

**UNITED STATES OF AMERICA
FEDERAL TRADE COMMISSION**

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

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In the Matter of)	
)	
)	Docket No.
Essentia Natural Memory)	
Foam Company, Inc.,)	
a corporation.)	
)	
)	

COMPLAINT

The Federal Trade Commission, having reason to believe that Essentia Natural Memory Foam Company, Inc. (“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 is a Delaware corporation with its principal office or place of business at 2760 Daniel Johnson, Laval, Quebec, Canada H7P5Z7. It is a wholly-owned subsidiary of Verstile, Inc., a Canadian corporation, which has its principal office at the same location. Respondent does business under the name Essentia.
2. Respondent manufactures, advertises, offers for sale, sells, and distributes “memory foam” mattresses, which are marketed as mattresses that conform to the sleeper’s body shape and weight. Respondent distributes these mattresses through its website and at its own stores in California, Colorado, Illinois, New York, and Washington.
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. Respondent has disseminated or has caused the dissemination of promotional materials for its memory foam mattresses, including, but not limited to, print advertisements and website advertisements in the attached exhibits.

5. In many instances, including but not limited to the promotional materials shown in Exhibits 1 through 7, Respondent has represented that:

- a. Its mattresses are “VOC [‘Volatile Organic Compound’] free” and “[f]ree of harmful VOC’s.” *See, e.g.*, Exhibit 1.
- b. Its mattresses have “[n]o chemical off-gassing or odor.” Exhibit 2.
- c. “Memory foam mattresses can emit up to 61 chemicals” but Essentia’s memory foam is “free from all those harmful VOC’s.” Exhibit 3.
- d. Respondent’s memory foam mattresses are chemical-free. *See, e.g.*, Exhibit 4.
- e. Respondent’s memory foam mattresses contain no Formaldehyde. *See, e.g.*, Exhibit 5.
- f. Respondent’s memory foam does not emit chemical fumes or odors. *See, e.g.*, Exhibit 6.
- g. The memory foam in Respondent’s mattresses is “made with 100% natural materials.” Exhibit 6.
- h. Testing confirms that Respondent’s memory foam is free of VOCs and Formaldehyde. *See, e.g.*, Exhibits 1, 5, 7.

6. A consumer acting reasonably under the circumstances is likely to interpret representations that a mattress has “[n]o chemical off-gassing or odor” or that a mattress “does not emit chemical fumes or odors” to mean that the mattress is free of VOCs.

7. In truth and in fact, Respondent did not possess and rely upon a reasonable basis that substantiated the representations set forth in Paragraph 5 at the time that the representations were made.

8. In truth and in fact, testing does not confirm that the memory foam used in Respondent’s mattresses is free of VOCs and Formaldehyde.

COUNT I (Unsubstantiated Representations)

9. Through the means described in Paragraphs 4 and 5, Respondent has represented, expressly or by implication, that it possessed and relied upon a reasonable basis that substantiated the representations set forth in Paragraph 5, 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 5 at the time the representations were made. Therefore, the representations set forth in Paragraph 9 are false or misleading.

COUNT II (Establishment Claim)

11. Through the means described in Paragraphs 4 and 5, and as set forth in paragraph 5(h), Respondent has represented, expressly or by implication, that testing confirms that the memory foam used in Respondent's mattresses is free of VOCs and Formaldehyde.

12. In truth and in fact, testing does not confirm that the memory foam used in Respondent's mattresses was free of VOCs and Formaldehyde at the time the representations set forth in Paragraph 5(h) were made. Therefore, the representations set forth in Paragraph 11 are false or misleading.

13. Respondent's practices, 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, this ____ day of _____ 2013, has issued this complaint against Respondent.

By the Commission.

SEAL:

Donald S. Clark
Secretary