

IN THE MATTER OF
AMERICAN HOME PRODUCTS CORPORATION, ET AL.

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

Docket 8918. Complaint, Feb. 23, 1973—Final Order, Sept. 9, 1981

This order requires, among other things, a New York City manufacturer of Anacin, Arthritis Pain Formula (APF), and other non-prescription drug products to cease misrepresenting that Anacin will relieve tension, nervousness and depression; or that it will enable users to cope with ordinary stresses of everyday life. Should the company make any comparative efficacy claims for Anacin or APF, it would be required to disclose that the analgesic ingredient in the product is aspirin. The order also prohibits misrepresentations concerning the extent or results of product testing; and bars any unsubstantiated performance claim unless accompanied by a conspicuous disclosure that such claim has not been proven. The company is further precluded from representing that its products contain any unusual or special ingredient, when, in fact, such ingredient is commonly used in similar products. Additionally, the order prohibits the C.T. Clyne Company, Inc., an advertising agency, from knowingly making unsubstantiated "superior performance" or "unusual ingredient" claims for Anacin, APF or for any other non-prescription internal analgesic product.

Appearances

For the Commission: *Melvin H. Orlans, James H. Skiles, W. Benjamin Fisherow, Ira Nerken, Judith A. Neibrief and Richard A. Bloomfield.*

For the respondents: *Samuel W. Murphy, Jr., John J. McGrath, Jr., Donald J. Frickel, and E. Thomas Sullivan, Donovan Leisure Newton & Irvine, Washington, D.C., for American Home Products Corporation, and Irving Scher and Deborah M. Lodge, Weil, Gotshal & Manges, Washington, D.C., for The C.T. Clyne Company, Inc.*

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 American Home Products Corporation, a corporation, (hereinafter referred to as "Amho"), and Clyne Maxon, Inc., a corporation, (hereinafter referred to as "Maxon"), hereinafter 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. For purposes of this complaint the following definitions shall apply:

1. *Commerce* means commerce as defined in the Federal Trade Commission Act.

2. *False advertisement* means false advertisement as defined in the Federal Trade Commission Act.

PAR. 2. Respondent American Home Products Corporation is a corporation organized, existing and doing business under and by virtue of the laws of the State of Delaware with its principal office and place of business located at 685 Third Ave. in the City of New York, State of New York.

Respondent Clyne Maxon, Inc. is a corporation organized, existing and doing business under and by virtue of the laws of the State of New York with its principal office and place of business located at 245 Park Ave. in the City of New York, State of New York. [2]

PAR. 3. Respondent Amho. Corporation is now, and has been for more than one year last past, engaged in the manufacturing, advertising, offering for sale, sale and distribution of non-prescription internal analgesic preparations which fall within the classification of drugs, as the term "drug" is defined in the Federal Trade Commission Act.

The designation used by respondent for said preparations, the active ingredients thereof and directions for use are as follows:

1. *Designation:* "Anacin"
Active Ingredients (One Tablet):
 Acetylsalicylic Acid
 Caffeine Anhydrous

Dosage: One to two tablets with water.
 Repeat if necessary, one tablet
 every 3 hours. For children under
 6 consult a doctor.
2. *Designation:* "Arthritis Pain Formula"
Active Ingredients (One Tablet):
 Acetylsalicylic Acid (micro-fine)
 Aluminum Hydroxide, Dried Gel
 Magnesium Hydroxide, NF

Dosage: Convenient daily schedule for adults is one or two tablets first thing in the morning; then repeat one or two tablets as needed at lunch, dinner and bedtime. Do not exceed 8 tablets in any 24 hour period. Not recommended for children.

PAR. 4. Respondent Maxon is now, and for some time last past has been, the advertising agency of respondent Amho, and now, and for some time last past, has prepared and placed for publication, and has caused the dissemination of, advertising material, including but not limited to the advertising referred to herein, to promote the sale of "Arthritis Pain Formula", which comes within the classification of "drug," as the term "drug" is defined in the Federal Trade Commission Act. [3]

In the course and conduct of its business, respondent American Home Products Corporation causes the said products, when sold to be shipped from its plant and facilities in various States of the United States to purchasers thereof located in various other States of the United States and in the District of Columbia. Respondent American Home Products Corporation maintains, and at all times mentioned herein has maintained, a substantial course of trade in said products in commerce.

PAR. 5. In the conduct of its business at all times mentioned herein, respondent Amho Corporation has been in substantial competition, in commerce, with corporations, firms, and individuals in the sale of non-prescription internal analgesic products.

In the conduct of its business at all times mentioned herein, respondent Clyne Maxon, Inc. has been in substantial competition, in commerce, with other corporations, firms, and individuals in the advertising business.

PAR. 6. In the course and conduct of their business, as aforesaid, respondents have disseminated, and caused the dissemination of, certain advertisements concerning the said products by the United States mail and by various means in commerce, including, but not limited to, advertisements inserted in magazines and other advertising media, and by means of television and radio broadcasts transmitted by television and radio stations located in various States of the United States, and in the District of Columbia, having sufficient power to carry such broadcasts across state lines, for the purpose of inducing and which were likely to induce, directly or indirectly, the purchase of said products, and has disseminated, and caused the

dissemination of, advertisements concerning said products by various means, including but not limited to the aforesaid media, for the purpose of inducing and which were likely to induce, directly or indirectly, the purchase of said drugs in commerce.

PAR. 7. Among and typical of the statements and representations contained in said advertisements as hereinabove mentioned are those relating to the product "Anacin" contained in two (2) television commercials' story-boards and one newspaper advertisement which have been reproduced, attached to this complaint, and made a part hereof,* and the following: [4]

A. For "Anacin"

1. Turns Off Headache Pain, So Relaxes Its Tension, Helps Lift Its Depression-Fast

In 22 seconds after entering your bloodstream this special fortified formula is speeding relief to your nervous headache. It promptly relieves the pain, so relaxes its tension and helps lift its depression. You can bounce back fast—able to carry on and do your work. This effective headache relief is Anacin (R)—a special fortified combination of ingredients and only Anacin has this formula. Anacin Analgesic Tablets contain the medication doctors recommend most for headache pain. In fact, Anacin gives you more of it than any leading headache tablet. Next time—try medically proven Anacin Tablets.

