

NOW, THEREFORE, the Court having considered the parties' request to enter the Order, it is hereby ORDERED, ADJUDGED, and DECREED as follows:

FINDINGS

1. This Court has jurisdiction over the subject matter of this case and jurisdiction over all parties pursuant to 28 U.S.C. §§ 1331, 1337(a), 1345, and 1355, and 15 U.S.C. §§ 45(m)(1)(B), 53(b), and 56(a).
2. Venue in the District of Columbia is proper under 15 U.S.C. § 53(b) and under 28 U.S.C. §§ 1391(b) and (c) and 1395(a).
3. The Complaint states a claim upon which relief may be granted against Defendant under Sections 5(a)(1), 5(m)(1)(B), 13(b), and 16(a) of the FTC Act, 15 U.S.C. §§ 45(a)(1), 45(m)(1)(B), 53(b), and 56(a), and under the Textile Act, 15 U.S.C. § 701 seq., and the Textile Rules, 16 C.F.R. Part 303.
- 4.

7. Defendant does not admit any allegations in the Complaint, except for facts necessary to establish jurisdiction. This Order is for settlement purposes only and does not constitute an admission by Defendant or a finding of fact that the law has been violated as alleged in the Complaint.
8. The parties agree that this Order resolves all allegations in the Complaint. The parties waive all rights to seek appellate review or otherwise challenge or contest the validity of

or by implication, including, but not limited to, through the use of a fiber trademark or other descriptive term ~~name~~ for a product or product line, as bamboo, bamboo fiber, anti-microbial~~anti-bacterial~~, or anti-fungal.

- B. "Defendant" means "Leon Max, Inc." ~~and~~ its subsidiaries, successors, and assigns.
- C. "Fiber trademark" shall mean a word or ~~name~~ used to identify a particular fiber sold by a person and to distinguish it from ~~fibers~~ of the same generic class sold by others, as defined in 16 C.F.R. § 303.1(r).
- D. "FTC" or "Commission" means the Federal Trade Commission.
- E. "Generic name of any manufactured fiber" ~~shall~~ mean any name for a textile fiber established and defined by the Commission ~~in~~ pursuant to Section 70e(c) of the Textile Act, as set forth in 16 C.F.R. § 303.7.
- F. "Manufactured fiber" shall mean any ~~fiber~~ derived by a process of manufacture from any substance which, at any point ~~in~~ the manufacturing process, is not a fiber, as defined in 15 U.S.C. § 70(d).
- G. "Required information" shall mean such ~~information~~ as is required to be disclosed on labels or invoices and in advertisements ~~under~~ the Textile Act, 15 U.S.C. § 70 seq., and under the Textile Rules, 16 C.F.R. Part 303, as defined in 16 C.F.R. § 303.1(e).

I. PROHIBITION ON VIOLATING THE TEXTILE ACT AND TEXTILE RULES

IT IS HEREBY ORDERED that Defendant, directly or through any corporation, division, or other device, in connection with the manufacturing, labeling, advertising, promotion, offering

2. does not indicate, directly or indirectly, that the covered product is composed wholly or in part of a particular fiber, when such is not the case.

16 C.F.R. §§ 303.17(d) and 303.41(d).

- E. Failing to ensure that any non-required information or representations used on the label of, or in the advertising for, any covered product:

1. do not interfere with, minimize, detract from, or conflict with required information;
2. do not include any names, terms, or representations prohibited by the Textile Act or Textile Rules; and
3. are not false, deceptive, or misleading.

16 C.F.R. §§ 303.16(c) and 303.42(b).

- F. Where a covered product is advertised in such manner as to require disclosure of the information required by the Textile Act and Textile Rules, failing to include all parts of the required information in immediate conjunction with each other in legible and conspicuous type or lettering of equal size and prominence.

16 C.F.R. §§ 303.40 and 303.42(a).

- G. Where a fiber trademark is used in advertising a covered product, failing:

1. to include the generic name of the fiber contained in such covered product in immediate proximity to and in conjunction with such fiber trademark; and
2. to include a full disclosure of the fiber content information required by the Textile Act and Textile Rules in at least one instance in any such advertisement.

16 C.F.R. § 303.41.

H. Failing to ensure that any words, coined words, symbols or depictions used in the labeling or advertising of a covered product which:

1. constitute or imply the name or designation of a fiber;
2. are phonetically similar to the name or designation of a fiber; or
3. are only a slight variation of spelling from the name or designation of a fiber

are not used in such a manner as to represent or imply that such fiber is present in the covered product, unless such fiber is actually present in that product.

16 C.F.R. § 303.18.

I.

Provided, further, that if it is not legally possible to obtain a guaranty at the time Defendant takes an ownership interest in a covered product, and (1) Defendant does not embellish or misrepresent claims provided by the manufacturer about a covered product, and (2) the covered product is not sold by Defendant as a private label product, then Defendant shall only be liable for a violation of this Section if it knew or should have known that the marketing or sale of the covered product would violate this Section.

Provided, further, that in the event the Textile Act or Textile Rules are amended or modified, nothing in this Section shall impose upon Defendant obligations that go beyond what is required under the amended or modification of the Textile Act or Textile Rules.

II. SETTLEMENT PAYMENT

IT IS FURTHER ORDERED that Defendant will pay \$80,000 to the Treasurer of the United States.

