

Complaint

126 F.T.C.

IN THE MATTER OF

MONTGOMERY WARD CREDIT CORPORATION, ET AL.

CONSENT ORDER, ETC., IN REGARD TO ALLEGED VIOLATION OF
SEC. 5 OF THE FEDERAL TRADE COMMISSION ACT*Docket C-3839. Complaint, Dec. 11, 1998--Decision, Dec. 11, 1998*

This consent order prohibits, among other things, two corporations, that extend credit to consumers, from misrepresenting that any reaffirmation agreement has been or will be filed with the bankruptcy court, or that any reaffirmation agreement is binding.

*Participants*For the Commission: *John C. Hallerud and C. Steven Baker.*For the respondents: *Max Shulman and Elizabeth Grayer,
Cravath, Swaine & Moore, New York, N.Y.*

COMPLAINT

The Federal Trade Commission, having reason to believe that Montgomery Ward Credit Corporation, a corporation, and General Electric Capital Corporation, a corporation ("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 Montgomery Ward Credit Corporation is a Delaware corporation with its principal office or place of business at 4246 South Riverboat Road, Taylorsville, Utah.
2. Respondent General Electric Capital Corporation is a New York corporation with its principal executive office or place of business at 260 Long Ridge Road, Stamford, Connecticut.
3. Respondents are engaged in, among other things, the offering and servicing of credit cards, including private label credit cards. In the course and conduct of their businesses, respondents have regularly extended credit (hereinafter referred to as "consumer credit accounts").
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.

THE UNITED STATES BANKRUPTCY CODE

5. Under the United States Bankruptcy Code (11 U.S.C. 1-1330), a debtor may be granted a discharge in a Chapter 7 bankruptcy proceeding from debts that have arisen prior to the filing of the bankruptcy petition (hereinafter referred to as "pre-petition debts"), meaning that the debtor is no longer individually liable for these debts. The granting of a discharge "operates as an injunction against the commencement or continuation of an action, the employment of process, or an act, to collect, recover or offset any such debt as a personal liability of the debtor, whether or not discharge of such debt is waived. . . ." 11 U.S.C. 524(a)(2). The purpose of the injunction is to protect the debtor's "fresh start" by ensuring that no debt collection efforts are taken against the debtor personally for pre-petition debts.

6. The United States Bankruptcy Code provides, however, that a debtor may agree with a creditor that the creditor can enforce what would otherwise be a discharged debt. In other words, a debtor may reaffirm his or her pre-petition debts, as long as certain requirements are met. These so-called "reaffirmation agreements" are enforceable only if, among other things, the agreement is filed with the bankruptcy court. If the debtor is not represented by an attorney, the bankruptcy court must hold a hearing to determine that the reaffirmation agreement would not impose an undue hardship on the debtor and is in the best interest of the debtor, and must approve the reaffirmation agreement before it becomes enforceable. 11 U.S.C. 524(c) and (d).

7. If the requirements of 11 U.S.C. 524(c) and (d) are not met, an agreement to reaffirm a debt is not binding and a creditor violates the bankruptcy code if it attempts to collect that debt. 11 U.S.C. 524(a).

VIOLATIONS OF SECTION 5(a) OF THE
FEDERAL TRADE COMMISSION ACT

8. From at least January 1, 1993, to June 30, 1997, respondents regularly solicited consumers who had filed for protection under Chapter 7 of the United States Bankruptcy Code to enter into agreements reaffirming some or all of their debt arising from pre-petition consumer credit accounts that would otherwise be discharged through bankruptcy proceedings.

9. In numerous instances, respondents represented, expressly or by implication, to consumers that their reaffirmation agreements

would be filed with the bankruptcy courts, as required by the United States Bankruptcy Code.

10. In truth and in fact, in many cases respondents did not file the reaffirmation agreements with the bankruptcy courts. Therefore, the representation made in paragraph nine was, and is, false or misleading.

11. In numerous instances, respondents represented, expressly or by implication, to consumers that their reaffirmation agreements were legally binding on the consumers and that the consumers were legally required to pay their pre-petition debts.

12. In truth and in fact, in many cases, the reaffirmation agreements were not legally binding on the consumers and the consumers were not legally required to pay their pre-petition debts for reasons including, but not necessarily limited to, the following: (a) respondents did not file the reaffirmation agreements with the bankruptcy courts; or (b) respondents filed the reaffirmation agreements, but the agreements were then not approved by the bankruptcy courts. Therefore, the representation made in paragraph eleven was, and is, false or misleading.

13. In the course and conduct of their businesses relating to consumer credit accounts, respondents regularly collected from consumers debts that had been legally discharged in bankruptcy proceedings and that respondents were not permitted by law to collect. Respondents' actions have caused or were likely to cause substantial injury to consumers that is not offset by any countervailing benefits and is not reasonably avoidable by these consumers. 15 U.S.C. 5(n). Therefore, respondents' collection of debts that they were not permitted by law to collect was, and is, unfair.

14. 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.

DECISION AND ORDER

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

The respondents, their attorneys, 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 of complaint, a statement that the signing of said 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 said 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, and having duly considered the comments filed thereafter by interested persons pursuant to Section 2.34 of its Rules, the Commission hereby issues its complaint, makes the following jurisdictional findings and enters the following order:

1.a. Respondent Montgomery Ward Credit Corporation is a Delaware corporation with its principal office or place of business at 4246 South Riverboat Road, Taylorsville, Utah.

1.b. Respondent General Electric Capital Corporation is a New York corporation with its principal executive office or place of business at 260 Long Ridge Road, Stamford, Connecticut.

2. The acts and practices of the respondents alleged in this complaint have been in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act.

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:

1. Unless otherwise specified, "*respondents*" shall mean Montgomery Ward Credit Corporation, a corporation, General Electric Capital Corporation, a corporation, their successors and assigns, and their officers, agents, representatives, and employees.

2. "*Debt*" shall mean any obligation or alleged obligation of a consumer to pay money arising out of an extension of open-end credit under a plan to finance the purchase of goods or services, such goods or services not including real estate or motor vehicles.

3. "*Debtor*" shall mean any person who owes or is claimed to owe a Debt.

4. "*Reaffirmation Agreement*" shall mean any written agreement between a respondent and a Debtor who has filed a petition under Chapter 7 of the Bankruptcy Code, the consideration for which, in whole or in part, is based on all or a part of any dischargeable prepetition Debt incurred by a Debtor.

5. "*Commerce*" shall mean as defined in Section 4 of the Federal Trade Commission Act, 15 U.S.C. 44.

I.

It is ordered, That respondents, directly or through any corporation, subsidiary, division, or other device, in connection with the collection of any Debt, shall not:

A. Misrepresent, expressly or by implication, to Debtors who have filed petitions for bankruptcy protection under the United States Bankruptcy Code that Reaffirmation Agreements have been or will be filed in bankruptcy court;

B. Misrepresent, expressly or by implication, to Debtors who have filed petitions for bankruptcy protection under the United States Bankruptcy Code that any Reaffirmation Agreement is legally binding on the consumer; or

C. Collect any Debt (including any interest, fee, charge, or expense incidental to the principal obligation) that has been legally discharged in bankruptcy proceedings and that respondents are not permitted by law to collect.

II.

It is further ordered, That respondents, directly or through any corporation, subsidiary, division, or other device, shall not make any material misrepresentation, expressly or by implication, in the collection of any Debt subject to a pending bankruptcy proceeding.

III.

It is further ordered, That respondents, for five (5) years after the date of issuance of this order, shall maintain and upon request make available to the Federal Trade Commission business records demonstrating their compliance with the terms and provisions of this order, including but not limited to all Reaffirmation Agreements in connection with Debt and records sufficient to show that such Reaffirmation Agreements were filed in bankruptcy courts and were subsequently approved by bankruptcy courts as part of the underlying bankruptcy proceedings, if required by the United States Bankruptcy Code.

IV.

It is further ordered, That respondents, for five (5) years after the date of issuance of this order, shall deliver a copy of this order to all current and future officers, directors, managerial employees, and bankruptcy court representatives having responsibilities for the collection of any Debt subject to a pending bankruptcy proceeding ("Covered Persons"), and shall secure from each such person a signed and dated statement acknowledging receipt of the order. Respondents shall, for five (5) years after each such statement acknowledging receipt of the order is signed and dated, maintain and upon request make available to the Federal Trade Commission for inspection and copying such statements. Respondents shall deliver this order to current Covered Persons within thirty (30) days after the date of service of this order, and to future Covered Persons before any new Covered Person makes contact with a respondent's customer or a respondent's customer's attorney for the collection of any Debt subject to a pending bankruptcy proceeding.

V.

It is further ordered, That respondents shall notify the Commission at least thirty (30) days prior to any change in the corporation(s) in each case 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 respondents learn less than thirty (30) days prior to the date such action is to take place, respondents shall notify the Commission as soon as is practicable after obtaining such knowledge. All notices required by this Part shall be sent by certified mail to the Associate Director, Division of Enforcement, Bureau of Consumer Protection, Federal Trade Commission, Washington, D.C.

VI.

It is further ordered, That respondents shall provide notification of all proposed settlement terms relating to allegations made by the Attorneys General of various states, any other legal actions by government entities not cited herein, and all class action lawsuits against respondents or any of their predecessors or affiliates, pending on the date that proposed respondents sign this order, that challenge conduct similar to that challenged by the Commission in this proceeding, to the Associate Director, Division of Enforcement, Bureau of Consumer Protection, Federal Trade Commission, in writing, at least ten (10) days before any such proposed settlement is submitted to a court for final approval.

VII.

It is further ordered, That respondents shall, within sixty (60) days after the date of service of this order, and at such other times as the Federal Trade 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.

VIII.

This order will terminate on December 11, 2018, 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 respondents 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.

IN THE MATTER OF

CARE TECHNOLOGIES, INC.

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

Docket C-3840. Complaint, Dec. 14, 1998--Decision, Dec. 14, 1998

This consent order prohibits, among other things, a Connecticut-based corporation, that manufactures and distributes pharmaceuticals, from making unsubstantiated claims concerning the efficacy of its over-the-counter head lice treatments. The consent order requires the respondent to make certain disclosures in advertisements concerning the use and effectiveness of its head lice treatment products. In addition, the consent order prohibits the respondent from misrepresenting the existence, contents, or interpretations of any test, study, or research.

Participants

For the Commission: *Linda Badger, Kerry O'Brien, Jeffrey Klurfeld, and Carolyn Cox.*

For the respondent: *Daniel Manelli, Farkas & Manelli,*
Washington, D.C.

COMPLAINT

The Federal Trade Commission, having reason to believe that Care Technologies, Inc., a corporation ("respondent"), has 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 Care Technologies, Inc. is a Connecticut corporation with its principal office or place of business at 10 Corbin Drive, Darien, Connecticut.

2. Respondent has manufactured, advertised, labeled, offered for sale, sold, and distributed over-the-counter pharmaceuticals to the public, including "Clear Lice Killing Shampoo" and "Clear Lice Egg Remover." Clear Lice Killing Shampoo and Clear Lice Egg Remover are "drugs," within the meaning of Sections 12 and 15 of the Federal Trade Commission Act.

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 to be disseminated advertisements for the Clear Lice Killing Shampoo and the Clear Lice Egg Remover, including but not necessarily limited to the attached Exhibits A through E. These advertisements contain the following statements:

- A. "LICE KILLING SHAMPOO PEDICULICIDE
Kills **BOTH** lice and their eggs." (Exhibit A).
- B. "Clear® Lice Egg Remover is a vegetable derived enzyme system that makes nits easier to remove after treatment by loosening the glue that bonds nits to hair.
....
Clear® Killing Shampoo - a pyrethrum extract from chrysanthemum flowers - effectively kills lice and their nits." (Exhibit B).
- C. "Clear Lice Egg Remover; to save you hours of combing and tears.... Special enzymes only in Clear actually loosen lice eggs that can hide in your child's hair. . . . Trust Clear to get lice out of your life. Fast!" (Exhibit C).
- D. "Clear® Lice Egg Remover is the fastest way to finish the hard work of removing lice eggs. Only Clear Lice Egg Remover has natural enzymes to un-glue lice eggs for easier comb-out. The Clear® System with Lice Egg Remover does the complete job. Kills lice and removes eggs. It's all you need. **Trust Clear® to get lice out of your life...fast.**" (Exhibit D).
- E. "Clear Rinse is *quick*. It loosens lice eggs in less than 3 minutes. Nits easily slide off hair when combed.... Clear Rinse has been thoroughly laboratory and field tested and meets all standards for safety and effectiveness. Clear Rinse is *easy*. A targeted enzyme solution, it rapidly attacks and loosens lice egg cement." (Exhibit E).

