

UNITED STATES OF AMERICA
BEFORE FEDERAL TRADE COMMISSION

COMMISSIONERS:

Robert Pitofsky, Chairman
Mary L. Azcuenaga
Janet D. Steiger
Roscoe B. Starek, III
Christine A. Varney

In the Matter of)
DAVID GREEN, M.D.,)
an individual doing business)
as The Varicose Vein Center,)
a sole proprietorship.)
)
)
_____)

DOCKET NO. C-3589
DECISION AND
ORDER

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

The respondent, his 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 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 § 2.34 of its Rules, the Commission hereby issues its complaint, makes the following jurisdictional findings and enters the following order:

1. Respondent David Green, M.D. ("Dr. Green") is an individual doing business as The Varicose Vein Center, a sole proprietorship ("VVC"). Respondent's principal place of business is located at 4800 Montgomery Lane, Suite M50, Bethesda, Maryland.

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:

1. "Sclerotherapy" means the treatment of venous disease by injecting a solution into a vein with a needle.
2. "Venous disease treatment procedure" includes, but is not limited to, sclerotherapy, laser treatments, electrocautery and surgery.
3. "Competent and reliable scientific evidence," means 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.

I

IT IS ORDERED that respondent David Green, M.D., an individual doing business as The Varicose Vein Center, a sole proprietorship, his successors, assigns, agents, representatives and employees, directly or through any corporation, subsidiary, division or other device, in connection with the advertising, promotion, offering for sale or sale of any venous disease treatment procedure including, but not limited to, sclerotherapy, or of any other cosmetic or plastic surgery procedure, in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from making any representation, in any manner, directly or by implication:

- A. that spider veins and varicose veins are permanently eliminated following treatment by respondent, or otherwise making any representation regarding the duration of results following treatment by any cosmetic or plastic surgery procedure, including any venous disease treatment procedure; or

- B. that respondent's treatments succeed in eliminating varicose and spider veins at a rate greater than 95%, or otherwise making any representation regarding the success rate for, or the rate at which a condition is likely to recur or return following treatment by, any cosmetic or plastic surgery procedure, including any venous disease treatment procedure; or
- C. that patients do not experience any pain in connection with respondent's regimen for treating their varicose and spider veins, or otherwise making any representation regarding the nature, duration or intensity of pain associated with any cosmetic or plastic surgery procedure, including any venous disease treatment procedure; or
- D. otherwise making any representation regarding the efficacy of, or the risks, side-effects, or recovery period associated with, any cosmetic or plastic surgery procedure, including any venous disease treatment procedure;

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

II.

IT IS FURTHER ORDERED that for three (3) years after the last date of dissemination of any representation covered by this Order, respondent, or his 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 his possession or control that contradict, qualify, or call into question such representation, or the basis relied upon for such representation, including complaints from consumers.

III.

IT IS FURTHER ORDERED that respondent shall distribute a copy of this Order to each of his agents, representatives, and employees, and shall secure from such person a signed statement acknowledging receipt of this Order.

IV.

IT IS FURTHER ORDERED that, for a period of five (5) years from the date of entry of this order, the individual respondent named herein shall promptly notify the Commission of the discontinuance of his present business or employment, with each such notice to include the respondent's new business address and a statement of the nature of the business or employment in which the respondent is newly engaged as well as a description of respondent's duties and responsibilities in connection with the business or employment.

V.

IT IS FURTHER ORDERED that respondent shall, within sixty (60) days after service upon him of this order, file with the Commission a report, in writing, setting forth in detail the manner and form in which he has complied with the requirements of this order.

By the Commission, Chairman Pitofsky not participating.

Donald S. Clark
Secretary

ISSUED: June 23, 1995

SEAL: