

**UNITED STATES OF AMERICA
BEFORE FEDERAL TRADE COMMISSION**

In the Matter of)	
)	
)	
VICTORIA BIE d/b/a BODY GOLD)	FILE NO. 942-3328
)	
)	AGREEMENT CONTAINING
)	CONSENT ORDER TO
)	CEASE AND DESIST

The Federal Trade Commission, having initiated an investigation of certain acts and practices of Victoria Bie dba Body Gold, 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 Victoria Bie and her attorney, and counsel for the Federal Trade Commission that:

1. Proposed respondent Victoria Bie is a sole proprietor doing business under and by virtue of the laws of the State of California, with her principal office or place of business located at 5930 La Jolla Hermosa Ave., La Jolla, CA 92037.
2. Proposed respondent admits all the jurisdictional facts set forth in the draft of complaint here attached.
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 the 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 the proceeding.

5. This agreement is for settlement purposes only and does not constitute an admission by proposed respondent of facts, other than jurisdictional facts, or of violations of law as alleged in the draft of complaint here attached.

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 This agreement contemplates that, if it is accepted by the Commission, and if such acceptance is not subsequently withdrawn by the Commission pursuant to the provisions of § 2.34 of the Commission's Rules, the Commission may, without further notice to proposed respondent, (1) issue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 of complaint here attached 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 right she 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 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. She understands that once the order has been issued, she will be required to file one or more compliance reports showing that she has fully complied with the order. Proposed respondent further understands that she may be liable for civil penalties in the amount provided by law for each violation of the order after it becomes final.

ORDER
DEFINITIONS

For the purposes of this order:

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; and
2. "Clearly and prominently" as used herein shall mean as follows:
 - (a) In a television or videotape advertisement: (1) an audio disclosure shall be delivered in a volume and cadence and for a duration sufficient for an ordinary consumer to hear and comprehend it; and (2) a 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.
 - (b) In a print advertisement, the disclosure shall be in close proximity to the representation that triggers the disclosure in at least twelve (12) point type.
 - (c) In a radio advertisement, the disclosure shall be delivered in a volume and cadence sufficient for an ordinary consumer to hear and comprehend it.

I.

IT IS ORDERED that respondent Victoria Bie, doing business as Body Gold or under any other name, and respondent's agents, representatives, and employees, directly or through any partnership, corporation, subsidiary, division, or other device, in connection with the manufacturing, labeling, packaging, advertising, promotion, offering for sale, sale, or distribution of Chromium Picolinate, 24K with Chromium Picolinate, Daily Energy Formula, CitriGold, or any food, dietary supplement, or drug, as "food" and "drug" are defined in Section 15 of the Federal Trade Commission Act, 15 U.S.C. § 55, in or affecting commerce, as "commerce" is defined in Section 4 of the Federal Trade Commission Act, 15 U.S.C. § 44, do forthwith cease and desist from representing, in any manner, directly or by implication, that:

- A. Such product causes, aids, facilitates or contributes to reducing body fat;

- B. Such product causes, aids, facilitates or contributes to causing weight loss;
- C. Such product causes, aids, facilitates or contributes to causing rapid weight or body fat loss;
- D. Such product causes or assists in causing weight or fat loss without dieting or strenuous exercise;
- E. Such product reduces serum cholesterol levels;
- F. Such product increases human metabolism;
- G. Such product increases lean body mass and builds muscle;
- H. Such product increases energy or stamina;
- I. Such product controls appetite and/or craving for sugar; or
- J. Such product regulates or controls blood sugar;

unless, at the time of making such representation, respondent possesses and relies upon competent and reliable scientific evidence that substantiates the representation.

II.

IT IS ORDERED that respondent Victoria Bie, doing business as Body Gold or under any other name, and respondent's agents, representatives, and employees, directly or through any partnership, corporation, subsidiary, division, or other device, in connection with the manufacturing, labeling, packaging, advertising, promotion, offering for sale, sale, or distribution of L-Carnitine, Super Fat Burner Formula, or any food, dietary supplement, or drug, as "food" and "drug" are defined in Section 15 of the Federal Trade Commission Act, 15 U.S.C. § 55, in or affecting commerce, as "commerce" is defined in Section 4 of the Federal Trade Commission Act, 15 U.S.C. § 44, do forthwith cease and desist from representing, in any manner, directly or by implication, that:

- A. Such product improves fat metabolism, which causes loss of body fat;
- B. Such product causes, aids, facilitates or contributes to achieving fat loss;

C. Such product causes, aids, facilitates or contributes to achieving weight loss;

D. Such product causes, aids, facilitates or contributes to muscle toning; or

E. Such product enhances athletic performance and/or stamina;

unless, at the time of making such representation, respondent possesses and relies upon competent and reliable scientific evidence that substantiates the representation.

III.

IT IS FURTHER ORDERED that respondent Victoria Bie, doing business as Body Gold or under any other name, and respondent's agents, representatives, and employees, directly or through any partnership, corporation, subsidiary, division or other device, in connection with the manufacturing, labeling, packaging, advertising, promotion, offering for sale, sale, or distribution of any food, dietary supplement, or drug, as "food" and "drug" are defined in Section 15 of the Federal Trade Commission Act, 15 U.S.C. § 55, in or affecting commerce, as "commerce" is defined in Section 4 of the Federal Trade Commission Act, 15 U.S.C. § 44, do forthwith cease and desist from making, in any manner, directly or by implication, any representation regarding the performance, benefits, efficacy, or safety of such product, unless, at the time of making such representation, respondent possesses and relies upon competent and reliable scientific evidence that substantiates the representation.

IV.

IT IS FURTHER ORDERED that respondent Victoria Bie, doing business as Body Gold or under any other name, and respondent's agents, representatives, and employees, directly or through any partnership, corporation, subsidiary, division, or other device, in connection with the manufacturing, labeling, packaging, advertising, promotion, offering for sale, sale, or distribution of any product or program, in or affecting commerce, as "commerce" is defined in Section 4 of the Federal Trade Commission Act, 15 U.S.C. § 44, do forthwith cease and desist from misrepresenting, in any manner, directly or by implication, the existence, contents, validity, results, conclusions, or interpretations of any test or study.

V.

IT IS FURTHER ORDERED that respondent Victoria Bie, doing business as Body Gold or under any other name, and respondent's agents, representatives, and employees, directly or through any partnership, corporation, subsidiary, division or other device, in connection with the advertising, packaging, labeling, promotion, or offering for sale, sale or distribution of any product or program in or affecting commerce, as "commerce" is defined in Section 4 of the Federal Trade Commission Act, 15 U.S.C. § 44, do forthwith cease and desist from representing, in any manner, directly or by implication, that any endorsement (as "endorsement" is defined in 16 C.F.R. § 255.0(b)) of a product or program represents the typical or ordinary experience of members of the public, who use the product or program, unless at the time of making such a representation, the representation is true, and respondent possessed and relied upon competent and reliable evidence, which when appropriate must be competent and reliable scientific evidence, that substantiates such representation.

PROVIDED, however, respondent may use such endorsements if the statements or depictions that comprise the endorsements are true and accurate, and if respondent discloses clearly and prominently and in close proximity to the endorsement:

- a. what the generally expected performance would be in the depicted circumstances; or
- b. the limited applicability of the endorser's experience to what consumers may generally expect to achieve, i.e., that consumers should not expect to experience similar results.

VI.

Nothing in this order shall prohibit respondent from making any representation that is specifically permitted in labeling for any product by regulations promulgated by the Food and Drug Administration pursuant to the Nutrition Labeling and Education Act of 1990.

VII.

Nothing in this order shall prohibit respondent from making any representation for any drug that is permitted in labeling for any 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 for three (3) years after the last date of dissemination of any representation covered by this order, respondent 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 her possession or control that

contradict, qualify, or call into question such representation, or the basis relied upon for such representation, including complaints from consumers.

IX.

IT IS FURTHER ORDERED that respondent shall notify the Federal Trade Commission at least thirty (30) days prior to any proposed change in the company, such as dissolution, assignment, or sale resulting in the emergence of a successor entity, the creation or dissolution of subsidiaries or affiliates, or any other change in the company that may affect compliance obligations arising under this order.

X.

IT IS FURTHER ORDERED that the respondent shall, within thirty (30) days after service of this order, distribute a copy of this order to all agents, representatives, or employees engaged in the preparation or placement of advertisements, promotional materials, product labels or other sales materials covered by this order, and shall obtain from each such agent, representative or employee a signed statement acknowledging receipt of the order.

XI.

IT IS FURTHER ORDERED that respondent shall, within sixty (60) days after 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 she has complied with this order.

XII.

This order will terminate twenty years from the date of its issuance, or twenty 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 paragraph in this order that terminates in less than twenty 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 paragraph.

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 paragraph 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.

Signed this _____ day of _____, 1995.

Victoria Bie d/b/a Body Gold
5930 La Jolla Hermosa
La Jolla, CA 92037

By: _____
Victoria Bie, sole proprietor

Attorney for Proposed Respondent

Signed this _____ day of _____, 1995

Federal Trade Commission

By: _____

Sohni Z. Bendiks

APPROVED:

Claude C. Wild III
Regional Director
Denver Regional Office

Jodie Z. Bernstein
Director
Bureau of Consumer Protection

UNITED STATES OF AMERICA
BEFORE FEDERAL TRADE COMMISSION

In the Matter of)	
)	
)	
VICTORIA BIE d/b/a BODY GOLD)	DOCKET NO.
)	
)	

COMPLAINT

The Federal Trade Commission, having reason to believe that Victoria Bie doing business as Body Gold ("respondent") has violated the provisions of the Federal Trade Commission Act, and it appearing to the Commission that a proceeding by it in respect thereof would be in the public interest, alleges:

PARAGRAPH ONE: Respondent Victoria Bie is the sole proprietor of Body Gold, a California company with its principal office or place of business located at 5930 La Jolla Hermosa, La Jolla, California 92037. Respondent formulates, directs, and controls the acts and practices of Body Gold, including the acts and practices alleged in this complaint.

PARAGRAPH TWO: Respondent has advertised, offered for sale, sold, and distributed nutritional supplements, including, but not limited to, Chromium Picolinate (200 and 400 mcg), 24K with Chromium Picolinate, Daily Energy Formula (with Chromium Picolinate), and CitriGold (with Chromium Picolinate and Hydroxycitric Acid), collectively referred to as "Chromium Picolinate," as weight loss, fat loss, muscle enhancing and/or muscle building aids. Respondent has also advertised, offered for sale, sold and distributed the nutritional supplements L-Carnitine and Super Fat Burner Formula (containing L-Carnitine) as products that increase stamina or endurance, as well as aid in fat loss, weight loss and muscle toning. Each of respondent's nutritional supplements is a "food" and/or "drug" within the meaning of Sections 12 and 15 of the Federal Trade Commission Act, 15 U.S.C. §§ 52, 55.

PARAGRAPH THREE: 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, 15 U.S.C. § 44.

PARAGRAPH FOUR: Respondent has disseminated or has caused to be disseminated advertisements and promotional materials for Chromium Picolinate, including but not necessarily limited to the

attached Exhibits A-L. These advertisements and promotional materials contain the following statements:

1. **"LOSE THE FAT BUT KEEP THE MUSCLE...Chromium Picolinate"** (Exhibit A, pgs 1 and 2)
2. "There is now excellent scientific evidence that Chromium Picolinate can accelerate fat loss while helping to preserve or even increase muscle." (Exhibit A, pg 2)
3. "Another double blind-study [Evans'] was conducted in young off-season football players participating in a six-week weight-training program. The results were the same: **more muscle, less fat** with Chromium Picolinate. Chromium Picolinate more than doubled the net benefits of exercise alone." (Exhibit A, pg 2, col. 2)
4. "*Stimulates Metabolism*" (Exhibit A, pg 3, col. 1)
5. "Chromium Picolinate helps you to KEEP THE MUSCLE - and maintain or increase your metabolic rate - while LOSING THE FAT." (Exhibit B, pg 2, col 2)
6. **"CHROMIUM PICOLINATE for LESS FAT AND MORE MUSCLE "** (Exhibits F, I, J, and K)
7. **"BODY GOLD** will rev up your sluggish metabolism so that you'll 'burn' fat and calories the way Mother Nature intended." (Exhibit C, pg 1, col 2)
8. "In fact, because of the way BODY GOLD works, you may even find that your 'inch loss' is *much more dramatic* than your overall weight loss." (Exhibit C, pg 1, col 2)
9. "...[Chromium Picolinate] has been shown in numerous human and animal studies to reduce body fat while increasing muscle." (Exhibit B, pg 2, col 2)
10. "In the 1988-89 groundbreaking studies, people given 200 micrograms of Chromium Picolinate daily lost 22% of their body fat in six weeks!" (Exhibit D, pg 2, col 2)
11. "People given Chromium Picolinate lost 22% of their body fat in six weeks. Moderate exercise routines were followed: no dietary restrictions were imposed." (Exhibit F)
12. **"22% LESS BODY FAT IN SIX WEEKS** with Chromium Picolinate" (Exhibit G)

