

**Analysis of Proposed Consent Order
to Aid Public Comment**

The Federal Trade Commission has accepted, subject to final approval, an agreement to a proposed consent order from respondents TechnoBrands, Inc., and Charles J. Anton, individually and as president of the corporate respondent.

The proposed consent order has been placed on the public record for thirty (30) days for reception of comments by interested persons. Comments received during this period will become part of the public record. After thirty (30) 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 practices related to the advertising, offering for sale, sale, and distribution of various products to the public, including the Hollywood 48-Hour Miracle Diet, a liquid diet; the Enforma System, a diet product combination consisting primarily of chitosan and pyruvate; the BMI Magnetic Kit, a set of magnets with purported analgesic properties; the Nisim New Hair Biofactors System, a purported hair-growth product; the Clarion Ionic Filter Ceiling Fan, an air-cleaning device; and the Sila Ionic Air Purifier, another air-cleaning device. The Commission's complaint charges that respondents violated the Federal Trade Commission Act, 15 U.S.C. § 41 *et seq.*, by making numerous representations that were false and/or for which they lacked a reasonable basis of substantiation. These representations concerned: the weight loss that consumers can achieve with the Hollywood Diet and Enforma; the pain relief that can be achieved with the BMI Magnetic Kit; the effectiveness of Nisim in stopping hair loss and stimulating hair growth; the ability of the air cleaners to eliminate various pollutants from indoor space; the health benefits of using the Clarion Fan; the scientific evidence for the efficacy of some of these products; the comparative efficacy of some of these products; and the experiences of consumers and celebrities who purportedly have used some of these products.

Part I of the proposed order prohibits a representation that consumers who use the Hollywood Diet, or any substantially similar product, can lose 10 lbs. in 48 hours, unless respondents possess competent and reliable scientific evidence that substantiates the representation. In addition, Part I prohibits representations that celebrities, such as actors and actresses in popular television programs, have lost substantial weight by using the product, unless the respondents possess competent and reliable evidence that substantiates the representations.

Part II of the proposed order prohibits representations that by using Enforma, or any substantially similar product, consumers can achieve substantial weight loss, or avoid weight gain, without a restricted calorie diet or exercise, unless respondents possess competent and reliable scientific evidence that substantiates the representations.

Part III of the proposed order prohibits representations that use of the BMI Magnetic Kit, or any substantially similar product, relieves severe pain; relieves pain more effectively than other kinds of

treatment; and relieves pain by enlarging blood vessels, increasing blood flow, reducing inflammation, or suppressing the body's production of pain-causing chemicals, unless respondents possess competent and reliable scientific evidence that substantiates the representations.

Part IV of the proposed order prohibits representations that Nisim, or any substantially similar product, stops hair loss in a matter of days or stimulates hair growth as effectively as prescription products, unless respondents possess competent and reliable scientific evidence that substantiates the representations.

Part V of the proposed order prohibits representations that the Clarion Ceiling Fan, or any substantially similar product, eliminates dust mites and pet dander from the user's environment, or that consumers who use the product will experience relief from allergies and other respiratory problems, unless respondents possess competent and reliable scientific evidence that substantiates the representations.

Part VI of the proposed order prohibits representations that the Sila Air Purifier, or any substantially similar product, eliminates mold, mildew, bacteria, chemicals, and other pollutants from a user's environment, unless respondents possess competent and reliable scientific evidence that substantiates the representations.

Part VII of the proposed order prohibits unsubstantiated representations about the comparative or absolute benefits, performance, or efficacy of any product or service.

Part VIII of the proposed order prohibits misrepresentations about the existence, contents, validity, results, conclusions, or interpretations of any test, study, or research.

Part IX of the proposed order prohibits representations that any user testimonial or endorsement of a product reflects the actual experience of the user or that the user's experience is the typical experience of members of the public using the product, unless: (1) the representation is true and substantiated by competent and reliable scientific evidence; or (2) there is a disclosure of either the generally expected results for users of the product, or that consumers should not expect to experience similar results.

Part X of the proposed order requires that respondents pay to the Federal Trade Commission the sum of \$200,000.

Part XI of the proposed order is a record keeping provision that requires the respondents to maintain certain records for three (3) years after the last date of dissemination of any representation covered by the order. These records include: (1) all advertisements and promotional materials containing the representation; (2) all materials relied upon in disseminating the representation; and (3) all evidence in respondents' possession or control that contradicts, qualifies, or calls into question the

representation or the basis for it.

Part XII of the proposed order requires distribution of the order to current and future principals, officers, directors, and managers of the corporation.

Part XIII of the proposed order requires distribution of Attachment A to the order to current and future employees, agents, and representatives having responsibilities with respect to the advertising and sale of products to the public. Attachment A is entitled “Legal Notice” and is a summary of the injunction provisions of the proposed order.

Part XIV of the proposed order requires that the Commission be notified of any change in the corporation that might affect compliance obligations under the order. Part XV of the proposed order requires that for a period of three (3) years, the individual respondent notify the Commission of the discontinuance of his current business or employment or of his affiliation with any new business or employment involving the sale of consumer products and/or services.

Part XVI of the proposed order requires the respondents to file a compliance report with the Commission.

Part XVII of the proposed order states that, absent certain circumstance, the order will terminate twenty (20) years from the date it is issued.

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