

IN THE MATTER OF

REDMOND PRODUCTS, INC., ET AL.

CONSENT ORDER, ETC., IN REGARD TO ALLEGED VIOLATION OF
SEC. 5 OF THE FEDERAL TRADE COMMISSION ACT*Docket C-3479. Complaint, Feb. 10, 1994--Decision, Feb. 10, 1994*

This consent order prohibits, among other things, a Minnesota-based manufacturer of hair care products and its officer from making unsubstantiated representations regarding the environmental benefits of any cosmetic product in the future.

Appearances

For the Commission: *Michael Dershowitz and Kevin M. Bank.*

For the respondents: *John French, Faegre & Benson, Minneapolis, MN.*

COMPLAINT

The Federal Trade Commission, having reason to believe that Redmond Products, Inc., a corporation, and Thomas M. Redmond, individually and as an officer of said corporation ("respondents"), have violated provisions of the Federal Trade Commission Act, and it appearing to the Commission that a proceeding by it in respect thereof would be in the public interest, alleges:

PARAGRAPH 1. Respondent Redmond Products, Inc. is a Minnesota corporation, with its principal office or place of business at 18930 West 78th Street, Chanhassen, Minnesota.

Respondent Thomas M. Redmond is an officer of the corporate respondent. Individually or in concert with others, he formulates, directs and controls the acts and practices of the corporate respondent, including the acts and practices alleged in this complaint. His principal office or place of business is the same as that of the corporate respondent.

PAR. 2. Respondents have advertised, labeled, offered for sale, sold and distributed certain aerosol hair spray products to the public, including Aussie Mega Styling Spray and New Zealand Hair Paradise

Zapset Hair Spray, which contain the volatile organic compounds (“VOCs”) butane, propane and SD Alcohol 40 (hereinafter “respondents’ products”).

PAR. 3. 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.

PAR. 4. Respondents have disseminated or have caused to be disseminated advertisements, including product labeling, for respondents’ products, including, but not necessarily limited to the attached Exhibits A through D.

The aforesaid product labeling (Exhibits A and B) included the following statements on the front panel of respondents’ products:

ENVIRONMENTAL FORMULA
CONTAINS NATURAL PROPELLANTS AND NO FLUOROCARBONS

The aforesaid product labeling (Exhibit C) included the following statement on the back panel of the Aussie Mega Styling Spray aerosol container:

This advanced environmental formula is a blend of the finest ingredients from nature and science; containing natural propellants and no fluorocarbons.

The aforesaid advertising (Exhibit D) for Aussie Mega Styling Spray included the following statements:

Being Considerate Of Your Environment Doesn’t Mean
Giving Up Sprays And Gels
Environmentally Formulated

PAR. 5. Through the use of the statements contained in the advertisements and product labeling referred to in paragraph four, including but not necessarily limited to the advertisements attached as exhibits A through D, respondents have represented, directly or by implication, that:

1. There are no ingredients in respondents’ products which are damaging to the environment.
2. Because respondents’ products contain natural propellants and no fluorocarbons, respondents’ products do not harm the environment.

PAR. 6. Through the use of statements contained in the advertisements referred to in paragraph four, including but not necessarily limited to the advertisements attached as Exhibits A through D, respondents have represented, directly or by implication, that at the time they made the representations set forth in paragraph five, respondents possessed and relied upon a reasonable basis that substantiated such representations.

PAR. 7. In truth and in fact, at the time respondents made the representations set forth in paragraph five, respondents did not possess and rely upon a reasonable basis that substantiated such representations. Therefore, the representation set forth in paragraph six was, and is, false and misleading.

PAR. 8. 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.

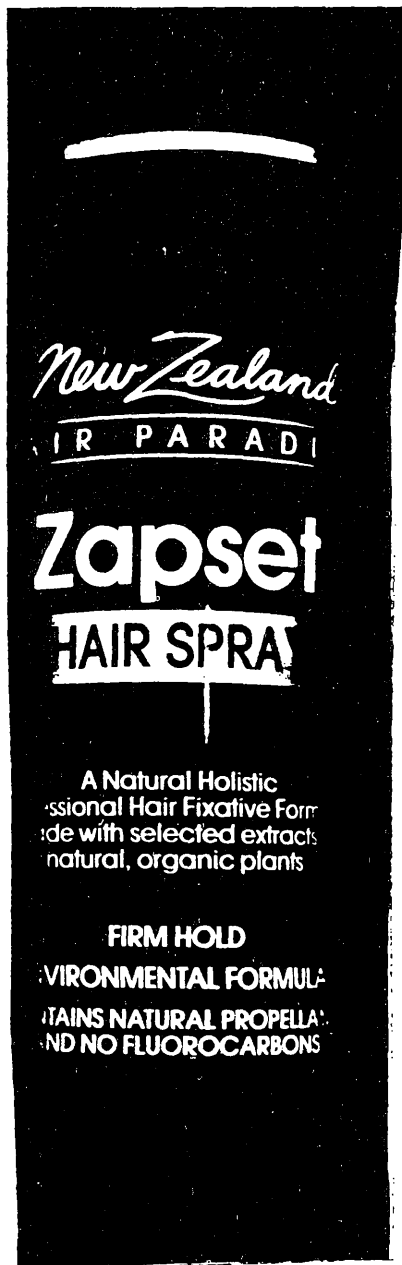
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EXHIBIT A



