

ORDER
DEFINITIONS

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

1. Unless otherwise specified, “individual respondents” shall mean Stewart A. Resnick, Lynda Rae Resnick, and Matthew Tupper, individually and as officers of POM Wonderful LLC (“POM Wonderful”) and Roll Global (“Roll”).
2. Unless otherwise specified, “Respondents” shall mean POM Wonderful and Roll, their officers, agents, successors and assigns; and the individual respondents and each of their successors, assigns, agents, and representatives.
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, 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.
5. “Covered Product” shall mean any food, drug, or dietary supplement, including, but not limited to, the POM Products.
6. “Food” and “drug” shall mean as defined in Section 15 of the Federal Trade Commission Act, 15 U.S.C. § 55.
7. “Endorsement” shall mean as defined in 16 C.F.R. § 255.0.
8. “POM Product” shall mean any food, drug, or dietary supplement containing pomegranate or its components, including, but not limited to, POM Wonderful 100% Pomegranate Juice and pomegranate juice blends, POMx Pills, POMx Liquid, POMx Tea, POMx Iced Coffee, POMx Bars, and POMx Shots.
9. The term “including” in this Order shall mean “without limitation.”
10. The terms “and” and “or” in this Order shall be construed conjunctively or disjunctively as necessary, to make the applicable phrase or sentence inclusive rather than exclusive.

I.

IT IS ORDERED that Respondents, directly or through any corporation, partnership, subsidiary, division, trade name, 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, including through the use of a product name, endorsement, depiction, illustration, trademark, or trade name, that such product is effective in the diagnosis, cure, mitigation, treatment, or prevention of any disease, including, but not limited to, any representation that the product will treat, prevent, or reduce the risk of heart disease, including by decreasing arterial plaque, lowering blood pressure, or improving blood flow to the heart; treat, prevent, or reduce the risk of prostate cancer, including by prolonging prostate-specific antigen doubling time (“PSADT”); or treat, prevent, or reduce the risk of erectile dysfunction; unless, at the time it is made, the representation is non-misleading and, Respondents possessed and relied upon competent and reliable scientific evidence that is 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 the representation is true.

II.

IT IS FURTHER ORDERED that Respondents, directly or through any corporation, partnership, subsidiary, division, trade name, 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 misrepresent, in any manner, expressly or by implication, including through the use of a product name, endorsement, depiction, or illustration, trademark, or trade name, the existence, contents, validity, results, conclusions, or interpretations of any test, study, or research.

III.

IT IS FURTHER ORDERED that Respondents, directly or through any corporation, partnership, subsidiary, division, trade name, 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, including through the use of a product name, endorsement, depiction, illustration, trademark, or trade name, about the health benefits, performance, or efficacy of any Covered Product, unless the representation is non-misleading, and, at the time of making such representation, Respondents rely upon competent and reliable scientific evidence that is 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 the representation is true.

IV.

IT IS FURTHER ORDERED that:

- A. Nothing in this Order shall prohibit Respondents from making any representation for any product that is specifically permitted in labeling for such product by regulations promulgated by the Food and Drug Administration pursuant to the Nutrition Labeling and Education Act of 1990; and
- B. Nothing in this Order shall prohibit Respondents from making any representation for any drug that is permitted in the labeling for such drug under any tentative final or final standard promulgated by the Food and Drug Administration, or under any new drug application approved by the Food and Drug Administration.

V.

IT IS FURTHER ORDERED that POM Wonderful, Roll, and their successors and assigns, and individual respondents 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 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 VI.

VI.

IT IS FURTHER ORDERED that POM Wonderful, Roll, and their successors and assigns, and individual respondents shall deliver a copy of this Order to all of their current and future principals, officers, directors, and managers, and to all of their current and future employees, agents, and representatives having managerial 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. POM Wonderful, Roll, and their successors and assigns, and individual respondents shall deliver this Order to such current personnel within thirty (30) days after the effective date of this Order, and to such future personnel within thirty (30) days after the person assumes such position or responsibilities.

VII.

IT IS FURTHER ORDERED that POM Wonderful, Roll, and their successors and assigns, shall notify the Commission at least thirty (30) days prior to any change in the corporations or any business entity that POM Wonderful, Roll, and their successors and assigns, and individual respondents directly or indirectly control, or have 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 POM Wonderful, Roll, and their successors and assigns, and individual respondents learn less than thirty (30) days prior to the date such action is to take place, POM Wonderful, Roll, and their successors and assigns, and individual respondents 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 to the Associate Director for Enforcement, Bureau of Consumer Protection, Federal Trade Commission, 600 Pennsylvania Avenue NW, Washington, DC 20580, with the subject line *FTC v. POM Wonderful*. 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 each individual respondent, for a period of ten (10) years after the date of issuance of this Order, shall notify the Commission of the discontinuance of any current business or employment, or of an affiliation with any new business or employment. The notice shall include the individual respondent's new business address and telephone number and a description of the nature of the business or employment and all duties and responsibilities. Unless otherwise directed by a representative of the Commission, all notices required by this Part shall be sent by overnight courier to the Associate Director for Enforcement, Bureau of Consumer Protection, Federal Trade Commission, 600 Pennsylvania Avenue NW, Washington, DC 20580, with the subject line *FTC v. POM Wonderful*. 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.

IX.

IT IS FURTHER ORDERED that POM Wonderful, Roll, and their successors and assigns, and individual respondents within sixty (60) days after the effective date of this Order, shall each file with the Commission a true and accurate report, in writing, setting forth in detail the manner and form of their compliance with this Order. In addition, within ten (10) days of receipt of written notice from a representative of the Commission, they shall submit additional true and accurate written reports.

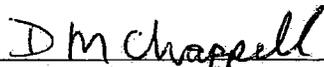
X.

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 proposed 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 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.

ORDERED:



D. Michael Chappell
Chief Administrative Law Judge

Date: May 17, 2012