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JUN 13 2001 MR  
AT SEATTLE  
CLERK U.S. DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON DEPUTY  
BY

FILED ENTERED  
LODGED RECEIVED  
JUN 14 2001  
AT SEATTLE  
CLERK U.S. DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON DEPUTY  
BY

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

<p>FEDERAL TRADE COMMISSION, Plaintiff,  v.  WESTERN DIETARY PRODUCTS CO. (SKOOKUM), a corporation, d/b/a WESTERN HERB &amp; DIETARY PRODUCTS, INC., and MARVIN BECKWITH, and MIGUELINA BECKWITH, individually and as officers of the corporation, Defendants.</p>	<p>CIVIL ACTION NO. C01-0818R  (PROPOSED) PRELIMINARY INJUNCTION</p>
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*McC. BJR*

Plaintiff Federal Trade Commission ("Commission") having filed its COMPLAINT FOR PERMANENT INJUNCTION AND OTHER EQUITABLE RELIEF in this matter pursuant to Section 13(b) of the Federal Trade Commission Act ("FTC Act"), 15 U.S.C. § 53(b), and having applied for a temporary restraining order pursuant to Rule 65 of the Federal Rules of Civil Procedure, and the

*12*

1 Court having considered Plaintiff's Complaint, Memorandum of Law, affidavits and other materials  
2 filed in support thereof, and now being advised in the premises, finds as follows:

3 1. This Court has jurisdiction of the subject matter of this case and there is good cause  
4 to believe it will have jurisdiction of all parties hereto.

5 2. Good cause exists to believe that the Commission ultimately will succeed in  
6 establishing that the above named defendants have engaged in, and are likely to engage in, acts and  
7 practices that violate Sections 5(a) and 12 of the Federal Trade Commission Act, 15 U.S.C. §§ 45(a)  
8 and 52.

9 3. Weighing the equities and considering the Commission's likelihood of ultimate  
10 success, a Temporary Restraining Order and other equitable relief is in the public interest.

11 4. No security is required of any agency of the United States for issuance of a restraining  
12 order. Fed. R. Civ. P. 65(c).

### 13 DEFINITIONS

14 For purposes of this Order, the following definitions shall apply:

15 1. "Defendants" means corporate defendant WESTERN DIETARY PRODUCTS CO.  
16 (SKOOKUM), a corporation, d/b/a WESTERN HERB & DIETARY PRODUCTS, INC., and  
17 individual defendants MARVIN BECKWITH and MIGUELINA BECKWITH.

18 2. "Person" means a natural person, organization or other legal entity, including a  
19 corporation, partnership, proprietorship, association, cooperative, government or governmental  
20 subdivision or agency, or any other group or combination acting as an entity.

21 3. The terms "and" and "or" shall be construed conjunctively or disjunctively as  
22 necessary, and to make the applicable phrase or sentence inclusive rather than exclusive.

## I.

**PROHIBITED REPRESENTATIONS**

**IT IS THEREFORE ORDERED**, in connection with the advertising, offering for sale or sale of any product, good or service, that defendants and their successors, assigns, officers, agents, servants, employees, attorneys and those persons or entities in active concert or participation with them who receive actual notice of this Order by personal service or otherwise—whether acting directly or through any corporation, subsidiary, division or other device—are hereby preliminarily restrained and enjoined from making any express or implied representation regarding any person's medical treatment or procedure of any kind, including, but not limited to:

- A. the need for or efficacy of radiation therapy and/or chemotherapy and/or surgery, and
- B. the need for or efficacy of any medication or treatment for cancer, AIDS, arthritis, Alzheimer's Disease or diabetes.

## II.

**IT IS FURTHER ORDERED**, in connection with the advertising, offering for sale or sale of the "Zapper Electrical Unit" or any other electrical device, that defendants and their successors, assigns, officers, agents, servants, employees, attorneys and those persons or entities in active concert or participation with them who receive actual notice of this Order by personal service or otherwise—whether acting directly or through any corporation, subsidiary, division or other device—are hereby preliminarily restrained and enjoined from making any express or implied representation that such device is effective in curing, treating, alleviating or preventing, or in any

1 way affecting, any disease or condition of the human body unless, at the time the representation is  
2 first made, defendants possess and rely upon *competent and reliable scientific evidence* that  
3 substantiates the representation. "*Competent and reliable scientific evidence*" means tests, analyses,  
4 research, studies or other evidence based on the expertise of professionals in the relevant area, that  
5 have been conducted and evaluated in an objective manner by persons qualified to do so, using  
6 procedures generally accepted in the profession to yield accurate and reliable results.

7 III.

8 **IT IS FURTHER ORDERED**, in connection with the advertising, offering for sale or sale  
9 of any herb, mineral, vitamin or food supplement product, or any combination thereof, or any  
10 product intended for topical application by humans, that defendants and their successors, assigns,  
11 officers, agents, servants, employees, attorneys and those persons or entities in active concert or  
12 participation with them who receive actual notice of this Order by personal service or  
13 otherwise—whether acting directly or through any corporation, subsidiary, division or other  
14 device—are hereby preliminarily restrained and enjoined from making any express or implied  
15 representation that such product is effective in curing, treating, alleviating or preventing, or in any  
16 way affecting, any disease or condition of the human body unless, at the time the representation is  
17 first made, defendants possess and rely upon *competent and reliable scientific evidence* that  
18 substantiates the representation. "*Competent and reliable scientific evidence*" means tests, analyses,  
19 research, studies or other evidence based on the expertise of professionals in the relevant area, that  
20 have been conducted and evaluated in an objective manner by persons qualified to do so, using  
21 procedures generally accepted in the profession to yield accurate and reliable results.

IV.

FINANCIAL RESTRICTIONS

IT IS FURTHER ORDERED that defendants are hereby preliminarily enjoined from disposing of, concealing, transferring, pledging, alienating or encumbering any asset of any kind, whether wholly or partially owned, except in the ordinary course of business and/or to meet the ordinary and usual costs of living.

V.

RECORDKEEPING

IT IS FURTHER ORDERED that defendants, their successors, assigns, officers, agents, servants, employees and those persons in active concert or participation with them who receive actual notice of this Order by personal service or otherwise—whether acting directly or through any corporation, subsidiary, division or other device—are hereby preliminarily restrained and enjoined from:

- A. failing to create and maintain books, records, accounts and data which in reasonable detail, accurately, fairly and completely reflect their incomes, disbursements, transactions and use of monies; and
- B. destroying, erasing, mutilating, concealing, altering, transferring or otherwise disposing of in any manner, directly or indirectly, any contracts, accounting data, correspondence, advertisements, computer tapes, discs or other computerized

1 records, books, written or printed records, handwritten notes,  
2 telephone logs, telephone scripts, receipt books, ledgers,  
3 personal and business canceled checks and check registers,  
4 bank statements, appointment books, copies of federal, state  
5 or local business or personal income or property tax returns  
6 and other documents or records of any kind which relate to  
7 defendants' business practices or business or personal  
8 finances from September 1, 1996, forward.

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10 VI.

11 NOTICE

12 **IT IS FURTHER ORDERED** that defendants shall immediately provide a copy of this  
13 Order to each of the corporate defendants' affiliates, franchises, subsidiaries, divisions, successors,  
14 assigns, directors, officers, managing agents, employees, representatives and independent contractors  
15 and shall, within three (3) business days from the date of service of this Order, serve on plaintiff  
16 affidavits identifying the names, titles, addresses and telephone numbers of the persons and entities  
17 whom they have served pursuant to this provision.

18 **IT IS FURTHER ORDERED** that individual defendants MARVIN BECKWITH and  
19 MIGUELINA BECKWITH shall notify the Commission at least seven (7) days prior to any  
20 discontinuance of his or her present business or employment and of his or her affiliation with any  
21 new or previously inactive business or employment. Each notice shall include said defendant's new  
22

1 business address and a statement of the nature of the new business or employment, and of his or her  
2 duties and responsibilities in connection with that business or employment.

3 VII.

4 MONITORING

5 IT IS FURTHER ORDERED that agents or representatives of the Commission may contact  
6 the defendants or their agents or representatives directly and anonymously for the purpose of  
7 monitoring compliance with Provisions I, II and III of this Order, and may tape-record any oral  
8 communications that occur in the course of such contacts.

9 VIII.

10 CORRESPONDENCE

11 For the purposes of this Order, all correspondence and service of pleadings on plaintiff shall  
12 be addressed to:

13 MICHAEL MILGROM, ESQ.  
14 FEDERAL TRADE COMMISSION  
15 EAST CENTRAL REGION  
16 EATON CENTER  
17 1111 SUPERIOR AVENUE - SUITE 200  
18 CLEVELAND, OHIO 44114-2507

17 IX.

18 JURISDICTION

18 IT IS FURTHER ORDERED that this Court retains jurisdiction of this matter for all  
19 purposes.

19 SO ORDERED, this 14<sup>th</sup> day of June, at 11:30 o'clock a.m./p.m.

20 *Barbara J. Robinson*  
21 United States District Judge

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PRESENTED BY ATTORNEYS FOR  
PLAINTIFF FEDERAL TRADE COMMISSION;

DATE: June 13, 2001

*Michael Milgrom*

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Phone 216-263-3419 / Fax 216-263-3426

DATE: June 13, 2001

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Local Counsel