

Complaint

IN THE MATTER OF

FMC CORPORATION, ET AL.CONSENT ORDER, ETC., IN REGARD TO ALLEGED VIOLATIONS OF
SEC. 5 OF THE FEDERAL TRADE COMMISSION ACT AND
SECTION 7 OF THE CLAYTON ACT

*Docket C-3935; File No. 9910218
Complaint, April 5, 2000--Decision, May 15, 2000*

This consent order requires Respondents FMC Corporation, Solutia Inc., and Astaris LLC to divest to Societe Chimique Prayon-Rupel Solutia's Inc.'s phosphates plant in Augusta, Georgia, and divest to Peak Investments LLC FMC's phosphorous pentasulfide plant in Lawrence, Kansas. The divestitures are required to remedy anticompetitive effects from the joint venture of Respondents phosphates and phosphorous derivatives. The order also requires Respondents to provide Prayon with technologies that Solutia has used for manufacturing phosphates, and divest other assets from the Augusta plant, such as customer lists, contacts, and other tangible assets. In addition, Respondents are required to provide Peak with technologies that FMC has used for manufacturing phosphorous pentasulfide, and divest other assets from the Lawrence plant, such as customer lists, contacts, and other tangible assets. An accompanying Order to Hold Separate and Maintain Assets requires the respondent to preserve the business as a viable, competitive, and ongoing operation and maintain inventories until the divestiture is achieved

Participants

For the Commission: *Robert S. Tovsky, Randall Conner, Gorav Jindal, Jeanine Balbach, Steven Wilensky, Emily Byers, Morris A. Bloom, John O'Hara Horsley, Richard Liebeskind, Daniel P. Ducore, Thomas R Isso, Louis Silvia, and Gregory S. Vistnes.*

For the Respondents: *Raymond A. Jacobsen and Joel R. Grosberg, McDermott, Will & Emery, and Barry Pupkin, Squire, Sanders & Dempsey.*

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COMPLAINT

The Federal Trade Commission (“Commission”), having reason to believe that FMC Corporation (“FMC”) and Solutia Inc. (“Solutia”) have entered into an agreement to form Astaris LLC (“Astaris”), a phosphates joint venture limited liability company, and that the joint venture, if consummated, would result in a violation of Section 5 of the Federal Trade Commission Act, 15 U.S.C. § 45, and Section 7 of the Clayton Act, 15 U.S.C. § 18, and it appearing to the Commission that a proceeding in respect thereof would be in the public interest, hereby issues its complaint, stating its charges as follows:

A. THE RESPONDENTS

1. Respondent FMC is a corporation organized, existing, and doing business under and by virtue of the laws of the State of Delaware, with its principal place of business located at 200 East Randolph Drive, Chicago, Illinois 60601. FMC, among other things, engages in the development, manufacture and sale of elemental phosphorus, pure phosphoric acid, phosphate salts and phosphorus derivatives, primarily in North America and Europe.

2. Respondent Solutia is a corporation organized, existing and doing business under and by virtue of the laws of the State of Delaware, with its principal place of business located at 575 Maryville Centre Drive, St. Louis, Missouri 63141. Solutia, among other things, engages in the development, manufacture and sale of elemental phosphorus, pure phosphoric acid, phosphate salts and phosphorus derivatives, primarily in North America.

3. Respondent Astaris is a corporation organized and existing under and by virtue of the laws of the State of Delaware, with its principal place of business located at 575 Maryville Centre Drive, St. Louis, Missouri 63141.

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4. At all times relevant herein, Respondents FMC and Solutia have been and are now engaged in commerce, as “commerce” is defined in Section 1 of the Clayton Act, 15 U.S.C. § 12, and are corporations whose business is in or affecting commerce as “commerce” is defined in Section 4 of the Federal Trade Commission Act, 15 U.S.C. § 44.

B. THE PROPOSED JOINT VENTURE

5. On April 29, 1999, FMC and Solutia executed an agreement to combine most of their respective phosphates and phosphorus derivatives businesses into a joint venture company. The joint venture, which FMC and Solutia have named Astaris, would be owned equally by each company. According to FMC and Solutia, the joint venture company would have combined sales of approximately \$600 million.

C. RELEVANT MARKETS

6. One relevant line of commerce in which to analyze the effects of the proposed joint venture between FMC and Solutia is the manufacture, marketing and sale of pure phosphoric acid. Pure phosphoric acid is a syrupy tribasic acid that is used in disparate applications. It is used in food applications, such as cola beverages and pet food, and in technical applications, such as cleaning compounds, metal surface treatments, and water treatment products. Pure phosphoric acid is sold directly to end-users, and also is reacted with inorganic chemicals to create phosphate salts, such as sodium tripolyphosphate.

7. There are no economic substitutes for pure phosphoric acid. A small but significant and non-transitory price increase would not affect the current level of consumption of pure phosphoric acid in any of the significant end-use applications.

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8. Another relevant line of commerce in which to analyze the effects of the proposed joint venture is the manufacture, marketing and sale of phosphorus pentasulfide. Phosphorus pentasulfide, which is typically sold in a solid, flake form to customers, is used primarily in the manufacture of chemical additives for engine lubricating oils, and also is used to a smaller extent in the manufacture of different types of insecticides.

9. There are no economic substitutes for phosphorus pentasulfide, due to the fact that other products would not be nearly as effective as phosphorus pentasulfide in its major applications. Moreover, even attempting to find alternative products to substitute for this product would require lengthy product development efforts followed by extensive product testing. For these reasons, a small but significant and non-transitory price increase would not affect the current level of consumption of phosphorus pentasulfide in any of the significant end-use applications.

10. The relevant geographic market in which to analyze the effects of the proposed joint venture in pure phosphoric acid is the United States. The level of imports of pure phosphoric acid has been low compared to the overall market, and has not been highly responsive to changes in United States prices. Producers in the United States recognize that prices in the United States have historically been much higher than prices in other parts of the world.

11. There are several reasons why imports of pure phosphoric acid into the United States have been limited. One reason is that many of the overseas producers employ the older, higher-cost thermal process to produce pure phosphoric acid. In addition, transportation costs account for a significant portion of the delivered cost of phosphoric acid. Other reasons why imports have been limited include access to distribution, and the cost of terminal storage for product imported from overseas.

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12. The overseas producers that have been most active in making sales of pure phosphoric acid in the United States have been those that employ the low-cost solvent extraction process. Nevertheless, the level of United States sales even by these companies has been low. These overseas producers of pure phosphoric acid have faced significant countervailing and antidumping duties that have limited their ability to sell pure phosphoric acid in the United States. These duties have increased costs for the overseas producers, and also chilled sales by the overseas producers in the United States. In addition, agreements between producers in the United States and various overseas producers have had the effect of limiting the level of competition from these overseas producers.

13. The relevant geographic market in which to assess the effects of the proposed joint venture between FMC and Solutia in phosphorus pentasulfide is the United States. Imports of phosphorus pentasulfide into the United States are virtually non-existent, and are limited by difficulties in handling this material in ocean shipping. Phosphorus pentasulfide is a hazardous material which emits deadly gases when exposed to moisture, and therefore requires specialized and expensive containers even for inland transportation. Furthermore, FMC's documents indicate that overseas producers have higher production costs than producers in the United States.

D. MARKET STRUCTURE

14. The United States market for pure phosphoric acid is highly concentrated. Four manufacturers, including Rhodia, Albright & Wilson, FMC and Solutia, currently account for approximately 95% of the local production capacity that can supply United States customers, and 95% of sales of pure phosphoric acid. FMC's share of current net sales (which includes sales among producers of pure phosphoric acid, and also

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excludes purchases of the product by producers) is over 20%, and Solutia's share is close to 11%. The proposed joint venture would increase the Herfindahl-Hirschman Index for United States sales by over 450 points, from over 2070 to over 2500.

15. FMC produces pure phosphoric acid via the thermal process in the United States at plants in Lawrence, Kansas and Carteret, New Jersey. FMC has also announced that it is in the process of building a plant in Idaho that will produce pure phosphoric acid via the solvent-extraction process. FMC also produces phosphate salts at the Lawrence and Carteret plants, and also at a plant in Green River, Wyoming.

16. FMC sells pure phosphoric acid directly to end-customers, and also uses it in the manufacture of phosphate salts. FMC's sales of phosphate salts included products such as sodium tripolyphosphate, sodium hexametaphosphate, sodium acid pyrophosphate, and tetrapotassium phosphate.

17. Solutia produces pure phosphoric acid via the thermal process at plants in Carondolet, Missouri and Trenton, Michigan. Solutia also has a pure phosphoric acid plant in Augusta, Georgia, but is not currently operating the plant. The plant has been mothballed since the beginning of 1998. Solutia also produces phosphate salts at its plants in Carondolet, Trenton and Augusta.

18. Solutia sells pure phosphoric acid directly to end-customers, and also uses it internally in the production of phosphate salts. Solutia's sales of phosphate salts included products such as sodium tripolyphosphate, sodium hexametaphosphate, sodium acid pyrophosphate, dicalcium phosphate and tetrapotassium phosphate.

19. FMC and Solutia manufacture and sell pure phosphoric acid in direct competition with each other, and also manufacture and sell phosphate salts in direct competition with each other.

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20. Besides FMC, Solutia, Rhodia, and Albright & Wilson, two other companies that produce pure phosphoric acid in North America for sale in the United States are Earth Sciences and Simplot. Earth Sciences and Simplot have each been producing pure phosphoric acid for the last two to three years, using processes to manufacture pure phosphoric acid different from the other North American producers. Both of these companies have very limited production capacity and sales compared to the other four producers, and are unlikely to grow their sales substantially in the foreseeable future.

21. The United States market for phosphorus pentasulfide is highly concentrated. Three manufacturers, FMC, Solutia and Rhodia, currently account for all of the sales of this product in the United States. FMC produces phosphorus pentasulfide at its plant in Lawrence, Kansas, and Solutia produces phosphorus pentasulfide at its plant in Sauget, Illinois. Rhodia, the smallest producer, has announced that it is exiting the phosphorus pentasulfide market, and is in the process of closing the facility in Morrisville, Pennsylvania where it manufactured this product.

