

IN THE MATTER OF

JAMES R. WYATT

CONSENT ORDER, ETC., IN REGARD TO ALLEGED VIOLATION OF  
SEC. 5 OF THE FEDERAL TRADE COMMISSION ACT*Docket C-3511. Complaint, July 27, 1994--Decision, July 27, 1994*

This consent order prohibits, among other things, the owner of the Wyatt Marketing Corporation from distributing an infomercial, from making false claims regarding a book on the availability of government grants and loans, and from making or selling any commercial that misrepresents it as an independent program, rather than a paid advertisement. The respondent is required to have a disclosure statement for any commercial 15 minutes or longer, and to have substantiation for future claims regarding the availability of grants, loans or other benefits from any source, the terms or conditions of getting government loans or grants, and methods for starting or operating a business.

*Appearances*

For the Commission: *Michael J. Bloom* and *Donald G. D'Amato*.

For the respondent: *Glenn W. Peterman, McDonough, Holland & Allen*, Sacramento, CA.

## COMPLAINT

The Federal Trade Commission, having reason to believe that Wyatt Marketing Corporation, Inc., a corporation, and James R. Wyatt, individually and as an officer and director of said corporation, (hereinafter, collectively, "respondents"), have violated the provisions of the Federal Trade Commission Act, and it appearing to the Commission that a proceeding by it in respect thereof would be in the public interest, alleges:

PARAGRAPH 1. Respondent Wyatt Marketing Corporation, Inc. (formerly doing business as James R. Wyatt & Associates, Inc. and Cornerstone Publishing) is a California corporation that has had its principal office or place of business at 4231 Pacific Street, Suite 4, Rocklin, California.

PAR. 2. Respondent James R. Wyatt, at all times pertinent herein, has been an officer and director of respondent Wyatt

Marketing Corporation, Inc. Individually or in concert with others, he has formulated, directed, and controlled the acts and practices of the corporate respondent, including the acts and practices alleged in this complaint. His principal office or place of business has been the same as that of the corporate respondent.

PAR. 3. Respondents have manufactured, advertised, labeled, offered for sale, sold, and distributed various materials that are represented to feature information on obtaining government benefits to start a new business, to obtain money for college, or to save on taxes including but not necessarily limited to a book, entitled 101 Ways to Get Cash From the Government (hereinafter also referred to as the "Government Benefits Book."

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

#### COUNT I

PAR. 5. Respondents have disseminated or have caused to be disseminated advertisements for the Government Benefits Book, including but not necessarily limited to a 30-minute advertisement that appears in the form of a talk show entitled "Focus on Success" (hereinafter also referred to as the "Government Benefits Infomercial"), a complete transcript of which is attached hereto as Exhibit A. These advertisements contain the following statements:

[James Wyatt]

". . . there's a program called, through the United States Department of Agriculture, through what they call their Farmers Home Administration agency and they've got a program to where you can qualify for a house for 0 down and 1 percent interest, and I as a general contractor have built 3,000 of those homes and sold them to people back in America. Zero percent down and 1 percent interest. So it's not a fluke. As a matter of fact, this year, I think the government, in that particular agency, the Farmers Home Administration, has a \$5.7 billion program strictly for housing of people. You can buy a single family home as well as apartments."

[George Reading]

"So its not a fluke?"

[James Wyatt]

"No."

[George Reading]

"I heard you right - 0 percent down; 1 percent interest?"

[James Wyatt]

"For 32 years, 31 days."

(Exhibit A)

PAR. 6. Through the use of the statements contained in the advertisements referred to in paragraph five, including but not necessarily limited to the advertisement attached as Exhibit A, respondents have represented, directly or by implication, that the Farmers Home Administration had \$5.7 billion in loan money available for individuals for the purchase of single family homes and apartments.

PAR. 7. In truth and in fact, the Farmers Home Administration did not have \$5.7 billion in loan money available for individuals for the purchase of single family homes and apartments. During the time period that respondents disseminated or caused to be disseminated the Government Benefits Infomercial, the loan money available for individuals from the Farmers Home Administration for the purchase of single family homes and apartments totaled approximately \$1.3 billion per federal fiscal year. Therefore, the representation set forth in paragraph six was false and misleading.

#### COUNT II

PAR. 8. Respondents have disseminated or have caused to be disseminated advertisements for the Government Benefits Book, including but not necessarily limited to the Government Benefits Infomercial. These advertisements contain the following statements:

[George Reading]	"It gets even better, doesn't it? Here's one that says 'How You May Be Entitled To A \$10,000 Refund.'"
[James Wyatt]	"Yep. Do you know how many people in America that overpay might be entitled to that? Might and I put might because not everybody is, but one out of every three taxpayers in the United States is overpaid in this Social Security Administration system. We give you the telephone number and address of the agency to call. They will send out and tell you, in fact, whether you're in fact owed money back. \$10,000 bucks. They will look it up--they tell you--it's simply done by a telephone call and simple signature on a form and they'll show you how to do it."

(Exhibit A)

PAR. 9. Through the use of the statements contained in the advertisements referred to in paragraph eight, including but not necessarily limited to the advertisement attached as Exhibit A,

respondents have represented, directly or by implication, that the Government Benefits Book gives the reader a telephone number to call to find out whether she or he has overpaid into the Social Security System and to determine whether she or he is entitled to a refund from the Social Security Administration.

PAR. 10. In truth and in fact, the Government Benefits Book does not give the reader a telephone number to call to find out whether she or he has overpaid into the Social Security System and to determine whether she or he is entitled to a refund from the Social Security Administration. Therefore, the representation set forth in paragraph nine was false and misleading.

### COUNT III

PAR. 11. Respondents have disseminated or have caused to be disseminated advertisements for the Government Benefits Book, including but not necessarily limited to the Government Benefits Infomercial. These advertisements contain the following statements:

[George Reading]	"All right. 'Collect Social Security Before Age 65.'"
[James Wyatt]	"That's exactly right."
[George Reading]	"Full benefits?"
[James Wyatt]	"That's right. Full benefits before age 65. You didn't know that, did you?"
[George Reading]	"No I didn't know that. I suspect a lot of people didn't know that."
[James Wyatt]	"No, most people in America don't know that."
[George Reading]	"How do you do that short of being disabled?"
[James Wyatt]	"You ask. You ask, George. I mean I know it sounds too good to be true, but we tell you the agency to call up and say this is what I'm going to do and they will even tell you back, George. They'll tell you how and when you can retire to make the type of income levels you want to."

(Exhibit A)

PAR. 12. Through the use of the statements contained in the advertisements referred to in paragraph eleven, including but not necessarily limited to the advertisement attached as Exhibit A, respondents have represented, directly or by implication, that individuals could retire before age 65 and still collect full social security retirement benefits.

PAR. 13. In truth and in fact, individuals could not retire before age 65 and still collect full Social Security retirement benefits. Under the Social Security Act, retirement insurance benefits are permanently reduced by 5/9 of 1 percent for each month before age 65 that an individual is entitled to such benefit. Therefore, the representation set forth in paragraph twelve was false and misleading.

## COUNT IV

PAR. 14. Respondents have disseminated or have caused to be disseminated advertisements for the Government Benefits Book, including but not necessarily limited to the Government Benefits Infomercial. These advertisements contain the following statements:

[George Reading]	"Pretty fascinating. 'How to Get Up To \$5 Million To Start A Business'."
[James Wyatt]	"Yes, that's right. It's true. It's for a person who wants to start a business or expand an existing business that they have."
[George Reading]	"What kind of money do you need to get into that?"
[James Wyatt]	"It doesn't cost you a dime. You go in and apply through what is called a business plan, George. Okay, you take a business plan into this government agency and they will approve your business plan and give you the money or say no you need have to clean it up, you're missing it over here and they even give you the consulting services for free."
[George Reading]	"How long does it take you?"
[James Wyatt]	"Okay, it takes 47 days. Interest rate is 3 percent to 7.5 percent."
[James Wyatt]	"... And anybody here in the TV audience who has a good idea for business can go in and get that money."

(Exhibit A)

PAR. 15. Through the use of the statements contained in the advertisements referred to in paragraph fourteen, including but not necessarily limited to the advertisement attached as Exhibit A, respondents have represented, directly or by implication, that there was a federal agency that would loan an individual with a good idea for a business up to \$5 million to start a business or expand an existing small business at terms of 3 percent to 7.5 percent interest.

PAR. 16. In truth and in fact, there was not a federal agency that would loan an individual with a good idea for a business up to \$5

million to start a business or expand an existing small business at terms of 3 percent to 7.5 percent interest. The United States Small Business Administration, with few exceptions, only guarantees loans to small businesses. Those federal agencies that do loan money for business do so for very specific types of enterprises, such loans do not approach \$5 million, and, in many instances, the interest rates for these loans are not 3 percent to 7.5 percent. Therefore, the representation set forth in paragraph fifteen was false and misleading.

## COUNT V

PAR. 17. Respondents have disseminated or have caused to be disseminated advertisements for the Government Benefits Book, including but not necessarily limited to the Government Benefits Infomercial. These advertisements contain the following statements:

[James Wyatt]

"In the second chapter we talk about educational services that are available. All the way from preschool, all the way to getting your doctorate degree or becoming even a medical doctor. You've got 4 different programs to choose from. One of them is called a grant where you can get up to \$11,000 a year to go to school per year and you never have to pay the money back at all. Then there's another one where there's a student loan at 3% interest. Then there's another one at 7% interest and even if you have payments you don't get a grant to go to school--you don't have to pay any payments at all until you've graduated and you have up to 10 years to repay the loan. So anyone who wants to go to school it's there. The problem is nobody came in and applied for the money, therefore, the budget was cut and then nobody came in and everybody was being told in the newspapers there's no college money so nobody even came in and applied for more money. So there's about 1.3 billion dollars of unused money just last year alone strictly because of media hype."

[George Reading]

"How can you know where you can qualify for a grant or a loan?"

[James Wyatt]

"You just got to go in and ask George. It's based upon need. It's based strictly upon need--how much is it going to cost you to go to school, how beneficial will your education be to society and it's just going and asking the questions. See the problem is George is nobody in America knows which agency to go to get it."

That's what the book talks about. It's not a get rich quick book. What it is a resource book. It tells you which agency to go to, then you go in and ask the information. What you get in those agencies it is their responsibility to give you the money and that's what they do."

(Exhibit A)

PAR. 18. Through the use of the statements contained in the advertisements referred to in paragraph seventeen, including but not necessarily limited to the advertisement attached as Exhibit A, respondents have represented, directly or by implication, that the Government Benefits Book contains information concerning:

A. The availability of a federal government grant program for college educational purposes under which a student may or could obtain up to \$11,000 annually.

B. The availability of a government student loan with a 3 percent interest rate.

PAR. 19. In truth and in fact:

A. The Government Benefits Book does not contain information concerning the availability of a federal government grant program for college educational purposes under which a student may or could obtain up to \$11,000 annually. During the time period of the airing of the Government Benefits Infomercial, even those students with exceptional financial need could have only obtained just over \$6,000 in government grants for college educational purposes.

B. The Government Benefits Book does not contain information concerning the availability of a government student loan with a 3 percent interest rate. During the time period of the airing of the Government Benefits Infomercial, the lowest interest rate for a government student loan was 5 percent.

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

## COUNT VI

PAR. 20. Respondents have disseminated or have caused to be disseminated advertisements for the Government Benefits Book, including but not necessarily limited to the Government Benefits Infomercial. These advertisements contain the following statements:

[Question from the audience]

"I am a part-time student and I work part-time also and I heard you mention something about getting a home for \$1. I'd really be interested in purchasing a home for \$1, but I can't come up with a down payment right now. Who would I get in touch with to find out about HUD -- is that what you call that?"

[James Wyatt]

"That's one agency. The Housing and Urban Development--that's known as HUD. The book gives you seven ways to buy a house for nothing down. With programs sponsored by the United States government 0 down 1 percent interest. Urban Homesteading -- \$1 to totally buy the house. We got a variety of other programs that are in there that require nothing down. Now, see I know that people laugh about this, but I've built 3,000 houses for people in America where their total down payment was \$0 down and their interest payment was 1 percent. On a \$60,000 house -- principal, interest, taxes and insurance your monthly payments are 127 bucks. That's cheaper than rent and so anybody in America that sits back and says I can't afford a house is nonsense. What you can't afford to do is not to buy the book. I'm sorry but that's the truth."

(Exhibit A)

PAR. 21. Through the use of the statements contained in the advertisements referred to in paragraph twenty, including but not necessarily limited to the advertisement attached as Exhibit A, respondents have represented, directly or by implication, that the Government Benefits Book contains information on seven different federally sponsored programs that allow individuals to buy a house with \$0 down and at loan terms of 1 percent annual interest.

PAR. 22. In truth and in fact, the Government Benefits Book does not contain information on seven different federally sponsored programs that allow individuals to buy a house with \$0 down and at loan terms of 1 percent annual interest. The Government Benefits Book only contains information about a federal program available through the United States Department of Agriculture's Farmers Home



Administration that allows families with moderate incomes to buy houses in rural areas of less than 10,000 people with \$0 down and at loan terms of I percent annual interest. Therefore, the representation set forth in paragraph twenty-one was false and misleading.

## COUNT VII

PAR. 23. Respondents have disseminated or have caused to be disseminated advertisements for the Government Benefits Book, including but not necessarily limited to the Government Benefits Infomercial. These advertisements contain the following statements:

- [James Wyatt] "George, you won't believe me, your audience won't believe me. You can get almost \$5 million almost \$5 million if you use all of the sources in that particular book [the Government Benefits Book]. Let's be more realistic."
- [George Reading] "Let's be more realistic. What is the average cash return or cash take?"
- [James Wyatt] "The book is designed if people will buy the book and then use it, and that's the secret is using it, just like Mary did, about \$87,500."

(Exhibit A)

PAR. 24. Through the use of the statements contained in the advertisements referred to in paragraph twenty-three, including but not necessarily limited to the advertisement attached as Exhibit A, respondents have represented, directly or by implication, that consumers who made use of the Government Benefits Book would realize an average of \$87,500 in government grants and loans.

PAR. 25. In truth and in fact, consumers who made use of the Government Benefits Book would not realize an average of \$87,500 in government grants and loans. Therefore, the representation set forth in paragraph twenty-four was false and misleading.

## COUNT VIII

PAR. 26. Through the advertising and dissemination of the Government Benefits Infomercial, respondents have represented, directly or by implication, that the Government Benefits Infomercial was an independent television program and was not paid advertising.

PAR. 27. In truth and in fact, the Government Benefits Infomercial was not an independent television program and was paid commercial advertising. Therefore, the representation set forth in paragraph twenty-six was false and misleading.

PAR. 28. The acts and practices of respondents as alleged in this complaint constitute unfair or deceptive acts or practices in or affecting commerce in violation of Section 5(a) of the Federal Trade Commission Act.

## EXHIBIT A

TRANSCRIPT OF THE  
JAMES R. WYATT INFOMERCIAL

## "FOCUS ON SUCCESS"

George Reading, Host: Do you pay taxes? How many of you don't pay any taxes? How would you like to pay taxes to the government and get cash back? That's what this program is all about - 101 Ways To Get Cash From The Government.

Welcome to "Focus on Success"

Blind Speaker: Welcome to another edition of "Focus on Success." The program that takes your financial success seriously. Today's program will feature James Wyatt, author, publisher, entrepreneur who will show you 101 ways to get cash from the government cash for business, education, real estate and more. Here's our host George Reading.

George Reading: "101 Ways To Get Cash From The Government." I know it sounds too good to be true, doesn't it? Let's meet the man who says it is -- James Wyatt author, entrepreneur, publisher. Is that -- is that you.

James Wyatt: It's good to see you again, George.

George Reading: I can tell, I can feel people out there saying okay, come on James Wyatt, you're suggesting there's cash in the government just for the asking.

James Wyatt: Sure, I mean, we pay as taxpayers money into the system and that money is used back for its citizens, why can't we consider ourselves a citizen and go get some of it back.

George Reading: Okay, why does the government do this?

James Wyatt: Well, basically the government is involved in it for a variety of different reasons. I mean, this economy is based upon income being produced by businesses. So

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- there's business loans available to people to start new businesses or expand their current businesses and the long and the short of it is George, is really the more money that can be generated by businesses, the more taxes are going to be created so the more jobs that are created the larger the government can get. So all I'm saying is that if you want some of the money you've been paying all your life for taxes, go out and get it.
- George Reading: Well, okay, how do you do that? Is it hard to get?
- James Wyatt: No. It's not that difficult. The problem is there's so many agencies that have so much money trying to give it out to the public, we don't have one central government agency we can go to and say I'd like to start a business, I'd like to go on welfare, I'd like to get a house, I'd like to get some of my veteran's benefits, I'd like some employment services like to learn how to, in fact, become a doctor. Also, educational type benefits. There's no one central agency we can go to. We have to go to a variety of different agencies, and that's what creates a problem.
- George Reading: I can hear a lot of people now saying you have now Jim, yeah, you have to be a minority, to be a low income person in order to qualify.
- James Wyatt: George, that's not the case. In fact, those are called entitlement programs and they only in fact represent about 10% of the money the government gives back to people. So, yes, there are those types of programs, but that's not the rule of thumb.
- George Reading: Okay. I understand in your book that you have low interest rate housing loans that amount to a 1% interest loan.
- James Wyatt: Sure. That's how I started as a businessman.
- George Reading: You've got to be kidding.
- James Wyatt: No, I'm not George. The problem is that there's a variety of government agencies that provide housing to the people of the United States. We typically think of the Federal Housing Administration, the FHA, as a single source of funds, however, there's a program called, through the United States Department of Agriculture, through what they call their Farmers Home Administration agency and they've got a program to where you can qualify for a house for \$0 down and 1% interest, and I as a general contractor have built 3,000 of those homes and sold them to people back in America. 0 down and 1% interest. So it's not a fluke. As a matter of fact, this year I think the government, in that particular agency, the Farmers Home Administration, has a \$5.7 billion program strictly for housing

of people. You can buy a single family home as well as apartments.

George Reading: So it's not a fluke.

James Wyatt: No.

George Reading: I heard you right - 0% down; 1% interest.

James Wyatt: For 32 years, 31 days.

George Reading: All right, where do you get this information?

James Wyatt: You have to go to the government agency and ask for it. The problem is . . . is the government itself is not a good public relations person. They aren't. They don't know how to disseminate information back to people. You know, it's so... (unclear).

George Reading: But couldn't anybody simply ask for this information?

James Wyatt: Well, you got to know which agency to go to. We see about them in the newspapers, we hear about them, we hear even about other people doing it. Let's take an example for housing, and there's lots more than housing in this book. You've heard about a 0 down -1% interest for the first time in your life George. You have been in newscasting for how many years?

George Reading: More than I care to admit.

James Wyatt: But that's the first time you've heard about it. Now what happens, we have the FHA, the Federal Housing Administration, we got the Farmers Home Administration (FHA) so people call the FHA and say I want a 0 down -1% interest rate and the FHA says someone is lying to you and hangs up the phone. You've got to call the U. S. Department of Agriculture Farmers Home Administration and they'll say yes we've got the program and I'll send you out information.

George Reading: So you got to know where to go.

James Wyatt: You got to know where to go and what questions to ask.

George Reading: Then you get back what?

James Wyatt: You get back information from the government that really shows you what to do.

George Reading: Well you're talking about what, pounds and pounds of information.

James Wyatt: No. No. I think what you're talking about is a variety of information that's available for people. I mean people don't have to buy my book to, in fact, learn this information. What I have done is that I have got some books over there which I saw you looking at. Let's look at the books the government send us. Okay.

George Reading: Pretty hard to avoid them. Look at the size of them.

James Wyatt: George. It's not 1, 2 or 3 little pamphlets you get from the government. You can see over here I brought the pamphlets with me. It's actually 265 books each year you have to research and it's not free. That subscription

to that which you pay to the U. S. Superintendent of Printing is \$345 per year. Now there is 150,000 pages of information you've got to research to get to what we got here. Now this is a 100 page book that condenses what's in that information. It takes out all attorney talk and lawmaking talk and it puts into normal English where someone can understand, how do you get the money.

George Reading:

Okay, okay. But Jim, we also know that laws and programs are changing all the time.

James Wyatt:

Absolutely.

George Reading:

Now how can one book like this keep up with all the information you need and keep you current on programs?

James Wyatt:

That's a good point. Now we get this subscription at our office.

George Reading:

All right.

James Wyatt:

One day, every day, somebody researches this for our company and tells us what changes have, in fact, taken place. So somebody has a question on this, all they have to do is just call our hotline and we will research and tell them in what way the new law has been changed. Now the thing that has become even more confusing is let's say there's a new law or change to the law and it says okay, we're changing the law that was developed in 1937 and it tells us right here in this book that we received today. Now what we have to do is take this information, go research the statute from 1937 to figure out what the law really in fact was. So you can either use a short circuit system which the book talks about or you can spend about 5 hours a day to research this so you can get the same information that comes in this book. Time is money.

George Reading:

Yes. Of course. Some of the headings in your book are absolutely fascinating.

James Wyatt:

Well, those are the headings that are given to us by the government.

George Reading:

Pretty fascinating. "How To Get Up To \$5 Million To Start A Business."

James Wyatt:

Yes, that's right. It's true. It's for a person who wants to start a business or expand an existing business that they have.

George Reading:

What kind of money do you need to get into that?

James Wyatt:

It doesn't cost you a dime. You go in and apply through what is called a business plan, George. Okay, you take a business plan in to this government agency and they will approve your business plan and give you the money and say no you need have to clean it up, you're

missing it over here and they even give you the consulting services for free.

George Reading: How long does it take you?  
James Wyatt: Okay, it takes 47 days. Interest rate is 3 percent to 7-1/2 percent.

George Reading: Criteria? Complicated?  
James Wyatt: Criteria is not. How many people are going to be employed, what is your product going to be, is it safe and sane and also will it employ jobs and will they be able to create \_\_\_\_ (unclear).

George Reading: Give me the interest figure again.  
James Wyatt: 3 to 7%.

George Reading: On \$5 million?  
James Wyatt: And anybody here in the T.V. audience who has a good idea for business can go in and get that money.

George Reading: How to get the SBA to guarantee your rent?  
James Wyatt: That's right. The SBA will come in and guarantee your landlord your rent that you're supposed to in fact pay.

George Reading: Free college money for veterans?  
James Wyatt: Yeah. Now isn't that interesting?  
George Reading: It's very interesting.  
James Wyatt: We have been hearing how educational tuition and grants for students have been cut back. We hear this blitzed on the media and you know why, nobody comes in and applies for the money that's there.

George Reading: And you personally got money back?  
James Wyatt: Yes. I have. I have received over \$180 million in my life.

George Reading: You personally know anybody else who got money back?  
James Wyatt: Oh sure -- absolutely -- several people. As a matter of fact, the government gave away \$37.5 billion last year and I brought one of those people with me today.

George Reading: All right. We'll take a minute and come right back and meet that person.

[Commercial Break]: Stay tuned for book 101 Ways to Get Cash From the Government]

Visual text [Fact: the U.S. government has 110 billion dollars to lend or give away!] [Do you need money to start a business? Go to college? Buy a house? Invest in property?] [1-800-332-6200]

Blind Speaker: Fact: the United States government has over 110 billion dollars to lend or give away this year, how much of that 110 billion will you get this year from Uncle Sam. If you need money to start a business, go to college, or a vocational school to buy a house, buy an investment property, or want to save money on your taxes this year, this man can help. Jim Wyatt, noted international entrepreneur, publisher and best selling author has

written "101 Ways to Get Cash From the Government." This easy to understand book tells you where you can get money for a business, for college, for employment, real estate and social services. And there is a bonus chapter especially designed to show American veterans their new benefits. Don't delay, order today by calling this toll free number. And if you order today, you'll receive a bonus cassette tape by Jim Wyatt, forty-nine, ninety-five plus three dollars shipping and handling is all it takes to get information that could return thousands of dollars to you. Call now, have your charge card number ready. Sorry no C.O.D orders. California and New York residents add sales tax, or you may send check or money order to this address.

George Reading:

Okay, Jim, let's meet your guest.

James Wyatt:

Good, let me introduce Mary Brown to you.

George Reading:

Mary, thanks for joining us. Sit down. How did you two meet?

James Wyatt:

I got to tell you the story. About two years ago I get this nice call from this nice young lady saying Jim we would like you to come to college and talk about real estate financing because I go out and lecture at schools. It happened to be that Mary Brown was at the end of that telephone line. When she graduated I asked her to go to work for me. That's how we met.

George Reading:

How much cash, Mary, did you get back?

Mary Brown:

I got a total of \$28,000 as a grant from the City of Crescent to help build an apartment complex there. So it's a 20 unit complex and I went in and asked for it -- and it was just sitting there. No one had even asked for it and they were going to have to send the money back to the state because nobody was using it and no one knew it was available.

James Wyatt:

Isn't that incredible?

George Reading:

Yeah.

Mary Brown:

And after working with Jim I found out . . . he just exposed me to the idea that it was available, to go and look it up.

George Reading:

Incredible, but complicated?

James Wyatt:

No, not really.

George Reading:

How long did it take you?

Mary Brown:

Well, we got a commitment on it within 2 or 3 days. Well, in fact, the first time we went in and talked to the city manager he gave us a commitment at that time. He was anxious to give the money out. If he didn't give the money out, he would have lost it, and he would not have been able to help build up the city and get some future income.

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George Reading: 2 or 3 days to get the commitment. How many days to get the money -- weeks, months, years?

Mary Brown: Oh, probably. No it only too, um . . . So we came up with the idea in April and then we were actually funded about 2 months later and of course, that was after we got our plans all drawn and so it was --

James Wyatt: They weren't ready for the money. They could have gotten it sooner for they were ready for the money earlier.

Mary Brown: Yeah.

James Wyatt: How long has it been since you made \$28,000 in 2 days. How many people in America would like to make that?

George Reading: Never, never. All right. If you could tap all 101 ways to get cash from the government, Jim, how much cash could you get?

James Wyatt: George, you won't believe me, your audience won't believe me. You can get almost \$5 million -- almost \$5 million. If you use all of the sources in that particular book. Let's be more realistic.

George Reading: What is the average cash return or cash take?

James Wyatt: The book is designed if people will buy the book and then use it, and that's the secret is using it, just like Mary did, about \$87,500.

George Reading: \$87,500.

James Wyatt: That's a pretty good return on buying a book.

George Reading: Not a bad return for a book that costs less than \$50.

James Wyatt: The book --

James Wyatt: Okay.

George Reading: Some of the chapters are intriguing --

James Wyatt: Okay, its broken down alphabetically.

George Reading: Too good to be true. How to get up to \$400 per week for not working. Come on. They're going to make you laugh. Right?

James Wyatt: I know, but those are taken from the heading of the government literature. I mean, I didn't create them. Some of them I created.

George Reading: Give me an example. How do you get \$400 per week for not doing anything?

James Wyatt: There's several ways. There's several different ways. What about disability insurance, what about unemployment insurance?

George Reading: Well, I can't qualify for either one.

James Wyatt: Why not?

George Reading: Because I'm not disabled and I'm not unemployed.

James Wyatt: What happens if you are fired tomorrow?

George Reading: Okay - you take it from there.



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- James Wyatt: So you've got seven varieties, I mean, to get \$400 on a weekly basis by not working. But you know what happens?
- George Reading: I never wanted to get fired before, but you are making it very enticing.
- James Wyatt: No, I know and a lot of people can't live on \$400, but it's there available for You and I think most people know about those type of things. What's exciting about that particular chapter is let's say that you want to go overseas to work. The government has a source in the Bureau to where, in fact, they will hire you, ship you across to any country you want and pay you a salary to work there. If you want to change career and I know you don't want to do this, but if you want to change from newscasting and being an anchor person -- recognize let's now say you want to become a ditch digger, there's a transformation that takes place. Go in for some free counseling -- doesn't cost you one dime and they will do a career change for you free of charge, George. It's there, just nobody knows where to go to get it.
- George Reading: Quote "How To Buy A House For \$1."
- James Wyatt: \$1.
- George Reading: \$1.
- James Wyatt: Okay. I will tell you the program. it is a program run by HUD, Housing and Urban Development and called Urban Home Study and the program's been around since 1846. It's not a new program. \$1. The maximum you would pay for a house under that program is \$2,500 George and when I say \$1 or 25 -- that's not the down payment, you have bought it for that amount of money and there's 126 cities within the United States that run the program.
- George Reading: It gets even better, doesn't it? Here's one that says "How You May Be Entitled To A \$10,000 Refund."
- James Wyatt: Yep. Do you know how many people in America overpay might be entitled to that? Might and I put might because not everybody is, but one out of every three taxpayers in the United States is overpaid in this Social Security Administration system. We give you the telephone number and address of the agency to call. They will send out and tell you, in fact, whether you're in fact owed money back. \$10,000 bucks. They will look it up -- they tell you -- it's simply done by a telephone call and simple signature on a form and they'll show you how to do it.
- George Reading: All right. "Collect Social Security Before Age 65."
- James Wyatt: That's exactly right.

George Reading: Full benefits.  
James Wyatt: That's right. Full benefits before age 65. You didn't know that, did you?

George Reading: No I didn't know that. I suspect a lot of people didn't know that.

James Wyatt: No, most people in America don't know that.  
George Reading: How do you do that short of being disabled?  
James Wyatt: You ask. You ask, George. I mean I know it sounds too good to be true, but we tell you the agency to call up and say this is what I'm going to do and they will even tell you back, George. They'll tell you how and when you can retire to make the type of income levels you want to.

George Reading: Now I have been told that, for instance, that the charitable work and I'm sure others have too, that charitable work can't be used as a tax deduction. And, I notice here you have a chapter that says "Charitable Work As A Tax Deduction."

James Wyatt: That's in the chapter "How To Save Money With The IRS."

George Reading: Have I been misinformed?  
James Wyatt: You have been totally misinformed.  
George Reading: How do I do that?  
James Wyatt: Do you ever do any broadcasting at all for charitable organizations?

George Reading: Absolutely.  
James Wyatt: Okay. Why don't you send them a bill and then when you, when they've in fact, received the bill they pay you, and you give it back to them as a donation. Have you ever done that? George you have good CPA's, you have good attorneys around you. They did not tell you that information, did they?

George Reading: Well, not good enough.  
James Wyatt: What you do when you get that charitable organization, you write it off on your income tax and, therefore, the government helps you pay less money.

George Reading: Well, that makes sense.  
James Wyatt: Sure it does. Sure it does.  
George Reading: Leases. "Leases That Save You Money."  
James Wyatt: Yeah. With the 1986 Tax Reform Act there are some basic laws that have hit hard home and every American in the United States is paying taxes and we have a system in there that the IRS has, in fact, approved to where if you lease certain items you can totally write it off and have the government, in fact, pay it for you.

George Reading: This one intrigues me. "Free Medical Benefits For Life." Now that's a big question.

James Wyatt: Yeah.  
George Reading: [To] Anybody who's growing older?

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James Wyatt: No. What that is kind of a bonus chapter, if you will. You'll notice that there's more than 101 ways to make money. What it is is that there's a bonus chapter that talks specifically about the veterans in the United States that have been in the service for greater than 191 days. 181 days, excuse me. They are entitled to free medical benefits for the rest of their lives, but nobody tells them about it.

George Reading: Jim, hang tight.

James Wyatt: Thank you. I get excited about it. I'm sorry.

George Reading: In one minute we'll be back with questions from the audience.

[Another commercial for Book 101 Ways . . .]

Visual text [Want to start a business? Get a higher paying job? Retire?] [Get a part of the government giveaway.] [Start a business Expand Current Business Money for college Get a better Job] [Get \$10,000 back save taxes]

Blind Speaker: Do you want to start a business? Get a higher paying job, buy a house or investment property or retire this year. Well if you do, you need Jim Wyatt's best selling book "101 Ways to Get Cash From the Government." Jim Wyatt, international businessman, publisher and best selling author has just written this exciting new book that will show you how you can get a part of the 110 billion dollar government giveaway this year. He shows you step by step how to get money from the government to start a business where to get money to expend your current business, where to get money to go to college or to go to a vocational school, how the government will help you to get a better job. How you can get up to 10,000 dollars back from social security and how to save taxes this year. He also has included a special bonus chapter just for veterans describing their benefits from the newly formed U.S. Department of Veterans Affairs. If you are tired of paying taxes to the government and would like to learn how to get those tax dollars back, place your order today by calling this toll free number. Forty-nine, ninety-five plus three dollars shipping and handling will get you information that could change your life. Order now and you'll receive a free copy of Jim Wyatt's cassette tape on getting cash from the government. You may send a check or money order to this address. California and New York residents please add sales tax.

## Questions From The Audience

- George Reading: Okay, I can tell from the faces there are questions.
- Question: I am a part-time student and I work part time also and I heard you mention something about getting a home for \$1. I'd be really interested in purchasing a home for \$1, but I can't come up with a down payment right now. Who would I get in touch with to find out about HUD-- is that what you call that?
- James Wyatt: That's one agency. The Housing and Urban Development -- that's known as HUD. The book gives you 7 ways to buy a house for nothing down. With programs sponsored by the United States Government 0 down - 1%, interest. Urban Homesteading -- \$1 to totally buy the house. We got a variety of other programs that are in there that require nothing down. Now, see I know that people laugh about this, but I've built 3,000 houses for people in America where their total down payment was \$0 down and their interest payment was 1%. On a \$60,000 house -- principal interest, taxes and insurance your monthly payments are 127 bucks. That's cheaper than rent and so anybody in America that sits back and says I can't afford a house is nonsense. What you can't afford to do is not to buy the book. I'm sorry but that's the truth.
- George Reading: Anybody who wants to start a business, expand a business?
- Question: Yes, I live in the Sacramento area and I'd like to move my business up into the Lake Tahoe region and I don't have any connections of banks or credit there. Is there something that can help me in the book.
- James Wyatt: Yeah. Okay. In the first chapter what we've done is we listed employment services. Priorities like businesses, education so it's alphabetically done. The first chapter has 21 different ways to get money to start a business. Whether you're going to be in the metropolitan area or a very very rural area. One of the most exciting things that's happened in my opinion, last year, with the government is in rural areas. They are now encouraging people to move to rural areas to produce jobs. So they got a \$500,000 grant program available that only became available two months ago and you get up to \$500,000 and you never have to pay the money back. If that's not encouragement to start a business, I don't know what is. \$500,000 and you never have to make one payment for the money. So yes, plenty programs.
- Question: I am currently a senior in high school right now and college finances are going to be a big problem in the

- coming year and you mentioned something about educational loans from the government?
- James Wyatt: In the second chapter we talk about educational services that are available. All the way from preschool, all the way to getting your doctorate degree or becoming even a medical doctor. You've got 4 different programs to choose from. One of them is called a grant where you can get up to \$11,000 a year to go to school per year and you never have to pay the money back at all. Then there's another one where there's a student loan at 3% interest. Then there's another one at 7% interest and even if you have payments you don't get a grant to go to school -- you don't have to pay any payments at all until you've graduated and you have up to 10 years to repay the loan. So anyone who wants to go to school it's there. The problem is nobody came in and applied for the money, therefore, the budget was cut and then nobody came in and everybody was being told in the newspapers there's no college money so nobody even came in and applied for more money. So there's about 1.3 billion dollars of unused money just last year alone strictly because of media hype.
- George Reading: How can you know where you can qualify for a grant or a loan?
- James Wyatt: You just got to go in and ask, George. It's based upon need. It's based strictly upon need - how much is it going to cost you to go to school, how beneficial will your education be to society and it's just going and asking the questions. See the problem is, George, is nobody in America knows which agency to go to get it. That's what the book talks about. It's not a get rich quick book. What it is is a resource book. It tells you which agency to go to, then you go in and ask the information. What you get in those agencies it is their responsibility to give you the money and that's what they do.
- George Reading: It's not a "How To Book." It's an "Idea Book."
- James Wyatt: It's nothing more than a resource book that shows you 101 ways to get cash back from the government.
- George Reading: Okay, I saw a hand over here. Yes.
- Question: The government money that's not applied for -- is that accounted for in government spending? Is it in the budget?
- James Wyatt: That's a good question. Because sometimes nobody knows what happens to it. Okay? In all honesty we have to tell you that. We all heard it in government. If you don't use it, you lose it. So if a government agency, I know one state agency here in California that

got \$159 million from the federal government to produce housing in California. They spent \$2 million of it and gave back \$157 million because nobody came in and applied for it. \$157 million of non interest money. You never have to pay back--they just gave it to you.

