

IN THE MATTER OF
JEROME MILTON, INC., ET AL.

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

Docket 9187. Complaint, Sept. 24, 1984—Decision, Oct. 26, 1987

This consent order prohibits, among other things, the Chicago, Illinois maker of Shane toothpaste from representing that Shane cures or alleviates the symptoms of canker or cold sores; reduces tooth sensitivity or plaque more effectively than any other toothpaste or oral hygiene product; or cures or alleviates gum problems unless they have reliable evidence that substantiates the representation.

Appearances

For the Commission: *Nancy Warder.*

For the respondents: *Maurice Raizes, Cohon, Raizes, & Regal,*
Chicago, IL.

COMPLAINT

Pursuant to the provisions of the Federal Trade Commission Act, and by virtue of the authority vested in it by said Act, the Federal Trade Commission, having reason to believe that Jerome Milton, Inc., a corporation, and Jerome Milton Schulman, individually and as an officer of Jerome Milton, Inc., hereinafter sometimes referred to as respondents, have violated the provisions of said Act, and it appearing to the Commission that a proceeding by it in respect thereof would be in the public interest, hereby issues its complaint stating its charges in that respect as follows:

PARAGRAPH 1. Respondent Jerome Milton, Inc., is an Illinois corporation with its office and principal place of business located at 4350 W. Ohio Street, Chicago, Illinois.

Respondent Jerome Milton Schulman is an officer of Jerome Milton, Inc. He formulates, directs and controls the acts and practices of Jerome Milton, Inc. His address is the same as that of Jerome Milton, Inc.

The aforementioned respondents cooperate and act together in carrying out the acts and practices hereinafter set forth.

PAR. 2. Respondents are engaged in the advertising, offering for sale, sale and distribution of various dietary and health care products, including Shane toothpaste. In connection with the marketing of

Shane, respondents are now and have been engaged in the dissemination, publication, and distribution of advertisements and promotional material for the purpose of promoting the sale of Shane. As advertised, Shane is a "drug" within the meaning of Section 12 of the Federal Trade Commission Act.

PAR. 3. Respondents have caused Shane to be transported from their places of business in various states to purchasers located in other states. Respondents maintain, and at all times mentioned herein have maintained, a substantial course of trade in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act.

PAR. 4. Respondents have disseminated and caused the dissemination of certain advertisements and promotional materials for Shane, such as the advertising materials attached hereto as Exhibits A through F, through the United States mails and by various means in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act.

PAR. 5. Through the use of the advertisements and promotional materials referred to in paragraph four, and others not specifically set forth herein, respondents have represented, and now represent, directly or by implication, that:

- a. the use of Shane will cure, or alleviate the symptoms of, canker sores (recurrent aphthous stomatitis), cold sores (herpes simplex type I lesions), and the gum problems associated with gingivitis and periodontitis;
- b. Shane is superior to other toothpastes in reducing or eliminating plaque; and
- c. the use of Shane will lessen the sensitivity of the teeth to hot and cold substances.

PAR. 6. Through the use of the advertisements and promotional materials referred to in paragraph four, respondents have represented and now represent directly or by implication that, at the time of making the representations set forth in paragraph five, they possessed and relied upon a reasonable basis for those representations.

PAR. 7. In truth and in fact, respondents, at the time of making the representations set forth in paragraph five, did not possess and rely upon a reasonable basis for those representations. Therefore, the representation set forth in paragraph six was and is unfair and deceptive.

PAR. 8. The use by respondents of the aforesaid unfair and deceptive representation has had, and now has, the capacity and tendency to mislead members of the consuming public into the erroneous and mistaken belief that said representation was and is true and has

induced, or is likely to induce, directly or indirectly, the purchase of Shane.

PAR. 9. The acts and practices of respondents, as herein alleged, including the dissemination of the aforesaid advertisements and promotional materials, were and are all to the prejudice and injury of the public and constituted and now constitute unfair and deceptive acts or practices in or affecting commerce in violation of Sections 5 and 12 of the Federal Trade Commission act, as amended.

ORDER

I.

It is ordered, That respondents Jerome Milton, Inc., a corporation, its successors and assigns, and its officers, and Jerome Milton Schulman, individually and as an officer of Jerome Milton, Inc., and respondents' representatives, agents and employees, directly or through any corporation, subsidiary, division or other device, in connection with the manufacture, advertising, labeling, packaging, offering for sale, sale, or distribution of Shane toothpaste, any other toothpaste, or any other oral hygiene product in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from representing, directly or by implication, that any such product:

- a. cures or alleviates the symptoms of canker sores (recurrent aphthous stomatitis), cold sores (herpes simplex type I lesions), or the gum problems associated with gingivitis and periodontitis;
- b. reduces plaque more effectively than any other toothpaste or oral hygiene product;
- c. reduces the sensitivity of teeth to hot and cold substances; or
- d. has any other therapeutic property

unless at the time of making such representation, respondents possess and rely upon competent and reliable evidence substantiating the representation. For purposes of this order, "competent and reliable evidence" shall mean a test, analysis, research project, or study in which the evidence has been objectively obtained and evaluated by persons qualified to do so, using procedures generally accepted in the relevant profession to yield accurate results.

II.

It is further ordered, That respondents, their successors and assigns, for at least three (3) years after the date of the last dissemination of

the representation, shall maintain and upon request make available to the staff of the Commission for inspection and copying copies of, and dissemination schedules for, every advertisement containing any representation(s) about oral hygiene product(s), copies of all evidence relied on for such representation(s), and copies of any document(s) in the possession or control of respondents, their successors and assigns contradicting or qualifying any such representation.

III.

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

IV.

It is further ordered, That the individual respondent named herein promptly notify the Commission of the discontinuance of his present business or employment. In addition, for a period of five years from the effective date of this order, the individual respondent shall promptly notify the Commission of each affiliation with a new business or employment. Each such notice shall include the individual respondent's new business address and a statement of the nature of the business or employment in which the respondent is newly engaged, as well as a description of respondent's duties and responsibilities in connection with the business or employment. The expiration of the notice provision of this paragraph shall not affect any other obligation arising under this order.

V.

It is further ordered, That the respondents forthwith distribute a copy of this order to each of the corporate respondent's operating divisions and to all present and future employees, agents, or representatives engaged in the preparation and placement of advertising and that the corporate respondent shall secure from each such person a signed statement acknowledging receipt of the order.

VI.

It is further ordered, That the respondents shall, within sixty (60) days after the date of service of this order, file with the Commission a report, in writing, signed by a responsible officer for respondents, setting forth in detail the manner and form in which they have complied with this order.

EXHIBIT A

Radio TV Reports

41 East 42nd Street New York N.Y. 10017
(212) 599-5500

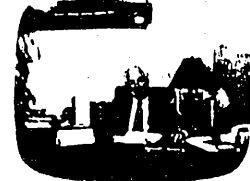
PRODUCT: SHANE TOOTHPASTE
PROGRAM: SECRET OF DR. KILDARE 6/20/1
WGN-TV (CHICAGO) 10:08AM



1. JEROME SCHULMAN: I'm Jerome Schulman. For years, I've had problems



2. with my gums and teeth, and sensitivity to hot and cold.



3. I've tried the major brands of toothpaste with no results.



4. Since I'm a chemist, I developed a toothpaste



5. called Shane. Now, people across the country are using Shane with excellent results.



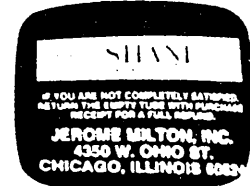
6. Gary Clark, Milwaukee, writes "Shane is fantastic".



7. and a letter from Chicago, "The best toothpaste I've ever used".



8. Buy Shane. If it isn't the finest toothpaste you've ever used,



9. return the empty tube with the purchase receipt, and I will give you a full refund.

ALSO AVAILABLE IN COLOR VIDEO-TAPE CASSETTE

While Radio TV Reports Inc. endeavors to assure the accuracy of material supplied by it, it cannot be responsible for mistakes or omissions

EXHIBIT B

Radio TV Reports

41 East 42nd Street New York N.Y. 10017
(212) 599-5500

PRODUCT PROGRAM STATION BREAK
WITI-TV (MILWAU.)



1. MAN: Why are more people switching from ordinary toothpaste to Shane? Here's Geri Rosin.



2. GERI ROSIN: In the past, I've had problems with my teeth



3. being sensitive to hot and cold, and also plaque formations, and nothing on the market seemed to work.