22. FMC and Solutia together accounted for over 85% of United States sales of phosphorus pentasulfide in 1998. Solutia had a share of over 67% of sales and FMC had a share of close to 18% of sales. As measured by 1998 sales, the proposed joint venture would increase the Herfindahl-Hirschman Index for United States sales by over 2500 points, from approximately 5100 to over 7600. With Rhodia's announced exit, moreover, the proposed joint venture would establish a monopoly in this product.

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E. CONDITIONS OF ENTRY

23. *De novo* entry or fringe expansion into the pure phosphoric acid market would require a substantial sunk investment and a significant period of time, such that new entry would be neither timely, likely, nor sufficient.

24. The minimum viable scale of a pure phosphoric acid production facility likely precludes new entry. The prevailing pure phosphoric acid technology demands large-scale production, relative to market size, in order to operate efficiently. This technology has but a single use -- the production of pure phosphoric acid. It cannot economically be shifted toward another use. Therefore, all returns on investment must be derived from pure phosphoric acid sales. Because economic entry would require that a new producer capture a significant market share from existing producers, and because the costs of such entry would be sunk, such entry is inherently risky.

25. *De novo* entry or fringe expansion into the phosphorus pentasulfide market would require a substantial sunk investment and a significant period of time, such that new entry would be neither timely, likely, nor sufficient.

26. The minimum viable scale of a phosphorus pentasulfide production facility likely precludes new entry. A new plant would need to be built at a scale that either would be as large as the entire market, or would account for a large proportion of total market size, in order to operate efficiently. This technology has but a single use -- the production of phosphorus pentasulfide. It cannot economically be shifted toward another use. Therefore, all returns on investment must be derived from sales of phosphorus pentasulfide. Because economic entry would require that a new producer capture a significant market share from existing producers, in a market that is enjoying no growth in demand, and because the costs of such entry would be sunk, such entry is inherently risky.

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27. Some firms produce phosphorus pentasulfide for captive use in the manufacture of insecticides. However, these firms have limited available capacity, and would need additional investments, in manufacturing, product development and marketing, in order to compete to make sales against FMC and Solutia. They would also need to establish that their products can meet the end-use requirements of the major customers in lubricant additives. Primarily for these reasons, these firms are unlikely to divert their production to making external sales, even in response to significant price increases.

F. MARKET CHARACTERISTICS WHICH FACILITATE COORDINATED INTERACTION IN PURE PHOSPHORIC ACID

28. The characteristics of the market for pure phosphoric acid facilitate coordinated interaction among producers, to the detriment of the purchasers of this product. Among such characteristics are:

- a. The United States market for pure phosphoric acid is highly concentrated;
- b. Pure phosphoric acid is a highly homogeneous product that is purchased primarily on the basis of price;
- c. Reliable pricing information is available from customers, and from other producers due to the practice of publicly announcing price increases in advance of their implementation;
- d. Producers have made pricing decisions independently of industry operating rates;
- e. Producers undertake retaliation at specific accounts as a means to discipline and deter future competition.

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29. An agreement that limits competition is a January 1, 1998 agreement between Solutia and Emaphos, S.A. ("Emaphos"), a Moroccan producer which added a substantial amount of low-cost pure phosphoric acid capacity that came onstream in the beginning of 1998. Under the terms of the contract, Emaphos became a significant supplier of pure phosphoric acid to Solutia, which qualified and used the Emaphos acid in manufacturing different types of phosphate salts.

30. In addition to providing for supply from Emaphos to Solutia, the agreement between Solutia and Emaphos made Solutia the exclusive distributor in the United States for pure phosphoric acid produce by Emaphos, and therefore restricted Emaphos from selling pure phosphoric acid to direct customers in competition with Solutia. The only direct sales Emaphos was allowed to make under the terms of this agreement were sales to the other current large producers of pure phosphoric acid. This provision of the contract reduced Emaphos' impact as a direct and independent competitor.

G. EFFECTS OF THE PROPOSED JOINT VENTURE

31. The effect of the joint venture may be substantially to lessen competition and to tend to create a monopoly in the relevant markets in violation of Section 7 of the Clayton Act, as amended, 15 U.S.C. § 18, and Section 5 of the Federal Trade Commission Act, as amended, 15 U.S.C. § 45, in the following ways, among others:

- a. It will substantially increase concentration in the market for pure phosphoric acid;
- b. It will significantly enhance the likelihood of coordinated interaction among the competitors in the manufacture and sale of pure phosphoric acid;

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- c. It will increase the likelihood that purchasers of pure phosphoric acid in the relevant geographic market will be forced to pay higher prices;
- d. It will substantially increase concentration in the market for phosphorus pentasulfide, leading to a monopoly;
- e. It will significantly enhance the likelihood of a unilateral exercise of market power by the joint venture in phosphorus pentasulfide market;
- f. It will increase the likelihood that purchasers of phosphorus pentasulfide in the relevant geographic market will be forced to pay higher prices.

H. VIOLATIONS CHARGED

32. The joint venture agreement between FMC and Solutia, as described in Paragraph 5, violates Section 5 of the FTC Act, as amended, 15 U.S.C. § 45.

33. The joint venture between FMC and Solutia, if consummated, would violate Section 5 of the Federal Trade Commission Act, as amended, 15 U.S.C. § 45, and Section 7 of the Clayton Act, as amended, 15 U.S.C. § 18.

WHEREFORE, THE PREMISES CONSIDERED, the Federal Trade Commission on this fifth day of April, 2000, issues its complaint against said Respondents.

By the Commission.

DECISION AND ORDER

The Federal Trade Commission (“Commission”), having initiated an investigation of the proposed joint venture between Respondent FMC Corporation (“FMC”) and Respondent Solutia Inc. (“Solutia”) to form Respondent Astaris LLC (“Astaris”), and Respondents having been furnished thereafter with a copy of a draft of Complaint that the Bureau of Competition presented to the Commission for its consideration and which, if issued by the Commission, would charge Respondents with violations of Section 7 of the Clayton Act, as amended, 15 U.S.C. § 18, and Section 5 of the Federal Trade Commission Act, as amended, 15 U.S.C. § 45; and

Respondents, their attorneys, and counsel for the Commission having thereafter executed an Agreement Containing Consent Orders (“Consent Agreement”), containing an admission by Respondents of all the jurisdictional facts set forth in the aforesaid draft of Complaint, a statement that the signing of said Consent 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 Respondents have violated the said Acts, and that a Complaint should issue stating its charges in that respect, and having thereupon issued its Complaint and an Order to Maintain Assets, and having accepted the executed Consent Agreement and placed such Consent Agreement on the public record for a period of thirty (30) days for the receipt and consideration of public comments, now in further conformity with the procedure described in Commission Rule 2.34, 16 C.F.R. § 2.34, the Commission hereby makes the following jurisdictional findings and issues the following Order:

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1. FMC 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 200 East Randolph Drive, Chicago, Illinois 60601.
2. Solutia 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 575 Maryville Centre Drive, St. Louis, Missouri 63141.
3. Astaris is a limited liability company organized and existing under and by virtue of the laws of the State of Delaware, with its office and principal place of business located at 575 Maryville Centre Drive, St. Louis, Missouri 63141.
4. The Federal Trade Commission has jurisdiction of the subject matter of this proceeding and of Respondents, and the proceeding is in the public interest.

ORDER**I.**

IT IS ORDERED that, as used in this Order, the following definitions shall apply:

- A. "FMC" means FMC Corporation, its directors, officers, employees, agents, representatives, successors, and assigns; its subsidiaries, divisions, groups, and affiliates controlled by FMC, its joint ventures, including the Joint Venture, and the respective directors, officers, employees, agents, representatives, successors, and assigns of each.

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- B. "Solutia" means Solutia Inc., its directors, officers, employees, agents, representatives, successors, and assigns; its subsidiaries, divisions, groups, and affiliates controlled by Solutia, its joint ventures, including the Joint Venture, and the respective directors, officers, employees, agents, representatives, successors, and assigns of each.
- C. "Astaris" means Astaris LLC, its directors, officers, employees, agents, representatives, successors, and assigns; its subsidiaries, divisions, groups, and affiliates controlled by Astaris, its joint ventures, and the respective directors, officers, employees, agents, representatives, successors, and assigns of each.
- D. "Commission" means the Federal Trade Commission.
- E. "Respondents" means FMC, Solutia and Astaris, respectively and collectively.
- F. "Joint Venture" means the Joint Venture Between FMC and Solutia, as described in the April 29, 1999, Joint Venture Agreement Between FMC and Solutia.
- G. "Prayon" means Societe Chimique Prayon-Rupel S.A., its subsidiaries, divisions, groups, and affiliates controlled by Prayon.
- H. "Peak" means Peak Investments, L.L.C., its subsidiaries, divisions, groups, and affiliates controlled by Peak.
- I. "Emaphos" means Emaphos, S.A., its parents, subsidiaries, divisions, groups, and affiliates controlled by Emaphos.

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- J. "Augusta Assets To Be Divested" means the assets, properties and business, tangible and intangible, of the Augusta Plant, including, but not limited to:
1. all machinery, furniture, fixtures, tools and other tangible personal property at the Augusta Plant;
 2. a royalty-free, non-exclusive license to all rights, titles, and interest in and to Augusta Intellectual Property;
 3. all rights, title, and interest in and to inventories of raw materials (to the extent requested by the acquirer), supplies and parts for the Augusta Plant;
 4. all rights, title, and interest in and to the service contracts dedicated to the operations of the Augusta Plant and the customer contracts listed in Confidential Appendix A, attached hereto;
 5. all rights, title and interest in and to transferable governmental permits and approvals relating to the operation of the Augusta Plant, to the extent permitted by law;
 6. lists of the customers served by and service contracts used for the Augusta Plant;
 7. all equipment, vehicles and transportation facilities used since January 1, 1999 at the Augusta Plant;
 8. all storage capacity located at the Augusta Plant;
 9. all rights, titles, and interests in and to the owned real property on which the Augusta Plant is located;

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10. all rights under any third-party warranties and guarantees, express or implied, for the Augusta Plant; and
 11. all books, records, and files regarding operating procedures and policies at the Augusta Plant; provided, however, that Respondents may retain a copy of such books, records, and files solely for financial, tax reporting, legal, health, safety and environmental purposes.
- K. “Augusta Intellectual Property” means any form of intellectual property relating to the manufacture of products at the Augusta Plant, including, but not limited to, trade secrets, technical information, inventions, test data, technological know-how, licenses, specifications, designs, drawings, processes, formulas, customer lists, lists of significant current vendors, and quality control data, books, records, and files; provided, however, that Augusta Intellectual Property does not include proprietary information of other parties which Respondents are prevented from disclosing due to the existence of secrecy agreements.
- L. “Augusta Plant” means the Solutia manufacturing plant in Augusta, Georgia, which manufactures phosphate salts and has manufactured phosphoric acid.
- M. “Augusta Products” means the grades and types of phosphate salts that are and have been produced at the Augusta Plant since January 1, 1999.
- N. “Emaphos Phosphoric Acid Agreement” means the agreement dated January 1, 1998, between Solutia Inc. and Emaphos S.A. pursuant to which Solutia agreed to purchase, and Emaphos agreed to sell, specified volumes of phosphoric acid.

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- O. "Lawrence Plant" means FMC's plant in Lawrence, Kansas, which is used to manufacture phosphoric acid, phosphate salts and phosphorus derivatives, and includes the Lawrence P₂S₅ Plant.
- P. "Lawrence Plant Facilities" means all Lawrence Plant facilities used for the operation of the Lawrence P₂S₅ Plant, whether or not used exclusively in the manufacture of P₂S₅.
- Q. "Lawrence Plant Services" means the plant services and functions supplied by Respondents for operation of the Lawrence P₂S₅ Plant.
- R. "Lawrence P₂S₅" means the grades and types of P₂S₅ that are and have been produced at the Lawrence P₂S₅ Plant since January 1, 1997.
- S. "Lawrence P₂S₅ Plant" means the P₂S₅ manufacturing unit located at the Lawrence Plant.
- T. "Lawrence P₂S₅ Intellectual Property" means any form of intellectual property relating to the research, development, manufacture or sale of products at the Lawrence P₂S₅ Plant, including, but not limited to, trademarks (except "FMC," "Solutia" and "Astaris," and associated trademarks), patents, trade secrets, research materials, technical information, management information systems, software, inventions, test data, technological know-how, licenses, registrations, submissions, approvals, technology, specifications, designs, drawings, processes, recipes, protocols, formulas, customer lists, vendor lists, catalogs, sales promotion literature, advertising materials, quality control data, books, records, and files; provided,

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however, that Lawrence P₂S₅ Intellectual Property does not include non-transferable software licenses.

- U. “Non-Public P₂S₅ Information” means Lawrence P₂S₅ Intellectual Property, and any information not in the public domain furnished to Respondents by the acquirer of the P₂S₅ Assets to Be Divested, or learned by Respondents as suppliers of products, services or facilities to the acquirer, and (1) if written information, designated in writing by the acquirer as proprietary information by an appropriate legend, marking, stamp, or positive written identification on the face thereof, or (2) if oral, visual or other information, identified as proprietary information in writing by the acquirer prior to the disclosure or within thirty (30) days after such disclosure. Non-Public P₂S₅ Information shall not include: (i) information already known to Respondents; (ii) information which subsequently falls within the public domain through no violation of this Order by Respondents; (iii) information which subsequently becomes known to Respondents from a third party not in breach of a confidential disclosure agreement; (iv) information after six (6) years from the date of such disclosure of such Non-Public P₂S₅ Information to Respondents, or such other period as agreed to in writing by Respondents and the provider of the information; or (v) information which Respondents develop independently.
- V. “Peak Divestiture Agreement” means the December 8, 1999, and December 20, 1999, agreements between FMC and Peak by which FMC has agreed to sell and Peak has agreed to acquire the P₂S₅ Assets to Be Divested, attached hereto as Confidential Appendix 1.
- W. “Prayon Divestiture Agreement” means the December 8, 1999, and January 31, 2000, agreements between Solutia and Prayon by which Solutia has agreed to sell

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and Prayon has agreed to acquire the Augusta Assets To Be Divested, attached hereto as Confidential Appendix 2.

- X. "P₂S₅ Assets to Be Divested" means:
1. the Lawrence P₂S₅ plant, including all machinery, furniture, fixtures, tools and other tangible personal property dedicated to the manufacture and sale of P₂S₅ at the Lawrence Plant;
 2. all rights, title, and interest in and to Lawrence P₂S₅ Intellectual Property dedicated to the research, development, manufacture and sale of Lawrence P₂S₅, and a non-exclusive, perpetual, royalty-free transferable license for Lawrence P₂S₅ Intellectual Property not dedicated to the research, development, manufacture or sale of Lawrence P₂S₅; provided that the acquirer has rights to transfer such license only to any person to whom it is transferring its entire interest in the P₂S₅ Assets to Be Divested, or from whom it has agreed to purchase elemental phosphorus for use in the manufacture of P₂S₅;
 3. all rights, title, and interest in and to inventories of products that are useable and saleable in the ordinary course of business, raw materials (to the extent requested by the acquirer), supplies and parts, or the part thereof, dedicated to the manufacture or sale of Lawrence P₂S₅, including work-in-process and finished goods;
 4. all rights, title, and interest in and to agreements, express or implied, necessary for the manufacture or sale of Lawrence P₂S₅, including, but not limited to,

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contracts with joint venture partners, suppliers, sales representatives, distributors, agents, personal property lessors, personal property lessees, licensors, licensees, consignors, consignees, and customers;

5. all rights, title and interest in and to transferable permits and approvals dedicated to the research, design, development, manufacture, distribution, marketing or sale of Lawrence P₂S₅, regardless of whether such permits and approvals relate exclusively to such purposes, to the extent permitted by law;
6. all customer and vendor lists relating to Lawrence P₂S₅, including, without limitation, correspondence with customers, customer files and account history (including, without limitation, receivable and collection history), sales literature and promotional material used in the manufacture and sale of P₂S₅;
7. all equipment, vehicles and transportation facilities, dedicated to the manufacture and sale of Lawrence P₂S₅;
8. all storage capacity at the Lawrence P₂S₅ Plant;
9. all of FMC's rights, title and interest under each of the personal property leases for tangible assets (other than office equipment) and property leased by FMC, which leases are dedicated to the manufacture and sale of Lawrence P₂S₅;
10. all rights under any third-party warranties and guarantees, express or implied, for the manufacture and sale of Lawrence P₂S₅; and
11. all books, records, and files regarding operating procedures and policies at the Lawrence P₂S₅ Plant; provided, however, that Respondents may retain a

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copy of such books, records and files as appropriate for operation of the Lawrence Plant, for provision of Lawrence Plant Services or P₂S₅ Technical Services, and for financial, tax reporting, legal, health, safety and environmental purposes.

- Y. “P₂S₅ Construction Project” means construction of new facilities or modification of the Lawrence P₂S₅ Plant for purposes of creating access to the Lawrence P₂S₅ Plant, receiving raw materials for use in the Lawrence P₂S₅ Plant, or manufacturing or transporting Lawrence P₂S₅.
- Z. “P₂S₅ Nameplate Level” means the rated nameplate capacity of the Lawrence P₂S₅ Plant.
- AA. “P₂S₅ Technical Services” means research and development and laboratory analysis relating to Lawrence P₂S₅, whether conducted by Respondents at the Lawrence Plant or at other facilities, in the form of personnel time, access to equipment and materials, or otherwise.
- BB. “Trustee” means a trustee appointed pursuant to Paragraph VII.A. of this Order.
- CC. “Assets To Be Divested” means the Augusta Assets To Be Divested and the P₂S₅ Assets to Be Divested.

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II.**IT IS FURTHER ORDERED** that:

- A. Respondents shall divest the Augusta Assets To Be Divested to Prayon pursuant to the Prayon Divestiture Agreement no later than six (6) months after the Commission accepts the Consent Agreement for public comment. The purpose of the divestiture is to ensure the continued use of the Augusta Assets To Be Divested in the same business in which they were engaged at the time of the Joint Venture and to remedy the lessening of competition resulting from the Joint Venture as alleged in the Commission's complaint. Failure by Respondents to perform the divestiture agreement shall also constitute a violation of this Order.

Provided, however, that, if at the time the Commission issues the Order, the Commission notifies Respondents that Prayon is not an acceptable acquirer or that the Prayon Divestiture Agreement is not an acceptable manner of divestiture, the Respondents shall, within five (5) months of the date on which this Order is issued by the Commission, divest the Augusta Assets To Be Divested only to an acquirer that is approved by the Commission, and divest these assets only in a manner approved by the Commission.

- B. Within thirty (30) days of the date that this Order is accepted by the Commission for public comment, Respondents shall provide Prayon with a complete list of all non-clerical employees of Solutia employed at the Augusta Plant. If Respondents divest the Augusta Assets to Be Divested to an acquirer other than Prayon, then Respondents shall provide such list to the acquirer no later than the date on which a divestiture agreement is signed with such acquirer. Such list shall

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state each such individual's name, position, address, current or last known business telephone number and a description of the duties and work performed by the individual in connection with the Augusta Products.

- C. Respondents shall provide Prayon with an opportunity to inspect the personnel files and other documentation relating to all non-clerical employees at the Augusta Plant, to the extent permissible under applicable laws, at the request of Prayon, within sixty (60) days of the date that this Order is accepted by the Commission for public comment. If the Augusta Assets to Be Divested are divested to an acquirer other than Prayon, then Respondents shall provide such opportunity no later than the date on which the divestiture agreement is signed with such acquirer.
- D. Respondents shall provide the proposed acquirer the opportunity to enter into employment contracts with the non-clerical employees described in Paragraph II.B.
- E. Respondents shall provide the Commission-approved acquirer with the opportunity to enter into employment contracts with up to two (2) sales and marketing employees (including business directors, managers, and technical services employees) who are currently or have been employed by Solutia or FMC within the last two (2) years, and who, within thirty days after the date that the Consent Agreement is accepted by the Commission for public comment, have not received offers, or who have decided not, to become employees of Astaris, and shall not interfere with the employment by the Commission-approved acquirer of such individuals; shall not offer any incentive to such

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employees to decline employment with the Commission-approved acquirer or to accept other employment with the Respondents; and shall remove any impediments that may deter such employees from accepting employment with the Commission-approved acquirer, including, but not limited to, any non-compete or confidentiality provisions of employment or other contracts with the Respondents that would affect the ability of those individuals to be employed by the Commission-approved acquirer.

- F. Respondents shall not make employment offers to any individual described in Paragraphs II.D. and II.E., above, who accepts employment with the acquirer of the Augusta Assets To Be Divested, for a period of one (1) year after this Order has been issued if such individual has accepted an employment offer from the Commission-approved acquirer.

III.**IT IS FURTHER ORDERED** that:

- A. Respondents shall divest the P₂S₅ Assets To Be Divested to Peak pursuant to the Peak Divestiture Agreement no later than thirty (30) days after the parties form the Joint Venture. The purpose of the divestiture is to ensure the continued use of the P₂S₅ Assets To Be Divested in the same business in which they were engaged at the time of the Joint Venture and to remedy the lessening of competition resulting from the Joint Venture as alleged in the Commission's complaint. Failure by Respondents to perform the divestiture agreement shall also constitute a violation of this Order.

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Provided, however, that, if at that time the Commission issues the Order, the Commission notifies Respondents that Peak is not an acceptable acquirer or that the Peak Divestiture Agreement is not an acceptable manner of divestiture, the Respondents shall, within five (5) months of the date on which this Order is issued by the Commission, divest the P₂S₅ Assets to Be Divested only to an acquirer that is approved by the Commission, and divest these assets only in a manner approved by the Commission.

- B. Respondents shall provide and make available to the acquirer of the P₂S₅ Assets To Be Divested, all Lawrence Plant Services, all P₂S₅ Technical Services and access to all Lawrence Plant Facilities that are requested by the acquirer up to a level sufficient to allow the acquirer to practicably operate the P₂S₅ Assets To Be Divested at the P₂S₅ Nameplate Level. Such services and facilities shall be provided and made available at the times requested by the acquirer, except to the extent that such delivery is inconsistent with the safe and orderly operation of the Lawrence Plant, but the provision of such services or the availability of access to such facilities shall be no less timely than was normal during the period beginning January 1, 1999 and ending December 31, 1999.
- C. Respondents shall provide the acquirer of the P₂S₅ Assets To Be Divested with continuing access to all Lawrence Plant Facilities requested by the acquirer to receive raw materials and other supplies to support the operation of the Lawrence P₂S₅ Plant and to transport finished products from the Lawrence P₂S₅ Plant. Such access shall be provided at the times requested by the acquirer, except to the extent that such delivery is

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inconsistent with the safe and orderly operation of the Lawrence Plant, but such provision or availability shall be no less timely than was normal during the period beginning January 1, 1999 and ending December 31, 1999.

- D. Respondents shall provide, at the request of the acquirer of the P₂S₅ Assets To Be Divested, an ongoing supply of elemental phosphorus to support the acquirer's business of the manufacture and sale of P₂S₅, for a period of no less than ten (10) years from the time that this Order is issued by the Commission, unless Respondents cease the manufacture or purchase of elemental phosphorus.
- E. Respondents shall allow the acquirer of the P₂S₅ Assets To Be Divested, upon timely notice to Respondents, access to Lawrence Plant Facilities to provide any Lawrence Plant Service which Respondents have failed to provide, except to the extent that such access would be inconsistent with the safe and orderly operation of the Lawrence Plant.
- F. Respondents shall allow the acquirer of the P₂S₅ Assets To Be Divested to initiate and undertake, in a manner consistent with its access rights to the Lawrence Plant, P₂S₅ Construction Projects to replace any Lawrence Plant Facility or Lawrence Plant Service or to purchase elemental phosphorus from any source other than the Joint Venture.

Provided, however, that Respondents may take steps in conjunction with such P₂S₅ Construction Projects to ensure that the projects do not unreasonably interfere with continuing commercial operations at the Lawrence Plant.

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- G. Respondents shall allow the acquirer of the P₂S₅ Assets To Be Divested to initiate and undertake, in a manner consistent with its access rights to the Lawrence Plant, P₂S₅ Construction Projects to create separate access to the Lawrence Plant Facilities. In the event that the acquirer undertakes such a P₂S₅ Construction Project, Respondents shall maintain no continuing control or influence over access through such facility to the Lawrence P₂S₅ Plant, except to the extent necessary to maintain orderly and safe operation of the areas of the Lawrence Plant that are not dedicated to the manufacture of P₂S₅.

Provided, however, that Respondents may take steps in conjunction with such P₂S₅ Construction Projects to ensure that the projects do not unreasonably interfere with continuing commercial operations at the Lawrence Plant.

- H. Respondents shall provide access to the facilities used at the Lawrence Plant in connection with the manufacture and sale of P₂S₅ to all individuals invited by the acquirer, provided that such access does not unreasonably interfere with the continuing commercial operations of the Lawrence Plant.
- I. Respondents shall, for a period of two (2) years from the date that this Order is issued by the Commission, pay the acquirer of the P₂S₅ Assets To Be Divested for damages to the extent proximately caused by failures by Respondents to provide the acquirer of the P₂S₅ Assets To Be Divested with Lawrence Plant Services or P₂S₅ Technical Services, to provide access to Lawrence Plant Facilities, to provide elemental phosphorus pursuant to a supply agreement, or to comply with the requirements of Paragraph IV, below.

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- J. Respondents shall provide the acquirer of the P₂S₅ Assets To Be Divested with the rights to sell or transfer the P₂S₅ Assets To Be Divested, together with all rights obtained by the acquirer in connection with the divestiture, to any third person that is financially and technically capable of operating such assets on a commercial basis in compliance with safety, health, environmental and legal requirements.
- K. Respondents shall not interfere with the employment of the individuals listed in Confidential Appendix B attached to this Decision and Order, by the Commission-approved acquirer; shall not offer any incentive to such employees to decline employment with the Commission-approved acquirer or to accept other employment with the Respondents; and shall remove any impediments that may deter such employees from accepting employment with the Commission-approved acquirer, including, but not limited to, any non-compete or confidentiality provisions of employment or other contracts with the Respondents that would affect the ability of the those individuals to be employed by the Commission-approved acquirer. Provided, however, that any such waiver may be limited to employment with the Commission-approved acquirer or persons to whom the acquirer transfers the Lawrence P₂S₅ Plant.

IV.**IT IS FURTHER ORDERED** that:

- A. Respondents shall not, absent the prior written consent of the acquirer of the P₂S₅ Assets To Be Divested, obtain, provide, disclose, or use any Non-Public P₂S₅ Information for purposes other than facilitating the P₂S₅ acquirer's business at the Lawrence Plant or

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complying with Respondents' financial, tax reporting, legal, health, safety and environmental obligations.

- B. Respondents shall establish and enforce procedures to prevent the transmission of any Non-Public P₂S₅ Information to any of Respondents' employees with responsibilities concerning Respondents' P₂S₅ business.

V.

IT IS FURTHER ORDERED that Respondents, for a period of ten (10) years, shall not seek to enforce any provisions in the Emaphos Phosphoric Acid Agreement or any other agreement which directly or indirectly provide that sales of phosphoric acid in the United States by Emaphos or Prayon be made exclusively to Respondents, and shall not enter into any other agreements which directly or indirectly provide that sales of phosphoric acid in the United States by Emaphos or Prayon be made exclusively to Respondents.

VI.

IT IS FURTHER ORDERED that:

- A. At any time after Respondents sign the Agreement Containing Consent Orders in this matter, the Commission may appoint an Interim Trustee to ensure that Respondents expeditiously perform their responsibilities as required by Paragraphs III and IV of this Order and the divestiture agreement approved by the Commission. Respondents shall consent to the following terms and conditions regarding the powers, duties, authorities, and responsibilities of the Interim Trustee appointed pursuant to this Paragraph VI.:

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1. The Commission shall select the Interim Trustee, subject to the consent of Respondents, which consent shall not be unreasonably withheld. If Respondents have not opposed, in writing, including the reasons for opposing, the selection of any proposed trustee within ten (10) days after receipt of notice by the staff of the Commission to Respondents of the identity of any proposed trustee, Respondents shall be deemed to have consented to the selection of the proposed trustee.
2. The Interim Trustee shall have the power and authority to monitor Respondents' compliance with the terms of this order and with the terms of the divestiture agreement.
3. Within ten (10) days after appointment of the Interim Trustee, Respondents shall execute a trust agreement (in the form attached) that, subject to the prior approval of the Commission, confers on the Interim Trustee all the rights and powers necessary to permit the Interim Trustee to monitor Respondents' compliance with the terms of this order and with the divestiture agreement.
4. The Interim Trustee shall serve for a term of two (2) years from the date the Interim Trustee and the trustee agreement are approved by the Commission. The term of the Interim Trustee may be extended up to an additional two (2) years at the option of the Commission.
5. The Interim Trustee shall have full and complete access to Respondents' personnel, books, records, documents, facilities and technical information used for the research, manufacture, marketing, distribution and sale of P₂S₅ and relating to the Lawrence Plant Services, the Lawrence Plant Facilities, the P₂S₅

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Technical Services, and the supply of elemental phosphorus, or to any other relevant information, as the Interim Trustee may reasonably request, including, but not limited to, all documents and records kept in the normal course of business that are used for the manufacture of P₂S₅, and all documents and records kept in the normal course of business that relate to the Lawrence Plant Services, Lawrence Plant Facilities, and the P₂S₅ Technical Services. Respondents shall cooperate with any reasonable request of the Interim Trustee. Respondents shall take no action to interfere with or impede the Interim Trustee's ability to monitor Respondents' compliance with Paragraphs III. and IV. of this Order and the divestiture agreement.

6. The Interim Trustee shall serve, without bond or other security, at the expense of Respondents, on such reasonable and customary terms and conditions as the Commission may set. The Interim Trustee shall have authority to employ, at the expense of Respondents, such consultants, accountants, attorneys and other representatives and assistants as are reasonably necessary to carry out the Interim Trustee's duties and responsibilities. The Interim Trustee shall account for all expenses incurred, including fees for his or her services, subject to the approval of the Commission.
7. Respondents shall indemnify the Interim Trustee and hold the Interim Trustee harmless against any losses, claims, damages, liabilities or expenses arising out of, or in connection with, the performance of the Interim Trustee's duties, including all reasonable fees of counsel and other expenses incurred in connection with the preparations for, or defense of, any claim whether or not resulting in any liability, except to the

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extent that such losses, claims, damages, liabilities or expenses result from misfeasance, gross negligence, willful or wanton acts, or bad faith by the Interim Trustee.

