

UNITED STATES OF AMERICA

BEFORE THE E /TT0 1 T-f -0.004 [(hl (ha)4(us)3 [83n)-5(RI)-3(CA)]T5.89

practices of NicePak Products, Inc., a corporation, also doing business as NIPak (“proposed respondent”) The proposed respondent, having being presided by counsel will be attached if

IT IS HEREBY AGREED by and between Nice-Pak Products, Inc., by its duly authorized officers, and counsel for the Federal Trade Commission that:

1. Proposed respondent Nice-Pak Products, Inc. is a New York corporation with its principal office or place of business at Two Nice-Pak Park, Orangeburg, NY 10962-1376.
2. Proposed respondent waives:
 - a. Any further procedural steps;
 - b. The requirement that the Commission’s decision contain a statement of findings of fact and conclusions of law; and
 - c. All rights to seek judicial review or otherwise to challenge or contest the validity of the order entered pursuant to this agreement.
3. This agreement shall not become part of the public record of the proceeding unless and together with the proposed complaint, which is filed with the Commission, it is (30) withdraw its acceptance of this agreement and so notify proposed respondent, in which event it

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 This agreement contemplates that, if it is accepted by the Commission, and if such acceptance is not subsequently withdrawn by the Commission pursuant to the provisions of Section 2.34 of the Commission's Rules, the Commission may, without further notice to proposed respondent, (1)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

5. 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.

6. Proposed respondent neither admits nor denies the allegations in the draft complaint, except as specifically stated in this order. Only for the purposes of this action, proposed respondent admits the facts necessary to establish jurisdiction.

ORDER

DEFINITIONS

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

1. "Commerce" shall mean as defined in Section 4 of the Federal Trade Commission Act, 15 U.S.C. § 44.
2. "Covered Product" shall mean all wipes, including but not limited to Kirkland Signature Moist Flushable Wipes, and any moist toilet tissue or cloth.
3. Unless otherwise specified, "respondent" shall mean Nice-Pak Products, Inc., a corporation, its successors and assigns and its officers, agents, representatives, and employees.

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, packaging, advertising, promotion, offering for sale, sale, or distribution of any Covered Product in or affecting commerce,

implication, including through the use of a product name, endorsement, depiction, illustration, trademark, or trade name, that the Covered Product:

- A. is safe for sewer systems;
- B. is safe for septic systems;
- C. breaks apart shortly after flushing;
- D. will not clog household plumbing systems;
- E. will not clog household septic systems;
- F. is safe for plumbing;
- G. is safe to flush;
- H. dissolves or disperses when interacting with water; or
- I. is flushable,

unless the representation is non-misleading, and, at the time the representation is made,

V.

IT IS FURTHER ORDERED that Nice-Pak Products, Inc. and its successors and assigns shall, for five (5) years after entry of this order, deliver a copy of this order to all 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, and 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. Nice-Pak Products, Inc. and its successors and assigns shall deliver this order to such persons within thirty (30) days after the date of service of this order, and to future such persons within thirty (30) days after such person assumes such position or responsibilities.

VI.

IT IS FURTHER ORDERED that Nice-Pak Products, Inc. and its successors and assigns shall send as soon as practicable, but in no event later than thirty (30) days after entry of this order, by first-class mail, postage prepaid and return receipt requested, an exact copy of the notice attached hereto as Attachment A, showing the date of mailing, to all of its trade customers, wholesalers, and retailers for or to whom it has manufactured, labeled, packaged, advertised, promoted, offered for sale, sold, or distributed any Covered Product that was advertised, promoted, offered for sale, sold, or distributed, with any of the representations, expressly or by implication, including through the use of a product name, endorsement, depiction, illustration, trademark, or trade name, enumerated in Part I A through I of this Order. The notice required by this paragraph shall include a copy of this order, but shall not include any other document or enclosures and shall be sent to the principal place of business of each entity.

VII.

IT IS FURTHER ORDERED that Nice-Pak Products, Inc., 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 Nice-Pak Products, Inc. and its successors and assigns learn less than thirty (30) days prior to the date such action is to take place, it shall notify the Commission as soon as is practicable after obtaining such knowledge.

Unless otherwise directed by a representative of the Commission in writing, all notices required by this Part shall be emailed to Debrief@ftc.gov or sent by overnight courier (not the U.S. Postal Service) to: Associate Director for Enforcement, Bureau of Consumer Protection, Federal Trade Commission, 600 Pennsylvania Avenue NW, Washington, DC 20580. The subject line must begin: In the Matter of Nice-Pak Products, Inc., FTC File Number 132 3272.

Date: _____

Trenton Norris, Esq.
ARNOLD & PORTER
Attorneys for Respondent

Date: _____

SYLVIA KUNDIG
KENNETH H. ABBE