

UNITED STATES OF AMERICA
FEDERAL TRADE COMMISSION

_____)	FILE NO. 012 3091
)	
In the Matter of)	
)	AGREEMENT CONTAINING
MICHAEL FORREST,)	CONSENT ORDER
individually and d/b/a)	
JAGUAR ENTERPRISES)	
OF SANTA ANA)	
_____)	

The Federal Trade Commission has conducted an investigation of certain acts and practices of proposed respondent Michael Forrest, individually and d/b/a Jaguar Enterprises of Santa Ana. Proposed respondent is willing to enter into an agreement containing a consent order resolving the allegations contained in the attached draft complaint. Therefore,

IT IS HEREBY AGREED by and between Michael Forrest individually and d/b/a Jaguar Enterprises of Santa Ana, and counsel for the Federal Trade Commission that:

1. Respondent Michael Forrest is a Florida resident with his principal office or place of business at 1515 N. Town East Blvd., Suite 138-427, Mesquite, Texas 75150-4142. Doing business as Jaguar Enterprises of Santa Ana, a/k/a Jaguar Enterprises, he has used the same business address and also the addresses of 1601 NW 97th Ave SJO-1469, Miami, Florida 33102-5216 and P.O. Box 1172, Black Mountain, North Carolina 28711.
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 complaint, will be placed on the public record for a period of thirty (30) days and information about it 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 the 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 complaint, or that the facts as alleged in the draft complaint, other than the jurisdictional facts, are true. Provided, however, that in the event of any subsequent litigation to collect amounts due pursuant to this order, including but not limited to a nondischargeability complaint in any bankruptcy proceeding, respondent agrees that the facts as alleged in the Commission's complaint in this action shall be taken as 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 Section 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 attached draft complaint and its decision containing the following order in disposition of the proceeding, and (2) make information about it public. When so entered, the order 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 of the complaint and the decision and order to proposed respondent's address as stated in this agreement by any means specified in Section 4.4(a) of the Commission's Rules shall constitute service. Proposed respondent waives any right he may have to any other manner of service. The complaint may be used in construing the terms of the order. 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 draft complaint and consent order. Respondent understands that he may be liable for civil penalties in the amount provided by law and other appropriate relief for each violation of the order after it becomes final.

ORDER

DEFINITIONS

For purposes of this order, the following definitions shall apply:

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.
2. "Clearly and prominently" shall mean as follows:
 - a. In an advertisement communicated through an electronic medium (such as television, video, radio, and interactive media such as the Internet, online services and software), the disclosure shall be presented simultaneously in both the audio and visual portions of the advertisement. Provided, however, that in any advertisement presented solely through visual or audio means, the disclosure may be made through the same means in which the ad is presented. Provided, further, that in any advertisement communicated through interactive media which is presented predominantly through visual or audio means, the disclosure may be made through the same means in which the ad is predominantly presented. The audio disclosure shall be delivered in a volume and cadence sufficient for an ordinary consumer to hear and comprehend it. The visual disclosure shall be of a size and shade, with a degree of contrast to the background against which it appears, and shall appear on the screen for a duration and in a location, sufficiently noticeable for an ordinary consumer to read and comprehend it.
 - b. In a print advertisement, promotional material, or instructional manual, the disclosure shall be in a type size and location sufficiently noticeable for an ordinary consumer to read and comprehend it, in print that contrasts with the background against which it appears.
 - c. On a product label, the disclosure shall be in a type size and location on the principal display panel sufficiently noticeable for an ordinary consumer to read and comprehend it, in print that contrasts with the background against which it appears.

The disclosure shall be in understandable language and syntax. Nothing contrary to, inconsistent with, or in mitigation of the disclosure shall be used in any advertisement or on any label.

3. In the case of advertisements disseminated by means of an interactive electronic medium, such as software, the Internet, or online services, "in close proximity" shall mean on the same Web page, online service page, or other electronic page, and proximate to the triggering representation, and shall not include disclosures accessed or displayed through hyperlinks, pop-ups, interstitials or other means.
4. "Commerce" shall mean as defined in Section 4 of the Federal Trade Commission Act, 15 U.S.C. § 44.
5. A requirement that respondent "notify the Commission," "file with the Commission" or "deliver to the Commission" shall mean that the respondent shall send the necessary information via first-class mail, costs prepaid, to the Associate Director for Division of Enforcement, Federal Trade Commission, 600 Pennsylvania Avenue, N.W., Washington, D.C. 20580. Attention: In the Matter of Michael Forrest.
6. "Person" shall mean a natural person, organization or other legal entity, including a partnership, corporation, proprietorship, association, cooperative, or any other group acting together as an entity.
7. Unless otherwise specified, "respondent" shall mean Michael Forrest, individually and d/b/a Jaguar Enterprises of Santa Ana; and each of the above's agents, representatives, and employees.
8. "Electronic therapy device" shall mean any device that contains a magnet of any kind or produces an electric current of any kind, purporting to relieve the symptoms of, treat, mitigate, cure, heal or alleviate any disease or health condition, including but not limited to the *Black Box, Magnetic Pulser, Magnetic Multi-Pulser, Portable Rife Frequency Generator, Beck-Rife Unit, PC-Rife #1, PC-Rife #2, and PC-Rife #3.*
9. "Food," "drug," and "device" shall mean as "food," "drug," and "device" are defined in Section 15 of the Federal Trade Commission Act, 15 U.S.C. § 55.
10. Covered product or service" shall mean any service, program, dietary supplement, food, drug, or device.

I.

IT IS HEREBY ORDERED that respondent, directly or through any partnership, corporation, subsidiary, division, trade name, or other device, including franchisees, licensees, or distributors, in connection with the manufacturing, labeling, advertising, promotion, offering for sale, sale, or distribution of any electronic therapy device or any covered product or service in or affecting commerce, shall not misrepresent, in any manner, expressly or by implication,

- A. That it has been scientifically proven that use of the Black Box, Magnetic Pulser and Magnetic Multi-Pulser is effective to kill, deactivate or disable viruses, bacteria, fungi and other parasites in humans; or
- B. That it has been scientifically proven that Miracle Herbs is safe and effective in treating various cancers in humans with no side effects.

II.

IT IS HEREBY ORDERED that respondent, directly or through any partnership, corporation, subsidiary, division, trade name, or other device, including franchisees, licensees, or distributors, in connection with the manufacturing, labeling, advertising, promotion, offering for sale, sale, or distribution of any electronic therapy device or any covered product or service in or affecting commerce, shall not make any representation, in any manner, expressly or by implication:

- A. That any such product or service is effective in (1) treating or curing cancer, AIDS, hepatitis, Gulf War Syndrome, Chronic Fatigue Syndrome, rheumatoid arthritis or Herpes; (2) treating or preventing bacterial infections; or (3) treating or preventing viral infections;
- B. That any such product or service is effective in the mitigation, treatment, prevention, or cure of any disease or illness; or
- C. About the health benefits, performance, safety, or efficacy of any such product or service,

unless, at the time the representation is made, respondent possesses and relies upon competent and reliable scientific evidence that substantiates the representation.

III.

IT IS FURTHER ORDERED that respondent, directly or through any corporation, subsidiary, division, trade name, or other device, in connection with the manufacturing, labeling, advertising, promotion, offering for sale, sale, or distribution of any electronic therapy device or any covered product or service in or affecting commerce, shall not misrepresent, in any manner, expressly or by implication, the existence, contents, validity, results, conclusions, or interpretations of any test, study, or research.

IV.

Nothing in this order shall prohibit respondent from making any representation for any drug that is permitted in labeling for such product under any tentative final or final standard promulgated by the Food and Drug Administration, or under any new medical device application approved by the Food and Drug Administration. Nor shall it prohibit respondent from making any representation for any product that is specifically permitted in labeling for such product by regulations promulgated by the Food and Drug Administration pursuant to the Nutrition Labeling and Education Act of 1990.

V.

IT IS FURTHER ORDERED that respondent shall:

- A. Within seven (7) days after service of this order upon respondent, deliver to the Commission a list, in the form of a sworn affidavit, of all consumers who purchased the *Black Box, Magnetic Pulser, Magnetic Multi-Pulser, Portable Rife Frequency Generator, Beck-Rife Unit, PC-Rife #1, PC-Rife #2, PC-Rife #3*, and/or *Miracle Herbs* from respondent on or after April 1, 1999. Such list shall include each consumer's name and address, and, if available, the telephone number and email address of each consumer, and the full purchase price, including shipping, handling, and taxes, of the product(s) purchased from respondent.
- B. Within thirty (30) days after service of this order upon respondent, send by certified mail, with postage prepaid, an exact copy of the notice attached hereto as Attachment A, showing the date of mailing, to each consumer who purchased a *Black Box, Magnetic Pulser, Magnetic Multi-Pulser, Portable Rife Frequency Generator, Beck-Rife Unit, PC-Rife #1, PC-Rife #2, PC-Rife #3*, and/or *Miracle Herbs* from respondent between April 1, 1999, and the date of service of this order. This mailing shall not include any other document.

VI.

IT IS FURTHER ORDERED that respondent shall refund the full purchase price of the *Black Box, Magnetic Pulser, Magnetic Multi-Pulser, Portable Rife Frequency Generator, Beck-Rife Unit, PC-Rife #1, PC-Rife #2, PC-RIFE #3*, and *Miracle Herbs*, including shipping and handling and applicable taxes, to each consumer whose initial request for a refund is received by respondent within ninety (90) days after the date the notice required by Part V.B. of this order is mailed to consumers, under the following terms and conditions:

- A. If respondent's diligent inquiry reasonably substantiates the purchaser's claim of purchase or the purchaser provides proof of purchase, including but not limited to any of the following: return of goods or packaging, canceled

check[s], credit card invoice[s], or receipt[s], the refund shall be paid within fifteen (15) business days of respondent's receipt of the refund request.

