

1 WILLARD K. TOM
General Counsel

2 KERRY O'BRIEN, (Calif. Bar No. 149264)
3 LINDA K. BADGER (Calif. Bar No. 122209)
Federal Trade Commission
4 901 Market Street, Ste. 570
San Francisco, CA 94103
5 (415) 848-5100 (voice)
(415) 848-5184 (fax)
6 kobrien@ftc.gov
badger@ftc.gov

7 Attorneys for Plaintiff
8 Federal Trade Commission

ORIGINAL
FILED

SEP 05 2012

RICHARD W. WIEKING
CLERK, U.S. DISTRICT COURT,
NORTHERN DISTRICT OF CALIFORNIA

9
10 UNITED STATES DISTRICT COURT
11 NORTHERN DISTRICT OF CALIFORNIA
San Francisco Division

EDL

12
13 FEDERAL TRADE COMMISSION,

14 Plaintiff,

15 v.

Case No. **CV 12 4632**

16
17 RMB GROUP, LLC, limited liability
company,

**COMPLAINT FOR PERMANENT
INJUNCTION AND OTHER
EQUITABLE RELIEF**

18
19 HOWARD BRENNER, individually
and as an officer of RMB GROUP,
20 LLC, and

21 BRUCE BRENNER, individually and
as an officer of RMB GROUP, LLC,

22
23 Defendants.

24 Plaintiff, the Federal Trade Commission ("FTC"), for its Complaint
25 alleges:

26 1. The FTC brings this action under Section 13(b) of the Federal Trade
27 Commission Act ("FTC Act"), 15 U.S.C. § 53(b), to obtain permanent injunctive
28 relief, rescission or reformation of contracts, restitution, the refund of monies

Complaint

1 paid, disgorgement of ill-gotten monies, and other equitable relief for
2 Defendants' acts or practices in violation of Section 5(a) of the FTC Act, 15
3 U.S.C. § 45(a), in connection with the advertising, marketing and sale of various
4 pest-control products, which purportedly treat and prevent bed bugs.

5 JURISDICTION AND VENUE

6 2. This Court has subject matter jurisdiction pursuant to 28 U.S.C. §§
7 1331, 1337(a), and 1345, and 15 U.S.C. §§ 45(a) and 53(b).

8 3. Venue is proper in this district under 28 U.S.C. § 1391(b) and 15
9 U.S.C. § 53(b).

10 INTRADISTRICT ASSIGNMENT

11 4. Defendants have advertised their products in the County of San
12 Francisco.

13 PLAINTIFF

14 5. The FTC is an independent agency of the United States Government
15 created by statute. 15 U.S.C. §§ 41-58. The FTC enforces Section 5(a) of the
16 FTC Act, 15 U.S.C. § 45(a), which prohibits unfair or deceptive acts or practices
17 in or affecting commerce.

18 6. The FTC is authorized to initiate federal district court proceedings,
19 by its own attorneys, to enjoin violations of the FTC Act and to secure such
20 equitable relief as may be appropriate in each case, including rescission or
21 reformation of contracts, restitution, the refund of monies paid, and the
22 disgorgement of ill-gotten monies. 15 U.S.C. § 53(b).

23 DEFENDANTS

24 7. Defendant RMB Group, LLC, is a Florida limited liability company
25 with its principal place of business at 474 SE Southwood Trail, Stuart, FL. RMB
26 Group, LLC, transacts or has transacted business in this district and throughout
27 the United States. At all times material to this Complaint, acting alone or in
28 concert with others, RMB Group, LLC, has advertised, marketed, distributed, or

1 12. Rest Easy purportedly consists of a liquid solution whose active
2 ingredients are sodium laurel sulfate, cinnamon oil, lemongrass oil, peppermint
3 oil, and clove oil.

4 13. Consumers have purchased Rest Easy from various third parties,
5 such as Bed Bath & Beyond, Walgreens, and Big Lots.

6 14. The retail price of Rest Easy has ranged from \$6.99 to \$9.99 for the
7 16 oz. trigger bottle, \$5.00 to \$7.99 for the 2 oz. twin pack, and \$50.00 for the
8 gallon jug.

