

**UNITED STATES OF AMERICA
BEFORE THE FEDERAL TRADE COMMISSION**

COMMISSIONERS: **Edith Ramirez, Chairwoman**
 Julie Brill
 Maureen K. Ohlhausen
 Joshua D. Wright

<p>In the Matter of</p> <p>ECM BioFilms, Inc., a corporation, also d/b/a Enviroplastics International</p>	<p>)</p> <p>)</p> <p>)</p> <p>)</p> <p>)</p> <p>)</p> <p>)</p>	<p>Docket No. 9358</p>
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COMPLAINT

The Federal Trade Commission, having reason to believe that ECM BioFilms, Inc., also d/b/a Enviroplastics International (“respondent”) has violated provisions of the Federal Trade Commission Act, and it appearing to the Commission that this proceeding is in the public interest, alleges:

- 1. Respondent ECM BioFilms, Inc., is an Ohio corporation with its principal office or place of business at Victoria Place, Suite 225, 100 South Park Place, Painesville, OH 44077.
- 2. Respondent manufactures, advertises, offers for sale, sells, and distributes additives for plastics, including “MasterBatch Pellets” (hereinafter referred to collectively as “ECM Additives”). Respondent advertises ECM Additives through the Internet site www.ecmbiofilms.com. Respondent distributes ECM Additives to independent distributors and to plastic products manufacturers located throughout the United States who, in turn, treat plastics with respondent’s additives (hereinafter referred to as “ECM Plastics”) and sell ECM Plastics to customers and consumers in various plastic products advertised as biodegradable.
- 3. The acts and practices of respondent alleged in this complaint have been in or affecting commerce, as “commerce” is defined in Section 4 of the Federal Trade Commission Act.
- 4. To induce sales of its ECM Additives, respondent has disseminated, or has caused the dissemination of, advertising and promotional materials, including printed advertisements, website advertisements, certifications, and other promotional materials to distributors, customers, and end-use consumers. See, e.g., Exhibits 1-4. Respondent’s

distributors and customers have disseminated, or have caused the dissemination of, the advertising claims in these promotional materials to end-use consumers.

5. In its advertising and promotional materials, including, but not limited to, those shown in Exhibits 1-4, respondent has made the following statements and depictions:

A. Respondent's Website (Exhibit 1A, disseminated until approximately October 2012):

i. Website Banner Tagline:



(Ex. 1A at 1-12).

ii. Home Page:

“Transform any Plastic into Biodegradable Plastic! . . . The revolutionary additive technology, when combined as a one-percent load to the most widely-used plastic resins, renders the finished plastic products biodegradable while maintaining their other desired characteristics. The potential uses of this technology are limited only by the imagination.” (Id. at 1).

iii. Product Overview Page:

“MasterBatch Pellets™ is a revolutionary additive, which when combined as a one-percent load to the most widely used plastic resins, renders the finished plastic products biodegradable while maintaining their other desired characteristics. . . .” (Id. at 5).

“Plastic products made with ECM additives:

- Fully biodegrade in 9 months to 5 years
- Fully biodegrade when disposed of in a biodegrading environment, either anaerobically or aerobically:
 - in landfills” (Id.).

iv. Comparison to Alternative Products Page:



Comparison of Products Produced with ECM MasterBatch Pellets™ to Alternative Products

	ECM MasterBatch™	Oxo-Degrader*	Bioplastics+
For Biodegradation			
100% Biodegradable (on land, in land, in water)	True	False	False
100% Biodegradable in landfill, as litter or backyard compost	True	False	False

(Ex. 1A at 8).

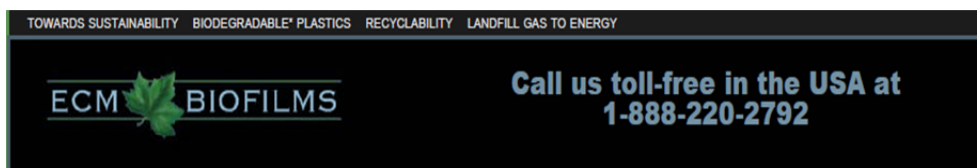
v. Technology Page:

“The plastic products made with our additives will break down in approximately 9 months to 5 years in nearly all landfills or wherever else they may end up.” (Id. at 10).