- George Reading: Okay. Let's go up...
- James Wyatt: That's a tragedy.
- George Reading: Let's go to the top row--(unclear), here, I saw a question up here.
- Question: I'm interested in expanding my business. Is there like a limit at all to any kind of loan I can get from the government in the money that I need to expand?
- James Wyatt: Yeah. There is basically some maximum levels and there's some minimal levels. Generally and typically to expand a business the maximum loan you can receive is \$6 million. The minimum, however, is \$25,000 so never ask for \$25,000 or less because you'll get denied. That within itself is worth watching this program.
- Question: Is there an agency you can contact to help you with hearing aid problems?
- James Wyatt: There's several. There's two agencies off the top. First of all are you a veteran?
- Questioner: Yes. Yes.
- James Wyatt: Okay, then all you have to do is call the VA because you've got free medical benefits for the rest of your life and they'll buy it for you. If that's not good enough, are you 62 years of age or older?
- Questioner: Yes. Yes.
- James Wyatt: Then go to the Social Security Administration because they buy it for you as well. So that's two sources for a hearing aid.
- George Reading: You don't have to pay it back.
- James Wyatt: We don't actually talk about hearing aids. (in the book?)
- George Reading: That's a gift, you don't have to pay it back?
- James Wyatt: That's a gift.
- George Reading: More questions?
- Question: If you want to start a business, don't you have to prove to the government that your business plan will provide a profit and hire people?
- James Wyatt: That's a great, great question and I'm glad somebody asked it. You know this money its not hard to get, but you need to show that there's a need. I mean that's only right. We're not just going to give this money away freely and you as taxpayers, I'm sure you don't want that to occur. So what you need to do your application is basically a business plan. Now most people in America do not know how to write a business plan. I consult for major corporations in the United States and

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they don't have a business plan so you know what they do, these government agencies, the four government agencies I talked about in the book, they all have people that will show you how to write it for free and you never even have to do it. They will, in fact, show you how to write the business plan and that's the application, but I'm not talking about how to write a business plan, you know, to get government contracts, I'm talking about writing a business plan to get the working capital necessary to start a business.

George Reading:

Jim Wyatt, thanks a lot for being our guest tonight.

James Wyatt:

Well, thank you for having me back. I appreciate it.

George Reading:

And thank you, you've been a great audience and thank you, you've been listening to another edition of focus on success.

[Commercial for "101 Ways to Get Cash From the Government"]

Visual text

[Fact: Average 1977 income tax paid \$1647.91]  
 [Fact: Average 1987 income tax paid \$3628.33]  
 [Fact: 220% increase] [Fact?] [Get tax dollars back]  
 [James R. Wyatt] [Want to start a business? Receive a scholarship? Get a high paying job? Retire?]

Blind Speaker:

Fact: the IRS report that the average amount of income taxes paid by each working adult paid in 1977 was \$1,647 and ninety-one cents. Fact: the IRS reports that the average amount of income taxes paid by each working adult in 1987 was \$3,629 and thirty-three cents, an increase of two hundred twenty per cent in ten years. Have your wages gone up two hundred twenty per cent in the last ten years to keep pace with these income tax increases. If you are paying taxes to the government and would like to know how to get some of that money back through the government's giant giveaway and loan programs or just feel you're not getting your money's worth. You need this man's book today. If you want to learn how to get money to start a business, expand your current business, get a government scholarship to go to college, get a high paying job directly from the government or if you're planning to retire this year or if you just want to save taxes next year. You need this book now. How much can you expect to get back? You can get up to \$87,500 in just ninety days by using this simple and easy to understand book. It comes with a ten day money back guarantee. Order your copy now by calling this toll free number. Please have your charge card number ready. California and New York residents must add

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state sales tax. Sorry no C.O.D. orders. Or you may send a check or money order to P.O. Box 2937 South Hampton, New York 11969. Order now and you'll receive a free copy of Jim Wyatt's cassette tape about getting money from the government.

Visual text:

[The 180 million dollars Mr. Wyatt mentions in this program refers to the construction and development funds he and his corporation have received since 1968. This figure does not include his volunteer services to state, counties and cities which have received additional government funding.]

[James Wyatt, producer; Tom Thompson, director; George Reading, host; Scott Eckern, community director; Bob O'Conner, commercial announcer, Ross du Clair, technical director; Dan Alexander, editor; David Evans, graphic designer; Bill Gary, floor designer; Dan O'Reily, Camera; Brent Hamilton, Camera; David Bunge, lighting director; Scott Neil, lighting; Matt Flynn, audio; Tyler Thompson, original music; Phillip Gross, gaffer; Guy Ortoleva, Project Coordinator]

[Special Thanks to: Sacramento House of Furs, New York Diamonds, Comm Arts/ Talent, Street of Dreams, Presidential Limousine.]

[Produced at the Alexander Media Services Broadcast Center. A WMC Production.]

[THE DIALOGUE BELOW OCCURS AS THE VISUAL TEXT ABOVE IS BEING SHOWN TO THE VIEWERS]

George Reading: Collect Social Security before age sixty-five?  
 James Wyatt: That's exactly right.  
 George Reading: Full benefits?  
 James Wyatt: Full benefits before sixty-five. You didn't know that did you?  
 George Reading: No. I didn't know that.  
 James Wyatt: Let's say that you want to go over seas to work. The government has a source and a bureau to where they will, in fact, hire you, ship you across to any country you want and pay you a salary to work there. If you want to change a career and I know you don't want to do this, but if you wanted to change from newscasting and being an anchor person recognize let's say you want to become a ditch digger. There's a transformation that takes place, go in for some free counseling and it doesn't cost you one dime and they will do a career change for free of charge George. Its there, its just nobody knows where to get it.  
 George Reading: Well, how to buy a house for a dollar?



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Decision and Order

James Wyatt: A dollar.  
George Reading: A dollar.  
James Wyatt: Okay, I'll tell you the program, its a program run by HUD, Housing and Urban Development. Its called urban homesteading and the program has been around since 1846. Its not a new program. One dollar, the maximum you pay for a house under that program is twenty-five hundred dollars George, and when I say a dollar or twenty-five that's not the down payment, you have bought it for that amount of money and there are one hundred twenty-six cities within the United States that run the program.

#### DECISION AND ORDER

The Federal Trade Commission having initiated an investigation of certain acts and practices of the Wyatt Marketing Corporation, Inc., a corporation, and James R. Wyatt, individually and as an officer and director of said corporation ("respondent"), and the respondent having been furnished thereafter with a copy of a draft of complaint which the New York Regional office proposed to present to the Commission for its consideration and which, if issued by the Commission, would charge respondent with violation of the Federal Trade Commission Act; and

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

The Commission having thereafter considered the matter and having determined that it had reason to believe that the respondent has violated the said Act, and that a complaint should issue stating its charges in that respect, and having thereupon accepted the executed consent agreement and placed such agreement on the public record for a period of sixty (60) days, now in further conformity with the procedure prescribed in Section 2.34 of its Rules, the Commission hereby issues its complaint, makes the following jurisdictional findings and enters the following order:

1. Wyatt Marketing Corporation, Inc. (formerly doing business as James R. Wyatt & Associates and Cornerstone Publishing) is a corporation organized, existing, and doing business under and by virtue of the laws of the State of California, with its principal place of business located at 4231 Pacific Street, Suite 4, in the City of Rocklin, State of California.

2. Respondent James R. Wyatt, at all times pertinent herein, has been an officer of said corporation. Individually or in concert with others, he has formulated, directed, and controlled the policies, acts and practices of said corporation, and his principal office and place of business has been located at the above stated address.

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

#### ORDER

#### DEFINITION

For purposes of this order, "*grant*" shall mean any money or item of value that is given or awarded without a concomitant obligation to repay or to provide goods or services.

#### I.

*It is ordered*, That respondent James R. Wyatt, individually, and as an officer and director of Wyatt Marketing Corporation, Inc., a corporation, and respondent's agents, representatives, and employees, directly or through any partnership, corporation, subsidiary, division, or other device, in connection with the manufacturing, labeling, advertising, promotion, offering for sale, sale, or distribution of any product or service in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from selling, broadcasting, or otherwise disseminating, or assisting others to sell, broadcast or, otherwise disseminate, in part or in whole the program-length television advertisement entitled "Focus On Success" for the book entitled 101 Ways to Get Cash From the Government.

## II.

*It is further ordered,* That respondent James R. Wyatt, individually, and as an officer and director of Wyatt Marketing Corporation, Inc., a corporation, and respondent's agents, representatives, and employees, directly or through any partnership, corporation, subsidiary, division, or other device, in connection with the manufacturing, labeling, advertising, promotion, offering for sale, sale, or distribution of any product or service, in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from representing, in any manner, directly or by implication, that:

A. The Farmers Home Administration has or had \$5.7 billion in loan money available for individuals for the purchase of single family homes and apartments;

B. The book entitled 101 Ways To Get Cash From the Government gives the reader a telephone number to call to find out whether she or he has overpaid into the Social Security System and to determine whether she or he is entitled to a refund from the Social Security Administration;

C. Individuals can or could retire before age 65 and still collect full Social Security retirement benefits;

D. There is a federal agency that will or would loan an individual with a good idea for a business up to \$5 million to start a business or expand an existing small business at terms of 3 percent to 7.5 percent interest;

E. There is or was a federal government grant program available for college educational purposes under which a student may or could obtain up to \$11,000 annually;

F. There is or was a government student loan available at 3 percent interest;

G. The book entitled 101 Ways To Get From the Government contains information on seven different federally sponsored programs that allow individuals to buy a house with \$0 down and at loan terms of 1 percent annual interest; and

H. Consumers who make use of the book entitled 101 Ways To Get Cash From the Government realize or can realize an average of \$87,500 in government grants and loans.

## III.

*It is further ordered,* That respondent James R. Wyatt, individually, and as an officer and director of Wyatt Marketing Corporation, Inc., a corporation, and respondent's agents, representatives, and employees, directly or through any partnership, corporation, subsidiary, division, or other device, in connection with the manufacturing, labeling, advertising, promotion, offering for sale, sale, or distribution of any product or service, in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from making any direct or implied representation concerning:

A. The availability of grants, loans or other benefits from any source for any purpose;

B. Whether any book or other writing contains information about a particular subject or topic;

C. The terms or conditions upon which any person, firm, agency, or institution will award a grant, loan or other benefit to any other person, firm, or organization;

D. The terms or conditions of any government or private business opportunity, business assistance program, grant program, educational program, loan program, housing procurement or other procurement program; or

E. Any method or technique for starting, operating, or financing any profession or business;

unless, at the time of making such representation, respondent possesses and relies upon competent and reliable evidence that substantiates the representation; provided, however, that whenever respondent represents that any book or other writing contains information about a particular subject or topic, subpart B. shall not be construed to require respondent to possess and rely upon evidence that such information in said book or other writing is true, but only that it is present in said book or other writing.

## IV.

*It is further ordered,* That respondent James R. Wyatt, individually, and as an officer and director of Wyatt Marketing

Corporation, Inc., and respondent's agents, representatives, and employees, directly or through any partnership, corporation, subsidiary, division, or other device, in connection with the advertising, promotion, offering for sale, sale or distribution of any product or service, in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from creating, producing, selling or disseminating:

A. Any advertisement that misrepresents, directly or by implication, that it is not a paid advertisement; and

B. Any commercial or other video advertisement fifteen (15) minutes in length or longer or intended to fill a broadcasting or cable casting time slot of fifteen (15) minutes in length or longer that does not display visually, in a clear and prominent manner and for a length of time sufficient for an ordinary consumer to read, within the first thirty (30) seconds of the commercial and immediately before each presentation of ordering instructions for the product or service, the following disclosure:

"THE PROGRAM YOU ARE WATCHING IS A PAID ADVERTISEMENT FOR [THE PRODUCT OR SERVICE]."

Provided that, for the purposes of this provision, the oral or visual presentation of the telephone number or address for viewers to contact to place an order for the product or service shall be deemed a presentation of ordering instructions so as to require the display of the disclosure provided herein.

#### V.

*It is further ordered,* That for five (5) years after the last date of dissemination of any representation covered by this order, respondent shall maintain and upon request make available to the Federal Trade Commission for inspection and copying, within five (5) business days of such request:

A. All materials that were relied upon in disseminating such representation; and

B. All tests, reports, studies, surveys, demonstrations or other evidence in their possession or control that contradict, qualify, or call

into question such representation, or the basis relied upon for such representation, including complaints from consumers.

## VI.

*It is further ordered:*

A. That respondent shall pay to the Federal Trade Commission as consumer redress the sum of two million and five hundred and sixty-eight thousand and four hundred and forty-three dollars (\$2,568,443); provided however, that this liability will be suspended, subject to the provisions of subparts B and C below.

B. That any funds paid by respondent pursuant to subpart A above shall be paid into a redress fund administered by the Federal Trade Commission and shall be used to provide direct redress to purchasers of the book *101 Ways To Get Cash From the Government*, by respondent James R. Wyatt. If the Federal Trade Commission determines, in its sole discretion, that redress to purchasers is wholly or partially impracticable, any funds not so used shall be paid to the United States Treasury. Respondent shall be notified as to how the funds are disbursed, but shall have no right to contest the manner of distribution chosen by the Commission.

C. That the Commission's acceptance of this order is expressly premised upon the financial statements and related documents provided by respondent to the Federal Trade Commission, including the Financial Statement of Debtor form that was executed by James R. Wyatt on November 15, 1992, and respondent's written responses to Commission inquiries, subsequently submitted in January 1993 to the Federal Trade Commission (together designated as the "Financial Statements"). After service upon the respondent of an order to show cause, the Federal Trade Commission may reopen this proceeding to make a determination whether there are any material misrepresentations or omissions in said financial statements and related documents. Respondent shall be given an opportunity to present evidence on this issue. If, upon consideration of respondent's evidence and other information before it, the Commission determines that there are any material misrepresentations or omissions in said financial statements and related documents, that determination shall cause the entire amount of monetary liability of two million and five hundred and sixty-eight thousand and four hundred and forty-three

dollars (\$2,568,443) to become immediately due and payable to the Federal Trade Commission, and interest computed at the rate prescribed in 28 U.S.C. 1961, as amended, shall immediately begin to accrue on any unpaid balance. Proceedings initiated under Part VI are in addition to, and not in lieu of, any other civil or criminal remedies as may be provided by law, including any proceedings the Federal Trade Commission may initiate to enforce this order.

D. Any and all payments required under paragraph A, including any amounts that may be required pursuant to paragraph C, constitute compensation for money obtained by false pretenses, a false representation, or actual fraud, and do not constitute a penalty of any sort whatsoever.

## VII.

*It is further ordered,* That respondent shall:

A. Within thirty (30) days after service of this order, provide a copy of this order to each of respondent's current principals, officers, directors, and managers, and to all persons, agents and representatives having sales advertising, or policy responsibility with respect to the subject matter of this order; and

B. For a period of ten (10) years from the date of entry of this order, provide a copy of this order to each of respondent's principals, officers, directors, and managers, and to all personnel, agents, and representatives having sales, advertising, or policy responsibility with respect to the subject matter of this order who are associated with respondent directly or through any corporation, partnership, subsidiary, or division, within three (3) days after the person assumes his or her position.

## VIII.

*It is further ordered,* That respondent shall, for a period of ten (10) years from the date of entry of this order, notify the Federal Trade Commission within thirty (30) days of the discontinuance of his present business or employment and of his affiliation with any new business or employment. Each notice of affiliation with any new business or employment shall include the respondent's new business

address and telephone number, and a statement describing the nature of the business or employment and his duties and responsibilities.

IX.

*It is further ordered*, That respondent shall, within sixty (60) days after the date of service of this order, file with the Federal Trade Commission a report, in writing, setting forth in detail the manner and form in which he has complied with this order.

CONCURRING STATEMENT OF COMMISSIONER ROSCOE B. STAREK, III

Although I have voted to approve final issuance of the complaint and consent order in this matter, I have reservations about the proviso to one of the substantiation requirements set forth in Part III of the order. That proviso is designed to accommodate the Commission's Mirror Image Doctrine, which provides as follows:

The Commission, as a matter of policy, ordinarily will not proceed against advertising claims which promote the sale of books or other publications: *Provided*, The advertising only purports to express the opinion of the author or to quote the contents of the publication; the advertising discloses the source of statements quoted or derived from the contents of the publication; and the advertising discloses the author to be the source of opinions expressed about the publication. Whether the advice being offered by the publication will achieve, in fact, the results claimed for it in the advertising will not be controlling if appropriate disclosures have been made. This policy does not apply, however, if the publication, or its advertising, is used to promote the sale of some other product as part of a commercial scheme.

Advertising in Books, Enforcement Policy, 36 Fed. Reg. 13,414 (1971). The order proviso in Part III states as follows:

[W]henever respondent represents that any book or other writing contains information about a particular subject or topic, [the referenced substantiation provision] shall not be construed to require respondent to possess and rely upon evidence that such information in said book or other writing is true, but only that it is present in said book or other writing.

While the Mirror Image Doctrine is designed to accommodate the Commission's enforcement authority with the protections of the First Amendment, it is at heart a statement of the Commission's enforcement policy, *i.e.*, how the Commission intends to exercise its prosecutorial discretion in cases involving advertising of books and



publications. Not all Commission cases involving advertising for books and publications have included a Mirror Image Doctrine proviso.<sup>1</sup> Including such a proviso in an order may raise enforcement difficulties. An inventive respondent could specifically design a deceptive scheme to bring its actions within the protection of a Mirror Image Doctrine order proviso. In addition, a court enforcing the order might construe the proviso more favorably for the defendant than the Commission considers proper.

Further, I am concerned about the particular language of the proviso in the order in this case. It does not require the respondents to make the disclosures required under the Mirror Image Doctrine, and it does not include the exemption from protection for publications used to promote the sale of other products. The ability of a respondent to circumvent the proviso would be limited if the proviso more closely tracked the Commission's Mirror Image Doctrine. Accordingly, in order to limit the possibility that our orders will protect deceptive speech that is not First Amendment-protected, I would prefer that, if safe harbors designed to accommodate the Mirror Image Doctrine are used in the future, they incorporate all of the Doctrine's clauses.<sup>2</sup>

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<sup>1</sup> *E.g.*, Del Dotto Enterprises, FTC Dkt. No. 9257 (April 21, 1994) (consent order).

<sup>2</sup> *E.g.*, *FTC v. National Credit Savers, Inc.*, No. 91-A-1218-S (M.D. Ala. Dec. 21, 1992) (final judgment and consent order).

## IN THE MATTER OF

## KEYES FIBRE COMPANY

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

*Docket C-3512. Complaint, Aug. 2, 1994--Decision, Aug. 2, 1994*

This consent order prohibits, among other things, a Connecticut-based company, that manufactures Chinet disposable tableware, from representing that any of its paper products or packages are degradable, biodegradable, or photodegradable, or offers any environmental benefits when disposed of in a sanitary landfill, unless the respondent possesses competent and reliable scientific evidence to substantiate such representation. In addition, the consent order prohibits the respondent from misrepresenting the extent to which any paper product or package is capable of being recycled or the extent to which recycling collection programs are available.

*Appearances*

For the Commission: *Michael Dershowitz.*

For the respondent: *William L. Patton and Lisa Ropple, Ropes & Gray, Boston, MA.*

## COMPLAINT

The Federal Trade Commission, having reason to believe that Keyes Fibre Company, a corporation (“respondent”), has violated the provisions of the Federal Trade Commission Act, and it appearing to the Commission that a proceeding by it in respect thereof would be in the public interest, alleges:

PARAGRAPH 1. Respondent Keyes Fibre Company (“Keyes Fibre”), is a Delaware corporation with its principal office or place of business at 301 Merritt 7, Norwalk, Connecticut.

PAR. 2. Respondent has manufactured, advertised, labeled, offered for sale, sold, and distributed disposable paper tableware products, including Chinet<sup>®</sup> disposable tableware, and other products to the public.

PAR. 3. The acts and practice of respondent alleged in this complaint have been in or affecting commerce, as “commerce” is defined in Section 4 of the Federal Trade Commission Act.

PAR. 4. Respondent has disseminated or has caused to be disseminated advertisements, including product labeling and other promotional materials, for its Chinet® disposable tableware, including but not necessarily limited to the attached Exhibits A - H.

The aforesaid product labeling (Exhibit A) includes the following statement:

BIODEGRADABLE

The aforesaid product labeling (Exhibit B) includes the following statement:

100% BIODEGRADABLE

The aforesaid promotional material (Exhibit C) includes the following statement:

ECOLOGICALLY SOUND.

Chinet® is 100% biodegradable in landfill operations . . . .

The aforesaid promotional material (Exhibit D) includes the following statements:

Biodegradable

. . . While not everyone is in agreement with regard to solid waste management, most concur that a solution can be found in the combined use of landfills, recycling/composting and waste-to-energy incineration. Concerned consumers can feel confident that Chinet® paper plates perform in whatever disposal method is used in their community.

The aforesaid promotional material (Exhibit E) includes the following statements:

Protecting the Environment

. . . Chinet® is . . . fully biodegradable . . . . And . . . it degrades much faster than most ordinary paper plates.

In a 12-week soil-burial study, an independent research firm tested Chinet® against seven other types of paper and plastic plates. Products were labeled and buried in open mesh bags in an environment simulating a landfill. Every two weeks, they were unearthed and examined for signs of deterioration.

Chinet® plates reached an advanced state of decomposition in just two weeks. The other plastic and foam plates showed almost no signs of deterioration after 12 weeks.

The aforesaid promotional material (Exhibit F) includes the following statements:

Unlike foam and plastic alternatives, our molded fiber paper products are biodegradable and can be safely and efficiently disposed of in virtually any method of solid waste management, including waste-to-energy incineration and municipal composting.

Regardless of what it is used for, molded fiber paper is the responsible alternative to foam and plastic. It offers a viable solution to today's methods of solid waste disposal.

We have commissioned independent studies which compare the biodegradability of molded fiber paper, laminated paper, plastic and polystyrene foam. The studies show that Keyes molded fiber paper products biodegrade faster than any of the other materials. In fact, the [Chinet®] molded fiber paper almost completely decomposed in two weeks, while plastic and foam products remained intact indefinitely.

The aforesaid promotional material (Exhibit G) includes the following statements:

WE CARE ABOUT THE ENVIRONMENT

That's why we use biodegradable tableware.

Chinet® makes food look good and its biodegradability is a good step in controlling solid waste volume.

It also contains a three chasing arrow symbol with the words "RECYCLE" and "BIODEGRADABLE" around it.

The aforesaid promotional material (Exhibit H) includes the following statements:

Chinet® disposable tableware, the environmentally sound line of molded paper products (they're biodegradable, made from recycled paper, and are recyclable, especially via municipal composting) . . . .

Look for products that are biodegradable. Contrary to claims that biodegradability isn't important, it will be a key attribute as more cities turn to composting of solid waste as an alternative to landfills. Municipal composting works with biodegradable material *only*.

. . . it's biodegradable and recyclable, especially via composting. And don't forget that biodegradable products are recyclable via municipal composting.

PAR. 5. Through the use of the statements contained in the advertisements referred to in paragraph four, including but not necessarily limited to the advertisements attached as Exhibits A - H, respondent has represented, directly or by implication, that:

A. Chinet<sup>®</sup> disposable tableware will completely break down and return to nature -- *i.e.*, decompose into elements found in nature -- within a reasonably short period of time after customary disposal.

B. Chinet<sup>®</sup> disposable tableware offers a significant environmental benefit after customary disposal.

PAR. 6. Through the use of the statements contained in the advertisements referred to in paragraph four, including but not necessarily limited to the advertisement attached as Exhibit G, respondent has represented, directly or by implication, that Chinet disposable tableware will completely break down and return to nature -- *i.e.*, compose into elements found in nature -- within a short enough period of time after customary disposal to significantly reduce the amount of garbage in landfills.

PAR. 7. Through the use of the statements contained in the advertisements referred to in paragraph four, including but not necessarily limited to the advertisements attached as Exhibits E and F, respondent has represented, directly or by implication, that after customary disposal Chinet<sup>®</sup> disposable tableware will completely break down and return to nature -- *i.e.*, decompose into elements found in nature significantly faster than other paper plates, or plastic or foam products, to provide a significant environmental benefit.

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

PAR. 9. In truth and in fact, at the time it made the representations set forth in paragraphs five, six and seven, respondent did not possess and rely upon a reasonable basis that substantiated such representations. Therefore, the representation set forth in paragraph ten was, and is, false and misleading.

PAR. 10. Through the use of the statements contained in the advertisements referred to in paragraph four, including but not necessarily limited to the advertisements attached as Exhibits F and

H, respondent has represented, directly or by implication, that Chinet® disposable tableware is compostable through municipal solid waste composting.

PAR. 11. In truth and in fact, while Chinet® disposable tableware is capable of being composted in municipal solid waste composting facilities, the vast majority of consumers cannot compost the product through municipal solid waste composting because there are only a few municipal solid waste composting facilities nationwide. Therefore, the representation set forth in paragraph ten was, and is, false and misleading.

PAR. 12. Through the use of the statements and depictions contained in the advertisements referred to in paragraph four, including but not necessarily limited to the advertisements attached as Exhibits G and H, respondent has represented, directly or by implication, that Chinet® disposable tableware is recyclable after ordinary use.

PAR. 13. In truth and in fact, while Chinet® disposable tableware is capable of being recycled, the vast majority of consumers cannot recycle the product because there are virtually no collection facilities that accept used Chinet® disposable tableware for recycling. Therefore, the representation set forth in paragraph twelve was, and is, false and misleading.

PAR. 14. Through the use of the statements and depictions contained in the advertisements referred to in paragraph four, including but not necessarily limited to the advertisements attached as Exhibits F - H, respondent has represented, directly or by implication, that at the time it made the representations set forth in paragraphs ten and twelve, respondent possessed and relied upon a reasonable basis that substantiated such representations.

PAR. 15. In truth and in fact, at the time it made the representations set forth in paragraphs ten and twelve, respondent did not possess and rely upon a reasonable basis that substantiated such representations. Therefore, the representation set forth in paragraph fourteen was, and is, false and misleading.

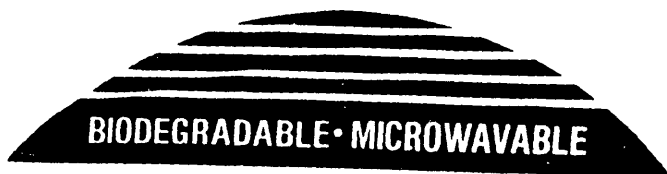
PAR. 16. The acts and practices of respondent as alleged in this complaint constitute unfair or deceptive acts or practices in or affecting commerce in violation of Section 5(a) of the Federal Trade Commission Act.

Complaint

EXHIBIT A



9223045  
B158142



# Chinet

**THE NEXT BEST THING TO CHINA**



- NO LEAKS
- NO DRIPS
- NO DISASTERS



25-8<sup>3</sup>/<sub>4</sub> IN.

DISPOSABLE LUNCH PLATE  
KEYES FIBRE CO., PANY, NORWALK, CT

Exhibit A

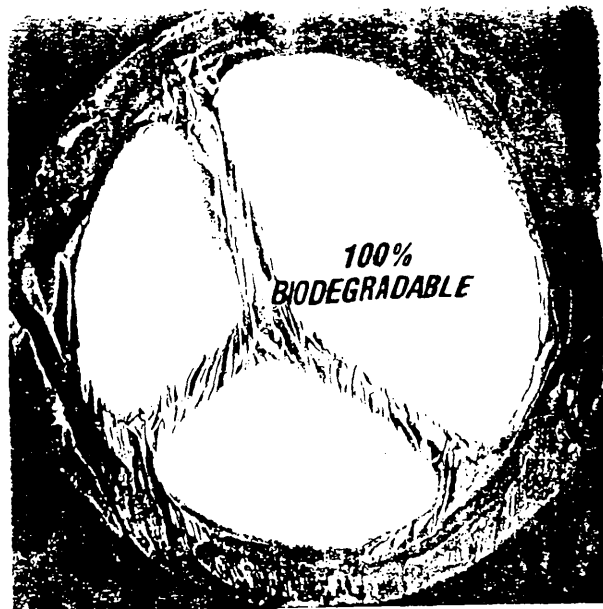
Complaint

118 F.T.C.

EXHIBIT B



Front of package



Back of package

Exhibit B



## EXHIBIT C



## WHAT'S SO GOOD ABOUT IT?

- =====
- **RIGID.** As strong as any disposable plate on the market, and stronger than most. Rigid enough for any food service application.
  - **ANTI-LEAK PROTECTION.** Resists penetration from grease, water and oil; even 350° french fry oil!
  - **MICROWAVE SAFE.** Try to fry bacon in a microwave on a styrene plate. Good luck! But, Chinet<sup>®</sup> is completely microwave safe.
  - **WHITER THAN EVER.** Chinet<sup>®</sup> has a "china-like" appearance. As "white" as any plastic.
  - **TWO STOCK PRINT DESIGNS,** at no extra cost! Our Value Enhancer designs are functional too.
  - **DEEP DISH DESIGN** for ease in serving entrees on Chinet<sup>®</sup> plate, and keeping them there.
  - **MATTE FINISH.** Sauces and gravies "cling" better to a Chinet<sup>®</sup> plate, instead of "beading up" on the slick surface of plastic.
  - **VERSATILITY.** Chinet<sup>®</sup> comes in every possible shape and size for any possible function. This versatility aids portion control planning.
  - **ECOLOGICALLY SOUND.** Chinet<sup>®</sup> is 100% biodegradable in landfill operations, and burns clean, without polluting, when incinerated. And, it's made from a renewable resource!

WHAT'S SO GOOD ABOUT CHINET<sup>®</sup>? **PLENTY**

# Just how beneficial are we?

## Made from Recycled Paper

- The manufacturing process of Chinet® molded paper plates recycles approximately 35,000 tons of paper per year.
- Every ton of paper recycled can save 17 trees and conserve related energy costs in processing to pulp.
- Recycling also reduces the amount of solid waste going into landfills.

## Biodegradable



bio-de-grad-able: Readily decomposed by bacterial action.

- Biodegradability is an integral part of composting technology - a fast-emerging, solid waste recycling method.
- Chinet® paper plates are the ideal choice as they do not have a plastic or wax coating that may interfere with decomposition.

While not everyone is in agreement with regard to solid waste management, most concur that a solution can be found in the combined use of landfills, recycling/composting and waste-to-energy incineration. Concerned consumers can feel confident that Chinet® paper plates perform in whatever disposal method is used in their community.

The Original Molded Paper Plate

Exhibit D

00013

150

Complaint

## EXHIBIT E

*Chinet*

Quality  
from  
Start  
to  
Finish



Soil burial site preparation

## Protecting the Environment

It's been called the "greening" of America: growing concern among consumers about the environmental impact of every product they buy. From plastics to paper, and from Maine to Maui, consumers are increasingly looking at biodegradability as an important factor in their buying decisions.

Chinet is the strongest disposable plate money can buy, and completely biodegradable. In fact, Chinet is one of the few fully biodegradable lines. And despite its remarkable strength, it degrades much faster than most ordinary paper plates.

In a 12-week soil-burial study, an independent research firm tested Chinet against seven other types of paper and plastic plates. Products were labeled and buried in open



Chinet plate before burial



Chinet plate after 12 weeks

mesh bags in an environment simulating a landfill. Every two weeks, they were unearthed and examined for signs of deterioration.

Chinet plates reached an advanced state of decomposition in just two weeks. The other plastic and foam plates showed almost no signs of deterioration after 12 weeks.

In a recent nationwide survey conducted by the Michael Peters Group, 89% of American consumers are concerned about the environmental impact of

products purchased, and 78% said they're willing to pay more for recyclable or biodegradable packaging.

Chinet doesn't just keep the kitchen clean - it keeps the environment clean. For a growing number of environmentally conscious consumers, that's one more reason to buy Chinet.

00022

EXHIBIT E





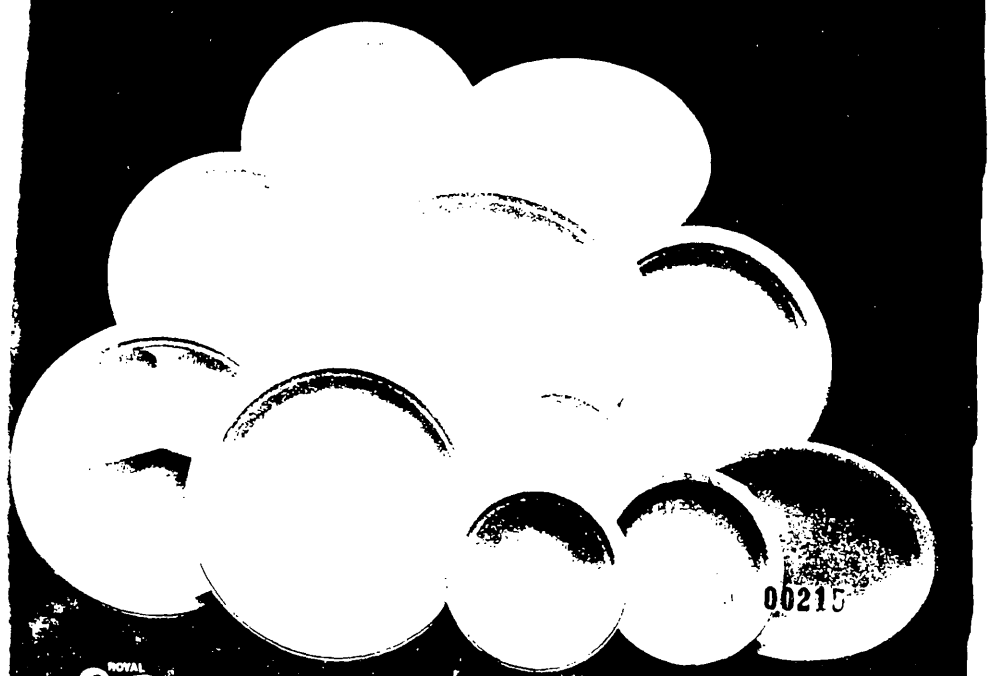
Complaint

118 F.T.C.

EXHIBIT G  
(FRONT)

**WE CARE ABOUT THE ENVIRONMENT**

**That's why we  
use biodegradable  
tableware.**



**ROYAL  
Chinet**  
DISPOSABLE TABLEWARE

00215

RECYCLE  
BIODEGRADABLE

Exhibit G  
(front)



Complaint

EXHIBIT H

T I P S  
FOR A...  
G R E E N  
K I T C H E N

00022

Probably make a greener mistake than he who did nothing because he could only do a little.

— Edmund Burke

Likewise, every single thing we do, no matter how great or small, either adds to or subtracts from the environment. We address a address to me.

Fortunately, most of us do daily quantitative and do not do it in a way that is not sustainable. Unfortunately, the task at hand can be very overwhelming. It's hard to know where to start.

Why not begin right in your own kitchen? You can make the most of what you have and make the most of what you have. You can make the most of what you have and make the most of what you have.



HERE'S YOUR TIPS FOR YOUR SHOPPING CART:

- Look for certain cartons, crates, and other dry goods packaged in materials made from recycled paper. The boxes will look grey inside instead of white.
- Buy items like condiments, baby foods, and soups in recyclable glass jars instead of plastic.
- Buy eggs in unlined paper cartons — usually made from recycled paper — instead of polystyrene foam cartons.

Buy in bulk whenever possible, or the larger the package size available.

- Recycle by washing products with multi-layered packaging, e.g., a plastic container sealed with foil, wrapped in more plastic and contained in a box.
- Avoid "squeezeable" plastic containers. They are made of several layers of different plastics and are not recyclable.
- Look for products that are biodegradable. They are made from natural materials and break down naturally. They are made from natural materials and break down naturally.

When buying disposable tableware, choose paper — preferably recycled paper — over foam or plastic. The best choice is unbleached paper — it's biodegradable and recyclable, especially via composting.

When you go to the store for an extra or bag to use, bring your own. Take a canvas or string bag to use for your purchases.

The best greenery bags are reusable ones that you can use over and over again. They are made from recycled paper instead of plastic. They are made from recycled paper instead of plastic.



SMART STORAGE IDEAS

- Choose reusable containers to store food instead of tin or plastic wrap.
- Use biodegradable waxed paper to wrap sandwiches instead of plastic bags.

Before you throw them out, rinse and soap your plastic cups — rings used for canned juice, soda, and beer. The plastic bottles are harmful to nature and other wildlife.



CLEANING AND LAUNDRY

- When washing dishes, fill a basin rather than the entire sink. Start the dishwasher only when it's full to save water and energy.
- Use liquid dishwasher detergent instead of phosphate-containing products.
- Merrowm use only 1 to 1 1/2 as much energy as 200-watt incandescent light bulbs. They are also more energy efficient.
- Buy appliances with the highest energy rating.



RECYCLING WRAP UP

- Recycle everything possible — glass, aluminum, newspapers, food and cardboard.
- Look for products with the international recycling symbol. They make sure you recycle them.
- Buy products made from recycled materials. It will say so on the label. For example, Clorox's disinfectant is made from recycled paper. Paper that could have ended up in the water stream.
- And don't forget that biodegradable products are recyclable to some extent, too.



## DECISION AND ORDER

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

The respondent, its attorneys, and counsel for the Commission having thereafter executed an agreement containing a consent order, an admission by the respondent of all the jurisdictional facts set forth in the aforesaid draft complaint, a statement that the signing of the agreement is for settlement purposes only and does not constitute an admission by respondent that the law has been violated as alleged in such complaint, and waivers and other provisions as required by the Commission's Rules; and

The Commission having thereafter considered the matter and having determined that it had reason to believe that the respondent has violated the Act, and that complaint should issue stating its charges in that respect, and having thereupon accepted the executed consent agreement and placed such agreement on the public record for a period of sixty (60) days, now in further conformity with the procedure prescribed in Section 2.34 of its Rules, the Commission hereby issues its complaint, makes the following jurisdictional findings, and enters the following order:

1. Respondent Keyes Fibre Company is a corporation organized, existing and doing business under and by virtue of the laws of the State of Delaware, with its office and principal place of business located at 301 Merritt 7, in the City of Norwalk, State of Connecticut.
2. The Federal Trade Commission has jurisdiction of the subject matter of this proceeding and of the respondent, and the proceeding is in the public interest.

## ORDER

## DEFINITIONS

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

The term “*product or package*” means any product or package that is offered for sale, sold or distributed to the public by respondent, its successors and assigns, under the Chinet<sup>®</sup> brand name or any other brand name of respondent, its successors and assigns; and also means any product or package sold or distributed to the public by third parties under private labeling agreements with respondent, its successors and assigns.

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

## I.

A. *It is ordered*, That respondent Keyes Fibre Company, a corporation, its successors and assigns, and its officers, agents, representatives, and employees, directly or through any corporation, subsidiary, division, or other device, in connection with the manufacturing, labeling, advertising, promotion, offering for sale, sale, or distribution of any paper product or package in or affecting commerce, as “commerce” is defined in the Federal Trade Commission Act, do forthwith cease and desist from representing, in any manner, directly or by implication:

(1) That any such product or package is degradable, biodegradable, or photo degradable; or,

(2) Through the use of such terms as degradable, biodegradable, or photo degradable, or any other similar term or expression, that any such product or package offers any environmental benefits when consumers dispose of it as trash that is buried in a sanitary landfill,

unless at the time of making such representation, respondent possesses and relies upon competent and reliable scientific evidence that substantiates the representation.

B. Provided, however, respondent will not be in violation of Part I(A) of this order, in connection with the advertising, labeling, offering for sale, sale, or distribution of any paper product or package, if it truthfully represents that such product or package will degrade into usable compost (*e.g.*, soil-conditioning material, mulch) in a safe and timely manner, when disposed of in home compost piles or devices or in municipal solid waste composting facilities, provided that respondent complies with Part II of this order and discloses clearly, prominently, and in close proximity to such representation that such product or package is not designed to degrade in landfills.

## II.

A. *It is further ordered*, That respondent, Keyes Fibre Company, a corporation, its successors and assigns, and its officers, agents, representatives, and employees, directly or through any corporation, subsidiary, division, or other device, in connection with the manufacturing, labeling, advertising, promotion, offering for sale, sale, or distribution of any paper product or package in or affecting commerce, as “commerce” is defined in the Federal Trade Commission Act, do forthwith cease and desist from misrepresenting, in any manner, directly or by implication, the extent to which any such product or package can be composted by any means or the extent to which municipal solid waste composting facilities for such product or package are available.

B. Provided, however, respondent will not be in violation of Part II(A) of this order, in connection with the advertising, labeling, offering for sale, sale, or distribution of any paper product or package, if it truthfully represents that such product or package will compost or otherwise be converted into usable compost (*e.g.*, soil-conditioning material, mulch) in a safe and timely manner, when disposed of in home compost piles or devices or in municipal solid waste composting facilities, provided that respondent discloses clearly, prominently, and in close proximity to any representation referring or relating to municipal solid waste composting:

(1) That such product or package is compostable where municipal solid waste composting facilities exist, and the current number of municipal solid waste composting facilities in the U.S.; or

(2) That such product or package is compostable in the few communities with municipal solid waste composting facilities; or

(3) The approximate percentage of U.S. communities or the U.S. population to which municipal solid waste composting facilities are available.

For purposes of this order, a disclosure elsewhere on the product package shall be deemed to be “in close proximity” to such terms if there is a clear and conspicuous cross-reference to the disclosure. The use of an asterisk or other symbol shall not constitute a clear and conspicuous cross-reference. A cross-reference shall be deemed clear and conspicuous if it is of sufficient prominence to be readily noticeable and readable by the prospective purchaser when examining the part of the package on which the representation appears.

### III.

*It is further ordered*, That respondent, Keyes Fibre Company, a corporation, its successors and assigns, and its officers, agents, representatives, and employees, directly or through any corporation, subsidiary, division, or other device, in connection with the manufacturing, labeling, advertising, promotion, offering for sale, sale, or distribution of any paper product or package in or affecting commerce, as “commerce” is defined in the Federal Trade Commission Act, do forthwith cease and desist from misrepresenting, in any manner, directly or by implication, the extent to which any such product or package is capable of being recycled or the extent to which recycling collection programs for such product or package are available.

### IV.

*It is further ordered*, That respondent, Keyes Fibre Company, a corporation, its successors and assigns, and its officers, agents, representatives, and employees, directly or through any corporation, subsidiary, division, or other device, in connection with the

manufacturing, labeling, advertising, promotion, offering for sale, sale, or distribution of any product or package in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from representing, in any manner, directly or by implication, that any product or package offers any environmental benefit, unless at the time of making such representation, respondent possesses and relies upon competent and reliable evidence, which when appropriate must be competent and reliable scientific evidence, that substantiates such representation.

V.

Nothing in this order shall prevent respondent from using any of the terms cited in Parts I, II and III, or similar terms or expressions, if necessary to comply with any federal rule, regulation, or law governing the use of such terms in advertising or labeling.

VI.

*It is further ordered,* That for five (5) years after the last date of dissemination of any representation covered by this order, respondent, or its successors and assigns, shall maintain and upon request make available to the Federal Trade Commission for inspection and copying:

A. All materials that were relied upon in disseminating such representation; and

B. All tests, reports, studies, surveys, demonstrations, or other evidence in its possession or control that contradict, qualify, or call into question such representation, or the basis relied upon for such representation, including complaints from consumers.

VII.

*It is further ordered,* That the respondent shall distribute a copy of this order to each of its operating divisions and to each of its officers, agents, representatives, or employees engaged in the preparation and placement of advertisements, promotional materials, product labels or other such sales materials covered by this order.

## VIII.

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

## IX.

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

## IN THE MATTER OF

## LIFESTYLE FASCINATION, INC., ET AL.

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

*Docket C-3513. Complaint, Aug. 4, 1994--Decision, Aug. 4, 1994*

This consent order prohibits, among other things, a New Jersey-based corporation, its owner, and its general manager from making specified false representations for five products (a gasoline additive, an automobile retrofit device, an electric stimulation device, an electric acupuncture device, and pinhole eyeglasses), advertised in their catalog. It also prohibits the respondents from making any claim regarding the performance, safety, attributes, benefits, or efficacy of the electric and electronic products they market unless they possess competent and reliable scientific evidence that substantiates the representation. In addition, the consent order prohibits the respondents from misrepresenting the existence, contents, validity, results, conclusions, or interpretations of any test or study, and from misrepresenting that any endorsement or testimonial for health related products represents the typical or ordinary experiences of users.

*Appearances*

For the Commission: *Lesley A. Fair, Joel Winston, Loren Weinstein, C. Lee Peeler and Christian White.*

For the respondents: *Robert Ullman, Bass & Ullman, New York, N.Y.*

## COMPLAINT

The Federal Trade Commission, having reason to believe that Lifestyle Fascination, Inc., a corporation, Eli Zabare, individually and as an officer of said corporation, and Simon Pantierer, individually ("respondents"), have violated the provisions of the Federal Trade Commission Act, and it appearing to the Commission that a proceeding by it in respect thereof would be in the public interest, alleges:

PARAGRAPH 1. Respondent Lifestyle Fascination, Inc. is a Delaware corporation with its office and principal place of business located at 12 Progress Place, Jackson, New Jersey. Respondent Eli Zabare is the owner, president and sole officer of the corporate

respondent. Respondent Simon Pantierer is the general manager of the corporate respondent. These individual respondents have their offices and principal places of business at 12 Progress Place, Jackson, New Jersey. Respondents Zabare and Pantierer formulate, direct, and control the acts and practices of the corporate respondent, including the acts and practices alleged in this complaint.

PAR. 2. Respondents have advertised, offered for sale, sold, and distributed consumer products through their Lifestyle Fascination mail-order catalogue. These products include, but are not limited to, Fuelon, an automotive fuel additive; the Vitalizer, an automotive retrofit device; the Brain Tuner, a purported electro-stimulation device; the Rhythm, a purported electronic acupuncture device; and the Aerobic Eye Exercise Glasses, plastic eyeglasses with opaque lenses containing multiple pinholes. The Brain Tuner, the Rhythm, and the Aerobic Eye Exercise Glasses are devices within the meaning of Sections 12 and 15 of the Federal Trade Commission Act.

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

#### Fuelon Fuel Additive

PAR. 4. Respondents have disseminated or have caused to be disseminated advertisements for Fuelon, including but not necessarily limited to the attached Exhibit A. This advertisement contains the following statements:

"Don't be held hostage by petroleum prices - Get 15% to 40% more miles per gallon with just one ounce of Fuelon, the miracle new fuel additive! One ounce in a tankful of gas (two ounces for diesel) will give your car or truck an internal engine tune-up every time you drive. Say goodbye to morning start-up problems. No more 'knocks' and 'pings' as your car climbs hills or overtakes on a highway. What's more: by making your fuel burn at peak efficiency, Fuelon will ensure that your car passes the yearly emissions inspection with ease - year after year."

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



A. Under normal driving conditions, when used as directed, consumers can increase their gas mileage by between 15% and 40% by adding one ounce of Fuelon to their gas tanks;

B. The use of Fuelon will ensure that a car will pass government emissions inspections.

PAR. 6. In truth and in fact:

A. Under normal driving conditions, when used as directed, consumers will not increase their gas mileage by between 15% and 40% by adding one ounce of Fuelon to their gas tanks;

B. The use of Fuelon will not ensure that a car will pass government emissions inspections.

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

PAR. 7. Through the use of the statements contained in the advertisements referred to in paragraph four, including but not necessarily limited to the advertisement attached as Exhibit A, respondents have represented, directly or by implication, that the use of Fuelon provides the benefits of an engine tune up, including the elimination of morning start-up problems, and engine knocking and pinging.

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

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

#### The Vitalizer Automobile Retrofit Device

PAR. 10. Respondents have disseminated or have caused to be disseminated advertisements for the Vitalizer automobile retrofit

device, including but not necessarily limited to the attached Exhibit B. This advertisement contains the following statements:

“Now your car can get that ‘winning-edge’ with increased performance and fuel economy while reducing polluting emissions! Go with this secret of race car drivers-Vitalizer is currently used by race car drivers to help provide a winning edge through increased power and mileage. Now, after years of research, you can benefit from this much need [sic] breakthrough in combustion vehicle engineering with Vitalizer! . . . But don’t just take my word for it, listen to the experts. I’m sitting here with stacks of testimonials and documentation from engineers, mechanics, state emission control stations, trade publications, trucking firms, auto centers, city bus operators and folks like you and me. Even radio station KFOX in Encino, California tested Vitalizer on 16 vehicles! Vitalizer was tested for years on old vehicles as well as new ones. Here’s what all this means to you: You are absolutely guaranteed to get up to 23% more miles per gallon, cut exhaust emissions up to 90%, increase engine power - faster acceleration and top-end speed or your money back!”

PAR. 11. Through the use of the statements contained in the advertisements referred to in paragraph ten, including but not necessarily limited to the advertisement attached as Exhibit B, respondents have represented, directly or by implication, that:

A. Under normal driving conditions, when used as directed, an appreciable number of consumers will increase their gas mileage by 23%, or close to 23%, when the Vitalizer is installed in their automobiles;

B. Under normal driving conditions, when used as directed, an appreciable number of consumers will obtain reduced exhaust emissions of 90%, or close to 90%, when the Vitalizer is installed in their automobiles;

C. Tests, research and expert evaluations prove that the Vitalizer reduces polluting emissions by up to 90% and increases fuel economy by up to 23%.

PAR. 12. In truth and in fact:

A. Under normal driving conditions, when used as directed, in few, if any, cases will consumers increase their gas mileage by 23%, or close to 23%, when the Vitalizer is installed in their automobiles;

B. Under normal driving conditions, when used as directed, in few, if any, cases will consumers reduce their exhaust emissions by

90%, or close to 90%, when the Vitalizer is installed in their automobiles;

C. Tests, research and expert evaluations do not prove that the Vitalizer reduces polluting exhaust emissions by up to 90% or increases fuel economy by up to 23%.

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

PAR. 13. Through the use of the statements contained in the advertisements referred to in paragraph ten, including but not necessarily limited to the advertisement attached as Exhibit B, respondents have represented, directly or by implication, that use of the Vitalizer will increase engine power, including faster acceleration and top-end speed.

PAR. 14. Through the use of the statements contained in the advertisements referred to in paragraph ten, including but not necessarily limited to the advertisement attached as Exhibit B, respondents have represented, directly or by implication, that at the time they made the representations set forth in paragraphs eleven and thirteen, respondents possessed and relied upon a reasonable basis that substantiated such representations.

PAR. 15. In truth and in fact, at the time they made the representations set forth in paragraphs eleven and thirteen, respondents did not possess and rely upon a reasonable basis that substantiated such representations. Therefore, the representation set forth in paragraph fourteen was, and is, false and misleading.

#### The Brain Tuner Electro-Stimulation Device

PAR. 16. Respondents have disseminated or have caused to be disseminated advertisements for the Brain Tuner electro-stimulation device, including but not necessarily limited to the attached Exhibit C. This advertisement contains the following statements:

“Increase your I.Q., expand your creativity and feel totally relaxed in just 40 minutes! If you’re looking for the ultimate in self-improvement techniques that promises to be easy, quick and highly effective, here is something exciting you should know about. . . . It is called the Brain Tuner. . . . Everyone is different and not all people respond to the same frequencies. So Engineer/Physicist Bob Peck designed the Brain Tuner so that it would produce 256 simultaneous frequencies all known to be beneficial for the natural stimulation of the brain’s neurotransmitters.