8. If the Commission determines that the Interim Trustee has ceased to act or failed to act diligently, the Commission may appoint a substitute trustee in the same manner as provided in Paragraph VI.A.1. of this Order.
 9. The Commission may on its own initiative or at the request of the Interim Trustee issue such additional orders or directions as may be necessary or appropriate to assure compliance with the requirements of this order and the divestiture agreement.
- B. The Interim Trustee shall report to the Commission in writing, concerning compliance by Respondents with the provisions of Paragraph VI. within ten (10) days from the date the Peak Divestiture Agreement is approved and every sixty (60) days thereafter.

VII.**IT IS FURTHER ORDERED** that:

- A. If Respondents have not divested, absolutely and in good faith and with the Commission's prior approval, the Assets To Be Divested in accordance with Paragraphs II.A. and III.A. of this Order, the Commission may appoint a trustee to divest the Assets To Be Divested. In the event that the Commission or the Attorney General brings an action pursuant to ' 5(l) of the Federal Trade Commission Act, 15 U.S.C. ' 45(l), or any other statute enforced by the Commission, Respondents shall consent to the appointment of a trustee in such action. Neither the

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appointment of a trustee nor a decision not to appoint a trustee under this Paragraph shall preclude the Commission or the Attorney General from seeking civil penalties or any other relief available to it, including a court appointed trustee, pursuant to ' 5(l) of the Federal Trade Commission Act, or any other statute enforced by the Commission, for any failure by the Respondents to comply with this Order.

- B. If a trustee is appointed by the Commission or a court pursuant to Paragraph VII.A. of this Order, Respondents shall consent to the following terms and conditions regarding the trustee's powers, duties, authority, and responsibilities:
1. The Commission shall select the trustee, subject to the consent of Respondents, which consent shall not be unreasonably withheld. The trustee shall be a person with experience and expertise in acquisitions and divestitures. If Respondents have not opposed, in writing, including the reasons for opposing, the selection of any proposed trustee within ten (10) days after notice by the staff of the Commission to Respondents of the identity of any proposed trustee, Respondents shall be deemed to have consented to the selection of the proposed trustee.
 2. Subject to the prior approval of the Commission, the trustee shall have the exclusive power and authority to divest the Assets To Be Divested.
 3. Within ten (10) days after appointment of the trustee, Respondents shall execute a trust agreement that, subject to the prior approval of the Commission and, in the case of a court-appointed trustee, of the court,

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transfers to the trustee all rights and powers necessary to permit the trustee to effect the divestiture required by this Order.

4. The trustee shall have twelve (12) months from the date the Commission approves the trust agreement described in Paragraph VII.B.3. to accomplish the divestiture, which shall be subject to the prior approval of the Commission. If, however, at the end of the twelve-month period, the trustee has submitted a plan of divestiture or believes that divestiture can be achieved within a reasonable time, the divestiture period may be extended by the Commission, or, in the case of a court-appointed trustee, by the court; provided, however, the Commission may extend this period only two (2) times.
5. The trustee shall have full and complete access to the personnel, books, records and facilities related to the Assets To Be Divested or to any other relevant information, as the trustee may request. Respondents shall develop such financial or other information as such trustee may request and shall cooperate with the trustee. Respondents shall take no action to interfere with or impede the trustee's accomplishment of the divestiture. Any delays in divestiture caused by Respondents shall extend the time for divestiture under this Paragraph in an amount equal to the delay, as determined by the Commission or, for a court-appointed trustee, by the court.
6. The trustee shall use his or her best efforts to negotiate the most favorable price and terms available in each contract that is submitted to the Commission, subject to Respondents' absolute and unconditional obligation to divest expeditiously at no minimum price. The divestitures shall be made in the manner and to the acquirer as set out in Paragraphs II and III of this

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Order; provided, however, if the trustee receives bona fide offers from more than one acquiring entity, and if the Commission determines to approve more than one such acquiring entity, the trustee shall divest to the acquiring entity selected by Respondents from among those approved by the Commission; provided further, however, that Respondents shall select such entity within five (5) business days of receiving notification of the Commission's approval.

7. The trustee shall serve, without bond or other security, at the cost and expense of Respondents, on such reasonable and customary terms and conditions as the Commission or a court may set. The trustee shall have the authority to employ, at the cost and expense of Respondents, such consultants, accountants, attorneys, investment bankers, business brokers, appraisers, and other representatives and assistants as are necessary to carry out the trustee's duties and responsibilities. The trustee shall account for all monies derived from the divestiture and all expenses incurred. After approval by the Commission and, in the case of a court-appointed trustee, by the court, of the account of the trustee, including fees for his or her services, all remaining monies shall be paid at the direction of the Respondents, and the trustee's power shall be terminated. The trustee's compensation shall be based at least in significant part on a commission arrangement contingent on the trustee's divesting the Assets To Be Divested.
8. Respondents shall indemnify the trustee and hold the trustee harmless against any losses, claims, damages, liabilities, or expenses arising out of, or in connection with, the performance of the trustee's duties, including

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all reasonable fees of counsel and other expenses incurred in connection with the preparation for, or defense of, any claim, whether or not resulting in any liability, except to the extent that such losses, claims, damages, liabilities, or expenses result from misfeasance, gross negligence, willful or wanton acts, or bad faith by the trustee.

9. If the trustee ceases to act or fails to act diligently, a substitute trustee shall be appointed in the same manner as provided in Paragraph VII.A. of this Order.
10. The Commission or, in the case of a court-appointed trustee, the court, may on its own initiative or at the request of the trustee issue such additional orders or directions as may be necessary or appropriate to accomplish the divestiture required by this Order.
11. The trustee shall have no obligation or authority to operate or maintain any assets relating to the research, development, manufacture or sale of Augusta Products or Lawrence P₂S₅.
12. The trustee shall report in writing to Respondents and the Commission every sixty (60) days concerning the trustee's efforts to accomplish divestiture.

VIII.

IT IS FURTHER ORDERED that for a period of ten (10) years from the date this Order becomes final, Respondents shall not, without the prior approval of the Commission, directly or indirectly, through subsidiaries, partnerships, or otherwise:

- A. Acquire more than 2% of the stock, share capital, equity or other interest in any concern, corporate or non-corporate, that owns or controls the Augusta

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Assets to Be Divested or the P₂S₅ Assets to Be Divested; or

- B. Acquire all or part of the Augusta Assets to Be Divested or the P₂S₅ Assets to Be Divested.

IX.**IT IS FURTHER ORDERED** that:

- A. Within thirty (30) days of the date this Order is issued and every thirty (30) days thereafter until Respondents have obtained Commission approval for the acquirers and the manner of divestitures required by Paragraphs II. and III. of this Order, Respondents shall submit to the Commission a verified written report setting forth in detail the manner and form in which they intend to comply, are complying, and have complied with Paragraphs II. and III. of this Order. Respondents shall include in their compliance reports, among other things that are required from time to time, a full description of the efforts being made to comply with Paragraphs II. and III. of this Order, including a description of all substantive contacts or negotiations for divestiture and the identity of all parties contacted. Respondents shall include in their compliance reports copies of all written communications to and from such parties, all internal memoranda, all reports and recommendations concerning divestiture, and all transition services required to be rendered pursuant to the agreement approved by the Commission.
- K. One year from the date this Order becomes final and annually for the next nine (9) years on the anniversary of the date that this Order becomes final, and at other

Decision and Order

times that the Commission may require, Respondents shall file a verified written report setting forth in detail the manner in which they have complied and are complying with this Order.

X.

IT IS FURTHER ORDERED that Respondents shall notify the Commission at least thirty (30) days prior to any proposed change in the corporate Respondents such as dissolution, assignment, or sale resulting in the emergence of a successor corporation, or the creation or dissolution of subsidiaries or any other change in the corporation that may affect compliance obligations arising out of this Order.

XI.

IT IS FURTHER ORDERED that for the purposes of determining or securing compliance with this Order, and subject to any legally recognized privilege, and upon written request with reasonable notice to Respondents made to their principal United States offices, Respondents shall permit any duly authorized representatives of the Commission:

- A. Access, during office hours of Respondents and in the presence of counsel, to all facilities, and access to inspect and copy all books, ledgers, accounts, correspondence, memoranda, and all other records and documents in the possession or under the control of the Respondents relating to compliance with this Order; and
- B. Upon five (5) days' notice to Respondents and without restraint or interference from Respondents, to interview officers, directors, or employees of Respondents, who may have counsel present, regarding such matters.

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XII.

IT IS FURTHER ORDERED that this Order shall terminate on May 15, 2020.

By the Commission.

[Confidential Appendices A, B, 1 and 2 Redacted From
Public Record Version of Decision & Order]

**STATEMENT OF CHAIRMAN ROBERT PITOFSKY AND
COMMISSIONERS SHEILA F. ANTHONY, MOZELLE W.
THOMPSON, ORSON SWINDLE,
AND THOMAS B. LEARY**

We believe that the divestitures and other relief mandated by the Commission order should restore the competition lost through the joint venture between FMC Corporation and Solutia Inc. Nevertheless, we recognize that both divestitures are somewhat out of the ordinary.

When remedying a Clayton Section 7 violation, the Commission usually orders a complete divestiture of one merging party's assets that produce the relevant product. In the pure phosphoric acid ("PPA") market, though, the Commission requires the divestiture to Prayon of a plant that manufactures phosphate salts but not PPA. And in the phosphorus pentasulfide

Analysis to Aid Public Comment

market, the Commission orders the divestiture to Peak of what is essentially a “plant within a plant.” Due to the novelty of the relief, the Commission will monitor closely the respondents’ compliance with their obligations under the order and will ascertain whether the relief ordered in this case effectively restores competition in each of the markets.

Analysis to Aid Public Comment

The Federal Trade Commission (“Commission”) has accepted, subject to final approval, an Agreement Containing Consent Orders (“Consent Agreement”) from FMC Corp. (“FMC”), Solutia Inc. (“Solutia”), and Astaris LLC (“Astaris”). The Consent Agreement is intended to resolve anticompetitive effects stemming from the proposed joint venture between FMC and Solutia to combine their respective phosphates and phosphorus derivatives businesses. The Consent Agreement includes a proposed Decision and Order (the “Order”), which would require FMC and Solutia to divest to Societe Chimique Prayon-Rupel (“Prayon”) the portion of Solutia’s phosphates business based in Augusta, Georgia, and to divest to Peak Investments, L.L.C. (“Peak”) FMC’s phosphorus pentasulfide business based in Lawrence, Kansas. The Consent Agreement also includes an Order to Maintain Assets which requires respondents to preserve the assets they are required to divest as viable, competitive, and ongoing operations until the divestitures are achieved.

The Order, if issued by the Commission, would settle charges that the proposed joint venture between FMC and Solutia may have substantially lessened competition in the United States markets for pure phosphoric acid and phosphorus pentasulfide. The Commission has reason to believe that the proposed joint venture would have violated Section 7 of the Clayton Act and Section 5 of the Federal Trade Commission Act. The

Analysis to Aid Public Comment

Commission's complaint, described below, relates the basis for this belief.

The proposed Order has been placed on the public record for thirty (30) days for reception of comments by interested persons. Comments received during this period will become part of the public record. After thirty (30) days, the Commission will review the agreement and comments received and decide whether to withdraw its acceptance of the agreement or make the Order final.

According to the Commission's complaint, one relevant line of commerce in which to analyze the effects of the proposed joint venture between FMC and Solutia is pure phosphoric acid, and the relevant geographic market for this product is the United States. Pure phosphoric acid is used as an input into a wide variety of consumer and industrial products, ranging from cola beverages to cleaning compounds and metal treatments. The complaint describes FMC's and Solutia's production and sale of pure phosphoric acid, and further describes how each of the companies sells pure phosphoric acid directly to end-customers and uses it internally in the manufacture of different types of phosphate salts. According to the Commission's complaint, FMC and Solutia compete with each other in the manufacture and sale of pure phosphoric acid directly to end-customers, and in the manufacture and sale of phosphate salts.

The complaint alleges that the pure phosphoric acid market in the United States already is highly concentrated, and that the proposed joint venture would increase concentration in that market, as measured by the Herfindahl-Hirschman Index, by over 450 points, to a level over 2500. Furthermore, according to the complaint, new entry into this market is not likely.

Analysis to Aid Public Comment

The Commission's complaint further states that the market for pure phosphoric acid is conducive to coordination, that producers already price independently of industry operating rates, and that producers target competitors' customers in retaliation against aggressive bidding as a means of deterring future competition. Furthermore, according to the complaint, prices for pure phosphoric acid are already the highest in the world. The complaint also describes how Solutia's agreement to purchase pure phosphoric acid from Emaphos, S.A. ("Emaphos"), a new producer of pure phosphoric acid in Morocco, makes Solutia the exclusive distributor in North America for Emaphos' pure phosphoric acid and restricts Emaphos from selling pure phosphoric acid to end-customers. According to the complaint, this provision of Solutia's agreement with Emaphos reduced the impact of potential competition from Emaphos in the United States market.

According to the Commission's complaint, another line of commerce in which to analyze the effects of the proposed joint venture is phosphorus pentasulfide. Phosphorus pentasulfide, which is typically sold in a solid, flake form to customers, is used primarily in the manufacture of chemical additives for engine lubricating oils, and also is used to a smaller extent in the manufacture of different types of insecticides. The complaint alleges that the only three companies that manufacture and sell phosphorus pentasulfide in the United States are Solutia, FMC and Rhodia, and Rhodia has announced that it is exiting the market. Therefore, the proposed joint venture would create a monopoly in this line of commerce. The complaint also states that the entry of new producers into this market is not likely. The complaint therefore alleges that the proposed joint venture would likely be able to exercise market power on a unilateral basis.

The proposed Order is designed to remedy the alleged anticompetitive effects of the joint venture in the United States markets for pure phosphoric acid and phosphorus pentasulfide, by requiring the divestiture to Prayon of Solutia's phosphates plant in

Analysis to Aid Public Comment

Augusta, Georgia, and the divestiture to Peak of FMC's phosphorus pentasulfide plant in Lawrence, Kansas.

The Order would require respondents to divest the Augusta plant to Prayon within six months of the date that the Consent Agreement was accepted by the Commission. The Order would also require the respondents to provide Prayon with technology Solutia has used for manufacturing phosphates at the Augusta plant, and to divest other assets relating to the Augusta plant, including customer lists, contracts, and other intangible assets.

Prayon, based in Belgium, is one of the world's leading and lowest-cost producers of pure phosphoric acid. It operates two low-cost solvent-extraction plants to produce pure phosphoric acid in Belgium, and also is a partner in Emaphos, which operates a new low-cost solvent-extraction plant in Morocco. Prayon currently imports small volumes of pure phosphoric acid into the United States. With the acquisition of Solutia's Augusta plant, Prayon's presence in the United States would become much stronger, providing it with a base from which to expand its sales of pure phosphoric acid. Its competitive presence will also be enhanced by the Order's requirement that respondents revise the existing contract between Solutia and Emaphos so as to remove the restrictions that prevent Emaphos from selling pure phosphoric acid to end-customers. Emaphos' expansion in the United States through acquisition of the Augusta plant, and by virtue of the other provisions in the Order, will offset the loss of competition that would otherwise occur as a result of the joint venture.

The Order would also require respondents to divest FMC's phosphorus pentasulfide plant in Lawrence, Kansas to Peak within 30 days of the date that the joint venture is formed. The Order would require the respondents to provide Peak with technology FMC has used for manufacturing phosphorus pentasulfide at the

Analysis to Aid Public Comment

Lawrence plant, and to divest other assets relating to the Lawrence plant, including customer lists, contracts, and other intangible assets. Because Peak will operate the phosphorus pentasulfide plant in Lawrence as part of a larger site that the joint venture will continue to own, and because Peak will rely on the joint venture for certain facilities and services, the proposed Order also contains several provisions designed to safeguard Peak's competitive position, in part by providing Peak with the opportunity to provide for itself the services and facilities it needs to operate the phosphorus pentasulfide plant. The proposed Order also contains a provision requiring the appointment of an interim trustee who would, for a period of two years, monitor the relationship at Lawrence to ensure that Peak has fair and full access to the services and facilities needed to operate the phosphorus pentasulfide plant.

If the Commission, at the time that it issues the Order, notifies respondents that it does not approve of the manner of either divestiture, or of either Prayon or Peak as purchasers of the Assets To Be Divested, the proposed Order provides that respondents would have five months to divest either the Augusta plant or the phosphorus pentasulfide business to a different acquirer. If respondents do not complete such divestiture in that period, a trustee would be appointed.

The Order to Maintain Assets that is also included in the Consent Agreement requires that respondents preserve the Assets To Be Divested as viable and competitive operations until they are transferred to the Commission-approved acquirers. It requires the respondents to maintain the viability and competitiveness of the Assets To Be Divested, and to conduct the businesses to be divested in the ordinary course of business. Furthermore, it includes an obligation on respondents to build and maintain inventories of products at the Augusta and Lawrence plants consistent with regular business practice. The Order to Maintain Assets also requires respondents to provide certain support to Prayon in advance of the divestiture of the Augusta plant, including agreements to toll produce phosphates at Augusta, to

Analysis to Aid Public Comment

allow Prayon to maintain an engineer at the Augusta site, and to provide certain information to Prayon regarding the Augusta operations.

The Consent Agreement requires respondents to provide the Commission, within thirty (30) days of the date the Agreement is signed, with an initial report setting forth in detail the manner in which respondents will comply with the provisions relating to the divestiture of assets. The proposed Order requires respondents to provide the Commission with a report of compliance with the Order within thirty (30) days following the date the Order becomes final and every thirty (30) days thereafter until they have complied with the divestiture requirements of the Order, and also requires annual compliance reports for 10 years.

The purpose of this analysis is to facilitate public comment on the proposed Order. This analysis is not intended to constitute an official interpretation of the Consent Agreement or the proposed Order or in any way to modify the terms of the Consent Agreement or the proposed Order.

Complaint

IN THE MATTER OF**CMO DISTRIBUTION CENTERS OF AMERICA, INC.,
ET AL.****CONSENT ORDER, ETC., IN REGARD TO ALLEGED
VIOLATIONS OF SEC. 5 AND 12 OF THE FEDERAL TRADE
COMMISSION ACT**

*Docket C-3942; File No. 9823180
Complaint, May 16, 2000--Decision, May 16, 2000*

This consent order prohibits Respondents CMO Distribution Centers and Kalon Samluonis from making any representation that CMO or any similar product: (1) is effective in the mitigation, treatment, prevention, or cure of arthritis; (2) provides significant relief from symptoms of arthritis, including pain, swelling, impaired mobility, or deformity; (3) is as effective as, or superior to, prescription medications for the treatment of arthritis or the relief of arthritis symptoms; (4) is effective in the treatment of multiple sclerosis, leukemia, lupus, emphysema, cancer, benign prostate hyperplasia, silicone breast disease, asthma, fibromyalgia, or scleroderma; or (5) is safe or has no adverse side effects, unless, at the time the representation is made, respondents possess and rely upon competent and reliable scientific evidence that substantiates the representation. The order also prohibits proposed respondents from making any representations about the performance, safety, efficacy, or health benefits of CMO or any other food, dietary supplement, or drug, or using the name "cmocure," using the word "cure", unless the respondents possess and rely upon competent, reliable scientific evidence substantiating the representation unless the claims are substantiated by competent and reliable scientific evidence. In addition, the order prohibits the proposed respondents from misrepresenting that a product or program is endorsed or approved by any governmental, professional, or private organization or association, or complies with standards or guidelines established by such organization or association, or the existence, contents, validity, results, conclusions, or interpretations of any test, study, or research, or the experience represented by any user testimonial or endorsement of any product or program represents the typical or ordinary experience of members of the public who use the product or program.