EXHIBIT B



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EXHIBIT C

**What you should know about
AUSSIE MEGA STYLING SPRAY**

sophisticated salon hair spray v-
anced environmental formula is
ingredients from nature and sc-
natural propellants and no fluo-
MEGA STYLING SPRAY'S conce-
es fast, holding today's new sal-
and wind. This water solub-
and brushes out easily while cont-
ents to prevent flyaway hair and
protect against discoloration.

SALON DIRECTIONS

upright 8 to 12 inches from hair
without respraying use damp c-

WARNING: FLAMMABLE

NG FLAMMABLE. AVOID FIRE.
NG DURING USE AND UNTIL
GHLY DRY. Avoid spraying in
pressure. Do not puncture or
re at temperature above 120
ht Use only as directed. Inter-
liberately concentrating and
can be harmful or fatal. KEE
F CHILDREN.

INGREDIENTS

440, Butane, Propane, Vinyl A
Vinyl Neodecanoate Copoly-
panol, Lauramide DEA, EX
OO PAW FLOWER, Fragrance
anolin, PVP, Ethyl Ester of Hyd-
in, Panthenol, PPG-2 Salic
e 4



EXHIBIT D

Being Considerate
Of Your Environment Doesn't Mean
Giving Up Sprays And Gels



Environmentally Formulated

DECISION AND ORDER

The Federal Trade Commission having initiated an investigation of certain acts and practices of the respondents named in the above caption, and the respondents having been furnished thereafter with a copy of a draft complaint which the Bureau of Consumer Protection proposed to present to the Commission for its consideration and which, if issued by the Commission, would charge respondents with violation of the Federal Trade Commission Act; and

The respondents, their attorney, and counsel for the Commission having thereafter executed an agreement containing a consent order, an admission by the respondents of all the jurisdictional facts set forth in the aforesaid draft complaint, a statement that the signing of the agreement is for settlement purposes only and does not constitute an admission by respondents that the law has been violated as alleged in such 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 had reason to believe that the respondents have violated the Act, and that complaint should issue stating its charges in that respect, and having thereupon accepted the executed consent agreement and placed such agreement on the public record for a period of sixty (60) days, 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 Redmond Products, Inc. is a Minnesota corporation with its office and principal place of business located at 18930 West 78th Street, Chanhassen, Minnesota.

2. Respondent Thomas M. Redmond is an officer of said corporation. He formulates, directs, and controls the acts and practices of said corporation as set forth in the complaint and his address is the same as that of Redmond Products, Inc.

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:

The term “*Volatile Organic Compound*” (“VOC”) means any compound of carbon which participates in atmospheric photochemical reactions as defined by the U.S. Environmental Protection Agency at 40 CFR 51.100(s), and as subsequently amended. When the final rule was promulgated, 57 Fed. Reg. 3941 (February 3, 1992), the EPA definition excluded carbon monoxide, carbon dioxide, carbonic acid, metallic carbides or carbonates, ammonium carbonate and certain listed compounds that the EPA has determined are of negligible photochemical reactivity.

“*Competent and reliable scientific evidence*” shall mean tests, analyses, research, studies or other evidence based on the expertise of professionals in the relevant area, that has been 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.

I.

It is ordered, That respondents Redmond Products, Inc., a corporation, its successors and assigns, and its officers, and Thomas M. Redmond, individually and as an officer of said corporation, and respondents’ agents, representatives and employees, directly or through any corporation, subsidiary, division, or other device, in connection with the advertising, labeling, offering for sale, sale, or distribution of any Redmond hair care product containing any volatile organic compound, in or affecting commerce, as “commerce” is defined in the Federal Trade Commission Act, do forthwith cease and desist from representing, in any manner, directly or by implication, through the use of such terms as “Environmentally Formulated,” “Environmental Formula Contains Natural Propellants and No Fluorocarbons,” or any other term or expression, that any such product will not harm the atmosphere or the environment, unless at the time of making such representation, respondents possess and rely upon competent and reliable evidence, which when appropriate must

be competent and reliable scientific evidence, that substantiates such representation.

