

**UNITED STATES OF AMERICA
FEDERAL TRADE COMMISSION**

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

_____)
In the Matter of)
)
TENDER CORPORATION,)
a corporation.) **DOCKET NO. C-**
_____)

COMPLAINT

The Federal Trade Commission, having reason to believe that Tender Corporation (“respondent”), has violated provisions of the Federal Trade Commission Act, 15 U.S.C. § 41 *et seq.*, and it appearing to the Commission that this proceeding is in the public interest, alleges:

1. Respondent Tender Corporation is a Delaware corporation with its principal office or place of business at 106 Burndy Road, Littleton, New Hampshire 03561.
2. 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.
3. Respondent advertises, labels, offers for sale, sells, and/or distributes goods under the brand name Fresh Bath to the public throughout the United States, including Fresh Bath Wipes and Fresh Bath Travel Wipes. Respondent advertises and offers these goods for sale through its Internet site www.adventuremedicalkits.com and through its catalog. Respondent also advertises, offers for sale, sells, or distributes these goods to retailers throughout the United States.
4. To induce consumers and retailers to purchase Fresh Bath Wipes and Fresh Bath Travel Wipes, respondent disseminates, has disseminated, or has caused to be disseminated advertisements, including product labeling and other promotional materials, including but not limited to the attached Exhibit A. In these advertisements, respondent prominently states or has stated that Fresh Bath Wipes and Fresh Bath Travel Wipes and/or the packaging for Fresh Bath Wipes and Fresh Bath Travel Wipes are “bio-degradeable.” Respondent does not define, describe, or qualify such biodegradability, and placement of the term “bio-degradable” on the packaging does not make clear whether this purported benefit refers to the product, its packaging, or a portion or component of the product or packaging.

5. Approximately 91 percent of total municipal solid waste in the United States is disposed of in either landfills, incinerators, or recycling facilities. These disposal methods do not present conditions that would allow for either Fresh Bath Wipes or Fresh Bath Travel Wipes or their packaging 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

6. Through the means described in Paragraph 4, respondent has represented, expressly or by implication, that:

- a. Fresh Bath Wipes and Fresh Bath Travel Wipes 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; and
- b. The packaging of Fresh Bath Wipes and Fresh Bath Travel Wipes 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.

7. In truth and in fact:

- a. Fresh Bath Wipes and Fresh Bath Travel Wipes 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 municipal solid waste is disposed of by methods that do not present conditions that would allow for Fresh Bath Wipes and Fresh Bath Travel Wipes to completely break down and return to nature, *i.e.*, decompose into elements found in nature, within a reasonably short period of time; and
- b. The packaging of Fresh Bath Wipes and Fresh Bath Travel Wipes 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 municipal solid waste is disposed of by methods that do not present conditions that would allow for the packaging of Fresh Bath Wipes and Fresh Bath Travel Wipes to completely break down and return to nature, *i.e.*, decompose into elements found in nature, within a reasonably short period of time.

8. Therefore, the representations set forth in Paragraph 6 were, and are, false or misleading.

UNSUBSTANTIATED REPRESENTATIONS

9. Through the means described in Paragraph 4, respondent has represented, expressly or by implication, that it possessed and relied upon a reasonable basis that substantiated the representations set forth in Paragraph 6, at the time the representations were made.

10. In truth and in fact, respondent did not possess and rely upon a reasonable basis that substantiated the representations set forth in Paragraph 6 at the time the representations were made.

11. Therefore, the representation set forth in Paragraph 9 was, and is, false or misleading.

12. The acts and practices of respondent as alleged in this complaint constitute deceptive acts or practices, in or affecting commerce, in violation of Section 5(a) of the Federal Trade Commission Act.

THEREFORE, the Federal Trade Commission, on this ____ day of _____, 2009, has issued this complaint against respondent.

By the Commission.

Donald S. Clark
Secretary