Participants

For the Commission: *Judith A. Shepherd, John Hoagland,
Mike Eichorn, and BE.*

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For the Respondents: *Kirkpatrick Dilling, Dilling and Dilling,*
and *George W. Burditt.*

COMPLAINT

The Federal Trade Commission, having reason to believe that CMO Distribution Centers of America, Inc. and Kalon Samulonis, individually and as an officer of the corporation, have violated the provisions of the Federal Trade Commission Act, and it appearing to the Commission that this proceeding is in the public interest, alleges:

1. Respondent CMO Distribution Centers of America, Inc. is incorporated in the States of Florida and Michigan and maintains its principal place of business at 6479 Parkland Drive, Sarasota, FL 34243.
2. Respondent Kalon Samulonis is the President of the corporate respondent. He formulates, directs, and controls the acts and practices of the corporate respondent, including the acts and practices alleged in this complaint. His principal office or place of business is the same as that of the corporate respondent.
3. Respondents have promoted, offered for sale, sold, and distributed to the public products containing a substance described as cetylmyristoleate, cerasomal-cis-9-cetylmyristoleate, cetyl myristoleate, or CMO, including products identified with the name "CMO™" [hereinafter referred to collectively as "CMO"]. These products are "foods" and/or "drugs" within the meaning of Sections 12 and 15 of the Federal Trade Commission Act.
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.

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5. Respondents have disseminated or have caused to be disseminated advertisements or promotional materials for products containing CMO, including but not necessarily limited to the attached Exhibits A and B. Advertisements for respondents' CMO products have been disseminated through, among other media, a web site on the Internet. These advertisements and promotional materials contain the following statements:

* * *

**A. Arthritis Treatment
Breakthrough
[Depiction of
Product
Container]**

The purpose of this web site is to give you the opportunity to learn about the arthritis treatment breakthrough called CMO™. It is being hailed by doctors, the media and its users as the cure for arthritis. It has taken 26 years to develop CMO™ and make it available to the public. We urge you to explore this site and learn about this revolutionary new substance.

* * *

CMO. . . THE DISCOVERY

In 1971, the predecessor of CMO™ capsules, was first discovered by a researcher at the National Institutes of Health. . . Eventually he discovered that when this substance was injected near the joints of lab animals it protected them from arthritis. Many years later he contracted arthritis himself. After his doctor could provide no further relief through conventional medicine, he successfully injected himself to permanently reverse his arthritic condition.

* * *

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**[Depiction of
Scientist]**

The San Diego Clinic did the first clinical study on CMO™. That study proved CMO™ to be of great benefit to osteo, rheumatoid and reactive arthritis. Subsequent data proves its value for nearly all other forms of arthritis except gouty arthritis.

* * *

HOW IT WORKS

In their October 28, 1996 issue, Time magazine reported on the three most promising developments in arthritis research. The scientists participating in all three projects are intensely focused on intervening in the immune system's involvement in the arthritic process. According to doctors, that is exactly what CMO™ does. It corrects the disease at the source in the immune system. Dr. Len Sands the director of the San Diego Clinic says: "Unlike everything else made for arthritis, you don't have to take it over and over again. CMO™ is not a pain reliever, anti-inflammatory, cortisone or other steroid. CMO™ is an immunomodulator, it regulates your immune system. There's never been anything like it before for arthritis. Instead of treating the symptoms of pain and inflammation, CMO™ capsules act directly against the

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cause of arthritis, the memory T-cells in your immune system that create the attacks against your joints. Once the error in your immune system is corrected by CMO™, the attacks on your joints stop and the pain and inflammation should be relieved forever. Once the problems are corrected, they stay corrected and you no longer need CMO™ or other arthritis remedies.”

WHY IT IS DIFFERENT

CMO™ is not a conventional product. There’s never been anything like it before. It’s not a pain reliever, herb or anti-inflammatory. CMO™ is a natural immunomodulator. It has the unique ability to normalize the immune system. CMO™ acts directly to regulate and normalize the malfunctioning immune system and stop the arthritic process itself. Once that occurs, the destruction stops, and the pain and inflammation are automatically relieved. Your body then has a chance to heal itself and return to normal.

* * *

CMO is:

FAST**LASTING RELIEF IS JUST A FEW DAYS AWAY**

Most users report significant relief in two weeks or less. Even in severe cases it rarely takes longer than 21 days.

EASY**ONLY ONE SET OF ORAL CAPSULES**

Take three capsules in the morning and then again at night for 16 days, then say goodbye to the problems of arthritis. Only one bottle is all that is needed in most cases.

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SAFE

NO SIDE EFFECTS

CMO™ is not like the many medicines for arthritis that are toxic. CMO™ is not even like the several types of vitamins that are toxic at high levels. CMO™ has been tested and shown to have no ill effects whatsoever. To date thousands upon thousands of people have used CMO™ to relieve the symptoms of arthritis and there are no reported ill effects from anyone.

EFFECTIVE

IT WORKS FOR ALMOST EVERYONE

It works for both osteoarthritis and rheumatoid arthritis. It works for all other types of arthritis except gouty arthritis. CMO™ has been effective on nearly everyone that does not have severe liver damage. CMO™ almost always provides relief of pain, swelling and return of mobility. In the clinical studies they found a few cases that only received 70% to 100% relief. Relief provided by CMO™ was invaluable and the subjects were able to return to a normal life.

NATURAL

DRUG FREE PAIN RELIEF

CMO™ is the commercial name for cerasomal-cis-9-cetylmyristoleate. It is naturally derived from beef. Similar substances have long been used in common foods including cheese and chocolate. This treatment is accepted by the modern medical community. It is natural, drug free and non-toxic.

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PERMANENT**TAKE CMO™ ONLY ONCE**

One bottle of capsules is all you should ever need for relief from the symptoms of arthritis for the rest of your life. Most affected persons need to take CMO™ for only a couple of weeks. No further treatment or medicines are needed, not even CMO™. Once CMO™ has done its work stopping arthritis the benefits continue for long periods of time as your body repairs and reverses the damage done by arthritis.

* * *

What do doctors say about CMO?

Dr. Douglas wrote in his newsletter: “A New Miracle Cure for Arthritis ...now we have a new star on the horizon that promises as much (or more) than the old sure-cures.”

Dr. Muller of Ferndale, Mich. says there’s a cure. He knows, he’s taken it. Dr. Muller had osteoarthritis for 30 years. Bravely he forged ahead into the naturopathic remedy and tried CMO™. Dr. Muller is no longer troubled by arthritis.

Dr. Hunt was so impressed by CMO™ he wrote a book called “Boom, You’re Well”. In that book he says: “...rheumatoid arthritis damages tissues, causes extreme suffering, and premature death. ...If you have rheumatoid arthritis, or you know someone who has it, then you know I am reporting a miracle ... A MIRACLE.”

Dr. Sands the director of the San Diego Clinic knows there’s a cure. He’s taken it and now he says, “I was rescued from arthritis”. In fact that is the name of his forthcoming book about CMO™. In that book he says, “The arthritic process can be halted. Arthritis can be reversed. The pain and inflammation can be relieved. And it’s all been done without any harmful side effects.”

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What is the media saying about CMO?

Books, Television News, Radio Health Talk Shows, Medical Newsletters and Scientific Journals all report CMO™ to be a revolutionary breakthrough!

* * *

What are people saying about CMO?

“It’s a miracle! Ten years with arthritis ... three in a wheelchair ... and now I’ve got a completely normal life again. Just watch me make up for lost time.”

* * *

“Even as a doctor, I find CMO™ miraculous. It cured my knee problems, and it’s performing every bit as well for my patients, too. I’ve seen several ‘miracle cures’ already.”

“After nine years of crippling pain, I can’t believe I’m actually skiing again. CMO™ is truly incredible.”

* * *

“Imagine my agony. I was a professional athlete all my life. CMO™ gave me back my life. Even knee surgery didn’t do that for me. It’s amazing how CMO™ ended up fixing all my joints.”

FREQUENTLY ASKED QUESTIONS

The following questions were answered by the doctors, staff and research associates of the San Diego Clinic:

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* * *

Will it correct deformities?

Yes. Deformed fingers and toes are often caused by inflammation which swells joints and pushes the bones out of place. Reduction of the swelling alone improves appearance dramatically and often allows the dislocated bones to return to their normal positions. Extreme cases may require some physical therapy.

What about really severe cases?

Even most persons previously confined to bed or to wheelchairs have responded dramatically and are now no longer dependent on others for care. A number of these cases received additional benefit from repeating the treatment one more time...

* * *

Is it expensive?

The cost of the treatment is very modest. Most arthritis victims are already spending more on pain and anti-inflammation medications in just a few months. Since you usually need to take only one set of CMO capsules, it actually saves thousands of dollars in the long run.

* * *

Is CMO used for any other ailments?

Current studies include CMO as a part of therapeutic protocol for other disorders with autoimmune components including multiple sclerosis, leukemia, lupus, emphysema, certain cancers, benign prostrate hyperplasia, silicon breast disease, and especially asthma.

Complaint

* * *

ORDERING

* * *

Toll free in the US: 1-800-909-CURE

* * *

Manufacturers Statement

Modestly speaking, CMO™ is a revolutionary new product. CMO™ is naturally derived, it is sold only as a dietary supplement not intended to treat, cure, or diagnose any disease.

[Exhibit A, <http://home.earthlink.net/~cmocure/cmocure/>]

B. Letter of Introduction

* * *

This site contains exciting information about a naturally derived substance called CMO. It is being hailed by it's users, doctors and the media as the cure for arthritis...

[Depiction of Product Container]

CMO has been clinically tested and found to relieve the symptoms of virtually all forms of arthritis except gouty arthritis. CMO is a one time treatment consisting of 100 capsules taken orally over a period of 16 days. The benefits of CMO should last a lifetime. CMO is reported to be effective on 80% of the people who have used it as a dietary supplement. In clinical studies with a controlled diet, CMO has been reported to be effective on 96% of the people who have used it. CMO can benefit almost everyone who suffers from arthritis with just one treatment. The

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treatment program is fast, easy, safe and very effective. CMO can halt arthritis and prevent future pain, swelling and stiffness. CMO can rescue someone from the physical damage that a future with arthritis holds.

* * *

The History and Discovery of CMO

With the research concluded, effectiveness improved, medical community acceptance, imposters and counterfeiters in check, the television commercial finished, the books written, and the distribution arranged, CMO can finally finish it's 26 year long journey from the point of discovery to benefit the general public.