2. When Nervous Tension And Fatigue Bring On "Housewife Headache" . . .

The busy mother and homemaker has many repetitious tasks she must perform daily to make life pleasant for her family. And it's understandable how tensions and fatigue can build up during the day and result in what is now known as "housewife" headache. For this type of headache you need strong yet safe relief. So next time take Anacin (R). Anacin gives you 100% more of the strong pain-reliever doctors recommend most for headaches than the other leading extra-strength tablet. Minutes after taking Anacin, your headache goes, so does its nervous tension and fatigue. Anacin lets you feel better all over—able to carry on. Despite its strength, Anacin is safe taken as directed. It doesn't leave you depressed or groggy. Next time take Anacin Tablets! [5]

3. What's Best To Take For A Nervous Tension Headache?

Why not the strong pain-reliever doctors recommend most? You'll find it in Anacin (R). Anacin is a special fortified formula that turns off headache pain in minutes, so . . . relaxes its nervous tension and relaxes its painful pressure on nerves. Anacin lets you feel better all over.

4. Takes The "Pressure-Pain" Out Of Your Nervous Headache In Minutes.

. . . so relaxes its nervous tension, releases painful pressure on nerves . . . you feel great again.

* Exhibits not reproduced because of poor quality.

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The pressures of today's hectic world often give people today's nervous tension. And nervous tension causes the most common headache of all. Tension presses on nerves and tiny blood vessels in your head, then brings on a "painful pressure" headache. You want the quick strength of Anacin (R) for relief.

Anacin is a special fortified formula that turns off headache pain in minutes, so relaxes its tension, releases painful pressure on nerves. Helps you feel great again. And the soothing effect continues for hours.

Anacin gives you 100% more of the specific pain-reliever doctors recommend most for headaches—than the other leading extra-strength tablet. Powerful Anacin helps relieve a painful pressure headache but doesn't dull your senses. Smooth, gentle acting too, next time take Anacin Tablets.

5. New Clinical Study Indicates Anacin Treats Headaches As Effectively As The Most Widely Prescribed Pain-Relief Compound . . . yet has fewer side effects and is more economical.

6. Compared To The Other Extra-Strength Tablet: Gives You *Twice As Much Of The Pain-Reliever Doctors Recommend Most For Headaches* And twice as many people now use it! . . . Anacin gives real fast relief from tension headache pain, so its tension goes—you function better and do a better job. [6]

7. *Survey Of Doctors Of Internal Medicine Report: Twice As Many Doctors Prefer This Extra-Strength Pain-Reliever For Headaches.* And Another Medical Research Report Proves This Same Tablet Relieves Nervous Tension Headaches As Effectively As The Leading Prescription Pain-Reliever.

Replies from over 1600 doctors who specialize in internal medicine showed twice as many preferred the formula of extra-strength Anacin for headache pain over that of the other leading extra-strength tablet. These doctors certainly know their pain-relievers and this was verified by another medical report that proved Anacin gives the same powerful pain relief from headaches as the leading prescription. Yet Anacin needs no prescription. And costs far less. Extra-strength Anacin Tablets work fast. Headache goes in minutes so its nervous tension goes, too. Anacin lets you do a better job—lets you function better. Despite its strength Anacin is not narcotic. Not habit-forming. It makes good sense to take fast acting, extra-strength Anacin (R)—the pain-reliever preferred by twice as many doctors.

8. The Most Exciting Headache News In Years!

Results of doctor's tests in treating tense, nervous headaches now made public.

If you are one of millions who get tense, nervous headaches—these latest tests by doctors should be of the utmost importance.

Whitehall Laboratories who make world-famous Anacin (R) Tablets have always known Anacin is a powerful, fast-acting pain reliever. Anacin is a special fortified combination of ingredients. Millions of sufferers must consider Anacin superior because it's America's largest selling analgesic.

Having the greatest confidence in the high quality of relief Anacin offers, the makers of Anacin decided to compare its effectiveness for headaches with that of the leading pain-relief prescription of doctors . . . [7]

The results showed Anacin is just as effective to give complete relief from nervous headaches as the expensive, leading pain-relief prescription. Tests verified beyond a

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doubt that Anacin has the same pain-relief power for headaches as this prescription for which doctors wrote 21 million prescriptions last year . . .

An advantage of Anacin is that it is not a narcotic. Not habit forming. You can take Anacin without getting dizzy or an upset stomach . . .

So next time you get a nervous headache—you owe it to yourself to take Anacin—proved in doctors' tests to be equally effective for headache relief as the most powerful, most widely prescribed pain reliever. Yet Anacin needs no prescription and is far more economical. .

B. For "Arthritis Pain Formula"

1. Arthritis Sufferers:

Wake Up Tomorrow Morning Without All That Stiffness! New Pain Formula. 50% stronger than a regular aspirin. So you take it less often. Yet so gentle you can take it on an empty stomach . . . a new formula for arthritis minor pain that (1) is so strong you can take it less often and still wake up in the morning without all the pain's stiffness and (2) is so gentle you can take it on an empty stomach. This means you get both extra medication and extra protection; extra medication because each tablet contains 50% more pain reliever than regular or buffered aspirin tablets. Extra protection because each tablet contains two antacids and is micronized (which means the tablet particles are so fine the pain reliever is more readily absorbed). Called Arthritis Pain Formula, it was specially developed by the makers of Anacin (R) to give arthritis sufferers an easier, less upsetting way to wake up without all that early morning stiffness and enjoy hours of relief.

PAR. 8. Through the use of the said advertisements and others similar thereto not specifically set out herein, respondents have represented and are now representing, directly and by implication:
[8]

A. By respondent Amho for "Anacin"

1. That Anacin contains more pain-dulling ingredients per tablet than any other non-prescription internal analgesic product on the market.

2. That Anacin's analgesic ingredient is unusual, special, and stronger than aspirin (acetylsalicylic acid).

3. That Anacin contains more than twice as much of its analgesic ingredient as any other analgesic product on the market.

4. That within approximately 22 seconds after taking Anacin a person may expect relief from headache pain.

B. By respondents Amho and Maxon for "Arthritis Pain Formula"

1. That Arthritis Pain Formula's analgesic ingredient is unusual, special, and stronger than aspirin (acetylsalicylic acid).

2. That Arthritis Pain Formula will eliminate all pain, stiffness

and discomfort usually experienced by arthritis sufferers in the morning.

PAR. 9. In truth and in fact:

A. For "Anacin"

1. There are other analgesic products on the market which contain as much or more pain dulling ingredients per tablet than does Anacin.