- B. If the purchaser makes a timely request for a refund but neither of the conditions of Subpart A is satisfied, respondent shall advise the purchaser, within fifteen (15) business days of receipt of the request for refund, that respondent will provide a prompt refund if the purchaser completes and returns to respondent, within fifteen (15) days of receipt of the notice, a declaration of purchase, which the respondent shall provide together with a stamped and addressed return envelope. The declaration shall be substantially in the form of the declaration attached hereto as Attachment B. The refund shall be paid within fifteen (15) business days of respondent's receipt of the purchaser's completed declaration.

Refund requests shall be sent to Jaguar Enterprises of Santa Ana, 1515 N. Town East Blvd., Suite 138-427, Mesquite, Texas 75150-4142.

VII.

IT IS FURTHER ORDERED that respondent Michael Forrest shall, no later than one hundred and eighty (180) days after the date of service of this order, deliver to the Commission a monitoring report, in the form of a sworn affidavit. This report shall specify the steps respondent has taken to comply with the terms of Parts V and VI of this order and shall state, without limitation:

- A. The name and address of each purchaser to whom respondent sent the notice attached hereto as Attachment A as required under Part V;
- B. The name and address of each purchaser from whom respondent received a refund request;
- C. The date on which each request was received and the amount of the refund requested;
- D. The amount of the refund provided by respondent to each such purchaser;
- E. The status of any disputed refund request and the identification of each purchaser whose refund request is disputed, by name, address, and amount of the claim; and
- F. The total amount of refunds paid by respondent.

VIII.

IT IS FURTHER ORDERED that respondent Michael Forrest shall, for ten (10) years after the last date of dissemination of any representation covered by this order, maintain and upon request make available to the Federal Trade Commission for inspection and copying:

- A. All advertisements and promotional materials containing the representation;
- B. All materials that were relied upon in disseminating the representation; and
- C. All tests, reports, studies, surveys, demonstrations, or other evidence in their possession or control that contradict, qualify, or call into question the representation or the basis relied upon for the representation, including complaints and other communications with consumers or with governmental or consumer protection organizations.

IX.

IT IS FURTHER ORDERED that respondent Michael Forrest shall deliver a copy of this order to all current and future principals, officers, directors, and managers, and to all current and future employees, agents, and representatives having responsibilities with respect to the subject matter of this order, and shall secure from each such person a signed and dated statement acknowledging receipt of the order. Respondent shall deliver this order to current personnel within thirty (30) days after the date of service of this order, and to future personnel within thirty (30) days after the person assumes such position or responsibilities. Respondent shall maintain and upon request make available to the Commission for inspection and copying each such signed and dated statement.

X.

IT IS FURTHER ORDERED that respondent shall, for a period of five (5) years following the date of entry of this order, send a copy of this order to any distributor of any covered product or service and shall secure from each such distributor a signed and dated statement acknowledging receipt of the order. Respondent shall maintain and upon request make available to the Commission for inspection and copying each such signed and dated statement. For purposes of this Part, "distributor" shall mean any purchaser or other transferee of any covered product or service who acquires such product or service from respondent, with or without valuable consideration, who: (1) is known by respondent to have sold or offered to sell such product or service to other sellers or to consumers, including but not limited to

individuals, retail stores, or catalogs, or (2) orders twenty (20) or more such units of any such product or service in any three month period.

XI.

IT IS FURTHER ORDERED that respondent Michael Forrest, within five (5) days of entry of this order, shall notify the Commission of (1) his residence address and mailing address; (2) his telephone number(s); (3) if applicable, the names of his employer and supervisor(s); and (4) his duties and responsibilities.

XII.

IT IS FURTHER ORDERED that respondent Michael Forrest, for a period of ten (10) years after the date of entry of this order, shall notify the Commission of (1) any changes in his residence address, mailing address, or business address; (2) the discontinuance of his current business or employment; and (3) his affiliation with any new business or employment. Notice of changes in employment status shall include: (1) the new employer's name, address and telephone number; (2) the full names of the employer's principals; (3) if applicable, the names of respondent's supervisors, and (4) a description of the employer's activities, and respondent's duties and responsibilities.

XIII.

IT IS FURTHER ORDERED that respondent Michael Forrest shall, within sixty (60) days after the date of 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 respondent has complied and is complying with this order.

XIV.

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 had never been 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 _____, 2001.

MICHAEL FORREST, individually, and d/b/a
JAGUAR ENTERPRISES OF SANTA ANA

MICHAEL MILGROM
Counsel for the Federal Trade Commission

APPROVED:

JOHN M. MENDENHALL
Director
East Central Region

APPROVED:

JOAN Z. BERNSTEIN
Director
Bureau of Consumer Protection