



**DEFENDANT**

4. Defendant Jason Pharmaceuticals, Inc. (“Jason”), is a Maryland corporation incorporated in 1981 with its principal place of business at 11445 Cronhill Drive, Owings Mills, Maryland. In 1993, Jason became a wholly owned subsidiary of Medifast, Inc. Jason has manufactured and sold a variety of weight loss products consisting of meal replacements under the name “Medifast.” Jason transacts or has transacted business in this district.

5. At all times material herein, Jason has been engaged in the advertising, offering for sale, and/or sale of weight loss products, programs, and services to the public.

**COMMERCE**

6. The acts and practices of Jason as alleged in this Complaint have been in or affecting commerce, as “commerce” is defined in Section 4 of the FTC Act, 15 U.S.C. § 44.

**PRIOR COMMISSION PROCEEDING**

7. In a Commission proceeding bearing Docket No. 3392, the Commission charged Jason with violating Sections 5(a) and 12 of the FTC Act, 15 U.S.C. §§ 45(a) and 52.

8. Section 5(a) of the FTC Act, 15 U.S.C. § 45(a), prohibits “unfair or deceptive acts or practices in or affecting commerce.”

9. Section 12 of the FTC Act, 15 U.S.C. § 52, prohibits the dissemination of any false advertisement in or affecting commerce for the purpose of inducing, or which is likely to induce, the purchase of food, drugs, devices, services, or cosmetics. For the purposes of Section 12 of the FTC Act, 15 U.S.C. § 52, Medifast weight loss products are “foods” or “drugs” as defined in Sections 15(b) and (c) of the FTC Act, 15 U.S.C. § 55(b), (c).

10. Pursuant to a settlement, the Commission, on September 16, 1992, issued a final order (“Order”) against Jason and its successors and assigns. Among other things, the Order prohibits Jason and its successors and assigns from making certain representations about the efficacy of its weight loss products, programs, or services without sufficient scientific substantiation. The Order was served upon Jason and remains in full force and effect.

11. The Commission’s Order, attached to this Complaint as Exhibit A, includes the following provisions:

**ORDER**

\* \* \*

For purposes of this order, “competent and reliable scientific evidence” shall mean those tests, analyses, research, studies, surveys or other evidence conducted and evaluated in an objective manner by persons qualified to do so, using procedures generally accepted in the relevant profession or science to yield accurate and reliable results.

\* \* \*

*It is ordered*, That respondent[] Jason Pharmaceuticals, Inc. . .[its] successors and assigns, and their officers, representatives, agents, and employees, directly or through any corporation, subsidiary, division or other device, in connection with the advertising, promotion, offering for sale, or sale of any weight loss or weight control product, program or service in or affecting commerce, as “commerce” is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

\* \* \*

C. Making any representation, directly or by implication, about the success of patients on any diet program in achieving or maintaining weight loss or weight control, unless, at the time of making any such representation, respondents possess and rely upon a reasonable basis consisting of competent and reliable scientific evidence substantiating the representation; *provided, however*, that for any representation that:

(1) Any weight loss achieved or maintained through any diet program is typical or representative of all or any subset of patients using the program, said evidence shall, at a minimum, be based on a representative sample of: (a) all patients who have entered the program, where the representation relates to such persons; or (b) all patients who have completed a particular phase of the program or the entire program, where the representation only relates to such persons; . . .

### **DEFENDANT'S COURSE OF BUSINESS**

12. Jason currently promotes several different weight loss products, programs, and services under the "Medifast" name. In 1992, when the Commission's Order was entered, Medifast only was a very low calorie fasting diet of 800 calories or less per day. Users of the Medifast very low calorie fasting diet are required to be supervised by a physician. Jason now primarily sells Medifast low calorie meal substitutes to be consumed as directed by the particular program's support materials. Consumers participating in Jason's most commonly advertised program, the "5 and 1" plan, eat five Medifast meals and one "lean and green" meal each day; this program is a low calorie diet of 800 to 1,000 calories.

13. Jason currently sells Medifast products, programs, and services through different distribution channels, including directly to consumers through the Medifast website, [www.choosemedifast.com](http://www.choosemedifast.com), or the Medifast in-house call center. Consumers can also order products through independent contractor health coaches under Jason's Take Shape for Life program. Consumers can also obtain Medifast products from physicians who carry such products and resell them to patients.

### **ORDER VIOLATIONS**

14. On numerous occasions since at least November 2009, Jason has disseminated or caused to be disseminated advertisements for Medifast programs, products, and services purporting to promote weight loss, including, but not limited to, the attached print advertisements in Exhibits

B-1 through B-3. Jason advertises over the radio, television, and Internet, as well as in print. Its advertisements contain the following statements, among others:

Why Medifast? Three great reasons.

Cynthia Lujan lost 73 lbs on Medifast! Cindy Daniels lost 43 lbs on Medifast!

Jennifer Lilley lost 70 lbs. on Medifast!

Results will vary.

You can lose up to 2 to 5 pounds per week on Medifast. [Exhibit B-1]

\* \* \*

When you lose up to 2 to 5 lbs a week with Medifast, you'll feel terrific. And so will your doctor.

TRUST MEDIFAST.

THE PROGRAM THE DOCTORS RECOMMEND.

Jeff & Maureen lost a combined 169 lbs! [no disclaimer]

Medifast. [Exhibit B-2]

\* \* \*

Sam Cox here for Medifast Weight Control Centers. . .[announcer]

Becky: I've lost 97 pounds and . . . .

Sam Cox: I lost a total of 50 pounds in 13 weeks. . . .

Results will vary.

Lose up to 2-5 pounds per week. [Exhibit B-3]

15. Defendant's advertisements, including, but not limited to those set forth in Paragraph 14, represent, directly or indirectly, expressly or by implication, that:

- (a) Users of a Medifast low calorie diet program will likely lose 2 to 5 pounds per week;

- (b) The weight loss results obtained by consumers who appear and give testimonials in Defendant's advertisements are typical or representative of users of the Medifast low calorie diet program; and
- (c) Users of a Medifast low calorie diet program will likely lose more than 30 pounds.

16. The only disclaimer displayed in most Medifast advertisements containing consumer endorsements is "Results will vary," in small, inconspicuous type in print advertisements, or spoken quickly during radio or television advertisements. This disclaimer is insufficient to change consumers' net impressions that users of a Medifast low calorie diet program can generally expect to achieve the results represented in the advertisements.

17. The representations set forth in Paragraph 15 violate the Commission's Order because Defendant lacks a reasonable basis consisting of competent and reliable scientific evidence to substantiate such representations.

#### **FIRST CAUSE OF ACTION**

18. Through the means described in Paragraph 14, including, but not limited to, those advertisements attached as Exhibits B-1 to B-3, Defendant, in connection with the advertising, promotion, offering for sale, and/or sale of Medifast weight loss products, programs, and services, has represented, on numerous occasions, directly or indirectly, expressly or by implication, that users of Medifast weight loss products, programs, and services likely will:

- A. Lose 2 to 5 pounds per week; and
- B. Lose more than 30 pounds.

19. The representations set forth in Paragraph 18 are false or were not substantiated by competent and reliable scientific evidence at the time the representations were made. Therefore,

the making of the representations in Paragraph 18 violates the Order and constitutes a deceptive practice and the making of false advertisements, in or affecting commerce, in violation of Sections 5(a) and 12 of the FTC Act, 15 U.S.C. §§ 45(a) and 52.

**SECOND CAUSE OF ACTION**

20. Through the means described in Paragraph 14, including, but not limited to, those advertisements attached as Exhibits B-1 to B-3, Defendant, in connection with the advertising, promotion, offering for sale, and/or sale of Medifast weight loss products, programs, and services, has represented, on numerous occasions, directly or indirectly, expressly or by implication, that the weight loss results obtained by consumers who appear and give testimonials in Defendant's advertisements are typical or representative of users of Medifast weight loss products, programs, and services.

21. The representation set forth in Paragraph 20 is false or was not substantiated by competent and reliable scientific evidence based on a representative sample of all persons who used Medifast weight loss products, programs, and services. Therefore, the making of the representation in Paragraph 20 violates the Order and constitutes a deceptive practice and the making of false advertisements, in or affecting commerce, in violation of Sections 5(a) and 12 of the FTC Act, 15 U.S.C. §§ 45(a) and 52.

**CIVIL PENALTIES AND EQUITABLE RELIEF**

22. Each dissemination by Defendant of an advertisement containing any representation in violation of the Commission's Order constitutes a separate violation for which Plaintiff seeks monetary civil penalties.

23. Section 5(l) of the FTC Act, 15 U.S.C. § 45(l), as modified by Section 4 of the Federal Civil Penalties Inflation Adjustment Act of 1990, 28 U.S.C. § 2461, and Section 1.98(c) of the

Commission's Rules of Practice, 16 C.F.R. § 1.98(c), authorize this Court to award monetary civil penalties of not more than \$16,000 for each violation of the Commission's Order.

24. Sections 5(l) and 13(b) of the FTC Act, 15 U.S.C. §§ 45(l) and 53(b), authorize this Court to issue a permanent injunction and such other equitable relief as it may deem appropriate in the enforcement of a Commission Order, as well as such ancillary relief as may be just and proper, to prevent and remedy any violations of any provision of law enforced by the Commission.

**PRAYER FOR RELIEF**

25. **WHEREFORE**, Plaintiff requests that this Court, pursuant to 15 U.S.C. §§ 45(l) and 53(b), and pursuant to the Court's own equitable powers:

- (1) Enter judgment against Defendant and in favor of Plaintiff for each violation alleged in this Complaint to prevent future violations of the FTC Act and the Commission's Order, including, but not limited to, a permanent injunction;
- (2) Award Plaintiff monetary civil penalties from Defendant for each violation of the Commission's Order alleged in this Complaint;
- (3) Award such relief as the Court finds necessary to redress injury to consumers resulting from Defendant's violations of the FTC Order and the FTC Act, including, but not limited to, rescission of contracts, restitution, and disgorgement of ill-gotten gains; and
- (4) Award Plaintiff the costs of bringing this action, as well as such other and additional relief as the Court may deem just and proper.



Dated September 7, 2012

**FOR THE UNITED STATES  
OF AMERICA:**

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# Exhibit A

## DECISION AND ORDER

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

The respondents, their attorneys, and counsel for the Commission having thereafter executed an agreement containing a consent order, an admission by the respondents of all 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, 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, and having duly considered the comments filed thereafter by interested persons pursuant to Section 2.34 of its Rules, 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 Jason Pharmaceuticals, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of Maryland, with its offices and principal place of business located at 11435 Cronhill Drive, Owings Mills, Maryland.

2. Respondent Nutrition Institute of Maryland, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of Maryland, with its offices and

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principal place of business located at 11435 Cronhill Drive, Owings Mills, Maryland.

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

ORDER

DEFINITION

For purposes of this order, "*competent and reliable scientific evidence*" shall mean those tests, analyses, research, studies, surveys or other evidence conducted and evaluated in an objective manner by persons qualified to do so, using procedures generally accepted in the relevant profession or science to yield accurate and reliable results.

I.

*It is ordered*, That respondents Jason Pharmaceuticals, Inc., and Nutrition Institute of Maryland, Inc., corporations, their successors and assigns, and their officers, representatives, agents, and employees, directly or through any corporation, subsidiary, division or other device, in connection with the advertising, promotion, offering for sale, or sale of any weight loss or weight control product, program or service in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

A. Making any representation, directly or by implication, regarding the safety of any very-low-calorie diet ("VLCD") program (providing 800 calories or less per day), unless respondents clearly and prominently disclose in close proximity to any such representation that physician monitoring is required to minimize the potential for health risks, or otherwise misrepresenting any health risk of the program.

B. Misrepresenting the likelihood that patients of respondents' diet program(s) will regain all or any portion of lost weight.

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C. Making any representation, directly or by implication, about the success of patients on any diet program in achieving or *maintaining* weight loss or weight control, unless, at the time of making any such representation, respondents possess and rely upon a reasonable basis consisting of competent and reliable scientific evidence substantiating the representation; *provided, however*, that for any representation that:

(1) Any weight loss achieved or maintained through any diet program is typical or representative of all or any subset of patients using the program, said evidence shall, at a minimum, be based on a representative sample of: (a) all patients who have entered the program, where the representation relates to such persons; or (b) all patients who have completed a particular phase of the program or the entire program, where the representation only relates to such persons;

(2) Any weight loss is maintained long-term, said evidence shall, at a *minimum*, be based upon the experience of patients who were followed for a period of at least two years after their completion of the respondents' program (including any periods of participation in respondents' maintenance program); and

(3) Any weight loss is maintained permanently, said evidence shall, at a minimum, be based upon the experience of patients who were followed for a period of time after completing the program that is either: (a) generally recognized by experts in the field of treating obesity as being of sufficient length to constitute a reasonable basis for predicting that weight loss will be permanent or (b) demonstrated by competent and reliable survey evidence as being of sufficient duration to permit such a prediction.

D. Representing, directly or by implication, that any patients of any diet program have successfully maintained weight loss, unless respondents disclose, clearly and prominently, and in close proximity to such representation:

(1) The following information:

(a) The average percentage of weight loss maintained by those patients,

(b) The duration over which the weight loss was maintained, measured from the date that patients ended the active weight loss phase of the program, *provided, however*, that if any portion of the time period covered includes participation in respondents' maintenance program(s) that follows active weight loss, such fact must also be disclosed, and

(c) If the patient population referred to is not representative of the general patient population for that program, the proportion of the total patient population in respondents' programs that those patients represent, expressed in terms of a percentage or actual numbers of patients, or the statement: "Medifast makes no claim that this [these] result[s] is [are] representative of all patients in the Medifast program;" and

(2) The statement:

"For many dieters, weight loss is only temporary," *provided, however*, that respondents shall not represent, directly or by implication, that the above-quoted statement does not apply to dieters in respondents' diet programs.

E. Representing, directly or by implication, that any physician associated with a diet program is certified in the treatment of obesity unless that is the case.

## II.

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

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## III.

*It is further ordered,* That respondents shall maintain for a period of three (3) years after the date the representation was last made, and make available to the Federal Trade Commission staff upon request for inspection and copying, all materials possessed and relied upon to substantiate any claim or representation covered by this order, and all test reports, studies, surveys or information in their possession or control and which to their knowledge contradict, qualify or call into question any such claim or representation.

## IV.

*It is further ordered,* That respondents and their successors or assigns, shall forthwith distribute a copy of this order to each of their officers, agents, representatives, independent contractors and employees who are engaged in the preparation and placement of advertisements or promotional materials, or who have any responsibilities with respect to the subject matter of this order; and, for a period of ten (10) years from the date of entry of this order, distribute same to all of respondents' future officers, agents, representatives, independent contractors and employees having said responsibilities.

## V.

*It is further ordered,* That respondents and their successors or assigns shall, within thirty (30) days after service of this order, advise Medifast Associate Physicians that advertising previously furnished by respondents for use by physicians, and brochures, pamphlets and booklets previously provided by respondents to physicians for dissemination to patients and prospective patients, shall not be further used by those physicians where that advertising or other materials would violate this order; and respondents further shall attempt to insure that such advertising or other materials shall not be further used by Medifast Associate Physicians.

VI.

*It is further ordered,* That respondents and their successors or assigns shall, within sixty (60) days after service of this order, file with the Commission a report, in writing, setting forth in detail the manner and form in which they have complied with this order.

Commissioner Owen dissenting with respect to the numerical disclosure requirements for television and radio advertisement.

CONCURRING STATEMENT OF COMMISSIONER MARY L. AZCUENAGA

I have voted to accept the consent agreements in these matters. In addition to the injunctive provisions, the advertising disclosures that the orders require are appropriate given the allegations in the complaints that the firms failed to have a basis for previous advertising claims about weight loss maintenance. This does not mean that similar disclosures are necessarily required for other firms in the diet industry. Indeed, if their advertising claims have a valid basis, such a requirement might be unduly burdensome, for firms who routinely use broadcast advertising, and without clear, countervailing benefits for consumers.

STATEMENT OF COMMISSIONER DEBORAH K. OWEN  
CONCURRING IN PART AND DISSENTING IN PART

The consent orders with these three marketers of very low calorie diet programs go a long way toward protecting consumers against misrepresentations about the safety and efficacy of these programs. However, legitimate concerns have been raised as to whether the mandated, company-specific maintenance disclosures in television and radio ads are effective in communicating useful information to consumers, unduly cumbersome, and consistent with the Commission's position in other situations. Based on comments received and other information, I believe that consumers would be better served by a different approach to company-specific disclosures when weight-loss maintenance claims are made in certain television and radio advertisements. Accordingly, I have voted in favor of issuing the



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Statement

consent agreements in final form, except as to those provisions, with respect to which I dissent.

I support requiring in all maintenance advertising by these respondents general disclaimers which alert consumers to the fact that weight loss is temporary for many dieters. This counterbalances any unrealistically rosy scenario that a diet program might try to present in this regard. However, the orders compel additional disclosures, including a string of statistics, which may well be among the more informationally complex disclosures that have been required in Commission orders. While these numerically intricate disclosures may ultimately prove helpful to consumers in the context of print ads, which afford the opportunity for absorption, reflection, and comparison, I am concerned that the orders may fail to appreciate that consumers' ability to assimilate such complicated messages is likely to be much poorer for TV and radio ads of 30 seconds or less. One study of FTC orders with disclosure requirements noted that generally, broadcast media would not appear especially effective in providing detailed or complex disclosures.<sup>1</sup> A more recent study suggests that consumers are less likely to become well informed when certain disclosures are displayed in a video, as compared to a print, format.<sup>2</sup>

In the past, the Commission itself has recognized that less detailed disclosure requirements are sometimes appropriate for broadcast claims, and has entered orders which tailored the disclosure requirements to particular media. For instance, in *Sorga, Inc.*, 97 FTC 205 (1981), the Commission charged an advertising agency with having made deceptive and unsubstantiated representations about the efficacy and safety of a contraceptive, where the potential adverse impact of the misrepresentations was highly serious. Lengthy disclosures were required in print ads, whereas the television and radio ad disclosures were greatly abbreviated. Similarly, in *Southwest Sunsites, Inc.*, 105 FTC 7 (1985), a brief, simple disclosure concerning the riskiness of land purchases was required for radio, television, and short print advertisements, with a lengthy, more

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<sup>1</sup> W. Wilkie, *Affirmative Disclosure at the FTC: Communication Decisions*, 6 J. Pub. Pol'y & Marketing 33, 35 (1987).

<sup>2</sup> See A. Best, *The Talismanic Use of Incomprehensible Writings: An Empirical and Legal Study of Words Displayed in TV Advertisements*, 33 St. Louis U. L. J. 285 (1989).

complex disclosure mandated for larger print ads, promotional materials, and oral sales presentations. In addition, a detailed disclosure about cancellation rights was required in each land sale contract.

More recently, the Commission has recognized the differences between disclosures in print on labels, and in broadcast media. In Congressional testimony presented in November of last year, the Commission noted that:

we feel it is important that the Commission have the ability to take account of the practicalities of regulating advertising. For example, regulations enacted pursuant to the [Nutrition Labeling and Education Act] might require more extensive explanations of a health claim in food labeling than would be necessary for a television or radio advertisement.<sup>3</sup>

Finally, the length and detailed nature of the disclosures mandated by the Commission for radio and television ads in these orders appear to resemble proposed Food and Drug Administration labeling disclosure requirements that Commission staff from the Bureaus of Consumer Protection and Economics have recently criticized, in the print context of labels. With respect to the length of the numerical disclosures required in connection with relative nutrient content claims, the staff argued:

The length of the required disclosure is a concern primarily because it could reduce the information available to consumers by reducing producers' incentives to make valid relative claims.... Lengthy disclosures contribute to label clutter, which may discourage consumers from reading the information on the label.

The staff proposed, instead, a more concise disclosure similar in length to the general maintenance disclaimer that would be required under these consent orders.<sup>4</sup>

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<sup>3</sup> Prepared Statement of the Federal Trade Commission before the Transportation and Hazardous Materials Subcommittee, Energy and Commerce Committee, U.S. House of Representatives (Nov. 21, 1991) at 12.

<sup>4</sup> The staff cited as an example of a problematic mandated disclosure: "Less fat -- 38 percent less fat than our regular popcorn. This popcorn has 5 grams of fat compared to 8 grams in our regular popcorn." They proposed as an alternative: "Less fat -- 3 grams less than our regular popcorn." Federal Trade Commission Staff Comments Before the Dept. of Health and Human Services, Food and Drug Administration, In the Matters of Nutrition Labeling; Nutrient Content Claims;

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Statement

I strongly suspect that many consumers will have great difficulty in absorbing or recalling the relatively complex disclosures of these orders if made during broadcast ads. Although these particular respondents have to date not made great use of broadcast media in marketing their programs, some such undesirable effects from the present orders will still obtain in the broadcast advertising that they do. Moreover, I am very concerned that the approach in these orders may be viewed as precedent in any future matter that involves firms whose use of broadcast media is much more extensive.

In my view, the orders would have been more effective had they required for broadcast ads only the general disclaimer on weight-loss maintenance. But I am also convinced that the other disclosures on percent of weight loss maintained, duration of that maintenance, and the representativeness of the triggering claim would be important in helping consumers *decide* whether they will get their money's worth when they sign up for a particular program. Consequently, based on available information, I would have supplemented the more concise general disclosure for broadcast ads with requirements that respondents provide at point-of-sale, and prior to the execution of any contract, a clearly written statement of all the disclosures otherwise required,<sup>5</sup> and that the broadcast ads alert consumers to the availability of that additional information. This approach, in my view would provide the relevant information to consumers at a time when they most need it, and in a format more likely to be useful in evaluating and comparing diet programs.

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Health Claims; Ingredient Labeling, Prop. Rules, Dkt. Nos. 91N-0384, 84N-0153, 85N-0061, 91N-0098, 91N-0099, 91N-0094, 91N-0096, 91N-0095, 91N- 0219 (Feb. 25, 1992) at 39-40.

<sup>5</sup> See, e.g., *Arthur Murray, Inc.*, 95 FTC 347 (1980) (disclosures required of firm and its franchisees in contracts with consumers); see also, Letter from the Honorable Janet D. Steiger (by direction of the Commission) to Senator Slade Gorton (Sept. 25, 1991) at 7 n.11 ("The principle that detailed information of the kind usually found on labels is most useful when available at the point when comparisons can be made or decisions can be affected has been supported by many consumer information processing studies.").

# **Exhibit B1**

# Why Medifast? Three great reasons.



**Cynthia Lujan†**  
**lost 73 lbs**  
on Medifast!



**Cindy Daniels†**  
**lost 43 lbs**  
on Medifast!



**Jennifer Lilley**  
**lost 70 lbs**  
on Medifast!



## You can lose up to 2 to 5 pounds per week on Medifast.

**It's simple:** There's no counting calories, carbs, or points, and the easy-to-prepare Medifast Meals are delivered right to your door.

**It's affordable:** You can take advantage of special packages and spend \$5 less per day than the average American spends on food.\*\*

**It's supported:** You can join our online community at MyMedifast.com for answers and inspiration anytime, OR get a caring, knowledgeable Health Coach to guide you through the program for **FREE**.



Results will vary.

## 2 WAYS to SAVE!\*

**\$25 OFF\***  
(use code OKMAR25)

OR

**\$50 OFF\***  
(use code OKMAR50)

Call (866) 558-7630 or visit MedifastOK.com



# Medifast.

Recommended by over 20,000 doctors since 1980.

\*Save \$25 on your purchase of \$150 or more, or save \$50 on your purchase of \$275 or more. Limit one per customer. Not valid with prior purchases, V.I.P. Membership, or any other promotions or discounts. Offer expires 5/31/10. See Web site for complete details on program and discounts.  
\*\*2006 U.S. Bureau of Labor Statistics Consumer Expenditure Survey. \*Some of the success stories represented in this advertisement lost weight using a Medifast Weight Control Centers' Program. Consult your physician before beginning a weight-loss program.

CPK! Weekly

on sale 2/18/10

FTC012811-MF000028  
issue: 3/1/10

# **Exhibit B2**

When you lose up to  
2 to 5 lbs a week  
with Medifast, you'll  
feel terrific. And so  
will your doctor.