2. Anacin's analgesic ingredient is ordinary aspirin (acetylsalicylic acid).

3. Anacin does not contain more than twice as much of its analgesic ingredient as all other analgesic products on the market. [9]

4. Relief from headache pain is not obtained within approximately 22 seconds after taking Anacin.

B. For "Arthritis Pain Formula"

1. Arthritis Pain Formula's analgesic ingredient is aspirin (acetylsalicylic acid).

2. Arthritis Pain Formula will not eliminate all pain, stiffness or discomfort usually experienced by arthritis sufferers in the morning.

PAR. 10. Further, through the use of the advertisements referred to in Paragraph Seven above and others similar thereto but not specifically set out herein, it has been represented and is being represented, directly and by implication:

A. By respondent Amho that it has been established that a recommended dose of Anacin is more effective for the relief of pain than a recommended dose of any other non-prescription internal analgesic.

B. By respondents Amho and Maxon that it has been established that Arthritis Pain Formula will cause gastric discomfort less frequently than any other non-prescription internal analgesic.

PAR. 11. In truth and in fact, neither of said representations referred to in Paragraph Ten has been established, for reasons including, but not limited to, the existence of a substantial question, recognized by experts qualified by scientific training and experience to evaluate the efficacy and safety of such drugs, as to the validity of such representations.

PAR. 12. Further, through the use of the advertisements referred to in Paragraph Seven above and others similar thereto but not

specifically set out herein, it has been represented and is being represented, directly and by implication:

A. By respondent Amho that a recommended dose of Anacin is more effective for the relief of pain than a recommended dose of any other non-prescription internal analgesic.

B. By respondents Amho and Maxon that Arthritis Pain Formula will cause gastric discomfort less frequently than any other non-prescription internal analgesic. [10]

PAR. 13. At the time respondents made the representations referred to in Paragraph Twelve above, there existed a substantial question, recognized by experts qualified by scientific training and experience to evaluate the safety and efficacy of such drug products, concerning the validity of such representations.

PAR. 14. Furthermore, respondents made the representations referred to in Paragraph Twelve above without disclosing the existence of a substantial question, as alleged in Paragraph Thirteen above, as to the validity of each representation. In light of the representations made, the existence of such a substantial question is a material fact, which, if known to consumers, would be likely to affect their consideration of whether or not to purchase such products. Thus respondents have failed to disclose material facts.

PAR. 15. Further, through the use of the advertisements referred to in Paragraph Seven above, and others similar thereto but not specifically set out herein, respondent Amho did represent and is representing, directly and by implication, that a recommended dose of Anacin relieves nervousness, tension, stress, fatigue and depression and will enable persons to cope with the ordinary stresses of everyday life.

PAR. 16. In truth and in fact, there existed at the time of the representations referred to in Paragraph Fifteen above no reasonable basis for making said representations in that respondent had no competent and reliable scientific evidence to support such representations.

PAR. 17. Further, through the use of the advertisements referred to in Paragraph Seven above and others similar thereto but not specifically set out herein, respondent Amho has represented and is now representing, directly and by implication, that certain scientific tests or studies conducted by or on behalf of respondent Amho prove that Anacin is as effective for the treatment or relief of headache pain as the leading prescription analgesic product and more effective for the treatment or relief of such pain than any other non-prescription internal analgesic product.

PAR. 18. At the time respondent made the representations referred to in Paragraph Seventeen, there existed a substantial question, recognized by experts qualified by scientific training and experience to evaluate the safety and efficacy of such drug products, concerning the validity, significance or interpretation of such tests or studies as they related to such representations. [11]

PAR. 19. Furthermore, respondent made the representations referred to in Paragraph Seventeen above without disclosing the existence of a substantial question, as alleged in Paragraph Eighteen above, as to the validity of each representation. In light of the representations made, the existence of such a substantial question is a material fact, which, if known to consumers, would be likely to affect their consideration of whether or not to purchase such products. Thus respondent has failed to disclose material facts.

PAR. 20. Further, through the use of the advertisement referred to in Paragraph Seven, item (A)(7), above, and others similar thereto but not specifically set out herein, respondent Amho has represented and is now representing, directly and by implication, that:

1. Twice as many specialists in internal medicine prefer Anacin for the treatment or relief of headache pain to any other non-prescription internal analgesic product.
2. More physicians recommend Anacin for the treatment or relief of headache pain than any other non-prescription internal analgesic product.
3. Such recommendation or preference constitutes convincing proof that Anacin will treat or relieve headache pain more effectively than any other non-prescription internal analgesic product.

PAR. 21. In truth and in fact, neither the design of the survey cited by respondent Amho, nor the responses to said survey, provides a reasonable basis for the representations referred to in Paragraph Twenty above.

PAR. 22. Further, respondent Amho marketed and advertised Anacin, and respondents Amho and Maxon marketed and advertised Arthritis Pain Formula, without disclosing in the advertising for such products that such products contain aspirin and that Anacin contains caffeine.

PAR. 23. In truth and in fact, aspirin and caffeine are well-known, commonplace substances, widely available in many products. Moreover, the use of aspirin or caffeine may be injurious to health and may cause undesirable side effects. Thus, respondents have failed to disclose material facts which, if known to certain consum-

ers, would be likely to affect their consideration of whether or not to purchase such products. [12]

PAR. 24. The advertisements referred to in Paragraph Seven above as alleged in Paragraphs Nine, Eleven, Fourteen, Nineteen, and Twenty-Three constituted and now constitute false advertisements.

PAR. 25. The making of representations as alleged in Paragraphs Thirteen, Sixteen, Eighteen, and Twenty-One constituted and now constitutes unfair or deceptive acts or practices in commerce.

PAR. 26. The use by respondents of the aforesaid deceptive representations, and the dissemination of the aforesaid false advertisements has had, and now has, the capacity and tendency to mislead members of the purchasing public into the erroneous and mistaken belief that said statements and representations were and are true and into the purchase of substantial quantities of respondents' drugs by reason of said erroneous and mistaken belief.

PAR. 27. The aforesaid acts and practices of respondents, as herein alleged, including the dissemination of the false advertisements as aforesaid were and are all to the prejudice and injury of the public and of respondents' competitors and constituted and now constitute, unfair methods of competition in commerce and unfair or deceptive acts or practices in commerce in violation of Sections 5 and 12 of the Federal Trade Commission Act.

