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**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
Oakland Division**

FEDERAL TRADE COMMISSION,

Plaintiff,
vs.

SPRINGTECH 77376, LLC, a limited
liability company, also d/b/a
CEDARCIDE.COM and
CEDARCIDESTORE.COM,

CEDARCIDE INDUSTRIES, INC., a
corporation,

CHEMICAL FREE SOLUTIONS LLC, a
limited liability company,

CEDAR OIL TECHNOLOGIES CORP., a
corporation, and

DAVE GLASSEL, individually and as an
officer of SPRINGTECH 77376, LLC,
CEDARCIDE INDUSTRIES, INC., and
CEDAR OIL TECHNOLOGIES CORP.,

Defendants.

No. C 12-4631 PJH

[PROPOSED]

**STIPULATED ORDER FOR
PERMANENT INJUNCTION AND
MONETARY JUDGMENT AS TO
DEFENDANT DAVE GLASSEL**

1 Plaintiff, the Federal Trade Commission (“Commission” or “FTC”), filed its Complaint
2 for a permanent injunction and other equitable relief in this matter, pursuant to Section 13(b) of
3 the Federal Trade Commission Act (“FTC Act”), 15 U.S.C. § 53(b), on September 5, 2012.

4 On October 1, 2012, Defendant Dave Glassel also filed a voluntary petition for relief
5 under Chapter 7 of Title 11 of the United States Code, 11 U.S.C. § 101, et seq., in the Southern
6 District of Texas, Houston Division, Case No. 4:12-bk-37253 (“Glassel Bankruptcy Case”).
7 Lowell T. Cage was appointed the Chapter 7 trustee for Defendant Glassel. The Commission’s
8 action against Defendant Glassel, including the enforcement of a judgment other than a monetary
9 judgment obtained in this action, is not stayed by 11 U.S.C. § 362(1), (2), (3), or (6), because it is
10 an exercise of the Commission’s police or regulatory power as a governmental unit pursuant to §
11 362(b)(4) and, thus, falls within an exception to the automatic stay.

12 The Commission, Defendant Glassel, and Lowell T. Cage, solely in his capacity as
13 Chapter 7 bankruptcy trustee for Defendant Glassel, stipulate to the entry of this Stipulated Order
14 for Permanent Injunction and Monetary Judgment (“Order”) to resolve all matters in dispute in
15 this action between them.

16 THEREFORE, IT IS ORDERED as follows:

17 **FINDINGS**

- 18 1. This Court has jurisdiction over this matter.
- 19 2. The Commission’s Complaint states claims upon which relief may be granted
20 under Sections 5(a), 12 and 13(b) of the FTC Act, 15 U.S.C. §§ 45(a), 52 and 53(b).
- 21 3. Defendant Glassel neither admits nor denies any of the allegations in the Complaint,
22 except as specifically stated in this Order. Only for purposes of this action, Defendants admit the
23 facts necessary to establish jurisdiction.
- 24 4. Pursuant to his authority as the chapter 7 trustee in the Glassel Bankruptcy Case, Lowell
25 T. Cage, the chapter 7 trustee, may take any and all actions necessary and appropriate to enter
26 into, implement, and effectuate the terms and conditions of this Order. Under such authority, he
27 has agreed not to object to the allowance of a general unsecured claim in the Glassel Bankruptcy
28

1 Case in favor of the FTC in the amount of Four Million, Six Hundred and Eighty-Eight
2 Thousand and Ninety-Nine Dollars (\$4,688,099).

3 5. Defendant Glassel waives any claim that he may have under the Equal Access to Justice
4 Act, 28 U.S.C. § 2412, concerning the prosecution of this action through the date of this Order,
5 and agrees to bear its own costs and attorney's fees.

6 6. The FTC and Defendant Glassel waive all rights to appeal or otherwise challenge or
7 contest the validity of this Order.