5. Through the means described in paragraph four, respondent has represented, expressly or by implication, that:

- A. Clear Lice Egg Remover loosens or unglues lice eggs from the hair.
- B. Clear Lice Killing Shampoo kills one hundred percent of lice eggs.

6. In truth and in fact:

- A. Clear Lice Egg Remover does not loosen or unglue lice eggs from the hair.

- B. Clear Lice Killing Shampoo does not kill one hundred percent of lice eggs. Clear Lice Killing Shampoo is based on a pesticide which is not one hundred percent effective against lice eggs. As a result, purchasers are instructed to use an egg-removing comb, and to apply a second treatment in seven to ten days to kill any newly hatched lice.

Therefore, the representations set forth in paragraph five were, and are, false or misleading.

7. Through the means described in paragraph four, respondent has represented, expressly or by implication, that it possessed and relied upon a reasonable basis that substantiated the representations set forth in paragraph five, at the time the representations were made.

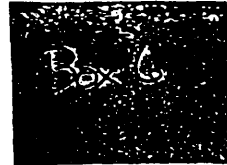
8. In truth and in fact, respondent did not possess and rely upon a reasonable basis that substantiated the representations set forth in paragraph five, at the time the representations were made. Therefore, the representation set forth in paragraph seven was, and is, false or misleading.

9. Through the means described in paragraph four, respondent has represented, expressly or by implication, that laboratory and field testing proves that Clear Lice Egg Remover loosens or unglues lice eggs from the hair.

10. In truth and in fact, laboratory and field testing does not prove that Clear Lice Egg Remover loosens or unglues lice eggs from the hair. Therefore, the representation set forth in paragraph nine was, and is, false or misleading.

11. The acts and practices of respondent as alleged in this complaint constitute unfair or deceptive acts or practices, and the making of false advertisements, in or affecting commerce in violation of Sections 5(a) and 12 of the Federal Trade Commission Act.

EXHIBIT A



clear
Instructions en Español adjuntas

Total Lice Elimination System

clear

Total Lice Elimination System

Lice Killing Shampoo
PEDICULICIDE
Kills **BOTH** lice and their eggs

FULL STRENGTH SHAMPOO
2 FL OZ (59 mL) Lice Treatment

Lice Egg Remover
NATURAL ENZYMES
Enzymes loosen eggs in 3 minutes

Saves hours of combing
Completes job

clear

Lice Egg Remover
NATURAL ENZYMES

Fast
Natural enzymes loosen lice eggs in 3 minutes

Child Safe
No harsh chemicals

Gentle
Easy comb out
Leaves hair clean, fresh & healthy

Prevents lice egg re-ovary:
with enzymes including amylase, protease, lipase, hyaluronidase, serritinase and lipase; a natural polymer derivative, hydroxyethylcellulose and tocophyl ferrous.

For instant use only.

Safety Tip: Use all personal care products out of the reach of children.

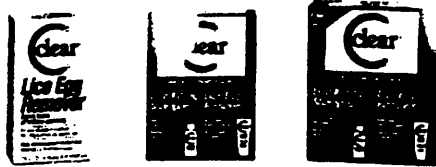
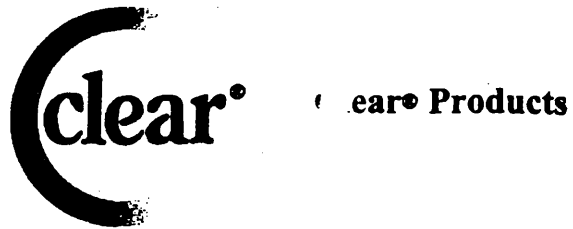
1-800-888-1111

© Care Technologies, Inc.
Clear is a trademark of Care Technologies, Inc.
Patent Pending Made in USA

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EXHIBIT B



- Clear[®] Lice Egg Remover is a vegetable derived enzyme system that makes nits easier to remove after treatment by loosening the glue that bonds nits to hair. An excellent nit comb is included. Clear[®] Lice Egg Remover contains no harsh chemicals and can be used as frequently and safely as soap and water.
- Clear[™] Total Lice Elimination System (available in 2 oz. regular and 4 oz. family size) contains:
 - Clear[®] Killing Shampoo - a pyrethrum extract from chrysanthemum flowers - effectively kills lice and their nits.
 - Clear[®] Lice Egg Remover (nit comb also included - same as above).

Clear[®] does the complete job so kids can get back to school...Fast!

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EXHIBIT C

Client: Care Technologies

Product: Clear Systems/LER

Title: "Confusion"

Length: :30

Date: 1/23/97

Agency: Petray Consulting

Commercial No. CTCL-0013

Oh no!

Head lice on your child? Now what?

Clear ends the confusion! Because only Clear has the system -- Clear shampoo, to kill lice fast. And Clear lice egg remover, to save you hours of combing and tears.

Here's how! Special enzymes only in Clear actually loosen lice eggs that can hide in your child's hair. It's safe, it's effective, it's Clear!

Trust Clear to get lice out of your life! Fast!

Enclosure A

Petray Consulting
Clear Systems/LER
"Confusion" :30 Spot
Revised 1/30/97

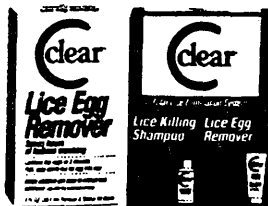
EXHIBIT C

EXHIBIT D

KIDS, LICE and PARENTS.

If your child is sent home from school with head lice, don't panic.
It's not your fault but you have to solve the problem.
That means killing lice and removing their eggs. In fact, many parents don't
know lice egg removal is the hardest and longest part of the job.

Clear Lice Egg Remover
is the fastest way to finish
the hard work of removing
lice eggs. Only **Clear** Lice
Egg Remover has natural
enzymes to un-stuck lice
eggs for easier comb-out.



The **Clear** System
with Lice Egg Remover
does the complete job.
Kills lice and removes eggs.
It's all you need.

Trust Clear to get lice out of your life...fast.

For information call 800-783-1919 or contact <http://www.clearcare.com>

Clear is a registered trademark of Clear Technologies, Inc. Patent Number: 5,927,655 - 1997 Clear Technologies, Inc.

EXHIBIT D

EXHIBIT E

At last,
the first real solution for lice egg removal
that is *quick, safe and easy*.



Introducing Clear™ cleansing rinse

For new sales and happy customers
you can feel good about recommending Clear.

Clear Rinse is a post-pediculicide cleansing rinse for the quick and easy removal of lice eggs. It is a natural, non-toxic liquid enzyme solution. And it works. Clear is the first real solution to nit picking since the comb.

Clear Rinse is *quick*. It loosens lice eggs in less than 3 minutes. Nits easily slide off hair when combed. And Clear Rinse leaves the hair silky, clean smelling, and manageable.

Clear Rinse is *safe*. A natural, vegetable derived enzyme, it is chemical-free and non-toxic. Clear Rinse has been thoroughly laboratory and field tested and meets all standards for safety and effectiveness.

Clear Rinse is *easy*. A targeted enzyme solution, it rapidly attacks and loosens lice egg cement. Clear Rinse also acts on toxins left by pediculicides, helping speed their removal.

Care Technologies, Inc. 55 Holly Hill Lane Greenwich, CT 06830

Clear is a trademark of Care Technologies, Inc.

DECISION AND ORDER

The Federal Trade Commission having initiated an investigation of certain acts and practices of the respondent named in the caption hereof, and the respondent having been furnished thereafter with a copy of a draft of complaint which the San Francisco Regional Office proposed to present to the Commission for its consideration and which, if issued by the Commission, would charge respondent with violation of the Federal Trade Commission Act; and

The respondent, its attorney, and counsel for the Commission having thereafter executed an agreement containing a consent order, an admission by the respondent of all the jurisdictional facts set forth in the aforesaid draft of complaint, a statement that the signing of said agreement is for settlement purposes only and does not constitute an admission by respondent that the law has been violated as alleged in such complaint, or that the facts as alleged in such complaint, other than jurisdictional facts, are true 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 respondent has violated the said Act, and that a 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 Care Technologies, Inc., is a corporation organized, existing, and doing business under and by virtue of the laws of the State of Connecticut, with its office and principal place of business located at 10 Corbin Drive, Darien, Connecticut.

2. The Federal Trade Commission has jurisdiction of the subject matter of this proceeding and of the respondent, and the proceeding is in the public interest.

ORDER

DEFINITIONS

For purposes of this order, the following definitions shall apply:

1. "*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.

2. "*Clear Lice Killing Shampoo*" shall mean the pediculicide marketed by respondent which contains the active ingredients of 0.33 percent pyrethrum extract and 4 percent piperonyl butoxide.

3. "*Lice egg removal product*" shall mean any product that is sold to loosen, unglue, biodegrade, or otherwise aid in the detachment of lice eggs from hair shafts.

4. "*Substantially similar product*" shall mean any pediculicide marketed by respondent which contains the active ingredients of pyrethrum extract and piperonyl butoxide, and is covered by the Food and Drug Administration's Final Monograph on OTC Pediculicide Drug Products.

5. Unless otherwise specified, "*respondent*" shall mean Care Technologies, Inc., a corporation, its successors and assigns, and its officers, agents, representatives, and employees.

6. "*Commerce*" shall mean as defined in Section 4 of the Federal Trade Commission Act, 15 U.S.C. 44.

7. "*Drug*" and "*device*" shall mean as defined in Section 15 of the Federal Trade Commission Act, 15 U.S.C. 55, including, but not limited to, any lice egg removal product.

8. "*Pesticide*" shall mean as defined in Section 2 of the Federal Insecticide, Fungicide, and Rodenticide Act, 7 U.S.C. 136(u).

9. "*Clearly and prominently*" shall mean as follows:

A. In an advertisement communicated through an electronic medium (such as television, video, radio, and interactive media such as the Internet and online services), any audio disclosure shall be delivered in a volume and cadence sufficient for an ordinary consumer to hear and comprehend it. Any video disclosure shall be of a size and shade, and shall appear on the screen for a duration, sufficient for an ordinary consumer to read and comprehend it. In

addition to the foregoing, in interactive media the disclosure shall also be unavoidable and shall be presented prior to the consumer incurring any financial obligation.

B. In a print advertisement or promotional material, the disclosure shall be in a type size and location sufficiently noticeable for an ordinary consumer to read and comprehend it, in print that contrasts with the background against which it appears. In multipage documents, the disclosure shall appear on the cover or first page.

Nothing contrary to, inconsistent with, or in mitigation of the disclosure shall be used in any advertisement or on any label.

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 Clear Lice Egg Remover or any lice egg removal product in or affecting commerce, shall not make any representation, in any manner, expressly or by implication, that such product loosens, unglues, or otherwise detaches lice eggs from the hair, unless the representation is true and, at the time it is made, respondent possesses and relies upon competent and reliable scientific evidence that substantiates the representation.

II.

It is further 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 the Clear Lice Killing Shampoo or any substantially similar product in or affecting commerce, shall not represent, in any manner, expressly or by implication, that such product kills one hundred percent of lice eggs, unless the representation is true and, at the time it is made, respondent possesses and relies upon competent and reliable scientific evidence that substantiates the representation.

III.

It is further ordered, That, for a period of two (2) years from the date of service of this order, 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 Clear Lice Killing Shampoo or any other substantially similar product, in or affecting commerce, shall not make any representation, in any manner, expressly or by implication, in print advertisements or promotional materials about the efficacy of such product in the removal or elimination of lice or the treatment of lice infestations ("triggering representation"), unless it makes the following disclosure, clearly and prominently, in such advertisements or promotional materials containing the triggering representation:

Reapplication and egg removal are required
to ensure complete effectiveness.
See label for important information.

Provided, however, that the above disclosure shall not be required if respondent possesses and relies upon competent and reliable scientific evidence demonstrating that the product is effective for the complete elimination of all lice and lice eggs in a single application.

Provided, further, that the above disclosure shall not be required in a particular piece of promotional material if such promotional material constitutes "labeling of a pediculicide drug product" subject to the labeling requirements of the Food and Drug Administration's Final Monograph on OTC Pediculicide Drug Products, 21 CFR 358.650.

IV.

It is further ordered, That, for a period of two (2) years from the date of service of this order, 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 Clear Lice Killing Shampoo or any other substantially similar product, in or affecting commerce, shall not make any representation, in any manner, expressly or by implication, in advertisements communicated through an electronic medium, about the efficacy of such product in the removal or elimination of lice or the treatment of lice infestations ("triggering representation"), unless it makes the following disclosure, clearly and prominently, in the video portion of such advertisements (or in the audio portion if the advertisement is audio only) containing the triggering representation:

Two Treatments Required.

Provided, however, that if the respondent makes any representation, in any manner, expressly or by implication, about directions for use of such product in advertisements communicated through an electronic medium utilizing both video and audio, the disclosure shall be presented in both the video and the audio portions of such advertisements.

Provided, further, that the above disclosure shall not be required if respondent possesses and relies upon competent and reliable scientific evidence demonstrating that the product is effective for the complete elimination of all lice and lice eggs in a single application.

V.

It is further 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 drug or device for the treatment of lice in humans, or any pesticide for treatment of lice in or affecting commerce, shall not make any representation, in any manner, expressly or by implication, regarding the efficacy of such product, unless, at the time the representation is made, respondent possesses and relies upon competent and reliable scientific evidence, that substantiates the representation.

VI.

It is further 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 drug or device for the treatment of lice in humans, or any pesticide for treatment of lice in or affecting commerce, shall not misrepresent, in any manner, expressly or by implication, the existence, contents, validity, results, conclusions, or interpretations of any test, study, or research.

VII.

Nothing in this order shall prohibit respondent from making any representation for any drug that is permitted in labeling for such drug under any tentative final or final standard promulgated by the Food and Drug Administration, or under any new drug application approved by the Food and Drug Administration.

VIII.

It is further ordered, That respondent Care Technologies, 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.

IX.

It is further ordered, That respondent Care Technologies, 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. Respondent shall deliver this order to current personnel within thirty (30) days after the date of service of this order, and, for a period of five (5) years from the date of issuance of this order, to future personnel within thirty (30) days after the person assumes such position or responsibilities.

X.

It is further ordered, That respondent Care Technologies, Inc. and its successors and assigns shall notify the Commission at least thirty (30) days prior to any change in the corporation(s) 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. All notices required by this Part shall be sent by certified mail to the Associate Director, Division of Enforcement, Bureau of Consumer Protection, Federal Trade Commission, Washington, D.C.

XI.

It is further ordered, That respondent Care Technologies, Inc. and its successors and assigns shall, within sixty (60) days after the date of service of this order, and at such other times as the Federal Trade Commission may require, file with the Commission a report, in writing, setting forth in detail the manner and form in which it has complied with this order.

XII.

This order will terminate on December 14, 2018, 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.

STATEMENT OF CHAIRMAN PITOFSKY AND
COMMISSIONERS ANTHONY AND THOMPSON

We write to express our views about the concerns Commissioner Swindle raises regarding the disclosure remedy in these cases. The orders require that, for two years, whenever a claim is made regarding the efficacy of the lice removal products, the respondents include a disclosure about the necessity for a second application of their product. The disclosure remedy in these cases is fencing-in relief, designed to prevent purchasers of respondents' products from being deceived by *future* advertising.¹ The triggered disclosure about the need for two treatments provides additional assurance that consumers will not be misled by future ads. We are satisfied that the triggered disclosures in these orders are appropriate and reasonable.

STATEMENT OF COMMISSIONER ORSON SWINDLE

I have voted in favor of issuance of the final orders in these cases because there is reason to believe that the respondents have violated the law and most of the relief contained in the orders is necessary and appropriate. However, I continue to have concerns with regard to the need for and scope of one of the disclosure requirements contained in the orders.

The complaints include the allegation that the respondents claimed that their respective lice products eradicate a lice infestation after a single treatment. In truth, reapplication and careful combing are required to complete the treatments. To address this allegedly false claim, the orders prohibit the respondents from making, expressly or by implication, any claim that their lice treatment products work in only one treatment, unless that claim is true and substantiated. I agree that this prohibition is necessary and appropriate.

The orders, however, go further. For a period of two years, whenever the respondents make any efficacy claim for one of their lice treatment products, they must disclose "Two Treatments Required." The majority of the Commission has cast this provision as a "triggered disclosure requirement" and concluded that it is "appropriate and reasonably related to the alleged violations of

¹ It is also worth noting that the Commission has distinguished triggered disclosures such as those in these cases from corrective advertising, which is required regardless of the contents of the ad. *Removatron Int'l Corp.*, 111 FTC 206, 311-12 n. 28 (1988), *aff'd*, 884 F.2d 1489 (1st Cir. 1989). See also *American Home Prods. Corp. v. FTC*, 695 F.2d 681, 700 (3rd Cir. 1982).

Section 5." Even if this is a triggered disclosure requirement,¹ I do not believe that it is either necessary or appropriate.

The majority apparently believes that consumers will be misled if the respondents do not disclose that two treatments are required whenever they make an efficacy claim for their products. However, if a respondent makes a one-treatment claim that is false or unsubstantiated, the Commission can bring an action for violating the injunctive provisions of the order, and thus the two-treatment disclosure requirement would be unnecessary. On the other hand, if a respondent makes a one-treatment claim that is true and substantiated, the disclosure itself -- "Two Treatments Required" -- would be false, because the product would require only one treatment to be effective. Consequently, the disclosure requirement is not needed to prevent the respondents from making the misleading claim that their lice products work in one treatment.

Even if some sort of disclosure requirement were needed to prevent deception, the disclosure requirement imposed here is not appropriate. It appears both overbroad and inadequate in duration. The triggered disclosure must be made whenever an efficacy claim is made, but not every efficacy claim (*e.g.*, the product "works") creates the impression that the product will work in only one treatment. Without such an impression, there may well be no need to disclose that two treatments are required. Moreover, the triggered disclosure requirement is inadequate because it terminates after two years. If the disclosure in fact is necessary to prevent deception, then why does it end after two years? If the Commission decides to impose a triggered disclosure requirement to prevent future ads from being deceptive, it should be triggered by a claim that would be deceptive in the absence of the information to be disclosed and should continue as long as necessary to prevent deception.

I support the Commission's move toward stronger remedies. The injunctive provisions of these orders, together with the FDA-mandated labeling,² should ensure that consumers have truthful and accurate information before and after purchase. The disclosure requirement here, however, is unnecessary and inappropriate.

¹ The majority is correct that the requirement has the form of a triggered disclosure, but the substance of the requirement is indistinguishable from corrective advertising. The disclosure will be required whenever the respondents make any express or implied claim that their products are efficacious, which likely would include all or virtually all of the ads they run for their lice treatment products. The disclosure also is required for only a limited period of time, which is also consistent with being a corrective advertising measure.

² The FDA requires the following statement on the label of any shampoo formulated to treat head lice: "Apply to affected area until all the hair is thoroughly wet with product. Allow product to remain on area for 10 minutes but no longer. Add sufficient warm water to form a lather and shampoo as usual. Rinse thoroughly. A fine-toothed comb or special lice/nit removing comb may be used to help remove dead lice or their eggs (nits) from hair. A second treatment must be done in 7 to 10 days to kill any newly hatched lice."

IN THE MATTER OF

PFIZER INC.

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

Docket C-3841. Complaint, Dec. 14, 1998--Decision, Dec. 14, 1998

This consent order prohibits, among other things, a New York-based corporation, that manufactures and distributes pharmaceuticals, from making unsubstantiated claims concerning the efficacy of its over-the-counter head lice treatments. The consent order requires the respondent to make certain disclosures in advertisements concerning the use and effectiveness of its head lice treatment products. In addition, the consent order prohibits the respondent from misrepresenting the existence, contents, or interpretations of any test, study, or research.

Participants

For the Commission: *Linda Badger, Kerry O'Brien, Jeffrey Klurfeld, and Carolyn Cox.*

For the respondent: *Hugh Latimer, Wiley, Rein & Fielding, Washington, D.C.*

COMPLAINT

The Federal Trade Commission, having reason to believe that Pfizer Inc., a corporation ("respondent"), has 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 Pfizer Inc. is a Delaware corporation with its principal office or place of business at 235 East 42nd Street, New York, New York.
2. Respondent has manufactured, advertised, labeled, offered for sale, sold, and distributed over-the-counter pharmaceuticals to the public, including "RID Lice Killing Shampoo." RID Lice Killing Shampoo is a "drug," within the meaning of Sections 12 and 15 of the Federal Trade Commission Act.
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 to be disseminated advertisements for RID Lice Killing Shampoo, including but not

necessarily limited to the attached Exhibits A through D. These advertisements contain the following statements and depictions:

A. "RID erases head lice completely.

MAXIMUM STRENGTH

Kills lice in just the first treatment.*¹

MAXIMUM STRENGTH RID kills lice completely in minutes. And RID leaves no lasting active residue on the hair. RID rinses away completely.

Not all lice treatments do.

The patented RID egg removal comb is proven 100% effective and can leave hair free of lice eggs¹-a must for many schools when re-admitting children. Many schools also recommend a second treatment. RID directions state to repeat treatment 7 to 10 days later.

RID. Nothing is more effective or safer.

...

*Read label. When used as directed.

¹Data on file, Pfizer Inc."

[The advertisement depicts a woman's hand holding a box of RID as if it were an eraser, wiping the word "LICE" off a blackboard. The box contains the following statement:

"MAXIMUM STRENGTH

RID LICE KILLING SHAMPOO

PEDICULICIDE (LICE TREATMENT)

KILLS LICE & THEIR EGGS

(HEAD LICE, CRAB LICE & BODY LICE)

-100% EFFECTIVE [VE is obscured by the hand]

EGG REMOVAL ['COMB' is obscured by the hand]"

(Exhibit A)

B. "New clinical study impacts head lice season.

MAXIMUM STRENGTH

Proven effective in a single treatment.*¹

[The advertisement depicts a graph entitled "Efficacy/Lice Elimination Results at Day 7." The horizontal axis is marked "Percent Cured." The statement "**MAXIMUM STRENGTH RID 100%**" appears above the horizontal axis.]

"A randomized evaluator-blinded clinical study of 190 patients measured the efficacy of MAXIMUM STRENGTH RID, and a competitor product. The results:

- In a single treatment, RID was found 100% effective in controlling head lice (day 7 of the study; n =78).
- RID was also 100% effective after a second treatment (day 14 of the study; n =75). RID directions state to repeat treatment 7 to 10 days after the first treatment. And, RID leaves no lasting active residue.

To eliminate nits, the patented RID egg removal comb provides gentle combing action. It's proven 100% effective.

For unsurpassed efficacy and safety...recommend MAXIMUM STRENGTH RID.

To receive an abstract of the RID study, call 1-800-322-LICE.

...

Nothing is more effective or safer.

¹ 'An evaluator-blinded comparative study of the clinical effectiveness of a pyrethrin-based pediculicide with combing vs a permethrin-based pediculicide with combing.' Presented at the National Association of School Nurses Annual Meeting, June, 1995.

*Read label. When used as directed.

**Estimates of clinical effectiveness were based on percentage of patients with no live lice or nits within .25 inches of the scalp."

[The advertisement depicts a woman's hand holding a box of RID as if it were an eraser, wiping the word "LICE" off a blackboard. The box contains the following statement:

"MAXIMUM STRENGTH

RID LICE KILLING SHAMPOO

PEDICULICIDE (LICE TREATMENT)

KILLS LICE & THEIR EGGS

(HEAD LICE, CRAB LICE & BODY LICE)

-100% EFFECTIVE [VE is obscured by the hand]

EGG REMOVAL ['COMB' is obscured by the hand"]

(Exhibit B)

C. Announcer: "Your child could get lice!"

[The advertisement depicts a blackboard with the word "LICE" written on it.]

Announcer: "To kill lice and their eggs..."

[The advertisement depicts a RID box with the statement "**KILLS LICE & THEIR EGGS**" on the box enlarged. The advertisement contains a statement at the bottom of the screen in a light-colored print: "Read label. Use only as directed."]

Announcer: "get Maximum Strength RID."

[The advertisement depicts a RID box.]

Announcer: "In just the first treatment,"

[The advertisement depicts a woman's hand holding a box of RID as if it were an eraser, wiping the word "LICE" off a blackboard. The advertisement contains a statement at the bottom of the screen in a light-colored print: "Two treatments required."]

Announcer: "it kills lice completely."

[The advertisement depicts the blackboard with the word "LICE" now just a smear on the blackboard, with the statement "Kills lice completely."]

Announcer: "And RID leaves no active residue behind."

[The advertisement depicts a mother hugging her child in front of school bus.]

Announcer: "Nothing"

[The advertisement depicts a woman's hand holding a box of RID as if it were an eraser, wiping the word "LICE" off a blackboard.]

Announcer: "is more effective or safer than RID."

[The advertisement depicts the RID logo on the smeared blackboard, with the statement: "Nothing is more effective."] (Exhibit C)

- D. **"MAXIMUM STRENGTH RID
LICE KILLING SHAMPOO
PEDICULICIDE (LICE TREATMENT)
KILLS LICE & THEIR EGGS
(HEAD LICE, CRAB LICE & BODY LICE)
-- 100% EFFECTIVE -- EGG REMOVAL COMB* "**
(Exhibit D)

5. Through the means described in paragraph four, respondent has represented, expressly or by implication, that:

A. RID Lice Killing Shampoo cures lice infestations in a single treatment.

B. The RID egg removal comb is one hundred percent effective.

6. In truth and in fact:

A. RID Lice Killing Shampoo does not cure lice infestations in a single treatment. RID Lice Killing Shampoo is based on a pesticide which is not one hundred percent effective against lice eggs. Consequently, a second treatment is required in seven to ten days to kill any lice that have hatched. In addition, consumers are instructed to remove any lice eggs or "nits" from the infested person's hair.

B. The RID comb is not necessarily one hundred percent effective. Lice eggs are difficult to see and to remove. The effectiveness of the comb is largely dependent on the skill and tenacity of the comb.

Therefore, the representations set forth in paragraph five were, and are, false or misleading.

7. Through the means described in paragraph four, respondent has represented, expressly or by implication, that it possessed and relied upon a reasonable basis that substantiated the representations set forth in paragraph five, at the time the representations were made.

8. In truth and in fact, respondent did not possess and rely upon a reasonable basis that substantiated the representations set forth in paragraph five, at the time the representation was made. Therefore, the representation set forth in paragraph seven was, and is, false or misleading.

9. Through the means described in paragraph four, respondent has represented, expressly or by implication, that:

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Complaint

A. Clinical studies prove that RID Lice Killing Shampoo cures lice infestations in a single treatment.

B. Clinical studies prove that the RID egg removal comb is one hundred percent effective.

10. In truth and in fact:

A. Clinical studies do not prove that RID Lice Killing Shampoo cures lice infestations in a single treatment. The study relied upon to make this claim included the application of a single treatment along with a thorough combing that removed all lice eggs.

B. Clinical studies do not prove that the RID comb is one hundred percent effective. The studies relied upon to make this claim employed individuals trained in egg removal to comb patients' hair. There is no evidence that the same results are achievable by an average consumer.

Therefore, the representations set forth in paragraph nine were, and are, false or misleading.

11. The acts and practices of respondent as alleged in this complaint constitute unfair or deceptive acts or practices, and the making of false advertisements, in or affecting commerce in violation of Sections 5(a) and 12 of the Federal Trade Commission Act.

EXHIBIT A

RID® erases head lice completely.

MAXIMUM STRENGTH

Kills lice in just the first treatment.*

MAXIMUM STRENGTH RID kills lice completely in minutes. And RID leaves no lasting active residue on the hair. RID rinses away completely. Not all lice treatments do.

The patented RID egg removal comb is proven 100% effective and can leave hair free of lice eggs—a must for many schools when re-admitting children. Many schools also recommend a second treatment. RID directions state to repeat treatment 7 to 10 days later.

RID. Nothing is more effective or safer.

For answers to your questions, 1-800-RID-LICE (1-800-743-5423)

*Read label. When used as directed. Data on file. PZS 502. ©1995 PZS, Inc.

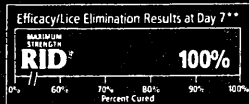
EXHIBIT A

New clinical study impacts head lice season.

MAXIMUM STRENGTH



Proven effective in a single treatment.*



A randomized evaluator-blinded clinical study of 190 patients measured the efficacy of MAXIMUM STRENGTH RID, and a competitor product. The results:

- In a single treatment, RID was found 100% effective in controlling head lice (day 7 of the study; n=78).
- RID was also 100% effective after a second treatment (day 14 of the study; n=75). RID directions state to repeat treatment 7 to 10 days after the first treatment. And, RID leaves no lasting active residue.

To eliminate nits, the patented RID egg removal comb provides gentle combing action. It's proven 100% effective.

For unsurpassed efficacy and safety...recommend MAXIMUM STRENGTH RID. To receive an abstract of the RID Study, call 1-800-322-LICE.

MAXIMUM STRENGTH



Nothing is more effective or safer.

*An evaluator-blinded comparative study of the efficacy of MAXIMUM STRENGTH RID compared to a competitor product with combing and elimination being performed with combing. Presented at the National Association of School Nurses Annual Meeting, June, 1995.
 **Read the label when used as directed.
 *Efficacy and safety of other brands were based on percentage of lice eliminated for lice present within 0.25 inches of the scalp.
 © 1995 Pfizer Inc.
 P 3334

Complaint

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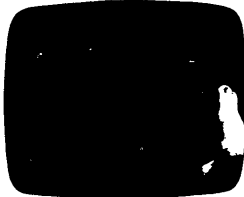
EXHIBIT C

RID®

"BLACKBOARD" :15 TV

CLIENT: PFIZER INC

COMM'L NO.: PFRD-1503



ANNCR VO: Your child could get lice!



To kill lice and their eggs...



get Maximum Strength RID.



In just the first treatment,



it kills lice completely.



