

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

COMMISSIONERS: **Joseph J. Simons, Chairman**
 Noah Joshua Phillips
 Rohit Chopra
 Rebecca Kelly Slaughter
 Christine S. Wilson

In the Matter of

SUNDAY RILEY MODERN SKINCARE, LLC,
 a limited liability company, and

SUNDAY RILEY,
 individually and as an officer of
 SUNDAY RILEY MODERN SKINCARE, LLC.

DOCKET NO. C-4729

COMPLAINT

The Federal Trade Commission, having reason to believe that Sunday Riley Modern Skincare, LLC, a limited liability company, and Sunday Riley, individually and as an officer of Sunday Riley Modern Skincare, LLC (collectively, “Respondents”), have violated the provisions of the Federal Trade Commission Act, and it appearing to the Commission that this proceeding is in the public interest, alleges:

1. Respondent Sunday Riley Modern Skincare, LLC (“Sunday Riley Skincare”) is a Texas limited liability company with its principal office or place of business at 4444 Westheimer Road, Suite G305, Houston, Texas 77027-4455.
2. Respondent Sunday Riley is the Chief Executive Officer of Sunday Riley Skincare. Individually or in concert with others, she controlled or had the authority to control or participated in the acts and practices of Sunday Riley Skincare, including the acts and practices alleged in this complaint. Her principal office or place of business is the same as that of Sunday Riley Skincare.
3. Respondents have manufactured, advertised, labeled, offered for sale, sold, and distributed Sunday Riley brand cosmetic products to consumers, including Luna Sleeping Night Oil, Good Genes All-In-One Lactic Acid Treatment, Blue Moon Tranquility Cleansing Balm, Start Over Active Eye Gel Cream, Bionic Anti-Aging Cream, C.E.O. Rapid Flash Brightening Serum, Effortless Breathable Tinted Primer, Tidal Brightening Facial Cream, Power Couple

Duo: Total Transformation Kit, Martian Mattifying Melting Water-Gel Toner, U.F.O. Ultra-Clarifying Face Oil, Saturn Sulfur Acne Treatment Mask, and the Space Race Kit.

4. The acts and practices of Respondents alleged in this complaint have been in or affecting commerce, as “commerce” is defined in Section 4 of the Federal Trade Commission Act.

Course of Conduct

5. Respondents have sold their Sunday Riley brand cosmetic products through Sephora, a multinational chain of personal care and beauty stores.

6. Sunday Riley brand cosmetic products sold through Sephora range in price from \$22 for a 0.5-ounce jar of Tidal Brightening Facial Cream to \$158 for a 1.7-ounce bottle of Good Genes All-In-One Lactic Acid Treatment.

7. Sephora provides consumers the opportunity to leave customer reviews of products sold on its website, www.sephora.com. Reviews provide a forum for sharing authentic feedback about products.

8. On multiple occasions between November 2015 and August 2017, Sunday Riley Skincare managers, including Respondent Sunday Riley, posted reviews of Sunday Riley brand cosmetic products on the Sephora website using fake accounts created just for that purpose or requested that other employees do so.

9. When Sephora removed fake reviews written by Sunday Riley Skincare employees, Sunday Riley Skincare employees suspected this was because Sephora recognized the reviews as coming from Sunday Riley Skincare’s IP address. In response, Sunday Riley Skincare obtained, in the words of one manager, “an Express VPN account [to] ... allow us to hide our IP address and location when we write reviews.” A VPN (Virtual Private Network) is a service that lets users access the Internet privately by routing their connections through a server and hiding their online actions.

10. Calls for employees to write reviews were associated with, but not limited to, the launches of new products. In July 2016, Respondent Sunday Riley wrote to her staff:

I would like everyone to create 3 accounts on Sephora.com, registered as a different identities.

This is how you do it:

1. Create a new persona. Choose their name, city, skin type.
2. Setup a new email on gmail
3. Before going onto Sephora.com, clear your cookie history EACH TIME ...
4. Connect to the internet ONLY using the VPN. Make sure to choose a city of origin that goes along with where your character lives. ...