INITIAL DECISION BY

MONTGOMERY K. HYUN, ADMINISTRATIVE LAW JUDGE

SEPTEMBER 1, 1978

PRELIMINARY STATEMENT

On February 23, 1973, the Federal Trade Commission ("Commission") issued a complaint charging American Home Products Corporation ("American Home") and Clyne Maxon, Inc. with violation of Sections 5 and 12 of the Federal Trade Commission Act, as amended (15 U.S.C. 45 and 52), [2]in connection with certain advertisements for Anacin and Arthritis Pain Formula ("APF"). Similar complaints were issued at the same time against Bristol-Myers Company (Docket No. 8917) and Sterling Drug Company (Docket No. 8919), in connection with certain advertisements for certain over-the-counter ("OTC") internal analgesic products marketed by these firms.

On May 29, 1973, respondents filed their respective answers to the Complaint, each denying that it had violated the Federal Trade

Commission Act. Administrative Law Judge William K. Jackson, originally assigned to this proceeding, entered a Prehearing Order, dated April 4, 1974, setting forth the issues of fact and law to govern the adjudicatory proceeding. This case was assigned to me upon Judge Jackson's retirement, effective January 1, 1975. By Order dated January 7, 1976, the Prehearing Order of April 4, 1974 was modified in certain respects.

The parties were allowed extensive pretrial discovery. Numerous prehearing conferences were held in order to simplify the issues, to resolve disputes related to discovery and generally to expedite the trial preparation of the parties.

Based on the complaint and answer and prehearing orders, the following issues are matters for determination in this proceeding:

- (a) Whether the challenged advertisements represented that:
 - (i) Anacin contains more pain-dulling ingredients per tablet than any other non-prescription internal analgesic product on the market (Comp. ¶ 8(A)(1)).
 - (ii) Anacin's analgesic ingredient is unusual, special, and stronger than aspirin (acetylsalicylic acid) (Comp. ¶ 8(A)(2)).
 - (iii) Anacin contains more than twice as much of its analgesic ingredient as any other analgesic product on the market (Comp. ¶ 8(A)(3)).
 - (iv) Within approximately 22 seconds after taking Anacin a person may expect relief from headache pain (Comp. ¶ 8(A)(4)).
 - (v) Arthritis Pain Formula's analgesic ingredient is unusual, special, and stronger than aspirin (acetylsalicylic acid) (Comp. ¶ 8(B)(1)). [3]
 - (vi) Arthritis Pain Formula will eliminate all pain, stiffness and discomfort usually experienced by arthritis sufferers in the morning (Comp. ¶ 8(B)(2)).
 - (vii) A recommended dose of Anacin is more effective for the relief of pain than a recommended dose of any other non-prescription internal analgesic (Comp. ¶ 12(A)).
 - (viii) Arthritis Pain Formula will cause gastric discomfort less frequently than any other non-prescription internal analgesic (Comp. ¶ 12(B)).
 - (ix) A recommended dose of Anacin relieves nervousness, tension, stress, fatigue and depression (Comp. ¶ 15).
 - (x) A recommended dose of Anacin will enable persons to cope with the ordinary stresses of everyday life (Comp. ¶ 15).
 - (xi) It has been established that a recommended dose of Anacin is

more effective for the relief of pain than a recommended dose of any other non-prescription internal analgesic (Comp. ¶ 10(A)).

(xii) It has been established that Arthritis Pain Formula will cause gastric discomfort less frequently than any other non-prescription internal analgesic (Comp. ¶ 10(B)).

(b) Whether the representations in paragraph (a) (xi) and (xii) above, if made, have been established (Comp. ¶ 11).

(c) Whether there existed at the time of the alleged representations set forth in paragraph (a) (vii) and (viii), a substantial question, recognized by qualified experts, as to the validity of said representations (Comp. ¶ 13).

(d) Whether there existed at the time of the alleged representations set forth in paragraph (a) (xi) and (xii), a substantial question, recognized by qualified experts, as to the validity of said representations (Comp. ¶ 11). [4]

(e) Whether the existence of a substantial question, if established, was a material fact of which the failure to disclose constituted an unfair or deceptive advertising practice (Comp. ¶ 14).

(f) Whether the alleged representations set forth in paragraph (a)(ix) and (x), if made, were based on a reasonable basis (Comp. ¶ 16).

(g) Whether American Home, through advertising, represented that certain scientific tests proved that Anacin is as effective for the treatment or relief of headache as the leading prescription analgesic product and is more effective for the treatment or relief of such pain than any other non-prescription internal analgesic product (Comp. ¶ 17).

(h) Whether there existed a substantial question, recognized by qualified experts, concerning the validity, significance or interpretation of the tests referred to in paragraph (g) as they relate to such representations (Comp. ¶ 18).

(i) Whether the existence of a substantial question, if established in relation to paragraph (h), was a material fact of which the failure to disclose constituted an unfair or deceptive advertising practice (Comp. ¶ 19).

(j) Whether the alleged advertisement referred to in paragraph 7, item (A)(7), of the Complaint represented that:

(i) Twice as many specialists in internal medicine prefer Anacin for the treatment or relief of headache pain to any other non-prescription internal analgesic product.

(ii) More physicians recommend Anacin for the treatment or relief of headache pain than any other non-prescription internal analgesic product.

(iii) Such recommendation or preference constitutes convincing proof that Anacin will treat or relieve headache pain more effectively [5] than any other non-prescription internal analgesic product (Comp. ¶ 20).

(k) Whether the design of, or responses to, the survey referred to in paragraph 7, item (A)(7) of the Complaint provided a reasonable basis for the alleged representations in paragraph (j) (Comp. ¶ 21).

(l) Whether American Home marketed and advertised Anacin without disclosing in such advertising that Anacin contained aspirin and caffeine (Comp. ¶ 22).

(m) Whether respondents marketed and advertised Arthritis Pain Formula without disclosing in such advertising that APF contained aspirin (Comp. ¶ 22).

(n) Whether the use of aspirin or caffeine in customary or recommended doses in the products involved in this case can be injurious to health and cause undesirable side effects.

(o) Whether a significant number of certain consumers do not know that Anacin contains aspirin and caffeine and that Arthritis Pain Formula contains aspirin.

(p) Whether the failure to disclose in advertisements that Anacin contains aspirin and caffeine would be likely to affect the consideration of purchasing such product by certain consumers in the light of other information about the ingredients of such product, such as the labeling and packaging for such product.