9 **DEFENDANTS' ADVERTISEMENTS**

10 15. To induce consumers to purchase Rest Easy products, Defendants
11 have created, prepared, disseminated, or caused to be disseminated,
12 advertisements and other marketing materials, including, but not limited to, the
13 attached Exhibits A to D. These materials contain, among other things, the
14 following statements:

- 15 a. 2 oz. Twin Pack Packaging (Exhibit A) and
16 16 oz. Trigger Bottle Packaging (Exhibit B)

17 **"Rest Easy**
Kills & Repels Bed Bugs

18 *...
Rest Assured
Bed Bugs No More!*

19 *...
Spray around bed to create a barrier."*

- 20 b. <http://www.resteasy4bedbugs.com>, accessed 12/28/2011
21 (Exhibit C) (excerpts from website)

22 **"Rest Easy**
Kills & Repels Bed Bugs"

23
24 The webpage features a testimonial, which contains the
25 following statements: *"I have used Rest Easy for about a year
26 now. I LOVE this product because it makes me feel certain
27 that I am preventing bedbugs from becoming an issue in my
28 bedroom and in my home. The clear mist that I spray around
my bed and also on the floor area around my bed seems to kill
anything that would come into that area. . . . I want to make
sure that my living experience is not affected by [bed bugs]. I
would use Rest Easy no matter where I lived or when I travel.
Really has taken the worry away from having bedbugs while*

1 *living in NYC."*

2 "FREQUENTLY ASKED QUESTIONS

3

4 **Q: Can I spray it on my bed?**

5 **A.** Spraying **Rest Easy** on a bed is not necessary but spraying
6 around the bed to create a barrier is recommended. . . .

7

8 **Q. How does Rest Easy work?**

9 **A.** Unlike pesticides and insecticides that insects ingest, bed
10 bugs are killed with **Rest Easy** by having the oils attach itself
11 [sic] to the body of the bed bugs [sic] and dissolves [sic] the
12 shell."

13 "PRODUCTS

14 **2 oz. Twin Pack**

15 . . . Now there's no need to run over your bed at the hotel with
16 a fine tooth comb. Simply follow the directions and **Rest
Easy!**

17 . . . Use for peace of mind at home or when traveling!

18 **16 oz. Trigger Sprayer**

19 Keep in your home to keep potential infestations at bay. Don't
20 let your home be overrun by these obnoxious pests!

21

22 **Gallon Jugs**

23 For commercial use in apartments, hotels, and more. Never
24 have to deal with another tenant complaint and clear away the
25 looming threat of lawsuits. Don't let your business be a victim
26 of a growing and serious concern!"

27 "WHY REST EASY?

28

► **Rest Easy** is HIGHLY effective, killing 90% of bedbugs
within 2 seconds of contact, and the rest within 30 minutes (a
study by one of the two leading universities on bedbugs
indicates that pyrethrins / pyrethroids are NOT effective)

► **Rest Easy**, while providing a repellency effect as long as the
vapors from treatment continue to give off a cinnamon scent
(up to one week)"

1 c. <http://www.resteasy4bedbugs.com/index.php>, accessed
2 12/28/2011 (Exhibit D: screen shots of video appearing on
3 website)

4 This webpage features a video at the top of the page, which
5 contains the following statements: "Did you Know . . . Bed
6 bugs can survive up to 10 months without feeding. They can
7 lay between 5 and 12 eggs per day. . . per bug! Why take a
8 chance on being their next meal when you travel? Or having
9 your business shut down because somebody unwittingly
10 brought them in? Rest Easy . . . is a real GREEN All-Natural,
11 Non-Pesticide, designed as a preventative for just these
12 potential problems. Rest Easy And rest assured, bed bugs no
13 more!"

14 VIOLATIONS OF THE FTC ACT

15 16. Section 5(a) of the FTC Act, 15 U.S.C. § 45(a), prohibits "unfair or
16 deceptive acts or practices in or affecting commerce."

17 17. Misrepresentations or deceptive omissions of material fact constitute
18 deceptive acts or practices prohibited by Section 5(a) of the FTC Act.

19 Count I

20 Unsubstantiated Bed Bug Claims

21 18. Through the means described in Paragraph 15, Defendants have
22 represented, directly or indirectly, expressly or by implication, that:

- 23 a. Rest Easy kills bed bugs;
- 24 b. Rest Easy repels bed bugs; and
- 25 c. By spraying Rest Easy around a bed, a consumer can create a
26 barrier against bed bugs.

27 19. The representations set forth in Paragraph 18 were not substantiated
28 at the time they were made.

Therefore, the making of the representations set forth in Paragraph
18 constitutes a deceptive act or practice, in or affecting commerce, in violation
of Section 5(a) of the FTC Act, 15 U.S.C. § 45(a).

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Respectfully submitted,

Dated: 9/5/12

WILLARD K. TOM
General Counsel



KERRY O'BRIEN
LINDA K. BADGER
Federal Trade Commission
901 Market Street, Suite 570
San Francisco, CA 94103
Phone: 415-848-5100
Fax: 415-848-5184
kobrien@ftc.gov
lbadger@ftc.gov

Attorneys for Plaintiff
FEDERAL TRADE COMMISSION