II.

It is further ordered, That respondents, Redmond Products, Inc., a corporation, its successors and assigns, and its officers, and Thomas M. Redmond, individually and as an officer of said corporation, and respondents' agents, representatives, and employees, 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 cosmetic product, in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from representing, in any manner, directly or by implication, that any product offers any environmental benefit, unless at the time of making such representation, respondents possess and rely upon competent and reliable evidence, which when appropriate must be competent and reliable scientific evidence, that substantiates such representation.

III.

Nothing in this order shall prevent respondents from using any of the terms cited in part I, or similar terms or expressions, if necessary to comply with any federal rule, regulation, or law governing the use of such terms in advertising and labeling.

IV.

It is further ordered, That for five (5) years after the last date of dissemination of any representation covered by this order, respondents, or their successors and assigns, shall maintain and upon request make available to the Federal Trade Commission for inspection and copying:

1. All materials that were relied upon in disseminating such representation; and
2. All tests, reports, studies, surveys, demonstrations or other evidence in their possession or control that contradict, qualify, or call

into question such representation, or the basis relied upon for such representation, including complaints from consumers.

V.

It is further ordered, That the corporate respondent shall distribute a copy of this order to each of its operating divisions and to each of its officers, agents, representatives, or employees engaged in the preparation and placement of advertisements, promotional materials, product labels or other such sales materials covered by this order.

VI.

It is further ordered, That respondents shall notify the Commission at least thirty (30) days prior to any proposed change in the corporation such as a dissolution, assignment, or sale resulting in the emergence of a successor corporation, the creation or dissolution of subsidiaries, or any other change in the corporation which may affect compliance obligations under this order.

VII.

It is further ordered, That the individual respondent shall notify the Commission in the event of the discontinuance of his present business or employment and of each affiliation with a new business or employment. In addition, for a period of five (5) years from the date of service of this order, he shall promptly notify the Commission of each affiliation with a new business or employment whose activities include the sale, distribution, and/or manufacturing of cosmetic products or of his affiliation with a new business or employment in which his own duties and responsibilities involve the sale, distribution, and/or manufacturing of cosmetic products. Each such notice shall include the individual respondent's new business address and a statement of the nature of the business or employment in which such respondent is newly engaged, as well as a description of such respondent's duties and responsibilities in connection with the business or employment. The expiration of the notice provision of this paragraph shall not affect any other obligation arising under this order.

VIII.

It is further ordered, That respondents shall, within sixty (60) days after service of this order upon them, and at such other times as the Commission may require, file with the Commission a report, in writing, setting forth in detail the manner and form in which they have complied with this order.

IN THE MATTER OF

PRESTO FOOD PRODUCTS, INC.

CONSENT ORDER, ETC., IN REGARD TO ALLEGED VIOLATION OF
SECS. 5 AND 12 OF THE FEDERAL TRADE COMMISSION ACT

Docket C-3480. Complaint, Feb. 23, 1994--Decision, Feb. 23, 1994

This consent order prohibits, among other things, a California corporation from misrepresenting the absolute or comparative amount of total fat, saturated fat, or cholesterol in Mocha Mix, Mocha Mix Lite, or in any milk product or non-dairy substitute and the amount of these nutrients relative to the serving size being advertised for the products.

Appearances

For the Commission: *Rosemary Rosso and Carol Ann Kando.*

For the respondent: *William H. Kitchens, Arnall, Golden & Gregory, Atlanta, GA.*

COMPLAINT

The Federal Trade Commission, having reason to believe that Presto Food Products, Inc. ("respondent"), has violated provisions of the Federal Trade Commission Act, and it appearing to the Commission that a proceeding by it in respect thereof would be in the public interest, alleges:

PARAGRAPH 1. Respondent is a California corporation with its offices and principal place of business located at 18275 Arenth Avenue, P.O. Box 584, City of Industry, California.

PAR. 2. Respondent has manufactured, advertised, labeled, offered for sale, sold and distributed liquid non-dairy creamers, including Mocha Mix and Mocha Mix Lite, and other food products to consumers. Mocha Mix and Mocha Mix Lite are "foods" within the meaning of Sections 12 and 15 of the Federal Trade Commission Act.

PAR. 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.