

Sunshine Act Meeting

AGENCY HOLDING THE MEETING: Board of Governors of the Federal Reserve System.

TIME AND DATE: 11:00 a.m., Monday, July 15, 1996.

PLACE: Marriner S. Eccles, Federal Reserve Board Building, C Street entrance between 20th and 21st Streets, N.W., Washington, D.C. 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.

2. Any items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION:

Mr. Joseph R. Coyne, Assistant to the Board; (202) 452-3204. You may call (202) 452-3207, beginning at approximately 5 p.m. two business days before this meeting, for a recorded announcement of bank and bank holding company applications scheduled for the meeting.

Dated: July 5, 1996.

Barbara R. Lowrey,
Associate Secretary of the Board.

[FR Doc. 96-17568 Filed 7-5-96; 11:54 am]

BILLING CODE 6210-01-P

FEDERAL TRADE COMMISSION

[File No. 962-3053]

Jordan, McGrath, Case & Taylor; Proposed Consent Agreement with Analysis to Aid Public Comment

AGENCY: Federal Trade Commission.

ACTION: Proposed Consent Agreement.

SUMMARY: In settlement of alleged violations of federal law prohibiting unfair or deceptive acts or practices and unfair methods of competition, this consent agreement, accepted subject to final Commission approval, would prohibit, among other things, the New York City-based advertising agency from making advertising claims regarding the efficacy, safety, benefits, or performance of any over-the-counter internal analgesics unless they have competent and reliable scientific evidence supporting the claims. The consent agreement settles allegations stemming from Jordan, McGrath's advertising campaign for Doan's pills, an over-the-counter back-pain relief medication marketed by Ciba-Geigy Corporation.

DATES: Comments must be received on or before September 9, 1996.

ADDRESSES: Comments should be directed to: FTC/Office of the Secretary,

Room 159, 6th St. and Pa. Ave. NW., Washington, DC 20580.

FOR FURTHER INFORMATION CONTACT: Joel Winston, Federal Trade Commission, S-4002, 6th and Pennsylvania Ave. NW., Washington, DC 20580. (202) 326-3153; Loren Thompson, Federal Trade Commission, S-4002, 6th and Pennsylvania Ave. NW., Washington, DC 20580. (202) 326-2049.

SUPPLEMENTARY INFORMATION: Pursuant to Section 6(f) of the Federal Trade Commission Act, 38 Stat. 721, 15 U.S.C. 46 and Section 2.34 of the Commission's Rules of Practice (16 CFR 2.34), notice is hereby given that the following consent agreement containing a consent order to cease and desist, having been filed with and accepted, subject to final approval, by the Commission, has been placed on the public record for a period of sixty (60) days. Public comment is invited. Such comments or views will be considered by the Commission and will be available for inspection and copying at its principal office in accordance with Section 4.9(b) (6) (ii) of the Commission's Rules of Practice (16 CFR 4.9(b) (6) (ii)).

Agreement Containing Consent Order to Cease and Desist

The Federal Trade Commission, having initiated an investigation of certain acts and practices of Jordan, McGrath, Case & Taylor, Inc., a corporation (hereinafter sometimes referred to as "proposed respondent"), and it now appearing that proposed respondent is willing to enter into an agreement containing an order to cease and desist from the use of the acts and practices being investigated,

It is hereby agreed by and between Jordan, McGrath, Case & Taylor, Inc., by its duly authorized officer, and counsel for the Federal Trade Commission that:

1. Proposed respondent Jordan, McGrath, Case & Taylor, Inc., is a corporation organized, existing, and doing business under and by virtue of the laws of the State of New York with its office and principal place of business at 445 Park Avenue, New York, New York 10022.

2. Proposed respondent admits all the jurisdictional facts set forth in the draft complaint.

3. Proposed respondent waives:

(a) Any further procedural steps;

(b) The requirement that the Commission's decision contain a statement of findings of fact and conclusions of law; and

(c) All rights to seek judicial review or otherwise to challenge or contest the validity of the order entered pursuant to this agreement.

4. This agreement shall not become part of the public record of the proceeding unless and until it is accepted by the Commission. If this agreement is accepted by the Commission, it, together with the draft of complaint contemplated thereby, will be placed on the public record for a period of sixty (60) days and information in respect thereto publicly released. The Commission thereafter may either withdraw its acceptance of this agreement and so notify proposed respondent, in which event it will take such action as it may consider appropriate, or issue and serve its complaint (in such form as the circumstances may require) and decision, in disposition of this proceeding.

5. This agreement is for settlement purposes only and does not constitute an admission by proposed respondent that the law has been violated as alleged in the draft of complaint, or that the facts as alleged in the draft complaint, other than the jurisdictional facts, are true.

6. This agreement contemplates that, if it is accepted by the Commission, and if such acceptance is not subsequently withdrawn by the Commission pursuant to the provisions of § 2.34 of the Commission's Rules, the Commission may, without further notice to proposed respondent: (1) issue its complaint corresponding in form and substance with the draft complaint and its decision containing the following order to cease and desist in disposition of the proceeding; and (2) make information public in respect thereto. When so entered, the order to cease and desist shall have the same force and effect and may be altered, modified, or set aside in the same manner and within the same time provided by statute for other orders. The order shall become final upon service. Delivery by the U.S. Postal Service of the complaint and decision containing the agreed-to order to proposed respondent's address as stated in this agreement shall constitute service. Proposed respondent waives any rights it may have to any other manner of service. The complaint may be used in construing the terms of the order, and no agreement, understanding, representation, or interpretation not contained in the order or in the agreement may be used to vary or contradict the terms of the order.

7. Proposed respondent has read the proposed complaint and order contemplated hereby. Proposed respondent understands that once the order has been issued, it will be required to file one or more compliance reports showing that it has fully

complied with the order. Proposed respondent further understands that it may be liable for civil penalties in the amount provided by law for each violation of the order after it becomes final.

Order

For purposes of this Order:

1. "Doan's" shall mean any over-the-counter internal analgesic drug, as "drug" is defined in the Federal Trade Commission Act, bearing the Doan's brand name, including, but not limited to, Regular Strength Doan's analgesic, Extra Strength Doan's analgesic, and Extra Strength Doan's P.M. analgesic.

2. "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 respondent Jordan, McGrath, Case & Taylor, Inc., a corporation, its successors and assigns, and its officers, agents, representatives and employees, directly or through any partnership, corporation, subsidiary, division or other device, in connection with the advertising, promotion, offering for sale, sale, or distribution of Doan's or any other over-the-counter analgesic drug, in or affecting commerce, as "drug" and "commerce" are defined in the Federal Trade Commission Act, do forthwith cease and desist from making any representation, in any manner, directly or by implication, that such product is more effective than other over-the-counter analgesic drugs for relieving back pain or any other particular kind of pain, unless, at the time of making such representation, respondent possesses and relies upon competent and reliable scientific evidence that substantiates the representation. For purposes of Part I of this order, "competent and reliable scientific evidence" shall include at least two adequate and well-controlled, double-blinded clinical studies which conform to acceptable designs and protocols and are conducted by different persons, each of whom is qualified by training and experience to conduct such studies, independently of each other.

II

It is further ordered that respondent Jordan, McGrath, Case & Taylor, Inc., a corporation, its successors and assigns, and its officers, agents, representatives

and employees, directly or through any partnership, corporation, subsidiary, division or other device, in connection with the advertising, promotion, offering for sale, sale, or distribution of Doan's or any other over-the-counter internal analgesic drug, in or affecting commerce, as "drug" and "commerce" are defined in the Federal Trade Commission Act, do forthwith cease and desist from making any representation, in any manner, directly or by implication, regarding such product's efficacy, safety, benefits, or performance, unless, at the time of making such representation, respondent possesses and relies upon competent and reliable scientific evidence that substantiates the representation.