A tiny ten hertz signal enters the brain and speeds up the production and turnover rate of serotonin - a neurotransmitter that acts as a stimulant to the nervous system. The Brain Tuner simply coaxes the brain to restore it's [sic] own chemical balance. The body heals itself. The neurotransmitter beta endorphin normalizes in about 40 minutes - which is the body's own built in pain killer. According to articles published by scientific and medical journals and OMNI Magazine, other results commonly reported by users of the Brain Tuner are increased energy levels and improved concentration, increased endorphin production for pain control, decreases in worry, depression and anxiety, normalized sleep patterns, reduced sleep requirements, more vivid and lucid dreams, improvement in both short term and long term memory, and reduced psychophysiological craving and withdrawal symptoms from drugs and alcohol. All this may sound hard to believe but the technical data that exists to support these claims is overwhelming (a 12 page bibliography of over 350 medical articles came with our research materials). I.Q. gains of 20 to 30 points! A published report from the University of Wisconsin Medical College reports I.Q. gains of 20 to 30 points after stimulation originally intended to reduce student final exam anxiety. This was replicated by the University of Louisiana and is now generally accepted. Stimulation appears to enhance neural efficiency which shortens access time to answers. Although no medical claims can be made until FDA certification, full satisfaction is guaranteed or your money back.

PAR. 17. Through the use of the statements contained in the advertisements referred to in paragraph sixteen, including but not necessarily limited to the advertisement attached as Exhibit C, respondents have represented, directly or by implication, that scientific studies prove that the use of the Brain Tuner:

- A. Increases one's I.Q. by 20 to 30 points;
- B. Increases energy levels;
- C. Improves concentration;
- D. Controls pain;
- E. Reduces depression and anxiety;
- F. Normalizes sleep patterns and reduces sleep requirements;
- G. Improves short term and long term memory; and
- H. Reduces psychophysiological cravings for and withdrawal symptoms from drugs and alcohol.

PAR. 18. In truth and in fact, scientific studies do not prove that use of the Brain Tuner:

- A. Increases one's I.Q. by 20 to 30 points;
- B. Increases energy levels;
- C. Improves concentration;

- D. Controls pain;
- E. Reduces depression and anxiety;
- F. Normalizes sleep patterns and reduces sleep requirements;
- G. Improves short term and long term memory; and
- H. Reduces psychophysiological cravings for and withdrawal symptoms from drugs and alcohol.

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

PAR. 19. Through the use of the statements contained in the advertisements referred to in paragraph sixteen, including but not necessarily limited to the advertisement attached as Exhibit C, respondents have represented, directly or by implication, that use of the Brain Tuner:

- A. Increases one's I.Q. by 20 to 30 points;
- B. Increases energy levels;
- C. Improves concentration;
- D. Controls pain;
- E. Reduces depression and anxiety;
- F. Normalizes sleep patterns and reduces sleep requirements;
- G. Improves short term and long term memory; and
- H. Reduces psychophysiological cravings for and withdrawal symptoms from drugs and alcohol.

PAR. 20. Through the use of the statements contained in the advertisements referred to in paragraph sixteen, including but not necessarily limited to the advertisement attached as Exhibit C, respondents have represented, directly or by implication, that at the time they made the representations set forth in paragraphs seventeen and nineteen, respondents possessed and relied upon a reasonable basis that substantiated such representations.

PAR. 21. In truth and in fact, at the time they made the representations set forth in paragraphs seventeen and nineteen, respondents did not possess and rely upon a reasonable basis that substantiated such representations. Therefore, the representation set forth in paragraph twenty was, and is, false and misleading.

### The Rhythm Electronic Acupuncture Device

PAR. 22. Respondents have disseminated or have caused to be disseminated advertisements for the Rhythm electronic acupuncture device, including but not necessarily limited to the attached Exhibit D. This advertisement contains the following statements:

“Electronic acupuncture with slimming effect[.] The Rhythm - your electronic pain killer and body toner[.] Rhythm combines traditional Chinese Acupuncture treatment with modern electronic technology. Electronic acupuncture is sweeping the country. The Rhythm is the most powerful most advanced instrument ever developed for home use. Touch it to specific body points to gain relief from muscle, digestive, and nervous ailments . . . . And because the Rhythm caused [sic] muscle contractions . . . just like normal exercise, it will help you tone up. Latest reports from leading hospitals suggest that such treatment will also reduce craving for sugar and other add-weight foods (as reported on the CBS News; July 6, 1990). This will further aid in restoring the trimmer you. Does it really work? Our suggestion: when you have a backache, a headache, fatigue, a muscle pain, stiff shoulders, insomnia, or any of the other conditions for which acupuncture has achieved its reputation, Try It. . . . (Most of the people in our own office have bought one[.] They tell us they wouldn't part with it.)”

PAR. 23. Through the use of the statements contained in the advertisements referred to in paragraph twenty-two, including but not necessarily limited to the advertisement attached as Exhibit D, respondents have represented, directly or by implication, that:

- A. Use of the Rhythm relieves muscle, digestive, and nervous ailments;
- B. Use of the Rhythm tones muscles;
- C. Use of the Rhythm helps the user lose weight by reducing the craving for sugar and other high caloric foods;
- D. Use of the Rhythm relieves backaches, headaches, muscle pain, stiff shoulders, insomnia, and fatigue.

PAR. 24. Through the use of the statements contained in the advertisements referred to in paragraph twenty-two, including but not necessarily limited to the advertisement attached as Exhibit D, respondents have represented, directly or by implication, that at the time they made the representations set forth in paragraph twenty-three, respondents possessed and relied upon a reasonable basis that substantiated such representations.

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

#### The Aerobic Eye Exercise Glasses

PAR. 26. Respondents have disseminated or caused to be disseminated advertisements for the Aerobic Eye Exercise Glasses, including but not necessarily limited to the attached Exhibit E. This advertisement contains the following statements:

"If you are reading this through glasses, maybe you could throw them away! . . . The developers of these incredible Aerobic Eye Exercise Glasses have files filled with letters like this - letters testifying to almost miraculous rescues of failing eyesight . . . The lenses of these glasses are precision-pierced with hundreds of tiny apertures that admit only parallel light. This allows the retina to focus while the eye muscles remain totally relaxed! Remove your prescription glasses; put on the exercise glasses; do your hobby or watch TV. You will be astonished to find your eyes focusing without effort, without your glasses! Do that for 20 minutes daily and each day you will become less and less dependent on your prescription glasses!" [Testimonial: "I received your vision kit. . . September 1987 and began using it immediately. By December 1987, I no longer needed my prescription lenses. I had worn glasses for 25 years."]

PAR. 27. Through the use of the statements contained in the advertisements referred to in paragraph twenty-six, including but not necessarily limited to the advertisement attached as Exhibit E, respondents have represented, directly or by implication, that:

- A. Wearing the Aerobic Eye Exercise Glasses results in a long-term improvement in the vision of persons with vision problems;
- B. The Aerobic Eye Exercise Glasses, while being worn, are an adequate substitute for prescription glasses or contact lenses to improve vision;
- C. The testimonial contained in the advertisement reflects the typical or ordinary experiences of consumers who have used the Aerobic Eye Exercise Glasses, in terms of long-term improvement in vision.

PAR. 28. In truth and in fact:

A. Wearing the Aerobic Eye Exercise Glasses will not result in a long-term improvement in the vision of persons with vision problems;

B. The Aerobic Eye Exercise glasses, while being worn, are not an adequate substitute for prescription glasses or contact lenses to improve vision;

C. The testimonial contained in the advertisement does not reflect the typical or ordinary experiences of consumers who have used the Aerobic Eye Exercise Glasses, in terms of long-term improvement in vision.

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

PAR. 29. Through the use of the statements contained in the advertisements referred to in paragraph twenty-six, including but not necessarily limited to the advertisement attached as Exhibit E, respondents have represented, directly or by implication, that at the time they made the representations set forth in paragraph twenty-seven, respondents possessed and relied upon a reasonable basis that substantiated such representations.

PAR. 30. In truth and in fact, at the time they made the representations set forth in paragraph twenty-seven, respondents did not possess and rely upon a reasonable basis that substantiated such representations. Therefore, the representation set forth in paragraph twenty-nine, was, and is, false and misleading.

PAR. 31. The acts and practices of respondents as alleged in this complaint constitute unfair or deceptive acts or practices and the making of false advertisements in or affecting commerce in violation of Sections 5(a) and 12 of the Federal Trade Commission Act.



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Complaint

## EXHIBIT A



**Don't be held  
hostage by  
petroleum prices - Get 15%  
to 40% more miles per  
gallon with just one ounce  
of Fuelon, the miracle new  
fuel additive!**

One ounce in a tankful of gas (two ounces for diesel) will give your car or truck an internal engine tune-up every time you drive. Say goodbye to morning start-up problems. No more "knocks" and "pings" as your car climbs hills or overtakes on a highway. What's more: by making your fuel burn at peak efficiency, Fuelon will ensure that your car passes the yearly emissions inspection with ease - year after year.

Just one bottle of Fuelon is enough to treat 480 gallons of gas (treats 256 gallons of diesel fuel). Fuelon's pour-o-matic spout makes dispensing the right amount easy every time. You owe it to yourself to get a bottle of Fuelon and see that this amazing product will do for your car's engine and your fuel budget. 32 oz. bottle.

#ELE226 - Gas Extender - \$39.95

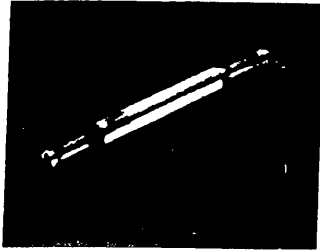
#ELE227 - Diesel Extender - \$39.95

Exhibit A

Complaint

118 F.T.C.

## EXHIBIT B



**Now your car can get that "winning-edge"  
with increased performance and fuel economy  
while reducing polluting emissions!**

Go with this secret of race car drivers - Vitalizer is currently used by race car drivers to help provide a winning edge through increased power and mileage. Now, after years of research, you can benefit from this much need breakthrough in combustion vehicle engineering with Vitalizer!

It's hard to believe that this easy to install (installs in 20 minutes right on your fuel line and has no moving parts) state-of-the-art marvel can really do so much. But don't just take my word for it, listen to the experts.

I'm sitting here with stacks of testimonials and documentation from engineers, mechanics, state emission control stations, trade publications, trucking firms, auto centers, city

bus operators and folks like you and me. Even Radio Station KFOX in Encino, California tested Vitalizer on 16 vehicles! Vitalizer was tested for years on old vehicles as well as new ones.

Here's what all this means to you: You are absolutely guaranteed to get up to 23% more miles per gallon, cut exhaust emissions up to 90%, increase engine power - faster acceleration and top-end speed or your money back!

You have nothing to lose and plenty to gain with Vitalizer!

**#EVT888 - Vitalizer, 4-6 cylinder engines - a wise investment at only \$139.95**

**#EVT889 - Vitalizer, for 8 cylinder engines - \$139.95**

Exhibit B

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Complaint

## EXHIBIT C

## Increase your I.Q., expand your creativity and feel totally relaxed in just 40 minutes!

*If you're looking for the ultimate in self-improvement techniques that promises to be easy, quick and highly effective, here's something exciting you should know about*

### The Brain Tuner (BT-5+)

It is called the Brain Tuner (BT-5+) and it is an experimental research instrument that provides minute electrical stimulation through stethoscope shaped electrodes behind the ears.

Apparently very low levels of pulsed electrical current have major effects upon the highest functions of the brain. The BT-5+ transmits a tiny electrical signal that appears to harmonize with natural brain rhythms to produce a feeling of mild stimulation but the sensation felt by most individuals is reportedly one of complete relaxation even if high stress, anxiety, or depression is present.

### How does it work?

Everyone is different and not all people respond to the same frequencies. So Engineer/Physicist Bob Peck designed the Brain Tuner so that it would produce over 256 simultaneous frequencies all known to be beneficial for the natural stimulation of the brain's neurotransmitters.

A tiny ten hertz signal enters the brain and speeds up the production and turnover rate of serotonin - a neurotransmitter that acts as a stimulant to the nervous system. The Brain Tuner simply coaxes the brain to restore it's own chemical balance. The body heals itself. The neurotransmitter beta endorphin normalizes in about 40 minutes - which is the body's own built in pain killer.

According to articles published by scientific and medical journals and OMNI Magazine, other results commonly reported by users of the Brain Tuner are increased energy levels and improved concentration, increased endorphin production for pain control, decreases in worry, depression and anxiety, nor-

malized sleep patterns, reduced sleep requirements, more vivid and lucid dreams, improvement in both short term and long term memory, and reduced psychophysiological craving and withdrawal symptoms from drugs and alcohol.

All this may sound hard to believe but the technical data that exists to support these claims is overwhelming (a 12 page bibliography of over 350 medical articles came with our research materials).

### I.Q. gains of 20 to 30 points!

A published report from the University of Wisconsin Medical College reports I.Q. gains of 20 to 30 points after stimulation originally intended to reduce student final exam anxiety. This was replicated by the University of Louisiana and is now generally accepted. Stimulation appears to enhance neural efficiency which shortens access time to answers.

Although no medical claims can be made until FDA certification, full satisfaction is guaranteed or your money back. The Brain Tuner is completely safe and there are no side-effects such as those caused by drugs or pharmaceuticals. It looks like a Walkman (pocket size, 1" x 3-5/8" x 4.5"), and weighs 4.6 oz. with self contained, externally replaceable transistor radio battery available anywhere. Other models have sold for \$600-\$1,000. Order your Brain Tuner (BT-5+) today! Only \$249.95!

#EBT600 - Brain Tuner (BT-5+) - Only \$249.95!

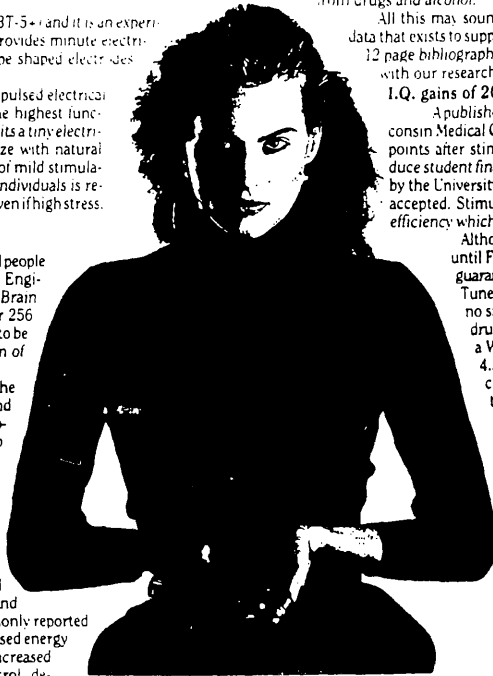
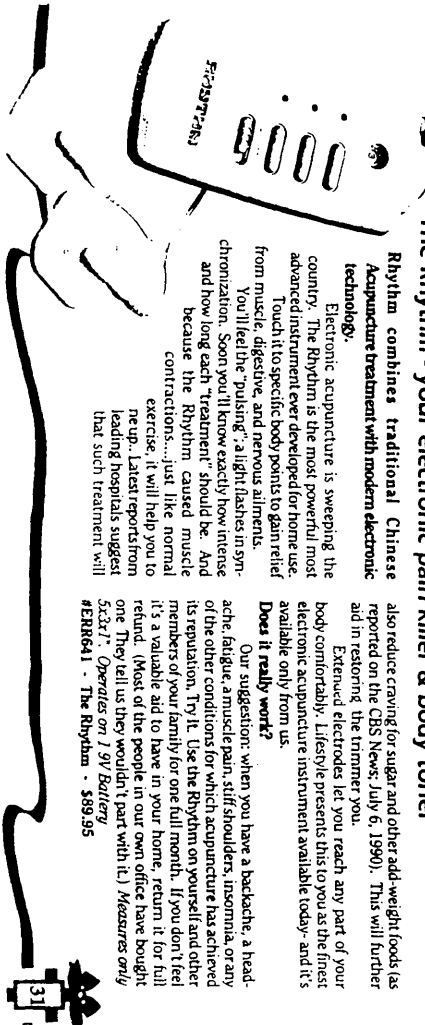


Exhibit C

Complaint

118 F.T.C.

## EXHIBIT D



**Electronic Acupuncture with slimming effect**

**The Rhythm - your electronic pain killer & body toner**

**Rhythm combines traditional Chinese Acupuncture treatment with modern electronic technology.**

Electronic acupuncture is sweeping the country. The Rhythm is the most powerful most advanced instrument ever developed for home use. Touch it to specific body points to gain relief from muscle, digestive, and nervous ailments. You'll feel the "pulsing," a light flashes in synchronization. Soon you'll know exactly how intense and how long each "treatment" should be. And because the Rhythm caused muscle contractions...just like normal exercise, it will help you to neup. Latest reports from leading hospitals suggest that such treatment will

also reduce craving for sugar and other add-weight foods (as reported on the CBS News; July 6, 1990). This will further aid in restoring the trimmer you.

Extended electrodes let you reach any part of your body comfortably. Lifestyle presents this to you as the finest electronic acupuncture instrument available today - and it's available only from us.

**Does it really work?**

Our suggestion: when you have a headache, a headache, fatigue, muscle pain, stiff shoulders, insomnia or any of the other conditions for which acupuncture has achieved its reputation, try it. Use the Rhythm on yourself and other members of your family for one full month. If you don't feel it's a valuable aid to have in your home, return it for full refund. (Most of the people in our own office have bought one. They tell us they wouldn't part with it.) *Measures only 5-3/4". Operates on 19V Battery.*

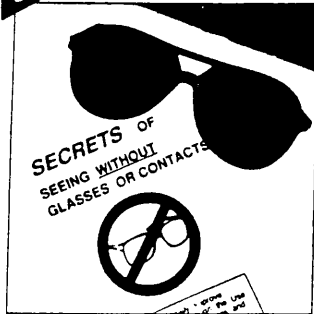
#ERRR641 - The Rhythm - \$89.95

171

Complaint

EXHIBIT E

**NEW** *If you are reading this through glasses, maybe you could throw them away!*



*"I received your vision kit...September 1987 and began using it immediately, by December 1987 I no longer needed my prescription lenses. I had worn glasses for 25 years."*

Val Dewane, Valders, WI

The developers of these incredible Aerobic Eye Exercise Glasses have files filled with letters like this - letters testifying to almost miraculous rescues of failing eyesight; relief from eyestrain, headaches, tension!

The lenses of these glasses are precision-pierced with hundreds of tiny apertures that admit only parallel light. This allows the retina to focus while the eye muscles remain totally relaxed!

Remove your prescription glasses; put on the exercise glasses; do your hobby or watch TV. You will be astonished to find your eyes focusing without effort,

without your glasses! Do that for 20 minutes daily and each day you will become less and less dependent on your prescription glasses! Glasses adjust for fit. Kit includes complete instructions and an eye chart to check your daily progress. The best investment you will ever make!

**#LEE100 - Aerobic Eye Exercise Glasses kit - \$39.95**

## 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 the 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 attorney, and counsel for the Commission having thereafter executed an agreement containing a consent order, an admission by the respondents of all the jurisdictional facts set forth in the aforesaid draft of complaint, a statement that the signing of said agreement is for settlement purposes only and does not constitute an admission by respondents that the law has been violated as alleged in such complaint, or that the facts as alleged in such complaint, other than jurisdictional facts, are true, and waivers and other provisions as required by the Commission's Rules; and

The Commission having thereafter considered the matter and having determined that it had reason to believe that the respondents have violated the said Act, and that a complaint should issue stating its charges in that respect, and having thereupon accepted the executed consent agreement and placed such agreement on the public record for a period of sixty (60) days, now in further conformity with the procedure prescribed in Section 2.34 of its Rules, the Commission hereby issues its complaint, makes the following jurisdictional findings and enters the following order:

1. Respondent Lifestyle Fascination, Inc. is a corporation organized, existing, and doing business under and by virtue of the laws of the State of Delaware, with its office and principal place of business at 12 Progress Place, Jackson, New Jersey.

Respondent Eli Zabare is the owner and sole officer of Lifestyle Fascination, Inc. He formulated, directed, and controlled the acts and practices of said corporation, and his principal office and place of business is located at the above stated address.

Respondent Simon Pantierer is the general manager of Lifestyle Fascination, Inc. He formulated, directed, and controlled the acts and practices of said corporation, and his principal office and place of business is located at the above stated address.

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

## ORDER

### I.

*It is ordered,* That respondents Lifestyle Fascination, Inc., a corporation, its successors and assigns, and its officers, Eli Zabare, individually and as an officer of said corporation, and Simon Pantierer, individually, and respondents' agents, representatives and employees, directly or through any corporation, subsidiary, division or other device, in connection with the advertising, promotion, offering for sale, sale or distribution of Fuelon, or any substantially similar fuel additive device, in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from representing, in any manner, directly or by implication, that:

A. Under normal driving conditions, when used as directed, consumers can increase their gas mileage by between 15% and 40% by adding such product to their gas tanks; or

B. The use of such product will ensure that a car will pass government emissions inspections.

### II.

*It is further ordered,* That respondents Lifestyle Fascination, Inc., a corporation, its successors and assigns, and its officers, Eli Zabare, individually and as an officer of said corporation, and Simon Pantierer, individually, and respondents' agents, representatives and employees, directly or through any corporation, subsidiary, division or other device, in connection with the advertising, promotion, offering for sale, sale or distribution of the Vitalizer, or any substantially similar automobile retrofit device, in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from representing, in any manner, directly or by implication, that:

A. Under normal driving conditions, when used as directed, consumers will increase their gas mileage by 23%, or up to 23%, when such product is installed in their automobiles; or

B. Under normal driving conditions, when used as directed, consumers can obtain reduced exhaust emissions of 90%, or up to 90%, when such product is installed in their automobiles.

### III.

*It is further ordered,* That respondents Lifestyle Fascination, Inc., a corporation, its successors and assigns, and its officers, Eli Zabare, individually and as an officer of said corporation, and Simon Pantierer, individually, and respondents' agents, representatives and employees, directly or through any corporation, subsidiary, division or other device, in connection with the advertising, promotion, offering for sale, sale or distribution of Aerobic Eye Exercise Glasses, or any other eyeglasses with opaque lenses and multiple pinholes, in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from representing, in any manner, directly or by implication, that:

A. Wearing such product results in long-term improvement in the vision of persons with vision problems; or

B. Such product, while being worn, is an adequate substitute for prescription glasses or contact lenses to improve vision.

### IV.

*It is further ordered,* That respondents Lifestyle Fascination, Inc., a corporation, its successors and assigns, and its officers, Eli Zabare, individually and as an officer of said corporation, and Simon Pantierer, individually, and respondents agents, representatives and employees, directly or through any corporation, subsidiary, division or other device, in connection with the advertising, promotion, offering for sale, sale or distribution of any product in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from misrepresenting, directly or by implication, the existence, contents, validity, results, conclusions or interpretations of any test or study.



## V.

*It is further ordered,* That respondents Lifestyle Fascination, Inc., a corporation, its successors and assigns, and its officers, Eli Zabare, individually and as officer of said corporation, and Simon Pantierer, individually, and respondents' agents, representatives and employees, directly or through any corporation, subsidiary, division or other device, in connection with the advertising, promotion, offering for sale, sale or distribution of any automotive fuel economy product, including but not limited to any automobile gasoline additive, engine oil additive, or automobile retrofit device (as "automobile retrofit device" is defined in Section 511 of the Motor Vehicle Information and Cost Savings Act, 15 U.S.C. 2011) in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from representing, directly or by implication, that use of such device will or may result in fuel economy improvement, unless, and only to the extent, respondents possess and rely on competent and reliable scientific tests which substantiate the representations, such as:

A. Chassis dynamometer tests done according to procedures that simulate typical urban and highway driving patterns, such as the then current urban and highway driving test schedules established by the Environmental Protection Agency; or

B. Track or road tests done according to procedures that simulate urban and highway driving patterns, such as the then current procedures established in the Society of Engineers J1082b test protocol.

Respondents shall, when using the results of any tests required by this Part, clearly and conspicuously disclose the limitations upon the applicability of the results to any automobile, truck, recreational vehicle, or other motor vehicle. Where the results of such tests are used in connection with the representation of fuel economy-improvement expressed in miles per gallon (or liter), miles per tankful, or percentage, or where the representation of the benefit is expressed as a monetary saving in dollars or percentages, all advertising and other promotional materials that contain the representation must also clearly and conspicuously disclose the following disclaimer: "REMINDER: Your actual saving may vary.

It depends on the kind of driving you do, how you drive, and the condition of your car.”

## VI.

*It is further ordered,* That respondents Lifestyle Fascination, Inc., a corporation, its successors and assigns, and its officers, Eli Zabare, individually and as an officer of said corporation, and Simon Pantierer, individually, and respondents’ agents, representatives and employees, directly or through any corporation, subsidiary, division or other device, in connection with the advertising, promotion, offering for sale, sale or distribution of any product in or affecting commerce, as “commerce” is defined in the Federal Trade Commission Act, do forthwith cease and desist from representing, directly or by implication, that:

A. Use of such product can or will have any effect on the user’s intelligence; energy levels; muscle strength or tone; weight; mental concentration; pain; depression or anxiety; sleep patterns or requirements; short or long term memory; cravings for or withdrawal symptoms from drugs or alcohol; or any other effect on health or the structure or function of the human body; or

B. Use of such product can or will have any effect on acceleration, power, engine condition, exhaust emissions, or any other aspect of automobile performance;

unless at the time of making such representation, respondents possess and rely upon competent and reliable scientific evidence that substantiates such representation. For purposes of this order, “competent and reliable scientific evidence” shall mean tests, analyses, research, studies, or other evidence based on the expertise of professionals in the relevant area, that have been conducted and evaluated in an objective manner by persons qualified to do so, using procedures generally accepted in the profession to yield accurate and reliable results.

## VII.

*It is further ordered,* That respondents Lifestyle Fascination, Inc., a corporation, its successors and assigns, and its officers, Eli Zabare,

individually and as an officer of said corporation, and Simon Pantierer, individually, and respondents' agents, representatives and employees, directly or through any corporation, subsidiary, division or other device, in connection with the advertising, promotion, offering for sale, sale or distribution of any consumer electric or electronic product in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from making any representation, directly or by implication, regarding the performance, safety, attributes, benefits, or efficacy of such product, unless, at the time of making such representation, respondents possess and rely upon competent and reliable evidence, which, when appropriate, must be competent and reliable scientific evidence, that substantiates such representation. Provided that, the terms of this Part shall not apply to the advertising, promotion, offering for sale, sale, or distribution of any television; videocassette, audio cassette, or compact disc player or recorder; radio; stereo component; telephone; shaver; vacuum cleaner; kitchen appliance; hair grooming appliance; binoculars; exercise equipment; or camera. Further provided that, nothing in this Part shall be construed as exempting from this order any product otherwise subject to the terms of any other Part of this order.

#### VIII.

*It is further ordered,* That respondents Lifestyle Fascination, Inc., a corporation, its successors and assigns, and its officers, Eli Zabare, individually and as an officer of said corporation, and Simon Pantierer, individually, and respondents' agents, representatives and employees, directly or through any corporation, subsidiary, division or other device, in connection with the advertising, promotion, offering for sale, sale or distribution of any product represented, directly or by implication, or intended to have any effect on health or the structure or function of the human body, in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from representing that any endorsement (as "endorsement" is defined in 16 CFR 255.0(b)) of any such product represents the typical or ordinary experience of members of the public who use such product, unless such is the fact.

## IX.

*It is further ordered,* That respondents Lifestyle Fascination, Inc., a corporation, its successors and assigns, and its officers, Eli Zabare, individually and as an officer of said corporation, and Simon Pantierer, individually, and respondents' agents, representatives and employees, shall, for three (3) years from the date of the last dissemination of each representation which is subject to this order, maintain and upon reasonable request make available to the Federal Trade Commission for inspection and copying:

A. All materials that were relied upon by respondent(s) in disseminating any representation covered by this order; and

B. All tests, reports, studies, surveys, demonstrations, or other evidence in any respondent's possession or control that contradict, qualify, or call into question such representation, or the basis upon which respondent relied for such representation, including complaints from consumers.

## X.

*It is further ordered,* That respondent Lifestyle Fascination, Inc., or its successors and assigns, shall:

A. Within thirty (30) days after service of this order, provide a copy of this order to each of its current principals, officers, directors, and managers, and to all personnel, agents, and representatives having sales, advertising, or policy responsibility with respect to the subject matter of this order; and

B. For a period of five (5) years from the date of entry of this order, provide a copy of this order to each of its principals, officers, directors, and managers, and to all personnel, agents, and/or representatives having sales, advertising, or policy responsibility with respect to the subject matter of this order within three (3) days after the person commences his or her responsibilities.

## XI.

*It is further ordered,* That respondents Eli Zabare and Simon Pantierer, for a period of ten (10) years from the date of entry of this

order, notify the Commission within thirty (30) days of the discontinuance of his present business or employment and of his affiliation with any new business or employment which involves the sale of consumer products. Each notice of affiliation with any new business or employment shall include respondent's new business address and telephone number, current home address, and a statement describing the nature of the business or employment and his duties and responsibilities.

## XII.

*It is further ordered,* That respondents Lifestyle Fascination, Inc., its successors and assigns, and its officers, Eli Zabare, individually and as an officer of said corporation, and Simon Pantierer, individually, shall notify the Federal Trade Commission at least thirty (30) days prior to any proposed change in the corporate respondent, including but not limited to dissolution, assignment or sale resulting in the emergence of a successor corporation, the creation or dissolution of subsidiaries or affiliates, or any other change in the corporation which may affect compliance obligations arising under this order.

## XIII.

*It is further ordered,* That respondents Lifestyle Fascination, Inc., its successors and assigns, and its officers, Eli Zabare, individually and as an officer of said corporation, and Simon Pantierer, individually, shall, within sixty (60) days after service of this order, and at such other times as the Federal Trade Commission may require, file with the Commission a report, in writing, setting forth in detail the manner and form in which they have complied with this order.

## IN THE MATTER OF

## AMOCO CHEMICAL COMPANY, ET AL.

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

*Docket C-3514. Complaint, Aug. 9, 1994--Decision, Aug. 9, 1994*

This consent order prohibits, among other things, two Delaware corporations from misrepresenting the extent to which any polystyrene cup, plate, and other food service product or packaging material is capable of being recycled or the extent to which recycling collection programs are available, and from representing that such products offer any environmental benefit unless the respondents possess competent and reliable scientific evidence that substantiates the claim.

*Appearances*

For the Commission: *C. Steven Baker* and *Timothy T. Hughes*.

For the respondents: *Pro se*.

## COMPLAINT

The Federal Trade Commission, having reason to believe that Amoco Chemical Company, a corporation, and Amoco Foam Products Company, a corporation, ("respondents"), have violated the provisions of the Federal Trade Commission Act, and it appearing to the Commission that a proceeding by it in respect thereof would be in the public interest, alleges:

PARAGRAPH 1. Respondents are Delaware corporations. Amoco Chemical Company dominates and controls the acts and practices of its wholly-owned subsidiary, Amoco Foam Products Company. Amoco Chemical Company has its principal offices or place of business at 200 East Randolph Drive, Chicago, Illinois. Amoco Foam Products Company has its principal offices or place of business at 400 Northridge Road, Atlanta, Georgia.

PAR. 2. Respondents have manufactured, advertised, labeled, offered for sale, sold, and distributed polystyrene products, including plates, cups, and other food service polystyrene products to the public under the trade name "Snacker," and under private labels. Respondents have also manufactured, advertised, labeled, offered for

sale, sold, and distributed polystyrene food service products to caterers, cafeterias, restaurants and other institutional buyers.

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

PAR. 4. Respondents have disseminated or have caused to be disseminated product advertising, labeling, packaging and other promotional materials, for Amoco's "Snacker," and other polystyrene food service products, including but not necessarily limited to the attached Exhibits A through C.

The aforesaid Amoco polystyrene product (Exhibit A) sold under private label includes the following statement on each cup:



PS

RECYCLABLE

The aforesaid "Snacker" product packaging (Exhibit B) includes the following statement:

RECYCLABLE

The aforesaid Amoco polystyrene product (Exhibit C) includes the following statement on the front of the packaging:

100% RECYCLABLE  
FOAM  
PLATES

PAR. 5. Through the use of the statements contained in the advertising, packaging and labeling referred to in paragraph four, including but not necessarily limited to the packaging and labeling attached as Exhibits A through C, respondents have represented, directly or by implication, that their polystyrene products are recyclable.

PAR. 6. In truth and in fact, while polystyrene food service products are capable of being recycled, the vast majority of consumers cannot recycle them because there are only a few collection facilities nationwide that will accept them for recycling.

Therefore, the representation set forth in paragraph five was, and is, false and misleading.

PAR. 7. Through the use of the statements contained in the advertising, packaging and labeling referred to in paragraph four, including but not necessarily limited to the advertisements attached as Exhibits A-C, respondents have represented, directly or by implication, that at the time they made the representations set forth in paragraph five, respondents possessed and relied upon a reasonable basis that substantiated such representations.

PAR. 8. In truth and in fact, at the time they made the representations set forth in paragraph five, respondents did not possess and rely upon a reasonable basis that substantiated such representations. Therefore, the representation set forth in paragraph seven was, and is, false and misleading.

PAR. 9. The acts and practices of respondents as alleged in this complaint constitute unfair or deceptive acts or practices in or affecting commerce in violation of Section 5(a) of the Federal Trade Commission Act.



EXHIBIT A



EXHIBIT B

*Snacker*



DOUBLE LAMINATED  
THREE SECTION PLATES

8 7/8 INCH

*Snacker*

Complaint

EXHIBIT B



- SOAK-PROOF
- CUT-RESISTANT
- ALL PLASTIC
- RIGID
- DOUBLE LAMINATED
- RECYCLABLE

**USAGE TIP**

Extremely hot foods taken directly from grill or frying pan may cause plate distortion. Please allow food to cool momentarily before placing on plate.

**MICROWAVE OVEN USAGE**

Suitable only for limited microwave use in reheating foods.



**CAUTION:**  
 PLASTIC BARS CAN CAUSE SUFFOCATION.  
 PLEASE KEEP THIS PRODUCT AND ALL PLASTIC BAGS OUT OF THE REACH OF CHILDREN. DO NOT PERMIT CHILDREN TO PLAY WITH THEM AND DO NOT USE THEM IN GRILLS, FLAYERS OR CARNAGES.