(q) Whether the failure to disclose in advertisements that Arthritis Pain Formula contains aspirin would be likely to affect the consideration of purchasing such product by certain consumers in light of other information about the ingredients of such product, such as the labeling and packaging for such product.

(r) Whether the presence of aspirin and caffeine in Anacin is a material fact in light of the challenged advertising or material with respect to the consequences which may result from the [6] use of said product under the conditions prescribed in said advertising or under such conditions as are customary or usual.

(s) Whether the presence of aspirin in Arthritis Pain Formula is a material fact in light of the challenged advertising or material with respect to the consequences which may result from the use of said product under the conditions prescribed in said advertising or under such conditions as are customary or usual.

(t) Whether the use by respondents of the representations referred to in paragraph 25 of the Complaint, and the advertisements referred to in paragraph 24 of the Complaint, has had and

now has the tendency and the capacity to mislead members of the purchasing public into the erroneous and mistaken belief that said statements and representations were true, and into the purchase of substantial quantities of Anacin and Arthritis Pain Formula by reason of said erroneous and mistaken belief (Comp. ¶ 26).

(u) Whether the alleged advertising representations, if made, have caused the purchase of substantial quantities of Anacin and Arthritis Pain Formula by reason of erroneous and mistaken belief.

(v) Whether the alleged advertising representations, if made, are sufficiently likely to have continuing injurious effects upon consumers and/or competitors, so as to warrant corrective advertising.

(w) Whether the representations involved in this proceeding were made by respondents in good faith compliance with the applicable legal standards in effect at the time the representations were made.

By Order dated February 16, 1977, a joint hearing was ordered with respect to certain common documents and witnesses for the presentation of complaint counsel's cases-in-chief in the three companion OTC internal analgesic cases (Docket Nos. 8917, 8918 and 8919). Joint evidentiary hearings commenced on June 6, 1977 and continued until August 15, 1977. The separate evidentiary hearings for the presentation of complaint counsel's case-in-chief in this case began on [7]November 1, 1977 and continued until December 19, 1977. My disposition of respondents' motion to dismiss the Complaint filed at the close of complaint counsel's case was deferred until completion of the defense hearings. Respondents commenced their defense on January 30, 1978 and continued until March 22, 1978. The evidentiary record was closed on April 13, 1978.¹ The parties filed simultaneously their proposed findings of fact, conclusions of law, order and supporting briefs and subsequent replies. An oral argument on the proposed findings was heard on July 7, 1978. Some 40 witnesses, including 27 expert witnesses, testified. Transcripts of hearings for the joint and separate hearings number some 11,600 pages. Some 400 documentary exhibits, including numerous copy tests, penetration and image studies, and medical-scientific studies were received in evidence.

The proposed findings and conclusions submitted by the parties and their arguments in support thereof have been given careful consideration by me and to the extent not adopted by this Initial Decision, in the form proposed or in substance, are rejected as not

¹ By orders dated May 3 and June 28, 1978, the Commission extended the due date of this Initial Decision to September 1, 1978.

supported by the evidence or as immaterial. Any motion appearing on the record not heretofore or hereby specifically ruled upon either directly or by the necessary effect of the conclusions in this Initial Decision are hereby denied.

Upon consideration of the entire record in this proceeding and having considered the demeanor of the witnesses, I make the following findings of fact and conclusions of law and order based on the record considered as a whole: ^{1A} [8]

FINDINGS OF FACT

I. Introduction

A. *Identity of Respondents and the Nature of Their Business*

1. American Home Products Corporation is a corporation organized, existing, and doing business under the laws of the State of Delaware, with its administrative headquarters located at 685 Third Ave., New York, New York. American Home is now and has been manufacturing, offering for sale, advertising, selling, and distributing non-prescription internal analgesic preparations designated "Anacin" and "Arthritis Pain Formula," which fall within the classification of drugs as the term "drug" is defined in the Federal Trade Commission Act (Ans. of American Home, ¶¶ 2 and 3).

2. In the course and conduct of its business, American Home causes Anacin and APF to be shipped from its plant and facilities in various States of the United States to purchasers located in various other States of the United States and the District of Columbia. It maintains a substantial course of trade in said products in commerce. In the conduct of its business, it has been in substantial

^{1A} For the purposes of this Initial Decision, the following abbreviations were used:

- F. - Finding of fact in this Decision.
- CPF - Complaint Counsel's Proposed Findings.
- CB - Complaint Counsel's Memorandum In Support of Proposed Findings.
- CRB - Complaint Counsel's Memorandum In Support of Reply Findings.
- RPF - American Home's Proposed Findings.
- RB - American Home's Post-Trial Memorandum.
- RRB - American Home's Post-Trial Reply Memorandum.
- Tr. - Transcript of hearings, sometimes preceded by the name of the witness.
- JTr. - Transcript of joint hearings, sometimes preceded by the name of the witness.
- CX - Complaint counsel's documentary exhibit.
- RX - American Home's documentary exhibit.
- Comp. - Complaint.
- Ans. - Answer.

competition in commerce with corporations, firms and individuals in the sale of non-prescription internal analgesic products (Ans. of American Home, ¶¶ 4 and 5).

3. Consumer sales for Anacin have been in excess of \$52 million annually since 1965 and have increased in each successive year to approximately \$41 million for the first half of 1977. Consumer sales for APF have been in excess of \$1 million annually since 1969 and have increased in each successive year to approximately \$7 million for the first half of 1977. Anacin's share of the non-prescription internal analgesic products market has been between approximately 14% and 17% from 1965 through the first half of 1977. APF's market share has been between 0.2% and 2.6% from 1969 through the first half of 1977 and has increased throughout this period (CX 611Z157-Z160; RX 240; RX 241; RX 243).

4. In the course and conduct of its business, American Home has disseminated, and caused the dissemination of, certain advertisements concerning Anacin and APF by the United States mail and by various means in commerce including, but not limited to, advertisements inserted in magazines and other advertising media, and television and radio broadcasts transmitted by television and radio stations having sufficient power to carry such broadcasts across state lines, for the purpose of inducing the purchase of said products (Ans. of American Home, ¶ 6). [9]

5. In promoting these products, American Home has spent more than \$17 million annually on Anacin advertising since 1965 and approximately \$16 million on such advertising in the first half of 1977. American Home has spent at least \$500,000 annually on APF advertising since 1969 and approximately \$3 million on such advertising in the first half of 1977 (Ans. of American Home, ¶ 7; CX 611Z140, Z157, Z160, Z170-Z174, Z176, Z177; RX 242, RX 243).