8 **DEFINITIONS**

9 For the purpose of this Order, the following definitions apply:

- 10 A. "Settling Defendant" means Dave Glassel.
11 B. "Pesticide" means any product intended to prevent, destroy, repel, or mitigate any pest.
12 C. "Specified product" means the Best Yet! product line.

13 14 **I.**

15 **PROHIBITION ON DECEPTIVE** 16 **PERFORMANCE AND EFFICACY CLAIMS**

17 IT IS HEREBY ORDERED that Settling Defendant, his officers, agents, servants, and
18 employees, and all other persons in active concert or participation with any of them, who receive
19 actual notice of this Order by personal service or otherwise, whether acting directly or indirectly,
20 in connection with the advertising, marketing, promoting or offering for sale of the specified
21 product, or any pesticide, are permanently restrained and enjoined from making, or assisting
22 others in making, expressly or by implication, including through the use of a product name,
23 endorsement, depiction, or illustration, any representation, other than representations covered
24 under Section II of this Order:

- 25 A. that such product by itself is effective in stopping bed bug infestations;
26 B. that such product is effective in preventing bed bug infestations;
27 C. that such product is more effective than other products or services at stopping and
28 preventing bed bug infestations; or

1 D. about the performance or efficacy of such product;
2 unless the representation is non-misleading, and, at the time such representation is made, Settling
3 Defendant possesses and relies upon competent and reliable scientific evidence that is sufficient
4 in quality and quantity based on standards generally accepted in the relevant scientific fields,
5 when considered in light of the entire body of relevant and reliable scientific evidence, to
6 substantiate that the representation is true. For purposes of this Section, competent and reliable
7 scientific evidence means tests, analyses, research, or studies that have been conducted and
8 evaluated in an objective manner by qualified persons and are generally accepted in the
9 profession to yield accurate and reliable results.
10

11 II.

12 PROHIBITION ON HEAD LICE 13 INFESTATION CLAIMS

14 IT IS FURTHER ORDERED that Settling Defendant, his officers, agents, servants, and
15 employees, and all other persons in active concert or participation with any of them, who receive
16 actual notice of this Order by personal service or otherwise, whether acting directly or indirectly,
17 in connection with the advertising, marketing, promoting or offering for sale of the specified
18 product, or any other drug or pesticide intended for the treatment of head lice in humans, are
19 permanently restrained and enjoined from making, or assisting others in making, expressly or by
20 implication, including through the use of a product name, endorsement, depiction, or illustration,
21 any representation that such product is effective in the treatment of head lice infestations unless
22 the representation is non-misleading and such product:

23 A. is subject to a final OTC drug monograph promulgated by the Food and Drug
24 Administration (FDA) for such use, and conforms to the conditions of such use;

25 B. remains covered by a tentative final OTC drug monograph for such use and
26 adopts the conditions of such use; or

27 C. is the subject of a new drug application for such use approved by FDA, and
28 conforms to the conditions of such use.

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III.
PROHIBITION ON MISREPRESENTING
ENDORSEMENTS OR AFFILIATIONS

IT IS FURTHER ORDERED that Settling Defendant, his officers, agents, servants, and employees, and all other persons in active concert or participation with any of them, who receive actual notice of this Order by personal service or otherwise, whether acting directly or indirectly, in connection with the advertising, marketing, promoting or offering for sale of any good or service are permanently restrained and enjoined from misrepresenting, or assisting others in misrepresenting, expressly or by implication, including through the use of a product name, endorsement, depiction, or illustration:

- A. that such product or service is endorsed or approved by, or otherwise connected to a government entity, third-party organization, or any other person;
- B. that any person is affiliated with a government entity, third-party organization, or any other person; or
- C. the existence or contents of any statement made by any government entity.

IV.
PROHIBITION ON MISREPRESENTING TESTS OR STUDIES

IT IS FURTHER ORDERED that Settling Defendant, his officers, agents, servants, and employees, and all other persons in active concert or participation with any of them who receive actual notice of this Order by personal service or otherwise, whether acting directly or indirectly, in connection with the advertising, marketing, promoting or offering for sale of any good or service are permanently restrained and enjoined from misrepresenting, or assisting others in misrepresenting, expressly or by implication, including through the use of a product name, endorsement, depiction, or illustration, the existence, contents, validity, results, conclusions, or interpretations of any test, study, or research.

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2 **V.**

3 **CUSTOMER INFORMATION**

4 IT IS FURTHER ORDERED that Settling Defendant, his officers, agents, servants, and
5 employees, and all other persons in active concert or participation with any of them who receive
6 actual notice of this Order by personal service or otherwise, are permanently restrained and
7 enjoined from directly or indirectly:

8 A. disclosing, using, or benefitting from customer information, including the name,
9 address, telephone number, email address, social security number, other identifying information,
10 or any data that enables access to a customer's account (including a credit card, bank account, or
11 other financial account), that any defendant obtained prior to entry of this Order in connection
12 with the purchase of any specified product; and

13 B. failing to dispose of such customer information in all forms in their possession,
14 custody, or control within 30 days after entry of this Order. Disposal must be by means that
15 protect against unauthorized access to the customer information, such as by burning, pulverizing,
16 or shredding any papers, and by erasing or destroying any electronic media, to ensure that the
17 customer information cannot practicably be read or reconstructed.

18 Provided, however, that customer information need not be disposed of, and may be
19 disclosed, to the extent requested by a government agency or required by law, regulation, or
20 court order.

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22 **VI.**

23 **COOPERATION**

24 IT IS FURTHER ORDERED that Settling Defendant must in good faith cooperate with
25 representatives of the Commission in this case and in any investigation related to or associated
26 with the transactions or the occurrences that are the subject of the Complaint. Settling Defendant
27 must appear, at such places and times as the FTC shall reasonably request, upon ten (10) days
28 written notice, for interviews, conferences, pretrial discovery, review of documents, and for such

1 other matters as may be reasonably requested by the FTC. If requested in writing by the FTC,
2 Settling Defendant shall appear and provide truthful testimony in any trial, deposition, or other
3 proceeding related to or associated with the transactions or the occurrences that are the subject of
4 the Complaint, without the service of a subpoena.

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6 **VII.**

7 **MONETARY JUDGMENT AND SUSPENSION**

8 IT IS FURTHER ORDERED that:

9 A. Judgment in the amount of Four Million, Six Hundred and Eighty-Eight Thousand
10 and Ninety-Nine Dollars (\$4,688,099) is entered in favor of the Commission against the Settling
11 Defendant as equitable monetary relief.

12 B. Settling Defendant further stipulates and agrees, pursuant to Section 502 of the
13 Bankruptcy Code, 11 U.S.C. § 502, to the allowance of a general unsecured claim in the Glassel
14 Bankruptcy Case in favor of the FTC in the amount of Four Million, Six Hundred and Eighty-
15 Eight Thousand and Ninety-Nine Dollars (\$4,688,099), and that the FTC is entitled to participate
16 in any payments in the Glassel Bankruptcy Case paid on account of such allowed general
17 unsecured claim.

18 C. The parties agree that settling Defendant was granted a discharge pursuant to 11
19 U.S.C. § 727 on March 5, 2013 (the “Discharge Order”). Unless and until such Discharge Order
20 is modified or revoked, the FTC’s remedies are limited by the Bankruptcy Code to Section VII.B
21 hereof.

22
23 **VIII.**

24 **ORDER ACKNOWLEDGMENT**

25 IT IS FURTHER ORDERED that Settling Defendant obtain acknowledgments of receipt
26 of this Order:

27 A. Settling Defendant, within 7 days of entry of this Order, must submit to the
28 Commission an acknowledgment of receipt of this Order sworn under penalty of perjury.

1 B. For 3 years after entry of this Order, Settling Defendant for any business that he,
2 individually or collectively with any other defendant, is the majority owner or directly or
3 indirectly controls, must deliver a copy of this Order to: (1) all principals, officers, directors, and
4 managers; (2) all employees, agents, and representatives who participate in conduct related to the
5 advertising, marketing, promoting, or offering for sale of any good or service; and (3) any
6 business entity resulting from any change in structure as set forth in the Section titled
7 Compliance Reporting. Delivery must occur within 7 days of entry of this Order for current
8 personnel. To all others, delivery must occur before they assume their responsibilities.