Provided, however, that it shall be a defense hereunder that the respondent neither knew nor had reason to know of an inadequacy of substantiation for the representation.

III

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.

IV

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

A. All materials that were relied upon in disseminating such representation; and

B. All tests, reports, studies, surveys, demonstrations or other evidence in its 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 respondent shall:

A. Within thirty (30) days from the date of entry of this order, provide a copy of this order to each of its current principals, officers, directors and managers, and to all personnel, agents, and representatives having sales, advertising, or policy responsibility with respect to the subject matter of this order; and

B. For a period of ten (10) years from the date of entry of this order, provide a copy of this order to each of its future principals, officers, directors, and managers, and to all personnel, agents, and representatives having sales, advertising, or policy responsibility with respect to the subject matter of this order who are associated with them or any subsidiary, successor, or assign, within three (3) days after the person assumes his or her position.

VI

It is further ordered that respondent shall notify the Commission at least thirty (30) days prior to any proposed change in its corporate structure, including, but not limited to, dissolution, assignment, or sale resulting in the emergence of a successor corporation, the creation or dissolution of subsidiaries or affiliates, or any other corporate change that may affect compliance obligations arising out of this order.

VII

It is further ordered that this order will terminate twenty (20) years from the date of its issuance, or twenty (20) years from the most recent date that the United States or the Federal Trade Commission files a complaint (with or without an accompanying consent decree) in federal court alleging any violation of the order, whichever comes later; provided, however, that the filing of such a complaint will not affect the duration of:

A. Any part in this order that terminates in less than twenty (20) years;

B. This order's application to any respondent that is not named as a defendant in such complaint; and

C. This order if such complaint is filed after the order has terminated pursuant to this Part.

Provided further, that if such complaint is dismissed or a federal court rules that the respondent did not violate any provision of the order, and the dismissal or ruling is either not appealed or upheld on appeal, then the order will terminate according to this Part as though the complaint was never 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.

VIII

It is further ordered that respondent shall, within sixty (60) days from the date of entry 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. Analysis of Proposed Consent Order to Aid Public Comment

The Federal Trade Commission has accepted an agreement to a consent order from Jordan, McGrath, Case & Taylor, Inc. ("Jordan, McGrath"), an advertising agency.

The proposed consent order has been placed on the public record for sixty (60) days for reception of comments by interested persons. Comments received during this period will become part of the public record. After sixty (60) days, the Commission will again review the agreement and the comments received and will decide whether it should withdraw from the agreement or make final the agreement's proposed order.

This matter concerns Doan's, an analgesic for which Jordan, McGrath created and disseminated advertisements. The Commission's proposed complaint alleges that the respondent represented without a reasonable basis in its advertisements that Doan's analgesic products are more effective than other analgesics, including Bayer, Advil, Tylenol, and Aleve, for relieving back pain. The complaint alleges that respondent knew or should have known that the representation lacked a reasonable basis.

The proposed consent order contains provisions designed to prevent the respondent from engaging in similar acts and practices in the future. Part I of the proposed order prohibits respondent from making any representation that Doan's or any other over-the-counter analgesic drug is more effective than any other such drug for relieving back pain or any other particular kind of pain, unless it possesses competent and reliable scientific evidence, consisting of at least two adequate and well-controlled, double-blinded clinical studies, that substantiates the representation.

Part II of the proposed order prohibits respondent from making any representation about the efficacy, safety, benefits, or performance of any over-the-counter internal analgesic drug, unless it possesses competent and reliable scientific evidence that substantiates the representation. This Part further provides that it shall be a defense under this Part that respondent neither knew nor had reason to know of an inadequacy of substantiation for a representation.

Part III of the order is a safe harbor provision allowing representations for any drug that are permitted in the

labeling for that drug under any tentative final or final standard promulgated by the Food and Drug Administration ("FDA") or by an approved new drug application.

Parts IV, V, VI, and VII of the order relate to respondent's obligation to maintain records, distribute the order to current and future officers and employees, notify the Commission of changes in corporate structure, and file compliance reports with the Commission. Part VIII provides that the order will terminate after twenty years under certain circumstances.

The purpose of this analysis is to facilitate public comment on the proposed order, and it is not intended to constitute an official interpretation of the agreement and proposed order or to modify in any way their terms.

Donald S. Clark,

Secretary.

[FR Doc. 96-17466 Filed 7-8-96; 8:45 am]

BILLING CODE 6750-01-P

[File No. D-9274]

RustEvader Corporation; David F. McCready; Proposed Consent Agreement With Analysis To Aid Public Comment

AGENCY: Federal Trade Commission.

ACTION: Proposed Consent Agreement.

SUMMARY: In settlement of alleged violations of federal law prohibiting unfair or deceptive acts or practices and unfair methods of competition, this consent agreement, accepted subject to final Commission approval, would require, among other things, the Altoona, Pennsylvania-based former owner and president of RustEvader Corporation to pay \$200,000 in consumer redress and would prohibit him from using the names "Rust Evader" or "Rust Buster" for any device that he markets as reducing corrosion in motor vehicle bodies. McCready is also prohibited from making any claims about the performance, efficacy, or attributes of any product for use in motor vehicles without having appropriate substantiation to back up the claim and from misrepresenting the existence or results of any test or study. The consent agreement settles allegations stemming from advertising for RustEvader's "Rust Evader" device that purportedly reduced corrosion in motor vehicle bodies.

DATES: Comments must be received on or before September 9, 1996.

ADDRESSES: Comments should be directed to: FTC/Office of the Secretary, Room 159, 6th St. and Pa. Ave., N.W., Washington, DC 20580.

FOR FURTHER INFORMATION CONTACT: Michael Milgrom, Federal Trade Commission, Cleveland Regional Office, 668 Euclid Avenue, Suite 520-A, Cleveland, OH 44114. (216) 522-4210.

SUPPLEMENTARY INFORMATION: Pursuant to Section 6(f) of the Federal Trade Commission Act, 38 Stat. 721, 15 U.S.C. 46 and Section 2.34 of the Commission's Rules of Practice (16 CFR 2.34), notice is hereby given that the following consent agreement containing a consent order to cease and desist, having been filed with and accepted, subject to final approval, by the Commission, has been placed on the public record for a period of sixty (60) days. Public comment is invited. Such comments or views will be considered by the Commission and will be available for inspection and copying at its principal office in accordance with Section 4.9(b) (6) (ii) of the Commission's Rules of Practice (16 CFR 4.9(b) (6) (ii)).

AGREEMENT WITH DAVID F. McCready Containing Consent Order to Cease and Desist

The agreement herein, by and between David F. McCready, individually and as an officer of RustEvader Corporation, a/k/a Rust Evader Corporation, sometimes d/b/a/ REC Technologies, a corporation, hereinafter sometimes referred to as respondent, and his attorney, and counsel for the Federal Trade Commission, is entered into in accordance with the Commission's Rule governing consent order procedures. In accordance therewith the parties hereby agree that:

1. RustEvader Corporation, a/k/a Rust Evader Corporation, sometimes d/b/a REC Technologies (REC) is a corporation organized, existing, and doing business under and by virtue of the laws of the State of Pennsylvania, with its office and principal place of business located at 1513 Eleventh Avenue, Altoona, Pennsylvania 16603.

Respondent David F. McCready has been an owner, officer and director of said corporation. At times material to the complaint herein, he formulated, directed, and controlled the policies, acts, and practices of said corporation. His address is RD 4 Box 92 B, Altoona, Pennsylvania 16601.

2. Respondent has been served with a copy of the complaint issued by the Federal Trade Commission charging him with violations of Section 5(a) of the Federal Trade Commission Act (15 U.S.C. § 45(a)) and of Section 102(c) of the Magnuson-Moss Warranty-Federal Trade Commission Improvement Act (15 U.S.C. § 2302(c)), and has filed an