“Material treated with ECM has been tested and proved as biodegradable and safe for the environment by using the following: . . . ASTM 5511 [sic] ‘Standard Test Method for Determining Anaerobic Biodegradation of Plastic Materials Under High-Solids Anaerobic Digestion Conditions’.” (Id.).

B. Respondent’s Website (Exhibit 1B, disseminated on or around October 2012 to present):

i. Website Banner Tagline:



(E.g., Ex. 1B at 1, 3, 5).

BIODEGRADABLE* PLASTICS QUALIFIER

* Plastic products manufactured with ECM BioFilms' additives will biodegrade in any biologically-active environment (including most landfills) in some period greater than a year.

(*E.g.*, Id. at 2, 4, 9).

ii. Home Page:

“Cutting-edge additives for manufacturing biodegradable* plastics . . . Unlike other degradable plastic technologies which require very specific conditions, plastic products manufactured with ECM MasterBatch Pellets will biodegrade in any biologically-active environment (including most landfills) in some period greater than a year. This revolutionary additive technology, when combined as a 1% load to the most widely-used plastic resins, renders the resulting plastic products biodegradable* while maintaining their other desired characteristics. The potential uses of this technology are limited only by the imagination.” (Id. at 1).

“BIODEGRADABLE* PLASTICS QUALIFIER

* Plastic products manufactured with ECM BioFilms' additives will biodegrade in any biologically-active environment (including most landfills) in some period greater than a year.” (Id.).

iii. MasterBatch Pellets, Additives for Manufacturing Biodegradable* Plastics Page:

“ECM MasterBatch Pellets™ are a revolutionary additive technology for manufacturing biodegradable* plastics . . . When combined as a 1% load with the most widely-used plastic resins, they render the resulting plastic products biodegradable*.” (Id. at 10).

“Plastic products made with ECM BioFilms' additives: . . .

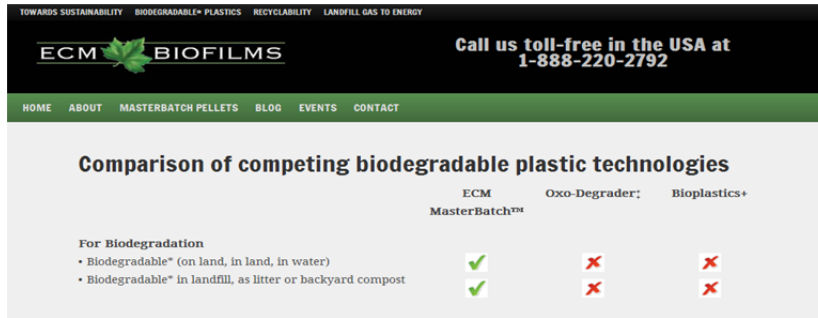
- Biodegrade* in any biologically-active environment in some period greater than a year
- Biodegrade* when disposed of in a biodegrading environment, either anaerobically or aerobically:
 - in landfills
 - in compost (backyard compost or commercial facilities)
 - if buried or littered in the ground

- in agricultural and erosion-control settings” (Id. at 10-11).

“BIODEGRADABLE* PLASTICS QUALIFIER

* Plastic products manufactured with ECM BioFilms’ additives will biodegrade in any biologically-active environment (including most landfills) in some period greater than a year.” (Id. at 11).

iv. Comparison to Alternative Products Page:



(Id. at 12).

v. MasterBatch Pellets, ECM Technology Page:

“The plastic products made with our additives will break down in more than one year but less than a hundred plus years in nearly all landfills or wherever else they may end up” (Id. at 14).

“Material treated with ECM has been tested and proved as biodegradable* and safe for the environment by using the following: . . . ASTM 5511 [sic] ‘Standard Test Method for Determining Anaerobic Biodegradation of Plastic Materials Under High-Solids Anaerobic Digestion Conditions’.” (Id.).

vi. MasterBatch Pellets, Mechanism Page:

“We have determined, through years of testing both internally and through independent laboratories, that plastic products that are manufactured with at least a one percent (1%) load, by weight, of our ECM MasterBatch Pellets will biodegrade once they are placed in conditions wherein they are in constant contact with other biodegrading materials.” (Id. at 16).

vii. **MasterBatch Pellets, Life Expectancy Page**

“Concerning the life expectancy of the plastic products manufactured with our additives once they are placed in constant contact with other biodegrading materials, we certify the full biodegradation of most all plastic products manufactured with at least a one percent load of our additives. We can certify this situation due to the internal and external studies that have cost us hundreds of thousands of dollars.” (Id. at 19).

“Plastics manufactured with our additives will fully biodegrade in home compost heaps, commercial composting operations (both high heat and low heat, or even in vermiculture, processes), buried in the ground, buried in landfills, tilled into the soil, having been littered, etc. Most importantly, our process is by far the least expensive, most widely applicable, proven technology for the biodegradation of plastics in the world.” (Id.).

“Again, we certify the biodegradation* of polyolefins (any of the polyethylenes and polypropylenes), EVAs, PVCs, PETs, PSs, PUs and any combination of these resins, manufactured with at least a 1% load of our additives. We base this certification on more than ten years of testing worldwide by us, by universities, by customers, by prospects and by competitors.” (Id.).

“BIODEGRADABLE* PLASTICS QUALIFIER

* Plastic products manufactured with ECM BioFilms’ additives will biodegrade in any biologically-active environment (including most landfills) in some period greater than a year.” (Id.).

C. Respondent’s Print Materials:

i. **Flyer (Exhibit 2):**

“Manufacturers of Additives That Make Standard Plastic Resins Biodegradable.” (Ex. 2 at 1).

“ECM BioFilms, Inc., sells additives to plastic product manufacturers which allow them to offer their customers biodegradable plastic products that can be priced competitively with, and have the same mechanical characteristics as, their traditional, non-degradable products.” (Id.).

“Plastic products made with ECM additives

- **Fully biodegrade in 9 months to 5 years.**

- **Fully biodegrade where they are disposed of where other things are biodegrading (anaerobically and aerobically):**

- In Landfills . . .

This process continues until the plastic products become part of the organic components of the soil just like biodegraded sticks or other pieces of wood become part of the soil.” (Id.).

ii. Brochure (Exhibit 3):

“What doesn’t get recycled can take over 100 years to biodegrade. Each day the United States throws away enough trash to fill 63,000 garbage trucks. ECM BioFilms, Inc. is dedicated to developing and revolutionizing the plastics market by offering an additive to standard plastic resins making them biodegradable.” (Ex. 3 at 4-5).

“Plastic products made with ECM additives fully biodegrade in 9 months to 5 years.” (Id. at 6).

“In the U.S., 4.39 pounds of trash per day and up to 56 tons of trash per year are created by the average person. Plastic products made with ECM additives fully biodegrade when disposed of in a biodegrading environment, either anaerobically or aerobically: in landfills, in compost (backyard compost or commercial facilities), if buried or littered in the ground, in agricultural and erosion control settings.” (Id. at 7).

iii. Certificate of Biodegradability of Plastic Products (Exhibit 4):

“This is to certify that numerous plastic samples, submitted by ECM BioFilms, Inc., have been tested by independent laboratories in accordance with standard test methods The results of these tests and the related biodegradation and ecological impact experiments are contained in the Ecological Assessment of ECM Plastic report dated February 16, 1999, which certifies that plastic products manufactured with ECM additives can be marketed as biodegradable This Certificate and the Ecological Assessment of ECM Plastic report, along with Scanning Electron Microscope and other studies that have been conducted since the publication of the Ecological Assessment . . . may be used by [the certificate holder] to validate[i] ts claims to the biodegradability and environmental safety of plastic products that it manufactures” (Ex. 4 at 1).

