

**UNITED STATES OF AMERICA
FEDERAL TRADE COMMISSION**

**COMMISSIONERS: Jon Leibowitz, Chairman
 Pamela Jones Harbour
 William E. Kovacic
 J. Thomas Rosch**

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<i>In the Matter of</i>)	DOCKET NO. 9340
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THE M GROUP, INC., also doing)	
business as BAMBOOSA, a corporation,)	
and)	
)	
MINDY JOHNSON, MICHAEL)	
MOORE, and MORRIS SAINTSING,)	
individually and as members of the)	
corporation.)	
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COMPLAINT

The Federal Trade Commission, having reason to believe that The M Group, Inc., also doing business as Bamboosa (“Bamboosa”), and Mindy Johnson, Michael Moore, and Morris Saintsing, individually and as the members of the corporation (“Respondents”), have violated the provisions of the Federal Trade Commission Act, 15 U.S.C. § 41, *et seq.*, the Textile Fiber Products Identification Act, 15 U.S.C. § 70, *et seq.*, and the Rules and Regulations promulgated thereunder, 16 C.F.R. Part 303, and it appearing to the Commission that this proceeding is in the public interest, alleges:

1. Respondent The M Group, Inc., also doing business as Bamboosa, is a South Carolina corporation. Its street address is 32 Seaboard Road, Andrews, South Carolina 29510, and its mailing address is PO Box 1239, Andrews, South Carolina, 29510.

2. Respondents Mindy Johnson, Michael Moore, and Morris Saintsing are the members of the corporate respondent. Individually or in concert with others, they formulate, direct, or control the policies, acts, or practices of the corporation, including the acts or practices alleged in this complaint. Their principal offices or places of business are the same as that of Bamboosa.

3. 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, 15 U.S.C. § 44.
4. Respondents manufacture, advertise, market, promote, offer to sell, sell, and distribute textile fiber products, including a line of clothing and accessories for infants called BambooBaby, throughout the United States, using both Bamboosa’s website, www.bamboosa.com

regulating, anti-fungal, anti-static and will keep you cooler, drier, warmer and odor free.

* * *

- **Natural and Chemical-Free**

. . . Bamboo fiber is 100% biodegradable.

(“Why Bamboo?” page, Exhibit A at 3-4).

3. **About Bamboo for Babies**

_____ Order a gift of bamboo baby clothing or a BambooBaby Gift Set for a special baby you know that will provide comfort, warmth and the softest fabric against baby’s tender skin. Our fabric, produced from certified organically grown ba

Natural anti-bacterial agent makes bamboo fiber apparel odor-resistant

* * *

- Natural & Eco-Friendly

Bamboo, a natural cellulose fiber is 100% biodegradable & grown without pesticides

(Exhibit B at 1).

C. **Product Package Insert**

Bamboosa Products

- Natural & Hypoallergenic: because bamboo contains a natural and unique anti-bacteria and bacteriostatic agent called “bamboo kun,” bamboo fiber clothing does not need any antimicrobial chemical additives, which often cause skin allergies and other irritations
 - Anti-bacterial and & Odor free: even after 50 washes, bamboo fiber fabric has a 70% elimination rate when incubated with bacteria – this natural anti-bacteria function along with the excellent permeability and evaporation of moisture makes bamboo apparel odor-free
- * * *
- Biodegradable & Eco-Friendly: as a natural cellulose fiber, bamboo is 100% biodegradable and the decomposition process does not cause any pollution to the environment – compared to a fabric such as polyester which comes from petroleum, a depleting source and not biodegradable

(Exhibit C at 1).

D. **Product label**

100% Bamboo

Bamboo Fiber Products

(Exhibit B at 1).

7. The textile fiber products manufactured, marketed, promoted, distributed, and sold by Respondents consist of rayon and not actual bamboo fibers woven into fabric.

8. Rayon is the generic name for a type of regenerated, or manufactured, fiber made from cellulose. Rayon is manufactured by taking purified cellulose from a plant source, also called a cellulose pre

present conditions that would allow for Respondents' textile fiber products to completely break down and return to nature, *i.e.*, decompose into elements found in nature, within a reasonably short period of time.

VIOLATIONS OF SECTION 5 OF THE FTC ACT

FALSE OR MISLEADING REPRESENTATIONS

17. Through the means described in Paragraph 6, Respondents represent or have represented, expressly or by implication, that:
 - a. Their textile fiber products are bamboo fiber;
 - b. Their textile fiber products retain anti-microbial properties of the bamboo plant; and
 - c. Their textile fiber products 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.

