

**UNITED STATES OF AMERICA
FEDERAL TRADE COMMISSION**

**COMMISSIONERS: Jon Leibowitz, Chairman
William E. Kovacic
J. Thomas Rosch
Edith Ramirez
Julie Brill**

_____)
In the Matter of)
)
NONPROFIT MANAGEMENT LLC,)
a limited liability corporation,)
also doing business as Tested Green,)
and)
)
JEREMY RYAN CLAEYS, also doing)
business as Tested Green, individually)
and as an officer and member of)
Nonprofit Management LLC.)
_____)

DOCKET NO. C-4315

DECISION AND ORDER

The Federal Trade Commission (“Commission”) having initiated an investigation of certain acts and practices of the Respondents named in the caption hereof, and the Respondents having been furnished thereafter with a copy of a draft complaint that the Bureau of Consumer Protection proposed to present to the Commission for its consideration and which, if issued by the Commission, would charge the Respondents with violation of the Federal Trade Commission Act, 15 U.S.C. § 45 *et seq.*; and

The Respondents and counsel for the Commission having thereafter executed an agreement containing a consent order (“consent agreement”), an admission by the Respondents of all the jurisdictional facts set forth in the aforesaid draft complaint, and waivers and other provisions as required by the Commission’s Rules; and

The Commission having thereafter considered the matter and having determined that it has reason to believe that the Respondents have violated the said Act, and that a complaint should issue stating its charges in that respect, and having thereupon accepted the executed consent agreement and placed such consent agreement on the public record for a period of thirty (30) days for the receipt and consideration of public comments, now in further conformity with

the procedure prescribed in Section 2.34 of its Rules, the Commission hereby issues its complaint, makes the following jurisdictional findings, and enters the following order:

1. Respondent Nonprofit Management LLC, also doing business as Tested Green, is a Delaware limited liability corporation with a principal office at 1250 Connecticut Avenue, NW, Suite 200, Washington, DC 20036.
2. Respondent Jeremy Ryan Claeys, also doing business as Tested Green, is an officer and member of Nonprofit Management LLC. Individually, or in concert with others, he formulates, directs, controls, or participates in the policies, acts, or practices of Nonprofit Management LLC. His principal office, doing business as Tested Green, is at 1250 Connecticut Avenue, NW, Suite 200, Washington, DC 20036.
3. The Federal Trade Commission has jurisdiction of the subject matter of this proceeding and of the Respondents, and the proceeding is in the public interest.

ORDER

DEFINITIONS

For purposes of this order, the following definitions shall apply:

1. Unless otherwise specified, “Respondents” shall mean Nonprofit Management LLC, also doing business as Tested Green, its successors and assigns; and Jeremy Ryan Claeys, individually, also doing business as Tested Green, and as an officer and member of Nonprofit Management LLC.
2. “Certification” shall include any seal, logo, emblem, shield, or other insignia that expresses or implies approval or endorsement of any product, package, service, practice, or program, or any attribute thereof.
3. “Clearly and prominently” shall mean:
 - A. In textual communications (*e.g.*, printed publications or words displayed on the screen of a computer), the required disclosures are of a type, size, and location sufficiently noticeable for an ordinary consumer to read and comprehend them, in print that contrasts with the background on which they appear;
 - B. In communications disseminated orally or through audible means (*e.g.*, radio or streaming audio), the required disclosures are delivered in a volume and cadence sufficient for an ordinary consumer to hear and comprehend them;
 - C. In communications disseminated through video means (*e.g.*, television or streaming video), the required disclosures are in writing in a form consistent with subparagraph (A) of this definition and shall appear on the screen for a duration

sufficient for an ordinary consumer to read and comprehend them, and in the same language as the predominant language that is used in the communication;

- D. In communications made through interactive media, such as the Internet, online services, and software, the required disclosures are unavoidable and presented in a form consistent with subparagraph (A) of this definition, in addition to any audio or video presentation of them; and
- E. In all instances, the required disclosures are presented in an understandable language and syntax, and with nothing contrary to, inconsistent with, or in mitigation of the disclosures used in any communication of them.

4. “Endorsement” means any advertising message (including verbal statements, demonstrations, or depictions of the name, signature, likeness or other identifying personal characteristics of an individual or the name or seal of an organization) that consumers are likely to believe reflects the opinions, beliefs, findings, or experiences of a party other than the sponsoring advertiser, even if the views expressed by that party are identical to those of the sponsoring advertiser. The party whose opinions, beliefs, findings, or experience the message appears to reflect will be called the endorser and may be an individual, group, or institution.

5. “Environmental certification” shall mean any certification that expresses or implies that a product, package, service, practice, or program is environmentally friendly, environmentally superior, or environmentally preferable to other products, packages, services, practices, or programs; or expresses or implies other environmental attributes or benefits.

6. “Material connection” shall mean any relationship that materially affects the weight or credibility of any endorsement and that would not be reasonably expected by consumers.

7. “Tested Green Certification” shall refer to the certification issued by Respondents that is depicted below:



I.