- A. Within five (5) days of entry of this Order, Defendant shall transfer payment in the form of an electronic fund transfer in accordance with the procedures specified by: Consumer Protection Branch, Civil Division, U.S. Department of Justice, Washington, DC 20530.
- B. In the event of any default in payment which default continues for ten (10) days beyond the due date of payment, the entire unpaid amount, together with interest, as computed pursuant to 21 U.S.C. § 1961 from the date of default to the date of payment, shall immediately become due and payable.
- C. Defendant shall cooperate fully with the United States and the Commission and their agents in all attempts to collect the amount due pursuant to this Paragraph if Defendant fails to pay fully the amount due at the time specified herein. In such

an event, Defendant agrees to provide the United States and the Commission with its federal and state tax returns for the preceding two (2) years and to complete standard financial disclosure forms fully and accurately within ten (10) business days of receiving a request from the United States or the Commission to do so.

Defendant further authorizes the United States and the Commission to verify all information provided on its financial disclosure forms with appropriate third parties, including but not limited to financial institutions.

- D. In accordance with 31 U.S.C. § 7701, Defendant is hereby required, unless it has done so already, to furnish to the United States and the Commission, its taxpayer identification number (employer identification number), which shall be used for purposes of collecting and reporting on any delinquent amount arising out of Defendant's relationship with the government.
- E. Defendant relinquishes all dominion, control, and title to the funds paid to the fullest extent permitted by law. Defendant shall make no claim to or demand for return of the funds, directly or indirectly, through counsel or otherwise.
- F. Proceedings instituted under this Paragraph are in addition to, and not in lieu of, any other civil or criminal remedies that may be provided by law, including any other proceedings the Commission may initiate to enforce this Order.

III. COMPLIANCE MONITORING

IT IS FURTHER ORDERED that, for the purpose of monitoring and investigating compliance with any provision of this Order:

- A. Within thirty (30) days of receipt of written notice from a representative of the United States or the Commission, or within such other period as the parties

may agree, Defendant shall submit additional written reports, which are true and accurate and sworn to under penalty of perjury; produce documents for inspection and copying; appear for deposition; and provide entry during normal business hours to any business location in Defendant's possession or direct or indirect control to inspect the business operation;

- B. In addition, the United States and the Commission are authorized to use all other lawful means, including but not limited to:
1. obtaining discovery from any person, without further leave of court, using the procedures prescribed by Fed. R. Civ. P. 30, 31, 33, 34, 36, 45, and 69; and
 2. having their representatives pose as customers and suppliers to Defendant, its employees, or any other entity managed or controlled in whole or in part by Defendant, without the necessity of identification or prior notice; and
- C. Defendant shall permit representatives of the United States and the Commission to interview any employer, consultant, independent contractor, representative, agent, or employee who has agreed to such an interview, relating in any way to any conduct subject to this Order. The person interviewed may have counsel present.

Provided however, that nothing in this Order shall limit the United States' or the Commission's lawful use of compulsory process, pursuant to Sections 9 and 20 of the FTC Act, 15 U.S.C. §§ 49, 57b-1, to obtain any documentary material, tangible things, testimony, or

information relevant to unfair or deceptive acts or practices in or affecting commerce (within the meaning of 15 U.S.C. § 45(a)(1)).

IV. COMPLIANCE REPORTING

IT IS FURTHER ORDERED that, in order that compliance with the provisions of this Order may be monitored:

- A. For a period of five (5) years from the date of entry of this Order, Defendant shall notify the Commission of any changes in

2. Any other changes required to be reported under Subsection A of this Section.
- C. Defendant shall notify the Commission of the filing of a bankruptcy petition by such Defendant within fifteen (15) days of filing.
- D. For the purposes of this Order, Defendant shall, unless otherwise directed by the Commission's authorized representatives, send by overnight courier (not the U.S. Postal Service) all reports and notifications to the Commission that are required by this Order to:

Associate Director for Enforcement
Bureau of Consumer Protection

- A. Accounting records that reflect the cost of goods or services sold, revenues generated, and the disbursement of such revenues;
- B. Personnel records for each person employed by Defendant as a manager having responsibilities for Defendant's marketing sale of textile products accurately reflecting that person's: name, address, telephone number; job title or position; date upon which the person commenced work; and the date and reason for the person's termination, if applicable;
- C. Customer files containing the names, addresses, phone numbers, dollar amounts paid, quantity of items or services purchased, and description of items or services purchased, to the extent such information is obtained in the ordinary course of business; and
- D. All records and documents necessary to demonstrate full compliance with each provision of this Order, including but not limited to, copies of acknowledgments of receipt of this Order required by the Sections titled "Distribution of Order" and "Acknowledgment of Receipt of Order" and all reports submitted to the FTC pursuant to the Section titled "Compliance Reporting."

VI. DISTRIBUTION OF ORDER

days after the person assumes their responsibilities For any business entity resulting from any change in structure set forth in Subsec A of the Section titled "Compliance Reporting," delivery shall be at least ten (10) days prior to change in structure. Defendant must secure a signed and dated statement acknowledging receipt of the Order, within thirty (30) days of delivery, from all persons receiving a copy of the Order pursuant to this Section.

VII. ACKNOWLEDGMENT OF RECEIPT OF ORDER

STIPULATED AND AGREED TO:

FOR THE COMMISSION:
JAMES A. KOUM

FOR THE DEFENDANT:
Cibola River & Co., LLC

STIPULATED AND AGREED TO:

FOR THE RESPONDENT:

FOR THE COMMISSION:

