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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

FEDERAL TRADE COMMISSION,

Plaintiff,

No. C 12-4631 PJH

v.

JUDGMENT

SPRINGTECH 77376 LLC, et al.,

Defendants.

_____ /
The court having granted plaintiff Federal Trade Commission's motion for default judgment as to defendants Springtech 77376, Cedarciide Industries, Inc., and Cedar Oil Technologies Corp.,

It is Ordered and Adjudged

that judgment be entered in favor of plaintiff Federal Trade Commission and against defendants Springtech 77376, Cedarciide Industries, Inc., and Cedar Oil Technologies Corp., as follows:

I. PROHIBITION ON DECEPTIVE PERFORMANCE AND EFFICACY CLAIMS

IT IS HEREBY ORDERED that defaulting defendants, their officers, agents, servants, employees, and attorneys, and all other persons in active concert or participation with any of them, who receive actual notice of this order by personal service or otherwise, whether acting directly or indirectly, in connection with the advertising, marketing, promoting or offering for sale of the specified product, or any other pesticide, are permanently restrained and enjoined from making, or assisting others in making, expressly or by implication, including through the use of a product name, endorsement, depiction, or

1 illustration, any representation, other than representations covered under Section II of this
2 judgment:

- 3 A. that such product by itself is effective in stopping bed bug infestations;
- 4 B. that such product is effective in preventing bed bug infestations;
- 5 C. that such product is more effective than other products or services at stopping
6 and preventing bed bug infestations; or
- 7 D. about the performance or efficacy of such product;

8 unless the representation is non-misleading, and, at the time such representation is made,
9 defaulting defendants possess and rely upon competent and reliable scientific evidence
10 that is sufficient in quality and quantity based on standards generally accepted in the
11 relevant scientific fields, when considered in light of the entire body of relevant and reliable
12 scientific evidence, to substantiate that the representation is true. For purposes of this
13 Section, competent and reliable scientific evidence means tests, analyses, research, or
14 studies that have been conducted and evaluated in an objective manner by qualified
15 persons and are generally accepted in the profession to yield accurate and reliable results.

16 **II. PROHIBITION ON HEAD LICE INFESTATION CLAIMS**

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

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

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

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

5 III. PROHIBITION ON MISREPRESENTING ENDORSEMENTS OR AFFILIATIONS

6 IT IS FURTHER ORDERED that defaulting defendants, their officers, agents,
7 servants, employees, and attorneys, and all other persons in active concert or participation
8 with any of them, who receive actual notice of this judgment by personal service or
9 otherwise, whether acting directly or indirectly, in connection with the advertising,
10 marketing, promoting or offering for sale of any good or service are permanently restrained
11 and enjoined from misrepresenting, or assisting others in misrepresenting, expressly or by
12 implication, including through the use of a product name, endorsement, depiction, or
13 illustration:

14 A. that such product or service is endorsed or approved by, or otherwise
15 connected to a government entity, third-party organization, or any other person;

16 B. that any person is affiliated with a government entity, third-party organization,
17 or any other person; or

18 C. the existence or contents of any statement made by any government entity.

19 IV. PROHIBITION ON MISREPRESENTING TESTS OR STUDIES

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

1 V. CUSTOMER INFORMATION

2 IT IS FURTHER ORDERED that defaulting defendants, their officers, agents,
3 servants, employees, and attorneys, and all other persons in active concert or participation
4 with any of them who receive actual notice of this judgment by personal service or
5 otherwise, are permanently restrained and enjoined from directly or indirectly:

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

11 B. failing to dispose of such customer information in all forms in their
12 possession, custody, or control within 30 days after entry of this judgment. Disposal must
13 be by means that protect against unauthorized access to the customer information, such as
14 by burning, pulverizing, or shredding any papers, and by erasing or destroying any
15 electronic media, to ensure that the customer information cannot practicably be read or
16 reconstructed; provided, however, that customer information need not be disposed of, and
17 may be disclosed, to the extent requested by a government agency or required by law,
18 regulation, or court order.

19 VI. MONETARY JUDGMENT AND SUSPENSION

20 IT IS FURTHER ORDERED that:

21 A. Judgment is hereby entered against the defaulting defendants, jointly and
22 severally, in the amount of Seven Million, Two Hundred and Seventy-Nine Thousand
23 Dollars (\$7,279,000). This amount shall become immediately due and payable by the
24 defaulting defendants upon entry of this order, and interest computed at the rate prescribe
25 under 28 U.S.C. § 1961, as amended, shall immediately begin to accrue on the unpaid
26 balance.

27 B. All funds paid pursuant to this order shall be deposited into a fund
28 administered by the Commission or its agent to be used for equitable relief, including, but

1 not limited to, consumer redress, and any attendant expenses for the administration of
2 such equitable relief. If the Commission determines, in its sole discretion, that redress to
3 consumers is wholly or partially impracticable or funds remain after redress is completed,
4 the Commission may apply any remaining funds for such other equitable relief as it
5 determines to be reasonably related to the defaulting defendants' practices alleged in the
6 complaint. Any funds not used for such equitable relief shall be deposited to the United
7 States Treasury as disgorgement. The defaulting defendants shall have no right to
8 challenge the Commission's choice of remedies under this section, and shall have no right
9 to contest the manner of distribution chosen by the Commission;

10 C. Defaulting defendants relinquish all dominion, control, and title to the funds
11 paid to the fullest extent permitted by law. Defendants shall make no claim to or demand
12 for return of the funds, directly or indirectly, through counsel or otherwise.

13 VII. ORDER ACKNOWLEDGMENT

14 IT IS FURTHER ORDERED that defaulting defendants obtain acknowledgments of
15 receipt of this judgment and the order grant default judgment:

16 A. Each defaulting defendant, within 7 days of entry of this order, must submit to
17 the Commission an acknowledgment of receipt of this judgment and the order granting
18 default judgment sworn under penalty of perjury.

19 B. For 3 years after entry of this judgment, each defaulting defendant, must
20 deliver a copy of this judgment to (1) all principals, officers, directors, and managers; (2) all
21 employees, agents, and representatives who participate in conduct related to the subject
22 matter of the judgment; and (3) any business entity resulting from any change in structure
23 as set forth in the Section titled Compliance Reporting. Delivery must occur within 7 days
24 of entry of this judgment for current personnel. To all others, delivery must occur before
25 they assume their responsibilities.

26 C. From each individual or entity to which a defaulting defendant delivered a
27 copy of this judgment, that defendant must obtain, within 30 days, a signed and dated
28 acknowledgment of receipt of this judgment.

1 VIII. COMPLIANCE REPORTING

2 IT IS FURTHER ORDERED that defaulting defendants make timely submissions to
3 the Commission:

4 A. One year after entry of this judgment, each defaulting defendant must submit
5 a compliance report, sworn under penalty of perjury, each defaulting defendant must:

- 6 (a) designate at least one telephone number and an email, physical, and postal address as
7 points of contact, which representatives of the Commission may use to communicate with
8 defaulting defendant; (b) identify all of defaulting defendant's businesses by all of their
9 names, telephone numbers, and physical, postal, email, and Internet addresses;
10 (c) describe the activities of each business, including the products and services offered, the
11 means of advertising, marketing, and sales, and the involvement of any other defendant;
12 (d) describe in detail whether and how defaulting defendant is in compliance with each
13 section of this order; and (e) provide a copy of each Order Acknowledgment obtained
14 pursuant to this order, unless previously submitted to the Commission;

15 B. For 10 years following entry of this order, each defaulting defendant must
16 submit a compliance notice, sworn under penalty of perjury, within 14 days of any change
17 in the following: (a) any designated point of contact; or (b) the structure of the defaulting
18 defendant or any entity that said defaulting defendant has any ownership interest in or
19 directly or indirectly controls that may affect compliance obligations arising under this order,
20 including: creation, merger, sale, or dissolution of the entity or any subsidiary, parent, or
21 affiliate that engages in any acts or practices subject to this order.

22 C. Each defaulting defendant must submit to the Commission notice of the filing
23 of any bankruptcy petition, insolvency proceeding, or any similar proceeding by or against
24 such defaulting defendant within 14 days of its filing.

25 D. Any submission to the Commission required by this order to be sworn under
26 penalty of perjury must be true and accurate and comply with 28 U.S.C. § 1746, such as by
27 concluding: "I declare under penalty of perjury under the laws of the United States of
28 America that the foregoing is true and correct. Executed on: _____" and supplying the date,

1 signatory's full name, title (if applicable), and signature.

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

8 IX. RECORDKEEPING

9 IT IS FURTHER ORDERED that defaulting defendants must create certain records
10 for 10 years after entry of the judgment and order granting default judgment, and retain
11 each such record for 5 years. Specifically, defaulting defendant must maintain the following
12 records:

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

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

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

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

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

23 X. COMPLIANCE MONITORING

24 IT IS FURTHER ORDERED that, for the purpose of monitoring defaulting
25 defendants' compliance with this order:

26 A. Within 14 days of receipt of a written request from a representative of the
27 Commission, each defaulting defendant must: submit additional compliance reports or
28 other requested information, which must be sworn under penalty of perjury; appear for

1 depositions; and produce documents, for inspection and copying. The Commission is also
2 authorized to obtain discovery, without further leave of court, using any of the procedures
3 prescribed by Federal Rules of Civil Procedure 29, 30 (including telephonic depositions),
4 31, 33, 34, 36, 45, and 69.

5 B. For matters concerning this order, the Commission is authorized to
6 communicate directly with each defaulting defendant. Each defaulting defendant must
7 permit representatives of the Commission to interview any employee or other person
8 affiliated with any defaulting defendant who has agreed to such an interview. The person
9 interviewed may have counsel present.

10 C. The Commission may use all other lawful means, including posing, through its
11 representatives, as consumers, suppliers, or other individuals or entities, to defaulting
12 defendants or any individual or entity affiliated with defaulting defendants, without the
13 necessity of identification or prior notice. Nothing in this order limits the Commission's
14 lawful use of compulsory process, pursuant to Sections 9 and 20 of the FTC Act, 15 U.S.C.
15 §§ 49, 57b-1.

16 XI. RETENTION OF JURISDICTION

17 IT IS FURTHER ORDERED that this court shall retain jurisdiction of this matter for
18 purposes of construction, modification, and enforcement of this judgment.

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20 Dated: December 9, 2013



21 _____
22 PHYLLIS J. HAMILTON
23 United States District Judge
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