

**UNITED STATES OF AMERICA
BEFORE THE FEDERAL TRADE COMMISSION**

In the Matter of

**THE ERICKSON MARKETING GROUP INC.,
a corporation, d/b/a ROCKY MOUNTAIN
SUNSCREEN.**

FILE NO. 1523268

**AGREEMENT
CONTAINING
CONSENT ORDER**

The Federal Trade Commission has conducted an investigation of certain acts and practices of The Erickson Marketing Group Inc., a corporation (“proposed respondent”). Proposed respondent is 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 The Erickson Marketing Group Inc., by its duly authorized officers, and counsel for the Federal Trade Commission that:

1. Proposed respondent The Erickson Marketing Group Inc., also doing business as Rocky Mountain Sunscreen, is a Colorado corporation with its principal office or place of business at 14700 W. 66th Place, Suite 2, Arvada, Colorado 80004.
2. Proposed respondent neither admits nor denies any of the allegations in the draft complaint, except as specifically stated in the order. Only for purposes of this action, proposed respondent admits the facts necessary to establish jurisdiction.
3. Proposed respondent waives:
 - 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 respondent, 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 This agreement contemplates that, if it is accepted by the Commission, and if such acceptance is not subsequently withdrawn by the Commission pursuant to the provisions of Section 2.34 of the Commission's Rules, the Commission may, without further notice to proposed respondent, (1)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 respondent's address as stated in this agreement by any means specified in Section 4.4(a) of the Commission's Rules shall constitute service. Proposed respondent waives any right it 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.

6. Proposed respondent has read the draft complaint and consent order. It understands that it 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. Unless otherwise specified, "respondent" shall mean The Erickson Marketing Group Inc., a corporation, also doing business as Rocky Mountain Sunscreen, its successors and assigns, and its officers, agents, representatives, and employees.
2. "Commerce" shall mean as defined in Section 4 of the Federal Trade Commission Act, 15 U.S.C. § 44.

I.

IT IS ORDERED that respondent, 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 product must not make any representation, expressly or by implication, including through the use of a product name, trademark, or trade name, about:

- A. whether such product is all natural or 100% natural;

- B. the extent to which such product contains any natural or synthetic ingredient or component;
- C. the ingredients or composition of such product; or
- D. the environmental or health benefits of such product,

unless the representation is non-misleading, including that, at the time such representation is made, the respondent possesses and relies upon competent and reliable evidence, which when appropriate based on the expertise of professionals in the relevant area must be competent and reliable scientific evidence, that is sufficient in quality and quantity based on standards generally accepted in the relevant fields when considered in light of the entire body of relevant and reliable evidence, to substantiate that the representation is true. For the purposes of this Provision:

- 1. “competent and reliable evidence” means tests, analyses, research, studies, or other evidence based on the expertise of professionals in the relevant area, that have been conducted and evaluated in an objective manner by qualified persons, using procedures generally accepted in the profession to yield accurate and reliable results; and
- 2. “competent and reliable *scientific* evidence” means tests, analyses, research, or studies that have been conducted and evaluated in an objective manner by qualified persons, using procedures generally accepted in the profession to yield accurate and reliable results.

II.

IT IS FURTHER ORDERED that respondent The Erickson Marketing Group Inc., and its successors and assigns, 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 and promotional materials containing the representation;
- B. All materials that were relied upon in disseminating the representation; and
- 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.

III.

IT IS FURTHER ORDERED that respondent The Erickson Marketing Group Inc., and its successors and assigns, shall deliver a copy of this order to all current and future principals,

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. Respondent 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. Respondent must maintain and upon request make available to the Federal Trade Commission for inspection and copying all acknowledgments of receipt of this order obtained pursuant to this Part.

IV.

IT IS FURTHER ORDERED that respondent The Erickson Marketing Group Inc., and its successors and assigns, shall notify the Commission at least thirty (30) days prior to any change in the corporation that may affect compliance obligations arising under this order, including but not limited to a dissolution, assignment, sale, merger, or other action that would result in the emergence of a successor corporation; 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 corporate name or address. Provided, however, that, with respect to any proposed change in the corporation about which 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 in writing, all notices required by this Part shall be emailed to Debrief@ftc.gov or sent by overnight courier (not the U.S. Postal Service) to: Associate Director for Enforcement, Bureau of Consumer Protection, Federal Trade Commission, 600 Pennsylvania Avenue NW, Washington, DC 20580. The subject line must begin: In re The Erickson Marketing Group Inc., Docket No. C-.

V.

IT IS FURTHER ORDERED that Respondent The Erickson Marketing Group Inc., and its successors and assigns, within sixty (60) days after the date of service of this order, shall file with the Commission a true and accurate report, in writing, setting forth in detail the manner and form of its own compliance with this order. Within ten (10) days of receipt of written notice from a representative of the Commission, it shall submit additional true and accurate written reports.

VI.

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 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 respondent 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 _____, 2015

**THE ERICKSON MARKETING
GROUP INC.**

FEDERAL TRADE COMMISSION

By: _____
David C. Erickson
President

By: _____
Robert M. Frisby
Attorney, Bureau of Consumer Protection

Date: _____

By: _____
John Andrew Singer
Attorney, Bureau of Consumer Protection

APPROVED:

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