# TRUST MEDIFAST.

THE PROGRAM THE DOCTORS  
RECOMMEND.



Jeff &  
Maureen  
lost a combined  
169 lbs!



## Medifast®

Recommended by over 20,000 doctors since 1980.

**2 WAYS to SAVE!\***

**\$25 OFF\*** (use code WR025)

OR

**\$50 OFF\*** (use code WR050)

Call (800) 589-9898 or  
visit [MedifastWRG.com](http://MedifastWRG.com).



\*See \$25 on your purchase of \$150 or more, or save \$50 on your purchase of \$275 or more. Limit one per customer that valid with your purchase. KLP Membership, or any other promotions or discounts. Offer expires 09/30/12. See Web site for complete details on program and discounts. Consult your physician before beginning a weight loss program.

FTC012811-MF000988

Walmart's Romance Group

on sale 6/7/10

issue July

# EXHIBIT B-3



**ORIGINAL**  
**OFFICIAL TRANSCRIPT PROCEEDING**

**FEDERAL TRADE COMMISSION**

**MATTER NO. C3392**

**TITLE JASON PHARMACEUTICALS**

**DATE RECORDED: DATE UNKNOWN**  
**TRANSCRIBED: AUGUST 3, 2011**

**PAGES 1 THROUGH 5**

**MEDIFAST RADIO AD**  
**EXHIBIT: FTC012811**

FEDERAL TRADE COMMISSION

I N D E X

RADIO ADVERTISEMENT:

PAGE:

Medifast

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In the Matter of: )  
Jason Pharmaceuticals ) Matter No. C3392  
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Date Unknown

The following transcript was produced from a  
CD-Rom provided to For The Record, Inc. on July 25, 2011.

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P R O C E E D I N G S

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MEDIFAST RADIO AD

SAM COX: Sam Cox here for Medifast Weight Control Centers at 1-888-9MEDIFAST.

I'm here today talking with Becky. Becky, what motivated you to lose weight and go to the Medifast Weight Control Centers?

BECKY: I had three doctors tell me that I needed to lose weight. And I had had back surgery about three years ago and my doctor told me after my surgery that he would see me again, that if I didn't get the weight off, I'd be back.

SAM COX: Speaking of weight, how much weight have you lost and inches?

BECKY: I've lost 97 pounds and over 99 inches.

SAM COX: How did the staff at Medifast Weight Control Centers help you along with this journey?

BECKY: I don't think I could have done it without them. They were my support team. I went in every week.

SAM COX: Why would you recommend Medifast Weight Control Centers to your friends and family?

BECKY: I think it's the healthiest and the fastest way I've ever lost weight.

1                   SAM COX: Call Medifast Centers at 888-  
2 9MEDIFAST and get started today. I lost a total of 50  
3 pounds in 13 weeks and I've kept it off for two years.  
4 Call now at 888-9MEDIFAST. Check them out on the web at  
5 MedifastAustin.com. Results will vary. Lose up to two  
6 to five pounds per week.

7                   (The radio ad was concluded.)  
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C E R T I F I C A T I O N   O F   T Y P I S T

MATTER NUMBER: C3392

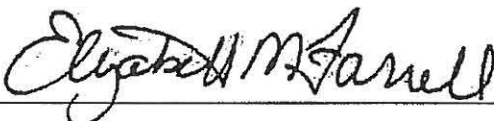
CASE TITLE: JASON PHARMACEUTICALS

TAPING DATE: DATE UNKNOWN

TRANSCRIPTION DATE: AUGUST 3, 2011

I HEREBY CERTIFY that the transcript contained herein is a full and accurate transcript of the tapes transcribed by me on the above cause before the FEDERAL TRADE COMMISSION to the best of my knowledge and belief.

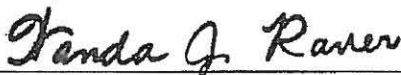
DATED: AUGUST 3, 2011

  
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ELIZABETH M. FARRELL

C E R T I F I C A T I O N   O F   P R O O F R E A D E R

I HEREBY CERTIFY that I proofread the transcript for accuracy in spelling, hyphenation, punctuation and format.

  
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WANDA J. RAVER