

Set Aside Order

119 F.T.C.

IN THE MATTER OF

NATIONAL COMICS PUBLICATIONS, INC., ET AL.

SET ASIDE ORDER IN REGARD TO ALLEGED VIOLATION OF
SEC. 2 OF THE CLAYTON ACT*Docket 7614. Consent Order, July 6, 1960--Set Aside Order, June 14, 1995*

The Federal Trade Commission has reopened a 1960 consent order (57 FTC 69) -- which required the companies to offer promotional allowances for their publications on proportionally equal terms to all customers -- and has set aside the consent order pursuant to the Commission's Sunset Policy Statement, under which the Commission presumes that the public interest requires terminating competition orders that are more than 20 years old.

ORDER REOPENING PROCEEDING
AND SETTING ASIDE ORDER

On February 16, 1995, DC Comics and Warner Publisher Services, Inc. ("WPS"), as respondents and successors to National Comics Publications, Inc. and Independent News Company, Inc.¹ filed a Petition to Reopen and Set Aside Consent Order ("Petition"), in this matter. DC and WPS request that the Commission set aside the 1960 consent order in this matter pursuant to Section 5(b) of the Federal Trade Commission Act, 15 U.S.C. 45(b), Rule 2.51 of the Commission's Rules of Practice, 16 CFR 2.51, and the Statement of Policy With Respect to Duration of Competition Orders and Statement of Intention to Solicit Public Comment With Respect to Duration of Consumer Protection Orders, issued on July 22, 1994, and published at 59 Fed. Reg. 45,286-92 (Sept. 1, 1994) ("Sunset Policy Statement"). In its Petition, DC and WPS affirmatively state that neither has engaged in any conduct violating the terms of the order. The Petition was placed on the public record, and the thirty-day comment period expired on March 27, 1995. No comments were received.

The Commission in its Sunset Policy Statement said, in relevant part, that "effective immediately, the Commission will presume, in

¹ Since the Commission issued the order in this matter, National Comics has become DC Comics, a general partnership between Warner Communications, Inc., and Time Warner Entertainment Co., L.P. Independent has changed its name to Warner Publisher Services, Inc., and is now owned by Warner Communications Inc.

the context of petitions to reopen and modify existing orders, that the public interest requires setting aside orders in effect for more than twenty years."² The Commission's consent order in Docket No. 7614 was issued on July 6, 1960, and has been in effect for more than twenty years. Consistent with the Commission's Sunset Policy Statement, the presumption is that the order should be terminated. Nothing to overcome the presumption having been presented, the Commission has determined to reopen the proceeding and set aside the order in Docket No. 7614.

Accordingly, *It is ordered*, That this matter be, and it hereby is, reopened;

It is further ordered, That the Commission's order in Docket No. 7614 be, and it hereby is, set aside as of the effective date of this order.

² See Sunset Policy Statement, 59 Fed. Reg. at 45,289.

Set Aside Order

119 F.T.C.

IN THE MATTER OF

INDEPENDENT NEWS COMPANY, INC.

SET ASIDE ORDER IN REGARD TO ALLEGED VIOLATION OF
SEC. 2 OF THE CLAYTON ACT*Docket 7611. Consent Order, July 6, 1960--Set Aside Order, June 14, 1995*

The Federal Trade Commission has reopened a 1960 consent order (57 FTC 56) -- which required the company to offer promotional allowances for its publications on proportionally equal terms to all customers -- and has set aside the consent order as to respondent Warner Publisher Services, the successor of Independent News Company, pursuant to the Commission's Sunset Policy Statement, under which the Commission presumes that the public interest requires terminating competition orders that are more than 20 years old.

ORDER REOPENING PROCEEDING
AND SETTING ASIDE ORDER

On February 16, 1995, Warner Publisher Services, Inc. ("WPS"), as respondent and successor of Independent News Company, Inc.,¹ filed a Petition to Reopen and Set Aside Consent Order ("Petition"), in this matter. WPS requests that the Commission set aside the 1960 consent order in this matter pursuant to Section 5(b) of the Federal Trade Commission Act, 15 U.S.C. 45(b), Rule 2.51 of the Commission's Rules of Practice, 16 CFR 2.51, and the Statement of Policy With Respect to Duration of Competition Orders and Statement of Intention to Solicit Public Comment With Respect to Duration of Consumer Protection Orders, issued on July 22, 1994, and published at 59 Fed. Reg. 45,286-92 (Sept. 1, 1994) ("Sunset Policy Statement"). In its Petition, WPS affirmatively states that it has not engaged in any conduct violating the terms of the order. The Petition was placed on the public record, and the thirty-day comment period expired on March 27, 1995. No comments were received.

The Commission in its Sunset Policy Statement said, in relevant part, that "effective immediately, the Commission will presume, in the context of petitions to reopen and modify existing orders, that the public interest requires setting aside orders in effect for more than

¹ Since the Commission issued the order in this matter, Independent has changed its name to Warner Publisher Services, Inc. and is now owned by Warner Communications Inc. The other respondent in this matter, The New American Library of World Literature, Inc., did not petition to have the order set aside as to it.

twenty years."² The Commission's consent order in Docket No. 7611 was issued on July 6, 1960, and has been in effect for more than twenty years. Consistent with the Commission's Sunset Policy Statement, the presumption is that the order should be terminated. Nothing to overcome the presumption having been presented, the Commission has determined to reopen the proceeding and set aside the order in Docket No. 7611 as to WPS.

Accordingly, *It is ordered*, That this matter be, and it hereby is, reopened;

It is further ordered, That the Commission's order in Docket No. 7611 be, and it hereby is, set aside as to respondent Warner Publisher Services, Inc., as of the effective date of this order.

CONCURRING STATEMENT OF COMMISSIONER MARY L. AZCUENAGA

I concur in the decision to grant the request of Warner Publisher Services, Inc., the successor of Independent News Company, Inc., to set aside the 1960 order in this case. I dissent from the decision to limit the setting aside of the order to Warner, instead of setting aside the order in its entirety.

The decision to limit relief to Warner, one of the two respondents under the order, appears to be inconsistent with the Commission's announced policy to presume "that the public interest requires reopening and setting aside the order in its entirety" (emphasis added) "when a petition to reopen and modify a competition order is filed" and the order is more than twenty years old.¹ The Commission's recognition of the limitations of the findings underlying an order² further suggests that the presumption that an order will be terminated after twenty years should apply to the order in its entirety and not be limited to the petitioner.³

I previously have expressed my concern that the adoption of a presumption instead of an across-the-board rule in favor of sunset

² See Sunset Policy Statement, 59 Fed. Reg. at 45,289.

¹ FTC, Statement of Policy with Respect to Duration of Competition Orders and Statement of Intention To Solicit Public Comment with Respect to Duration of Consumer Protection Orders (July 22, 1994), at 8 (hereafter "Sunset Policy Statement").

² "[F]indings upon which [orders] are based should not be presumed to continue" for longer than twenty years. Sunset Policy Statement at 4.

³ The presumption of termination after 20 years applies automatically for new orders in competition cases and is not limited to individual respondents, further supporting the view that the twenty-year presumption in favor of sunset for existing orders should apply to the order, not to particular respondents.

"will impose costs by requiring respondents to file individual petitions and the Commission to assess in the context of each such petition whether the presumption has been overcome for that order."⁴ Now the Commission would further increase the burden on both public and private resources by applying the presumption in favor of sunset not only on a case-by-case basis but on a respondent-by-respondent basis.

The petition filed by Warner invoked the twenty-year presumption that the order should be set aside. No evidence of recidivist conduct by any respondent, including The New American Library of World Literature, Inc., having been presented to overcome the presumption,⁵ the order should be set aside in its entirety.

⁴ Separate Statement of Commissioner Mary L. Azcuenaga on Sunset Policy (July 22, 1994), at 7 (footnote omitted).

⁵ See Sunset Policy Statement at 8 n.19

IN THE MATTER OF

TALEIGH CORPORATION, ET AL.

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

Docket C-3587. Complaint, June 16, 1995--Decision, June 16, 1995

This consent order prohibits, among other things, two marketing corporations and the owner from misrepresenting that any product is new or unique, the existence or conclusions of any test or study, or that an endorsement for any product represents the typical experience of people who use it. The consent order requires the respondents to have scientific evidence to substantiate any representation regarding the performance, benefits, efficacy or safety of any weight-loss or smoking cessation product, or for any food, dietary supplement, drug, or device. In addition, the consent order requires the owner to post a \$300,000 performance bond before marketing any weight-loss product or smoking deterrent or cessation product in the future.

Appearances

For the Commission: *Richard L. Cleland* and *Joel Winston*.
For the respondents: *Sheldon Lustigman*, New York, N.Y.

COMPLAINT

The Federal Trade Commission, having reason to believe that Taleigh Corporation and Choice Diet Products, Inc., corporations; and William J. Santamaria, individually and as an officer and director of said corporations ("respondents"), have violated the Federal Trade Commission Act, and it appearing to the Commission that a proceeding by it in respect thereof would be in the public interest, alleges:

PARAGRAPH 1. Respondent Taleigh Corporation ("Taleigh"), formerly known as Taleigh, Inc., is a Florida corporation doing business under the names "Choice Diet Products," "Choice Products," and other trade names. Its principal place of business is located at 4742 N.W. Boca Raton Boulevard, Boca Raton, FL.

Respondent Choice Diet Products, Inc. ("Choice") is a New York

corporation. Its principal place of business is located at 4800 N.W. Boca Raton Boulevard, Boca Raton, FL.

Respondent William J. Santamaria is or was at relevant times herein the sole owner, director, and officer of the corporate respondents. Individually or in concert with others, he participated in and/or formulated, directed, and controlled the acts and practices of the corporate respondents, including the acts and practices alleged in this complaint. His address is 20640 Baybrooke Court, Boca Raton, FL.

PAR. 2. Respondents have advertised, offered for sale, sold, and distributed weight-loss pills and a smoking cessation product to the public. Respondents have marketed the weight-loss pills under various names, including "MegaLoss," "FormulaTrim," and "MiracleTrim." These products are "foods" and/or "drugs" within the meaning of Sections 12 and 15 of the Federal Trade Commission Act. Respondents have marketed the smoking cessation product under the name "Nicotain Stop Smoking Patch."

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

DIET PILLS
FormulaTrim 3000

PAR. 4. Respondents have disseminated or have caused to be disseminated advertisements for FormulaTrim 3000, including, but not necessarily limited to the attached Exhibits A and B. These advertisements contain the following statements and depictions:

A. Exhibit A:

"Debbie Hoya lost 25 pounds fast.

Tamara Cowens lost 35 pounds fast." [*Video*: 'before' and 'after' photographs of consumer endorsers displayed with amounts of weight lost.]

"Now you too can lose weight fast, with the help of this new powerful FormulaTrim 3000 diet pill." [*Video*: "LOSE WEIGHT FAST!" displayed with product and, in the next screen, the words "NEW," "FormulaTrim 3000," and "POWERFUL!" displayed in full screen with small print at the bottom of the screen stating, "Use only as directed with diet plan."]

"FormulaTrim's new fat-burning plan is so powerful, you can burn more body fat relaxing all day than running 10 miles nonstop." [*Video*: "Based on 180 pound person" displayed in small print below full screen display of two young persons in pool with caption in large print "BURN AWAY FAT!"]

"Laurette Morello burned away 17 pounds."

LAURETTE MORELLO: "I went from a size 13 to a size 5."

"Adam Locas lost 36 pounds carving 7 inches from his waist....lost 52 pounds trimming from a size 14 to a size 6."

"This powerful, doctor-approved diet pill formula is medically proven to work." [Video: "Use only as directed with diet plan" displayed in small print at bottom of full screen displaying "DOCTOR APPROVED FormulaTrim 3000."]

"The new FormulaTrim fat burning plan is so powerful you can burn more body fat relaxing all day than sweating through five exhausting hours of aerobics . . ." [Video: "BURN AWAY FAT!" superimposed over two young persons in a pool with "Based on 180 pound person" displayed in small white letters against light background at bottom of screen.]

"Terri Nigelson burned away 15 pounds; Joanne Benora lost 32 pounds and Annette Garton lost an incredible and amazing 59 pounds! Now you can burn away fat and lose weight fast by calling . . . for your powerful new FormulaTrim 3000"

"Your satisfaction is 100% guaranteed."

* * *

[Video: during ordering instructions, while telephone number and cost information is presented in audio and video, the following text is presented at the bottom of various screens in small print: "Use only as directed with diet plan," "Testimonials compensated," and "Following diet plan is essential for loss of weight (average 1½ - 2 pounds per week) for results cannot be achieved solely through the use of pill."]

B. Exhibit B:

"Debbie Hoya lost 25 pounds, fast. Tamara Koons lost 35 pounds, fast."

"Now you too can lose weight fast with the help of this new powerful medically-proven FormulaTrim 3000 No Hunger Diet Pill." [Video: "Use only as directed with diet plan" displayed in small print below depiction of pill with the words "NEW," "FormulaTrim 3000," and "POWERFUL!" presented in large full-screen display.]

"Following this new powerful FormulaTrim fat burning diet plan, you can burn more body fat relaxing all day than running 10 miles nonstop or even sweating through 5 exhausting hours of aerobics." [Video: "Based on 180 pound person" displayed in small print below full screen display of two young persons in pool with caption in large print "BURN AWAY FAT!"]

"Terry Nigelson burned away 15 pounds.

Lorette Morello burned away 17 pounds." [Video: 'before' and 'after' photographs with "BURN AWAY FAT!" displayed on screen.]

LORETTE MORELLO: "I went from a size 13 to a size 5."

"Adam Locas burned away 36 pounds."

"Claire Contobi burned away 52 pounds [Video: 'before' and 'after' photographs with "BURNED AWAY 52 LBS" displayed on screen] and Annette Barton burned away an incredible and amazing 59 pounds!"

"Now you can end biting hunger pain, burn away fat and lose weight fast by calling . . . for your powerful FormulaTrim 3000"

[*Video*: during ordering instructions, while telephone number and cost information is presented in audio and video, the following text is presented at the bottom of various screens in small print: "Use only as directed with diet plan," "Testimonials compensated," and "Following diet plan is essential for loss of weight (average 1½ - 2 pounds per week) for results cannot be achieved solely through the use of pill."]

PAR. 5. Through the use of the statements and depictions contained in the advertisements referred to in paragraph four, including but not necessarily limited to the advertisements attached as Exhibits A and B, respondents have represented, directly or by implication, that:

- A. FormulaTrim 3000 causes substantial weight loss rapidly;
 - B. FormulaTrim 3000 causes substantial weight loss without the need to exercise or reduce caloric intake;
 - C. FormulaTrim 3000 causes the burning of more body fat daily, thereby resulting in the same or greater weight-loss benefit to users, than five hours of aerobic exercise or running ten miles nonstop;
 - D. FormulaTrim 3000's active ingredient is new and/or unique;
- and
- E. Scientific studies prove that FormulaTrim 3000 causes substantial weight loss rapidly.

PAR. 6. In truth and in fact:

- A. FormulaTrim 3000 does not cause substantial weight loss rapidly;
- B. FormulaTrim 3000 does not cause substantial weight loss without the need to exercise or reduce caloric intake;
- C. FormulaTrim 3000 does not cause the burning of more body fat daily, thereby resulting in the same or greater weight-loss benefit to users, than five hours of aerobic exercise or running ten miles nonstop;
- D. FormulaTrim 3000's active ingredient is not new and/or unique; and
- E. Scientific studies do not prove that FormulaTrim 3000 causes substantial weight loss rapidly.

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

PAR. 7. Through the use of the statements and depictions contained in the advertisements referred to in paragraph four, including but not necessarily limited to the advertisements attached as Exhibits A and B, respondents have represented, directly or by implication, that FormulaTrim 3000 burns body fat.

PAR. 8. Through the use of the statements and depictions contained in the advertisements referred to in paragraph four, including but not necessarily limited to the advertisements attached as Exhibits A and B, respondents have represented, directly or by implication, that at the time they made the representations set forth in paragraphs five A-C and seven, they possessed and relied upon a reasonable basis that substantiated such representations.

PAR. 9. In truth and in fact, at the time they made the representations set forth in paragraphs five A-C and seven, respondents did not possess and rely upon a reasonable basis that substantiated such representations. Therefore, the representation set forth in paragraph eight was, and is, false and misleading.

PAR. 10. Through the use of the statements and depictions contained in the advertisements referred to in paragraph four, including but not necessarily limited to the advertisements attached as Exhibits A and B, respondents have represented, directly or by implication, that testimonials from consumers appearing in advertisements for FormulaTrim 3000 reflect the typical or ordinary experience of members of the public who have used the product.

PAR. 11. In truth and in fact, testimonials from consumers appearing in advertisements for FormulaTrim 3000 do not reflect the typical or ordinary experience of members of the public who have used the product. Therefore, the representation set forth in paragraph ten was, and is, false and misleading.

MegaLoss 1000

PAR. 12. Respondents have disseminated or have caused to be disseminated advertisements for MegaLoss 1000, including but not necessarily limited to the attached Exhibits C and D. These advertisements contain the following statements and depictions:

A. Exhibit C:

"You can start losing up to 10, 20, 50 even 100 pounds with the powerful, doctor approved, MegaLoss 1000 Miracle Diet Pill Program for only \$9.95."

[*Video*: "Use Only As Directed With Diet/Exercise Plan" displayed in small print at bottom of screen below full screen depiction of pill on a finger and the words "MIRACLE DIET PILL" in large print, followed by the words "PROGRAM" and "Doctor Approved" in smaller print.]

"With this doctor-approved MegaLoss 1000 Program, you can burn more body fat relaxing in the sun than swimming 2½ miles or exercising 6 hours nonstop."

[*Video*: young slender woman lying by a pool with statement "Based On 180 Pound Person" in small print displayed at bottom of screen.]

"Ohio's Faye Diamond lost a dramatic 15 pounds, rapidly dropping from a size 8 to a size 4."

FAYE DIAMOND: "I'm not embarrassed to wear a bikini anymore."

"Toronto's Debbie Holloway lost 53 pounds trimming from a size 16 to a size 7."

Wisconsin's A.J. Jr. rapidly lost 75 pounds, carving 10 bulging inches from his waist.

Tennessee's Sherry Capick lost 38 pounds with her doctor-approved Miracle Diet Pill Program.

And New York's Jeff Waldo rapidly lost an awesome 92 pounds!" [*Video*: photos of each consumer endorser displayed with amounts of weight lost; two consumer endorsements contain small video displays in the same color as background stating "Results Vary."]

"While under her Doctor's care, Mrs. McKinson quickly lost 32 pounds.

Lorraine Liberatti rapidly lost 46 pounds.

Lynn Clarey lost an astonishing 65 pounds, and E.J. Elkar lost an incredible 100 pounds! Now you can shed excess fat by calling . . . for your doctor approved MegaLoss 1000 Miracle Diet Pill Program. . . ."

"Your satisfaction is 100% guaranteed." [*Video*: "30-day Money-back Guarantee" displayed with ordering information; during ordering instructions, while telephone number and cost information is presented in audio and video, the following text is presented at the bottom of various screens in small print: "Use Only As Directed With Diet/Exercise Plan," "Testimonials Compensated," and "Following diet/exercise plan is essential for loss of weight for results cannot be achieved solely through the use of pill."]

B. Exhibit D:

"MIRACLE DIET PILL" [headline that appears in approximately 1-inch bold letters]

"Megaloss 1000 Diet Plan GETS THE FAT OFF FAST!" [smaller headline followed by word "Program"]

"Your Ultimate Anti-Fat Weapon!" [headline in ½ inch bold letters]

"SHRINK MILLIONS OF FAT CELLS IN JUST 24 To 48 HOURS!" [smaller headline]

"MEGALOSS GETS THE FAT OFF FAST!

MegaLoss 1000 really works wonders ... FAST! Debbie Holloway lost an amazing 53 pounds. Harold Albright rapidly burned away 75 pounds and Erma Alkire lost 100 pounds so fast her friends could barely recognize her."

"RAPIDLY LOSE POUNDS & INCHES

Just imagine yourself beginning to burn away years of unsightly fat as the MegaLoss 1000 diet plan helps you rapidly shrink millions of fat cells almost

overnight. Now you, like Debbie, Erma and Faye have the opportunity to rapidly lose weight and regain your figure thanks to the MegaLoss 1000 fat-burning diet and its powerful, clinically tested, medically proven and doctor-recommended diet pill formula."

"MEDICALLY PROVEN - DOCTOR APPROVED!

The MegaLoss 1000 diet plan was designed to trigger super fast weight loss. Results are simply fantastic! Your self-confidence and self esteem will grow each day as you regain your youthful figure with the help of this doctor approved diet program's special diet pill ingredient. Formerly available only through doctors, this powerful ingredient is now available to help you lose weight with the doctor-approved MegaLoss 1000 diet since being recommended for its safety to the United States Government"

"Watch as you:

- LOSE up to 23 INCHES off your WAIST
- LOSE up to 20 INCHES off your HIPS
- LOSE up to 10 INCHES off your THIGHS"

"Naturally, individual weight may vary depending largely on how much you need to lose. But you'll simply be amazed as your calorie intake reduces and gnawing hunger pains are shut off as your high-speed fat burn-off turns on full flame to trim away years of built-up fat. The results are fantastic!"

"ULTIMATE ANTI-FAT WEAPON

You'll no longer be a slave to your appetite. MegaLoss 1000's medically proven formula has been praised by leading doctors, featured in thousands of studies, medical books and national magazines. You now have the ultimate anti-fat weapon you need to lose weight fast. As you quickly drop pounds and inches, experience the more vibrant, desirable and exciting new you emerge."

"NO DANGEROUS SIDE EFFECTS

You'll simply be amazed at how fast the weight comes off. And best of all - you don't have to worry about those nervous jitters, insomnia, laxative effects or dangerous side effects. But you can lose weight so fast your friends may not even recognize you.... As if by magic on the MegaLoss diet plan, down go the calories, down go the inches and down go the pounds!"

"NOW IT'S YOUR TURN

Now it's your turn to rapidly lose weight . . .

Now you can:

- Shrink Millions of Fat Cells The Very First Day
- Trigger Awesome Fat-burning in 24 to 48 Hours
- Slim Stubborn Bulges in Record Time
- Dramatically Reshape Your Body"

"SATISFACTION 100% GUARANTEED OR YOUR MONEY BACK

Now is the proper time... the turning point of your life. Now you can shed your excess fat and have a firm, youthful-looking body faster than you ever dreamed possible. No matter how many years you have been overweight, this amazing anti-fat weapon not only can... but must work wonders for you... or it doesn't cost a single cent! You risk absolutely nothing when you call in your order."

"ORDER NOW WITHOUT RISK

You must be 100 percent satisfied with your rapid weight loss and the results you see in you waist, hips and thighs. If you are not completely satisfied in any way, simply return the unused portion in 30 days and receive a full refund of your purchase price. No questions asked. So act now. Call in your order today."

[Ad contains the following footnote in fine print: "If you read nothing else, read this . . . Following the High Speed diet plan is an extremely fast and effective means to conquer obesity. It causes you to lower caloric intake, which is essential to the rapid reduction of fat and body weight. Naturally, the incredible results described above may not be achieved solely though the use of the diet pills. You must follow the entire Hi-Speed diet plan, which includes behavior modification and walking to achieve the fastest results. Results vary. Average weight loss is 1-2 pounds per week. . . . This product should not be used by the elderly or children. Pregnant women, nursing mothers, individuals being treated for high blood pressure or depression or who have heart disease, diabetes, or thyroid disease should only use as directed by their physician."]

PAR. 13. Through the use of the statements and depictions contained in the advertisements referred to in paragraph twelve, including but not necessarily limited to the advertisements attached as Exhibits C and D, respondents have represented, directly or by implication, that:

- A. MegaLoss 1000 causes substantial weight loss rapidly;
- B. MegaLoss 1000 causes substantial weight loss without the need to exercise or reduce caloric intake;
- C. MegaLoss 1000 causes the burning of more body fat daily, thereby resulting in the same or greater weightloss benefit to users, than swimming two and a half miles or exercising six hours nonstop;
- D. Prior to the sale of MegaLoss 1000, the active ingredient in MegaLoss 1000 was available only through doctors; and
- E. Scientific studies prove that MegaLoss 1000 causes substantial weight loss rapidly.

PAR. 14. In truth and in fact:

- A. MegaLoss 1000 does not cause substantial weight loss rapidly;
- B. MegaLoss 1000 does not cause substantial weight loss without the need to exercise or reduce caloric intake;
- C. MegaLoss 1000 does not cause the burning of more body fat daily, thereby resulting in the same or greater weight-loss benefit to

users, than swimming two and a half miles or exercising six hours nonstop;

D. The active ingredient in MegaLoss 1000 was available to the public without a doctor's prescription for a substantial period of time prior to the sale of MegaLoss 1000; and

E. Scientific studies do not prove that MegaLoss 1000 causes substantial weight loss rapidly.

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

PAR. 15. Through the use of the statements and depictions contained in the advertisements referred to in paragraph twelve, including but not necessarily limited to the advertisements attached as Exhibits C and D, respondents have represented, directly or by implication, that:

A. MegaLoss 1000 does not cause nervous jitters or insomnia or have any dangerous side effects;

B. MegaLoss 1000 burns body fat; and

C. MegaLoss 1000 significantly shrinks millions of fat cells within the first twenty-four to forty-eight hours of use.

PAR. 16. Through the use of the statements and depictions contained in the advertisements referred to in paragraph twelve, including but not necessarily limited to the advertisements attached as Exhibits C and D, respondents have represented, directly or by implication, that at the time they made the representations set forth in paragraphs thirteen A-C and fifteen, they possessed and relied upon a reasonable basis that substantiated such representations.

PAR. 17. In truth and in fact, at the time they made the representations set forth in paragraphs thirteen A-C and fifteen, respondents did not possess and rely upon a reasonable basis that substantiated such representations. Therefore, the representation set forth in paragraph sixteen was, and is, false and misleading.

PAR. 18. Through the use of the statements and depictions contained in the advertisements referred to in paragraph twelve, including but not necessarily limited to the advertisements attached as Exhibits C and D, respondents have represented, directly or by implication, that testimonials from consumers appearing in

advertisements for MegaLoss 1000 reflect the typical or ordinary experience of members of the public who have used the product.

PAR. 19. In truth and in fact, testimonials from consumers appearing in advertisements for MegaLoss 1000 do not reflect the typical or ordinary experience of members of the public who have used the product. Therefore, the representation set forth in paragraph eighteen was, and is, false and misleading.

MiracleTrim

PAR. 20. Respondents have disseminated or have caused to be disseminated advertisements for MiracleTrim, including but not necessarily limited to the attached Exhibit E. This advertisement contains the following statements and depictions:

"Now you can start shrinking millions of fat cells and begin regaining your youthful figure in 24 to 48 hours." [*Video*: heavy woman depicted putting on a pair of jeans and becoming a slim woman within three frames of the ad.]

"The very first day your powerful new MiracleTrim Diet Pill System attacks years of built up fat. You can start losing up to 10, 20, 50, even an atypical 100 pounds for only \$9.95." [*Video*: "100 lbs." and "RECEIVE A FULL 21-DAY SUPPLY," and "NEW!" superimposed over a package containing two bottles of MiracleTrim pills.]

"This new MiracleTrim Diet Pill System is doctor approved to help you quickly shrink millions of fat cells so you can easily regain your youthful figure." [*Video*: "Use Only As Directed With Diet Plan" in small print at bottom of screen below full screen depiction of pill on a finger and the words "NEW!" "DOCTOR APPROVED," and "EASILY REGAIN YOUR FIGURE!" in large print.]

"You can rapidly shrink up to 10 inches off your thighs. You can easily shrink as much as 20 inches from your hips and you can quickly shrink up to an amazing 23 inches from your waist."

* * *

"Pam rapidly went from a large size 15 to a slim 7. After 15 years of diets, Treva finally found one that really worked." [*Video*: 'before' and 'after' photos displayed with amounts of weight lost.]

A man is pictured as he says: "I quickly lost 55 pounds."

"Jo's incredible 59 pound loss gave her a knockout shape. Carol lost an astonishing 40 pounds. And Edie lost a mind boggling 110 pounds." [*Video*: 'before' and 'after' photos of consumer endorsers displayed with amounts of weight lost.]

"Now it's your turn to dramatically reshape your figure by calling . . . for your new MiracleTrim Diet Pill System for only \$9.95." [*Video*: during ordering instructions, while telephone number and cost information is presented in audio and video, the following text is presented at the bottom of various screens in small print: "Following Diet Plan Is Essential For Weight Loss (Average 1½ - 2 Pounds Per

835

Complaint

Week) For Results Cannot Be Achieved Solely Through Use Of Pill," "testimonials compensated," and "use only as directed with diet plan."]

* * *

DR. PESHKIN [*shown in video*]: "Order today, you'll receive your own personal weight loss consultation, absolutely free. . . ."

PAR. 21. Through the use of the statements and depictions contained in the advertisements referred to in paragraph twenty, including but not necessarily limited to the advertisement attached as Exhibit E, respondents have represented, directly or by implication, that:

- A. MiracleTrim causes substantial weight loss rapidly;
- B. MiracleTrim causes substantial weight loss without the need to exercise or reduce caloric intake;
- C. MiracleTrim's active ingredient is new and/or unique; and
- D. Consumers who order MiracleTrim will receive a personal weight-loss consultation from a doctor or medically trained, professional weight-loss counselor.

PAR. 22. In truth and in fact:

- A. MiracleTrim does not cause substantial weight loss rapidly;
- B. MiracleTrim does not cause substantial weight loss without the need to exercise or reduce caloric intake;
- C. MiracleTrim's active ingredient is not new and/or unique; and
- D. Consumers who order MiracleTrim will not receive a personal weight-loss consultation from a doctor or medically trained, professional weight-loss counselor.

Therefore, the representations set forth in paragraph twenty-one were, and are, false and misleading.

PAR. 23. Through the use of the statements and depictions contained in the advertisements referred to in paragraph twenty, including but not necessarily limited to the advertisement attached as Exhibit E, respondents have represented, directly or by implication, that MiracleTrim significantly shrinks millions of fat cells within the first twenty-four to forty-eight hours of use.

PAR. 24. Through the use of the statements and depictions contained in the advertisements referred to in paragraph twenty, including but not necessarily limited to the advertisement attached as

Exhibit E, respondents have represented, directly or by implication, that at the time they made the representations set forth in paragraphs twenty-one A-B and twenty-three, they possessed and relied upon a reasonable basis that substantiated such representations.

PAR. 25. In truth and in fact, at the time they made the representations set forth in paragraphs twenty-one A-D and twenty-three, respondents did not possess and rely upon a reasonable basis that substantiated such representations. Therefore, the representation set forth in paragraph twenty-four was, and is, false and misleading.

PAR. 26. Through the use of the statements and depictions contained in the advertisements referred to in paragraph twenty, including but not necessarily limited to the advertisement attached as Exhibit E, respondents have represented, directly or by implication, that testimonials from consumers appearing in advertisements for MiracleTrim reflect the typical or ordinary experience of members of the public who have used the product.

PAR. 27. In truth and in fact, testimonials from consumers appearing in advertisements for MiracleTrim do not reflect the typical or ordinary experience of members of the public who have used the product. Therefore, the representation set forth in paragraph twenty-six was, and is, false and misleading.

FAILURE TO ADEQUATELY DISCLOSE MATERIAL CONNECTION

PAR. 28. In their advertising and sale of weight-loss pills, including but not necessarily limited to MegaLoss 1000, FormulaTrim 3000, and MiracleTrim, respondents have represented that consumers appearing in respondents' advertisements are endorsers of the weight-loss pills. Respondents have failed to disclose adequately that certain consumers appearing in respondents' advertisements have a material connection with respondents in that such consumers have been compensated, or offered significant compensation, for endorsing the weight-loss pills. This fact would be material to consumers in their purchase or use decisions regarding the products. The failure to disclose adequately this fact, in light of the representation made, was, and is, a deceptive practice.

TRADE PRACTICE VIOLATIONS

PAR. 29. In their advertisements for their weight-loss pills, respondents have directed consumers to call a toll-free telephone number to place an order. Typically, when consumers called this telephone number, they were given a choice of paying by check or by credit card. If consumers indicated that they preferred to pay by check, they were asked to read the numbers across the bottom of one of their checks. Respondents then magnetically encoded this information on a bank draft, which was submitted to the consumer's bank for payment. If consumers indicated that they preferred to pay by credit card, they were asked for their credit card number and respondents billed a charge directly to the consumer's credit card account.

UNAUTHORIZED DEBITS AND CHARGES

PAR. 30. In numerous instances, respondents have debited consumers' bank accounts or billed consumers' credit card accounts without the consumers' authorization or for amounts greater than those authorized by the consumers. Respondents' practices as set forth herein have caused substantial injury to consumers that is not outweighed by any countervailing benefits to consumers or competition and is not reasonably avoidable by consumers, and constitute unfair and deceptive acts or practices.

FAILURE TO HONOR MONEY-BACK GUARANTEE

PAR. 31. In their advertisements and promotional materials for their weight-loss pills, respondents have represented that the weight-loss pills carry a "money-back guarantee," and that consumers can return the product within a specified time period after receipt of the product and receive a full refund within a reasonable period of time.

PAR. 32. In truth and in fact, in numerous instances, consumers have returned the weight-loss pills to respondents within the specified time period in order to obtain a refund, and respondents have failed to provide refunds of money paid by such consumers or failed to provide them within a reasonable period of time. The practices of respondents as set forth herein have caused substantial injury to consumers that is not outweighed by any countervailing benefits to

consumers or competition and is not reasonably avoidable by consumers, and constitute unfair and deceptive acts or practices.

TRUTH IN LENDING ACT VIOLATIONS

PAR. 33. Respondents are creditors as "creditor" is defined in Section 103(f) of the Truth In Lending Act ("TILA"), 15 U.S.C. 1602(f), and in Section 226.2(a)(17) of Regulation Z, 12 CFR 226.2(a)(17), and are, therefore, required to comply with the applicable provisions of that Act and Regulation.

PAR. 34. Section 226.12(e) of Regulation Z, 12 CFR 226.12(e), which implements Section 166 of the TILA, 15 U.S.C. 1666e, provides that:

When a creditor other than a card issuer accepts the return of property or forgives a debt for services that is to be reflected as a credit to the consumer's credit card account, that creditor shall, within seven business days from accepting the return or forgiving the debt, transmit a credit statement to the card issuer through the card issuer's normal channels for credit statements.

PAR. 35. In numerous instances, respondents have failed to transmit credit statements to the card issuer through the card issuer's normal channels for credit statements within seven business days from accepting the return of property or forgiving the debt for services in violation of the TILA and Section 226.12(e) of Regulation Z.

NONDELIVERY

PAR. 36. In connection with the sale of weight-loss pills to consumers, respondents have represented, directly or by implication, that the weight-loss pills would be delivered to purchasers within a reasonable period of time.

PAR. 37. In truth and in fact, in numerous instances, the weight-loss pills referred to in paragraph thirty-six that were sold to purchasers have not been delivered to such purchasers or have not been delivered to them within a reasonable period of time. Further, in numerous instances, respondents have failed to provide refunds of money paid by such purchasers or have failed to provide such refunds within a reasonable period of time. The practices of respondents as set forth herein have caused substantial injury to consumers that is

not outweighed by any countervailing benefits to consumers or competition and is not reasonably avoidable by consumers, and constitute unfair and deceptive acts or practices.

SMOKING CESSATION PRODUCT -- NICOTAIN

PAR. 38. Respondents have disseminated or have caused to be disseminated advertisements for the Nicotain Stop Smoking Patch, including but not necessarily limited to the attached Exhibit F. This advertisement contains the following statements and depictions:

[Video: "EASILY STOP SMOKING" displayed in large print.]

"You can easily stop smoking with the new nonmedicated, nicotine-free, doctor-approved Nicotain Stop Smoking Patch."

[Video: product box displayed with label reading: "nicotain STOP SMOKING PATCH."]

[Video: "DOCTOR APPROVED!" displayed in large print above depiction of person wearing patch on wrist.]

[Video: "NEW! NON-PRESCRIPTION" displayed in large print and "nicotain STOP SMOKING PATCH" displayed in smaller print over depiction of patch on wrist.]

"This revolutionary new behavior modification, nonprescription Nicotain Stop Smoking Patch Program is so effective, you can easily quit, whether you smoke one, two, even three packs a day." [Video: "Use nonmedicated patch only as directed with plan" in small print displayed at bottom of screen.]

"Roxanna Seles smoked for 12 years."

[Video: "SMOKED FOR 12 YEARS" displayed in large print.]

ROXANNA: "And I quit in just one week." [Video: "QUIT IN JUST ONE WEEK!" displayed in large print video over person identified as Roxanna Seles followed by other consumer endorsements.]

MAN: "Nicotain made it easy. And I didn't have to go to a doctor for it."

1st WOMAN: "Twenty years, twenty cigarettes a day--and I quit in just two weeks with Nicotain."

[Video: "QUIT IN JUST TWO WEEKS!" displayed in large print.]

* * *

2nd WOMAN: "I called, I quit, and it only cost \$9.95."

* * *

MAN: "Every cigarette brings you seven minutes closer to death."

[Video: during ordering instructions, while telephone number and cost information is presented in audio and video, the following text is presented at the bottom of various screens in small print: "use nonmedicated patch only as directed with plan," "testimonials compensated/one-week starter program," "product effectiveness is directly related to user's motivation to stop."]

PAR. 39. Through the use of the statements and depictions contained in the advertisements referred to in paragraph thirty-eight,

including but not necessarily limited to the advertisement attached as Exhibit F, respondents have represented, directly or by implication, that:

A. The Nicotain Stop Smoking Patch enables users to stop smoking easily, regardless of the number of cigarettes they currently smoke or the number of years they have smoked; and

B. The Nicotain Stop Smoking Patch works through a mechanism substantially similar or equivalent to a prescription smoking deterrent patch.

PAR. 40. In truth and in fact:

A. The Nicotain Stop Smoking Patch does not enable users to stop smoking easily, regardless of the number of cigarettes they currently smoke or the number of years they have smoked; and

B. The Nicotain Stop Smoking Patch does not work through a mechanism substantially similar or equivalent to a prescription smoking deterrent patch.

Therefore, the representations set forth in paragraph thirty-nine were, and are, false and misleading.

PAR. 41. Through the use of the statements and depictions contained in the advertisements referred to in paragraph thirty-eight, including but not necessarily limited to the advertisement attached as Exhibit F, respondents have represented, directly or by implication, that at the time they made the representation set forth in paragraph thirty-nine A, they possessed and relied upon a reasonable basis that substantiated such representation.

PAR. 42. In truth and in fact, at the time they made the representation set forth in paragraph thirty-nine A, respondents did not possess and rely upon a reasonable basis that substantiated such representation. Therefore, the representation set forth in paragraph forty-one was, and is, false and misleading.

PAR. 43. Through the use of the statements and depictions contained in the advertisements referred to in paragraph thirty-eight, including but not necessarily limited to the advertisement attached as Exhibit F, respondents have represented, directly or by implication, that testimonials from consumers appearing in advertisements for The

Nicotain Stop Smoking Patch reflect the typical or ordinary experience of members of the public who have used the product.

PAR. 44. In truth and in fact, testimonials from consumers appearing in advertisements for Nicotain Stop Smoking Patch do not reflect the typical or ordinary experience of members of the public who have used the product. Therefore, the representation set forth in paragraph forty-three was, and is, false and misleading.

PAR. 45. The acts and practices of respondents as alleged in this complaint constitute unfair or deceptive acts or practices and the making of false advertisements in or affecting commerce in violation of Sections 5(a) and 12 of the Federal Trade Commission Act.

Chairman Pitofsky not participating.

Complaint

119 F.T.C.

EXHIBIT A

**RADIO
TV REPORTS**

41 East 42nd Street, New York, NY 10017 (212) 309-1400

PRODUCT FORMULA TRIM 3000 DIET PILLS
TITLE "BEFORE & AFTER"
PROGRAM NEWS
STATION WUAB
PAGE 1 OF 2

OH92-51134
07/06/92 90
(CLEVELAND) 10.58PM

EXHIBIT A (p. 1)



(MUSIC) MALE ANNCR: Debbie Hoya lost 25 pounds fast.



Tamara Cowens lost 35 pounds fast.



Now you too can lose weight fast.



with the help of this new powerful FormulaTrim 3000 diet pill.



FormulaTrim's new fat-burning plan is



so powerful.



you can burn more body fat relaxing all day than running 10 miles non-stop



Laurette Morello burned away 17 pounds.



LAURETTE MORELLO: I went from a size 13 to a size 5.



MALE ANNCR: Adam Locas lost 36 pounds carving 7 inches from his waist.



... lost 52 pounds



trimming from a size 14 to a size 6.



This powerful



doctor-approved diet pill formula is medically proven to work.



The new FormulaTrim fat burning plan is so powerful.



you can burn more body fat relaxing all day

ALSO AVAILABLE IN COLOR VIDEO-TAPE CASSETTE

When buying, be sure to get the original color video cassette from the manufacturer.

EXHIBIT A

RADIO TV REPORTS

41 East 42nd Street, New York, NY 10017 (212) 309-1400

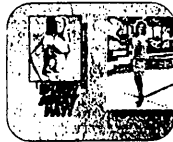
PRODUCT FORMULA TRIM 3000 DIET PILLS
TITLE "BEFORE & AFTER"
PROGRAM NEWS
STATION WJAB
PAGE 2 OF 2

OH92-51134
07/06/92 90
(CLEVELAND) 10:58PM

EXHIBIT A (p. 2)



then sweating through five exhausting hours of aerobics.



Terri Nigelson



burned away 15 pounds;



Joanne Benora lost 32 pounds



and Annette Garton lost an incredible and amazing 59 pounds!



Now you can



burn away fat and lose weight fast by calling 1-800-547-9500



for your powerful new FormulaTrim 3000



for only \$9.95. We accept personal check and credit card orders by phone.



Call 1-800-547-9500 now to order your three week supply.



For only \$9.95. Call right now



and receive your Swedish Cellulite Creme absolutely free.



Your satisfaction is 100% guaranteed.



Remember, have your check book



or credit card ready when calling.



that's 1-800-547-9500. Call now!

ALSO AVAILABLE IN COLOR VIDEO-TAPE CASSETTE

Complaint

119 F.T.C.

EXHIBIT B

**RADIO
TV REPORTS**

41 East 42nd Street, New York, NY 10017 (212) 309-1400

PRODUCT: FORMULA TRIM 3000 NO HUNGER DIET PILL 92-10715
 TITLE: "END HUNGER PAIN"
 PROGRAM: VICKI 9/15/92 :60
 STATION: WPIX (NEW YORK) 10.30AM

EXHIBIT B



(MUSIC) ANNCR: Debbie Hoya lost 25 pounds, fast.



Tamara Koons lost 35 pounds, fast. Now you too can lose weight fast



with the help of this new powerful medically-proven FormulaTrim 3000 No Hunger Diet Pill.



Following this new powerful FormulaTrim fat burning diet plan.



you can burn more body fat relaxing all day



than running 10 miles non-stop



or even sweating through 5 exhausting hours of aerobics.



Terry Nigelson burned away 15 pounds.



Loretta Morello burned away 17 pounds.



LORETTA MORELLO: I went from a size 13 to a size 5.



ANNCR: Adam Logus burned away 36 pounds.



Claire Contobi burned away 52 pounds



and Annette Barton burned away an incredible and amazing 59 pounds! (MUSIC OUT)



ANNCR: Now you can end biting hunger pain, burn away fat and lose weight fast by calling 1-800-542-9696



for your powerful FormulaTrim 3000 for only \$9.95. We accept personal check and credit card orders by phone.



Call 1-800-542-9696 and receive your Swedish Cellulite Cream absolutely free.

ALSO AVAILABLE IN COLOR VIDEO-TAPE CASSETTE

EXHIBIT C

**RADIO
TV
REPORTS**

41 East 42nd Street New York, NY 10017 (212) 307-1430

PRODUCT: MEGA LOSS 1000 DIET PILLS
 TITLE: "MIRACLE DIET"
 PROGRAM: MOVIE
 STATION: WPIX (NEW YORK)
 DATE: 10/06/91
 PAGE: 1
 91-11148
 120
 2:23PM

EXHIBIT C (p. 1)



(MUSIC) ANNCR: You can start losing up to 10, 20, 50 even 100 pounds



with the powerful, doctor approved.



Mega Loss 1000 Miracle Diet Pill Program for only \$9.95.



With this doctor approved Mega Loss 1000 Program, you can burn more body fat



relaxing in the sun then swimming 2 1/2 miles



or exercising 6 hours nonstop



Ohio's Faye Diamond lost a dramatic 15 pounds.



rapidly dropping from a size 8 to a size 4



FAYE DIAMOND: I'm not embarrassed to wear a bikini anymore



ANNCR: Toronto's Debbie Holloway lost 53 pounds trimming from a size 16 to a size 7.



Wisconsin's A.J. Jr. rapidly lost 75 pounds



carving 10 bulging inches from his waist



Tennessee's Sherry Capick lost 38 pounds with her doctor approved Miracle Diet Pill Program



And New York's Jeff Waldo rapidly lost an awesome 92 pounds!



While under her Doctor's care, Mrs. McKinson



quickly lost 32 pounds

ALSO AVAILABLE IN COLOR VIDEO-TAPE CASSETTE

On a Radio-TV Report, ANNCR's, discuss the diet pill's, and how it's used. Also, on a video-tape, ANNCR's, discuss the diet pill's, and how it's used.

Complaint

119 F.T.C.

EXHIBIT C

**RADIO
TVREPORTS**

41 East 42nd Street New York, NY 10017 (212) 309-1400

PRODUCT	MEGA LOSS 1000 DIET PILLS	91-11148
TITLE	"MIRACLE DIET"	
PROGRAM	MOVIE	10/06/91 120
STATION	WPIX (NEW YORK)	2:23PM
	PAGE 2	

EXHIBIT C (p. 2)



Lorraine Liberatti rapidly lost 46 pounds.



Lynn Clarey lost an astonishing 65 pounds.



and E.J. Elkar lost an incredible



100 pounds!



Now you can shed excess fat by calling 1-800-641-1200.



for your doctor approved Mega Loss 1000 Miracle Diet Pill Program.



for only \$9.95.



We accept all personal checks and credit card orders by phone.



Call 1-800-641-1200 now to order your 21-day supply.



for only \$9.95.



Call right now and receive



your Nighttime Cellulite Cream absolutely free.



Your satisfaction is 100% guaranteed.



Remember: Have your check book or credit card ready when calling.



That's 1-800-641-1200, call now!

ALSO AVAILABLE IN COLOR VIDEO-TAPE CASSETTE

As a result of the marketing practices described in this decision, the Commission has determined that the respondents have violated the FTC Act.

Billy Graham:
The way you
pray
makes
dreams
come
true



CAN unlock the secrets to life's riches by learning how to pray, says famous evangelist Billy Graham in his sensational new book *Warning*. More than simply putting your hands together, he explains, few people have learned to pray to work. We have no sense of community and expectantly to use prayer as a formula. Graham sighs, "This is the most revered preaching the correct way to pray our dreams come true. Choose a proper setting for quiet spot where you are interrupted ... a spot

BLOCKBUSTER
NEW BOOK

where you can be alone with God. Next, clear your mind of anger or animosity and engage in a one-on-one conversation with the Lord. "You may not be able to pray like a clergyman in the beginning, but you can start with just a simple sentence, 'Lord, I love you.' That's a prayer. Or, 'God, help me.' That's a prayer, too. "Snatches of memorized verses are hastily spoken in the morn-

ing, then we say goodbye to God for the rest of the day, until we rush through a few closing petitions at night," he laments. "Since the disciples had to be taught to pray, we, too, ought to study the Scriptures and learn to pray," Dr. Graham says. "Prayer is not a button we can press and get an immediate answer, either. "We can't manipulate God or dictate to him. Knowing far better than we what's good for us, God gives us what we NEED," he says. "Knowing how to pray isn't enough, however. We also need to know WHEN to pray. "Of course, we need to pray in times of adversity, lest we become faithless and unbelieving. But we also need to pray in times of prosperity, lest we become boastful and proud," he writes. "God may not give us what we ask for, for that may not be his wise and loving will for us. But he WILL answer our prayer in his own way. He will not let us down in our hour of need." And in such times of need, Dr. Graham promises, God will provide us with patience, courage and strength.

Worked for Naomi Judd

THE POWER of prayer has cured country singer Naomi Judd of a serious liver disease that forced her into an early retirement last year. "Medical science is a wonderful thing," says the jobless Judd, "but I had to go to a higher authority. "It worked. I'm in full remission." The case of chronic hepatitis she contracted in 1990 forced Naomi to retire from the superstar singing duo with daughter Wynonna last year. Wynonna's now a big hit on her own.

Miracle
Diet
Pill
Program



"My dress size went from a size 16 to a size 7."
Debbie Holloway

"I LOST
53 LBS." **FIND OUT**
HOW!

Complaint

119 F.T.C.

EXHIBIT D

EXHIBIT D (p. 2)

"I'm Not Embarrassed to Wear A Bikini Anymore!"

Miracle Diet Pill

MegaLoss 1000 Diet Plan GETS THE FAT OFF FAST! Program

Your Ultimate Anti-Fat Weapon!

SHRINK MILLIONS OF FAT CELLS IN JUST 24 TO 48 HOURS!

MEGALOSS GETS THE FAT OFF FAST!

MegaLoss 1000 really works wonders. **FAST!** Debbie Hoffway lost an amazing 53 pounds. Harold Albright rapidly burned away 75 pounds and Erma Aure lost 100 pounds so fast her friends could barely recognize her.

RAPIDLY LOSE POUNDS & INCHES

Just imagine yourself beginning to burn away years of unwanted fat as the MegaLoss 1000 diet plan helps you rapidly lose the millions of fat cells almost overnight. Now you, Erma and Faye have the opportunity to rapidly lose weight and regain your figure thanks to the MegaLoss 1000 fat-burning diet and its powerful, clinically tested, medically proven and doctor-recommended diet pill formula.

MEDICALLY PROVEN - DOCTOR APPROVED!

The MegaLoss 1000 diet plan was designed to trigger super fat weight loss. Results are amazing! Your self-confidence and self-esteem will grow each day as you regain your youthful figure with the help of this doctor approved diet pill program's special diet pill ingredients. Formerly available only through doctors, this powerful ingredient is now available to help you lose weight with the doctor-approved MegaLoss 1000 diet pill being recommended for its safety to the United States Government by a distinguished panel of doctors and medical experts.

Watch as you:

- LOSE up to 23 INCHES off your WAIST
- LOSE up to 20 INCHES off your HIPS
- LOSE up to 10 INCHES off your THIGHS

Naturally, individual weight may vary depending largely on how much you need to lose. But you'll surely be amazed as your calorie intake reduces and your fat burner pills flame to burn away years of stubborn fat. The results are fantastic!

NO DANGEROUS SIDE EFFECTS

You'll simply be amazed at how fast the weight comes off. And best of all - you don't have to worry about those nervous jitters, insomnia, laxative effects or dangerous side effects. But you can lose weight so fast your friends may not even recognize you. As if by magic on the MegaLoss diet plan, down go the calories, down go the inches and down go the pounds!

NOW IT'S YOUR TURN

Now it's your turn to rapidly lose weight, to have a new appearance, to have a new self-image, to have a new lifestyle. Now you can:

- Shrink Millions of Fat Cells The Very First Day
- Trigger Awesome Fat-burning In 24 to 48 Hours
- Slim Stubborn Bulges in Record Time
- Dramatically Reshape Your Body

SATISFACTION 100% GUARANTEED OR YOUR MONEY BACK

Now is the proper time - the turning point of your life. Now you can shed your excess fat and have a firm, youthful-looking body faster than you ever dreamed possible. No matter how many years you have been overweight, this amazing anti-fat weapon not only can - but must work wonders for you - or it doesn't cost a single cent! You risk absolutely nothing when you call in your order.

ORDER NOW WITHOUT RISK

You must be 100 percent satisfied with your rapid weight loss and the results you see in your waist, hips and thighs. If you are not completely satisfied in any way, simply return the unused portion in 30 days and receive a full refund of your purchase price. No questions asked. So act now. Call in your order today.

"I lost 100 lbs!"

ULTIMATE ANTI-FAT WEAPON

You'll no longer be a slave to your appetite. MegaLoss 1000's medically proven formula has been praised by leading doctors, featured in thousands of studies, medical books and national magazines. You now have the ultimate anti-fat weapon you need to lose weight fast. As you quickly drop pounds and inches, experience the most vibrant, desirable and exciting new you emerge.

Special Discount Offer!

ORDER NOW SAVE UP TO 50% OR MORE!

WEIGHT	REGULAR PRICE	DISCOUNTED PRICE	WEIGHT	REGULAR PRICE	DISCOUNTED PRICE
100-110 Lbs. 63	\$109.95	\$54.95	110-120 Lbs. 12	\$109.95	\$54.95
110-120 Lbs. 67	\$109.95	\$54.95	120-130 Lbs. 27	\$109.95	\$54.95
120-130 Lbs. 71	\$109.95	\$54.95	130-140 Lbs. 37	\$109.95	\$54.95
130-140 Lbs. 75	\$109.95	\$54.95	140-150 Lbs. 43	\$109.95	\$54.95
140-150 Lbs. 79	\$109.95	\$54.95	150-160 Lbs. 49	\$109.95	\$54.95
			160-170 Lbs. 55	\$109.95	\$54.95
			170-180 Lbs. 61	\$109.95	\$54.95
			180-190 Lbs. 67	\$109.95	\$54.95
			190-200 Lbs. 73	\$109.95	\$54.95

Shipping & handling not included.

CALL TOLL FREE

PERSONAL CHECKS AND CREDIT CARDS ACCEPTED BY PHONE!

1-800-899-1400

FREE WEIGHT LOSS CONSULTATION If Lines Are Busy Call 1-800-652-1188. ASK FOR OPERATOR GE-102 CALL NOW!

\$9.95 ONLY

EXHIBIT E

**RADIO
TV REPORTS**

41 East 42nd Street, New York, NY 10017 (212) 309-1400

PRODUCT: MIRACLE TRIM DIET PILL SYSTEM
TITLE: "SHRINK FAT CELLS"
PROGRAM: MONTEL WILLIAMS
STATION: WNYW
PAGE: 1 OF 2

93-01018

1/25/93 :90
(NEW YORK) 5:06PM

EXHIBIT E (p. 1)



(MUSIC) ANNCR: Now you can start shrinking millions of fat cells



and begin regaining your youthful figure



in 24 to 48 hours.



The very first day your powerful new Miracle Trim Diet Pill System



attacks years of built up fat.



You can start losing up to 10, 20, 50,



even a typical 100 pounds for only \$9.95.



This new Miracle Trim Diet Pill System



is doctor approved to help you quickly shrink millions of fat cells



so you can easily regain your youthful figure.



You can rapidly shrink up to 10 inches off your thighs.



You can easily shrink as much as 20 inches from your hips



and you can quickly shrink up to an amazing 23 inches from your waist.



WOMAN: Thanks to Miracle Trim I'm enjoying my new body.



ANNCR: Pam rapidly went from a



large size 15 to a slim 7.

ALSO AVAILABLE IN COLOR VIDEO-TAPE CASSETTE

Complaint

119 F.T.C.

EXHIBIT E

**RADIO
TV REPORTS**

41 East 42nd Street, New York, NY 10017 (212) 309-1400

PRODUCT: MIRACLE TRIM DIET PILL SYSTEM
TITLE: "SHRINK FAT CELLS"
PROGRAM: MONTEL WILLIAMS
STATION: WNYW
PAGE: 2 OF 2

93-01018
1/25/93 :90
(NEW YORK) 5:06PM

EXHIBIT E (p. 2)



After 15 years of diets, Treva



finally found one that really worked.



MAN: I quickly lost 55 pounds.



ANNCR: Jo's incredible 59 pound loss gave her a knockout shape.



Carol lost an astonishing 40 pounds.



And Edie lost a mind boggling 110 pounds.



2nd ANNCR: Now it's your turn to dramatically reshape your figure



by calling 1-800-544-3344 for your new



Miracle Trim Diet Pill System for only \$9.95.



We accept all personal checks and credit card orders by phone.



Call 1-800-544-3344 to order your new



Miracle Trim for only \$9.95



and we'll give you this free supply to complete your 21 day system.



DR. PESHKIN: Order today, you'll receive your own



personal weight loss consultation, absolutely free.



2nd ANNCR: Have your check book or credit card ready when calling. That's 1-800-544-3344, call now. (MUSIC OUT)

ALSO AVAILABLE IN COLOR VIDEO-TAPE CASSETTE

Complaint

EXHIBIT F

**RADIO
TV REPORTS**

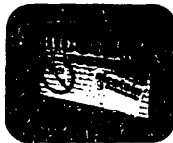
41 East 42nd Street, New York, NY 10017 (212) 309-1400

PRODUCT: NICOTAIN STOP SMOKING PATCH 93-13570 E
TITLE: "YOU KNOW YOU HAVE TO QUIT"
PROGRAM: SPORTS DESK 60
STATION: MSG (NEW YORK) 11/27/93 11:53PM

EXHIBIT F



(MUSIC) ANNCR: You can easily stop smoking with the new non-medicated,



Nicotain Stop Smoking Patch.



This revolutionary new behavior modification,



non-prescription Nicotain Stop Smoking Patch. Program is so effective, you can easily quit.



whether you smoke one, two, even three packs a day. Roxanna Sales smoked for 12 years.



ROXANNA: And I quit in just one week.



MAN: Nicotain made it easy. And I didn't have to go to a doctor for it.



1st WOMAN: Twenty years, twenty cigarettes a day.



and I quit in just two weeks with Nicotain. (MUSIC OUT)



ANNCR: To order Nicotain, call 1-800-435-4466.



2nd WOMAN: I called, I quit, and it only cost \$9.95.



ANNCR: Call 1-800-435-4466 now!



MAN: Every cigarette brings you seven minutes closer to death.



So don't wait. Make the call. Make the call now.



ANNCR: Order Nicotain now. Call 1-800-435-4466.



3rd WOMAN: You know you have to quit. So make the call.

ALSO AVAILABLE IN COLOR VIDEO-TAPE CASSETTE
This Radio-TV Report contains no offers for services or products. It is not intended to be used for advertising purposes. It may not be reproduced, used in books, newspapers or other publications without the express written permission of the copyright owner.

DECISION AND ORDER

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

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

The Commission having thereafter considered the matter and having determined that it had reason to believe that the respondents have violated the said Act, and that 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 Taleigh Corporation, formerly known as Taleigh, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of Florida. At times relevant hereto, its office and principal place of business was located at 4742 N.W. Boca Raton Boulevard, Boca Raton, FL.

Respondent Choice Diet Products, Inc. is a corporation organized, existing and doing business under and by virtue of the laws of the State of New York. At times relevant hereto, its office and principal place of business was located at 4800 N.W. Boca Raton Boulevard, Boca Raton, FL.

Respondent William J. Santamaria is an officer and director of said corporations. He formulates, directs and controls the policies,

acts and practices of said corporations and his address is 20640 Baybrooke Court, Boca Raton, FL.

2. 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

For purposes of this order:

1. *"Clearly and prominently"* as used herein shall mean as follows:

(a) In a television or videotape advertisement: (1) an audio disclosure shall be delivered in a volume and cadence and for a duration sufficient for an ordinary consumer to hear and comprehend it; and (2) a video disclosure shall be of a size and shade, and shall appear on the screen for a duration, sufficient for an ordinary consumer to read and comprehend it.

(b) In a print advertisement, the disclosure shall be in close proximity to the representation that triggers the disclosure in at least twelve (12) point type.

(c) In a radio advertisement, the disclosure shall be delivered in a volume and cadence sufficient for an ordinary consumer to hear and comprehend it.

2. *"Competent and reliable scientific evidence"* shall mean tests, analyses, research, studies, or other evidence based on the expertise of professionals in the relevant area that has been conducted and evaluated in an objective manner by persons qualified to do so, using procedures generally accepted in the profession to yield accurate and reliable results.

3. *"Purchase price"* shall mean all amounts paid to respondents in cash or by check, or charged to a consumer's credit card account or debited from a consumer's checking account, including, where applicable, sales tax, and any charges not authorized by consumers to be charged to their charge card accounts or debited from their checking accounts, provided however, with regard to Part XIV, purchase price shall not include shipping or handling charges if such charges are not included in respondents' guarantee or refund offer.