5. Leave a review – make sure to NOT compare the product to other products, to not use foul language, and to be very enthusiastic without looking like a plant. Always leave 5 stars.
6. Review a few other products as well – no skincare. Only review makeup, color, hair.
7. Leave a review for a different product every other day so you build up history. You can also use this identity on Beauty Board.
8. You will need to clear cookies and use the VPN every time, or your account will be flagged.
9. Focus on Martian, UFO, Tidal, Power Couple, Good Genes, Luna.

The other thing, if you see a negative review – DISLIKE it. After enough dislikes, it is removed. This directly translates to sales!!

Tidal and Good Genes are 4.2 and I would like to see them at 4.8+. UFO and Martian are at 4.9 – let's keep it that way!

11. In December 2016, the Sunday Riley Skincare Account Manager responsible for Sephora wrote to other managers and employees:

Now that CEO is up, we need to make sure the reviews for clients stay positive. I think someone created a profile yesterday and already wrote a review, only thing is it was a little pre-mature as the product only launched yesterday and wouldn't have arrived same day. **Credibility is key to the reviews!**

If everyone could write *at least* 3 reviews for CEO between Friday and next Tuesday.

12. In August 2017, the Sunday Riley Skincare Account Manager responsible for Sephora wrote to other managers and employees:

Now that Saturn is up and Space Race coming up next week, we need to make sure the reviews for clients stay positive and help generate and [sic] confidence in the products.

Credibility is key to the reviews!

If everyone could write *at least* 3 reviews for Saturn over the next week, and some for Space Race the week after. I would encourage you to create profiles ASAP and write a couple reviews on a makeup, hair or nail product to build a profile history. Please make sure to follow the guidelines for VPN (see below) as this is essential so the reviews don't get traced back to our IP address.

When reviewing Saturn please address things like how cooling it felt, the green color, the non-drying mask effect, radiance boosting, got rid of your acne after a couple uses. The biggest points of difference for this mask and other acne masks

are how this mask increases radiance and doesn't dry out the skin like all other acne masks do. It helps to make yourself seem relatable – like you know how hard acne is and you've tried everything, and this one actually works or mention things like yes, it's a little more expensive, but works incredible [sic] well compared to the cheaper masks out there. If you need any help with things to come up with to say, feel to ask myself, Sunday, or Addison. As reviews come in, read them too. If you notice someone saying things like I didn't like "x" about it, write a review that says the opposite. The power of reviews is mighty, people look to what others are saying to persuade them and answer potential questions they have.

13. In April 2018, Sunday Riley Skincare managers asked interns to create fake Sephora accounts in order to write reviews of Sunday Riley Skincare products, which they did.

Count I

False or Misleading Endorsement Claims

14. Through the means described in Paragraphs 8 through 13, Respondents have represented, directly or indirectly, expressly or by implication, that certain reviews of Sunday Riley brand products on the Sephora website reflected the independent experiences or opinions of impartial ordinary users of the products.

15. In fact, numerous reviews of Sunday Riley brand products on the Sephora website did not reflect the independent experiences or opinions of impartial ordinary users of the products because they were written by Sunday Riley and her employees. Therefore, the representations set forth in Paragraph 14 are false or misleading.

Count II

Deceptive Failure to Disclose Material Connections with Endorsers

16. Through the means described in Paragraphs 8 through 13, Respondents have represented, directly or indirectly, expressly or by implication, that certain reviews of Sunday Riley brand products on the Sephora website reflected the experiences or opinions of users of the products.

17. In numerous instances in which Respondents made the representation set forth in Paragraph 16, they failed to disclose that the online consumer reviews were written by Sunday Riley or her employees. This fact would be material to consumers in evaluating the reviews of Sunday Riley brand products in connection with a purchase or use decision.

19. Respondents' failure to disclose the material information described in Paragraph 17, in light of the representations made in Paragraph 16, is a deceptive act or practice.

Violations of Section 5

21. The acts and practices of Respondents as alleged in this complaint constitute unfair or 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 sixth day of November 2020, has issued this Complaint against Respondents.

By the Commission, Commissioners Chopra and Slaughter dissenting.

April J. Tabor
Acting Secretary

SEAL: