

**UNITED STATES OF AMERICA
FEDERAL TRADE COMMISSION**

COMMISSIONERS: **Jon Leibowitz, Chairman**
 William E. Kovacic
 J. Thomas Rosch
 Edith Ramirez
 Julie Brill

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In the Matter of)
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INDOOR TANNING ASSOCIATION,) **DOCKET NO. C-4290**
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))
))
a corporation))
_____)

COMPLAINT

The Federal Trade Commission, having reason to believe that Indoor Tanning Association, a corporation (“respondent”), has violated the Federal Trade Commission Act, and it appearing to the Commission that this proceeding is in the public interest, alleges:

1. Respondent Indoor Tanning Association (“ITA”) is a Massachusetts corporation with its principal place of business at 2025 M St., N.W., Washington, D.C. 20036. ITA is registered as a nonprofit entity under Section 501(c)(6) of the Internal Revenue Code. Its members include indoor tanning manufacturers, distributors, facility owners, and representatives of other supporting industries. ITA’s purpose is to “advance the business growth and image of the indoor tanning industry, and the welfare of its membership.”
2. Respondent has advertised and promoted to the public the use of ultraviolet lamps and sunlamp products, as defined in 21 C.F.R. § 1040.20, and commercial indoor tanning facilities where consumers may use ultraviolet lamps or sunlamp products. Ultraviolet lamps and sunlamp products are “devices” within the meaning of Sections 12 and 15 of the Federal Trade Commission Act.
3. The acts and practices of respondent, as alleged herein, have been in or affecting commerce, as “commerce” is defined in Section 4 of the Federal Trade Commission Act.
4. As part of a coordinated campaign to promote ultraviolet lamps and sunlamp products and indoor tanning, respondent created, prepared, disseminated, or caused to be disseminated advertisements, including the attached Exhibits A through G. These advertisements contain the following representations or statements, among others:

a. **TANNING CAUSES MELANOMA HYPE**

Recent research indicates that the benefits of moderate exposure to sunlight outweigh the hypothetical risks. Surprisingly, there is no compelling scientific evidence that tanning causes melanoma. Scientists have proven, however, that exposure to all forms of ultraviolet light – both indoors and out – stimulates the natural production of vitamin D. And research has proven that vitamin D protects against heart disease and many types of cancer, in addition to other important health benefits.

It's time to rethink sunbathing.

Find out more at www.SunlightScam.com.

A message brought to you by the Indoor Tanning Association

–Exhibit A, newspaper advertisement and point-of-sale poster art provided to ITA members

b. * * *

There are a lot of misconceptions about sunlight. After hearing relentless campaigns telling us to lather on the sunscreen, many Americans have been led to believe that ultra violet [sic] (UV) light – whether it comes from the sun or from a tanning salon – is something to be feared, rather than cherished.

...

The reality is that UV light provides us with countless health benefits – both physiological and psychological. And the rewards of “soaking up the sun” even outweigh the risks of overexposure. Though there are various ways of getting the recommended amount, such as mowing the lawn or lying by the pool, safe, moderate tanning is the best way to maximize these benefits while minimizing any risks.

* * *

Melanoma Misinformation.

* * *

Getting a regular amount of sunlight is healthy, whether it's outdoors or in a sun bed. Moderate exposure to UV light benefits people with vitamin D deficiency and makes people feel good. However, a great deal of misinformation has been spread about the link between Melanoma and *any* amount [sic] UV exposure.

The truth may surprise you:

- Sunburns, not sun tans are linked to melanoma
- Melanoma is most common among those who work indoors, not outside
- Melanoma appears most commonly on body parts not regularly exposed to sun

Safe, moderate exposure does not increase risk of melanoma skin cancer. And tanning indoors is even safer because, unlike exposure to the sun, the environment is controlled. In fact, the anti-cancer benefits of UV exposure highlighted by [sic] recent studies far outweigh the risks associated with over-exposure.

–Exhibit B, website, <http://www.trusttanning.com>

c. **Get the Facts About Tanning**

* * *

SCAM: Getting a tan is dangerous

TRUTH: There is nothing dangerous about getting a tan. In fact, your body needs ultraviolet light to live. And now, new research is unlocking the secrets of vitamin D, which is naturally produced by skin when it is exposed to sunlight or indoor tanning lights. Earlier this year the London *Telegraph* reported:

Last week, a report in the prestigious US journal Proceedings of the National Academy of Sciences revealed that people with higher levels [of vitamin D] were more likely to survive colon, breast and lung cancer

...

The Proceedings of the National Academy of Sciences study determined that the risks associated with not getting enough sun far outweighed any hypothetical damage that might occur.

While a healthy tan poses no significant risks of damaging your skin, burning your skin can be dangerous. For that reason, indoor tanning – where the amount of UV light you receive is monitored – is considered by many to be a safer alternative to tanning outdoors.

* * *

SCAM: Every ray of UV light from a tanning bed increases your risk of contracting melanoma skin cancer

TRUTH:

* * *

A recent study in the prestigious Proceedings of the National Academy of Sciences determined that the risks of not getting enough UV light far outweighed the hypothetically minute risk of skin cancer. That's because getting a healthy tan naturally produces vitamin D, which has been linked to significantly decreasing your risk of contracting internal cancers like lung, kidney, or liver cancer.

While getting too much sun has been linked to some forms of cancer, indoor tanning is a government-approved, controlled environment designed to give you a tan without ever burning – which is the likely culprit in contracting cancer from sun exposure.

* * *

SCAM: Indoor tanning is more dangerous than tanning in the sun
TRUTH: Just the opposite is true. Unlike tanning outdoors, indoor tanning is designed to match your skin type and desired tan in a well-regulated, controlled environment. Consequently, the vast bulk of scientific research indicates that indoor tanning is a safer alternative to tanning outdoors.

–Exhibit C, website, www.sunlightscam.com.

- d. The fear of getting a tan has gone too far. Dermatologists with the sunscreen and cosmetic industries are trying to scare us away from the sun. But tanning produces vitamin D, and research shows vitamin D may fight heart disease, breast cancer, stroke, and osteoporosis. So go get a tan, your body will thank you.

[on screen: Vitamin D Fights Heart Disease Breast Cancer Stroke Osteoporosis]

Bought to you by The Indoor Tanning Association.

–Exhibit D1, Transcript, television and website advertisement and Exhibit E, DVD containing video of same

[on screen: www.SunLightScam.com]

The fear of getting a tan has gone too far. Dermatologists with the sunscreen and cosmetic industries are trying to scare us away from the sun. But tanning produces vitamin D, and research shows vitamin D may fight heart disease, breast cancer, stroke, and osteoporosis. So go get a tan, your body will thank you.

[on screen: www.SunLightScam.com]

[on screen: Vitamin D Fights Heart Disease Breast Cancer Stroke Osteoporosis]

Bought to you by The Indoor Tanning Association.

–Exhibit D2, Transcript, television and website advertisement and Exhibit E, DVD containing video of same

- e. * * *
By practicing what you find in this book, you will more effectively communicate your message, build your image, and motivate desired behavior.

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ARGUMENT 1 – VITAMIN D IS GOOD (VITAMIN D IS THE “SUNSHINE VITAMIN”):

* * *

- It is impossible to get the requisite amount of vitamin D in cities north of 37 degrees for as many as 6 months out of the year. . .
- Vitamin D isn't like other vitamins that you can easily ingest as part of your diet. It is best absorbed through the skin from exposure to UV light. New research indicates that supplement-based vitamin D, as opposed to vitamin D naturally produced through exposure to UV light, may actually harm the body's ability to fight disease.

* * *

ARGUMENT 3 – TANNING IN MODERATION IS BENEFICIAL:

* * *

- Indoor tanning in moderation is safer than exposure to the sun, because the environment is controlled.
- Unlike the sun, tanning is well regulated and approved by the government. When used moderately and responsibly, tanning sessions are designed to prevent burning.

–Exhibit F, ITA “Communications: the basics” guide provided to ITA members

- f. Enjoy the sun on doctor's orders
Solar rays can help protect against some cancers and heart disease, say scientists
–The Guardian, January 8, 2008

As Vitamins Go, D, You Are My Sunshine
Just 20 minutes of sun exposure without sunscreen enables the skin to produce 20,000 IU of vitamin D
– The Washington Post, September 18, 2007

Sunshine prevents more deaths than it causes;
Sunshine has a protective effect overall because it helps to create vitamin D
– New Scientist, January 12, 2008

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Time to rethink sun tanning?

For more information visit www.TrustTanning.com

Dermatologists and the sunscreen industry have spent millions on a deceptive campaign to scare Americans away from the sun. Now the tide of research is turning the other direction. The positive effects of getting vitamin D from sunlight are clear. So soak up a little sunlight – indoors or out – a couple of times each week, and get your recommended dose of the “sunshine vitamin.”

Paid for by the Indoor Tanning Association

–Exhibit G, newspaper advertisement and point-of-sale poster art provided to ITA members

5. Through the means described in Paragraph 4, respondent has represented, expressly or by implication, that:

- A. Tanning, including indoor tanning, does not increase the risk of skin cancer;
- B. Tanning, including indoor tanning, poses no danger;
- C. Indoor tanning is approved by the government; and
- D. Indoor tanning is safer than tanning outdoors because, in indoor tanning facilities, the amount of ultraviolet light is monitored and controlled.

6. In truth and in fact:

- A. Tanning, including indoor tanning, increases the risk of skin cancer, including squamous cell and melanoma skin cancers;
- B. Tanning, including indoor tanning, poses danger;
- C. Indoor tanning is not approved by the government; and
- D. Indoor tanning is not safer than tanning outdoors because the amount of ultraviolet light received when tanning indoors is neither monitored nor controlled sufficiently to prevent the health risks associated with ultraviolet exposure.

Therefore, the representations set forth in paragraph 5 were, and are, false and misleading.

7. Through the means described in Paragraph 4, respondent has represented, expressly or by implication, that it relied on a reasonable basis that substantiated the representations set forth in Paragraph 5, at the time the representations were made.

8. In truth and in fact, respondent did not possess and rely upon a reasonable basis that substantiated the representations set forth in Paragraph 5, at the time the representations were made. Therefore, the representation set forth in paragraph 7 was, and is, false and misleading.

9. Through the means described in Paragraph 4, respondent has represented, expressly or by implication, that:

- A. Research shows that vitamin D supplements may harm the body's ability to fight disease; and
- B. A recent study in the prestigious Proceedings of the National Academy of Sciences determined that the risks of not getting enough ultraviolet light far outweigh the hypothetical risk of skin cancer, that getting a healthy tan produces vitamin D, and that increased vitamin D has been linked to significantly decreasing your risk of contracting internal cancers, such as lung, kidney, or liver cancer.

10. In truth and in fact:
- A. Research has not shown that vitamin D supplements may harm the body's ability to fight disease; and
 - B. The study in the Proceedings of the National Academy of Sciences referenced by respondent did not determine that the risk of getting skin cancer from ultraviolet light is only hypothetical, that the risks of not getting enough ultraviolet light far outweigh the risk of skin cancer, that getting a tan is healthy, or that increased vitamin D has been linked to significantly decreasing the risk of contracting internal cancers, such as lung, kidney, or liver cancer.

Therefore, the representations set forth in paragraph 9 were, and are, false and misleading.

11. Through the means described in paragraph 4, respondent has represented that tanning causes the skin to generate vitamin D and has health benefits. Respondent has failed to disclose that consumers can increase their vitamin D levels through ultraviolet exposure levels lower than the amount needed to get a tan, and that ultraviolet radiation can injure the eyes and increases the risk of skin cancer. These facts would be material to consumers in their purchase or use of indoor tanning services. The failure to disclose these facts, in light of the representation made, was, and is, a deceptive practice.

12. Through the means described in Paragraph 4, respondent has provided to others the means and instrumentalities to engage in deceptive acts or practices.

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 Section 5(a) and 12 of the Federal Trade Commission Act.

THEREFORE, the Federal Trade Commission this thirteenth day of May, 2010, has issued this complaint against respondent.

By the Commission, Commissioner Ramirez not participating.

Donald S. Clark
Secretary