

**UNITED STATES OF AMERICA
FEDERAL TRADE COMMISSION**

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<i>In the Matter of</i>)	FILE NO. 0823193
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PURE BAMBOO, LLC, a limited liability company, and)	
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BRUCE DEAR, individually and as the managing member of the limited liability company.)	AGREEMENT CONTAINING CONSENT ORDER
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The Federal Trade Commission has conducted an investigation of certain acts and practices of Pure Bamboo, LLC, a limited liability company, and Bruce Dear, individually and as the managing member of the limited liability company (“proposed respondents”). Proposed respondents, having been represented by counsel, are willing to enter into an agreement containing a consent order resolving the allegations contained in the attached draft complaint. Therefore,

IT IS HEREBY AGREED by and between Pure Bamboo, LLC, by its duly authorized managing member, and Bruce Dear, individually and as the managing member of the limited liability company, and counsel for the Federal Trade Commission that:

- 1.a. Proposed respondent Pure Bamboo, LLC is a Nevada limited liability company, registered to do business in California. Its principal place of business is 12449 Gilmore Avenue, Los Angeles, California 90066.
- 1.b. Proposed respondent Bruce Dear is the managing member of Pure Bamboo, LLC. Individually or in concert with others, he formulates, directs, or controls the policies, acts, or practices of the limited liability company. His principal office or place of business is the same as that of Pure Bamboo.
2. Proposed respondents admit all the jurisdictional facts set forth in the draft complaint.
3. Proposed respondents waive:
 - 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.
4. This agreement shall not become part of the public record of the proceeding unless and until it is accepted by the Commission. If this agreement is accepted by the Commission, it, together with the draft complaint, will be placed on the public record for a period of thirty (30) days and information about it publicly released. The Commission thereafter may either withdraw its acceptance of this agreement and so notify proposed respondents, in which event it will take such action as it may consider appropriate, or issue and serve its complaint (in such form as the circumstances may require) and decision in disposition of the proceeding.
 5. This agreement is for settlement purposes only and does not constitute an admission by proposed respondents that the law has been violated as alleged in the draft complaint, or that the facts as alleged in the draft complaint, other than the jurisdictional facts, are true.
 6. 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 respondents, (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 respondents' addresses as stated in this agreement by any means specified in Section 4.4(a) of the Commission's Rules shall constitute service. Proposed respondents waive any right they 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.
 7. Proposed respondents have read the draft complaint and consent order. They understand that they 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.

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 generic class sold by others, as defined in 16 C.F.R. § 303.1(r).
5. “Generic name of any manufactured fiber” shall mean any name for a textile fiber established and defined by the Commission pursuant to Section 70e(c) of the Textile Fiber Products Identification Act, as set forth in 16 C.F.R. § 303.7.
6. “Is degradable, biodegradable, or photodegradable” shall mean that the entire product will completely decompose into elements found in nature within a reasonably short period of time after customary disposal.
7. “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).
8. “Required information” shall mean such information as is required to be disclosed on labels or invoices and in advertising under the Textile Fiber Products Identification Act, 15 U.S.C. § 70 *et seq.*, and under the Rules and Regulations promulgated thereunder, 16 C.F.R. Part 303, as defined in 16 C.F.R. § 303.1(e).
9. Unless otherwise specified, “respondents” shall mean Pure Bamboo, LLC, a limited liability company, its successors and assigns and its managing members; Bruce Dear,

individually and as the managing member of the limited liability company; and each of the above's agents, representatives, and employees.

I.

IT IS 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 make any representation, in any manner, expressly or by implication:

A. That such covered product

1. is made of bamboo or bamboo fiber, including, but not limited to, through the use of a fiber trademark or other descriptive term or name for a product or product line, *e.g.*, Pure Bamboo;
2. is manufactured using an environmentally friendly process;
3. is anti-microbial or retains the anti-microbial properties of any material from which it is made; or
4. 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.* (“Textile Act”), or of the Rules and Regulations promulgated thereunder, 16 C.F.R. Part 303 (“Textile Rules”), copies of which are attached hereto as “Appendix A,” or of the Textile Act or Textile Rules as they may hereafter be amended, including but not limited to:

- A. Selling, offering for sale, or advertising in commerce any covered product that is falsely or deceptively stamped, tagged, labeled, invoiced, advertised, or otherwise identified as to the name or amount of constituent fibers contained therein, 15 U.S.C. §§ 70a, 70b;
- B. Selling, offering for sale, or advertising in commerce any covered product that does not have a stamp, tag, label, or other means of identification on or affixed to the inside center of the neck midway between the shoulder seams or, if such product does not contain a neck, in the most conspicuous place on the inner side of such product, unless it is on or affixed on the outer side of such product, or in the case of hosiery items on the outer side of such product or package, 15 U.S.C. § 70b(j);
- 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. Failing to ensure that, where a covered product is advertised in print or by electronic means, other than by broadcast, using materials that solicit consumers to purchase such products by mail, telephone, electronic mail, or some other method without examining the actual product purchased, the description of the product includes a clear and conspicuous statement that the product was either made in U.S.A., imported, or both. 16 C.F.R. §§ 303.1(u) and 303.34;
- I. 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;

J. 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

K. 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 Pure Bamboo, LLC, and its successors and assigns, and respondent Bruce Dear 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 Pure Bamboo, LLC, and its successors and

assigns, and respondent Bruce Dear 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 Pure Bamboo, LLC, and its successors and assigns, and respondent Bruce Dear shall notify the Commission at least thirty (30) days prior to any change with regard to Pure Bamboo, LLC, 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 respondent Bruce Dear, for a period of five (5) years after the date of issuance of this order, shall notify the Commission of the discontinuance of his current business or employment, or of his 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 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 Pure Bamboo, LLC, and its successors and assigns, and respondent Bruce Dear 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 pursuant to this Part.

Provided, further, that if such complaint is dismissed or a federal court rules that the respondents 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.

Signed this _____ day of _____, 2009

PURE BAMBOO, LLC

By:

BRUCE DEAR, individually and
as managing member of Pure Bamboo, LLC

KORIN K. EWING
MELINDA CLAYBAUGH

Counsel for the Federal Trade Commission

APPROVED:

JAMES A KOHM
Associate Director
Division of Enforcement

DAVID VLADECK
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