6. John F. Murray Advertising Agency ("Murray") is a wholly owned subsidiary of American Home. It has developed and disseminated the advertising for Anacin since February 1968 (CX 611Z146; DeMott, Tr. 4648-50).

7. Whitehall Laboratories ("Whitehall") is the division of American Home that markets Anacin and APF (CX 611Z146; DeMott, Tr. 4643). Whitehall shared in the development of advertising copy for APF; the approval of the president of Whitehall was necessary prior to the production of an APF advertisement (CX 611Z167).

8. The C.T. Clyne Company, Inc., the corporate successor to Clyne Dusenberry, Inc. and to Clyne Maxon, Inc. (hereinafter, collectively, "Clyne"), is a corporation organized, existing, and doing business under the laws of the State of New York, with its principal office and

place of business located at 1270 Avenue of the Americas, New York, New York (Ans. of Clyne, ¶ 2; CX 610, Stip. 1; CX 611Z165).

9. Since 1969, Clyne, an advertising agency, has been employed by American Home. In the course and conduct of its business, it has disseminated, and has caused the dissemination of, advertising to promote the sale of APF (Ans. of Clyne, ¶ 4; CX 610, Stip. 2, 3, 5; CX 611Z165; DeMott, Tr. 4649). Clyne participated with American Home in developing the challenged APF advertisements and, in conjunction with American Home and Murray, made certain arrangements for the dissemination of some of the challenged APF advertisements including, but not limited to, placing advertisements with advertising media for spot broadcasting (CX 610).

10. In the conduct of its business, Clyne has been in substantial competition in commerce with other corporations, firms and individuals in the advertising business (Ans. of Clyne, ¶ 5). [10]

B. *General Findings*

11. The active ingredients in one tablet of Anacin are 400 mg. (6.15 gr.) aspirin² and 32.5 mg. (0.35 gr.) caffeine. The active ingredients in one tablet of APF are 486 mg. (7.5 gr.) microfined aspirin, 20.14 mg. dried aluminum hydroxide gel and 60.42 mg. magnesium hydroxide (Ans. of American Home ¶ 3; RX 244Z003; Forrest, Tr. 464; Plotz, Tr. 1053; Sliwinski, Tr. 1136).

12. The active ingredients, directions for use and indicated uses of Anacin and APF appear on the labels and packages of these products (Comp. ¶ 3; Ans. of American Home, ¶ 3). The directions for use of each product, as reflected by the recommended dosage, are as follows:

(a) *Anacin:*

One to two tablets with water. Repeat if necessary, one tablet every 3 hours. For children under 6, consult a physician.

(b) *Arthritis Pain Formula:*

Convenient daily schedule for adults is one or two tablets first thing in the morning; then repeat one or two tablets as needed at lunch, dinner and bedtime. Do not exceed 8 tablets in any 24 hour period. Not recommended for children.

The indicated uses of each product are as follows:

² Aspirin is the commonly adopted name for acetylsalicylic acid ("ASA"), a member of the group of analgesic agents known as salicylates (CX 367E, Z011).

(a) *Anacin*:

relieves pain of headache, neuralgia, neuritis, muscular aches, discomforts and fever of colds, pain caused by tooth extraction, distress associated with normal menstrual periods. Also relieves minor aches and pains of arthritis and rheumatism.

(b) *Arthritis Pain Formula*:

relief from the minor aches and pains of arthritis and rheumatism and low-back pain. Also relieves the pain of [11]headache, neuralgia, neuritis—the discomforts and fever of colds, pain caused by tooth extractions, distress associated with normal menstrual periods.

13. The standard dosage unit for marketed products containing aspirin alone is generally 325 mg. (5 gr.) aspirin per tablet (Forrest, Tr. 467; Moertel, Tr. 958-59; CX 367M).

14. Aspirin, either as a single ingredient or in combination with other ingredients, is the most widely used analgesic drug in the United States; in fact, almost 19 billion dosage units are sold annually (Complaint Counsel's Admission, RX 244Z002; CX 367Z012). Aspirin is generally recognized as a safe and effective analgesic (Forrest, Tr. 502-03; Moertel, Tr. 998-99; Lasagna, Tr. 4096-97; CX 367Z012). Dried aluminum hydroxide gel and magnesium hydroxide, at certain dosage levels, are generally recognized as safe and effective antacid active ingredients (Complaint Counsel's Admission, RX 244Z006-Z007).

15. The complaint does not allege that American Home did not have a reasonable basis for making an advertising claim that a recommended dose of Anacin is more effective than a recommended dose of regular aspirin, nor does it allege that respondents did not have a reasonable basis for making an advertising claim that Arthritis Pain Formula causes gastric discomfort less frequently than regular aspirin (Complaint Counsel's Admission, RX 244Z026-Z027).

II. Expert Witnesses Who Testified Regarding Marketing and Medical Issues

A. *Marketing Witnesses*

16. On the issues related to advertising claims, product images and remedy, complaint counsel called Drs. Leavitt, Ross and Rossi; American Home called Drs. Blattberg, Jacoby, Kuehn, Maisel, Sen and Smith.

17. Dr. Robert C. Blattberg, Professor of Marketing at the University of Chicago School of Business, has done extensive research and writing in the areas of mathematical and econometric modeling, advertising effects and advertising carryover effects, consumer purchase decisions, and the use of consumer diary panel data, as well as survey data, in analyzing consumer behavior. In addition to numerous consulting assignments relating to the marketing of consumer [12]goods and a continuing consulting arrangement with the research department of Leo Burnett & Co., Dr. Blattberg serves on the editorial boards of several distinguished journals of marketing and marketing research. He is currently one of the primary consultants to a research program being funded by the Advertising Research Foundation to collect and analyze empirical data on the effects of advertising (Blattberg, Tr. 6812-27; RX 2 (Rev.)).

18. Dr. Jacob Jacoby is a Professor in the Psychological Sciences Department at Purdue University, where he heads the Consumer Psychology Program which is widely known for its innovative and extensive work regarding the application of the science of psychology to the study of consumer behavior. In addition to his teaching, Dr. Jacoby has done extensive empirical research and has published numerous articles dealing with consumer decisionmaking and behavior and the effects of various factors, including advertising, upon consumers (Jacoby, Tr. 5189-97; RX 4 (Rev.)).