9 C. From each individual or entity to which Settling Defendant delivered a copy of
10 this Order, Settling Defendant must obtain, within 30 days, a signed and dated acknowledgment
11 of receipt of this Order.

12 IX.

13 COMPLIANCE REPORTING

14 IT IS FURTHER ORDERED that Settling Defendant make timely submissions to the
15 Commission:
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17 A. One year after entry of this Order, Settling Defendant must submit a compliance
18 report, sworn under penalty of perjury.

19 1. Settling Defendant must: (a) designate at least one telephone number and
20 an email, physical, and postal address as points of contact, which representatives of the
21 Commission may use to communicate with Settling Defendant; (b) identify all of Settling
22 Defendant's businesses by all of their names, telephone numbers, and physical, postal, email, and
23 Internet addresses; (c) describe the activities of each business, including the products and
24 services offered, the means of advertising, marketing, and sales, and the involvement of any
25 other defendant (which Settling Defendant must describe if he knows or should know due to his
26 own involvement); (d) describe in detail whether and how Settling Defendant is in compliance
27 with each Section of this Order; and (e) provide a copy of each Order Acknowledgment obtained
28 pursuant to this Order, unless previously submitted to the Commission.

1 2. Additionally, Settling Defendant must: (a) identify all telephone numbers
2 and all email, Internet, physical, and postal addresses, including all residences; (b) identify all
3 titles and roles in all business activities, including any business for which Settling Defendant
4 performs services whether as an employee or otherwise and any entity in which Settling
5 Defendant has any ownership interest; and (c) describe in detail Settling Defendant's
6 involvement in each such business, including title, role, responsibilities, participation, authority,
7 control, and any ownership.

8 B. For 10 years following entry of this Order, Settling Defendant must submit a
9 compliance notice, sworn under penalty of perjury, within 14 days of any change in the
10 following:

11 1. Settling Defendant must report any change in: (a) any designated point of
12 contact; or (b) the structure of any entity that Settling Defendant has any ownership interest in or
13 directly or indirectly controls that may affect compliance obligations arising under this Order,
14 including: creation, merger, sale, or dissolution of the entity or any subsidiary, parent, or
15 affiliate that engages in any acts or practices subject to this Order.

16 2. Additionally, Settling Defendant must report any change in: (a) name,
17 including aliases or fictitious name, or residence address; or (b) title or role in any business
18 activity, including any business for which such Defendant performs services whether as an
19 employee or otherwise and any entity in which such Defendant has any ownership interest, and
20 identify its name, physical address, and Internet address, if any.

21 C. Settling Defendant must submit to the Commission notice of the filing of any
22 bankruptcy petition, insolvency proceeding, or any similar proceeding by or against Settling
23 Defendant within 14 days of its filing.

24 D. Any submission to the Commission required by this Order to be sworn under
25 penalty of perjury must be true and accurate and comply with 28 U.S.C. § 1746, such as by
26 concluding: "I declare under penalty of perjury under the laws of the United States of America
27 that the foregoing is true and correct. Executed on: _____" and supplying the date, signatory's
28 full name, title (if applicable), and signature.

1 E. Unless otherwise directed by a Commission representative in writing, all
2 submissions to the Commission pursuant to this Order must be emailed to DEbrief@ftc.gov or
3 sent by overnight courier (not the U.S. Postal Service) to: Associate Director for Enforcement,
4 Bureau of Consumer Protection, Federal Trade Commission, 600 Pennsylvania Avenue NW,
5 Washington, DC 20580. The subject line must begin: FTC v. Springtech 77376, LLC
6 (X120042).

7
8 **X.**

9 **RECORDKEEPING**

10 IT IS FURTHER ORDERED that Settling Defendant must create certain records for 10
11 years after entry of the Order, and retain each such record for 5 years. Specifically, Settling
12 Defendant, for any business in which he, individually or collectively with any other defendants,
13 is a majority owner or directly or indirectly controls, must maintain the following records:

14 A. Accounting records showing the revenues from all products or services sold, all
15 costs incurred in generating those revenues, and the resulting net profit or loss;

16 B. Personnel records showing, for each person providing services, whether as an
17 employee or otherwise, that person's: name, addresses, and telephone numbers; job title or
18 position; dates of service; and, if applicable, the reason for termination;

19 C. Complaints and refund requests, whether received directly or indirectly, such as
20 through a third party, and any response;

21 D. All records necessary to demonstrate full compliance with each provision of this
22 Order, including all submissions to the Commission; and

23 E. A copy of each advertisement or other marketing material.

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1 **XI.**

2 **COMPLIANCE MONITORING**

3 IT IS FURTHER ORDERED that, for the purpose of monitoring Settling Defendant’s
4 compliance with this Order, including the financial representations upon which the judgment was
5 suspended:

6 A. Within 14 days of receipt of a written request from a representative of the
7 Commission, Settling Defendant must: submit additional compliance reports or other requested
8 information, which must be sworn under penalty of perjury; appear for depositions; and produce
9 documents, for inspection and copying. The Commission is also authorized to obtain discovery,
10 without further leave of court, using any of the procedures prescribed by Federal Rules of Civil
11 Procedure 29, 30 (including telephonic depositions), 31, 33, 34, 36, 45, and 69, provided that,
12 Settling Defendant, after attempting to resolve a dispute without court action and for good cause
13 shown, may file a motion with this Court seeking an order including one or more of the
14 protections set forth in Rule 26 (c).

15 B. For matters concerning this Order, the Commission is authorized to communicate
16 with Settling Defendant through undersigned counsel. If such counsel no longer represents the
17 Settling Defendant, the Commission is authorized to communicate directly with such defendant.
18 Settling Defendant must permit representatives of the Commission to interview any employee or
19 other person affiliated with Settling Defendant who has agreed to such an interview. The person
20 interviewed may have counsel present.

21 C. The Commission may use all other lawful means, including posing, through its
22 representatives, as consumers, suppliers, or other individuals or entities, to Settling Defendant or
23 any individual or entity affiliated with Settling Defendant, without the necessity of identification
24 or prior notice. Nothing in this Order limits the Commission’s lawful use of compulsory
25 process, pursuant to Sections 9 and 20 of the FTC Act, 15 U.S.C. §§ 49, 57b-1.

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1 **XII.**

2 **RETENTION OF JURISDICTION**

3 IT IS FURTHER ORDERED that this Court retains jurisdiction of this matter for
4 purposes of construction, modification, and enforcement of this Order.

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6 **PURSUANT TO STIPULATION, IT IS SO ORDERED**

7 this _____ day of _____, 2013.

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9 _____
10 **HONORABLE PHYLLIS J. HAMILTON**
11 **UNITED STATES DISTRICT JUDGE**

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13 **STIPULATED AND AGREED:**

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15 FOR THE PLAINTIFF: FEDERAL TRADE COMMISSION

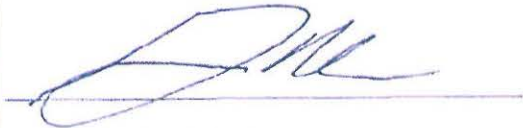
16 _____
17 /s/ Kerry O'Brien

Date: July 15, 2013

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19 LINDA K. BADGER, Attorney
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FOR DEFENDANT DAVE GLASSEL.



Date: 5/13/2013

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AS COUNSEL FOR DAVE GLASSEL

SETTLING DEFENDANT: DAVE GLASSEL



Date: 5-13-13

DAVE GLASSEL, INDIVIDUALLY



Date: 5/14/13

LOWELL T. CAGE
Chapter 7 Trustee for
Settling Defendant Dave Glassel