6. Approximately 92 percent of total municipal solid waste in the United States is disposed of either in landfills, incinerators, or recycling facilities. These disposal methods do not present conditions that would allow ECM Plastics to completely break down and decompose into elements found in nature within a reasonably short period of time.
7. Consumers likely interpret unqualified degradable claims to 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.
8. The Ecological Assessment of ECM Plastic, American Society for Testing and Materials (“ASTM”) International D5511, *Standard Test Method for Determining Anaerobic Biodegradation of Plastic Materials under High Solids Anaerobic Digestion Conditions* (“ASTM D5511”), and other scientific tests relied on by respondent do not assure complete decomposition of ECM Plastics in a reasonably short period of time or in respondent’s stated timeframes, *e.g.*, nine months to five years, and do not replicate, *i.e.*, simulate, the physical conditions of either landfills, where most trash is disposed, or other disposal facilities stated in the representations.

VIOLATIONS OF SECTION 5 OF THE FTC ACT

FALSE OR MISLEADING REPRESENTATIONS

9. Through the means described in Paragraphs 2, 4, and 5, respondent has represented, expressly or by implication, that:
 - A. ECM Plastics are biodegradable, *i.e.*, will completely break down and decompose into elements found in nature within a reasonably short period of time after customary disposal;
 - B. ECM Plastics are biodegradable in a landfill;
 - C. ECM Plastics are biodegradable in a stated qualified timeframe; and
 - D. ECM Plastics have been shown to be biodegradable, biodegradable in a landfill, or biodegradable in a stated qualified timeframe under various scientific tests including, but not limited to, ASTM D5511.
10. In truth and in fact:
 - A. ECM Plastics will not completely break down and decompose into elements found in nature within a reasonably short period of time after customary disposal;
 - B. ECM Plastics will not completely break down and decompose into elements found in nature within a reasonably short period of time after disposal in a

landfill;

- C. ECM Plastics will not completely break down and decompose into elements found in nature within respondent's stated qualified timeframes after customary disposal; and
- D. ECM Plastics have not been shown to completely break down and decompose into elements found in nature within a reasonably short period of time after customary disposal, after disposal in a landfill, or within respondent's stated qualified timeframe, under various scientific tests, including, but not limited to, ASTM D5511.

11. Therefore, the representations set forth in Paragraph 9 were, and are, false or misleading.

UNSUBSTANTIATED REPRESENTATIONS

12. Through the means described in Paragraphs 2, 4, and 5, in numerous instances respondent has represented, expressly or by implication, that it possessed and relied upon a reasonable basis that substantiated the representations set forth in Paragraph 9, at the time the representations were made.

13. In truth and in fact, at the time respondent made the representations referred to in Paragraph 9, respondent did not possess and rely upon a reasonable basis that substantiated such representations. Therefore, the representation set forth in Paragraph 12 is false or misleading.

MEANS AND INSTRUMENTALITIES

14. Respondent has distributed the promotional materials described in Paragraphs 4 and 5 to its customers and independent distributors. In so doing, respondent has provided them with the means and instrumentalities for the commission of deceptive acts or practices.

15. Respondent's practices, as alleged in this complaint, therefore constitute deceptive acts or practices in or affecting commerce in violation of Section 5(a) of the Federal Trade Commission Act.

NOTICE

Notice is hereby given to the respondent that the eighteenth day of June, 2014, at 10:00 a.m., is hereby fixed as the time, and the Federal Trade Commission offices at 600 Pennsylvania Avenue, N.W., Room 532-H, Washington, D.C. 20580, as the place when and where a hearing will be had before an Administrative Law Judge of the Federal Trade Commission, on the charges set forth in this complaint, at which time and place you will have the right under the Federal Trade Commission Act to appear and show

cause why an order should not be entered requiring you to cease and desist from the violations of law charged in this complaint.