19. Dr. Alfred Kuehn was formerly a Professor of Marketing at the Carnegie-Mellon University School of Industrial Administration. After doing some of the initial work on the econometric modeling of consumer purchasing patterns and the determination of the "carry-over" or "lag" effects of advertising, Dr. Kuehn established Management Science Associates, Inc. ("MSA"). MSA specializes in the analysis of all types of marketing data. In the course of the ongoing work performed at MSA, Dr. Kuehn has been constantly involved in measuring consumer attitudes towards various products and in empirically determining the carryover effects of advertising (Kuehn, Tr. 6225-43; RX 5).

20. Dr. Richard Maisel, Associate Professor of Statistics in the Graduate Department of Sociology at New York University, specializes in the statistical analysis of consumer survey data, sample design and survey methodology. In addition to his teaching, Dr. Maisel serves as a consultant to a number of large industrial concerns and market research organizations for the purpose of analyzing the meaning and statistical significance of surveys (Maisel, Tr. 4766-75; RX 10).

21. Dr. Clark Leavitt is a Professor of Marketing at the Ohio State University, concentrating in various subdisciplines of Psychology including social psychology, consumer behavior and research methodology (Leavitt, Tr. 1247, 1255). He supervises graduate and post-graduate student research and conducts research for publication in professional journals (CX 507). He has had extensive training and experience in the implementation, design and analysis of research which measures consumers' images and beliefs about products and the effects of advertising (Tr. at 1245-63; CX 507). As a consultant for clients [13] which include advertising agencies, he also designs and conducts applied research (Leavitt, Tr. 1255-56). Many of his projects have involved the development of rating scales to measure consumer perceptions or pre-dispositions (Leavitt, Tr. 1248-56). Dr. Leavitt's research has often involved the measurement of the relationship between the repetition of advertising and the stability of people's opinions or attitudes. Over half of the articles he has published in professional journals have involved research measuring attitudes, beliefs or images. Dr. Leavitt is a former President of the Division of Consumer Psychology of the American Psychological Association (Leavitt, Tr. 1260-61; CX 507).

22. Dr. Ivan Ross is a Professor of Marketing at the University of Minnesota, College of Business Administration, and is a licensed consulting psychologist. Dr. Ross has had extensive training and experience in the fields of consumer psychology and behavior, marketing and marketing research (CX 502; Ross, Tr. 1797-1829, 1833-38, 2404-07). This has included evaluating advertising and the effects of advertising over time on consumers and upon their attitudes and beliefs. It has also included conducting and interpreting research in these areas. In addition to his academic training (Ross, Tr. 1797) and academic work (Ross, Tr. 1797, 1799-1800, 1811-12), Dr. Ross has had experience working with advertisers and advertising agencies on advertising content and strategy for a variety of consumer goods and services and with various consumer research techniques such as focus groups, copy tests, penetration studies and image studies (Ross, Tr. 1800-11, 1824-29, 1833-35). Dr. Ross has also been a consultant with the Food and Drug Administration's ("FDA") Bureau of Foods, involved in recommending, conducting, and evaluating consumer research designed to improve labeling information on prescription and OTC drugs by improving FDA's understanding of consumption practices for health care and drugs. As part of this research effort, Dr. Ross has interviewed consumers regarding their understandings of the concept of "effectiveness" of drugs (Ross, Tr. 1806, 2404-07). He has also served as an editor and

reviewer of articles and papers on consumer behavior and advertising research for journal publication and presentation before various professional organizations (Ross, Tr. 1815). Additionally, Dr. Ross has presented papers before professional organizations in the areas of his expertise; his articles, studies, and other writings have been published in journals subject to peer review and other publications (Ross, Tr. 1816-19; CX 502). [14]

23. Dr. Peter Rossi, Professor of Sociology at the University of Massachusetts and Director of the Social and Demographic Research Institute at the University, has specialized in the design, conduct and analysis of sample surveys on matters of public interest throughout his career. His various academic and research positions have involved the supervision of researchers in the design and implementation of research (Rossi, Tr. 1557-59, 1565). Dr. Rossi is or has been an editor of various scholarly journals and monographs in his field of expertise (Rossi, Tr. 9560-61). He has published books and articles which are predominantly based on data gathered in sample surveys (Rossi, Tr. 1561-63A). Dr. Rossi has been consultant to marketing research organizations and has received grants to conduct research from the Ford, Carnegie and Russell Sage Foundations. He has received awards in the field of social science research and has been elected a Fellow in the American Association for the Advancement of Science (Rossi, Tr. 1568, 1561A; CX 503).

24. Dr. Subrata K. Sen is an Associate Professor of Marketing at the University of Rochester Business School. His primary research and teaching interests include marketing research and marketing models, the effects of advertising, product policy and behavior with particular emphasis on consumers' brand choice processes. Dr. Sen has done extensive research and writing concerning the analysis of panel data for the purposes of studying consumer behavior and has done substantial work on the question of the interrelationship of images, attitudes and consumer behavior. He has served as an editor or reviewer for most of the learned journals dealing with consumer research and consumer behavior (Sen, Tr. 7148-57; RX 16).

25. Dr. Joseph Smith has had extensive training and experience in the fields of marketing, experimental and consumer psychology with particular emphasis on the learning process, interpreting advertising and the duration of advertising's impact on consumer behavior (Smith, Tr. 5502-07, 5515-17; RX 17 (Rev.)). In 1956, Dr. Smith and another psychologist founded Oxtoby-Smith, Inc., a consumer research and consulting firm. The company is staffed by approximately 20 professional psychologists and marketing researchers with about 40 support personnel. Oxtoby-Smith, Inc.

conducts nearly 200 surveys a year; about one-half of these are related directly to advertising (Smith, Tr. 5497-5501, 5523). In a substantial number of these studies, Dr. Smith is actively engaged in the design of the study and/or the analysis of the data obtained (Smith, Tr. 5523-25). In a [15]consulting capacity, he is often called on to render expert opinion in lieu of a consumer survey, particularly in the area of consumer reactions to advertisements (Smith, Tr. 5500). Dr. Smith and his organization have conducted two substantial studies of consumer views and attitudes concerning the analgesics market, the first in 1967 and the second in 1970 (Smith, Tr. 5502; CX 451 and CX 452; RX 17(Rev.)).

B. *Medical Witnesses*

26. On the issues related to medical and scientific substantiation of the claims made in the advertisements and the medical aspects of the need for ingredient disclosure, complaint counsel called Drs. Azarnoff, DeKornfeld, Farr, Forrest, Grossman, Moertel, Plotz, Rickels, Sliwinski and Stevenson; American Home called Drs. Falliers, Kantor, Lasagna, McMahon, Okun and Shapiro, and Mr. Wallenstein.

27. Dr. Daniel L. Azarnoff, Distinguished Professor of Medicine and Pharmacology at Kansas University Medical Center and Director of the University's Clinical Pharmacology-Toxicology Center, is an eminent clinical pharmacologist with recognized expertise in the clinical testing and use of drugs, including analgesics (Azarnoff, Tr. 577, 593, 597, 598-99; CX 519A). He has received a number of honorary awards for his outstanding work in medicine and pharmacology including election as a Markle Scholar in Academic Medicine, election as a Burroughs Wellcome Scholar in Academic Medicine, election as a Burroughs Wellcome Scholar in Clinical Pharmacology and designation as a Fullbright Scholar (Azarnoff, Tr. 585-86; CX 519B). He has served as a consultant to the FDA as a member of the Endocrine Metabolism Advisory Committee. In this capacity, he reviewed foreign therapeutic trials of various drugs with regard to the evaluation of the safety of these drugs. He has also served as a consultant to the World Health Organization for the evaluation of drugs in human beings, and is currently serving as Secretary of the Clinical Pharmacology Section of the International Union of Pharmacologists (Azarnoff, Tr. 584-85, 587-91; CX 519C). In addition to extensive teaching commitments, he has also been involved in research activities and clinical hospital service. His research has involved him in approximately 150 studies, 10 to 15 of which focused on the therapeutic effects of various drugs on human beings

(Azarnoff, Tr. 578-79, 582, 594). Dr. Azarnoff's clinical research has given him a considerable background in the measurement of patients' subjective responses. In each of the 10 to 15 therapeutical [16]studies in which he has participated, he has been involved in all phases of the study, ranging from the initial development of the protocol through the implementation of the study, and then on through the analysis of the data (Azarnoff, Tr. 581-82). Dr. Azarnoff is also an editor of or advisor to several noted journals (Azarnoff, Tr. 589-90; CX 519C).

28. Dr. Thomas J. DeKornfeld, Professor of Anesthesiology at the University of Michigan Medical School, is one of the foremost authorities on analgesic testing. His involvement in the clinical testing of analgesics dates back to the late 1950's, when he began working with Dr. Louis Lasagna (DeKornfeld, Tr. 2762-63). Since that time, he has conducted between 30 and 40 clinical studies on a variety of drugs; the majority of these studies were conducted with analgesics, both OTC and prescription products (DeKornfeld, Tr. 2765-66; CX 512E). In his clinical practice, Dr. DeKornfeld has dealt extensively with the use of analgesics on patients experiencing pain (DeKornfeld, Tr. 2772-73). Dr. DeKornfeld has also held positions which have required him to exercise considerable responsibility in evaluating the designs and methodologies of clinical tests performed by other researchers. For example, he was the Director of Therapeutic Research for Parke, Davis and Company, a major pharmaceutical corporation, where he was charged with supervising all of the company's clinical research activities which were performed in the United States and Canada (DeKornfeld, Tr. 2763-65, 2769; CX 512A). Dr. DeKornfeld has been serving as Secretary to the University of Michigan Medical School's Committee to Review Grants for Clinical Research and Investigation Involving Human Beings for the last 12 years. Along with other committee members, he evaluates the design and safety of approximately 600 annual grant proposals for experiments dealing with human subjects that are to be conducted under the auspices of the University's Medical School (DeKornfeld, Tr. 2768-69; CX 512C). He is also a member of the Consulting Board to the United States Veterans Administration Cooperative Analgesic Study (DeKornfeld, Tr. 2768). Dr. DeKornfeld has published many articles in respected medical journals involving analgesics and analgesic testing (CX 512D-H).

29. Dr. Constantine J. Falliers is an expert in the field of allergies, including the relationship between aspirin and asthma. After practicing medicine for two years following his residencies, Dr. Falliers received a two-year fellowship in pediatric allergy and

clinical research at Jewish National Home for Asthmatic Children and Children's Asthma Research Institute & Hospital (CARIH) [17] in Denver, Colorado. He was appointed Director of Clinical Services at CARIH in 1959, Medical Director in 1963 and Chief of the Clinical Research Division in 1969. Dr. Falliers has served on the faculty of the University of Colorado Medical Center since 1961. He serves also as an Attending Allergist at Children's Hospital, St. Joseph Hospital and Research Center in Denver. He is board certified as a Diplomate of the American Board of Pediatrics with subspecialty certification in Pediatric Allergy. In addition to publishing nearly 100 articles and books, Dr. Falliers has received numerous research grants from the United States Public Health Service and private foundations. He has served also as the Chairman of the Psychosomatic Section and of the Rehabilitation Therapy Committee, Research Council of the American College of Allergists. In 1970, he served as Consultant to the Bronchiopulmonary Section of the Integrated Research Program on Chronobiology, International Biological Program of the United States Public Health Service. Dr. Falliers has served as a member of the editorial board of the *Annals of Allergy*. In addition to his present teaching duties at the University of Colorado Medical Center, Dr. Falliers is director of an allergy and asthma clinic in Denver (Falliers, Tr. 3169-87; RX 19).

30. Dr. Richard S. Farr, Chairman of the Department of Medicine of the National Jewish Hospital in Denver, is a recognized teacher and researcher in immunology. He has had extensive training and experience in the diagnosis, management and clinical testing of bronchial asthma and allergy, including the asthma and allergic effects attributable to aspirin. He previously headed the allergy/immunology sections at the University of Pittsburgh and the Scripps Clinic in La Jolla, California, and is also known for the development of the so-called Farr test which is still widely used in immunology research. Dr. Farr has been deeply involved in the clinical study of aspirin side effects since 1969 and is responsible for the development of the aspirin challenge procedure originating at National Jewish Hospital. His publications in this area have appeared in respected journals. Dr. Farr has served as the president of the American Academy of Allergy and has been connected with other professional associations that complement his work in asthma and allergy. Dr. Farr is also a Distinguished Service Professor of the University of Chicago and the recipient of the Borden Award for his outstanding work in the area of immunology (Farr, Tr. 2541-62).

31. Dr. William H. Forrest is an Associate Professor of Anesthesiology at Stanford University. He is a recognized expert in the field of