13. **"22% LESS BODY FAT**

"In a breakthrough university study with Chromium Picolinate, fat loss was dramatic: [GRAPH] Unhealthy body fat decreased 17% in only 2 weeks and continued to an average 22% loss at the end of the 6-week study. *In only six weeks, participants given Chromium Picolinate lost 22% of their body fat!*" (Exhibit H)

14. "Numerous studies now show that supplemental CHROMIUM PICOLINATE promotes fat loss and increases lean muscle. 200 micrograms taken daily can offer dramatic fitness benefits." (Exhibits G, I, K)

15. "UNIVERSITY STUDIES identify CHROMIUM PICOLINATE as a 'trigger' for fat loss and lean muscle development." (Exhibit F)

16. "People taking Chromium Picolinate lost 22% of their body fat in only six weeks in a 1989 university study. Since then, numerous studies and millions of people have confirmed the exciting benefits of this safe, essential nutrient. Men and women across the country are talking about: LESS BODY FAT ● WEIGHT LOSS ● 'INCH LOSS' ● MORE ENERGY ● MORE LEAN MUSCLE ● GREATER STAMINA ● APPETITE CONTROL ● LESS DESIRE FOR SWEETS" (Exhibits I, J, K)

17. "These and subsequent *published* studies show that Chromium Picolinate:

- **increases body fat metabolism**
- **lowers elevated cholesterol levels**
- **builds stronger, leaner muscle**
- **regulates blood sugar**
- **promotes longer life span in laboratory rats "**

(Exhibit D, pg 2, col 2)

18. "Medical studies show that Chromium Picolinate can also:

- reduce cholesterol levels
- regulate blood sugar" (Exhibit C, pg 1, col 1)

19. **"The Fitness Essential * CHROMIUM PICOLINATE**

Less body fat ● More muscle ● Lower cholesterol ● Blood sugar control ● Weight loss" (Exhibit D, pg 2)

20. "Recent clinical studies have used 400 micrograms of chromium to produce excellent weight-loss and fat-loss results. Your reward can be substantially greater fitness benefits when you DOUBLE THE CHROMIUM POWER. And Chromium Picolinate is

perfectly safe at these reasonable, healthy amounts." (Exhibit E)

21. Testimonials from Exhibit L, Body Gold advertisement:

A. "Lost 13 pounds and feel great-thanks to Body Gold!" G.B., Mohrsville, PA

B. "Since I started Body Gold products I have lost a total of 36 inches and 64 pounds. I'm a proud Body Gold user." Karen Suleiman, Livonia, MI

C. "I've lost 20 pounds so far, and many, many inches!!" Jennifer Papagno, Marlboro, MA

D. "Body Gold has become an important part of my daily life. I no longer crave chocolate or any sweets, and my appetite has decreased also. I've lost inches all over." Joan Decker, Troy, NY

E. "I saw inch loss in just a few days, and also a loss of appetite. I have more energy than ever." N.W. ., Wichita, TX

F. "Your product (Chromium Picolinate) is so great, in 2 weeks, I've lost inches already. I haven't eaten or craved sweets..." S.C., Buena Park, CA

G. "You have made me a believer. I could not get any of my dresses to fit when I needed to attend a special event. I started the 200 mcg chromium that day. One month later I can once again wear my clothes. I feel great! Thank you!" Marcy Baker, Bend, OR

H. "This is the best thing that I have ever tried and got results so fast! I have several friends as well as myself who have lost 20 pounds or more." M.G., Rocky Mtn., NC

I. "I lost lots of inches and 2 dress sizes!" G.H., Columbus, OH

J. "I feel great since starting Daily Energy Formula and I have lost 10 lbs in the past month since starting Chromium Picolinate." M.S., Madison Hts., VA

K. "I tried your Dual Pak of Super Fat Burner Formula in combination with the Chromium Picolinate, and I AM HOOKED! I noticed immediate and dramatic fat loss, while I've noticed more muscle. I've finally managed

to lose those impossible last 5 lbs almost effortlessly." K.M., Edgewood, NM

L. "I lost 7-1/2 lbs in 2 weeks with absolutely no change in diet -I feel better and want less food." Mary Guzy, Los Angeles, CA

M. "I've lost 10 pounds without trying to diet with this product. I feel great!" Sally Wymer, Friendswood, TX

22. Testimonials from Exhibit D, Body Gold flier:

BODY GOLD Customers write...About Chromium Picolinate:

[A] "This is my second order. I've lost 5 pounds and almost 2 jeans sizes..." R.N., Bucyrus, NY

[B] "It has definitely decreased my interest in sugar, specifically chocolate. Thanks so much!" Bonnie Murphy, Central Point, OR

[C] "I can't believe how much more energy I have. I've lowered my cholesterol by about 30 points. I've lost weight." Anonymous (by request), River Falls, WI

[D] "Initially I lost 9 lbs. in 11 days. I am hypoglycemic - which has virtually been totally controlled, no headaches - no sugar highs & lows. I love BODY GOLD!" D.T., Flushing, NY

About 24K with Chromium Picolinate:

[E] "I (lost) 10 lbs., and am able to maintain. BODY GOLD does make me feel better." Diane Wiles, Everett, WA

[F] "It makes me feel better. They (the tablets) are easy to take. I noticed I've lost inches." M.R.Y., Daytona Beach, FL

[G] "I am on a very strict diet, find it easier to stick with it. Also have control over hypoglycemia, never could get control before." L.P., Easley, SC

PARAGRAPH FIVE: Through the use of the statements contained in the advertisements and promotional materials referred to in PARAGRAPH FOUR, including but not necessarily limited to the advertisements and promotional materials attached

as Exhibits A-L, respondent has represented, directly or by implication, that:

- A. Chromium Picolinate significantly reduces body fat.
- B. Chromium Picolinate causes significant weight loss.
- C. Chromium Picolinate causes rapid weight or fat loss.
- D. Chromium Picolinate significantly reduces serum cholesterol.
- E. Chromium Picolinate significantly increases human metabolism.
- F. Chromium Picolinate increases lean body mass and builds muscle.
- G. Chromium Picolinate causes weight loss without diet and/or strenuous exercise.
- H. Chromium Picolinate controls appetite and craving for sugar.
- I. Chromium Picolinate lowers or regulates blood sugar.
- J. Chromium Picolinate increases energy and/or stamina.
- K. Testimonials from consumers appearing in advertisements or promotional materials for Chromium Picolinate reflect the typical or ordinary experience of members of the public who have used the product.

PARAGRAPH SIX: Through the use of the statements contained in the advertisements and promotional materials referred to in PARAGRAPH FOUR, including but not necessarily limited to the advertisements and promotional materials attached as Exhibits A-L, respondent has represented, directly or by implication, that at the time she made the representations set forth in PARAGRAPH FIVE, respondent possessed and relied upon a reasonable basis that substantiated such representations.

PARAGRAPH SEVEN: In truth and in fact, at the time she made the representations set forth in PARAGRAPH FIVE, respondent did not possess and rely upon a reasonable basis that substantiated such representations. Therefore, the representation set forth in PARAGRAPH SIX was, and is, false and misleading.

PARAGRAPH EIGHT: Through the use of the statements

contained in the advertisements and promotional materials referred to in PARAGRAPH FOUR, including but not necessarily limited to the advertisements and promotional materials attached as Exhibits A-L, respondent has represented, directly or by implication, that scientific studies demonstrate that Chromium Picolinate:

- A. Significantly reduces body fat;
- B. Causes rapid body fat loss;
- C. Increases lean body mass and builds muscle;
- D. Causes significant weight loss;
- E. Significantly reduces serum cholesterol;
- F. Lowers or regulates blood sugar; and
- G. Increases energy and/or stamina.

PARAGRAPH NINE: In truth and in fact, scientific studies do not demonstrate that Chromium Picolinate:

- A. Significantly reduces body fat;
- B. Causes rapid body fat loss;
- C. Increases lean body mass and builds muscle;
- D. Causes significant weight loss;
- E. Significantly reduces serum cholesterol;
- F. Lowers or regulates blood sugar; or
- G. Increases energy and/or stamina.

Therefore the representations set forth in PARAGRAPH EIGHT were, and are, false and misleading.

PARAGRAPH TEN: Respondent has disseminated or caused to be disseminated advertisements and promotional materials for L-Carnitine and Super Fat Burner Formula, including but not necessarily limited to the attached Exhibits D and L. These advertisements and promotional materials contain the following statements:

1. "L-Carnitine - A powerful fat metabolizer praised by athletes for its ability to

transport fatty acids more efficiently to the body's "fat burning energy centers"... By improving your fat metabolism, L-Carnitine can enhance your efforts at fat loss, weight loss, and muscle toning." (Exhibit D, pg 1, col 1)

2. "I have been particularly pleased with the Super Fat Burner Formula. I had a baby and within 2 months I have lost the 40 lbs gained and have rebuilt the muscle definition I had lost during the pregnancy." Carol Lough Henderson, Stone Mtn., GA (Exhibit L)
3. "Adding the L-Carnitine has been really effective. It has dramatically improved my athletic performance and increased my overall stamina. Your products give me the fuel I need." Gail Smart, W. Medford, MA (Exhibit L)

PARAGRAPH ELEVEN: Through the use of the statements contained in the advertisements and promotional materials referred to in PARAGRAPH TEN, including but not necessarily limited to the advertisements and promotional materials attached as Exhibits D and L, respondent has represented, directly or by implication, that:

- A. Taking L-Carnitine as a supplement reduces body fat.
- B. Taking L-Carnitine as a supplement causes weight loss.
- C. Taking L-Carnitine as a supplement tones muscles.
- D. Taking L-Carnitine as a supplement increases stamina and enhances athletic performance.
- E. Testimonials from consumers appearing in advertisements or promotional materials for L-Carnitine reflect the typical or ordinary experience of members of the public who have used the product.

PARAGRAPH TWELVE: Through the use of the statements contained in the advertisements and promotional materials referred to in PARAGRAPH TEN, including but not necessarily limited to the advertisements and promotional materials attached as Exhibits D and L, respondent has represented, directly or by implication, that at the time she made the representations set forth in PARAGRAPH ELEVEN, respondent possessed and relied upon a reasonable basis that substantiated such representations.

PARAGRAPH THIRTEEN: In truth and in fact, at the time s he made the representations set forth in PARAGRAPH ELEVEN, respondent did not possess and rely upon a reasonable basis that substantiated such representations. Therefore, the representation set forth in PARAGRAPH TWELVE was, and is, false and misleading.

PARAGRAPH FOURTEEN: Respondent has disseminated or caused to be disseminated advertisements and promotional materials for CitriGold, including but not necessarily limited to, the attached Exhibit M. These advertisements and promotional materials contain the following statements:

1. "CitriGold is the weight-loss aid that combines the latest, most potent ingredients to help you:
 - *Lose weight
 - *Reduce Body Fat

*Control your appetite"

2. "Add CitriGold to your weight loss and exercise program for a leaner, slimmer, sleeker body than you would have thought possible."

PARAGRAPH FIFTEEN: Through the use of the statements contained in the advertisements and promotional materials referred to in PARAGRAPH FOURTEEN, including but not necessarily limited to the advertisement attached as Exhibit M, respondent has represented, directly or by implication, that:

- A. CitriGold causes weight loss.
- B. CitriGold reduces body fat.
- C. CitriGold controls appetite.

PARAGRAPH SIXTEEN: Through the use of the statements contained in the advertisements and promotional materials referred to in PARAGRAPH FOURTEEN, including but not necessarily limited to the advertisement attached as Exhibit M, respondent has represented, directly or by implication, that at the time she made the representations set forth in PARAGRAPH FIFTEEN, respondent possessed and relied upon a reasonable basis that substantiated such representations.

PARAGRAPH SEVENTEEN: In truth and in fact, at the time she made the representations set forth in PARAGRAPH FIFTEEN, respondent did not possess and rely upon a reasonable basis that substantiated such representations. Therefore, the representation set forth in PARAGRAPH SIXTEEN was, and is, false and misleading.

PARAGRAPH EIGHTEEN: 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.

THEREFORE, the Federal Trade Commission this ___ day of _____, 1996, has issued this complaint against respondent.

By the Commission.

SEAL:

Donald S. Clark
Secretary

[Exhibits A-M attached to paper copies of complaint, but not available in electronic format.]

Analysis of Consent Order
to Aid Public Comment

The Federal Trade Commission has accepted an agreement, subject to final approval, to a proposed consent order from Victoria Bie d/b/a Body Gold.

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 and take other appropriate action or make final the agreement's proposed order.

This matter concerns advertising claims made by Victoria Bie d/b/a Body Gold in selling dietary supplements. The Commission's complaint in this matter alleges that respondent advertised and sold products containing chromium picolinate, (-)hydroxycitric acid and L-carnitine.

Regarding chromium picolinate, the complaint charges that respondent represented without adequate substantiation that chromium picolinate causes weight and fat loss (rapidly and without diet or strenuous exercise), lowers cholesterol levels, increases human metabolism, increases lean body mass, builds muscle, controls appetite and sugar cravings, regulates blood sugar and increases energy and/or stamina. The complaint also charges that respondent represented without adequate substantiation that testimonials in her advertisements and promotional materials reflect the typical and ordinary experiences of members of the public who have used products containing chromium picolinate. Finally, the complaint charges that respondent falsely claimed that scientific studies supported her claims that chromium picolinate reduces body fat, causes rapid body fat loss, increases lean body mass and builds muscle, causes significant weight loss, significantly reduces serum cholesterol, lowers or regulates blood sugar, and increases energy or stamina.

Regarding L-carnitine, the complaint charges that respondent represented without adequate substantiation that taking L-carnitine as a supplement reduces body fat, causes weight loss, tones muscles, increases stamina, and enhances athletic performance. The complaint also charges that respondent represented without adequate substantiation that testimonials in her advertisements and promotional materials reflect the typical or ordinary experience of members of the public who have used products containing L-carnitine.

Regarding (-)hydroxycitric acid, the complaint alleges that respondent represented without adequate substantiation that CitriGold, which is a combination of chromium picolinate and (-)hydroxycitric acid, causes weight loss, reduces body fat, and controls appetite.

The proposed consent order contains provisions designed to remedy the violations charged and to prevent respondent from engaging in similar acts and practices in the future.

Part I of the proposed order requires respondent to cease and desist from representing that chromium picolinate, CitriGold, or any other food, dietary supplement, or drug reduces body fat, causes weight loss, causes rapid weight or fat loss, causes weight or fat loss without dieting or strenuous exercise, reduces serum cholesterol levels, increases human metabolism, increases lean body mass and builds muscle, increases energy or stamina, controls appetite and/or cravings for sugar, and regulates blood sugar, unless respondent possesses competent and reliable scientific evidence that substantiates the representation.

Part II of the proposed order requires respondent to cease and desist from representing that L-carnitine, or any food, dietary supplement, or drug improves fat metabolism, causes fat loss, causes weight loss, tones muscles, enhances athletic performance and/or increases stamina, unless respondent possesses competent and reliable scientific evidence that substantiates the representation.

Part III of the proposed order requires that respondent cease and desist from making any representation regarding the performance, benefits, efficacy or safety of any food, dietary supplement or drug unless, at the time of making such representation, respondent possesses competent and reliable scientific evidence that substantiates the representation.

Part IV of the proposed order requires that respondent cease and desist from misrepresenting in any manner the existence, contents, validity, results, conclusions or interpretations of any test or study.

Part V of the proposed order requires that respondent cease and desist from representing that any endorsement of a product or program represents the typical or ordinary experience of members of the public unless, at the time of making such representation, the representation is true, and respondent possesses and relies upon competent and reliable evidence that substantiates the representation. However, respondent may use such endorsements if the statements in the endorsement are true, and if respondent

discloses clearly and prominently, close to the endorsement, what the generally expected results would be in the depicted circumstances or, the limited applicability of the endorser's experience to what consumers may generally expect to achieve.

Parts VI and VII of the proposed order permit respondent to make certain representations on labels as specifically permitted under Food and Drug Administration regulations or standards.

The proposed order also requires the respondent to maintain materials relied upon to substantiate the claims covered by the order (Part VIII); to notify the Commission of any proposed change in the company that might affect compliance with the order (Part IX); to distribute copies of the order to all agents, representatives and employees (Part X); and to file one or more reports detailing compliance with the order (Part XI). The order also contains a provision that it will terminate after twenty (20) years absent the filing of a complaint against respondent alleging violation of the order (Part XII).

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