of written notice from a representative of the Commission, respondent shall submit additional true and accurate written reports.

VII.

This order will terminate on July 13, 2029, or twenty (20) years from the most recent date that the United States or the Commission files a complaint (with or without an accompanying consent decree) in federal court alleging any violation of the order which ever 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.

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

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