4. Then I heard about Shane Toothpaste.



5. I noticed how refreshing it tasted, and it had a very soothing effect on my gums and teeth.



6. Almost immediately, the sensitivity was gone, and within months,



7. the plaque formation



8. almost disappeared.



9. ANNCR: Buy it now at Walgreen's.

ALSO AVAILABLE IN COLOR VIDEO-TAPE CASSETTE

While Radio TV Reports Inc. endeavors to ensure the accuracy of material supplied by it, it cannot be responsible for mistakes or omissions.

EXHIBIT C

JEROME MILTON

WHY ARE MORE CHICAGO AREA PEOPLE SWITCHING FROM ORDINARY TOOTH-
PASTE TO SHANE.

HERE ARE SOME SHANE USERS TO TELL YOU WHY.....

GERI ROSIN OF MENOMONEE FALLS, WISCONSIN, "BY NATURE I AM
SKEPTICAL OF ANY NEW PRODUCT THAT CLAIMS MIRACULOUS RESULTS,
BUT YOUR SHANE TOOTHPASTE DOES EVERYTHING ITS SAID TO DO ---
PLUS MORE! I HAVE GONE THROUGH PERIODONTAL SURGERY TWICE AND
HAVE SUFFERED A GREAT DEAL OF PAIN AND DISCOMFORT. MY GREAT-
EST PROBLEMS WERE SENSITIVITY AND PLAQUE FORMATION, NOTHING
SEEMED TO HELP. I TRIED SHANE AND ALMOST IMMEDIATELY THE
SENSITIVITY TO HOT AND COLD WAS GONE. BEST OF ALL PLAQUE
HAS ALMOST DISAPPEARED AND MY TEETH ARE CLEANER."

AUDRIE KLUSZEWSKI OF CHICAGO, "WHEN I FIRST HEARD THE CLAIMS MADE
FOR SHANE I WAS SKEPTICAL, BEING A PESSIMIST I LET MY HUSBAND
USE SHANE FIRST SINCE HE IS A HEAVY SMOKER AND DRINKS EXCESSIVE
AMOUNTS OF COFFEE. WE WERE AMAZED WITH THE DRAMATIC RESULTS ONE
BRUSHING MADE, IN ADDITION HIS BLEEDING AND TENDER GUMS ARE IN
EXCELLENT CONDITION. SHANE IS BETTER THAN ANY TOOTHPASTE WE'VE
EVER USED."

HALF AS MUCH SHANE PRODUCES BETTER RESULTS THAN ORDINARY TOOTH-
PASTE. THE EXTRA BENEFITS MORE THAN MAKE UP FOR THE ADDED COST.
CAN YOU AFFORD LESS? WHY USE AN ORDINARY TOOTHPASTE WHEN YOU CAN
USE SHANE. SHANE IS AVAILABLE (FOLLOW TAG LIST)

Complaint

110 F.T.C.

EXHIBIT D

:GO SPOT/LIVEANNOUNCER READS:

WHY ARE MORE PEOPLE SWITCHING FROM ORDINARY TOOTHPASTE TO PROFESSIONALLY FORMULATED SHANE? HERE ARE SOME SHANE USERS TO TELL YOU WHY....LOIS GRIFFIN OF ELK GROVE VILLAGE WROTE, "SHANE TOOTHPASTE IS FANTASTIC!" SHE IS ONE WHO MUST HAVE HER TEETH CLEANED EVERY THREE MONTHS AND IT WAS BOTH PAINFUL AND EXPENSIVE. SHE HAS BEEN USING SHANE AND NOW HER DENTIST TELLS HER THAT SHE CAN CUT DOWN ON THE FREQUENCY OF HER VISITS. MARY SWART OF EVERGREEN PARK WROTE THAT SHE HAS HAD CHRONIC PROBLEMS WITH CANKER SORES. SHE LEARNED ABOUT SHANE TOOTHPASTE AND WITHIN THE HOUR AFTER APPLYING SHANE, THE SORENESS WENT AWAY AND IT WAS A JOY TO EAT WITHOUT THE PAIN AND DISCOMFORT. HALF AS MUCH SHANE PRODUCES BETTER RESULTS THAN ORDINARY TOOTHPASTE. THE EXTRA BENEFITS MORE THAN MAKE UP FOR THE ADDED COST. YOU CAN'T AFFORD LESS. WHY USE AN ORDINARY TOOTHPASTE WHEN YOU CAN USE SHANE. IT'S AVAILABLE AT:

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Complaint

EXHIBIT E

JEROME MILTON/SHANE
:60 SPOT/LIVE

8/3/83

ANNOUNCER READS:

WHY ARE MORE PEOPLE SWITCHING FROM ORDINARY TOOTHPASTE TO PROFESSIONALLY FORMULATED SHANE? HERE ARE SOME SHANE USERS TO TELL YOU WHY...PATRICIA KAWA, FROM PHOENIX, ARIZONA, WROTE SHE HAD RECENTLY VISITED HER DENTIST AND WAS TOLD THAT ALL HER BOTTOM TEETH HAD TO BE EXTRACTED. HER GUMS WERE INFECTED, HER TEETH WERE LOOSE AND SHE WAS SENSITIVE TO HOT AND COLD. SHE STARTED USING SHANE TOOTHPASTE AND THREE AND A HALF MONTHS LATER ALL HER PROBLEMS WERE GONE. SHE'S EVEN BACK TO ENJOYING CORN ON THE COB. SHANE TOOTHPASTE IS TRULY A MIRACLE-- SHE SAID IT HAS CHANGED HER LIFE. CLEO LEVINE OF CLEVELAND, OHIO SUFFERED FOR YEARS WITH PLAQUE PROBLEMS AND SENSITIVITY TO HOT AND COLD. SHE STARTED USING SHANE AND ALMOST IMMEDIATELY THE SENSITIVITY TO HOT AND COLD WAS GONE. HER PLAQUE FORMATION HAS DISAPPEARED TOO. SHE THINKS SHANE IS WONDERFUL. HALF AS MUCH SHANE PRODUCE BETTER RESULTS THAN ORDINARY TOOTHPASTE. THE EXTRA BENEFITS MORE THAN MAKE UP FOR THE ADDED COST. YOU CAN'T AFFORD LESS. WHY USE AN ORDINARY TOOTHPASTE WHEN YOU CAN USE SHANE? SHANE IS AVAILABLE AT:

Complaint

110 F.T.C.

EXHIBIT F

JEROME MILTON/SHANE
:60 SPOT/LIVE

8/3/83

ANNOUNCER READS:

WHY ARE MORE PEOPLE SWITCHING FROM ORDINARY TOOTHPASTE TO PROFESSIONALLY FORMULATED SHANE? HERE ARE TWO SHANE USERS TO TELL YOU WHY.....GARY CLARK OF MILWAUKEE SAID HE COULD NOT BELIEVE HOW FAST HIS COLD SORE HEALED: SHANE TOOTHPASTE IS GOOD FOR EVERY MOUTH TROUBLE. HE SAID SHANE IS FANTASTIC! CARL HIX OF AURORA SAID, IN HIS OPINION, SHANE TOOTHPASTE IS THE GREATEST PRODUCT SINCE THE DEVELOPMENT OF THE WD-40 LUBRICANT. NORMALLY HIS DENTIST IS REQUIRED TO USE AN "AIR-HAMMER" AND "BELT SANDER" TO REMOVE STAINS AND TARTER FROM HIS TEETH-- AND EVEN THEN, HE DOESN'T REMOVE ALL. AFTER A SHORT PERIOD, SHANE TOOTHPASTE REMOVED ALL THE STAINS AND IS WORKING ON THE TARTER. "SHANE TOOTHPASTE IS TREMENDOUS!" HE SAID. HALF AS MUCH SHANE PRODUCES BETTER RESULTS THAN ORDINARY TOOTHPASTE. THE EXTRA BENEFITS MORE THAN MAKE UP FOR THE ADDED COST. YOU CAN'T AFFORD LESS. WHY USE AN ORDINARY TOOTHPASTE WHEN YOU CAN USE SHANE. IT'S AVAILABLE AT:

DECISION AND ORDER

The Commission having heretofore issued its complaint charging the respondents named in the caption hereof with violations of Sections 5 and 12 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 attorneys, and counsel for the 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, 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, 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 Jerome Milton, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of Illinois, with its office and principal place of business located at 4350 West Ohio Street, in the City of Chicago, State of Illinois.
2. Respondent Jerome Milton Schulman is an officer of Jerome Milton, Inc. He formulates, directs, and controls the policies, acts and practices of Jerome Milton, Inc., and his address is the same as that of Jerome Milton, Inc.
3. The Federal Trade Commission has jurisdiction of the subject matter of this proceeding and of the respondents and the proceeding is in the public interest.

ORDER

I.

It is ordered, That respondents Jerome Milton, Inc., a corporation, its successors and assigns, and its officers, and Jerome Milton Schulman, individually and as an officer of Jerome Milton, Inc., and re-

spondents' representatives, agents, and employees, directly or through any corporation, subsidiary, division or other device, in connection with the advertising, offering for sale, sale, or distribution of Shane toothpaste, any other toothpaste, or any other oral hygiene product in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from representing, directly or by implication, that any such product:

- a. cures or alleviates the symptoms of canker sores (recurrent aphthous stomatitis) or cold sores (herpes simplex type I lesions);
- b. reduces the sensitivity of teeth to hot and cold substances;
- c. is useful in the diagnosis, cure, mitigation, treatment, or prevention of disease in man;
- d. reduces plaque more effectively than any other toothpaste or oral hygiene product; or
- e. cures or alleviates the gum problems associated with gingivitis or periodontitis,

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

For purposes of paragraphs a and b, above, "competent and reliable evidence" shall include at least one adequate and well-controlled, double-blind clinical study that conforms to accepted designs and protocols and is conducted by persons qualified by training and experience to do so;

For purposes of paragraphs d and e, above, "competent and reliable evidence" shall include at least two adequate and well-controlled, double-blind clinical studies that conform to accepted designs and protocols and are conducted by different persons, independently of each other, with such persons being qualified by training and experience to conduct such studies;

For purposes of paragraph c, above, "competent and reliable evidence" shall mean test(s), analysis(es), research project(s), or study(ies) in which the evidence has been objectively obtained and evaluated by persons qualified to do so, using procedures generally accepted in the relevant profession to yield accurate results;

Provided, however, with respect to any representation covered by this part of the order other than a claim concerning superior or comparative efficacy, if the Food and Drug Administration promulgates any standard, or any advisory review panel appointed by the Food and Drug Administration has issued a monograph, establishing that such representation is true, then in lieu of the above studies the respondents may rely on the Food and Drug Administration's standard or the

panel's monograph as long as it has not been superseded and remains in effect.

II.

It is further ordered, That respondents, their successors and assigns, for at least three (3) years after the date of the last dissemination of the representation, shall maintain and upon request make available to the staff of the Commission for inspection and copying copies of, and dissemination schedules for, every advertisement containing any representation(s) about oral hygiene product(s), copies of all evidence relied on for such representation(s), and copies of any document(s) in the possession or control of respondents, their successors and assigns contradicting or qualifying any such representation.

III.

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

IV.

It is further ordered, That the individual respondent named herein shall promptly notify the Commission of the discontinuance of his present business or employment and, for a period of five (5) years after the date of service of this order, shall promptly notify the Commission of each affiliation with a new business or employment, each such notice to include the individual respondent's new business address and a statement of the nature of the business or employment in which the respondent is newly engaged, as well as a description of respondent's duties and responsibilities in connection with the business or employment.

V.

It is further ordered, That the respondents shall distribute a copy of this order to each of the corporate respondent's operating divisions and to all present and future employees, agents, or representatives engaged in the preparation and placement of advertising and that the

corporate respondent shall secure from each such person a signed statement acknowledging receipt of the order.

VI.

It is further ordered, That the respondents shall, within sixty (60) days after the date of service of this order, file with the Commission a report in writing, signed by the individual respondent and a responsible officer for the corporate respondent, setting forth in detail the manner and form in which they have complied with this order.

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Complaint

IN THE MATTER OF

TARRANT COUNTY MEDICAL SOCIETY

CONSENT ORDER, ETC., IN REGARD TO ALLEGED VIOLATION OF SEC. 5 OF
THE FEDERAL TRADE COMMISSION ACT*Docket C-3219. Complaint, Nov. 2, 1987—Decision, Nov. 2, 1987*

This consent order requires, among other things, the Tarrant County Medical Society, of Fort Worth, Texas, to agree not to restrict, regulate or declare unethical any doctor's truthful advertising. Respondent also is required to provide, for 10 years, written notice to any doctor whose advertising it intends to challenge and allow that doctor a reasonable opportunity to respond.

Appearances

For the Commission: *Roy Conn.*

For the respondents: *William B. Davis, Cantey, Hanger, Gooch, Munn, & Collins, Fort Worth, TX.*

COMPLAINT

Pursuant to the provisions of the Federal Trade Commission Act, as amended (Title 15 U.S.C. 41 *et seq.*), and by virtue of the authority vested in it by said Act, the Federal Trade Commission, having reason to believe that the named respondent has violated the provisions of Section 5 of the Federal Trade Commission Act and that a proceeding by it in respect thereof would be in the public interest, hereby issues this complaint, stating its charges as follows:

PARAGRAPH 1. Respondent Tarrant County Medical Society is a corporation formed pursuant to the laws of the State of Texas, with its mailing address at 3855 Tulsa Way, Fort Worth, Texas.

PAR. 2. Respondent is a professional association formed to represent the interests of physicians who practice in Tarrant County, Texas. Respondent has approximately 1,300 members, constituting a substantial majority of the physicians in Tarrant County.

PAR. 3. Respondent is a component society of the Texas Medical Association, which in turn is a constituent society of the American Medical Association.

PAR. 4. Members of respondent are engaged in the business of providing medical health care services for a fee. Except to the extent that competition has been restrained as herein alleged, members of re-

spondent have been and are now in competition among themselves and with other physicians.

PAR. 5. Respondent engages in substantial activities which further its members' pecuniary interests. By virtue of its purposes and activities, respondent is a corporation within the meaning of Section 4 of the Federal Trade Commission Act, as amended, 15 U.S.C. 44.

PAR. 6. In the conduct of their business, members of respondent receive substantial sums of money, which flow across state lines, from the federal government and from private insurers for rendering medical services, and purchase equipment and supplies and prescribe medicines which are shipped in interstate commerce. The acts or practices described below are in interstate commerce, or affect the interstate activities of respondent's members, third-parties who pay for medical services, other third parties, and some patients of respondent's members, and are in or affect commerce within the meaning of Section 5(a)(1) of the Federal Trade Commission Act, 15 U.S.C. 45(a)(1).

PAR. 7. Respondent has acted as a combination of at least some of its members or has conspired with at least some of its members to hinder, frustrate, or restrict competition among physicians in Tarrant County by restricting or attempting to restrict its members from disseminating information to consumers through truthful, non-deceptive advertising.

PAR. 8. Respondent has engaged in various acts and practices in furtherance of this combination or conspiracy, including:

A. Through its Board of Censors, restricting or attempting to restrict the amount, duration, and size of advertising announcements that members place in newspapers. For example, respondent distributed restrictions to members that limit advertising announcements in newspapers to ten days and one-column inch in size; and

B. Through its Board of Censors, restricting or attempting to restrict the number of telephone directory listings its members place and the size of their print.

PAR. 9. The purposes or effects of the combination or conspiracy and acts or practices of respondent as described above have been and are to unreasonably restrain competition and injure consumers in one or more of the following ways, among others:

A. Vigorous competition among physicians is impeded;

B. Physicians are being deterred from advertising truthful information in the media about their prices, services, and qualifications; and

C. Consumers are being deprived of receiving truthful information about physicians' prices, services, and qualifications.

PAR. 10. The combination or conspiracy and the acts and practices

described above constitute unfair methods of competition and unfair acts or practices which violate Section 5 of the Federal Trade Commission Act, 15 U.S.C. 45. Such combination or conspiracy is continuing and will continue absent the entry against respondent of appropriate relief.

DECISION AND ORDER

The Federal Trade Commission having initiated an investigation of certain acts and practices of the respondent Tarrant County Medical Society (TCMS), and TCMS having been furnished thereafter with a copy of a draft of complaint which the Bureau of Competition 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

TCMS, its duly authorized officer, its attorney, and counsel for the Federal Trade 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, 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 have violated the said Act, and that 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 procedures 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. TCMS is a corporation organized, existing, and doing business under and by virtue of the laws of the State of Texas, with its mailing address at 3855 Tulsa Way, Fort Worth, Texas.

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

I.

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

A. "TCMS" means respondent Tarrant County Medical Society, its officers, councils, committees, boards, representatives, agents, employees, successors, and assigns; and

B. "Adverse action" means the revocation or suspension of, or refusal to grant, membership in TCMS, or the disciplining or penalizing of any physician.

II.

It is ordered, That TCMS, directly or indirectly, or through any device, shall forthwith cease and desist from:

Restricting, regulating, declaring unethical, impeding, interfering with, or advising against the advertising or publishing by any person or organization of information about the prices, terms, or conditions of sale of physicians' services, or of any information about physicians' services, facilities, or equipment which are offered for sale or made available by physicians or by any organization with which physicians are affiliated, including but not limited to restricting or attempting to restrict the content, format, size, or frequency of any such advertisements or publications.

Nothing contained in this order shall prohibit TCMS from formulating, adopting, disseminating to its members, and enforcing reasonable ethical guidelines governing the conduct of its members with respect to representations, including unsubstantiated representations, that TCMS reasonably believes would be false or deceptive within the meaning of Section 5 of the Federal Trade Commission Act.

III.

It is further ordered, That TCMS shall cease and desist from:

A. For a period of ten (10) years after service of this order, taking any adverse action against a person alleged to have violated any rule, policy, guideline, or ethical standard relating to physician advertising without first providing such person with written notice of the allegations against such person and without providing such person a reasonable opportunity to respond. The notice required by this part shall, at a minimum, clearly specify the rule, policy, guideline, or ethical stan-

ard alleged to have been violated, the specific conduct that is alleged to have violated the rule, policy, guideline, or ethical standard, and the reasons the conduct is alleged to have violated the rule, policy, guideline, or ethical standard; and

B. Failing to maintain for five (5) years following the taking of any action referred to in this part of the order, in a separate file segregated by the name of any person against whom such action was taken, any document that embodies, discusses, mentions, refers, or relates to the action taken and any allegation relating to it.

IV.

It is further ordered, That TCMS shall:

A. For a period of five (5) years, commencing on the date this order is served, provide each applicant for membership in TCMS with a copy of this order at the time the applicant applies for membership;

B. Within sixty (60) days after service of this order, publish a copy of the complaint and this order in the *Physician*, or in any successor publication, with the same prominence as regularly published feature articles;

C. Within fifteen (15) days after service of this order, remove from TCMS' documents entitled "Board of Censors Agenda for Meeting with Provisional Members" and "Board of Censors Meeting with Applicants for Membership," and any other existing ethical or policy statement or guideline of TCMS, any provision, interpretation or statement which is inconsistent with Part II of this order, and within sixty (60) days after service of this order, publish, in the manner described in Part IV.B. of this order, a copy of the revised versions of such statements, guidelines, or interpretations to each of its members;

D. Within sixty (60) days after service of this order, send to the Southwest Bell Telephone Company supervisor in charge of professional advertising a copy of this order and accompanying complaint;

E. Within ninety (90) days after service of this order, and at any time the Commission, by written notice, may require, file with the Commission a report, in writing, setting forth in detail the manner and form in which TCMS has complied with this order; and

F. For a period of five (5) years after service of this order, maintain and make available to the Commission staff for inspection and copying upon reasonable notice, records adequate to describe in detail any action taken in connection with the activities covered by Parts II and III of this order, including but not limited to any advice or interpretation rendered with respect to advertising involving any physician.

V.

It is further ordered, That TCMS shall notify the Commission at least thirty (30) days prior to any proposed change in the respondent, such as dissolution or reorganization resulting in the emergence of a successor corporation or association, or any other change in the corporation or association which may affect compliance obligations arising out of this order.

IN THE MATTER OF

NEW MEDICAL TECHNIQUES, INC.

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

Docket C-3220. Complaint, Nov. 18, 1987—Decision, Nov. 18, 1987

This consent order prohibits, among other things, a Mystic, Connecticut manufacturer and distributor of countertop water distillers from misrepresenting that the devices are approved or endorsed by any person or organization and from making false and unsubstantiated claims concerning their ability to remove contaminants and impurities from water. Respondent is required, for three years, to maintain the material to substantiate their claims.

Appearances

For the Commission: *Joel Winston.*

For the respondents: *Richard S. Pastore, Albert, Pastore & Ward,*
Greenwich, Conn.

COMPLAINT

The Federal Trade Commission, having reason to believe that New Medical Techniques, Inc., a corporation ("NMT" or "respondent"), has 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. NMT is a Connecticut corporation, with its offices and principal place of business in Mystic, Connecticut, and its mailing address at Post Office Box 429, Broadway Extension, Mystic, Connecticut.

PAR. 2. Respondent has advertised, offered for sale, sold and distributed water distillers and water distiller accessories, including the Aquaspring Home Water Distiller models 1.5, 4, and 5 ("Aquaspring"). These distillers are designed to remove contaminants from water through the process of boiling and recondensing the water.

PAR. 3. The acts or practices of respondent alleged in this complaint have been in or affecting commerce.

PAR. 4. Typical of respondent's advertisements and promotional materials for Aquaspring, but not necessarily all-inclusive thereof, are the promotional materials attached hereto as Exhibits A, B, C, D

and E. The aforesaid advertisements and promotional materials contain the following statements:

(a) "[D]istilled water is pure water—no chemicals or bacteria. Nothing but water can be found in distilled water." (EX. A)

(b) "Only distillation will remove EVERYTHING from water." (EX. A)

(c) "The distillation process boils the source water, collects the resulting steam, cools and condenses it back into water. Bacteria and germs are immediately killed by the heat of the steam. Salts, sulphur, arsenic, mercury, chlorine and other chemical impurities do not boil at the same temperature as water. They do not, therefore, become steam, and do not travel into the cooling, condensing apparatus of the distiller. These impurities are thus left behind in the boiler with only PURE WATER delivered from the distiller's condenser unit." (EX. A)

(d) "Municipal water supplies are not safe. Recent studies have shown that chlorine, a chemical put into all public water supplies, reacts with organic matter to form chloroform. Chloroform is a known carcinogen. The United States Environmental Protection Agency recognizes the danger of chloroform in our public water supplies and soon will force the water companies to do something about it.

Unfortunately, years will pass before all chloroform is out of our water." (EX. A)

(e) "The United States Health Service, after testing our products, recommended them to their various clinics. Also, again after thorough testing, Duke Medical Center recommends our products." (EX. A)

(f) "Distilled Water—(Boiling and vaporizing) removes bacteria, minerals and chemicals.

Absolutely Pure Water." (EX. B)

(g) "Why should you take chances? You don't have to be a doctor or a well-educated person to understand that with these chemicals and pollutants in our water, it is foolish to take chances when it is so inexpensive to remove them through *distillation, NATURE'S WAY OF PURIFYING WATER.*" [emphasis in original] (EX. C)

(h) "Aquaspring 5 the new Stainless home water distiller, removes objectionable impurities from drinking water." (EX. D)

(i) "Safe * Pure * Water" (EX. D AND E)

(j) "The Aquaspring 1.5 converts tap water—even sea water—to safe pure distilled water which far exceeds drinking water standards as established by the Environmental Protection Agency." (EX. E)

(k) "Distillation is the only truly effective way to eliminate dangerous bacteria, viruses, dirt, salt, rust, chlorine and other chemicals and minerals. Other methods of water purification remove some of the contaminants, but only distillation can eliminate all impurities. At a time when our nation's water supplies are so badly polluted it makes good sense to drink distilled water." (EX. E)

PAR. 5. Through the use of the statements referred to in paragraph four (a) through (k) and others in advertisements and promotional materials not specifically set forth herein, respondent has represented, directly or by implication, that:

(a) Aquaspring will remove all impurities or contaminants from water.

(b) Aquaspring will remove all chemical impurities or contaminants from water.

(c) Aquaspring will remove chloroform from water.

(d) Consumers who use Aquaspring will be protected from all diseases or conditions caused by hazardous water-borne impurities or contaminants.

(e) Aquaspring has been tested, approved and endorsed by the Public Health Service office of the United States Department of Health and Human Services and by the Duke University Medical Center.

PAR. 6. In truth and in fact,

(a) Aquaspring will not remove all impurities or contaminants from water, because it will not remove volatile organic chemicals from water.

(b) Aquaspring will not remove all chemical impurities or contaminants from water, because it will not remove volatile organic chemicals from water.

(c) Aquaspring will not remove chloroform, a volatile organic chemical, from water.

(d) Consumers who use Aquaspring will not be protected from all diseases or conditions caused by hazardous waterborne impurities or contaminants, because Aquaspring will not remove toxic and potentially carcinogenic volatile organic chemicals from water.

(e) Aquaspring has not been tested, approved and endorsed by the Public Health Service office of the United States Department of Health and Human Services or by the Duke University Medical Center.

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

PAR. 7. Through the use of the statements and representations set forth in paragraphs four and five and others not specifically set forth herein, respondent has represented, directly or by implication, that, at the time it made the representations, respondent possessed and relied upon a reasonable basis for such representations.

PAR. 8. In truth and in fact, at the time respondent made said representations, respondent did not possess and rely upon a reasonable basis for such representations. Therefore, respondent's representations as set forth in paragraph seven were and are false and misleading.

PAR. 9. In the advertising and sale of Aquaspring, respondent has failed to disclose to consumers that Aquaspring does not remove from water volatile organic chemicals, which are potentially hazardous to health. This fact would be material to consumers in their decisions on whether to purchase or how to use Aquaspring. The failure to disclose this fact, in light of the representations made as alleged in paragraph five, is a deceptive practice.

PAR. 10. The acts and practices of respondent as alleged in this

Complaint

110 F.T.C.

complaint constitute unfair or deceptive acts or practices in or affecting commerce in violation of Section 5 (a) of the Federal Trade Commission Act.

EXHIBIT A

"YOUR INSTANT SOLUTION TO WATER POLLUTION"©

Aquaspring® Model 1.5.
Weighs only six pounds.
9 1/4" square at base. 110 volt.



**NEW MODEL
4 FEATURES:**
*CUT OFF SWITCH
HEAVIER MOTOR
BRACKETS
FIRE RETARDANT
SHROUD
THREE-WIRE
CORD*

Aquaspring® Model 4:
110 volt. 60 cycles. 720 watts. Capacity: 4 gal. per day
Height: 16 1/4"; Base: 9 1/4" sq.; Weight: 11 pounds.



* New Aquaspring®
Model #5 High Speed
Stainless Steel Water
Distiller - meets larger
requirements. Weighs
only 12 lbs., 110 Volt,
9 1/4" square at base.

* Available 1984

Note: New Medical Techniques' distillers come with a pyrex boiler. Stainless steel is optional.

* Trademark of New Medical Techniques, Inc.
Covered by U.S. patents.
ONE YEAR WARRANTY

Copyright 1978 by New Medical Tech
Box 429, Mystic, Connecticut C **100C17**

One of the
dirtiest words
in the
world . . .

WATER

100010

Q Is distilled water good for you?

A Yes, distilled water is pure water — no chemicals or bacteria. Nothing but water can be found in distilled water. Our bodies need water, they do not need the chemicals which can be found in our adulterated tap water.

Q Who are the largest users of distilled water for drinking purposes?

A Well, the entire United States Navy drinks distilled water when aboard ship. On every naval ship there is a distillation unit which converts sea water into distilled water. The principle of this distillation is exactly the same as with our products, the Aquaspring® water purifier — distillers.

Patients on sodium restricted diets are advised to drink only distilled water. The United States Health Service, after testing our products, recommended them to their various clinics. Also, again after thorough testing, Duke Medical Center recommends our products. The United States Air Force, after thorough testing in Turkey, approved our products.

Q Is there any other way of obtaining distilled water besides buying your products?

A Yes, you can buy distilled water in supermarkets and drug stores at prices ranging from \$1.10 to \$2.00 a gallon. Making your own distilled water with one of our units is much less expensive — you need only pay for the electricity.

100C11

Q Are there any other advantages to using Aquaspring® products rather than bottled water?

A Yes, in addition to the tremendous yearly savings in money, you have the following advantages:

1. Source of supply. You know that since you make it right in your own home, it is really distilled water and pure. On the other hand, the Federal Trade Commission has found many instances of mislabeling where it is stated their product is "to be used for distilled water purposes" and yet in the small print it acknowledges it was not distilled water.

2. Another advantage is the well designed 1/2 gallon receiving and storage bottle which is ideal for pouring and storing.

Q Is distillation the only method of getting pure water?

A Yes, filters, reverse osmosis, electro dialysis, and ultraviolet rays will not give you pure water. Only distillation will remove EVERYTHING from water.

Q Does distillation remove (take out) mercury, arsenic, sulphur, salt, chlorine, and all mineral impurities?

A Yes.

Q Does a filter take out any of these mineral impurities?

A No.

100C12

Q Is spring or mineral water pure water?

A No. It is merely taken out of a spring, tap or well?

Q Why is distilled water so pure?

A The distillation process boils the source water, collects the resulting steam, cools and condenses it back into water. Bacteria and germs are immediately killed by the heat of the steam. Salts, sulphur, arsenic, mercury, chlorine and other chemical impurities do not boil at the same temperature as the water. They do not, therefore, become steam, and do not travel into the cooling, condensing apparatus of the distiller. These impurities are thus left behind in the boiler with only PURE WATER delivered from the distiller's condenser unit.

Q Is distilled water tasteless?

A Yes, all pure water is tasteless. Distilled water served cold, is acknowledged to be delicious.

Q What should distilled water be used for?

A Mainly for drinking and cooking. The supply of distilled water from an AQUASPRING® is ample for a family of 3 or 4 for drinking and cooking. The larger size unit will take care of families up to 8 to 12.

100C13

Q A friend told me that distilled water is great to cook with. Why is that?

A As distilled water adds no foreign substances to your food, the original tastes and flavors of your foods are preserved. If you ever wonder why someone else's food always tastes better than yours, chances are they use a better water than you do.

Q Is distilled water the best base for mixing powdered milk, Tang, instant coffee, tea, and dehydrated soups?

A It most certainly is. S.S. Project HOPE uses a large distillation unit, converting sea water to pure distilled water, which is then mixed with powdered milk and cooled and makes a delicious drink of which they have dispensed millions of quarts.

Q The food did taste much better when I was young; could it be because we got our water from a well?

A Could be, but well water can be dangerous, especially when the well is located on a small plot where it is almost impossible to keep the seepage from the cesspool or septic tank out of the well.

Q What is being done about such contamination?

A Almost nothing. A great many persons have stated that the only way we are going to start purifying the water will be in the American home. It took a long time to inform the public about distillation, what it was, how easy our products are to operate, and how economical they are.

Q Can you get seriously ill from drinking contaminated water?

A Yes. Many doctors have written, giving evidence that water, contaminated with human excrement, caused the cholera epidemics which were prevalent in many areas of the earth. These

100C14

same conditions exist today and the cholera epidemics are spreading.

Q Could such an epidemic happen in this country?

A Yes. The U.S. Public Health Service has been trying to shock the apathy and complacency of the American public by this dangerous fact. There are many areas where water not only contains poisonous minerals such as arsenic and mercury, but also has human excrement.

Q Just how safe are our municipal water supplies?

A Municipal water supplies are not safe. Recent studies have shown that chlorine, a chemical put into all public water supplies, reacts with organic matter to form chloroform. Chloroform is a known carcinogen. The United States Environmental Protection Agency recognizes the danger of chloroform in our public water supplies and will soon force the water companies to do something about it. Unfortunately, years will pass before all chloroform is out of our water.

Q Can water be clear and still contaminated?

A Yes. For example, in Suffolk County, Long Island, there is a prevalence of both detergents and cesspool seepage and the water still is fairly clear.

Q How long will it take to correct water pollution in the United States?

A Some people say it will take 10 years, others say 100 years. It is anybody's guess. The facts are the U.S. Public Health Service reports show that practically every river and lake in the United States is contaminated, some having very dangerous pollution.

100015

Distilled Water

- Drink it.
- Cook with it.
- It makes great ice cubes.
- Mix baby's formula with it.
- Use it in your iron,
- your car battery,
- and your humidifier, they will all last longer and work better.
- Use it to make coffee
- or tea you will love.
- Soups, juices and
- prepared foods taste best when made with it.
- When you travel abroad, bring your distiller and never worry about native water again.
- Shampoo with it,
- your hair will shine.
- Use it when washing
- delicate fabrics.
- Buy an Aquaspring® today.



100016

EXHIBIT B

Aquaspring®

N.M.T., INC., Mystic, CT 06355

Qty.	Item	Price
	Aquaspring - Model 1.5 with Pyrex Boiler and Two Rectifying Bottles	* \$167.00
	Aquaspring - Model 4 with Pyrex Boiler and Four Rectifying Bottles	* \$271.00
	Aquaspring - Model 5 Stainless Steel with Pyrex Boiler and 4 Rectifying Bottles	* \$322.00
	Pyrex Boiler for all Aquasprings	** \$12.25
	Stainless Steel Boiler for all Aquasprings	** \$31.75
	Extra pairs Rectifying Bottles	1 ** per pair \$14.00
	Carrying Case for Model 1.5 only	** \$12.00
	Scarf off Cleaner Quart Container	** \$18.70
	** Prices include postage on orders in U.S.A.	
	Conn. residents only, add 7 1/2% Sales Tax	

* Suggested Retail
 Check or Money order enclosed
 Ship C.O.D. Add \$2.50
 TOTAL ENCLOSED _____
 SHIP TO: _____
 NAME _____
 ADDRESS _____
 CITY _____
 ZIP CODE 10021
 Prices subject to change without notice.

DO YOU KNOW ABOUT WATER?
 Boiling Water removes bacteria, but not minerals or chemicals.
 Filtering Water - (charcoal, etc.) removes undissolved matter only, not bacteria, minerals or chemicals.
 Distilled Water - (Boiling and vaporizing) removes bacteria, minerals and chemicals.
Absolutely Pure Water.

N.M.T. Inc.
 P.O. Box 429
 Mystic, Connecticut 06355

Parameter	Before	Aquaspring After Distillation
Alkalinity	6.8	Less than 2.0
Chloride	11.8	Less than 0.7
Chlorine	0.6	0.0
Copper	0.03	0.0
Fluoride	1.0	Less than 0.05
Hardness	12.5	Less than 2.0
Iron	0.11	Less than 0.04
Manganese	0.01	Not Reported
Nitrate	0.1	Less than 0.15
Nitrogen, Ammonia	0.1	Less than 0.02
Total Phosphorus	0.11	Less than 0.01
Sodium	8.8	Less than 7.4
Conductance, Specific	290.0	4
Sulfate	37.0	0.4

USE SCALE OFF CLEANER on a regular basis. It contains an inhibitor that protects against corrosion.

UNPLUG THE DISTILLER AFTER EACH CYCLE.

NEVER ADD WATER TO THE RESIDUE.

Rinse out boiler, start with **100C20**

Aquaspring®

Home Water Distiller

New Aquaspring® Model #5 High Speed Stainless Steel Water Distiller - meets larger requirements. 120 Volt, 950 Watts, 9 1/2" square at base.



Aquaspring® Model 4:
 Capacity: 4 gal. per day. Weight: 11 lbs. Height: 16 1/2"; Base: 9 1/2" sq.; 120 volt. 60 cycles. 720 watts.



Aquaspring® Model 1.5:
SPECIFICATIONS:
 120 volt, 60 cycles, 235 watts. Capacity: 1 1/2 to 2 gal. per day. Height: 13 1/2"; Base 9 1/2" sq. Weight: 6 pounds.

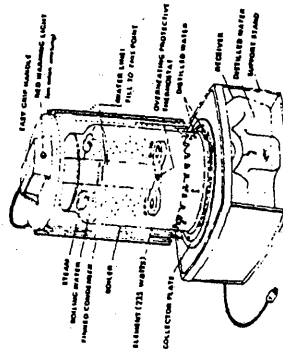
ONE YEAR WARRANTY **100C19**

Complaint

110 F.T.C.

Aquaspring®

"YOUR INSTANT SOLUTION TO WATER POLLUTION"®



Q Is distilled water good for you?
A Yes, distilled water is pure water — no chemicals or bacteria.

Q Is there any other way of obtaining distilled water besides buying your products?
A Yes, you can buy distilled water in supermarkets and drug stores at various prices.

Q Are there any other advantages to using Aquaspring® products rather than bottled water?
A Yes, in addition to the tremendous yearly savings in money, you have the following advantage: Source of supply. The well designed 1/2 gallon receiving and storage bottle which is ideal for pouring and storing.

Q Is distillation the only method of getting pure water?
A Yes, filters, reverse osmosis, electrolysis, and ultraviolet rays will not give you pure water. Only Distillation will remove bacteria from water.

Q Does distillation remove (take out) mercury, arsenic, sulphur, salt, chlorine, and all mineral impurities?
A Yes.

MODEL 4 & 5 FEATURES

- CUT OFF SWITCH
- HEAVIER MOTOR BRACKETS
- FIRE RETARDANT SHROUD
- THREE WIRE CORD

OTHER FEATURES

- EPA NUMBER #19852-CT-01
- PLASTIC FDA APPROVED
- ALUMINUM PARTS ANODIZED (Glass-like coating)
- PURIFIES WATER (Removes Bacteria and solids.)
- COMPACT — FITS ON COUNTER
- REQUIRES NO ASSEMBLY
- TOTALLY AUTOMATIC
- QUIET LONG LIFE MOTOR
- QUALITY CONSTRUCTION (Paris-Labor)
- FAST (2 1/2 to 3 hrs. per cycle)

Model 5 Ul. Approved.

- U.S. PATENTS
- D-195771
- D-196108
- D-196147

100C22

100C18

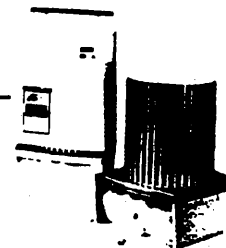
100C23

EXHIBIT C

NEW MEDICAL TECHNIQUES, INC.

MASON'S ISLAND ROAD • MYSTIC • CONNECTICUT 06355 • 203 536 4981

AQUASPRING -- YOUR INSTANT SOLUTION TO WATER POLLUTION™



TEN COMMON SENSE REASONS WHY YOU SHOULD DRINK DISTILLED WATER

1. There are 12 thousand chemicals on the market today, 500 being added yearly. Regardless of where you live, in the city or on the farm, some of these chemicals could be getting into your drinking water.
2. Because everybody's body chemistry is different, these chemicals could have a drastic effect on your health.
3. No one on the face of the earth today knows what effect these could have on your body, as they go into thousands of different combinations. (It is like making a mixture of colors; one drop could change the complete color.)
4. There has not been equipment designed to detect these chemicals, and there may not be for many years to come.
5. The Navy has been drinking distilled water for several generations.
6. Distilled water is chemical and mineral free. Distillation removes all of the chemicals and impurities that it is possible to remove and if distillation doesn't remove them, there is no known method today that will.
7. Though the body does need minerals, there is no organic or inorganic mineral in water that makes a minute amount of difference, as most minerals that the body can assimilate are found in fruits, vegetables or foods. Because minerals in water vary from area to area, water would be a poor source of minerals. We feel it is much better to clean the water up and remove these chemicals, pollutants and inorganic minerals, drink distilled water, and if you feel you should, supplement it with fruits and vegetables.
8. Dr. Schroeder, one of our leading trace mineral experts, states: "There is more of a danger of the body receiving an over-abundance of minerals than an under-abundance, which could be replaced."
9. We have sold tens of thousands of distillers throughout the United States and in many foreign countries. We have had thousands of people tell us and hundreds of people write us that it has helped them physically and given them a feeling of general well-being.
10. Why should you take chances? You don't have to be a doctor or a well-educated person to understand that with these chemicals and pollutants in our water, it is foolish to take chances when it is so inexpensive to remove them through distillation, NATURE'S WAY OF PURIFYING WATER.

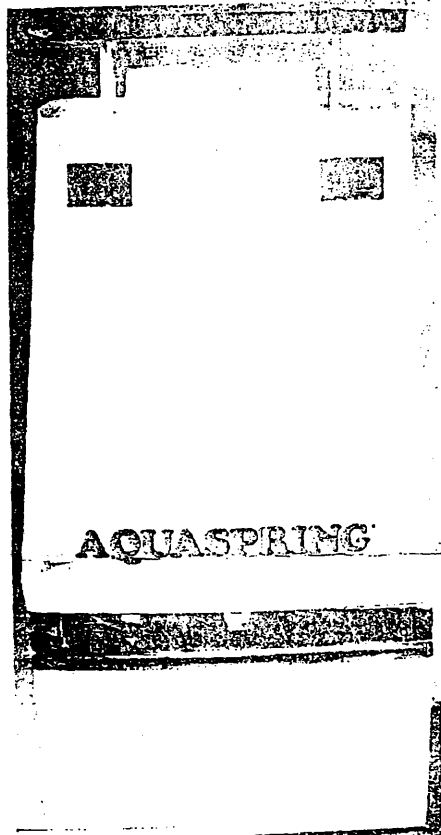
100031

EXHIBIT D

NEW AQUASPRING[®]-5

HI-SPEED-STAINLESS Home Water Distiller

ENJOY CLEAN, REFRESHING WATER IN YOUR OWN HOME WITHOUT PLUMBING EXPENSIVE EQUIPMENT WATER AQUASPRING IS THE ALTERNATIVE



Safe • Pure • Water

AQUASPRING-5 the new Stainless home water distiller, removes objectionable impurities from drinking water. This remarkable compact appliance, manufactured by New Medical Techniques, Inc., distills tap water — or even sea water — and converts it to fresh pure drinking water — efficiently, silently, and for only pennies per gallon. Yield is 5 gallons* of distilled water a day.

AQUASPRING'S Pure Distilled Water brings out the delicious natural flavor of coffee, tea, soups, mixed drinks, juice concentrates, even ice cubes... recommended for special diet formulas and salt-free diets...eliminates drinking problems at summer cottages, fishing camps, travel trailers...excellent for color photography, electric irons, batteries.

AQUASPRING is compact and portable, weighs only 9 pounds. It plugs in like your toaster, and its action is completely automatic. No expensive plumbing hookups are needed.

AQUASPRING removes rust, dirt, salts, pesticides, chlorine, fluorides, alum, sulphur, and mineral impurities to make safe, pure distilled drinking water which meets U.S.P. standards...

It's that simple. Let **AQUASPRING-5** work while you sleep — the automatic electric circuit will turn the unit off when it produces one half gallon of water*. And an Add Water neon light goes on to let you know that you can make additional water. This neon light consumes a minute amount of energy and may serve as a nite-lite in your kitchen.

Specifications:
120 volts, 60 cycle AC, 950 watts. Height-17½", Base-9½" square, Weight-9 lbs. (approx.)

WARRANTY: Guaranteed for 12 months against defects in material or workmanship.

Trademark of New Medical Techniques, Inc., Mystic, CT 06355
Covered by U.S. patents issued and pending.

* Approx.

U.L. Approved - Listed 424D

FOR MORE INFORMATION CONTACT

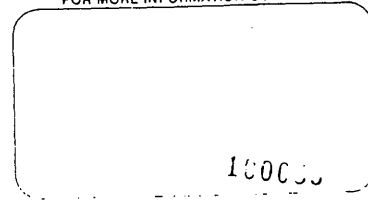


EXHIBIT E

AQUASPRING®-1.5**Home Water Distiller**

ENJOY CLEAN REFRESHING WATER IN YOUR OWN HOME WITHOUT BUYING EXPENSIVE BOTTLED WATER. AQUASPRING IS THE ALTERNATIVE.

The **AQUASPRING-1.5** is a portable electric water distiller capable of providing distilled water for families up to four people.* The **AQUASPRING-1.5** converts tap water — even sea water — to safe pure distilled water which far exceeds drinking water standards as established by the Environmental Protection Agency.

Specifications

110-120 volts, 60 cycle AC 235 watts. Height 13 1/2". Base 9 1/2" square. Weight 6 lbs. U.L. listed.

Why distillation?

Distillation is the only truly effective way to eliminate dangerous bacteria, viruses, dirt, salt, rust, chlorine and other chemicals and minerals. Other methods of water purification remove some of the contaminants, but only distillation can eliminate all impurities. At a time when our nation's water supplies are so badly polluted it makes good sense to drink distilled water.

How does it operate?

The **AQUASPRING-1.5** which is U.L. listed, is fully engineered and designed to provide years of trouble free service. It can be operated 24 hours a day and requires only routine cleaning. The distiller is an attractive appliance which sits on any kitchen counter or other level surface and can be easily stored if not in use. You simply lift off the top, fill the boiler with water, replace the top, and plug into any outlet. Each cycle takes 7 to 8 hours and will produce 1/2 gallon** of distilled water, depending upon ambient conditions.

Is it expensive to operate?

The **AQUASPRING-1.5** operates for pennies per cycle, and when compared to the high cost of bottled water the savings is significant. But more important — you know that the water is indeed pure, fresh, distilled water.

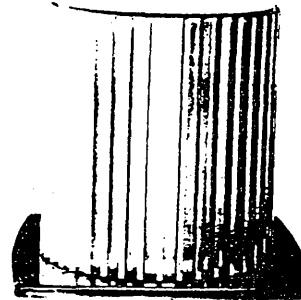
Who uses distilled water?

For years Aquasprings have been providing homes, camps, businesses, schools, hospitals, doctors' offices, scientific labs, and photographic studios with distilled water.

For people on special diets and people concerned about the quality of the water they drink — distilled water is a must.

The **AQUASPRING-1.5** comes complete with Pyrex Boiler, two Receiving Bottles, and a Stainless Steel Collecting Plate. **NO PLUMBING IS REQUIRED** — Just plug it in and you're on your way to fresh, pure DISTILLED water. One year warranty.

AQUASPRING
by New Medical Techniques, Inc.



AQUASPRING

DO NOT IMMERSE IN WATER

Safe • Pure • Water

FOR MORE INFORMATION CONTACT

100034

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 Bureau of Consumer Protection 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, its attorneys, 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, 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 New Medical Techniques, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of Connecticut, with its offices and principal place of business located in Mystic, Connecticut and its mailing address at Post Office Box 429, Broadway Extension, Mystic, Connecticut.

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

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

A. "*Aquaspring*" shall mean the Aquaspring Home Water Distiller Models 1.5, 4, and 5 offered for sale, sold, or distributed by New Medical Techniques, Inc., a Connecticut corporation, under the Aquaspring trade name or any other trade name, including but not limited to "Medi-Tech" and "The Home Water Still."

B. "Water purification device" shall mean any product or construct which is designed to be used for the removal or reduction, by any method, of any impurities or contaminants from water intended for human consumption.

C. "Volatile organic chemical" shall mean any synthetic or naturally occurring organic chemical which, when present in water, generally will evaporate when the water is heated to a temperature at or less than 100 degrees Celsius.

D. "Competent and reliable scientific test" shall mean a test in which persons with skill and expert knowledge in the field to which the test pertains conduct the test and evaluate its results in an objective manner using testing, evaluation, and analytical procedures that ensure accurate, reliable, and reproducible results.

I.

It is ordered, That respondent New Medical Techniques, Inc., a corporation; its successors and assigns; and its officers, representatives, agents and employees, directly or through any corporation, subsidiary, division or other device, in connection with the advertising, offering for sale, sale or distribution of Aquaspring or any other water purification device in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from misrepresenting, directly or by implication, that:

A. Any such device has been tested, approved, or endorsed by any person, firm, organization, or government agency;

B. Any such device will protect the user from any health hazard associated with any water-borne contaminant; and

C. Any such device (1) is capable of removing any impurity or contaminant from water, (2) will provide absolutely pure water or will remove all contaminants from water, or (3) is capable of removing all chemicals or any specific chemical from water.

II.

It is further ordered, That respondent New Medical Techniques, Inc., a corporation; its successors and assigns; and its officers, representatives, agents and employees, directly or through any corporation, subsidiary, division or other device, in connection with the advertising, offering for sale, sale or distribution of Aquaspring or any other water purification device in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from representing, directly or by implication, that:

A. Any such device will protect the user from any health hazard associated with any water-borne contaminant, unless, at the time the representation is made, respondent possesses and relies upon a reasonable basis consisting of competent and reliable scientific evidence that substantiates the representation; and

B. Any such device (1) is capable of removing any impurity or contaminant from water, (2) will provide absolutely pure water or will remove all contaminants from water, or (3) is capable of removing all chemicals or any specific chemical from water, unless, at the time the representation is made, respondent possesses and relies upon a reasonable basis consisting of a competent and reliable scientific test that substantiates the representation.

III.

It is further ordered, That respondent; its successors and assigns; and its officers, representatives, agents and employees, directly or through any corporation, subsidiary, division or other device, in connection with the advertising, offering for sale, sale or distribution of Aquaspring or any other water purification device, in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from representing, directly or by implication, any performance or efficacy characteristic of any water purification device, unless, at the time the representation is made, respondent possesses and relies upon a reasonable basis consisting of competent and reliable scientific evidence that substantiates the representation.

IV.

It is further ordered, That for three years from the date that the representations to which they pertain are last disseminated, respondent shall maintain and upon request make available to the Federal Trade Commission or its staff for inspection and copying:

A. All materials relied upon to substantiate any claim or representation covered by this order; and

B. All test reports, studies, surveys or other materials in its possession or control or of which it has knowledge that contradict, qualify or call into question such representation or the basis upon which respondent relied for such representation, including complaints from consumers.

V.

It is further ordered, That respondent shall include the following notice in all advertising and promotional materials for the Aquaspring or any other water purification device that does not substantially remove volatile organic chemicals from water, if that advertising or promotional material represents, directly or by implication, that the device will remove any chemical contaminant from water or will protect the user from any health hazard associated with any water-borne contaminant:

NOTICE: This device is not designed to remove potentially hazardous volatile organic chemicals from water.

Provided, however, That the above notice shall not be required where the representation is limited solely to an itemization of those contaminants that the device will substantially remove. Nothing contrary to, inconsistent with, or in mitigation of the above required language shall be used in any such advertising or promotional material. In print advertising and promotional material, the above required language shall appear in at least ten-point bold type print, in close conjunction with the representation. In any television advertising, film, videotape or slide promotional material, the above required language shall be included both orally and visually in a manner designed to ensure clarity and prominence. In radio advertising, the above required language shall be read in a clear manner.

VI.

It is further ordered, That respondent shall deliver by certified mail or in person a copy of this order to all present and future distributors of Aquaspring, and instruct said distributors in writing not to make any of the representations, directly or by implication, prohibited by this order. Delivery shall be made within thirty (30) days after the date of service of this order to all present distributors. For all future distributors, delivery shall be made prior to the time said distributors begin distribution of the product.

VII.

It is further ordered, That respondent shall notify the Commission at least thirty (30) days prior to any proposed change in the corporate respondent such as dissolution, assignment or sale resulting in the emergence of a successor corporation, the creation or dissolution of

subsidiaries or any other change in the corporation which may affect compliance obligations arising out of the order.

VIII.

It is further ordered, That respondent shall, within sixty (60) days after service of this order upon it, and at such other times as the Commission may require, file with the Commission a written report setting forth in detail the manner and form in which it has complied or intends to comply with this order.

IN THE MATTER OF
GENERAL RAILWAY SIGNAL CO., ET AL.

MODIFYING ORDER IN REGARD TO ALLEGED VIOLATION OF THE FEDERAL
TRADE COMMISSION AND CLAYTON ACTS

Docket C-837. Consent Order, Sept. 24, 1964—Modifying Order, Dec. 10, 1987

The Federal Trade Commission has modified a 1964 consent order (66 F.T.C. 882) by permitting General Railway Signal Co. to engage in any conduct or enter any agreement that is ancillary to and reasonably necessary for the formation or operation of a joint venture that is lawful under the antitrust laws.

ORDER MODIFYING CONSENT
ORDER ISSUED SEPTEMBER 24, 1964

On August 12, 1987, General Railway Signal Company ("General Railway"), filed a "request to reopen proceeding and modify order" ("request"), pursuant to Section 2.51 of the Commission's Rules of Practice. The request asks the Commission to reopen the proceeding and modify the consent order issued September 24, 1964, ("the order") to permit General Railway to engage in any conduct or enter any agreement that is ancillary to and reasonably necessary for the formation or operation of a joint venture that is lawful under the anti-trust laws.

The Commission has previously considered the petition of American Standard Inc. ("American Standard"), successor to respondent Westinghouse Air Brake Co. ("WABCO"), which requested, among other things, that the Commission modify the order in Docket No. C-837 to permit American Standard to engage in lawful joint venture activity. On November 13, 1986, the Commission granted that request in the public interest, finding that American Standard had made an adequate showing that currently evolving technological and economic factors in the railroad signaling equipment and systems industry have created a competitive need for American Standard to participate in joint ventures to research, develop and produce integrated railroad systems and to bid for turnkey railroad projects.

After reviewing General Railway's Request and other relevant information, the Commission has concluded that it is in the public interest to modify the order to permit General Railway to engage in conduct that is ancillary to and reasonably necessary for the formation or operation of any joint venture that is lawful under the anti-trust laws. General Railway has made an adequate showing that the same industry conditions that warranted modification of the order to

permit American Standard to engage in lawful joint venture activity also warrant modification of the order to extend General Railway the same relief. The currently evolving technological and economic factors in the railroad signaling equipment and systems industry cited by General Railway, and previously cited by American Standard, have created a competitive need for General Railway to also participate in joint ventures to research, develop and produce integrated railroad systems and to bid for turnkey railroad projects. The order's present language, designed to restrain conduct that might facilitate collusive agreements, could be interpreted to prohibit otherwise lawful joint venture activity. It is in the public interest to modify the order to enable General Railway to participate in otherwise lawful joint venture activity because the competitive injury that General Railway will likely suffer if it cannot engage in such lawful activity is not outweighed by any need to retain the order in its current form.¹

Accordingly, *It is ordered*, That this matter be and it hereby is reopened and that the Commission's order issued on September 24, 1964, be and it hereby is modified to make the new subparagraph (4), which was previously added by the Commission on November 13, 1986, read as follows:

(4) Nothing contained in the foregoing paragraphs of the order shall be construed to prohibit respondents WABCO and General Railway Signal Company from engaging in any conduct or entering into any agreement that is ancillary to and reasonably necessary for the formation or operation of a joint venture that is lawful under the antitrust laws.

¹ The order's provisions are aimed at horizontal conduct and agreements. The order language prohibiting agreements with "any other person, persons or business entity not a party hereto" is limited by the existing exemption for any "bona fide offer, agreement or transaction with any other person, persons or business entity to purchase or sell railroad signaling and control systems or railroad signaling equipment at prices, terms or conditions of sale independently determined and offered and independently accepted." The new modification for lawful joint venture activities will be a further limitation. The "any other person . . . not a party hereto" language will, in practical effect, mean only vendors of signaling equipment or systems.

IN THE MATTER OF

WYOMING STATE BOARD OF CHIROPRACTIC EXAMINERS

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

Docket C-3221. Complaint, Jan. 13, 1988—Decision, Jan. 13, 1988

This consent order requires, among other things, the Lander, Wyoming board, which has exclusive authority to license chiropractors in the state, to refrain from prohibiting, restricting, impeding or discouraging any person from advertising truthful, nondeceptive information made available by any licensed chiropractor. Respondent is prohibited from characterizing such advertising as unethical or unprofessional.

Appearances

For the Commission: *R. Norman Cramer, Jr.*

For the respondent: *Glenn R. Harrison, Wyoming State Board of Chiropractic Examiners, Lander, WY.*

COMPLAINT

Pursuant to the provisions of the Federal Trade Commission Act, *as amended*, 15 U.S.C. Section 41 *et seq.*, and by virtue of the authority vested in it by said Act, the Federal Trade Commission, having reason to believe that the Wyoming State Board of Chiropractic Examiners has violated Section 5 of the Federal Trade Commission Act, and that a proceeding by it in respect thereof would be in the public interest, hereby issues this complaint, stating its charges as follows:

RESPONDENT

PARAGRAPH 1. Respondent Wyoming State Board of Chiropractic Examiners ("the Board") is organized, exists and transacts business under the laws of the State of Wyoming, with its principal office and place of business located at the office of Glenn R. Harrison, D.C., its Secretary-Treasurer, 550 Main Street, Lander, Wyoming. The Board is subject to the Commission's jurisdiction pursuant to Section 5 of the Federal Trade Commission Act.

PAR. 2. Membership on the Board is limited to practicing chiropractors. The Board is composed of three chiropractors, who are appointed by the governor to staggered three-year terms. Wyo. Stat. Sections 33-10-102, -103 (1977).

PAR. 3. All Board members must have practiced chiropractic con-