**CAUTION  
KEEP AWAY FROM  
OPEN FLAME.**

Amoco Foam Products Company  
Atlanta, GA 30350



Complaint

118 F.T.C.

EXHIBIT C



Amoco Foam Products Company  
Atlanta, Georgia 30350

PRODUCT NO. 002-461MC

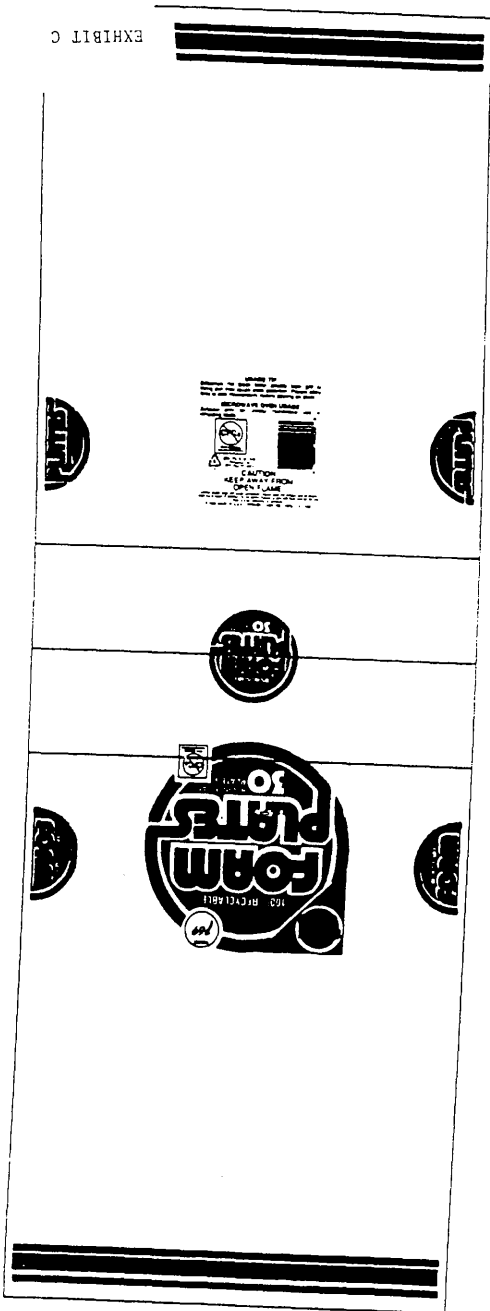
351

DATE OF ISSUE: \_\_\_\_\_

COLORS:

BAG OR FILM SIZE: 14 1/2 (W) x 15 1/2 (L) x 6 1/2 (G)

- 1ST WHITE
  - 2ND 116 YELLOW
  - 3RD 021 ORANGE
  - 4TH 052 RED
  - 5TH 286 BLUE
  - 6TH BLACK
- CONVERTER: STANDARD FLEX



IN AND PAPER COLORS USED IN PRODUCING THIS BOX. PLEASE FORM INDICATION ON V AND SHOULD NOT BE USED AS COLOR GUIDE. USE SEPARATE INSTRUCTIONS FOR  
ABILITY WITH RESPECT TO DEFECTIVE PRODUCTS AND PRODUCTS OF THIS KIND TO MEET THE WRITTEN SPECIFICATIONS ACCEPTED BY US. LIMITED WARRANTY FOR IN OUR  
ACROSS RIP AND ENCLOSURE WITH SHIPMENT OF PLATES



Mathews International Corporation  
Graphic Systems Division  
3001 Kingston Ct  
Marietta, GA 30067  
Phone (404) 984-9610

**Mathews**

REF. NO. 14-5323  
DATE: 8-12-92

## 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 Chicago Regional Office proposed to present to the Commission for its consideration and which, if issued by the Commission, would charge respondents with violation of the Federal Trade Commission Act; and

The respondents and counsel for the Commission having thereafter executed an agreement containing a consent order, an admission by the respondents of all the jurisdictional facts set forth in the aforesaid draft of complaints 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, 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. Respondents Amoco Chemical Company and Amoco Foam Products Company are corporations organized, existing and doing business under and by virtue of the laws of the State of Delaware. Amoco Chemical Company dominates and controls the acts and practices of its wholly-owned subsidiary, Amoco Foam Products Company.

Respondent Amoco Chemical Company has its principal offices or place of business at 200 East Randolph Drive, Chicago, Illinois. Respondent Amoco Foam Products Company has its principal offices or place of business at 400 Northridge Road, Atlanta, Georgia.

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

## ORDER

## DEFINITIONS

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

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

The term “*product or packaging material*” means any product or packaging material that is offered for sale, sold or distributed to the public by respondents, their successors and assigns, under any brand name of respondents, their successors and assigns; and also means any product or packaging material sold or distributed to the public by third parties under private labeling agreements with respondents, their successors and assigns.

## I.

*It is ordered*, That respondents, Amoco Chemical Company, a corporation, and Amoco Foam Products Company, a corporation, 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, labeling, promotion, offering for sale, sale, or distribution of any polystyrene food service product or polystyrene packaging material in or affecting commerce, as “commerce” is defined in the Federal Trade Commission Act, do forthwith cease and desist from misrepresenting, in any manner, directly or by implication the extent to which:

- (1) Any such product or packaging material is capable of being recycled; or,
- (2) Recycling collection programs for such product or packaging material are available.

## II.

*It is further ordered,* That respondents, Amoco Chemical Company, a corporation, and Amoco Foam Products Company, a corporation, 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, labeling, promotion, offering for sale, sale, or distribution of any plastic food service product or plastic packaging material in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from representing, in any manner, directly or by implication, that any such product or packaging material offers any environmental benefit, unless at the time of making such representation, respondents possess and rely upon competent and reliable evidence, which when appropriate must be competent and reliable scientific evidence, that substantiates such representation.

## III.

*It is further ordered,* That for five (5) years after the last date of dissemination of any representation covered by this order, respondents, or their successors and assigns, shall maintain and upon request make available to the Federal Trade Commission for inspection and copying:

A. All materials that were relied upon in disseminating such representation; and

B. All tests, reports, studies, surveys, demonstrations, or other evidence in their possession or control that contradict, qualify, or call into question such representation, or the basis relied upon for such representation, including complaints from consumers.

## IV.

*It is further ordered,* That respondents shall distribute a copy of this order to each of their operating divisions and to each of their officers, agents, representatives, or employees engaged in the preparation and placement of advertisements, promotional materials, product labels or other such sales materials covered by this order.

## V.

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

## VI.

*It is further ordered,* That respondents shall, within sixty (60) days after service of this order upon them, and at such other times as the Commission may require, file with the Commission a report, in writing, setting forth in detail the manner and form in which they have complied with this order.



## IN THE MATTER OF

## HAWTHORNE COMMUNICATIONS, INC.

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

*Docket 9264. Complaint, Nov. 16, 1993--Decision, Aug. 9, 1994*

This consent order prohibits, among other things, an Iowa corporation from making any representations about the performance, benefits, efficacy, or success rate of any product or service concerning business opportunities unless the respondent possesses competent and reliable evidence that substantiates such representations. In addition, the consent order prohibits the respondent from using any testimonial or endorsement unless it reflects the typical or ordinary experience of consumers who use the product.

*Appearances*

For the Commission: *Jeffery T. Dahnke.*

For the respondent: *Edward F. Glynn, Jr., Venable, Baetjer, Howard & Civiletti, Washington, D.C.*

## COMPLAINT

The Federal Trade Commission, having reason to believe that Hawthorne Communications Inc. ("respondent"), has violated the provisions of the Federal Trade Commission Act, and it appearing to the Commission that a proceeding by it in respect thereof would be in the public interest, alleges:

PARAGRAPH 1. Respondent is an Iowa corporation, with its principal office and place of business at 300 N. 16th Street, Fairfield, Iowa.

PAR. 2. Respondent, at all times relevant to this complaint, was an advertising agency of Tronsoft, Inc., and has directed, participated in, and assisted others in the creation and dissemination to the public of advertisements that offer for sale Tronsoft's Home Business Starter Kit ("Starter Kit").

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

PAR. 4. Respondent promoted the sale of Tronsoft's Starter Kit by scripting and producing a 30-minute television commercial identified as "Freedom Now," which was broadcast in various areas throughout the United States. The "Freedom Now" commercial contains the following statements and depictions:

(a) Announcer: "A revolutionary, easy to use tool for starting ten new high profit businesses and earning up to six figures a year, without leaving your home. No matter what your age, education or occupation, Ron Way's Home Business Starter Kit can help you put cash in your pockets immediately and it's easy."

(b) Announcer: "Make big money at home in your spare time with an amazing new secret. Introducing Freedom Now with self-made millionaire Ronald Way, a nationally acclaimed computer software expert who's come up with an astonishing new business concept. A new way to make money that you, no matter what your age, background, or occupation can use to earn hundreds, thousands, even millions of dollars, starting tomorrow working right out of your own home." MESSAGE SUPERIMPOSED ON SCREEN: Anyone Can Do It

(c) Ron Way: "[T]hink about it. No matter what your age, occupation, or education is, man or woman, you can make yourself rich providing this lucrative service right out of your own home. No more boss. No more traffic. No more late nights away from your family. Be there while your children are growing up. We're calling it Tronsoft's Freedom Now Plan and it can change your life."

(d) Announcer: "Ron explains how easy his ten different home based business gold mines are - businesses using his powerful analysis reports like the Real Estate Investment Report, Franchise Matching and the Mortgage Reduction Report, a report that over 50 million homeowners could buy from you at a 200% profit or more."

(e) Announcer: "When you order Ron's Home Business Starter Kit, you'll also get these money making tools. Ron Way's 300 page information-packed manual showing you the step-by-step proven system that Ron used to go from being \$40,000 in debt to earning nearly a million dollars a year - in just three years."

(f) Endorser: "I don't have to punch a time clock any more. I don't have to meet a deadline any more. I'm my own boss. I'm my own person. I am self made and I'm growing." MESSAGE SUPERIMPOSED ON SCREEN: "Thanks To Tronsoft, Sending Children To College"

(g) Endorser: "I have the freedom in my life that I've always wanted and never could achieve working for someone else. [I] needed the tools and I needed the advisors to be on my own and be successful on my own and Tronsoft is really the advisor company." MESSAGE SUPERIMPOSED ON SCREEN: "Thanks to Tronsoft, She Owns Her Own Business"

(h) Endorser: "This is just one deal. Twelve grand, actually \$12,383. And I thought I've never seen that much money in one lump and that's not a lot. But I had never seen that kind of money in one lump sum in my life. And there it was. And we sat down - what we did is we got financially free as they say. I took Ron's advice. I paid off all the bills. I still had enough left for Christmas." MESSAGE SUPERIMPOSED ON SCREEN: "Thanks to Tronsoft: Earning Thousands, Working Just Four Days A Week"

(i) Endorser: "I can do \$50, \$95 deals. You know, a couple times a day and I'm making, you know, twice as much as an executive in a large corporation . . . MESSAGE SUPERIMPOSED ON SCREEN: "Earned \$4,000 in one month working only one day a week."

(j) Ron Way: "Right now, I'm going to introduce you to two guests that have made a killing using the Tronsoft secret, and they've done it in two different ways . . . Both of these gentlemen have incredible stories to tell, but before we get started I just wanted to point out that David has used the reports to build his own business and since made himself into a millionaire while Andre Brady on the other hand sells the reports and services and has done incredibly well."

(k) Ron Way: "You actually went from selling water heaters to owning a multimillion dollar company, and operating right out of your own home with the assistance of Tronsoft analysis reports. Is that right?"

Endorser: "That's right. I was able to use one of your reports to help me get a new business idea off the ground." MESSAGE SUPERIMPOSED ON SCREEN: Created His Own Multi-Million Dollar Business

(l) Ron Way: "Folks, you've just seen a couple of examples of how you can make money if you have the advantage if you've got the secret. It's called Freedom Now and here's your chance to put it to work for you."

(m) Ron Way: "[A]nd you can do the same thing. I'm talking about \$20,000 in two months. Earning \$400 for maybe a half day's work on a Saturday morning. Earning six figures a year and never ever leaving your home."

(n) On Screen: Stay Tuned To Find Out How You Can Earn Hundreds Of Dollars A Week At Home In Your Spare Time

(o) Endorser: "In one month, I made about \$25,000 in profit, because I was using Tronsoft."

PAR. 5. Through the use of the statements and depictions contained in the "Freedom Now" commercial referred to in paragraph four, respondent has represented, directly or by implication, that:

(a) Consumers who use the Starter Kit typically readily succeed in starting and operating successful businesses out of their own homes;

(b) Consumers who use the Starter Kit typically earn substantial income;

(c) Endorsements appearing in the "Freedom Now" commercial reflect the endorser's actual experience of starting a business with the aid of Tronsoft's products or services;

(d) Endorsements appearing in the "Freedom Now" commercial reflect the typical or ordinary experience of members of the public who have used Tronsoft's products or services.

PAR. 6. In truth and in fact:

(a) Consumers who use the Starter Kit do not typically readily succeed in starting and operating successful businesses out of their own homes;

(b) Consumers who use the Starter Kit do not typically earn substantial income;

(c) Endorsements appearing in the "Freedom Now" commercial do not reflect the endorser's actual experience of starting a business with the aid of Tronsoft's products or services;

(d) Endorsements appearing in the "Freedom Now" commercial do not reflect the typical or ordinary experience of members of the public who have used Tronsoft's products or services.

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

PAR. 7. Through the use of the statements and depictions contained in the "Freedom Now" commercial referred to in paragraph four, respondent has represented, directly or by implication, that at the time it made the representations set forth in paragraph five, respondent possessed and relied upon a reasonable basis that substantiated such representations.

PAR. 8. In truth and in fact, at the time it made the representations set forth in paragraph five, respondent did not possess and rely upon a reasonable basis that substantiated such representations. Therefore, the representation set forth in paragraph seven was, and is, false and misleading.

PAR. 9. The acts and practices of respondents as alleged in this complaint constitute unfair or deceptive acts or practices in or affecting commerce in violation of Section 5(a) of the Federal Trade Commission Act.

#### DECISION AND ORDER

The Commission having heretofore issued its complaint charging the respondent named in the caption hereof with violation of Section 5 of the Federal Trade Commission Act, as amended, and the respondent having been served with a copy of that complaint, together with a notice of contemplated relief; and

The respondent, its attorney, and counsel for the Commission having thereafter executed an agreement containing a consent order, an admission by the respondent of all the jurisdictional facts set forth

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

The Secretary of the Commission having thereafter withdrawn this matter from adjudication in accordance with Section 3.25(c) of its Rules; and

The Commission having considered the matter and having thereupon accepted the executed consent agreement and placed such agreement on the public record for a period of sixty (60) days, now in further conformity with the procedure prescribed in Section 3.25(f) of its Rules, the Commission hereby makes the following jurisdictional findings and enters the following order:

1. Respondent Hawthorne Communications, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of Iowa, with its office and principal place of business located at 300 N. 16th Street, in the City of Fairfield, State of Iowa.

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

#### ORDER

As used in this order, the term "business opportunity" means an activity engaged in for the purpose of making a profit.

#### I.

*It is ordered*, That respondent, Hawthorne Communications, Inc., a corporation, its successors and assigns, and its officers, agents, representatives and employees, directly or through any corporation, subsidiary, division or other device, in connection with the advertising, offering for sale, sale or distribution of any Tronsoft product or service, in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from selling, broadcasting, disseminating, or assisting or

encouraging others to sell, broadcast or disseminate the "Freedom Now" commercial described in the complaint.

## II.

*It is further ordered,* That respondent, Hawthorne Communications, Inc., a corporation, its successors and assigns, and its officers, agents, representatives and employees, directly or through any corporation, subsidiary, division or other device, in connection with the advertising, offering for sale, sale or distribution of Tronsoft's Home Business Starter Kit ("Starter Kit") or any substantially similar product, in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from misrepresenting, in any manner, directly or by implication, that:

- A. Consumers who use such product readily succeed in starting and operating successful businesses out of their own homes.
- B. Consumers who use such product earn substantial income.

For purposes of this provision, "substantially similar product" means any product or material containing substantially similar information or techniques as the Starter Kit and that purports to instruct consumers how to start and operate a computer-based consulting business at home.

## III.

*It is further ordered,* That respondent, Hawthorne Communications, Inc., a corporation, its successors and assigns, and its officers, agents, representatives and employees, directly or through any corporation, subsidiary, division or other device, in connection with the advertising, offering for sale, sale or distribution of the Starter Kit or any other product or service concerning business opportunities, in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from representing, directly or by implication, the performance, benefits, efficacy or success rate of any such product or service, unless, at the time of making the representation, respondent possesses and relies upon competent and reliable evidence, which when

appropriate must be competent and reliable scientific evidence, that substantiates such representation. For purposes of this order, competent and reliable scientific evidence shall mean tests, analyses, research, studies, or other evidence based on the expertise of professionals in the relevant area, that has been conducted and evaluated in an objective manner by persons qualified to do so, using procedures generally accepted in the profession to yield accurate and reliable results.

#### IV.

*It is further ordered,* That respondent, Hawthorne Communications, Inc., a corporation, its successors and assigns, and its officers, agents, representatives and employees, directly or through any corporation, subsidiary, division or other device, in connection with the advertising, offering for sale, sale or distribution of any product or service, in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

A. Using, publishing, or referring to any endorsement (as "endorsement" is defined in Section 255(b), Part 255, Title 16, Code of Federal Regulations) unless respondent has good reason to believe that at the time of such use, publication, or reference, the endorsement reflects the honest opinions, findings, beliefs, or experience of the endorser and contains no express or implied representations which would be deceptive or unsubstantiated if made directly by respondent.

B. Representing, directly or by implication, that any endorsement of the product or service represents the typical or ordinary experience of members of the public who use the product or service unless such is the case.

#### V.

*It is further ordered,* That respondent shall distribute a copy of this order to each of its operating divisions and to each officer, agent and personnel responsible for the preparation, review or placement of advertising, or other materials covered by this order, and shall

secure from each such person a signed statement acknowledging receipt of this order.

VI.

*It is further ordered,* That respondent shall for a period of five (5) years from the entry of this order, notify the Federal Trade Commission at least thirty (30) days prior to any proposed change in the respondent, such as dissolution, assignment, or sale resulting in the emergence of a successor corporation, the creation or dissolution of new corporations or subsidiaries of the respondent, or any other change in the corporation that may affect compliance obligations arising out of this order.

VII.

*It is further ordered,* That respondent, and its successors and assigns, shall, for five (5) years after the date of the last dissemination to which they pertain, maintain and upon request make available to the Federal Trade Commission for inspection and copying:

A. All materials that were relied upon by respondent in disseminating any representation covered by this order; and

B. All reports, tests, studies, surveys, demonstrations or other evidence in respondent's possession or control that contradict, qualify, or call into question such representation, or the basis upon which respondent relied for such representation, including complaints from consumers.

VIII.

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