[Making Misrepresentations]

IT IS HEREBY ORDERED that Respondents, directly or through any corporation, partnership, subsidiary, division, trade name, or other device, and their officers, agents, servants, employees, and all persons or entities in active concert or participation with them who receive actual notice of this order, by personal service or otherwise, in connection with the labeling, advertising, marketing, promotion, offering for sale, sale, or distribution of any product, package, certification, service, practice, or program, are permanently restrained and enjoined from making or assisting others in making, expressly or by implication, orally or in writing, any misrepresentation, including misrepresenting:

- A. the fact that, or degree to which, Respondents have, or a third party has, evaluated a product, package, service, practice, or program based on its environmental benefits or attributes;
- B. that Respondents have, or a third party has, the appropriate expertise to evaluate the environmental benefits or attributes of a product, package, service, practice, or program;
- C. the number of certifications issued by Respondents; or
- D. that a product, package, certification, service, practice, or program is endorsed by an independent person or organization.

II.

[Means and Instrumentalities]

IT IS FURTHER ORDERED that Respondents, directly or through any corporation, partnership, subsidiary, division, trade name, or other device, and their officers, agents, servants, employees, and all persons or entities in active concert or participation with them who receive actual notice of this order, by personal service or otherwise, in connection with the labeling, advertising, marketing, promotion, offering for sale, sale, or distribution of any product, package, certification, service, practice, or program, are permanently restrained and enjoined from providing to others the means and instrumentalities to make, expressly or by implication, orally or in writing, any false or misleading statement.

III.

[Disclosure of Material Connection between Endorser and Endorsed Person or Entity]

IT IS FURTHER ORDERED that Respondents, directly or through any corporation, partnership, subsidiary, division, trade name, or other device, and their officers, agents, servants, employees and all persons or entities in active concert or participation with them who receive actual notice of this order, by personal service or otherwise, in connection with the labeling, advertising, marketing, promotion, offering for sale, sale, or distribution of any product, package, certification, service, practice, or program, shall not make any representation, in any manner, expressly or by implication, about any user or endorser of such product, package, certification, service, practice, or program unless they disclose, clearly and prominently, a material connection, when one exists, between such user or endorser and the Respondents or any other individual or entity labeling, advertising, marketing, promoting, offering for sale, selling, or distributing such product, package, certification, service, practice, or program.

IV.

IT IS FURTHER ORDERED that Respondent Nonprofit Management LLC, and its successors and assigns, and Respondent Jeremy Ryan Claeys 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 representation;
- B. All materials that were relied upon in making and disseminating the representation;
- C. All tests, reports, studies, surveys, demonstrations, or other evidence in their 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 Nonprofit Management LLC, and its successors and assigns, and Respondent Jeremy Ryan Claeys, shall deliver a copy of this order to all current and future principals, members, officers, directors, and managers; and all current and future employees, agents, and representatives having responsibilities with respect to the subject matter of this order. Respondents 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.* 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 Nonprofit Management LLC, and its successors and assigns, shall notify the Commission at least thirty (30) days prior to any change in the corporation or any business entity that the corporation 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 the 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, all notices required by this Part shall be sent by overnight courier (not the U.S. Postal Service) to the Associate Director, Division of Enforcement, Bureau of Consumer Protection, Federal Trade

Commission, 600 Pennsylvania Avenue, N.W., Washington, D.C. 20580, *Re: FTC v. Nonprofit Management LLC and Jeremy Ryan Claeys*, FTC Docket No. C-4315. Provided, however, that, in lieu of overnight courier, notices may be sent by first-class mail, but only if electronic versions of such notices are contemporaneously sent to the Commission at Debrief@ftc.gov.

VII.

IT IS FURTHER ORDERED that Respondent Jeremy Ryan Claeys, for a period of ten (10) 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 Respondent's new business address and telephone number and a description of the nature of the business or employment and his duties and responsibilities. Unless otherwise directed by a representative of the Commission, all notices required by this Part shall be sent by overnight courier (not the U.S. Postal Service) to the Associate Director, Division of Enforcement, Bureau of Consumer Protection, Federal Trade Commission, 600 Pennsylvania Avenue, N.W., Washington, D.C. 20580, *Re: FTC v. Nonprofit Management LLC and Jeremy Ryan Claeys*, FTC Docket No. C-4315. Provided, however, that, in lieu of overnight courier, notices may be sent by first-class mail, but only if electronic versions of such notices are contemporaneously sent to the Commission at Debrief@ftc.gov.

VIII.

IT IS FURTHER ORDERED that Respondent Nonprofit Management LLC, and its successors and assigns, and Respondent Jeremy Ryan Claeys, within sixty (60) days after the date of service of this order, shall each file with the Commission a true and accurate report, in writing, setting forth in detail the manner and form in which Respondents have complied with this order. Within ten (10) days of receipt of written notice from a representative of the Commission, Respondents shall submit additional true and accurate written reports.

IX.

This order will terminate on February 23, 2031, 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 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.

By the Commission.

Donald S. Clark
Secretary

SEAL
ISSUED: February 23, 2011