You are notified that the opportunity is afforded you to file with the Federal Trade Commission an answer to this complaint on or before the fourteenth (14th) day after service of it upon you. An answer in which the allegations of the complaint are contested shall contain a concise statement of the facts constituting each ground of defense; and specific admission, denial, or explanation of each fact alleged in the complaint or, if you are without knowledge thereof, a statement to that effect. Allegations of the complaint not thus answered shall be deemed to have been admitted.

If you elect not to contest the allegations of fact set forth in the complaint, the answer shall consist of a statement that you admit all of the material facts to be true. Such an answer shall constitute a waiver of hearings as to the facts alleged in the complaint and, together with the complaint, will provide a record basis on which the Commission shall issue a final decision containing appropriate findings and conclusions, and a final order disposing of the proceeding. In such answer, you may, however, reserve the right to submit proposed findings of fact and conclusions of law under Rule 3.46 of the Commission's Rules of Practice for Adjudicative Proceedings.

Failure to answer within the time above provided shall be deemed to constitute a waiver of your right to appear and to contest the allegations of the complaint, and shall authorize the Commission, without further notice to you, to find the facts to be as alleged in the complaint and to enter a final decision containing appropriate findings and conclusions and a final order disposing of the proceeding.

The Administrative Law Judge shall hold a prehearing scheduling conference not later than ten (10) days after the answer is filed by the respondent. 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-H, 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 (5) days after the answer is filed by the respondent. Rule 3.31(b) obligates counsel for each party, within five (5) days of receiving respondent's answer, to make certain 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 as to ECM BioFilms, Inc., also d/b/a Enviroplastics International might be inadequate to fully protect the consuming public, the Commission may order such other relief as it finds necessary or appropriate, including corrective advertising or other affirmative disclosure.

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 and refunds 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. “Clearly and Prominently” shall mean as follows:
 - A. In print communications, the disclosure shall be presented in a manner that stands out from the accompanying text, so that it is sufficiently prominent, because of its type size, contrast, location, or other characteristics, for an ordinary consumer to notice, read and comprehend it;
 - B. In communications made through an electronic medium (such as television, video, radio, and interactive media such as the Internet, online services, and software), the disclosure shall be presented simultaneously in both the audio and visual portions of the communication. In any communication presented solely through visual or audio means, the disclosure shall be made through the same means through which the communication is presented. In any communication disseminated by means of an interactive electronic medium such as software, the Internet, or online services, the disclosure must be unavoidable. Any audio disclosure shall be delivered in a volume and cadence sufficient for an ordinary consumer to hear and comprehend it. Any visual disclosure shall be presented in a manner that stands out in the context in which it is presented, so that it is sufficiently prominent, due to its size and shade, contrast to the background against which it appears, the length of time it appears on the screen, and its location, for an ordinary consumer to notice, read and comprehend it; and
 - C. Regardless of the medium used to disseminate it, the disclosure shall be in understandable language and syntax. Nothing contrary to, inconsistent with, or in mitigation of the disclosure shall be used in any communication.
2. “Close proximity” means on the same print page, web page, online service page, or other electronic page, and proximate to the triggering representation, and not accessed or displayed through hyperlinks, pop-ups, interstitials, or other means.

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

4. “Competent and reliable scientific evidence” shall mean tests, analyses, research, or studies that have been conducted and evaluated in an objective manner by qualified persons, that are generally accepted in the profession to yield accurate and reliable results, and that are sufficient in quality and quantity based on standards generally accepted in the relevant scientific fields, when considered in light of the entire body of relevant and reliable scientific evidence, to substantiate that a representation is true. Specifically:

- A. For unqualified biodegradability claims, any scientific technical protocol (or combination of protocols) substantiating such claims must assure complete decomposition within one year and replicate, *i.e.*, simulate, the physical conditions found in landfills, where most trash is disposed.
- B. For qualified biodegradability claims, any scientific technical protocol (or combination of protocols) substantiating such claims must both:
 - i. assure the entire product will (1) completely decompose into elements found in nature in the stated timeframe or, if not qualified by time, within one year; or (2) decompose into elements found in nature at the rate and to the extent stated in the representation; and
 - ii. replicate, *i.e.*, simulate, the physical conditions found in the type of disposal facility or method stated in the representation or, if not qualified by disposal facility or method, the conditions found in landfills, where most trash is disposed.

For example, results from ASTM (American Society for Testing and Materials) International D5511-12, *Standard Test Method for Determining Anaerobic Biodegradation of Plastic Materials under High Solids Anaerobic Digestion Conditions*, or any prior version thereof, are not competent and reliable scientific evidence supporting unqualified claims, or claims of outcomes beyond the parameters and results of the actual test performed.

5. “Customary disposal” means any disposal method whereby respondent’s products ultimately will be disposed of in a landfill, in an incinerator, or in a recycling facility.

6. “Degradable” includes biodegradable, oxo-biodegradable, oxo-degradable, or photodegradable, or any variation thereof.

7. “Landfill” means a municipal solid waste landfill that receives household waste. “Landfill” does not include landfills that are operated as bioreactors or those that are actively managed to enhance decomposition.

8. “Means and instrumentalities” shall mean any information, including, but not necessarily limited to, any advertising, labeling, or promotional, sales training, or purported substantiation materials, for use by trade customers in their marketing of any product, package, or service, in or affecting commerce.

9. Unless otherwise specified, “respondent” shall mean ECM BioFilms, Inc., a corporation, and its successors and assigns.

I.

IT IS ORDERED that respondent, and its officers, agents, representatives, and employees, 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, package, or service, in or affecting commerce, shall not represent, in any manner, directly or indirectly, expressly or by implication:

- A. That any product or package is degradable, or that any product, package, or service affects a product or package’s degradability, unless
 - i. the entire item will completely decompose into elements found in nature within one year after customary disposal; or
 - ii. the representation is clearly and prominently and in close proximity qualified by:
 - a. Either (1) the time to complete decomposition into elements found in nature; or (2) the rate and extent of decomposition into elements found in nature, provided that such qualification must disclose that the stated rate and extent of decomposition does not mean that the product or package will continue to decompose; and
 - b. If the product will not decompose in a customary disposal facility or by a customary method of disposal, both (1) the type of non-customary disposal facility or method and (2) the availability of such disposal facility or method to consumers where the product or package is marketed or sold

and such 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.

- B. That any such product, package, or service offers any 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.

II.

IT IS FURTHER ORDERED that respondent, and its officers, agents, representatives, and employees, 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, package, or service in or affecting commerce, shall not provide to others the means and instrumentalities with which to make, directly or indirectly, expressly or by implication, including through the use of endorsements or trade names, any false, unsubstantiated, or otherwise misleading representation of material fact regarding any environmental benefit.

III.

IT IS FURTHER ORDERED that respondent 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 Commission for inspection and copying:

- A. All advertisements, labeling, packaging and promotional materials containing the representations specified in Parts I and II;
- B. All materials that were relied upon in disseminating the representations specified in Parts I and II;
- 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 IV.

IV.

IT IS FURTHER ORDERED that respondent shall 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. Respondent 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.* Respondent 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.

V.

IT IS FURTHER ORDERED that respondent shall notify the Commission at least thirty (30) days prior to any change in the corporation 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 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 in the corporation 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.

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, Mail Stop M-8102B, Washington, DC 20580. The subject line must begin: “ECM BioFilms, Inc., Docket No. 9358, File No. 122 3118.”

VI.

IT IS FURTHER ORDERED that respondent 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. 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, Mail Stop 8102-B, Washington, DC 20580. The subject line must begin: “ECM BioFilms, Inc., Docket No. 9358, File No. 122 3118.”

VII.

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 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 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 had never been filed, except that the order will not terminate between the date such complaint is filed and the later of the deadline for appealing such dismissal or ruling and the date such dismissal or ruling is upheld on appeal.

IN WITNESS WHEREOF, the Federal Trade Commission has issued this complaint against respondent and has caused it to be signed by its Secretary and its official seal to be hereto affixed, at Washington, D.C. this eighteenth day of October, 2013.

By the Commission.

Donald S. Clark
Secretary

SEAL