And RID leaves no active residue behind.



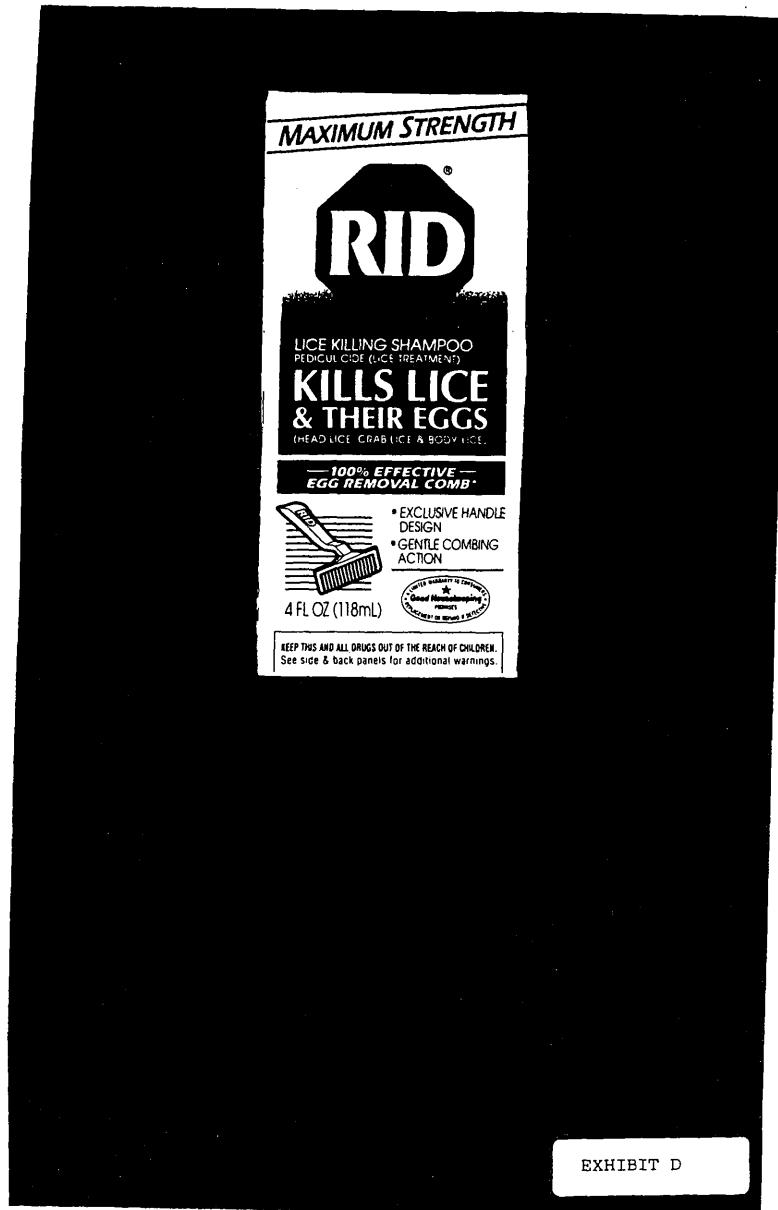
Nothing



is more effective or safer than RID.

SWEENEY & PARTNERS

EXHIBIT C



DECISION AND ORDER

The Federal Trade Commission having initiated an investigation of certain acts and practices of the respondent named in the caption hereof, and the respondent having been furnished thereafter with a copy of a draft of complaint which the San Francisco Regional Office proposed to present to the Commission for its consideration and which, if issued by the Commission, would charge respondent with violation of the Federal Trade Commission Act; and

The respondent, its attorney, and counsel for the Commission having thereafter executed an agreement containing a consent order, an admission by the respondent of all the jurisdictional facts set forth in the aforesaid draft of complaint, a statement that the signing of said agreement is for settlement purposes only and does not constitute an admission by respondent that the law has been violated as alleged in such complaint, or that the facts as alleged in such complaint, other than jurisdictional facts, are true 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 respondent has violated the said Act, and that a 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 Pfizer Inc., is a corporation organized, existing, and doing business under and by virtue of the laws of the State of Delaware, with its office and principal place of business located at 235 East 42nd Street, New York, New York.

2. The Federal Trade Commission has jurisdiction of the subject matter of this proceeding and of the respondent, and the proceeding is in the public interest.

ORDER

DEFINITIONS

For purposes of this order, the following definitions shall apply:

1. "*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.

2. "*RID Lice Killing Shampoo*" shall mean the pediculicide marketed by respondent which contains the active ingredients of 0.33 percent pyrethrum extract and 4 percent piperonyl butoxide.

3. "*Substantially Similar Product*" shall mean any pediculicide marketed by respondent which contains the active ingredients of pyrethrum extract and piperonyl butoxide, and is covered by the Food and Drug Administration's Final Monograph on OTC Pediculicide Drug Products.

4. Unless otherwise specified, "*respondent*" shall mean Pfizer Inc., a corporation, its successors and assigns, and its officers, agents, representatives and employees.

5. "*Commerce*" shall mean as defined in Section 4 of the Federal Trade Commission Act, 15 U.S.C. 44.

6. "*Drug*" and "*device*" shall mean as defined in Section 15 of the Federal Trade Commission Act, 15 U.S.C. 55.

7. "*Pesticide*" shall mean as defined in Section 2 of the Federal Insecticide, Fungicide, and Rodenticide Act, 7 U.S.C. 136(u).

8. "*Clearly and prominently*" shall mean as follows:

A. In an advertisement communicated through an electronic medium (such as television, video, radio, and interactive media such as the Internet and online services), any audio disclosure shall be delivered in a volume and cadence sufficient for an ordinary consumer to hear and comprehend it. Any video disclosure shall be of a size and shade, and shall appear on the screen for a duration, sufficient for an ordinary consumer to read and comprehend it. In addition to the foregoing, in interactive media the disclosure shall also be unavoidable and shall be presented prior to the consumer incurring any financial obligation.

B. In a print advertisement or promotional material, the disclosure shall be in a type size and location sufficiently noticeable for an ordinary consumer to read and comprehend it, in print that contrasts with the background against which it appears. In multipage documents, the disclosure shall appear on the cover or first page.

