IN THE MATTER OF

KAVE ELAHIE

CONSENT ORDER, ETC., IN REGARD TO ALLEGED VIOLATION OF SECS. 5 AND 12 OF THE FEDERAL TRADE COMMISSION ACT

Docket C-3770. Complaint, Sept. 19, 1997--Decision, Sept. 19, 1997

This consent order requires, among other things, the California-based proprietor of M.E.K. International to have competent and reliable scientific evidence to substantiate any claims he makes in the Spanish-language advertisements that certain products reduce or eliminate cellulite and fat, cause weight loss or reduce cholesterol, as well as any other claims concerning the performance, benefits, efficacy or safety of any food, drug or dietary supplement in the future. The consent order also prohibits the respondent from misrepresenting the existence or results of any test or study, and requires any testimonials used in the advertisements either to represent the typical experience of consumers or to be accompanied by a disclosure of the generally expected results.

Appearances

For the Commission: *Erika Wodinsky* and *Jeffrey Klurfeld.*
For the respondent: *Pro se.*

COMPLAINT

The Federal Trade Commission, having reason to believe that Kave Elahie doing business as M.E.K. International ("respondent"), has violated the provisions of the Federal Trade Commission Act, and it appearing to the Commission that this proceeding is in the public interest, alleges:

1. Respondent Kave Elahie is the sole proprietor of M.E.K. International, a California company with its principal office or place of business at 1669 Emeric Street, Simi Valley, California. Individually or in concert with others, he formulates, directs, or controls the policies, acts or practices alleged in this complaint.

2. Respondent has advertised, labeled, offered for sale, sold, and distributed products to the public, including the "NutraTrim Bio-Active Cellulite Control Cream" (with aminophylline), and the "NutraTrim Weight Loss" tablets (with chromium picolinate) collectively referred to as the NutraTrim products. The NutraTrim products are advertised in Spanish-language magazines, such as Buenhogar. The NutraTrim products are "foods" and/or "drugs"

within the meaning of Sections 12 and 15 of the Federal Trade Commission Act.

3. 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.

4. Respondent has disseminated or has caused to be disseminated advertisements for the NutraTrim products, including but not necessarily limited to the attached Exhibits A through C. These advertisements contain the following statements:

A. "Love handles, cellulite and fat. Now you can eliminate it with NutraTrim Bio-activa cream." (Exhibit A)

B. "Eliminate cellulite. Lose weight in 15 days beginning with the first application." (Exhibit A)

C. "The results are instantaneous and permanent." (Exhibit A)

D. "Imagine a bunch of ice melting under the sun. This is how the cellulite in your body will be disappearing thanks to Bio-Active action of NutraTrim cream." (Exhibit A)

E. "The potent action helps to eliminate the excess water and fat and other wastes that are responsible for cellulite and orange skin. But this is not all. Once you have the perfect body that you have always wanted, you'll have to apply the NutraTrim Bio-Activa only once in awhile and that way you can keep the results that you have always wanted." (Exhibit A)

F. "Until today this is the most secure and beneficial method to eliminate fat and cellulite from your body." (Exhibit A)

G. "Remember the results are guaranteed." (Exhibit A)

H. "Lose up to 35 pounds without having to diet." (Exhibit B)

I. "Yes today you can eliminate fat and cellulite from your body without having to diet and exercise that are impossible." (Exhibit B)

J. "Clinical test results in hospitals and labs have confirmed the actions of chromium formulated with other natural ingredients." (Exhibit B)

K. "NutraTrim is a new treatment that is 100% natural and will help your metabolism to process and eliminate fat and control your appetite." (Exhibit B)

L. "The results are real: You will lose fat and cellulite in the areas that you wish to lose the most. You will feel more active and energetic. It lowers the level of cholesterol in your blood." (Exhibit B)

M. "These results that have been obtained by real multiple tests by scientists and hospitals have proven that the qualities and the ingredients from NutraTrim help to notably eliminate fat and to lessen the level of cholesterol in your blood. Besides, they will not bring down your metabolism. This is very important because it ensures that the weight that you will lose during your treatment will not come back." (Exhibit B)

N. "Call today and see for yourself how easy it is to lose weight forever with NutraTrim. Without dieting and without extraneous exercises or secondary effects. NutraTrim works for real." (Exhibit B)

O. Consumer testimonial: "How I lost 34 pounds in little time, without regimens or diets. Its great. I'll bet you anything that in 4 or 5 weeks you'll be skinny as me. Anabella Torres C." (Exhibit C)

5. Through the means described in paragraph four, respondent has represented, expressly or by implication, that one or more of the NutraTrim products:

A. Significantly reduce body fat.
B. Cause significant and rapid weight loss.
C. Reduce serum cholesterol.
D. Increase human metabolism.
E. Cause weight loss without diet or strenuous exercise.
F. Control appetite.
G. Eliminate cellulite or fat.
H. Increase energy.

6. Through the means described in paragraph four, respondent has represented, expressly or by implication, that he possessed and relied upon a reasonable basis that substantiated the representations set forth in paragraph five, at the time the representations were made.

7. In truth and in fact, respondent did not possess and rely upon a reasonable basis that substantiated the representations set forth in paragraph five, at the time the representations were made. Therefore, the representation set forth in paragraph six was, and is, false and misleading.

8. Through the means described in paragraph four, respondent has represented, expressly or by implication, that scientific studies demonstrate that the NutraTrim products:

A. Significantly reduce body fat.
B. Cause significant and rapid weight loss.
C. Reduce serum cholesterol.
D. Eliminate cellulite or fat.

9. In truth and in fact, scientific studies do not demonstrate that the NutraTrim products:

A. Significantly reduce body fat.
B. Cause significant and rapid weight loss.
C. Reduce serum cholesterol.
D. Eliminate cellulite or fat.

Therefore, the representations set forth in paragraph eight were, and are, false and misleading.

10. Through the means described in paragraph four, respondent has represented, expressly or by implication, that a testimonial from

a consumer appearing in the advertisements for a NutraTrim product reflects the typical or ordinary experience of members of the public who use the product.

11. Through the means described in paragraph four, respondent has represented, expressly or by implication, that he possessed and relied upon a reasonable basis that substantiated the representation set forth in paragraph ten, at the time the representation was made.

12. In truth and in fact, respondent did not possess and rely upon a reasonable basis that substantiated the representation set forth in paragraph ten, at the time the representation was made. Therefore, the representation set forth in paragraph eleven was, and is, false and misleading.

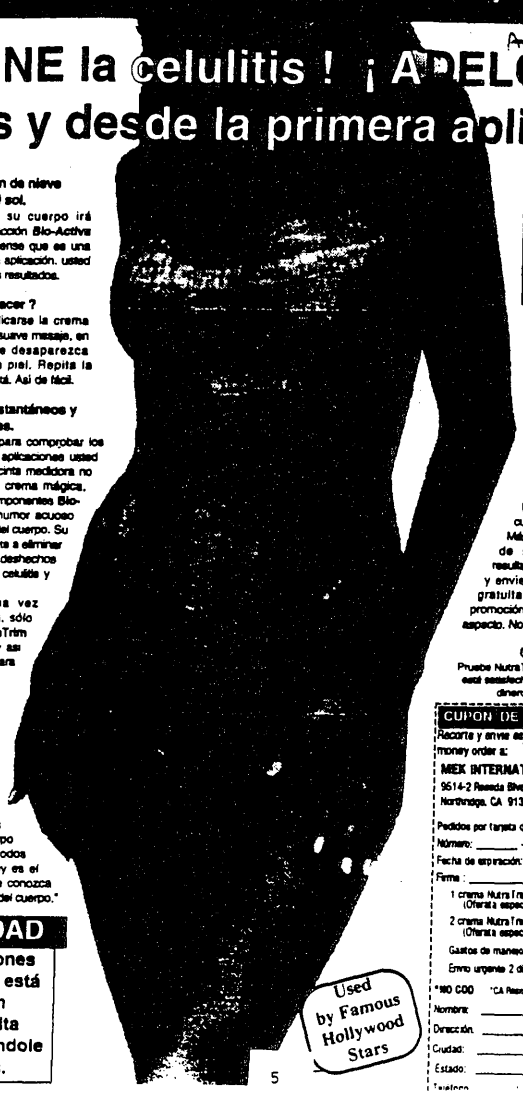
13. The acts and practices of respondent as alleged in this complaint constitute unfair or deceptive acts or practices, and the making of false advertisements, in or affecting commerce in violation of Sections 5(a) and 12 of the Federal Trade Commission Act.

EXHIBIT A

EXHIBIT A

Llantas, flacidez, piel de naranja, celulitis, grasa ... Ahora puede eliminarlas con la crema NutraTrim Bio-Activa. Pruébe y convenzase.

¡ ELIMINE la celulitis ! ¡ ADELGACE en 15 días y desde la primera aplicación !



Imagínese un montón de nieve derritiéndose al sol.

Así es como la grasa de su cuerpo irá desapareciendo gracias a la acción Bio-Activa de la crema NutraTrim. No piense que es una exageración. Desde su primera aplicación, usted podrá comprobar los fantásticos resultados.

¿ Qué tiene que hacer ?

Muy fácil. Sólo tiene que aplicarse la crema NutraTrim Bio-Activa, con un suave masaje, en la zona deseada, hasta que desaparezca absorbida totalmente por la piel. Repita la aplicación 2 veces al día y ya está. Así de fácil.

Los resultados son instantáneos y permanentes.

No necesitará esperar meses para comprobar los resultados. Desde las primeras aplicaciones usted podrá medir los resultados. La cinta medidora no engaña. NutraTrim no es una crema mágica, sino científica. Gracias a sus componentes Bio-Activos, actúa sobre la linfa, humor acuoso que se halla en diversas partes del cuerpo. Su potente acción ayuda radicalmente a eliminar el exceso de agua, grasa y otros deshechos que son los responsables de la celulitis y de la piel de naranja.

Pero esto no es todo. Una vez conseguida la figura deseada, sólo tendrá que aplicar la crema NutraTrim Bio-Activa de vez en cuando y así podrá mantener los resultados para siempre.

La opinión de una Doctora.

La doctora Christine Viviene de Suiza está encantada con los resultados de la Crema NutraTrim Bio-Activa. Es completamente natural y además muy fácil de aplicar. No tiene contraindicaciones y realmente ayuda a eliminar los depósitos de grasa en el cuerpo humano. "Yo lo recomiendo a todos mis pacientes, ya que hasta hoy es el método más seguro y eficaz que conozca para eliminar la grasa y la celulitis del cuerpo."

100% CALIDAD

No acepte imitciones barats. NutraTrim está elabroado con productos de alta calidad, garantizándole los resultados.

Used by Famous Hollywood Stars

OFERTA ESPECIAL

50% + GRATIS

Compre ahora su crema NuTraTrim Bio-Activa y consiga al precio normal de $26.95 el 50% más de crema. Aprovéchese y ahorre.

¡ No lo dude más !

Ahora usted tiene la oportunidad de lucir una silueta bonita y atractiva que cause admiración. Imagínese la cara de sus amigas cuando vean su cambio de aspecto. Más atractiva, más juvenil, más segura de si misma. Recuerde que los resultados están garantizados. Dese prisa y envíe hoy mismo el cupón de prueba gratuita y aproveche esta oferta de promoción para mejorar en poco tiempo su aspecto. No se arrepentirá.

GARANTIA TOTAL

Pruebe NutraTrim Bio-Activa durante 30 días y si no está satisfecha, devuélvalo y le reintegraremos su dinero, menos los gastos de envío.

CUPON DE PRUEBA GARANTIZADA

Recorte y envíe este cupon junto con su cheque o money order a:

MEK INTERNATIONAL
9514-2 Reseda Blvd. Suite 115
Northridge, CA 91324

Información y pedidos por Teléfono llamar: **(818)888-0224**

Pedidos por tarjeta de Crédito: VISA MC

Número: ____ - ____ - ____ - ____

Fecha de expiración: ____ / ____

Firma : _____

1 crema NutraTrim Bio-Activa 4 oz (Oferta especial 50% + Gratis 2 oz)	$26.95
2 crema NutraTrim Bio-Activa 4 oz (Oferta especial 50% + Gratis 4 oz)	$48.90
Gastos de manejo y envío añadir	$5.95
Envío urgente 2 días añadir $3.50 (opcional)	____

*$80 COD *CA Residents add 8.25% Tax Total

Nombre: _____

Dirección: _____

Ciudad: _____

Estado: _____ Zip _____

Teléfono _____ IOS

EXHIBIT A

ENGLISH TRANSLATION OF EXHIBIT A

Love handles, cellulite and fat. Now you can eliminate it with NutraTrim Bio-activa cream. Try it and convince yourself.
Eliminate cellulite. Lose weight in 15 days beginning with the first application.
Imagine a bunch of ice melting under the sun.
This is how the cellulite in your body will be disappearing thanks to Bio-Active action of NutraTrim cream. Do not think that this is an exaggeration. From your first application you will see the fantastic results.
What do you have to do?
Very simple. All you have to do is apply the NutraTrim Bio-activa cream with a soft massage in the area you want until the cream disappears and it is absorbed totally into the skin. Repeat the application 2 times a day and that is it. It is that simple.
The results are instantaneous and permanent.
You don't need to wait months to compare the results for yourself. Since the first application you will be able to see results. Your measuring tape doesn't lie.
NutraTrim is not a magic cream. But it is scientific. Thanks to the components of Bio-Active Cream it works over the linfa. This is something that you'll find over different parts of your body. The potent action helps to eliminate the excess water and fat and other wastes that are responsible for cellulite and orange skin. But this is not all. Once you have the perfect body that you have always wanted, you'll have to apply the NutraTrim Bio-Activa only once in awhile and that way you can keep the results that you have always wanted.
The opinion of one doctor, Dr. Christine Viviene from Switzerland, loves the results the NutraTrim Bio-Active has given. It is completely natural and very easy to apply. There is no side effects and in reality it does help to eliminate the deposits of fat in the human body. I recommend it to all my patients. Until today this is the most secure and beneficial method to eliminate fat and cellulite from your body.
100% Quality.
Do not accept cheap imitations. NutraTrim is made of high quality products guaranteeing best results.
Special offer 50% more for free.
Buy your NutraTrim Cream today and get it at the regular price of $26.95 with 50% more cream. Take advantage now and save.
Do not question it any longer.
Now you have the opportunity to have a beautiful silhouette. You'll be so attractive you'll cause admiration. Imagine your friends faces when they see the change in your body. More attractive more younger looking and more secure of yourself. Remember that the results are guaranteed. Hurry and mail your coupon today and take advantage of the promotional offer to look better in less time than you expect. You will not regret it.
Total Guarantee.
Try NutraTrim Bio-Active for 30 days and if you are not happy with the results you can return it and we will return your money minus shipping and handling.

EXHIBIT B

EXHIBIT B

NOVEDAD MUNDIAL

Adelgace hasta 35 lbs. Sin ninguna dieta!

Este revolucionario tratamiento le ayuda verdaderamente a quemar la grasa

Si, ahora usted puede eliminar la grasa y la celulitis de su cuerpo sin necesidad de dietas y ejercicios imposibles. Las pruebas clínicas realizadas en los Hospitales y Laboratorios han confirmado que la acción del Chromium, formulado con otros ingredientes naturales, permite:

- Controlar su apetito, incluso por dulces.
- Ayudar al metabolismo a quemar grasa.
- Preservar el tejido muscular aun sin ejercico.

Con estos resultados esta vez no puede fallar. Usted adelgaza seguro o le devolvemos su dinero!

No pierda más tiempo ni dinero en productos y dietas milagrosas. **NutraTrim** es el nuevo tratamiento 100% natural que ayuda a su metabolismo en el proceso de eliminar grasa y control del apetito. Por su composición (minerales, vitaminas y extractos de plantas) NutraTrim es apto para personas de todas las edades y sexos.

Los resultados son reales:

- *Perdida de grasa y celulitis en las zonas deseadas.*
- *Ayuda a conseguir su peso ideal.*
- *Sentirse mas activo y energico.*
- *Rebaja los niveles de colesterol en la sangre.*

Estos resultados obtenidos en las multiples pruebas realizas, por cientí ficos y hospitales, demuestran que las cualidades de los ingredientes de NutraTrim ayudan notablemente a eliminar la grasa y a disminuir los niveles de clorosterol en la sangre. Además no retrasa su metabolismo. Este aspecto es *muy importante*, pues le asegura que el peso que vaya a perder durante el tratamiento no lo recuperará de nuevo.

Las ventajas de Nutra Trim:

- *-100% natural. Es apto para todo tipo de personas.**
- *-No contiene excitantes ni anfetaminas.*
- *-No produce mal estar, ni dolores de cabeza, ni mareos o nerviosismo.*
- *-No requiere compra de comida especial.*
- *-No hay que seguir planes o dietas exageradas.*
- *-No produce estrias en la piel.*
- *-No produce flacidez o aguamiento de los tejidos.*

* Si usted tiene problemas de salud debe consultar primero con su doctor. Para obtener mejores resultados deberá controlar sus comidas y ayudarse con algo de ejercicio.

NutraTrim es un producto registrado y solo se puede comprar a través de esta oferta, o dirigiéndose directamente a MEK INTERNATIONAL

NutraTrim es el sistema mas rapido y eficaz para adelgazar. Compruebe como el peso desaparece y ya no vuelve. (sin recesa médica)

Llame ahora mismo y compruebe que fácil es perder peso para siempre con NutraTrim. Sin dietas, sin ejercicios edenuantes, sin efectos secundarios. NutraTrim funciona de verdad.

¡Definitivo!

Envie este cupon junto con su cheque o money order a:
MEK INTERNATIONAL
9514-2 Reseda Blvd. Suite 115
Northridge, CA 91324

Visa & MC llamar:
818-888-0224

☐ Money Order ☐ Cheque ☐ Visa/MC
Pedidos por tarjeta de Credito
Numero ____ - ____ - ____ - ____
Fecha de expiracion ____ / ____
Firma _____
Nombre _____
Direccion _____
Ciudad Estado ZIP Telefono

Deseo perder	☐ 0-15 lbs	☐ 15-35 lbs
-1 tratamiento NutraTrim	$26.95	$39.95
-Manejo y envio	5.95	5.95
	32.90	45.90
-Envio urgente 2 dias (opcional)	3.50	3.50
-No COD	36.40	49.40

**Residentes de CA añadir 6.25% tax

Ordenelo Ahora

ins

MEK INTERNATIONAL Tel 818-888-0224

EXHIBIT B

ENGLISH TRANSLATION OF EXHIBIT B

World News. Lose up to 35 pounds without having to diet. This revolutionary new treatment, in reality will help you lose fat. Yes today you can eliminate fat and cellulite from your body without having to diet and exercise that are impossible. Clinical test results in hospitals and labs have confirmed the actions of chromium formulated with other natural ingredients:
Will control your appetite including sweets.
Will help your metabolism to burn fat.
Will preserve your muscular tissue without having to exercise.
With these results this time you will not fail. You will lose weight or we will refund your money.
Do not lose more time or money with products or diets that promise you the world. NutraTrim is a new treatment that is 100% natural and will help your metabolism to process and eliminate fat and control your appetite. Because of this composition (minerals, vitamins, plant extracts) NutraTrim can be used by persons of all sexes and ages.
The results are real:
You will lose fat and cellulite in the areas that you wish to lose the most.
They will help to ensure your ideal weight.
You will feel more active and energetic.
It lowers the level of cholesterol in your blood.
These results that have been obtained by real multiple tests by scientists and hospitals have proven that the qualities and the ingredients from NutraTrim help to notably eliminate fat and to lessen the level of cholesterol in your blood. Besides, they will not bring down your metabolism.
This is very important because it ensures that the weight that you will lose during your treatment will not come back.
The advantages of NutraTrim:
100% natural.
Any person can use it.
Does not contain uppers or amphetamine.
Does not induce upset stomach, headaches, dizziness, nervousness.
This does not require a special diet.
You do not have to follow a diet plan.
Does not produce extra/hanging skin.
If you have any problems with your health you should consult your doctor first. For better results you should control your meals and try to help yourself with some type of exercise.
NutraTrim is a registered product and you can only buy it through MEK.
NutraTrim is the quickest and most convenient system to lose weight. You should see for yourself how the weight disappears and stays off (without a doctor's prescription).
Call today and see for yourself how easy it is to lose weight forever with NutraTrim. Without dieting and without extraneous exercises or secondary effects. NutraTrim works for real.
100% guaranteed. Try NutraTrim and if you are not completely satisfied we will return your money less shipping and handling.

ANABELIA NOS CUENTA:

"Cómo logre perder 34 libras en poco tiempo"

... SIN HACER REGIMEN Y SIN REGANARLAS.

Toda mi vida tuve tendencia a engordar. Cuando nació mi niño me puse enorme. Por supuesto, había probado un montón de cosas, me privaba de todo. Nada me servía. ¡Tenía realmente la impresión de ser un caso perdido! Se decía que estaba "hinchada" por todas partes: las piernas, el estomago, la cara... ¡Ni siquiera sabía como vestirme, me encontraba horrorosa y sentía que mi esposo no me encontraba atractiva como antes!

Un descubrimiento casi increible!.

Tengo una amiga, no se lo que hace... ¡no se priva de nada, come más que tres y hace por lo menos ocho años que recuperó (y conservó) una verdadera línea de modelo!)

Una día le pregunte "¿Qué haces para estar siempre tan delgada?" Me confesó su secreto: un procedimiento llamado NutraTrim que había descubierto hacia algunos años.

Me explicó: "Con esto, seguro que adelgazas, aunque comas demasiado, aunque lo hayas probado todo y no te haya servido de nada. No hay que tomar ninguna medicina, ni hay que hacer ningun ejercicio. Este sistema no tiene nada que ver con todos esos sistemas que se encuentran en el mercado, ni con ninguno de los regímenes que hayas podido probar hasta ahora".

Incluso me dijo: "No te digo más, lo vas a ver, ¡es genial! ¡Te apuesto lo que quieras a que en cuatro o cinco semanas estarás tan delgada como yo!

Sin creérmelo demasiado, le prometí probar y le apostié una buena cena estaba segura de ganar. Estaba segura de que aunque le hubiera hecho adelgazar a ella, a mi no me haría adegazar.

Empecé a utilizar el sistema al día siguiente. Si no quieren, no me creen, pero a los tres días ya había perdido cuatro libras y media... ¡Parecía un milagro! Esa mañana, me encontraba bien, muy ligera, con la piel muy suave: Hasta mi esposo notó la diferencia y empezó a admirarme, cosa que no hacía desde hace muchísimo tiempo.

La primera semana ya había perdido 10 libras.

Seguí, porque era realmente fácil y muy agradable. Después de cada sesión de NutraTrim experimentaba la misma sensación deliciosa de bienestar... además, tenía la felicidad de ver como la aguja del peso se inclinaba hacia la izquierda. Al mirarme al espejo, veía mi línea alinearse, remodelarse día tras día. Se habían acabado los regímenes y las privaciones, comía todo lo que quería y adelgazaba a simple vista. ¡Imaginense, había perdido diez libras la primera semana!... En

(Sigue en página 3)

"Ahora he recuperado una línea de jovencita, ya no tengo ninguna vergüenza y estoy orgullosa de que me vean en traje de baño. Nunca habría creído que fuera tan fácil, porque había probado tantas cosas para adelgazar, excepto una..."

poco más de un mes, bajé de 173 libras a 138 libras de menos, había cambiado completamente de forma. Literalmente, me había "desinflado". Mis piernas, mis caderas se habían afinado y mi estomago estaba muy plano. Mi amiga había ganado su apuesta y yo no he vuelto a subir de peso, lo único que he reganado es mi marido porque creo que se ha enamorado otra vez, porque ha vuelto a ser atento y delicado, como cuando lo conocí.

¡También tiene que funcionar con usted!

Hablé con mi médico del tratamiento. Me explicó que era el medio ideal y verdaderamente eficaz para adelgazar, porque actúa muy deprisa, drenando la grasa fuera de las células, sobre todo en las partes del cuerpo que más necesitan adelgazar: el estomago las piernas, la cara... Además, tuve la agradable sorpresa de que mi piel se había vuelto más firme, más suave y más flexible.

Anabella Torres C.

¿Funciona realmente este sistema para adelgazar?

Utilizando el sistema NutraTrim (de fácil empleo), obtendrá resultados evidentes desde la primera sesión. En 48 horas habrá perdido ya 2 a 4 libras. Luego adelgazará día tras día hasta que llegue a su peso ideal.

Cuando se mire al espejo se quedará estupefacta de ver que ha adelgazado precisamente en los lugares en que más lo necesitaba: el estomago, las piernas, las caderas. Su piel se volverá mas suave y mas agradable de acariciar...!

Para ordenar llamado
Tel. 818.888.0224

¡Aprovéchese de esta oferta única y garantizada!

¿Quiere ser mas seductora? ¡Quiere tambien ponerse esos vestidos que tanto le gustan? ¿Quiere tener un esposo orgulloso de usted y enamorado locamente como al principio?

De usted depende, no permita que su esposo siga admirando a otras mujeres. Como Anabella y como todas aquellas que lo han conseguido, se quedará absolutamente encantada de los resultados que obtendrá con el tratamiento NutraTrim. Perderá usted entre 5 a 10 libras por semana hasta que llegue al peso que se haya propuesto. En caso contrario, si no está usted 100% entusiasmada de su perdida de peso, devuelva sencillamente el embalaje que contenia su tratamiento y a vuelta de correo le devolveremos su dinero, sin ninguna condición, sin hacerle ninguna pregunta.

Importante:

Satisfacion
100% garantizada.

Utilice usted el sistema NutraTrim corriendo nosotros con todos los riesgos. Tiene usted que ver, día tras día, como baja de peso. Si no pierde usted todos las libras que le sobran, sin ejercicios ni privaciones, tendra 30 dias para devolver el embalaje que contenia su tratamiento y a vuelta de correo le devolveremos su dinero, sin condición alguna, sin hacerle ninguna pregunta.

¿No le parece a usted que si podemos permitirnos hacerle una proposicion como ésta, es porque los resultados son absolutamente seguros?

No espere más. Devuelva el bono adjunto ahora mismo, hoy mismo. Así estará segura de no tener que esperar y de empezar a adelgazar en los próximos días.

Ordenelo Ahora
NutraTrim Pastillas

Recorte este cupón y envíe junto con su cheque o money order o cash a:

MEK INTERNATIONAL
8614 Reseda Blvd. Suite 2-115
Northridge, CA 91324-2380

Visa & MC llamar:
1-818-888-0224

☐ Money Order ☐ Cheque ☐ Cash ☐ Visa&MC

Deseo perder: ☐ > 15 lbs ☐ 10-30 lbs
- Tratamiento NutraTrim $29.95 $39.95
- Manejo y envio 3.85 3.85
32.80 43.80
- Envio urgente 2 días 3.20 3.20
36.00 47.00

** Residentes de CA añadir 8.25% tax
** NO pago contra entrega

Pedidos por tarjeta de Crédito:

Numero

Fecha de expiración ____ / ____

Firma

Nombre

Direccion

Ciudad

Estado Zip

Telefono
( )
Cada + [illegible]

EXHIBIT C

ENGLISH TRANSLATION OF EXHIBIT C

How I lost 34 pounds in little time, without regimens or diets.
All my life I have been gaining weight. When my baby was born I gained so much weight. Of course I tried so many different things. Nothing would work for me. I really thought that I was a lost cause. You could just say that I was swollen in all of my body, legs, stomach and face. I didn't even know how to dress. I looked horrible and I felt like my husband didn't see me as attractive as before.
I discovered something incredible.
I have a friend. I don't know what she does. She doesn't deprive herself from anything. She eats more than three and for the past year she lost her weight and maintained her body like a model.
One day I asked her what do you do to be so skinny? She confessed her secret to me. A product called NutraTrim that was distributed a couple of years ago.
Let me explain. With this I'm positive that you'll lose weight. Even if you eat a lot. Even if you have tried everything and it didn't work. There is no need to take any medication, no exercise. This product does not have anything to do with others in stores. It has nothing to do with the product you took before. She told me I wouldn't tell you more. You'll see it. Its great. I'll bet you anything that in 4 or 5 weeks you'll be skinny as me.
Without believing me too much, I promised her I would try it, and I bet her a good dinner, I was sure to win. I was sure that if it made her lose weight, it would make me lose weight.
I began to use the system the next day. If you don't want to, then don't believe me, but on the third day I had lost 4 ½ lbs. It seemed like a miracle! That morning, I was well, very light with soft skin. Even my husband noticed the difference he started to admire me, something he hadn't done for a long time.
The first week I had already lost 10 lbs.
I continued because it was really easy and very pleasing. After every NutraTrim session, I experienced the same delicious sensation of well-being, besides I had the joy of seeing how the scale marker kept moving to the left. As I saw myself in the mirror, I could see my shape toning, remodeling day after day. Regimes and deprivations have ceased, I ate everything I wanted and I lost weight like that. Imagine, I had lost pounds the first week! In over a month, I went from 173 lbs to 138 lbs, I had a complete change in form. I had literally "uninflated." My legs, my hips had uninflated and my stomach was very flat. My friend had won her bet and I haven't gained weight; the only thing I have gained is my husband because I think he fell in love again because he has begun to be attentive and delicate like when I knew him.
It also has to work for you!
I spoke with my doctor concerning the treatment. He explained that it was the ideal method truly efficient to lose weight because it works quickly, draining the fat out of the cells, above all on the body parts that mostly need thinning: stomach, legs, face. Besides I had the pleasant surprise that my skin had returned to being more firm, more soft and more flexible.
Anabella Torres C.
This system for weight loss really works.

Utilizing the NutraTrim system (easy work) obtain evident results from the first time. In 48 hours you could lose 2 to 4 pounds. Then you will lose weight day by day until you have your ideal weight.

When you look at yourself in a mirror you will be surprised. To see that you have lost weight in places where you need it. Stomach, legs, hips. Your skin will turn more soft and silky.

Would you like to be more seductive? Would you like to be able to wear those dresses that you like a lot? Would you like to have a husband who is proud of you and crazy in love with you, just like the beginning? It is up to you. Don't permit that your husband keep admiring other women. Like Anabella and all others who have done it, you will be absolutely delighted from the results which you will obtain from the treatment NutraTrim. You can lose from 5 to 10 pounds a week until you reach the weight you want.

If you are not 100% delighted and enthusiastic with your weight loss, simply return the container that had the treatment and we will return your purchase price without any conditions or any questions.

Don't you think that we wouldn't make you a proposition like this unless the results were real.

Don't wait any more. Return the coupon below, right now, today. Don't need to wait to start to lose weight.

Important: Satisfaction 100% guaranteed.

DECISION AND ORDER

The Federal Trade Commission having initiated an investigation of certain acts and practices of the respondent named in the caption hereof, and the respondent having been furnished thereafter with a copy of a draft of complaint which the San Francisco Regional Office proposed to present to the Commission for its consideration and which, if issued by the Commission, would charge respondent with violation of the Federal Trade Commission Act; and

The respondent and counsel for the Commission having thereafter executed an agreement containing a consent order, an admission by the respondent of all the jurisdictional facts set forth in the aforesaid draft of complaint, a statement that the signing of said agreement is for settlement purposes only and does not constitute an admission by respondent that the law has been violated as alleged in such complaint, or that the facts as alleged in such complaint, other than jurisdictional facts, are true and waivers and other provisions as required by the Commission's Rules; and

The Commission having thereafter considered the matter and having determined that it had reason to believe that the respondent has violated the said Act, and that a complaint should issue stating its charges in that respect, and having thereupon accepted the executed consent agreement and placed such agreement on the public record for a period of sixty (60) days, now in further conformity with the procedure prescribed in Section 2.34 of its Rules, the Commission hereby issues its complaint, makes the following jurisdictional findings and enters the following order:

1. Respondent Kave Elahie is the sole proprietor of M.E.K. International, a California company with its principal office or place of business at 1669 Emeric Street, Simi Valley, California.

2. The Federal Trade Commission has jurisdiction of the subject matter of this proceeding and of the respondent, and the proceeding is in the public interest.

ORDER

DEFINITIONS

For the 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; and

2. Unless otherwise specified, *"respondent"* shall mean Kave Elahie, individually and doing business as M.E.K. International, his successors and assigns and each of his officers agents, representatives, and employees.

3. *"Commerce"* shall mean as defined in Section 4 of the Federal Trade Commission Act, 15 U.S.C. 44.

I.

It is ordered, That respondent, directly or through any corporation, subsidiary, division, or other device, in connection with the labeling, advertising, promotion, offering for sale, sale, or distribution of the "NutraTrim Bio-Active Cellulite Control Cream," or "NutraTrim Weight Loss" tablets, or any other food, drug, or dietary supplement, as "food" and "drug" are defined in Section 15 of the Federal Trade Commission Act, in or affecting commerce, shall not make any representation, in any manner, expressly or by implication:

A. That such product causes, aids, facilitates or contributes to reducing body fat;
B. That such product causes, aids, facilitates or contributes to causing rapid weight or body fat loss;
C. That such product causes or assists in causing weight or fat loss without dieting or strenuous exercise;
D. That such product reduces serum cholesterol levels;
E. That such product increases human metabolism;
F. That such product controls appetite;
G. That such product increases energy or stamina; or
H. That such product eliminates cellulite or fat;

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

II.

It is further ordered, That respondent, directly or through any corporation, subsidiary, division, or other device, in connection with the labeling, advertising, promotion, offering for sale, sale, or distribution of the "NutraTrim Bio-Active Cellulite Control Cream," or "NutraTrim Weight Loss" tablets, or any other food, drug, or dietary supplement, as "food" and "drug" are defined in Section 15 of the Federal Trade Commission Act, in or affecting commerce, shall not make any representation, in any manner, expressly or by implication, regarding the performance, benefits, efficacy, or safety of such product, unless at the time it 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, or other device, in connection with the labeling, advertising, promotion, offering for sale, sale, or distribution of the "NutraTrim Bio-Active Cellulite Control Cream," or "NutraTrim Weight Loss" tablets, or any other food, drug, or dietary supplement, as "food" and "drug" are defined in Section 15 of the Federal Trade Commission Act, in or affecting commerce, shall not make any misrepresentation, in any manner, expressly or by implication, regarding the existence, contents, validity, results, conclusions, or interpretations of any test or study.

IV.

It is further ordered, That respondent, directly or through any corporation, subsidiary, division, or other device, in connection with the labeling, advertising, promotion, offering for sale, sale, or distribution of any product in or affecting commerce, shall not represent, in any manner, expressly or by implication, that the experience represented by any user testimonial or endorsement of the product represents the typical or ordinary experience of members of the public who use the product, unless:

A. At the time it is made, respondent possesses and relies upon competent and reliable scientific evidence that substantiates the representation; or

B. Respondent discloses, clearly and prominently, and in close proximity to the endorsement or testimonial, either:

1. What the generally expected results would be for users of the product, or

2. The limited applicability of the endorser's experience to what consumers may generally expect to achieve, that is, that consumers should not expect to experience similar results.

For purposes of this Part, "endorsement" shall mean as defined in 16 CFR 255.0(b).

V.

Nothing in this order shall 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.

VI.

Nothing in this order shall prohibit respondent from making any representation for any drug that is permitted in labeling for 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.

VII.

It is further ordered, That respondent shall, for five (5) 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.

VIII.

It is further ordered, That respondent 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.

IX.

It is further ordered, That respondent Kave Elahie, for a period of ten (10) years after the date of issuance of this order, shall notify the Commission of the discontinuance of his current business or employment, or of his affiliation with any new business or employment. The notice shall include respondent's new business address and telephone number and a description of the nature of the business or employment and his duties and responsibilities. All notices required by this Part shall be sent by certified mail to the Regional Director, Federal Trade Commission, 901 Market Street, Suite 570, San Francisco, California.

X.

It is further ordered, That respondent 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 he has complied with this order.

XI.

This order will terminate on September 19, 2017, 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.

IN THE MATTER OF

BUTTERWORTH HEALTH CORPORATION, ET AL.

Docket 9283. Interlocutory Order, September 25, 1997

ORDER GRANTING MOTION TO DISMISS

On July 22, 1997, respondents Butterworth Health Corporation and Blodgett Memorial Medical Center ("the Hospitals") filed a Motion to Dismiss the complaint in the above-captioned case pursuant to Section 3.26(d) of the Commission's Rules. Complaint counsel filed an Opposition to Respondents' Motion to Dismiss the Proceedings on August 5, 1997. On August 15, 1997, the Hospitals moved for leave to file a Reply Memorandum and on September 2, 1997, complaint counsel moved for leave to file a Response to Respondents' Reply Memorandum. Both motions for leave to file supplemental pleadings are granted.

These proceedings follow the Commission's filing of an action in the United States District Court for the Western District of Michigan seeking a preliminary injunction under Section 13(b) of the Federal Trade Commission Act, 15 U.S.C. 53(b), to prevent a proposed merger of the Hospitals pending completion of an administrative proceeding to determine whether the proposed merger violates Section 7 of the Clayton Act. 15 U.S.C. 18. On September 26, 1996, the district court issued an opinion denying a preliminary injunction. *FTC v. Butterworth Health Corp.*, 946 F. Supp. 1285 (W.D. Mich. 1996). Thereafter, the United States Court of Appeals for the Sixth Circuit affirmed the district court's decision in an unpublished *per curiam* opinion. *FTC v. Butterworth Health Corp.*, No. 96-2440 (6th Cir. July 8, 1997) (*per curiam*).

The rationale for Rule 3.26(d), pursuant to which the Hospitals move, is that although denial of injunctive relief by the courts does not compel the Commission, as a matter of law, to terminate its administrative case, such judicial action justifies respondents in asking the Commission to review closely whether further proceedings are appropriate. The Commission's Policy Statement on Administrative Merger Litigation Following the Denial of a Preliminary Injunction, which was published with Rule 3.26(d), states that the Commission must determine whether to continue or terminate

an administrative proceeding on a case-by-case basis. 60 Fed. Reg. 39,741, 39,743 (1995); 4 Trade Reg. Rep. (CCH) ¶ 13,242 at 20,994.

In determining whether to continue the administrative litigation, the Commission has considered the following factors set forth in the Commission's Policy Statement:

> (i) The factual findings and legal conclusions of the district court or any appellate court, (ii) any new evidence developed during the course of the preliminary injunction proceeding, (iii) whether the transaction raises important issues of fact, law, or merger policy that need resolution in administrative litigation, (iv) an overall assessment of the costs and benefits of further proceedings, and (v) any other matter that bears on whether it would be in the public interest to proceed with the merger challenge.

Id. After considering the pleadings and each of these five factors, the Commission has determined that further administrative litigation is not in the public interest.

Accordingly,

It is ordered, That respondents' motion for leave to file a reply and complaint counsel's motion for leave to file a response to the reply be, and they hereby are, granted;

It is further ordered, That respondents' motion to dismiss be, and it hereby is, granted.

Chairman Pitofsky recused.

IN THE MATTER OF

GLOBAL WORLD MEDIA CORPORATION, ET AL.

CONSENT ORDER, ETC., IN REGARD TO ALLEGED VIOLATION OF SECS. 5 AND 12 OF THE FEDERAL TRADE COMMISSION ACT

Docket C-3772. Complaint, October 9, 1997--Decision, October 9, 1997

This consent order, among other things, requires a California-based company and its officer, the marketers of a supplement known as "Herbal Ecstacy," to substantiate all future safety claims for any food, drug or dietary supplement, and requires a disclosure statement warning consumers of the potentially serious safety risks of taking Ecstacy or any other product containing ephedra. In addition, the consent order prohibits the respondents from promoting Ecstacy or any similar product for its mind-altering effects in media with a predominant youth audience, and prohibits misrepresentations of testimonials or endorsements of any product.

Appearances

For the Commission: *Nancy Warder, Michelle Rusk* and *C. Lee Peeler.*

For the respondents: *William H. Dailey,* Encino, CA.

COMPLAINT

The Federal Trade Commission, having reason to believe that Global World Media Corporation, a corporation, and Sean Shayan, individually and as an officer of the corporation ("respondents"), have violated provisions of the Federal Trade Commission Act, and it appearing to the Commission that this proceeding is in the public interest, alleges:

1. Respondent Global World Media Corporation is a California corporation with its principal office or place of business at 1501 Main Street, Venice, California.

2. Respondent Sean Shayan is an officer of the corporate respondent. Individually or in concert with others, he formulates, directs, or controls the policies, acts, or practices of the corporation, including the acts and practices alleged in this complaint. His principal office or place of business is the same as that of Global World Media Corporation.

3. Respondents have advertised, labeled, offered for sale, sold, and distributed products to the public, including Ecstacy or Herbal Ecstacy tablets ("Ecstacy"). The principal ingredient in Ecstacy is

Ma-Huang, a botanical source of ephedrine alkaloids. Ecstacy also contains, among other things, the following ingredients: guarana, ginseng, ginkgo biloba, cola nut, and green tea extract. Ecstacy is a "food" and/or "drug," within the meaning of Sections 12 and 15 of the Federal Trade Commission Act.

4. The acts and practices of respondents alleged in this complaint have been in or affecting commerce, as "commerce" is defined in Section 4 of the Federal Trade Commission Act.

5. Respondents have disseminated, or have caused to be disseminated, advertisements for Ecstacy, including but not necessarily limited to the attached Exhibits A through D, and oral representations as set forth in subparagraph E below. In addition, respondents have furnished the means and instrumentalities to third party distributors to disseminate advertising on the World Wide Web, including but not necessarily limited to the attached Exhibits E and F. These advertisements and oral representations contained the following statements:

A. Ecstacy®

The world's first organic ecstacy (m.d.m.a.) alternative

From Tokyo to South Africa to the United Kingdom to Argentina, with over 2 million units sold in over 15 countries, a product known as herbal ecstacy® is revolutionizing the way the world thinks of designer drugs. Using 9 exotic botanicals imported exclusively for this product, herbal ecstacy® has been carefully formulated to produce a considerable range of pleasurable effects.

"Reported effects last 4-8 Hours:

* euphoria
* tingly skin sensations
* highly increased energy levels
* increased sexual sensations
* mood elevation

(a mild serotonin inhibitor)"

Dr. Janis Burton, New Psychology Magazine, Paris, France.

"Developed by many of the same doctors who created the chemical version, herbal ecstacy® is 100% natural & absolutely safe. herbal ecstacy® contains no chemicals or other impurities. This product is synergistically blended in order to maximize benefits and eliminate any possible side effects." Dr. Steven Jonson, Tel Aviv, Israel. (Exhibits A and B: Penthouse.)

B. 2 dosages (10 tablets) $19.99
12 dosages (60 tablets) $99.99
18 dosages (90 tablets) $149.99
40 dosages (200 tablets) $299.99 (Exhibit A: Penthouse.)

C. 2 doses (10 tablets) $19.99
10 doses (50 tablets) $69.99
20 doses (100 tablets) $99.99 (Exhibit B: Penthouse.)

D. toll free -- 24 hour -- 7 days
1 - 800 - 365 - 0000 (Exhibits A and B: Penthouse.)

E. Consumers calling respondents' toll-free "800" number have been advised that if they fail to achieve the advertised euphoric, psychotropic, or sexual effects, they may ignore the dose suggested in advertising and labeling for the product (such as one (1) tablet every seventy-two (72) hours) and take more Ecstacy tablets, including doses of seven or eight tablets at one time.

F. Send Check or money order to: Global World Media Corporation
Distribution and wholesale inquiries: FAX (310) 581-4456
(Exhibits A and B: Penthouse.)

G. SPOKESWOMAN: Introducing Herbal Ecstacy.
[Various shots of young people dancing, playing drums, embracing.]
SPOKESWOMAN: The world's first organic designer experience. A sacred blend of nine exotic herbs that produce a considerable range of pleasurable effects.
[SUPERSCRIPT: Satisfaction Guaranteed]
SPOKESWOMAN: Increased energy levels. Euphoric sensations with absolutely no side effects...Herbal Ecstacy. The alternative...
(Exhibit C: Nickelodeon, 1995)

H. MALE ANNCR.: Are you ready for this? Introducing the world's first organic ecstasy alternative.

. . . .

MALE ANNCR.: Users reported keeping a clear head and a sense of heightened perception all night long with no side effects what so ever. So try the alternative, try Herbal Ecstasy.

. . . .

MALE ANNCR.: The world's first organic ecstasy alternative . . . .
(Exhibit D: Radio Commercial Transcript, 1995)

I. Herbal Ecstacy
"A fantastically light headed, tingly happy, happy buzz, with no side effects."
Herb Garden Magazine, UK.
"The effects of herbal ecstacy beyond smart drug capacity include:
euphoric stimulation
highly increased energy levels
tingly skin sensations
enhanced sensory processing
increased sexual sensations
mood elevations
Dr. Janis Burton New Psychology Magazine
(Exhibit E: World Wide Web Site, March 27, 1996)

J. ecstacy
The Legal Alternative!
"A fantastically light headed, tingly happy-happy buzz, with no side effects."
Herb Garden Magazine, U.K.
"The effects of herbal ecstacy beyond smart drug capacity include:
euphoric stimulation
highly increased energy levels
tingly skin sensations
enhanced sensory processing
increased sexual sensations
mood elevations"

Dr. Janis Burton - New Psychology Magazine

10 tab pack - sug. dose 5 tabs.
(Exhibit F: World Wide Web Site, March 27, 1996)

6. Through the means described in paragraph five, respondents have represented, expressly or by implication, that use of Ecstacy in the doses recommended or in other reasonably foreseeable amounts is absolutely safe and will cause no side effects.

7. In truth and in fact, use of Ecstacy in the doses recommended or in other reasonably foreseeable amounts is not absolutely safe and may cause side effects. The Ma-Huang in Ecstacy is a botanical source of various chemicals including ephedrine alkaloids that can have dangerous effects on the central nervous system and heart. Therefore, the representation set forth in paragraph six was, and is, false or misleading.

8. Through the means described in paragraph five, respondents have represented, expressly or by implication, that they possessed and relied upon a reasonable basis that substantiated the representation set forth in paragraph six, at the time the representation was made.

9. In truth and in fact, respondents did not possess and rely upon a reasonable basis that the representation set forth in paragraph six, at the time the representation was made. Therefore, the representation set forth in paragraph eight was, and is, false or misleading.

10. Through the means described in paragraph five, respondents have represented, expressly or by implication, that Dr. Steven Jonson of Tel Aviv, Israel, provided an endorsement pertaining to the absolute safety and the lack of side effects of Ecstacy, and that the endorsement appearing in the advertisements for Ecstacy accurately reflects his actual opinions, findings, and beliefs.

11. In truth and in fact, Dr. Steven Jonson of Tel Aviv, Israel, did not provide an endorsement pertaining to the absolute safety and the lack of side effects of Ecstacy. Dr. Jonson is a fictitious person and, therefore, the endorsement appearing in the advertisements for Ecstacy does not accurately reflect the actual opinions, findings, or beliefs of Dr. Jonson.

12. In their advertising and sale of Ecstacy tablets, including in media with a substantial youth audience such as certain Nickelodeon and MTV cable programming stations, respondents have represented that Ecstacy tablets are a safe alternative to illegal drugs to produce euphoric, psychotropic, or sexual enhancement effects. Respondents have failed to disclose that use of Ecstacy tablets in the doses

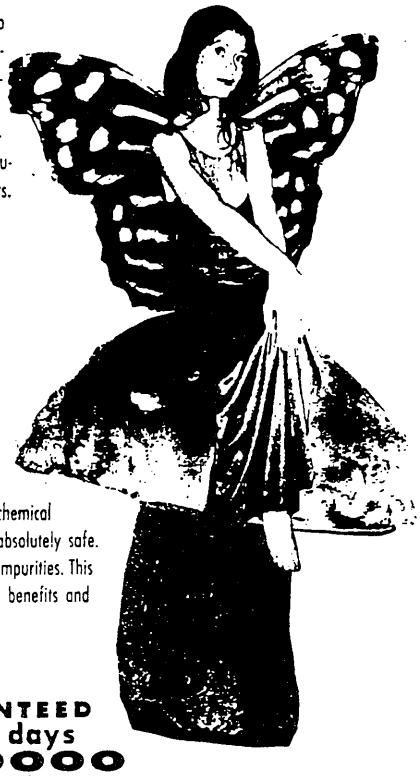
recommended or in other reasonably foreseeable amounts may present a significant health or safety risk, including but not limited to dangerous effects on the central nervous system and heart. These facts would be material to consumers in their purchase and use of Ecstacy tablets. This practice was, and is, a deceptive act or practice.

13. The acts and practices of respondents 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.

EXHIBIT A

ecstacy®

the world's first organic ecstacy (m.d.m.a.) alternative



From Tokyo to South Africa to the United Kingdom to Argentina, with over 2 million units sold in over 15 countries, a product known as herbal ecstacy® is revolutionizing the way the world thinks of designer drugs. Using 9 exotic botanicals imported exclusively for this product, herbal ecstacy® has been carefully formulated to produce a considerable range of pleasurable effects.

"Reported effects last 4-8 Hours:

- euphoria
- tingly skin sensations
- highly increased energy levels
- increased sexual sensations
- mood elevation
  (a mild serotonin inhibitor)"

Dr. Janis Burton
New Psychology Magazine
Paris, France

"Developed by many of the same doctors who created the chemical version, herbal ecstacy® is 100% natural & absolutely safe. herbal ecstacy® contains no chemicals or other impurities. This product is synergistically blended in order to maximize benefits and eliminate any possible side effects."

Dr. Steven Jonson
Tel Aviv, Israel

***SATISFACTION GUARANTEED**
toll free • 24 hours • 7 days
1-800-365-0000
ALL MAJOR CREDIT CARDS ACCEPTED

2 dosages (10 tablets) $19.99
12 dosages (60 tablets) $99.99
18 dosages (90 tablets) $149.99
40 dosages (200 tablets) $299.99
add $10 for shipping & handling,
all packages shipped federal express next day air.

Send Check or Money Order to:
Global World Media Corporation
PO Box # 16442 Beverly Hills
California 90209-2442
Distribution and wholesale inquiries
FAX **(310) 581-4456**

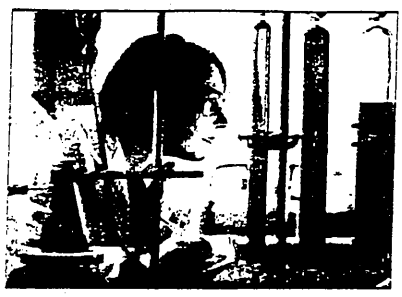
EXHIBIT B

ecstacy®

the world's first organic ecstacy (m.d.m.a.) alternative

From Tokyo to South Africa to the United Kingdom to Argentina, with over 2 million units sold in over 15 countries, a product known as herbal ecstacy® is revolutionizing the way the world thinks of designer drugs.

Using 9 exotic botanicals imported exclusively for this product, herbal ecstacy® has been carefully formulated to produce a considerable range of pleasurable effects.



"Reported effects last 4-8 Hours:

- euphoria
- tingly skin sensations
- highly increased energy levels
- increased sexual sensations
- mood elevation

(a mild serotonin inhibitor)"

Dr. Janis Burton
New Psychology Magazine
Paris, France

"Developed by many of the same doctors who created the chemical version, herbal ecstacy® is 100% natural & absolutely safe. herbal ecstacy® contains no chemicals or other impurities. This product is synergistically blended in order to maximize benefits and eliminate any possible side effects."

Dr. Steven Jonson
Tel Aviv, Israel

MONEY BACK GUARANTEE

toll free • 24 hours • 7 days

1-800-365-0000

2 doses (10 tablets) $19.99
10 doses (50 tablets) $69.99
20 doses (100 tablets) $99.99
add $8 for postage and handling
add $10 for next day air
Send Check or Money Order to:

GWM CORPORATION

Global World Media Corporation
PO Box [illegible]442 Beverly Hills
California 90209-2442
Distributor and wholesale inquiries
FAX (310) 581-4456

EXHIBIT C

LIGHTNING DUBBS

953 N. HIGHLAND AVE. • HOLLYWOOD, CA 90038 • (213) 957-9255 • FAX (213) 957-9703
1831 CENTINELA AVE. • SANTA MONICA, CA 90404 • (310) 453-3777 • FAX (310) 453-7818
3723 W. OLIVE AVE. • BURBANK, CA 91505 • (818) 556-2777 • FAX (818) 556-2770

GLOBAL WORLD MEDIA CORP.
(310) 581-4450

'HERBAL ECSTACY' #1 Ready For This
DIRECTOR: JON ALLOWAY
3 X :30 GENERIC/TEXT/TEXT FED EX
PLEASE HAVE A NICE DAY!

05/31/95

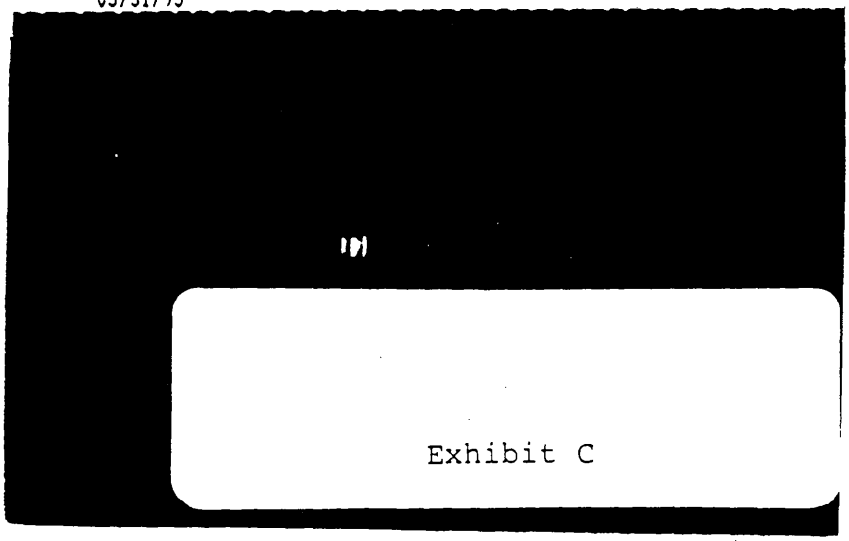


EXHIBIT C

TRANSCRIPT OF TELEVISION AD
"READY FOR THIS"

[Closeup of an eye; a small letter "e" appears in the pupil; switch to a shot of a group of young people standing around a spokeswoman.]

VOICE OVER: Are you ready for this?

GROUP: Yeah!

SPOKESWOMAN: Introducing Herbal Ecstacy.

[Various shots of young people dancing, playing drums, embracing.]

SPOKESWOMAN: The world's first organic designer experience. A sacred blend of nine exotic herbs that produce a considerable range of pleasurable effects.

[SUPERSCRIPT: Satisfaction Guaranteed]

SPOKESWOMAN: Increased energy levels. Euphoric sensations with absolutely no side effects. Synergistically formulated in advanced laboratories around the world by master herbalists. Herbal Ecstacy. The alternative. So call 1-800-365-0000.

[FINAL FRAME: 2 dosages @ $19.95, 10 tablets; $10.00 S&H, Federal Express
SUPERSCRIPT: A PORTION OF PROCEEDS GO TO SAVE THE RAIN FOREST]

EXHIBIT D

RADIO TV REPORTS

[redacted]

RADIO COMMERCIAL TRANSCRIPT 95R42856GL
PROGRAM: MUSIC 3/09/95 :60
STATION: KLSX (LOS ANGELES) 7:35AM

HERBAL ECSTASY

MALE ANNCR.: Are you ready for this? (MUSIC IN B.G.) (SFX: INAUDIBLE SPEAKING) Introducing the world's first organic ecstasy alternative.

WOMAN: Ecstasy.

MALE ANNCR.: Herbal Ecstasy. Reported sensations include euphoria, highly increased energy level, increased sexual feelings with floating, mood lifting effects.

WOMAN: Ecstasy.

MALE ANNCR.: Carefully formulated by the world's most advanced laboratories using rare varieties of nine plants imported exclusively for this product.

MAN: Herbal Ecstasy.

MALE ANNCR.: Users reported keeping a clear head and a sense of heightened perception all night long with no side effects what so ever. So try the alternative, try Herbal Ecstasy. Comes complete with a money back guarantee. To order, call toll free, 1-800-365-0000.

MAN: Herbal Ecstasy.

MALE ANNCR.: The world's first orgarlic ecstasy alternative, 1-800-365-0000.

(MUSIC OUT)

EXHIBIT D

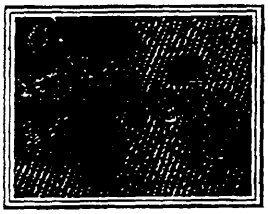
EXHIBIT E

Herbal Ecstasy

(Click on the icon to add an item to your shopping bag.)

Soar into ecstacy™

The world's most advanced designer nutritional supplement herbal ecstacy™ is more than just another smart drug. it is a carefully formulated and thoroughly tested organic alternative.



$19.95 Per Card, 2 doses per card.

"A 100% natural, tingly & floaty mind expanding euphoria"
Obleo Carson, Mind Research Institute (Canada)

"A fantastically light headed, tingly happy, happy buzz, with no side effects." Herb Garden Magazine, UK.

"The effects of herbal ecstasy ™ beyond smart drug capacity include:

- euphoric stimulation
- highly increased energy levels

EXHIBIT E

- tingly skin sensations
- enhanced sensory processing
- increased sexual sensations
- mood elevations

Dr. Janis Burton New Psychology Magazine

We make no health claims, or otherwise whatsoever. All data provided is for historical reasons only This product is sold strictly as a nutritional supplement, and is in strict compliance with FDA regulations.

100% natural No Preservatives, Additives Or Other Impurities.

NAAFS NATIONAL ASSOCIATION OF ADVANCED FOOD SUPPLEMENTS

stamp of approval

Push this button to in your shopping bag.

Push this button to and place your order.

Push this button for on using the shopping bag.

[redacted]

Back

EXHIBIT F

ecstacy.

The Legal Alternative!

beyond smart drugs - *a revolutionary alternative!*

"A fantastically light headed, tingly happy-happy buzz, with no side effects."
Herb Garden Magazine, U.K.

"The effects of herbal ecstacy beyond smart drug capacity include:
euphoric stimulation
highly increased energy levels
tingly skin sensations
enhanced sensory processing
increased sexual sensations
mood elevations"
Dr. Janis Burton - New Psychology Magazine

EXHIBIT F

"Herbal Ecstacy acts on the same basis as MDMA, triggering similar, but not identical, physical reactions in the body."
Peter Noah - URB Magazine

"People reported all kinds of effects. Some even saying that it was the best ecstacy experience they'd ever had."
Nicholas Saunders U.K. - E for Ecstacy 1992

Hear what Shannon has to say about herbal ecstacy.

Click on picture.

order now!

Just $20 plus 2.50 postage and handling

10 tab pack - sug. dose 5 tabs.

To order by mail, send money order or check to:

EXHIBIT F

ADDvantage Plus Expreiences
P.O.Box 89307
Sioux Falls, SD 57105

synergy - *the secret of our success!*

Using an ancient extraction methods all herbs are first extracted separately. Next they are blended together synergistically. Finally, using the world's most technologically advanced equipment the herbs are once again extracted to produce herbal ecstacy's unique effect.

organic sensations

a herbal dietary supplement

amino acids
This powerful blend contains all eighteen amino acids in complete form.

antioxidants
Helps prevent free-radical damage to cells. If left unchecked, these highly reactive molecules attack the cellular walls and may cause damage.

thermogens
Rare forms of popular herbs are synergistically blend to create the most powerful thermogenic compound available today. Burns calories through heat generation.

EXHIBIT F

metabolizers
Increases metabolism. Burns calories and maintains lean mass.

vegetarian
No animal products are used whatsoever.

100% natural
NO PRESERVATIVES, ADDITIVES OR OTHER IMPURITIES

order now!

Just $20 plus 2.50 postage and handling

10 tab pack - sug. dose 5 tabs

To order by mail, send money order or check to:
ADDvantage Plus Expreiences
P.O. Box 89307
Sioux Falls, DS 57105

Site designed by Dragons

DECISION AND ORDER

The Federal Trade Commission having initiated an investigation of certain acts and practices of the respondents named in the caption hereof, and the respondents having been furnished thereafter with a copy of a draft of complaint which the Bureau of Consumer Protection proposed to present to the Commission for its consideration and which, if issued by the Commission, would charge respondents with violation of the Federal Trade Commission Act; and

The respondents, their attorneys, and counsel for the Commission having thereafter executed an agreement containing a consent order, an admission by the respondents of all jurisdictional facts set forth in the aforesaid draft of complaint, a statement that the signing of said agreement is for settlement purposes only and does not constitute an admission by respondents that the law has been violated as alleged in such complaint, or that the facts as alleged in such complaint, other than jurisdictional facts, are true and waivers and other provisions as required by the Commission's Rules; and

The Commission having thereafter considered the matter and having determined that it had reason to believe that the respondents have violated the said Act, and that a complaint should issue stating its charges in that respect, and having thereupon accepted the executed consent agreement and placed such agreement on the public record for a period of sixty (60) days, now in further conformity with the procedure prescribed in Section 2.34 of its Rules, the Commission hereby issues its complaint, makes the following jurisdictional findings and enters the following order:

1. Respondent Global World Media Corporation is a corporation organized, existing and doing business under and by virtue of the laws of the State of California, with its office and principal place of business located at 1501 Main Street in the City of Venice, State of California.

Respondent Sean Shayan is an officer of said corporation. He formulates, directs and control the policies, acts and practices of said corporation, and his principal office and place of business is located at the above stated address.

2. The Federal Trade Commission has jurisdiction of the subject matter of this proceeding and of respondents, and the proceeding is in the public interest.

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 a television or video advertisement, the disclosure shall be presented simultaneously in both the audio and video portions of the advertisement. The audio disclosure shall be delivered in a volume and cadence sufficient for an ordinary consumer to hear and comprehend it. The 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 radio advertisement or in telephone conversations the disclosure shall be delivered in a volume and cadence sufficient for an ordinary consumer to hear and comprehend it.

C. In a print advertisement, the disclosure shall be in a type size and in a location that are sufficiently noticeable so that an ordinary consumer will see and read it, in print that contrasts with the background against which it appears. In multi-page documents, the disclosure shall appear on the cover or the first page.

D. In an advertisement on any electronic media received by consumers via computer, such as the Internet's World Wide Web or commercial online computer services, the disclosure shall be in a type size, and in a location, that are sufficiently noticeable so that an ordinary consumer will see it and read it, in print that contrasts with the background against which it appears. In multi-screen documents, the disclosure shall appear on the first screen and on any screen containing ordering information.

E. On a product label, the disclosure shall be in a type size, and in a location on the principal display panel, that are sufficiently noticeable so that an ordinary consumer will see and read it, in print that contrasts with the background against which it appears.

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

3. Unless otherwise specified, *"respondents"* shall mean Global World Media Corporation, its successors and assigns and its officers; Sean Shayan, individually and as an officer of the corporation; and each of the above's agents, representatives and employees.

4. *"Ephedrine product(s)"* shall mean foods, drugs, dietary supplements, or other products intended for internal use containing a source of any ephedrine alkaloid, including but not limited to ephedrine, pseudoephedrine, norephedrine, norpseudoephedrine, N-methylephedrine, and N-methylpseudoephedrine, either derived from natural sources such as Ephedra sinica (also called Ma-Huang or Chinese Ephedra) or synthetically produced.

5. *"Purchaser for resale"* shall mean any purchaser of any ephedrine product(s) sold by respondents (a) who is a distributor or operates a wholesale or retail business selling any such product(s) or (b) who orders one hundred (100) or more tablets, doses, or other units of any such product(s) in any three (3) month period.

6. *"Commerce"* shall mean as defined in Section 4 of the Federal Trade Commission Act, 15 U.S.C. 44.

I.

It is ordered, That respondents, directly or through any corporation, subsidiary, division, or other device, in connection with the manufacturing, labeling, advertising, promotion, offering for sale, sale, or distribution of Ecstacy or Herbal Ecstacy tablets or any other food, drug, or dietary supplement in or affecting commerce, shall not:

A. Represent in any manner, expressly or by implication, that the use of such product is safe or will cause no side effects; or

B. Make any other representation, in any manner, expressly or by implication, about the safety or side effects of such product, unless the representation is true and, at the time it is made, respondents possess and rely upon competent and reliable scientific evidence that substantiates the representation.

II.

It is further ordered, That respondents, directly or through any corporation, subsidiary, division, or other device, in connection with the manufacturing, labeling, advertising, promotion, offering for sale,

sale, or distribution of Ecstacy or Herbal Ecstacy tablets or any other ephedrine product that is not a "drug" as defined by the Federal Food, Drug and Cosmetic Act, 21 U.S.C. 321 as amended, in or affecting commerce, shall not represent, in any manner, expressly or by implication, that it is appropriate for users to take such product in an amount that contains ephedrine alkaloids or any other ingredient in excess of any level for such ingredient in a dietary supplement as may be established by the Food and Drug Administration (FDA) under any applicable rule or regulation.

III.

It is further ordered, That respondents shall make the following disclosure, clearly and prominently, in any advertisement, promotional material, package label, and package insert for Ecstacy or Herbal Ecstacy tablets or any other ephedrine product, and in any discussion relating to dosage or use of any such product that results from a communication via electronic mail or from any call made by or on behalf of respondents or received on their toll-free, pay-per-call number, or other telephone lines.

WARNING: This product contains ephedrine which can have dangerous effects on the central nervous system and heart and could result in serious injury. Risk of injury increases with dose.

Provided, however, if the product is subject to any FDA rule or regulation that requires a warning or a disclosure about safety or health effects for labeling, such warning or disclosure shall be required in lieu of the disclosure set forth above.

IV.

It is further ordered, That respondents shall not provide the means and instrumentalities to, or otherwise assist, any person who respondents know or have reason to know is making any false or misleading representation or deceptive material omission in connection with the labeling, advertising, promotion, offering for sale, sale, or distribution of Ecstacy or Herbal Ecstacy tablets or any other ephedrine product. "Assist" includes, but is not limited to, selling Ecstacy or Herbal Ecstacy tablets or any other ephedrine product to that person.

V.

It is further ordered, That respondents, directly or through any corporation, subsidiary, division, or other device, in connection with the manufacturing, labeling, advertising, promotion, offering for sale, sale, or distribution of any product in or affecting commerce shall not misrepresent that any testimonial or endorsement of the product reflects the actual experience and current opinions, findings, beliefs, or experiences of the testimonialist or endorser.

VI.

It is further ordered, That respondents, directly or through any corporation, subsidiary, division, or other device, in connection with the manufacturing, labeling, advertising, promotion, offering for sale, sale, or distribution of Ecstacy or Herbal Ecstacy tablets or any other ephedrine product marketed as an alternative to an illegal drug or for its euphoric, psychotropic, or sexual effects, including through the use of the name Ecstacy, Herbal Ecstacy, or Ecstasy, shall not disseminate or employ for any such product advertising, marketing, or other promotional activities directed to individuals under the age of twenty-one (21) years.

For purposes of this Part, "advertising, marketing, or other promotional activity directed to individuals under the age of twenty-one (21) years" shall include, but not be limited to:

A. Advertisements appearing in publications whose readers younger than twenty-one (21) years of age constitute fifty percent (50%) or more of the total readership;

B. Advertisements appearing during or immediately adjacent to television programs seen by audiences whose viewers younger than twenty-one (21) years of age constitute fifty percent (50%) or more of total viewers;

C. Advertisements appearing on a television or radio station or channel at a time when its viewers or listeners younger than twenty-one (21) years of age constitute fifty percent (50%) or more of total viewers or listeners;

D. Advertisements appearing on the same video as a commercially prepared video whose viewers younger than twenty-one (21) years of age constitute fifty percent (50%) or more of total viewers; or preceding a movie whose viewers younger than

twenty-one (21) years of age constitute fifty percent (50%) or more of total viewers;

E. Advertising or promotional activity at events such as concerts that are attended by audiences whose members younger than twenty-one (21) years of age constitute fifty percent (50%) or more of the total audience; or

F. Advertising, marketing, or other promotional activity, regardless of when or where it appears, is disseminated, or takes place, whose audience members younger than twenty-one (21) years of age constitute fifty percent (50%) or more of the total audience.

VII.

It is further ordered, That respondent Global World Media Corporation, and its successors and assigns, and respondent Sean Shayan shall submit an analysis, performed by an independent laboratory, of the level of ephedrine alkaloids (including ephedrine, pseudoephedrine, norephedrine, norpseudoephedrine, N-methyl-ephedrine, and N-methylpseudoephedrine) in Ecstacy or Herbal Ecstacy tablets and any other ephedrine product sold by them within sixty (60) days of service of this order, and for the next five (5) years, once annually during the month of the first submission required by this Part.

VIII.

Nothing in this order shall be construed as permitting respondents to market any ephedrine product:

A. In a state where the sale of such products has been banned;

B. In a manner that is inconsistent with any applicable state restrictions on their sale; or

C. In a manner that is inconsistent with any applicable FDA rule or regulation.

IX.

Nothing in this order shall prohibit respondents from making any representation for any drug that is permitted in labeling for 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.

X.

Nothing in this order shall prohibit respondents 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.

XI.

It is further ordered, That respondent Global World Media Corporation, and its successors and assigns, and respondent Sean Shayan shall:

A. Send by first class certified mail or deliver in person, an exact copy of the notice attached hereto as Attachment A, without any other accompanying material, to each person who makes or answers calls on respondents' toll-free, pay-per-call number, or other telephone lines maintained for providing information about Ecstacy or Herbal Ecstacy or any other ephedrine product and each person who provides such information via electronic mail. Persons presently making or answering such calls and electronic mail shall be sent the notice within thirty (30) days after the date of service of this order. Persons retained in the future to make or answer such calls and electronic mail shall be given the notice prior to being permitted to make or answer any such calls;

B. Notify any person who fails to return the signed statement included in Attachment A within seven (7) days of receipt that they will be terminated in the event that they fail to return the signed statement;

C. Terminate any person who receives the notification required by subpart B and fails to return the signed statement within seven (7) days of receipt of the notification, and terminate immediately any person who fails to comply with the provisions of the notice attached hereto as Attachment A; and

D. Institute a reasonable program of continuing surveillance adequate to reveal whether each person who makes or answers calls received on respondents' toll-free, pay-per-call number, or other telephone lines maintained for inquires about Ecstacy or Herbal Ecstacy or any other ephedrine product, and each person who provides information about such products via electronic mail, is conforming to the requirements of this order.

XII.

It is further ordered, That respondent Global World Media Corporation, and its successors and assigns, and respondent Sean Shayan shall for five (5) years after the receipt of the last correspondence required by Part XI above, maintain and upon request make available for the Federal Trade Commission for inspection and copying:

A. Copies of all notices sent to any person pursuant to subpart A of Part XI of this order; and

B. Copies of all communications with any person who receives the notification required by subpart B or is terminated pursuant to subpart C of Part XI of this order.

XIII.

It is further ordered, That respondent Global World Media Corporation, and its successors and assigns, and Sean Shayan shall:

A. Send an exact copy of the notice attached hereto as Attachment B by first class certified mail, return receipt requested within thirty (30) days after the date of service of this order, to any purchaser for resale on or after January 1, 1993. The mailing shall include no other document;

B. For a period of three (3) years following the date of service of this order, send an exact copy of the notice attached hereto as Attachment B by first class certified mail, return receipt requested, to any purchaser for resale. The mailing shall include no document other than Attachment B with the exception of an invoice for the purchase of the product, and shall be made prior to or simultaneously with the first shipment of the product;

C. In the event respondents receive any information that, subsequent to receipt of Attachment B, any purchaser for resale is using or disseminating advertisements or promotional materials that contain any representation prohibited by this order, respondents shall immediately notify such person that respondents will cease to sell ephedrine products to such person if the prohibited representations continue to be made; and

D. Terminate any purchaser for resale about whom respondents receive any information that such person is continuing to use advertisements or promotional materials that contain any

representation prohibited by this order after receipt of the notice required by subpart C of this Part.

XIV.

It is further ordered, That respondent Global World Media Corporation, and its successors and assigns, and respondent Sean Shayan shall for five (5) years after the last correspondence to which they pertain, maintain and upon request make available to the Federal Trade Commission for inspection and copying:

A. Copies of all notification letters sent to persons pursuant to subpart A or B of Part XIII; and

B. Copies of all communications received or sent pursuant to subpart C or D of Part XIII.

XV.

It is further ordered, That respondents Global World Media Corporation, and its successors and assigns, and respondent Sean Shayan shall, for five (5) years after the last date of dissemination of any representation covered by this order, maintain and upon request make available for 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, including complaints and other communications with consumers or with governmental or consumer protection organizations.

XVI.

It is further ordered, That respondents Global World Media Corporation, and its successors and assigns, and respondent Sean Shayan 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. Respondents 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.

XVII.

It is further ordered, That Global World Media Corporation and its successors and assigns shall notify the Commission at least thirty (30) days prior to any change in the corporation that may affect compliance obligations arising under this order, including but not limited to a dissolution, assignment, sale, merger, or other action that would result in the emergence of a successor corporation; the creation or dissolution of a subsidiary, parent, or affiliate that engages in any acts or practices subject to this order; the proposed filing of a bankruptcy petition; or a change in the corporate name or address. Provided, however, that, with respect to any proposed change in the corporation about which respondent learns less than thirty (30) days prior to the date such action is to take place, respondent shall notify the Commission as soon as is practicable after obtaining such knowledge. All notices required by this Part shall be sent by certified mail to the Associate Director, Division of Enforcement, Bureau of Consumer Protection, Federal Trade Commission, Washington, D.C.

XVIII.

It is further ordered, That respondent Sean Shayan, for a period of ten (10) years after the date of issuance of this order, shall notify the Commission of (1) the discontinuance of his current business or employment and (2) his affiliation with any new business or employment where such business or employment relates to the manufacturing, advertising, promoting, offering for sale, sale, or distribution of any food, drug, or dietary supplement. The notice shall include respondent's new business address and telephone number and a description of the nature of the business or employment and his duties and responsibilities. All notices required by this Part shall be sent by certified mail to the Associate Director, Division of Enforcement, Bureau of Consumer Protection, Federal Trade Commission, Washington, D.C.

XIX.

It is further ordered, That respondents Global World Media Corporation, and its successors and assigns, and respondent Sean Shayan 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 that manner and form in which they have complied with this order.

XX.

This order will terminate on October 9, 2017, 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;

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 this 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.

ATTACHMENT A

TO BE DELIVERED BY CERTIFIED MAIL OR IN PERSON
[To be printed on Global World Media Corporation letterhead]

[date]

Dear [name]:

This letter is to inform you that Global World Media Corporation ("GWMC") recently settled a civil dispute with the Federal Trade Commission ("FTC") regarding certain alleged claims about Ecstacy or Herbal Ecstacy tablets

("Ecstacy"). Although we do not admit the violations alleged in the FTC complaint, we have entered into this settlement with the FTC to avoid litigation. As part of the settlement, we are required to notify our employees and others who make or receive calls about Ecstacy, or other ephedrine-containing products sold by GWMC, to stop making certain statements prohibited by the order and to notify the caller of the potentially serious health risks associated with taking these products.

Effective immediately, you **must** comply with the following requirements when contacting potential purchasers or responding by telephone, in writing, or by any other means to any inquiry about Ecstacy or any other ephedrine-containing product sold by GWMC. These products include [list here by product name any ephedrine-containing products other than Ecstacy sold by GWMC as of the date of this notice]:

1. You **must** make the following disclosure in your communications about Ecstacy or any other ephedrine product:

* **"I am required to give you the following important information:**

WARNING: This product contains ephedrine which can have dangerous effects on the central nervous system and heart and could result in serious injury. Risk of injury increases with dose."

[In the event any FDA rule or regulation requires a different warning or disclosure in labeling about the health and safety effects of such products, substitute that warning or disclosure here.]

When given orally, this statement must be read prior to any other discussion about the product and in a tone of voice and at a speed that will permit the caller to hear the disclosure and understand the seriousness of the warning. When included in any written communication, this statement must be presented clearly and prominently and before any other information about the product. You must **not** make any statement or other suggestion that could contradict this statement.

2. You must **not** make any statement or other suggestion about the number of tablets that users can take, other than to repeat the dose information on the product label.

Under the FTC order, we are required to get a signed statement from you that you have read this letter and intend to comply with its requirements. Accordingly, you must sign and return the following statement to us.

Failure to sign and return the attached statement promptly or to comply with the provisions of this letter will result in your termination.

Your cooperation in complying with this letter is appreciated. If you have any questions, please contact William H. Dailey at (310) 458-0810 [in the event that he no longer represents GWMC, the name and telephone number of the acting attorney, or if none, an officer of GWMC, may be substituted].

Sincerely,

Sean Shayan
President

Global World Media Corporation

==========

[perforation for tear-away statement]

I have read this letter and understand it and will keep a copy to refer to when answering consumer calls. In the future I intend to comply with the provisions of the letter. I understand that the failure to do so will result in my termination.

_____

[recipient's name] [date]

ATTACHMENT B

BY CERTIFIED MAIL, RETURN RECEIPT REQUESTED
[to be printed on Global World Media Corporation letterhead]

[date]

Dear [name]

This letter is to inform you that Global World Media Corporation ("GWMC") recently settled a civil dispute with the Federal Trade Commission ("FTC") regarding certain alleged claims about Ecstacy or Herbal Ecstacy tablets ("Ecstacy"). Although we do not admit to the violations alleged in the FTC complaint, we have entered into this settlement with the FTC to avoid litigation. As part of the settlement, we are required to notify anyone who purchases for resale Ecstacy or other ephedrine-containing products sold by GWMC, including [list any ephedrine-containing products sold by GWMC as of the date of this letter], to stop using advertising or promotional materials that make any of the representations prohibited by the settlement.

Allegations of the FTC Complaint

The FTC complaint alleges that GWMC claimed that the use of Ecstacy in the recommended doses or other reasonably foreseeable amounts is absolutely safe and will cause no side effects. The complaint challenges these claims as false and unsubstantiated, noting that the use of products that contain ephedrine alkaloids, such as Ecstacy, can have dangerous effects on the central nervous system and heart. The complaint also charges that GWMC's advertising for Ecstacy included false endorsements from fictitious persons, including Dr. Steven Jonson.

FTC Order Provisions

The order we entered into as part of our settlement with the FTC requires us to comply with the following provisions:

1. We are prohibited from making claims in advertising, labeling and other promotions for Ecstacy, or any other food, drug or dietary supplement, that such product is absolutely safe or causes no side effects, or from making any other claim about the product's safety or lack of side effects, unless the claim is true and we have competent and reliable scientific evidence to support it.

2. We are prohibited in advertising, labeling, and other promotions for Ecstacy or other products we sell that contain ephedrine, including those listed above, from recommending a dose that exceeds the maximum level for ephedrine as established by FDA for dietary supplements [insert FDA standard as of the date of this letter].

3. We are prohibited in advertising, labeling, and other promotions for any product from representing falsely that any testimonial or endorsement of the product reflects the actual experience and current opinions, findings, beliefs or experiences of the testimonial or endorser.

4. We are required in all advertising, labeling, and other promotions for Ecstacy and other ephedrine-containing products to make the following disclosure clearly and prominently:

WARNING: This product contains ephedrine which can have dangerous effects on the central nervous system and heart and could result in serious injury. Risk of injury increases with dose.

[In the event any FDA rule or regulation requires a different warning or disclosure in labeling, about safety or health effects of such products, substitute that warning or disclosure here.]

5. Finally, we are prohibited from marketing Ecstacy or any other ephedrine-containing product for its euphoric, psychotropic, or sexual effects, through any advertising, marketing, or other promotions directed at an audience with 50% or more of its members under the age of twenty-one.

As part of our settlement with the FTC, GWMC must take steps (such as sending you this letter) to ensure that people who purchase for resale Ecstacy or other ephedrine-containing products sold by GWMC stop using any advertising or promotional materials that do not fully comply with the requirements described above. If you continue to use materials that do not fully comply with such requirements, we are required by the settlement with the FTC to stop selling Ecstacy and other ephedrine-containing products to you.

Thank you for your assistance. If you have any questions, please contact William H. Dailey at (310) 458-0810 [in the event that he no longer represents GWMC, the name and telephone number of the acting attorney, or if none, an officer of GWMC, may be substituted].

Sincerely,

Sean Shayan
President
Global World Media Corporation

IN THE MATTER OF

AUTOMATIC DATA PROCESSING, INC.

CONSENT ORDER, ETC., IN REGARD TO ALLEGED VIOLATION OF SEC. 7 OF THE CLAYTON ACT AND SEC. 5 OF THE FEDERAL TRADE COMMISSION ACT

Docket 9282. Complaint, Nov. 13, 1996--Decision, Oct. 20, 1997

This consent order requires, among other things, Automatic Data Processing, Inc. ("ADP"), the New Jersey salvage-yard parts trading information network, to divest the former AutoInfo assets as an ongoing business, to grant the acquirer a paid-up, perpetual, non-exclusive license to the "Hollander Interchange" (the cross- indexed numbering system of interchangeable auto parts) and to provide updates to the Hollander Interchange until the acquirer can create its own updates. The consent order also requires ADP, for one year after divestiture, to allow the acquirer to draw on ADP's technical assistance, and to allow certain contractual customers to switch to the acquirer's product without penalty. In addition, the consent order prohibits ADP from restricting its employees from accepting employment with the acquirer and, for 10 years, prohibits it from restricting its customers' ability to connect to and receive or transmit inventory data through the acquirer's products and requires it to provide information necessary for the acquirer or its licensees to create interfaces with ADP's products. Finally, for 10 years, the consent order requires ADP to obtain FTC approval before reacquiring any AutoInfo assets and to notify the FTC before acquiring other assets used in salvage-yard management or communications systems.

Appearances

For the Commission: *Howard Morse, Eric Rohlck* and *William Baer.*

For the respondent: *Kevin Arquit, Rogers & Wells,* New York, N.Y. and *Steve Newborn, Roger & Wells*, Washington, D.C.

COMPLAINT

The Federal Trade Commission ("Commission"), having reason to believe that respondent Automatic Data Processing, Inc. ("ADP"), a corporation, entered into an agreement with and acquired assets of AutoInfo, Inc. ("AutoInfo"), in violation of Section 5 of the Federal Trade Commission Act, as amended, 15 U.S.C. 45, and Section 7 of the Clayton Act, as amended, 15 U.S.C. 18, and attempted to monopolize and monopolized markets in violation of Section 5 of the Federal Trade Commission Act, and that a proceeding in respect

thereof would be in the public interest, hereby issues its complaint, stating its charges as follows:

RESPONDENT AUTOMATIC DATA PROCESSING, INC.

1. Respondent Automatic Data Processing, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of Delaware, with its principal place of business at One ADP Boulevard, Roseland, New Jersey. ADP, which had total revenues of approximately $3 billion in 1995, provides information services and develops and sells computerized information systems to a variety of industries, including, through its Claims Solutions Group, to automotive salvage yards and insurance companies.

JURISDICTION

2. ADP is, and at all times relevant herein has been, engaged in commerce as "commerce" is defined in Section 1 of the Clayton Act, as amended, 15 U.S.C. 12, and is a corporation whose business is in or affects commerce as "commerce" is defined in Section 4 of the Federal Trade Commission Act, as amended, 15 U.S.C. 44.

THE ACQUISITION

3. Pursuant to a letter of intent entered in December 1994 and an asset purchase agreement dated January 31, 1995, ADP agreed to acquire assets of AutoInfo, a company that, like ADP, provided information services to automotive salvage yards and insurance companies. In 1994, prior to ADP's acquisition of AutoInfo assets, AutoInfo had sales in excess of $20 million. The acquired assets consisted of several business units of AutoInfo described in the January 31, 1995, asset purchase agreement and included all rights to the AutoInfo interchange, the Checkmate Computer Inventory System for salvage yards, the ORION Communications Network, the AutoInfo Locator, a computerized on-line service offered to insurance companies to locate salvage yard parts, and the assumption of the data collector responsibilities for the Automotive Recyclers Association ("ARA") International Database. These assets constituted substantially all of AutoInfo's assets involved in the development and sale of information services and products for the automotive salvage industry.

4. ADP and AutoInfo submitted Premerger Notification and Report Forms to the Federal Trade Commission and Department of

Justice pursuant to the Hart-Scott-Rodino Act ("HSR"), Section 7A of the Clayton Act, 15 U.S.C. 18a, on December 7, 1994. ADP's filing, however, was deficient because it failed to include documents responsive to Item 4(c) of the Premerger Notification and Report Form.

5. ADP consummated the transaction and acquired the AutoInfo assets on or about April 1, 1995 ("Acquisition").

6. ADP recertified its filing in January 1996, when it submitted a corrected filing with numerous documents responsive to Item 4(c). The withheld Item 4(c) documents demonstrated, among other things, that there was an anticompetitive intent underlying the proposed acquisition, that the proposed acquisition would create serious competitive concerns, and that ADP believed that the Acquisition would give ADP a monopoly or virtual monopoly in several product markets.

7. Had ADP submitted the required Item 4(c) documents in a timely manner, the Federal Trade Commission likely would have issued a Request for Additional Information and Documentary Material, as authorized under the HSR Act, 15 U.S.C. 18a(e)(1), and could have sought an injunction to prevent consummation of the Acquisition.

8. On April 10, 1996, the United States District Court for the District of Columbia ordered ADP to pay $2.97 million in civil penalties pursuant to a complaint and stipulation in settlement of civil penalty liability claims by the United States against ADP under Section 7A(g)(1) of the Clayton Act, 15 U.S.C. 18a(g)(1).

THE SALVAGE INDUSTRY

9. Salvage yards use the ADP and former-AutoInfo products in buying and selling used parts and parts-assemblies for automobiles and small trucks. Salvage yards obtain used parts by purchasing wrecked vehicles and dismantling the purchased wrecks into discrete parts or aggregations of parts called parts-assemblies. Salvage yards sell used parts and parts-assemblies (hereafter collectively referred to as "parts") to automotive repair shops, "do-it-yourself" consumers, other salvage yards, and other customers.

10. Salvage yards use computerized information systems to help them with buying and selling parts. Computerized information systems automate the process of managing inventories of parts and the process of making exchange sales with other salvage yards. Computer hardware and software are used, among other things, to

compile records on parts in stock, to locate requested parts in yard facilities, to prepare invoices and customer records, and to compile reports on sales activity. In addition, these computer systems are linked to electronic communications networks that enable yards to search for parts in the inventories of yards linked together on the network. Combined, these functions enabled by computerized information systems increase efficiency, lower costs, and increase sales volume for yards that use them.

11. One of the principal inventory-management functions -- locating requested parts in stock -- is facilitated within computerized information systems by an automobile and truck parts interchange, a numbering system that is unique to the salvage industry ("interchange"). An interchange is the product of a compilation of data about parts interchangeability cross-indexed by a numbering system, which provides a convention or code for assigning numbers to parts so as to identify groups of parts that are interchangeable. Automobile manufacturers ("OEMs") design and manufacture parts to be used across several models and over a number of years; hence, parts in a given vehicle share identical or virtually identical designs with parts of at least some other models and years. A number in the interchange represents a unique identifier for a class of parts that can be substituted for each other (*i.e.*, make a perfect or near-perfect fit when used as a replacement part). This coding system allows salvage yards to substitute parts built for a given model and year of a vehicle with interchangeable parts built for different models and years.

12. Extensive research and time is necessary to create a useful interchange because there are thousands of parts in a car or truck, numerous models from each manufacturer, a number of years of models with parts that are interchangeable -- yet a different range for each model and each part -- and a number of manufacturers. With each new model every year, OEMs often will use a unique OEM number for each individual part, regardless of the individual part's interchangeability.

13. Using an interchange, salvage yard personnel will be able to know whether they can satisfy a customer's request for a replacement part from the yard's inventory of parts even if they do not have a part from the exact model and year of the damaged vehicle. In this way, use of an interchange enables yards to increase their sales by identifying interchangeable parts for customer requests, which effectively expands their inventories.

14. Many salvage yards use a computerized inventory-control and database system called a yard management system, which employs an electronic version of the interchange. The interchange is built into the inventory database and designed to interact with it to automate the process of finding parts in stock. The salesperson can type in a part description, and the computer's internal database, utilizing the interchange in electronic form, will bring up a display on the computer monitor of the interchangeable parts that are in stock, along with their location in the storage facility.

15. Using an electronic communications network that is directly linked to its yard management system, a salvage yard can also automatically locate interchangeable parts in the inventories of other salvage yards that use the same yard management system and are linked to the same electronic network. The provider of the computerized information system creates a central inventory database pooling the inventory of the yard management systems customers. This central database can be searched by yards using the yard management system and the electronic network hook-up that transmits the search requests to the database and the search results back to the yard management system. These search results are displayed on the computer screen (and can be printed out in hard-copy) like searches done within the yard's own inventory. As with searches performed in-house, searches of the central database utilize the electronic interchange to locate interchangeable parts in other yards' inventories.

THE RELEVANT MARKETS

Salvage Yard Information Systems Market

16. A relevant line of commerce in which to assess the effects of the Acquisition is the integrated group of information products and services that form the complete salvage yard information systems network, consisting of an interchange integrated with yard management systems and electronic communications systems, described in paragraphs nine-fifteen and incorporated herein.

17. At the time of the Acquisition, ADP sold as a salvage yard information system the Hollander interchange, the Hollander Yard Management System ("HYMS"), and the Electronic Data Exchange Network ("EDEN"), an electronic communication network. ADP competed with AutoInfo, which sold a system that combined the AutoInfo interchange, the AutoInfo yard management system (available in different versions called "Classic," "Checkmate," and

"Checkmate Jr."), and ORION/RTS electronic communication network. ADP and AutoInfo, as well as salvage yards and fringe competitors, recognize that prior to the Acquisition, ADP and AutoInfo were fierce competitors and the only competitors offering integrated systems. ADP and AutoInfo competed for new and existing customers to whom they could sell and service salvage yard information systems.

18. There are no economic substitutes for the integrated group of products that makes up the salvage yard information systems market.

19. In addition to the salvage yard information systems market, each of the individual components constituting the salvage yard information systems market, described below, may be sold in separate lines of commerce that can be analyzed for purposes of determining the effects of the Acquisition.

Interchange Market

20. Another relevant line of commerce in which to analyze the effects of the Acquisition is the development and sale of automotive parts and assemblies interchanges.

21. There are no economic substitutes for an interchange. Automobile manufacturers do not make public data on parts interchangeability and do not provide a cross-indexing system to parts numbers between models or model years.

22. Before the Acquisition, ADP owned the Hollander Interchange, one of only two interchanges used by the salvage industry. AutoInfo owned the AutoInfo Interchange, the only other interchange used by the salvage industry.

Salvage Yard Management Systems Market

23. Another relevant line of commerce in which to analyze the effects of the Acquisition is the development and sale of yard management systems integrated with interchange.

24. ADP sells its yard management system under the name Hollander Yard Management System and HYMS Lite. The HYMS and HYMS Lite products integrated the Hollander Interchange. Prior to the Acquisition, AutoInfo sold yard management systems called "Checkmate," "Checkmate Jr." and "Classic." AutoInfo's yard management systems integrated the AutoInfo Interchange. After the Acquisition, ADP announced that it would not sell Checkmate, Checkmate Jr. or Classic for new installations, and has not sold any new units of these products.

Electronic Communications Systems Market

25. Another relevant line of commerce in which to assess the effects of the Acquisition is the development and sale of electronic communications systems used by salvage yards to locate parts through searches of a central database of parts.

26. Other communications methods, such as the use of either ordinary public-switched telephone service and leased open party lines, often referred to as "hoot 'n holler" lines, are not effective substitutes for the electronic communication systems.

27. ADP sells a fee-based service using an electronic network called EDEN. Customers can use EDEN to link their HYMS yard management system into a central database, maintained by ADP, which is linked to other HYMS units that utilize EDEN. Prior to the Acquisition, AutoInfo sold a fee-based service using an electronic network called ORION/RTS. Customers used ORION/RTS to link their Checkmate yard management system into a central database, which was linked to other Checkmate units that utilized ORION. These electronic communications services can be used as standalone products by salvage yards that want access to the central database of available parts and assemblies to locate parts but that do not contribute their inventory data to the central database, and thus cannot sell parts through the electronic communications system.

Salvage Yard Inventory Data for Estimates Market

28. Another relevant line of commerce in which to assess the effects of the Acquisition is the collection and provision of salvage yard inventory data to customers who provide such data as a part of estimating products sold to insurance companies.

29. Insurance companies use estimating software products developed and sold by companies such as ADP, CCC Information Services and Mitchell International to assist in determining the cost to repair a damaged automobile ("Estimating Software Providers"). The estimate includes necessary parts and the required labor time. The estimating software can include a function that reveals the availability and price of salvage parts for use in the auto repair. The Estimating Software Providers acquire the salvage yard inventory data from databases that collect the data from the salvage yards' yard management systems. This salvage yard inventory data information is provided in electronic form to the Estimating Software Providers.

30. ADP provides data on available salvage parts through its Parts Exchange Salvage ("PXS") service. PXS is utilized by insurance

companies that use ADP's estimate-preparing software. Prior to the Acquisition, AutoInfo -- under a contract with the Automotive Recyclers Association -- collected and provided salvage part inventory data to Estimating Software Providers through the ARA International Database. Since the Acquisition, ADP has collected salvage part data for the ARA International Database for use by Estimating Software Providers who compete against ADP.

GEOGRAPHIC MARKET

31. The relevant geographic area in which to assess the effects of the Acquisition is the United States or, alternatively, the United States and Canada.

MARKET STRUCTURE

32. Each of the markets for the relevant products is highly concentrated. ADP is the only supplier of an interchange, the only provider of salvage yard information systems, the dominant provider of yard management systems, with a market share of at least 80%, and the only provider of electronic communications systems that enable parts locating through a central database of parts.

33. ADP's acquisition of AutoInfo assets was part of a plan to acquire the leading information service providers to the salvage industry and thereby acquire market power. By 1992, ADP had formulated a plan of sequential acquisitions of Hollander, Inc. ("Hollander"), a provider of salvage yard information services with the largest customer base, and AutoInfo, which had the second largest customer base. ADP acquired Hollander in 1992. Acquiring both companies in sequence was a part of ADP's strategy to control the computerized salvage yards in the industry and the suppliers of the computerized systems.

34. ADP's principal and only significant competitor in the relevant product markets prior to the Acquisition was AutoInfo. AutoInfo produced the only other interchange used by salvage yards and the only other yard management system with an integrated electronic interchange. AutoInfo also produced the only other electronic communications network that enables parts locating through a central database. AutoInfo was the only other firm that provided a comparable integrated information system. Prior to the Acquisition, AutoInfo was also the only competitor to ADP in providing a comprehensive database of salvage parts collected

electronically from yard management systems and electronic networks.

35. There are three other extremely small yard management system suppliers, each of which is dependent upon a restrictive license from ADP for use of the Hollander Interchange.

36. Prior to the Acquisition, ADP and AutoInfo were vigorous, head-to-head competitors in the relevant product markets.

37. The closeness of competition between ADP and AutoInfo was also reflected in innovation competition. ADP and AutoInfo competed vigorously to provide communications capabilities to complement their respective yard management systems. ADP responded to AutoInfo's ORION network, originally capable only of transmitting text-messages, by developing the EDEN electronic network, which allowed direct connection between the HYMS yard management system and a centralized parts inventory database. AutoInfo's response to EDEN, as a competitive challenge to ORION, was to improve ORION by augmenting it with a system similar to EDEN for use by customers of the AutoInfo yard management system.

38. After the Acquisition, ADP now owns the principal and, in some cases, the only products in the relevant markets.

ENTRY CONDITIONS

39. Entry into the relevant product markets would not be timely, likely, or sufficient in its magnitude, character, and scope to deter or counteract anticompetitive effects of the Acquisition. ADP's interchange is protected by copyright and is based on a database that took many years to develop and would be difficult and time-consuming to attempt to reproduce. The interchange is also the key input into yard management systems and electronic communication systems and without entry into the interchange market, it is also unlikely that timely or sufficient entry will occur into these other product markets. It is also unlikely that timely or sufficient entry will occur in the collection and dissemination of salvage yard inventory data largely because of the time, expense and difficulty in collecting that salvage yard inventory data independently of ADP and because ADP is the gatekeeper of the salvage yard inventory data through its control of the interchange, integrated yard management systems, electronic communications systems and salvage yard information systems.

40. Entry into the market for yard management systems and electronic communications networks or, alternatively, into the salvage yard information systems market is also difficult, time-consuming, and unlikely because of the large number of customers ADP currently has using these products and services. Yard management systems and electronic communication systems are used to create a network for buying and selling used parts, and salvage yards are reluctant to rely upon a new entrant without a significant number of other salvage yard customers participating in the network.

ANTICOMPETITIVE EFFECTS OF THE ACQUISITION

41. The Acquisition substantially lessened or may substantially lessen competition in the following ways, among others:

a. It has eliminated AutoInfo as a substantial independent competitor;

b. It has eliminated actual, direct and substantial competition between ADP and AutoInfo;

c. It has increased the level of concentration in the relevant product markets;

d. It has led or may lead to increases in price for the relevant products;

e. It has led or may lead to the reduction in maintenance and service for the relevant products;

f. It has led or may lead to reductions in technological improvement or innovations in the relevant products;

g. It has increased barriers to entry into the relevant markets;

h. It has inconvenienced and caused financial harm to users of AutoInfo's interchange, yard management system, electronic communication system and information system through failure to provide upgrades altogether or to provide upgrades in a timely fashion;

i. It has given ADP market power in the relevant product markets;

j. It has allowed or may allow ADP unilaterally to exercise market power in the relevant product markets, by increasing prices for yard management systems, electronic communications and information systems and by reducing service and innovation competition;

k. It has given ADP monopoly power or a dangerous probability of success in obtaining monopoly power in the relevant product markets.

VIOLATIONS ALLEGED

COUNT I -- ILLEGAL ACQUISITION

42. The allegations contained in paragraphs one through forty-one are repeated and realleged as though fully set forth here.

43. The effect of the Acquisition may be substantially to lessen competition or tend to create a monopoly in violation of Section 7 of the Clayton Act, 15 U.S.C. 18, and Section 5 of the Federal Trade Commission Act, 15 U.S.C. 45.

COUNT II -- ILLEGAL ACQUISITION AGREEMENT

44. The allegations contained in paragraphs one through forty-one are repeated and realleged as though fully set forth here.

45. ADP, through the acquisition agreements described in paragraph three, has engaged in unfair methods of competition in or affecting commerce in violation of Section 5 of the Federal Trade Commission Act, 15 U.S.C. 45.

COUNT III -- ATTEMPT TO MONOPOLIZE

46. The allegations contained in paragraphs one through forty-one are repeated and realleged as though fully set forth here.

47. Through the acquisition of Hollander and the acquisition of AutoInfo assets, ADP has engaged in unfair methods of competition in or affecting commerce by attempting to monopolize the relevant product markets in violation of Section 5 of the Federal Trade Commission Act, 15 U.S.C. 45.

COUNT IV -- MONOPOLIZATION

48. The allegations contained in paragraphs one through forty-one are repeated and realleged as though fully set forth here.

49. Through the acquisition of Hollander and the acquisition of AutoInfo assets, ADP has engaged in unfair methods of competition in or affecting commerce by monopolizing the relevant product markets in violation of Section 5 of the Federal Trade Commission Act, 15 U.S.C. 45.

DECISION AND ORDER

The Commission having heretofore issued its complaint charging the respondent named in the caption hereof with violation of Section 5 of the Federal Trade Commission Act, as amended, and Section 7 of the Clayton Act, as amended, and the respondent having been

served with a copy of that complaint, together with a notice of contemplated relief; and

The respondent, its attorney, and counsel for the Commission having thereafter executed an agreement containing a consent order, and admission by the respondent of all of the jurisdictional facts set forth in the complaint, a statement that the signing of said agreement is for settlement purposes only and does not constitute an admission by respondent that the law has been violated as alleged in such complaint, or that the facts as alleged in such complaint, other than jurisdictional facts, are true and waivers and other provisions as required by the Commission's Rules; and

The Secretary of the Commission having thereafter withdrawn this matter from adjudication in accordance with Section 3.25(b) of its Rules; and

The Commission having considered the matter and having thereupon accepted the executed consent agreement and placed such agreement on the public record for a period of sixty (60) days, and having duly considered the comments filed thereafter by interested persons pursuant to Section 3.25(f) of its Rules, now in further conformity with the procedure prescribed in Section 3.25(f) of its Rules, the Commission hereby makes the following jurisdictional findings and enters the following order:

1. Respondent Automatic Data Processing, Inc. is a corporation organized, existing and doing business under and by virtue of the laws of the State of Delaware with its office and principal place of business located at One ADP Boulevard, Roseland, New Jersey.

2. The Federal Trade Commission has jurisdiction of the subject matter of this proceeding and of respondent, and the proceeding is in the public interest.

ORDER

I.

It is ordered, That, as used in this order, the following definitions shall apply:

A. *"Respondent"* or *"ADP"* means Automatic Data Processing, Inc., its directors, officers, employees, agents and representatives, predecessors, successors and assigns; its subsidiaries, divisions, groups and affiliates controlled by ADP, and the respective directors,

officers, employees, agents, and representatives, successors, and assigns of each.

B. *"Parts Services"* means the Parts Services Division of ADP Claims Solutions Group, Inc., a subsidiary of ADP.

C. *"Commission"* means the Federal Trade Commission.

D. *"Acquisition"* means the April 1, 1995, acquisition by ADP of assets from AutoInfo, Inc., including salvage yard management systems, communications systems and networks, automotive interchange, inventory data collection contracts and other assets.

E. The *"AutoInfo Assets"* means the AutoInfo Interchange, the AutoInfo YMS, the AutoInfo Communication Systems, AutoInfo Parts Locator and the ARA Database Collector, and a non-exclusive, paid-up license to all research and development, by or for Parts Services, since April 1, 1995, through the date of divestiture for any new yard management system or communication system.

F. The *"Hollander Interchange"* means the numeric indexing system developed, maintained and sold or licensed originally by Hollander, Inc. and subsequently by ADP and used to identify automotive parts and assemblies and their ability to be interchanged and includes all updates prepared by or for ADP up to the date of divestiture pursuant to paragraph II or paragraph III of this order, including but not limited to any interchange developed or updated by ADP since the Acquisition from then-existing Hollander Interchange and AutoInfo Interchange data.

G. The *"AutoInfo Interchange"* means the numeric indexing system owned by ADP, but previously developed, maintained and sold by AutoInfo, used to identify automotive parts and assemblies and their ability to be interchanged and includes all updates to the AutoInfo Interchange prepared by or for AutoInfo up to the date of the Acquisition or by or for ADP up to the date of divestiture pursuant to paragraph II or paragraph III of this order, and includes supplier and service contracts, research and development, and other tangible and intangible assets used in the development and maintenance of the AutoInfo Interchange.

H. *"AutoInfo YMS"* means Checkmate, Checkmate Jr., Classic, the BidPad, PartPad, accounting and management modules, and any other salvage yard management systems developed, maintained, sold or licensed by AutoInfo, Inc., and subsequently by ADP, including source codes, application program interfaces, data formats and communication protocols, customer, supplier and service contracts,

goodwill, research and development, and other tangible and intangible assets relating thereto.

I. *"AutoInfo Communication Systems"* means the ORION, ORION/RTS, AutoMatch, AutoXchange, and ORION Exchange communication systems used for the buying and selling of used auto parts and assemblies, including source codes, application program interfaces, data formats and communication protocols, customer, supplier and service contracts, goodwill, research and development and other tangible and intangible assets relating thereto, and respondent's rights and obligations with respect to current and former subscribers to CalQwik.

J. *"ARA"* means the Automotive Recyclers Association.

K. *"ARA Database Agreement"* means the February 27, 1996, "Amended and Restated Agreement Regarding the ARA International Database by and between Automotive Recyclers Association and ADP Claims Solutions Group, Inc." and any addenda thereto.

L. *"ARA Database Collector"* means the rights and obligations to act as the manager and operator of the Automotive Recyclers Association International Database pursuant to the ARA Database Agreement.

M. *"Compass"* means the Compass Communications Network, the group of voice communication, data, and buying networks to the automobile salvage industry formerly owned by AutoInfo, and customer, supplier and service contracts, goodwill, research and development and other tangible and intangible assets used in the development, maintenance, sale or licensing of the Compass communication systems.

N. *"AutoInfo Parts Locator"* means the AutoInfo Parts Locator, a computerized on-line telephone service that is offered to the automobile casualty insurance industry, which uses ORION/RTS, and software that provides access to the ORION/RTS database, customer, supplier and service contracts, customer lists, goodwill, research and development and other tangible and intangible assets used in the development, maintenance, sale or licensing of the AutoInfo Parts Locator.

O. *"HYMS"* means the Hollander Yard Management System, originally developed, maintained and sold or licensed by Hollander, Inc., and subsequently developed, maintained and sold or licensed by ADP.

P. *"EDEN"* means the Electronic Data Exchange Network, a communications and database inventory-search system used by

salvage yards for the buying and selling of used automobile parts and assemblies.

Q. *"Trustee Assets"* means the AutoInfo Assets and Compass.

R. *"Acquirer"* means the acquirer or acquirers of the AutoInfo Assets pursuant to paragraph II or the Trustee Assets pursuant to paragraph III of this order.

II.

A. Respondent shall divest, absolutely and in good faith, (1) within one hundred fifty (150) days after the date the agreement containing consent order is accepted for public comment by the Commission, or (2) within sixty (60) days after the date on which this order becomes final, whichever date is later, the AutoInfo Assets as an on-going business to the Acquirer at the time of divestiture. Respondent shall divest the AutoInfo Assets only to an acquirer or acquirers that receive the prior approval of the Commission and only in a manner that receives the prior approval of the Commission. The purpose of the divestiture of the AutoInfo Assets is to maintain the AutoInfo Assets as on-going businesses, to continue use of the AutoInfo Assets in the same businesses in which the AutoInfo Assets were engaged at the time of the Acquisition in competition with ADP, and to remedy the lessening of competition resulting from the Acquisition as alleged in the Commission's complaint.

Provided, however, respondent may, in lieu of divesting its rights as the ARA Database Collector to an Acquirer pursuant to this paragraph II.A and in satisfaction of its obligations to divest its rights as the ARA Database Collector under this paragraph II.A, terminate in accordance with all of the provisions specified in the ARA Database Agreement its role as the ARA Database Collector.

Provided, however, respondent shall grant to any entity that becomes the ARA Database Collector, if such entity is not the Acquirer, a royalty-free license to the Hollander Interchange to use solely for purposes of collecting and transmitting data and managing and operating a database for the ARA pursuant to a data collection agreement with the ARA.

Provided, however, respondent may retain a non-exclusive, paid-up license to the AutoInfo Interchange as of the date of the divestiture, excluding supplier and service contracts, research and development, and other tangible and intangible assets used in the development and maintenance of the AutoInfo Interchange.

B. Pending divestiture of the AutoInfo Assets, respondent shall take such actions as are necessary to maintain the viability, competitiveness and marketability of the AutoInfo Assets and the Trustee Assets and to prevent the destruction, removal, wasting, deterioration, or impairment of any of the AutoInfo Assets and the Trustee Assets except for ordinary wear and tear.

C. Respondent shall comply with the terms of the Asset Maintenance Agreement, which is attached hereto and incorporated herein.

III.

It is further ordered, That:

A. If respondent has not divested the AutoInfo Assets pursuant to and within the time required by paragraph II.A, the Commission may appoint a trustee to divest the Trustee Assets. The trustee shall have all rights and powers necessary to permit the trustee to effect the divestiture of the Trustee Assets in order to assure the viability, competitiveness, and marketability of the Trustee Assets and to accomplish the remedial purposes of this order. In the event that the Commission or the Attorney General brings an action pursuant to Section 5(l) of the Federal Trade Commission Act, 15 U.S.C. 45(l), or any other statute enforced by the Commission, respondent shall consent to the appointment of a trustee in such action. Neither the appointment of a trustee nor a decision not to appoint a trustee under this paragraph shall preclude the Commission or the Attorney General from seeking civil penalties or any other relief available to it, including a court-appointed trustee, pursuant to Section 5(l) of the Federal Trade Commission Act, or any other statute enforced by the Commission, for any failure by the respondent to comply with this order.

Provided, however, the trustee may, at his or her option and in satisfaction of his or her obligations under this paragraph III.A, require ADP to terminate its role as the ARA Database Collector pursuant to the ARA Database Agreement.

Provided, however, respondent shall grant to any entity that becomes the ARA Database Collector, if such entity is not the Acquirer, a royalty-free license to the Hollander Interchange to use solely for purposes of collecting and transmitting data and managing and operating a database for the ARA pursuant to a data collection agreement with the ARA.

Provided, however, respondent may retain a non-exclusive, paid-up license to the AutoInfo Interchange as of the date of the divestiture, excluding supplier and service contracts, research and development, and other tangible and intangible assets used in the development and maintenance of the AutoInfo Interchange.

B. If a trustee is appointed by the Commission or a court pursuant to this order, respondent shall consent to the following terms and conditions regarding the trustee's powers, duties, authority, and responsibilities:

1. The Commission shall select the trustee, subject to the consent of respondent, which consent shall not be unreasonably withheld. The trustee shall be a person with experience and expertise in acquisitions and divestitures. If respondent has not opposed, in writing, including the reasons for opposing, the selection of any proposed trustee within ten (10) days after written notice by the staff of the Commission to respondent of the identity of any proposed trustee, respondent shall be deemed to have consented to the selection of the proposed trustee.

2. Subject to the prior approval of the Commission, the trustee shall have the exclusive power and authority to divest the Trustee Assets.

3. Within ten (10) days after appointment of the trustee, respondent shall execute a trust agreement that, subject to the prior approval of the Commission and, in the case of a court-appointed trustee, of the court, transfers to the trustee all rights and powers necessary to permit the trustee to effect the divestiture required by this order.

4. The trustee shall have twelve (12) months from the date the Commission approves the trust agreement described in paragraph III.B.3 to accomplish the divestiture, which shall be subject to the prior approval of the Commission. If, however, at the end of the twelve-month period, the trustee has submitted a plan of divestiture or believes that divestiture can be achieved within a reasonable time, the divestiture period may be extended by the Commission, or, in the case of a court-appointed trustee, by the court; provided, however, the Commission may extend this period only two (2) times.

5. The trustee shall have full and complete access to the personnel, books, records and facilities related to the Trustee Assets and to any other relevant information, as the trustee may request. Respondent shall develop such financial or other information as such trustee may reasonably request and shall cooperate with the trustee.

Respondent shall take no action to interfere with or impede the trustee's accomplishment of the divestitures. Any delays in divestiture caused by respondent shall extend the time for divestiture under this paragraph in an amount equal to the delay, as determined by the Commission or, for a court-appointed trustee, by the court.

6. The trustee shall use his or her best efforts to negotiate the most favorable price and terms available in each contract that is submitted to the Commission, subject to respondent's absolute and unconditional obligation to divest at no minimum price. The divestiture shall be made in the manner and to the acquirer or acquirers as set out in paragraph II of this order; provided, however, if the trustee receives *bona fide* offers from more than one acquiring entity, and if the Commission determines to approve more than one such acquiring entity, the trustee shall divest to the acquiring entity or entities selected by respondent from among those approved by the Commission.

7. The trustee shall serve, without bond or other security, at the cost and expense of respondent, on such reasonable and customary terms and conditions as the Commission or a court may set. The trustee shall have the authority to employ, at the cost and expense of respondent, such consultants, accountants, attorneys, investment bankers, business brokers, appraisers, and other representatives and assistants as are necessary to carry out the trustee's duties and responsibilities. The trustee shall account for all monies derived from the divestiture and all expenses incurred. After approval by the Commission and, in the case of a court-appointed trustee, by the court, of the account of the trustee, including fees for his or her services, all remaining monies shall be paid at the direction of the respondent, and the trustee's power shall be terminated. The trustee's compensation shall be based at least in significant part on a commission arrangement contingent on the trustee's divesting the Trustee Assets.

8. Respondent shall indemnify the trustee and hold the trustee harmless against any losses, claims, damages, liabilities, or expenses arising out of, or in connection with, the performance of the trustee's duties, including all reasonable fees of counsel and other expenses incurred in connection with the preparation for, or defense of any claim, whether or not resulting in any liability, except to the extent that such liabilities, losses, damages, claims, or expenses result from misfeasance, gross negligence, willful or wanton acts, or bad faith by the trustee.

9. If the trustee ceases to act or fails to act diligently, a substitute trustee shall be appointed in the same manner as provided in paragraph III.A of this order.

10. The Commission or, in the case of a court-appointed trustee, the court, may on its own initiative or at the request of the trustee issue such additional orders or directions as may be necessary or appropriate to accomplish the divestiture required by this order.

11. In the event that the trustee determines that he or she is unable to divest the Trustee Assets in a manner consistent with the Commission's purpose in paragraph II, the trustee may divest additional ancillary assets of respondent related to the Trustee Assets and effect such arrangements as are necessary to satisfy the requirements of the order.

12. The trustee shall have no obligation or authority to operate or maintain the Trustee Assets.

13. The trustee shall report in writing to respondent and the Commission every thirty (30) days concerning the trustee's efforts to accomplish divestiture.

IV.

It is further ordered, That respondent shall:

1.Grant to the Acquirer, at the time of the divestiture, a paid-up, perpetual, non-exclusive license, with no continuing royalties and with unlimited rights to sub-license, to the Hollander Interchange and to each update of the Hollander Interchange, including but not limited to α (alpha) and β (beta) releases of any updates, prepared by or for respondent for a period of three (3) years starting at the date of divestiture, or for such longer period and on such terms as may be agreed by the Acquirer and respondent, and the right to use the name "Hollander Interchange" in reference to the Hollander Interchange and updates prepared by or for the respondent pursuant to this paragraph IV.A. Respondent shall provide such updates to the Acquirer no later than when it first provides each such update to its salvage yard customers; and

2.Provide to the Acquirer, at the time of the divestiture, a copy of, and non-exclusive license to, all computer programs and databases, and a list of and sources for all information, used by respondent to update the Hollander Interchange.

Provided, however, respondent may include in the license entered pursuant to this paragraph IV a provision preventing or limiting the Acquirer from reproducing and selling the copyright protected format of respondent's printed, book form of the Hollander Interchange, but respondent shall not otherwise restrict the Acquirer from producing and selling the Hollander Interchange in any form, including in printed, book form.

V.

It is further ordered, That respondent shall, for a period of twelve (12) months from the date of the divestiture pursuant to paragraph II or paragraph III of this order, allow, without penalty, any customer who entered into a contract for HYMS or EDEN between April 1, 1995 and the date of divestiture, to switch from HYMS to an AutoInfo YMS or any yard management system licensed or sold by the Acquirer and/or switch from EDEN to the AutoInfo Communication Systems or to any communications systems licensed or sold by the Acquirer.

VI.

It is further ordered, That:

A. Respondent shall not prevent, prohibit or restrict or threaten to prevent, prohibit or restrict any person who was employed by respondent in Parts Services, or formerly by AutoInfo, Inc., at any time since January 1, 1995, from working for the Acquirer and shall cooperate with the Acquirer in effecting transfer to the Acquirer of any such employee who chooses to transfer to the Acquirer. Respondent shall not offer any incentive to any such employees to decline employment with the Acquirer or to accept other employment by ADP; and shall remove any non-compete or confidentiality restrictions with respect to employment of such employees by the Acquirer. Respondent shall pay, for the benefit of such employees transferring to the Acquirer, accrued bonuses, vested pensions and other accrued benefits.

Provided, however, respondent may match or exceed the Acquirer's terms for employment offered by the Acquirer to respondent's employees who were not employees of AutoInfo, Inc., as of January 1, 1995.

Provided, however, nothing in this paragraph shall restrict respondent from protecting or asserting respondent's attorney client or work product privileges.

B. For a period of twelve (12) months following the date of divestiture pursuant to paragraph II or paragraph III, upon reasonable notice from the Acquirer, respondent shall provide, at reasonable times and levels, such personnel, information, technical assistance, advice and training to the Acquirer as are necessary to transfer the AutoInfo Assets or the Trustee Assets, as applicable, and to facilitate the Acquirer in developing, maintaining and conducting the AutoInfo Assets as viable, on-going businesses. Such assistance shall include reasonable consultation with knowledgeable employees of ADP to satisfy the Acquirer's management that its personnel are appropriately trained to the extent ADP has the ability to do so after the divestiture is complete. Respondent shall not charge the Acquirer a rate more than its own direct cost for providing such assistance.

C. No later than the date of the execution of a divestiture agreement between respondent and the proposed Acquirer, respondent shall provide the proposed Acquirer with a complete list of all non-clerical employees of ADP who have been involved in the development, production, distribution, or sale of the Hollander Interchange, and of the AutoInfo Assets or of the Trustee Assets at any time during the period from January 1, 1994, until the date of the divestiture agreement. Such list shall state each such individual's name, position, address and telephone number. If the person is no longer employed by respondent, respondent shall provide all such information as it has available.

D. Respondent shall make available to any person, on whose behalf respondent has filed an application to divest, for inspection, the personnel files and other documentation relating to the individuals identified in paragraph VI.C of this order to the extent permissible under applicable laws and with the permission of such individuals. For a period of six (6) months following the divestiture, respondent shall further provide the Acquirer with an opportunity to interview such individuals identified in paragraph VI.C of this order and negotiate employment with any of them.

E. For a period of one (1) year commencing on the date of any individual's employment by the Acquirer pursuant to this paragraph VI, respondent shall not offer employment to such individual, unless such individual is no longer employed by the Acquirer.

VII.

It is further ordered, That, for a period of ten (10) years following the date of divestiture, respondent shall not prohibit, prevent or restrict, or threaten to prohibit, prevent, restrict or enforce any contractual arrangements that have the effect of prohibiting, preventing, or restricting any customer or licensee of the Hollander Interchange from accessing, connecting with, or communicating data through, the products of the Acquirer or its licensees, or the ARA Data Collector, including but not limited to the AutoInfo Communication Systems or any communication system licensed or sold by the Acquirer or its licensees, the AutoInfo YMS or any yard management systems licensed or sold by the Acquirer or its licensees, or data collection systems provided by the Acquirer or its licensees. Respondent shall provide to the Acquirer, for use by Acquirer and its licensees, specifications and information reasonably necessary for the Acquirer and its licensees to create interfaces with respondent's yard management and communications systems and a paid-up, perpetual, non-exclusive license to the Acquirer and its licensees to use the Hollander Interchange and future updates of the Hollander Interchange in connection with collecting or searching inventory data.

Provided, however, nothing in this paragraph VII shall require respondent to extend to the Acquirer or its licensees rights to sell or distribute updates of the Hollander Interchange other than the rights specified in paragraphs II or IV.A of this order.

Provided, however, nothing in this paragraph VII shall require respondent to create or modify application program interfaces or to alter respondent's existing products.

Provided, however, nothing in this paragraph VII shall prohibit the respondent from restricting transmission of Hollander Interchange numbers to persons other than the Acquirer or its licensees.

Provided, however, nothing in this paragraph VII shall require respondent to repair any customer's HYMS or EDEN product in the event such product's functionality is damaged by the use of any product of the Acquirer or its licensees.

VIII.

It is further ordered, That:

A. For a period of ten (10) years from the date of the divestiture of the AutoInfo Assets or the Trustee Assets, respondent shall not, without the prior approval of the Commission, directly or indirectly, through subsidiaries, partnerships, or otherwise, acquire all or any part of the AutoInfo Assets, if divested pursuant to paragraph II, or Trustee Assets, if divested pursuant to paragraph III; and

B. For a period of ten (10) years from the date this order becomes final, respondent shall not, without prior notification to the Commission, directly or indirectly:

1. Acquire any stock, share capital, equity, or other interest in any concern, corporate or non-corporate, engaged in the development or sale of yard management systems or communications systems used by automobile salvage yards within the year preceding such acquisition; provided, however, that an acquisition of such stock, share capital, equity or other interest will be exempt from the requirements of this paragraph if it is solely for the purpose of investment and respondent will hold no more than five (5) percent of the shares of any class of security; or

2. Acquire any assets used or previously used (and still suitable for use) in the development or sale of yard management systems or communications systems used by automobile salvage yards provided, however, that such an acquisition will be exempt from the requirements of this paragraph if the purchase price is less than $1,500,000 (one million five hundred thousand dollars).

The prior notifications required by this paragraph shall be given on the Notification and Report Form set forth in the Appendix to Part 803 of Title 16 of the Code of Federal Regulations as amended (hereinafter referred to as "the Notification"), and shall be prepared, transmitted and kept confidential in accordance with the requirements of that part, except that: no filing fee will be required for any such notification; notification shall be filed with the Secretary of the Commission and a copy shall be delivered to the Bureau of Competition; notification need not be made to the United States Department of Justice; and notification is required only of respondent and not of any other party to the transaction. Respondent shall provide the Notification to the Commission at least thirty (30) days

prior to the consummation of any such transaction (hereinafter referred to as the "initial waiting period"). If, within the initial waiting period, the Commission or its staff makes a written request for additional information and documentary material, respondent shall not consummate the transaction until at least twenty (20) days after complying with such request for additional information and documentary material. Early termination of the waiting periods in this paragraph may, where appropriate, be granted by letter from the Bureau of Competition. Notwithstanding, prior notification shall not be required by this paragraph for a transaction for which notification is required to be made, and has been made, pursuant to Section 7A of the Clayton Act, 15 U.S.C. 18a.

Provided, however, that this paragraph VIII shall not apply to the acquisition of products or services in the ordinary course of business.

IX.

It is further ordered, That:

A. Within thirty (30) days after the date this order becomes final and every thirty (30) days thereafter until respondent has fully complied with the provisions of paragraphs II or III of this order, respondent shall submit to the Commission a verified written report setting forth in detail the manner and form in which it intends to comply, is complying, and has complied with paragraphs II and III of this order. Respondent shall include in its compliance reports, among other things that are required from time to time, a full description of the efforts being made to comply with paragraphs II and III of the order, including a description of all substantive contacts or negotiations for the divestiture and the identity of all parties contacted. Respondent shall include in its compliance reports copies of all written communications to and from such parties, all internal memoranda, and all reports and recommendations concerning divestiture.

B. One year (1) from the date of the divestiture of the AutoInfo Assets pursuant to paragraph II or the Trustee Assets pursuant to paragraph III, and annually thereafter until the obligations of paragraph VIII have expired, and at other times as the Commission may require, respondent shall file a verified written report with the Commission setting forth in detail the manner and form in which it has complied and is complying with paragraphs IV, V, VI, VII and VIII of this order.

X.

It is further ordered, That respondent shall notify the Commission at least thirty (30) days prior to any proposed change in the corporate structure or status of respondent such as dissolution, assignment, sale resulting in the emergence of a successor corporation, or the creation or dissolution of subsidiaries or any other change in the corporation that may affect compliance obligations arising out of the order.

XI.

It is further ordered, That, for the purpose of determining or securing compliance with this order, respondent shall permit any duly authorized representative of the Commission:

A. Access, during office hours and in the presence of counsel, to inspect and copy all books, ledgers, accounts, correspondence, memoranda and other records and documents in the possession or under the control of respondent relating to any matters contained in this order; and

B. Upon five days' notice to respondent and without restraint or interference from it, to interview officers, directors, or employees of respondent.

XII.

It is further ordered, That this order shall terminate on October 20, 2017.

APPENDIX I

ASSET MAINTENANCE AGREEMENT

This Asset Maintenance Agreement is by and between Automatic Data Processing, Inc. ("ADF"), a corporation organized and existing under the laws of the State of Delaware, and the Federal Trade Commission, an independent agency of the United States Government, established under the Federal Trade Commission Act of 1914, 15 U.S.C. 41, *et seq.* ("Commission").

PREMISES

Whereas, ADP acquired certain assets of AutoInfo, Inc. on April 1, 1995 (the "Acquisition");

Whereas, ADP has been served with a copy of the complaint issued by the Federal Trade Commission charging it with violation of Section 5 of the Federal Trade Commission Act, as amended, 15 U.S.C. 45, and Section 7 of the Clayton Act, as amended, 15 U.S. C. 18, and has filed an answer to said complaint denying said charges;

Whereas, if the Commission accepts the Agreement Containing Consent Order ("consent agreement") in this matter, the Commission will place it on the public record for a period of at least sixty (60) days and subsequently may either withdraw such acceptance of the consent agreement and so notify ADP, in which event the Commission will take such action as it may consider appropriate, or issue and serve its decision containing the order in the consent agreement, in disposition of the proceeding;

Whereas, the Commission is concerned that if an understanding is not reached during the period to the final issuance of the consent agreement by the Commission (after the 60-day public notice period), there may be interim competitive harm relating to the assets and businesses proposed for divestiture;

Whereas, ADP understands that no act or transaction contemplated by this Asset Maintenance Agreement shall be deemed immune or exempt from the provisions of the antitrust laws or the Federal Trade Commission Act by reason of anything contained in this Asset Maintenance Agreement.

Now, therefore, ADP agrees, upon the understanding that the Commission has issued an administrative complaint, and in consideration of the Commission's agreement that, from the time it accepts the consent agreement for public comment and pending either the order becoming final or the Commission withdrawing its acceptance of the consent agreement, it will not return this matter to administrative adjudication, as follows:

1. ADP agrees to execute the consent agreement and, pending divestiture of either the AutoInfo Assets or the Trustee Assets, as those terms are defined in the consent agreement, pursuant to paragraph II or paragraph III of the consent agreement, ADP shall take such actions as are necessary to maintain the viability, competitiveness and marketability of the AutoInfo and the Trustee Assets and to prevent the destruction, removal, wasting, deterioration, or impairment of any of the AutoInfo or Trustee Assets except for ordinary wear and tear.

2. ADP agrees that, from the date ADP signs the consent agreement until the first of the dates listed in subparagraphs 2.a and 2.b, it will comply with the provisions of this Asset Maintenance Agreement:

a. Ten (10) business days after the Commission withdraws its acceptance of the consent agreement pursuant to the provisions of Section 3.25(f) of the Commission's Rules; or

b. The date the order is final.

3. ADP waives all rights to contest the validity of this Asset Maintenance Agreement.

4. For the purpose of determining or securing compliance with this Asset Maintenance Agreement, subject to any legally recognized privilege, and upon written request, and on reasonable notice, ADP shall permit any duly authorized representative or representatives of the Commission:

a. Access, during office hours of ADP and in the presence of counsel, to inspect and copy all books, ledgers, accounts, correspondence, memoranda and other records and documents in the possession or under the control of ADP relating to compliance with this Asset Maintenance Agreement; and

b. Upon five days' notice to ADP and without restraint or interference from it, to interview officers, directors, or employees of ADP who may have counsel present, regarding any such matters.

5. This Asset Maintenance Agreement shall not be binding until accepted by the Commission.

IN THE MATTER OF

METAGENICS, INC., ET AL.

CONSENT ORDER, ETC., IN REGARD TO ALLEGED VIOLATION OF SECS. 5 AND 12 OF THE FEDERAL TRADE COMMISSION ACT

Docket 9267. Amended Complaint, October 23, 1997--Decision, October 23, 1997

This consent order, among other things, requires a California-based company and its officer, the marketers of a calcium supplement known as "Bone-Builder," to possess scientific substantiation for any claim that their product or any food, drug or dietary supplement containing calcium will treat or prevent any disease, disorder or condition. The consent order also requires the respondents to possess scientific substantiation for superiority claims for such products and regarding the relationship between calcium and osteoporosis. In addition, the consent order prohibits the respondents from misrepresenting the existence or results of any test or study regarding such products.

Appearances

For the Commission: *Lesley Fair* and *C. Lee Peeler.*

For the respondents: *Robert Ullman, Bass & Ullman,* New York, N.Y.

AMENDED COMPLAINT

The Federal Trade Commission, having reason to believe that Metagenics, Inc., a corporation, doing business as Ethical Nutrients, and Jeffrey Katke, individually and as an officer of said corporation ("respondents"), have 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 1. Respondent Metagenics, Inc., doing business as Ethical Nutrients, is a corporation organized, existing, and doing business under and by virtue of the laws of the State of California, with its principal office or place of business at 971 Calle Negocio, San Clemente, California.

Respondent Jeffrey Katke is an officer of Metagenics, Inc. Individually or in concert with others, he formulates, directs and controls the acts and practices of the said corporation, including the acts and practices alleged in this complaint. His business address is 971 Calle Negocio, San Clemente, California.

PAR. 2. Respondents have manufactured, advertised, offered for sale, sold and distributed an orally-ingested product containing microcrystalline hydroxyapatite ("MCHC"), minerals and protein, under the name Bone Builder (hereinafter "MCHC" or "Bone Builder"). Respondents also offer for sale and sell the MCHC product to other parties who market the product under their own brand names. Bone Builder is a food and/or drug, as the terms "food" and "drug" are defined in Sections 12 and 15 of the Federal Trade Commission Act.

PAR. 3. The acts and practices of respondents alleged in this complaint have been in or affecting commerce, as "commerce" is defined in Section 4 of the Federal Trade Commission Act.

PAR. 4. Respondents have disseminated or have caused to be disseminated advertisements and promotional materials for Bone Builder, including but not necessarily limited to the attached Exhibits A through D. These advertisements and promotional materials contain the following statements:

1. The superior form of calcium proven to build bone. The latest research shows "microcrystalline hydroxyapatite" is the superior form of calcium that can build bone. We call this exciting Ethical Nutrient's [sic] product: BONE BUILDER. (Exhibit A).

2. Some calcium supplements can be worse than not taking anything at all. At best, others may slow bone loss, occasionally stopping it. But, BONE BUILDER can restore lost bone and has the clinical evidence to prove it! (Exhibit A).

3. A significant statement recurs in a number of reports: MCHC either reduces or totally eliminated bone pain, which was not found true of any other substance. (Exhibit A).

4. Only MCHC provides calcium in an "extremely bioavailable form" and the studies on it have "also indicated the superiority of the substance over traditional soluble calcium supplements." Of the substances used for experimentation to halt the progress of osteoporosis, only microcrystalline hydroxyapatite was considered to be totally free of "major potential hazard [sic]," which indicated its use for both "the treatment and prevention of osteoporosis." (Exhibit A).

5. These are just a few of the controlled clinical trials to be found in medical literature. The consensus of which is that microcrystalline hydroxyapatite halted bone loss, decreased pain and increased bone thickness when taken in adequate amounts over long periods of time, a record no calcium supplement could achieve. (Exhibit B).

6. Contains most absorbable kind of calcium. (Exhibit C).

7. BONE BUILDER is pure microcrystalline hydroxyapatite compound (MCHC), a substance which has been scientifically demonstrated to be the most effectively utilized source of calcium known. (Exhibit C).

8. Most importantly, no other product in the United States is as effective at preventing bone loss. (Exhibit C).

9. [R]esearch of the many common forms of calcium used in the trials demonstrated effectively that only one form of calcium was capable of preventing bone thinning and actually restoring bone strength, and that was "whole bone extract (microcrystalline hydroxyapatite concentrate) . . . ." (Exhibit D).

10. Where there is evidence that osteoporosis "runs in the family," and where there is evidence that calcium loss is already taking place, *i.e.* muscle spasms, receding gums, or loss of height, the ability of microcrystal-line hydroxyapatie [sic] (bone) concentrate places prevention as a matter of the individual sufferer's choice. This safe, reliable, inexpensive, scientifically-tested preventive is his/hers to take as they choose . . . . (Exhibit D).

PAR. 5. 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 through D, respondents have represented, directly or by implication, that:

1. Post-menopausal women who have lost bone and who use Bone Builder or MCHC will experience no additional bone loss or bone thinning and will achieve a growth of new bone and increased bone thickness greater than the amount of bone lost;

2. Users of Bone Builder or MCHC will not experience bone loss, bone thinning, or osteoporosis;

3. Bone Builder or MCHC restores bone strength;

4. Bone Builder or MCHC reduces or eliminates pain associated with bone ailments; and

5. Bone Builder or MCHC is more bioavailable, more absorbable, or more effectively utilized by the body than other forms of calcium or is more effective than other forms of calcium in the prevention or treatment of bone ailments.

PAR. 6. Through the use of 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 through D, respondents have represented, directly or by implication, that at the time they made the representations set forth in paragraph five, respondents possessed and relied upon a reasonable basis that substantiated such representations.

PAR. 7. In truth and in fact, at the time respondents made the representations set forth in paragraph five, respondents possessed and relied upon a reasonable basis to substantiate that: adequate calcium intake has many benefits and is one of the essential factors in the

body's ongoing process of removal of old bone and replacement by new bone; in conjunction with other factors, adequate calcium intake can play a significant role in reducing the rate of bone loss or bone thinning and in protecting bone strength; and individuals who do not consume adequate calcium are at greater risk of experiencing bone fractures than those who do. However, respondents did not possess and rely upon a reasonable basis that substantiated the representations in paragraph five. Therefore, the representation set forth in paragraph six was, and is, false and misleading.

PAR. 8. 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 through D, respondents have represented, directly or by implication, that scientific research, including clinical tests, scientific papers and/or scientific studies, proves that:

1. Post-menopausal women who have lost bone and who use Bone Builder or MCHC will experience no additional bone loss or bone thinning and will achieve a growth of new bone and increased bone thickness greater than the amount of bone lost;

2. Users of Bone Builder or MCHC will not experience bone loss, bone thinning, or osteoporosis;

3. Bone Builder or MCHC restores bone strength;

4. Bone Builder or MCHC reduces or eliminates pain associated with bone ailments; or

5. Bone Builder or MCHC is more effectively utilized by the body than other forms of calcium or is superior to or more effective than other forms of calcium in the prevention or treatment of bone ailments.

PAR. 9. In truth and in fact, the representations set forth in paragraph eight have not been proven by scientific research, including clinical tests, scientific papers and/or scientific studies. Therefore, the representations set forth in paragraph eight were, and are, false and misleading.

PAR. 10. The acts and practices of respondents 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.

Commissioner Anthony not participating.

483 Amended Complaint

EXHIBIT A

METAGENIC EXHIBIT A

The Case of the Incredible Shrinking Woman

By Carrie Birkeland

Paleopathologists of the future may be puzzled by the strange case of the shrinking woman of the 20th Century—that is, the one out of every four women who will shrink from one to eight inches in height after menopause and, should she live to be 90, as it now seems possible many will, the incidence of shrinking will rise from 25% to 100%! "Paleopathologist" is a fifty-cent word for a scientist who researches ancient people by examining their bones. And one of these days we're going to be the "ancient people" whether we like the idea or not.

On the other hand, the 21st Century paleopathologist may not be the least bit surprised by the curved and bowed skeletons he'll find in looking back at us, as even thirty years ago, Calvin Wells, who wrote about his strange profession, made clear that the diseases and injuries of any group of people, as disclosed by their bones, is not a matter of chance but is "the expression of stresses and strains to which they were exposed, a response to everything in their environment and behavior ... influenced by their daily occupations, their habits of diet ..." Or to paraphrase Shakespeare, "The diet you live on is all inserted with your bones!"

A preoccupation with the condition of the 20th Century shrinking woman by researchers around the world has developed a body of interesting information even while they scratch their heads as they look for ways of prevention and cure. One of the problems seems to be the increasing longevity of people. In the days of the Roman Empire, the female life expectancy [illegible]

[illegible]

Risk Factors Contributing to Bone Loss

[illegible]

DON'T GROW SHORTER AS YOU GROW OLDER

The superior form of calcium proven to build bone

[illegible] BONE BUILDER [illegible]

Item No.	Size	Retail Price	VS PRICE
EN-1053	120T	18.95	15.16
EN-1054	270T	32.95	26.36

See Page 34 To Order

EXHIBIT B

METAGENICS
EXHIBIT B

WHY FOOL AROUND?

by Gene Birkeland

Recently on an interstate auto safari, my car broke down (as they are wont to do at the most critical times) and I was stuck for the night in a small town motel.

Since I was depressed with my circumstances, I flung myself on the bed, and began listening to the news.

A reporter came on with a story about osteoporosis. Now that really depressed me. Her story was superficial and badly researched, but what depressed me most was the thought of the thousands of people who might see it and believe this misinformation.

To illustrate her assertion that a simple elevation of calcium intake was the answer to osteoporosis, she'd taken several glasses of distilled white vinegar and dropped different brands of calcium tablets into them. This was supposedly an illustration of how they might dissolve in your stomach, and, of course, some of them didn't.

The one that dissolved most quickly was a well-known drug store product manufactured by a major pharmaceutical company containing a relatively small amount of calcium. What she didn't point out were the additives the product contained besides oyster shell powder (which is poorly absorbed in humans).

To bolster her story and give it credence, she threw in the name of a local medical doctor who confirmed her position that a high intake of calcium is the best way to prevent osteoporosis.

Nothing was said about the controversy which rages within scientific circle questioning whether calcium alone is the answer to osteoporosis.

For example, the prestigious British Medical Journal five years ago, in an article on the Non-hormonal Treatment Of Osteoporosis said, "Osteoporosis may be defined as the loss of bone accelerated beyond the normal "physiological" rates, although this begs the question of what normal loss might be ... Its recognition, measurement, prevention and treatment were discussed at a recent symposium and the account of this emphasizes how opinion on these issues is still divided."

"...in osteoporosis it appears other factors are at work, not just an absence of sufficient calcium in the diet."

Guy Abraham, MD., an internationally recog-

ADDITIVES CONTAINED IN A POPULAR DRUG STORE CALCIUM SUPPLEMENT

Corn Syrup Solids	Talc	Hydroxypropyl	Methyl cellulose
Corn Starch	Sodium Starch Glycolate	Calcium Stearate	Polysorbate 80
Pharmaceutical Glaze	Titanium Dioxide	Vitamin D	Methlypropyl Paraben
Polyvinylpyrrolidone	Carnauba Wax	Polyethylene Glycol	D & C Yellow #10 Dye
Acetylated Monoglyceride	Edetate Di-sodium	FD & C Blue #1 Dye	Simethicone Emulsion

EXHIBIT B

nized authority on the endocrinology of obstetrics and gynecology, in a conversation with me, as well as in public speeches, has pointed out that no country in the world has set calcium requirements as high as the United States — and no country has more bone problems. Dr. Abraham has been the recipient of at least two international awards for his work, part of which stemmed from his research while heading ob-gyn endocrinology research at UCLA's Harbor General Hospital in Los Angeles, CA.

There, Dr. Abraham had found that women with severe premenstrual tension had too much dairy food in their diets, and too high a calcium intake relative to their magnesium intake. As he pointed out, animals such as elephants and gorillas grow huge skeletons eating only green plants, which have twice as much magnesium as calcium. Dr. Abraham took the women off dairy products to reduce calcium intake, while upping their consumption of vegetable greens to increase magnesium intake. The result? No more premenstrual tension.

"... microcrystalline hydroxyapatite halted bone loss, decreased pain and increased bone thickness when taken in adequate amounts over long enough periods of time, a record no other form of calcium could achieve."

In osteoporosis, it appears other factors are at work, not just an absence of sufficient calcium in the diet. And, at least a quarter century has passed since calcium retention was shown not to be adequate without a modicum of estrogen to enhance the calcium uptake — or it is merely excreted in the urine. Only a medical doctor can prescribe estrogen, but the enterprising TV reporter never mentioned the importance of the relationship.

No doubt many people were likely to believe her over-simplification. Yet osteoporosis is still a major health problem, which to some extent continues to baffle the medical research world. Research project reports on possible causes and potential cures for osteoporosis are frequently published to this day in the medical literature.

The only positive reports on halting the devastation and crippling of osteoporosis have come through the medical administration of small, carefully monitored quantities of estrogen along with calcium, or through the administration of a product little known in the United States, but widely used in Europe and England: microcrystalline hydroxyapatite.

In a clinical trial in England, for example, a group of women with bone disease were divided into 3 matched groups. The result was "Over the 14-month follow-up, there was a significant loss of cortical bone in controls, a significant increase in cortical bone thickness in the MCHC (microcrystalline hydroxyapatite) group, and no change in the CG (calcium gluconate) group." The MCHC group had a net cortical bone gain of 11.6%. (Cortical bone is the outer bone)

The research team from the Royal Free Hospital in London, described the substance they were testing: "MCHC powder is prepared from bovine bone and provides both the organic and inorganic constituents occurring in normal bone. The powder contains hydroxyapatite microcrystals, calcium, trace metals (including zinc, silicon and iron), protein, amino acids and aminoglycans."

Another advantage the research team noted was the low sodium content of MCHC compared to calcium gluconate which was of advantage in "long-term treatment of patients with cirrhosis or other diseases complicated by salt retention."

The prevention of osteoporosis follows that old adage that "an ounce of prevention is worth a pound of cure" as most adults lose bone steadily throughout their lives. This loss is accelerated in women after the menopause, a situation which led to British researchers to advise, "the only way to prevent osteoporosis is to make sure that the subject starts his or her aging process with well-mineralized bones." (emphasis added)

Too often, however, nothing is done until a fracture occurs either crushing the trabecular (inner) bone in the spine which causes pain as well as

EXHIBIT B

height loss, or the fracture of a long bone. Some studies show a trend toward "fracture of the wrist at 60, of the shoulder at 70, and the neck at 80," though such fractures are seldom attributed to osteoporosis.

In fact, one research team has stated: "The perceived frequency of osteoporosis is unrealistically low and usually the diagnosis is made only when crush fractures of the vertebral bodies occur and consequently lead to loss of height."

"Nothing was said about the controversy which rages in the scientific research papers that calcium alone is not the answer to osteoporosis at all!"

In another clinical trial, 10 grams of MCHC containing approximately 1,500 mgs of calcium was used over a period of nine months on patients who were in severe pain, had recent fractures and were on analgesics (pain killers). The majority reported less bone pain with a subsequent decrease of intake of analgesics and an increase in plasma calcium.

In another trial group of individuals aged 70 to 98, the whole bone extract was used because "the proportions of the mineral content correspond to the presumed physiological needs of the organism since they are those of bone itself ... it was found that the whole-bone extract significantly increased absorption of the tracer suggesting it is a valuable medium for calcium administration in metabolic bone disease." In this latter test the research team also concluded, as had others before and since, that the whole bone extract was better than calcium gluconate which they had checked out at the same time.

These are just a few of the controlled clinical trials to be found in medical literature. The consensus of which is that microcrystalline hydroxyapatite halted bone loss, decreased pain and increased bone thickness when taken in adequate amounts over long enough periods of time, a record no calcium supplement could achieve.

The product has been available in Europe and England for years and is now available in the United States under the name Bone Builder (formerly Ethi Cal).

REFERENCES

Dixon, et al. Osteoporosis: a multidisciplinary problem, London, Royal Society of Medicine, Academic Press.

Vitamin D, Hydroxyapatite, and Calcium Gluconate on Treatment of Cortical Bone Thinning on Postmenopausal Women With Primary Biliary Cirrhosis, Epstein, et al, Amer. J. of Clin. Nut. 9/82.

Estimation of True Calcium Absorption, Heavey, M.D., et al, Creighton University School of Medicine, Annals of Internal Medicine, 1985:103:516-521.

Treatment of Spinal Osteoporosis in Postmenopausal Women, Nordin, Horsman, et al, Mineral Metabolism Unit, General Infirmary, Leeds, British Medical Jal, 10 Feb. 1980.

Bone Loss in the Elderly, Rowe, Ph.D., Univ. of Iowa, Jal of Prosthetic Dentistry.

Effect of Milk Supplements on Calcium Metabolism, Bone Metabolism and Calcium Balance, Recker, MD, & Heaney, MD., Am. Jal. Clin. Nutrition, 41:Feb. 85.

Bone Mineral Content of Amenorrheic and Eumenorrheic Athletes, Drinkwater, Ph.D., Nilson, M.D., et al, New England Jal of Med., Vol 311, No. 5, 8-2-84.

Action of Zinc on Bone Metabolism in Rats, Yamaguchi, Yamaguchi, Shizuoka College of Pharmacy, Sizuoka, Japan, Biochemical Pharmacology, Vol 35, No. 5.

Intestinal Absorption of Calcium from Three Commercial Calcium Preparations in Man, Begtad, Jorgensen, et al, NEJM 9-2-82.

Long Distance Running, Bone Density and Osteoarthritis, Lane, MD, Bloch Ph.D., et al, JAMA, 3-7-86.

Histological Osteomalacia due to Dietary Calcium Deficiency in Children, Marie, Ph.D., Pettifor, MB, et al, NEJM, 9-2-82.

Calcium and Phosphorus Nutritional Status of Lacto-ovo-vegetarian and Omnivore Students, Noakes, Kies, McEndree, Univ. of Neb., Nutrition Reports International, Feb. 84.

Calcium and Hypertension, Annals of Internal Medicine, Vol 203, No. 6, 12-85.

Harvard Medical School Health Letter, April 1987.

Calcium Bioavailability from Ca Carbonate and Ca Citrate, MJ Nicar, C Pak, Jnl of Clin Endocrinology and Metabolism, 1985.

CALCIUM: Where it Should Be and Shouldn't Be; Bland, Complementary Medicine, May/June 1986.

Vitamin D, Hydroxyapatite, and Calcium Gluconate in Treatment of Cortical Bone Thinning in Postmenopausal Women With Primary Biliary Cirrhosis, Epstein, MRCP, Kato, MD, Dick FRCR, Sherlock, FRCP, Amer. Jnl of Clin. Nutrition 9/82.

Non-hormonal Treatment of Osteoporosis, Brit Med Jnl, March 1983.

Treatment of Osteoporotic Patients, Durance, Person, et al, Clinical Trials Jnl, No. 3, 1973.

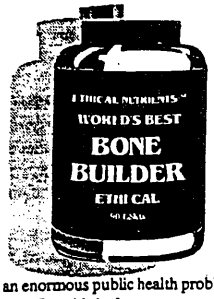
Effect of Whole Bone Extract on Calcium Absorption in the Elderly, Windsor, Mann, et al, Age and Aging, 1973 2, 230.

EXHIBIT C

METAGENICS
EXHIBIT C

WORLD'S BEST BONE BUILDER

√ All necessary bone building nutrients in one tablet
√ Formulated by nature
√ Processed using breakthrough technology
√ Completely safe



√ Successfully tested and used in Europe for over 10 years
√ Available for first time in U.S.
√ Contains most absorbable kind of calcium
√ Not to be confused with bone meal or ordinary hydroxyapatite

THE PROBLEM: Osteoporosis is an enormous public health problem, responsible for at least 1.2 million fractures in the United States each year. One third of women over sixty-five will have vertebral fractures. By extreme old age, one of every three women and one of every six men will have had a hip fracture. Hip fracture is fatal in 12-20% of cases and it results in long term nursing home care for half the patients who survive. More women die from the complications of fractures yearly than the combined deaths resulting from cancer of the cervix and breast. The direct and indirect costs of osteoporosis are estimated at 6.1 billion dollars annually in the United States. Furthermore, the gradual loss of bone results in disfigurement, wrinkling, decreasing mobility and the deposition of calcium in soft tissue (kidney, arteries, joints, etc.) leading to further complications.

THE SOLUTION: Regular exercise, a whole foods diet, smoking cessation, and adequate absorption of micro-nutrients will end the current rapid bone loss epidemic in the United States population.

GREAT NEWS! A COMPLETE, NATURE-MADE, BONE FOOD IS NOW AVAILABLE. THIS BONE FOOD IS BONE BUILDER (formerly ETHI CAL).

THE BONE BUILDER STORY: BONE BUILDER is a pure microcrystalline hydroxyapatite compound (MCHC), a substance which has been scientifically demonstrated to be the most effectively utilized source of calcium known. This highly useful substance is distinguished by its unusual ability to be absorbed into the bloodstream. For example, studies have demonstrated it to be absorbed at twice the rate of calcium gluconate. Hydroxyapatite is a complex calcium salt which forms the basis of bone. It has an ideal calcium/phosphorus ration of 2:1.

A considerable number of laboratory and clinical studies have been undertaken to understand the nature and value of MCHC. Using animal studies, researchers have demonstrated a lack of both acute and chronic toxicity. Thus, we know MCHC to be completely safe.

Clinically, MCHC has been shown to be highly effective. For example, in one study of postmenopausal women a comparison was made between MCHC, calcium gluconate and a control group. Over a 14 month period, the control group experienced a 5.5% bone loss, the calcium gluconate group a 1.5% bone gain, while

EXHIBIT C

the MCHC group experienced a 6.1% bone gain. Positive calcium balances were reported in other clinical studies using MCHC to treat osteomalacia (bone softening). In yet another study the author states "... we have demonstrated that MCHC dramatically reduces skeletal pain in patients developing osteoporosis, and have also presented strong evidence that this symptomatic improvement is associated with both favorable biochemical and radiological bone changes".

BONE BUILDER SOURCE: The MCHC contained in BONE BUILDER has been derived solely from the bones of healthy animals raised in an environment free from pesticides, insecticides, growth hormones and other environmental contaminants. It has been processed by an exclusive technique which preserves the natural qualities inherent in the raw substance. This is in marked contrast to the preparation of bone meal, which is an ashed residue, devoid of life, having been subjected to considerable heat, and washed with chemical solvents. This harsh processing causes the protein matrix to cross-link, altering the value of the collagen, and considerably reducing the effectiveness of the subsequent preparation. Also, bone meal often contains an unacceptably high amount of lead. BONE BUILDER does not. In essence, BONE BUILDER may be considered a minimally-processed, complete nature-made food for the bone.

CHEMICAL PROPERTIES OF MICROCRYSTALLINE HYDROXYAPATITE: MCHC is a complex salt in which 3 molecules of calcium phosphate are associated with 1 molecule of calcium hydroxide. Hydroxyapatite occurs as hexagonal needles arranged as rosettes. These are embedded in a protein matrix. Its chemical name is decacalcium dihyroxide hexxakis-(orthophosphate).

Apart from calcium and phosphorus, other major minerals present in MCHC are sodium, magnesium and potassium. Unlike commercial soluble calcium supplements, the sodium content is low (0.65%), a factor of importance for some consumers.

The main trace minerals present are zinc, silicon, and iron. Others include rubidium, caesium and platinum, as well as many others.

MCHC contains 14% collagen and 4% other proteins, as well as hydroxyproline. Other amino acids present in relatively high amounts including glycine and glutamic acid. Also included are glucosaminoglycan, citrate, flouride (0.008%) and water.

SUMMARY: BONE BUILDER consists of microcrystalline hydroxyapatite which, itself being from bone, is a complete bone food. BONE BUILDER is not merely another calcium supplement, although it happens to be the most highly absorbable form of calcium known. BONE BUILDER is hypoallergenic, palatable and cost-effective. Most importantly, no other product in the United States is as effective at preventing bone loss.

REFERENCES: Available upon request. Please ask for "MCHC scientific references".

For FREE Literature Pack Contact: Ethical Nutrients • 23180 Del Lago • Laguna Hills, CA • 92653

1-800-692-9400 (Nationwide) 1-800-833-9536 (In California)

METAGENICS
EXHIBIT D

STRONG BONES -- YOU NOW HAVE A CHOICE

by Gene Birkeland

You may be able to remember a book, "Life Begins at Forty." Fortunately, I don't, so you're much older than I—I only remember the title, which has become almost cliche', and while many other things may also begin at forty, some of them are not so great.

Forty may well be the time for a good many of us when the sins and errors of our youth begin to show up, creating situations in our bodies for which we never bargained, and are quite often at a loss to understand.

One of these incomprehensible conditions, now occuring on a fairly large scale, is *osteoporosis*, in which abnormal mineral loss over a long period of time causes weakened bones susceptible to sudden breakage and/or a painful shrinkage of the spine.

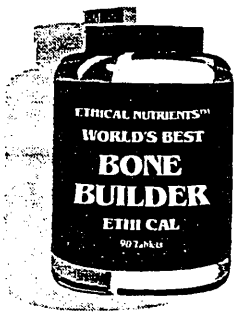
From personal experience I know that the average physician does not understand the chemistry involved in this painful condition, but I also have the words of some of the doctors themselves as they discussed this problem in a symposium in England not too long ago.

These research specialists concluded, "Early diagnosis is difficult because osteoporosis is asymptomatic until it is advanced far enough to cause structural failure of bone." And, continues the specialists, "opinion is still divided on the recognition, measurement, prevention and treatment" of osteoporosis.

This is true. I have observed the slow disintegration of my mother from a woman of slim build and average height to a very short statured dowager. Over these last ten years she has shrunk some 5 and 1/2 inches, and the only remedy her busy Hollywood-star struck physician has offered is an occasional cortisone shot to alleviate the pain.

Her situation is not unique. When the pain began in her back (the result of a vertebrae fracturing and compressing the disc), I drove her to the doctor's office, telling her to ask him if this was not related to a loss of calcium.

Emerging from his office later, she said, "You were right! He said he saw x-rays of my spine three years ago which showed calcium loss even then." I looked at her in amazement and consternation. "Are you telling me he's known this for three years and hasn't told you about it or advocated any sick remedy?" "Well, what could he do?" she said.



Even at that time he could have taken the known medical steps to prevention of further loss which consisted of small daily quantities of conjugated estrogens accompanied by calcium supplementation. He happens, however, to belong to that school of medicine which scorns all supplements and still believes all estrogens are carcinogenic.

His management of the condition was to dispense occasional shots of cortisone without regard that long-term use of steroids causes further mineral loss, as does inactivity and complicating major disease conditions.

Ten years later, Mother is restricted to the use of canes and walker and is relatively inactive.

So prevalent is this type of situation that the British doctor who reported on the symposium, Allan St.J. Dixon (Royal National Hospital for Rheumatic Diseases), stated, "Osteoporosis thus appears to join diabe-

EXHIBIT D

tes, gall stones, and diverticulosis as one of the diseases of affluence."

"The perceived frequency of osteoporosis," says Dr. Dixon, "is unrealistically low and usually the diagnosis is made only when crush fractures of the vertebral bodies occurs and consequently lead to loss of height."—yet, continues Dr. Dixon, studies show the condition leads to "fractures of the wrist at 60, of the shoulder at 70, and the femoral neck at 80."

Even though men are also victims of the bone-thinning process and some evidence of it usually shows up by age 70, women are by far the predominant sufferers which begins at least as early as the menopause— whether surgically or naturally occuring.

Dr. Dixon has observed that in the United States even well-fed women had an average intake of calcium of 660 mg per day.—"Well below the recommended daily intake of 800 mg"—a figure, he says, "which many nutritionists would still regard as being too low."

As a result, Dr. Dixon concluded, "calcium seems to be the forgotten nutrient of Western society, and it seems that a failure to consume enough of it must inevitably lead to loss of bone mineral."

There needs to be an alternative, says Dr. Dixon, (and there is) which is safe, effective, inexpensive and may be continued over years without harm, especially as bone rebuilding and strengthening cannot be expected to take place rapidly.

He has reviewed all the alternatives which have been the object of studies by his colleagues, such as the use of many varieties of calcium supplements in conjunction with other substances. All were found wanting.

Dixon's research of the many common forms of calcium used in the trials demonstrated effectively that only one form of calcium was capable of preventing bone thinning and actually restoring bone strength, and that was "whole bone extract (microcrystalline hydroxyapatite concentrate) (which) is well absorbed and does not have the disadvantages of the former preparations."

"Dixon cited hospital trials of the substance (in which) . . . microcrystalline hydroxyapatite concentrate did restore bone."

Microcrystalline hydroxyapatite concentrate contains the bone minerals calcium, phosphorus and magnesium together with trace amounts of zinc, copper, manganese, and other trace and ultratrace elements in the normal physiological proportions.

Dixon cited hospital trials of the substance making a comparison of it to calcium gluconate which "halted the bone loss but did not restore it, whereas microcrystalline hydroxyapatite concentrate did restore bone."

Concluding his remarks, Dr. Dixon added, "Nothing can restore the spinal posture to normal in those people whose spines have already shrunk because of osteoporosis, (but) there is good evidence to suggest that preventative treatment is very effective."

Where there is evidence that osteoporosis "runs in the family," and where there is evidence that calcium loss is already taking place, i.e., muscle spasms, receding gums, or loss of height, the ability of the microcrystalline hydroxyapatie (bone) concentrate places prevention as a matter of the individual sufferer's choice. This safe, reliable, inexpensive, scientifically-tested preventive is his/hers to take as they choose and not dependent upon the whim of another.

Probably just like you, I get fed up with swallowing supplements. Yet I have only to visit my mother to see the alternative which inadequate attention to prevention has created: being condemned to hobbling around in continual pain supported by cane or walker, or just sitting.

The supplement which I have been discussing, microcrystalline hydroxyapatite concentrate, is not merely bone meal, but is instead specially selected portions of the bones of animals raised in the absence of pesticides and insecticides. These bone sections are carefully processed (ground up) at less than 98° to preserve the essential microcrystalline structure as it exists in raw bone. It has been available in Europe and England for some years and is now available in the United States under the name Bone Builder (formerly Ethi Cal), and is sold exclusively by Ethical Nutrients ofLaguna Hills, CA.

For FREE Literature Pak Contact: Ethical Nutrients • 23180 Del Lago • Laguna Hills, CA 92653
(714) 855-1718 (Local) • 800-833-2956 (In California) • 800-592-9400 (Nationwide).

DECISION AND ORDER

The Commission having heretofore issued its complaint charging the respondents named in the caption hereof with violation of Section 5 of the Federal Trade Commission Act, as amended, and the respondents having been served with a copy of that complaint, together with a notice of contemplated relief; and

The respondents, their attorney, and counsel for the Federal Trade Commission having thereafter executed an agreement containing a consent order, an admission by the respondents of all the jurisdictional facts set forth in the complaint, a statement that the signing of said agreement is for settlement purposes only and does not constitute an admission by respondents that the law has been violated as alleged in such complaint, or that the facts as alleged in such complaint, other than jurisdictional facts, are true and waivers and other provisions as required by the Commission's Rules; and

The Secretary of the Commission having thereafter withdrawn this matter from adjudication in accordance with Section 3.25(c) of its Rules; and

The Commission having considered the matter and having thereupon accepted the executed consent agreement and placed such agreement on the public record for a period of sixty (60) days, and having duly considered the comment filed thereafter by an interested person pursuant to Section 3.25 of its Rules, now in further conformity with the procedure described in Section 3.25(f) of its Rules, the Commission hereby makes the following jurisdictional findings and enters the following order:

1. Respondent Metagenics, Inc. is a corporation organized, existing and doing business under and by virtue of the laws of the State of California, with its office and principal place of business located at 971 Calle Negocio, San Clemente, California.

Respondent Jeffrey Katke is an officer of said corporation. He formulates, directs and controls the policies, acts and practices of said corporation and, and his office and principal place of business is located at the above stated address.

2. The Federal Trade Commission has jurisdiction over the subject matter of this proceeding and of the respondents and the proceeding is in the public interest.

3. 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 3.25(f) of the Commission's Rules, the Commission may, without further notice to respondents: (1) issue its amended complaint corresponding in form and substance with the draft of amended complaint attached hereto 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 amended complaint and decision containing the agreed-to order to proposed respondents' address as stated in this agreement shall constitute service. Proposed respondents waive any right they may have to any other manner of service. The amended 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.

ORDER

I.

It is ordered, That respondents Metagenics, Inc., a corporation, doing business as Ethical Nutrients, or under any other name, its successors and assigns, and its officers, and Jeffrey Katke, individually and as an officer of said corporation, and respondents' agents, representatives, and employees, directly or through any corporation, subsidiary, division or other device, in connection with the manufacturing, labeling, advertising, promotion, offering for sale, sale, or distribution of Bone Builder or any food or dietary supplement, food, or drug, as "food" and "drug" are defined in Section 15 of the Federal Trade Commission Act, in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act, shall not represent, in any manner, directly or by implication, that:

1. Post-menopausal women who have lost bone and who use such product will experience no additional bone loss or bone thinning or will achieve a growth of new bone or increased bone thickness greater than the amount of bone lost;

2. Users of such product will not experience bone loss or bone thinning;

3. Such product restores bone strength;

4. Such product reduces or eliminates pain associated with bone ailments; or

5. Such product is more bioavailable, more absorbable, or more effectively utilized by the body than other forms of calcium, or is superior to or more effective than other forms of calcium in the prevention or treatment of bone ailments,

unless, at the time of making such representation, respondents possess and rely upon competent and reliable scientific evidence that substantiates the representation. For purposes of this order, "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.

II.

It is further ordered, That respondents Metagenics, Inc., a corporation, doing business as Ethical Nutrients, or under any other name, its successors and assigns, and its officers, and Jeffrey Katke, individually and as an officer of said corporation, and respondents' agents, representatives, and employees, directly or through any corporation, subsidiary, division or other device, in connection with the manufacturing, labeling, advertising, promotion, offering for sale, sale, or distribution of Bone Builder or any food or dietary supplement, food, or drug, as "food" and "drug" are defined in Section 15 of the Federal Trade Commission Act, in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act, shall not misrepresent, in any manner, directly or by implication, the existence, contents, validity, results, conclusions, or interpretations of any test or study.

III.

It is ordered, That respondents Metagenics, Inc., a corporation, doing business as Ethical Nutrients, or under any other name, its successors and assigns, and its officers, and Jeffrey Katke,

individually and as an officer of said corporation, and respondents' agents, representatives, and employees, directly or through any corporation, subsidiary, division or other device, in connection with the manufacturing, labeling, advertising, promotion, offering for sale, sale, or distribution of Bone Builder or any food or dietary supplement, food, or drug, as "food" and "drug" are defined in Section 15 of the Federal Trade Commission Act, in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act, insofar as said respondents make any representation, in any manner, directly or by implication, regarding the relationship between calcium and osteoporosis:

A. Shall limit any such representation to the health claims authorized by the Food and Drug Administration for calcium and osteoporosis as set forth in Section 101.72 of Title 21 of the Code of Federal Regulations, 58 Fed. Reg. 2665 (1993), and any amendments thereto; or

B. At the time of making such representation, shall possess and rely upon competent and reliable scientific evidence that substantiates the representation.

IV.

It is further ordered, That respondents Metagenics, Inc., a corporation, doing business as Ethical Nutrients, or under any other name, its successors and assigns, and its officers, and Jeffrey Katke, individually and as an officer of said corporation, and respondents' agents, representatives, and employees, directly or through any corporation, subsidiary, division or other device, in connection with the manufacturing, labeling, advertising, promotion, offering for sale, sale, or distribution of:

A. Bone Builder or any food or dietary supplement, food, or drug containing calcium, as "food" and "drug" are defined in Section 15 of the Federal Trade Commission Act, in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act, shall not make any representation, in any manner, directly or by implication, that any such product will treat, cure, alleviate the symptoms of, prevent, or reduce the risk of developing any disease, disorder, or condition; or

B. Any food or dietary supplement, food, or drug, as "food" and "drug" are defined in Section 15 of the Federal Trade Commission

Act, in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act, shall not make any representation, in any manner, directly or by implication, that any such product is more effective than any other product in treating, curing, alleviating the symptoms of, preventing, or reducing the risk of developing any disease, disorder, or condition,

unless, at the time of making such representation, respondents possess and rely upon competent and reliable scientific evidence that substantiates the representation.

V.

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

VI.

Nothing in this order shall prohibit respondents 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.

VII.

It is further ordered, That for five (5) years after the last date of dissemination of any representation covered by this order, respondents, or their successors and assigns, shall maintain and upon request make available to the Federal Trade Commission for inspection and copying:

A. Any advertisement making any representation covered by this order;

B. All materials that were relied upon in disseminating such representation; and

C. All tests, reports, studies, surveys, demonstrations, or other evidence in their possession or control that contradict, qualify, or call into question such representation, or the basis relied upon for such

representation, including complaints from consumers, and complaints or inquiries from governmental organizations.

VIII.

It is further ordered, That respondent Metagenics, Inc., or its successors and assigns, shall:

A. Within thirty (30) days after the date of issuance of this order, provide a copy of this order to each of its operating divisions, subsidiaries, principals, officers, directors, managers and distributors, and to each of its employees, agents, and representatives engaged in the preparation, placement, or dissemination of advertisements, promotional materials, product labels, or other such sales materials covered by this order; and

B. For a period of five (5) years from the date of issuance of this order, provide a copy of this order to each of its principals, officers, directors, managers and distributors, and to all employees, agents, and representatives engaged in the preparation, placement, or dissemination of advertisements, promotional materials, product labels, or other such sales materials covered by this order within three (3) days after the person commences his or her responsibilities.

IX.

It is further ordered, That respondent Metagenics, Inc., its successors and assigns, shall notify the Commission at least thirty (30) days prior to any change in the corporation that may affect compliance obligations arising under this order, including but not limited to a dissolution, assignment, sale, merger, or other action that would result in the emergence of a successor corporation; the creation or dissolution of a subsidiary, parent, or affiliate that engages in the acts or practices subject to this order; the proposed filing of a bankruptcy petition; or a change in the corporate name or address. Provided, however, that, with respect to any proposed change in the corporation about which the respondent learns less than thirty (30) days prior to the date such action is to take place, respondent shall notify the Commission as soon as practicable after obtaining such knowledge. All notices required by this Part shall be sent by certified mail to the Associate Director, Division of Enforcement, Bureau of Consumer Protection, Federal Trade Commission, Washington, D.C.

X.

It is further ordered, That for a period of five (5) years from the date of issuance of this order, respondent Jeffrey Katke shall provide written notice to the Federal Trade Commission within thirty (30) days of:

A. Any change in his business or employment that may affect compliance obligations arising out of this order;

B. The discontinuance of his business or employment; and

C. His affiliation with any new business or employment; each such notice to include his business address and telephone number, home address, and a statement describing the nature of the business or employment and his duties and responsibilities.

XI.

This order will terminate on October 23, 2017, 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.

XII.

It is further ordered, That respondents shall, within sixty (60) days after service upon them of this order, and at such other times as the Commission may require, file with the Commission a report, in writing, setting forth in detail the manner and form in which they have complied with this order.

Commissioner Anthony not participating.