18. In truth and in fact:
 - a. Respondents' textile fiber products are not bamboo fiber, but instead are rayon, a regenerated cellulose fiber;
 - b. Respondents' textile fiber products do not retain anti-microbial properties of the bamboo plant; and
 - c. Respondents' textile fiber products will not 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 because a substantial majority of total household waste is disposed of by methods that do not present conditions that would allow for Respondents' textile fiber products to completely break down and return to nature, *i.e.*, decompose into elements found in nature, within a reasonably short period of time.

19. Therefore, the representations set forth in Paragraph 17 were, and are, false or misleading, and the making of such representations constitutes a deceptive act or practice, in or affecting commerce, in violation of Section 5(a) of the Federal Trade Commission Act.

UNSUBSTANTIATED REPRESENTATIONS

20. Through the means described in Paragraph 6, Respondents represent or have represented, expressly or by implication, that they possessed and relied upon a reasonable basis that

substantiated the representations set forth in Paragraph 17, at the time the representations were made.

21. In truth and in fact, Respondents did not possess and rely upon a reasonable basis that substantiated the representations set forth in Paragraph 17, at the time the representations were made.
 22. Therefore, the representation set forth in Paragraph 20 was, and is, false or misleading, and the making of such representation constitutes a deceptive act or practice, in or affecting commerce, in violation of Section 5(a) of the Federal Trade Commission Act.
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30. Respondents' violations of the Te

The Administrative Law Judge will schedule an initial prehearing scheduling conference to be held not later than 10 days after the answer is filed by the last answering respondent in the complaint. Unless otherwise directed by the Administrative Law Judge, the scheduling conference and further proceedings will take place at the Federal Trade Commission, 600 Pennsylvania Avenue, N.W., Room 532, Washington, D.C. 20580. Rule 3.21(a) requires a meeting of the parties' counsel as early as practicable before the prehearing scheduling conference, but in any event no later than five days after the answer is filed by the last answering respondent. Rule 3.31(b) obligates counsel for each party, within five days of receiving a respondent's answer, to make certain initial disclosures without awaiting a formal discovery request.

The following is the form of order which the Commission has reason to believe should issue if the facts are found to be as alleged in the complaint. If, however, the Commission should conclude from record facts developed in any adjudicative proceedings in this matter that the proposed order provisions might be inadequate to fully protect the consuming public, the Commission may order such other relief as it finds necessary or appropriate.

Moreover, the Commission has reason to believe that, if the facts are found as alleged in the complaint, it may be necessary and appropriate for the Commission to seek relief to redress injury to consumers, or other persons, partnerships or corporations, in the form of restitution for past, present, and future consumers and such other types of relief as are set forth in Section 19(b) of the Federal Trade Commission Act. The Commission will determine whether to apply to a court for such relief on the basis of the adjudicative proceedings in this matter and such other factors as are relevant to consider the necessity and appropriateness of such action.

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. "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.
3. "Covered product" shall mean any or all of the following: (1) any article of wearing apparel, costume or accessory, drapery, floor covering, furnishing, bedding, or other textile good of a type customarily used in a household, regardless of where used in fact, that is made, in whole or in part, of yarn or fabric; or (2) any fiber, yarn or fabric,

whether in the finished or unfinished state, used or intended for use in any such textile good.

4. "Fiber trademark" shall mean a word or words used to identify a particular fiber sold by a person and to distinguish it from fibers of the same g in 5

3. is degradable, biodegradable, or photodegradable,

unless the representation is true, non-misleading, and, at the time it is made, respondents possess and rely upon competent and reliable scientific evidence that substantiates the representation; or

B. About the benefits, performance, or efficacy of such covered product, unless the representation is true, non-misleading, and, at the time it is made, respondents possess and rely upon competent and reliable evidence, which when appropriate must be competent and reliable scientific evidence, that substantiates the representation.

II.

PROVIDED, however, that nothing in this order shall prohibit respondents from describing a covered product using the generic name of any manufactured fiber and identifying bamboo as the cellulose source for such fiber, *e.g.*, rayon made from bamboo, so long as such representation is true, non-misleading, complies with the Textile Fiber Products Identification Act, 15 U.S.C. § 70, *et seq.* (“Textile Act”) and with the Rules and Regulations promulgated thereunder, 16 C.F.R. Part 303 (“Textile Rules”), and, at the time such representation is made, respondents possess and rely upon competent and reliable scientific evidence that substantiates the representation.

III.

IT IS FURTHER ORDERED that respondents, directly or through any corporation, subsidiary, division, or other device, in connection with the manufacturing, labeling, advertising, promotion, offering for sale, sale, or distribution of any covered product in or affecting commerce, shall not fail to comply with any provision of the Textile Fiber Products Identification Act, 15 U.S.C. § 70, *et seq.*, At 0.0000 TDTD(or salc-0.060010

- C. Failing to use the recognized generic name of any manufactured fiber in the required information in any labels, invoices, or advertising of any covered product, 16 C.F.R. §§ 303.6 and 303.7;
- D. Failing to include all required information on labels for any covered product and in any written advertisement disseminated for a covered product that is used to aid, promote, or assist, directly or indirectly, in the sale or offering for sale of such covered product, including identifying:
1. the generic names and percentages by weight of the constituent fibers present in the covered product, in amounts of 5 percent or more and in the order of predominance set forth in 16 C.F.R. § 303.16(a)(1);
 2. the name or registered identification number issued by the Commission of the manufacturer or of one or more persons marketing or handling the covered product; and
 3. the name of the country where such covered product was processed or manufactured, as provided for in § 303.33,

15 U.S.C. § 70b(b); 16 C.F.R. §§ 303.16 and 303.42(a);

- E. Failing to ensure that any fiber trademark or generic name used on the label of or in any advertising for any covered product:
1. is not false, deceptive, or misleading as to fiber content; and
 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);

- F. 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 Rules; and
 3. are not false, deceptive, or misleading,

16 C.F.R. §§ 303.16(c) and 303.42(b);

G. 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. § 303.42(a);

H. 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;

I. 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; and

J. Failing to maintain for at least three years proper records for any covered products manufactured by respondent, including records showing the fiber content, 15 U.S.C. § 70d(b); 16 C.F.R. § 303.39.

IV.

IT IS FURTHER ORDERED that respondent The M Group, Inc., also doing business as Bamboosa, and its successors and assigns, and respondents Mindy Johnson, Michael Moore, and Morris Saintsing 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 Federal Trade Commission for inspection and copying:

- A. All advertisements, labeling, packaging and promotional materials containing the representation;
- B. All materials that were relied upon in disseminating the representation;
- 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 V.

V.

IT IS FURTHER ORDERED that respondent The M Group, Inc., also doing business as Bamboosa, and its successors and assigns, and respondents Mindy Johnson, Michael Moore, and Morris Saintsing shall deliver a copy of this order to all current and future principals, members, officers, directors, and managers, and to all current and future employees, agents, and representatives having responsibilities with respect to the subject matter of this order, and shall secure from each such person a signed and dated statement acknowledging receipt of the order. Respondents 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.

VI.

IT IS FURTHER ORDERED that respondent The M Group, Inc., also doing business as Bamboosa, and its successors and assigns, and respondents Mindy Johnson, Michael Moore, and Morris Saintsing shall notify the Commission at least thirty (30) days prior to any change with regard to The M Group, Inc., also d/b/a Bamboosa, or any business entity that any 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 respondents learn less than thirty (30) days prior to the date such action is to take place, respondents 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.

VII.

IT IS FURTHER ORDERED that respondents Mindy Johnson, Michael Moore, and Morris Saintsing, for a period of five (5) years after the date of issuance of this order, each shall notify the Commission of the discontinuance of his or her current business or employment, or of his or her affiliation with any new business or employment. The notice shall include the respondent's new business address and telephone number, and a description of the nature of the business or employment and his or her duties and responsibilities. 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.

VIII.

IT IS FURTHER ORDERED that respondent The M Group, Inc., also doing business as Bamboosa, and its successors and assigns, and respondents Mindy Johnson, Michael Moore, and Morris Saintsing 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 they have complied with this order. Within ten (10) days of receipt of written notice from a representative of the Commission, respondents each shall submit additional true and accurate written reports.

IX.

This order will terminate twenty (20) years from the date of its issuance, or twenty (20) years from the most recent date that the United States or the Federal Trade Commission files a complaint (with or without an accompanying consent decree) in federal court alleging any violation of the order, whichever 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 respondent in such complaint; and
- C. This order if such complaint is filed after the order has terminated p