* * *

Who says there's a cure for arthritis?**Time Magazine**

As we mentioned earlier in the CMO Information section, in their October 28, 1996 issue, Time magazine reported on the three most promising developments in arthritis research. The scientists participating in all three projects are intensely focused on intervening in the immune system's involvement in the arthritic process.

According to doctors that is exactly what CMO does. It corrects the disease at the source in the immune system and doesn't require a lifetime maintenance program.

* * *

What will cure arthritis?

Dr. Jason Theodosakis' book The Arthritis Cure for gives the impression that glucosamine and chondroitin sulfate are the cure for arthritis. In fact neither of those substances have any effect on arthritis...Even the Arthritis Foundation says The Arthritis Cure is

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not recommended and they cannot recommend glucosamine and chondroitin sulfate as a treatment for osteoarthritis or any other form of arthritis.

* * *

Speaking of the Arthritis Foundation, they will neither confirm, nor deny that CMO is the cure for arthritis. We are aware of several cases where CMO was presented members of the AF. In turn, they were cured and presented CMO to AF staff. To this day, despite the fact that CMO has cured some of their members, the only official comment the AF has made, was to suggest that when taking CMO, you should consult your physician before reducing steroids or other medications.

According to doctors, clinical studies, users and the media, CMO would certainly seem like the most likely candidate to be given the true title being of a “cure” for arthritis. When asking Dr. Sands if CMO is the only cure for arthritis he replies:

“According to the Journal of Rheumatology (1993; 20:137-140) bone marrow transplants seem to have succeeded in curing two cases of arthritis.”

* * *

Research

CMO Distribution Centers of America in conjunction with the San Diego Clinic act as a clearing house for all the latest information on CMO. With this joint research effort, a network of communication is established between all medical professionals and distributors. This allows for up to the minute information sharing. This will facilitate the application of CMO to uses other than for arthritis. Currently, studies for the use of CMO on other auto-immune diseases are in progress. It is hoped that the Lupus

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Foundation will conduct one such study. We have offered to fund the protocol.

Current studies of CMO as a part of therapeutic protocol for other diseases include asthma, scleroderma, fibromyalgia, lupus, emphysema, certain cancers, and benign prostrate hyperplasia.

* * *

Case Histories**Condensed Highlights From Case Histories Recorded By The
San Diego Clinic**

* * *

From case history #33

Medical Doctor. Auto wreck ten years earlier damaged hip, caused limp and arthritis. CMO relieved pain permanently in one day for the first time after many years. The limp problem is irreparable. Ordered CMO for his patients.

* * *

From case history #24

Female. Age 50. Family history of arthritis. Pain in shoulders. Severe pain, limited mobility, and gross swelling in hands and fingers. By the third day of CMO, hands were free of pain, mobility had increased immensely, and finger swelling decreased so dramatically she had to have all her rings re-sized. Repeated treatment three weeks later. Totally free of pain and inflammation since. For the first time in many years, she was recently delighted to experience a pain-free skiing holiday.

* * *

From case history #11

Male. Age 58. Ex football player. Clinically obese. Had knee surgery three times about 15 years ago. Had extreme pain upon lying down. Often slept in a recliner chair instead. With his first evening dose of CMO capsules, he slept soundly and arose the

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next morning completely free of pain. He has enjoyed continuing pain-free remission ever since the first day.

* * *

From case history #32

Female. Age 66. Rheumatoid arthritis rendered hands useless, gnarled, inflexible, agonizingly painful six years ago. Pain relieved and full use of hands restored after five days of CMO.

* * *

Suggested Use

* * *

Methotrxate:

. . .Request that your doctor allow you to discontinue these drugs for at least one week prior to starting CMO. Consult with your physician before making any changes to your current medications.

Steroids:

. . .If you are taking cortisone or other steroids, advise your doctor that it would be better to avoid them or reduce their dosage levels. If not ask him about taking half doses. Then as your pain disappears you may request that he discontinue them completely. Consult with your physician before making any changes in your current medications.

* * *

**Marketing & Sales
Market Information**

* * *

Current studies of CMO as a part of therapeutic protocol for other diseases include asthma, scleroderma, fibromyalgia, lupus,

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emphysema, certain cancers, and benign prostrate hyperplasia. The CMO Distribution Centers and San Diego Clinic team have dedicated themselves to that research and the results will expand the market potential of CMO to other diseases.

[Exhibit B, <http://home.earthlink.net/~cmocure/cmo/>]

6. Through the use of the web site address “cmocure,” the use of the telephone number “1-800-909-CURE,” and the means described in Paragraph 5, respondents have represented, expressly or by implication, that:

- A. CMO is effective in the mitigation, treatment, prevention, and cure of all forms of arthritis, except gouty arthritis.
- B. CMO relieves all symptoms of arthritis, including pain, impaired mobility, swelling, and deformity.
- C. CMO is as effective as, or superior to, prescription medications for the treatment of arthritis and the relief of arthritis symptoms.
- D. CMO is effective in the treatment of multiple sclerosis, leukemia, lupus, emphysema, cancer, benign prostate hyperplasia, silicone breast disease, asthma, fibromyalgia, and scleroderma.
- E. CMO is completely safe and without harmful side effects, even at extremely high doses.

7. Through the means described in Paragraph 5, respondents have represented, expressly or by implication, that “case histories” and testimonials from consumers appearing in the advertisements or promotional materials for respondents’ CMO products reflect the typical or ordinary experience of members of the public who use the products.

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8. Through the use of the web site address “cmocure,” the use of the telephone number “1-800-909-CURE,” and the means described in Paragraph 5, respondents have represented, expressly or by implication, that they possessed and relied upon a reasonable basis that substantiated the representations set forth in Paragraphs 6 and 7, at the time the representations were made.

9. In truth and in fact, respondents did not possess and rely upon a reasonable basis that substantiated the representations set forth in Paragraphs 6 and 7, at the time the representations were made. For example, studies have not examined the efficacy of the ingredients in respondents’ CMO products in the prevention or cure of arthritis; or in comparison to prescription medications for the treatment of arthritis or the relief of arthritis symptoms; or in the treatment of multiple sclerosis, leukemia, lupus, emphysema, cancer, benign prostate hyperplasia, silicone breast disease, asthma, fibromyalgia, or scleroderma. In addition, there is insufficient information available to determine the reliability of other purported studies or the applicability of such studies to the respondents’ products. Therefore, the representation set forth in Paragraph 8 was, and is, false or misleading.

10. Through the means described in Paragraph 5, respondents have represented, expressly or by implication, that:

- A. Clinical studies prove that CMO is a safe and effective treatment for virtually all forms of arthritis except gouty arthritis.
- B. CMO is accepted by the medical community.
- C. *Time* magazine reported in its October 28, 1996 issue that CMO™ is one of the most promising developments in arthritis research.

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- D. The Arthritis Foundation has not commented on CMO, except to suggest that when taking CMO, patients should consult their physicians before reducing steroids or other medications.

11. In truth and in fact,

- A. CMO has not been proved in clinical studies to be a safe and effective treatment for virtually all forms of arthritis except gouty arthritis.
- B. CMO is not accepted by the medical community.
- C. *Time* magazine did not report in its October 28, 1996 issue that CMO™ is one of the most promising developments in arthritis research.
- D. The Arthritis Foundation has not refrained from comment on CMO. In its Public Information Memo, P.I. Memo 97-07 (Oct. 31, 1997), the Arthritis Foundation stated:

The Arthritis Foundation cannot recommend cerasomal-cis-9-cetylmyristoleate and related products as a treatment for any form of arthritis. . . Cerasomal-cis-9-cetylmyristoleate and related products are an unproven remedy. . . People with arthritis should seek proper medical care from their family physician or a rheumatologist. They should check with their doctor before self-treating with unproven remedies claimed to help arthritis. . . People on medications such as corticosteroids or methotrexate should be especially cautious about using cerasomal-cis-9-cetylmyristoleate and related products and consult their physician.

Therefore, the representations set forth in paragraph 10 were, and are, false or misleading.

Complaint

12. 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.

THEREFORE, the Federal Trade Commission this sixteenth day of May, 2000, has issued this complaint against respondents.

By the Commission.

Complaint Exhibits

Complaint Exhibits**TRANSCRIPT OF QVC****SEPTEMBER 11, 1997****ON SCREEN:****A-36293****60 Original or Cherry Flavor Cold-Eezers****Lozenges****QVC Price \$18.25****S&H \$3.97****QVC 1-800-345-1515****The Health Connection**

Show Host: See you later, Jill. It's good to see you, honey.

Jill Bauer is coming up following Health Connections. She's got the today's special value at noon. And then all of the jewelry that I have on, if you're interested, coming up at 1:00. All right. Here you go, 1-800-345-1515. We want to talk to you. We want to hear how you're doing with Cold-Eezers. How did it save you last year. How did it save your kids? How do you feel when you take them?

I'd like you to meet someone who's pretty new to QVC, Chuck Phillips, one of the founders of the Cold-Eezers company.

C. Phillips: Good morning, Patricia.

Show Host: So nice to have you here, sir.

C. Phillips: Thank you. Good to be here.

Show Host: Good to see you. Now, we are ready to put Chuck through the paces this morning on the morning show. So, thank you for sticking around, I appreciate it.

C. Phillips: My pleasure, my pleasure.

Show Host: Chuck is back to tell us why Cold-Eezers are so fabulous. Perfect time of year to bring them back because we've got hay fever and allergies combined with an upcoming cold season. Already I'm starting to see lots of sniffles around QVC.

C. Phillips: Yes.

Show Host: And, you know, we're so glad that you came back because I tell you what, whenever the Cold-Eezers come to town, they're gone instantly backstage. People just kind of grab little handfuls --

C. Phillips: They disappear.

Show Host: -- and then sort of scurry off with them. You're going to get lots of them, though. You get 60 for \$18.25. A-36293 is the item number in either the cherry, which you see there in the red wrapper, or the natural flavor, which you

Complaint Exhibits

see in the clear wrapper. So, if you're new to QVC, if you're new to Cold-Eezers, here's why they're so great. Take it away, Chuck.

C. Phillips: Well, it's -- first of all, it's an all-natural, homeopathic product.

Show Host: Right.

C. Phillips: It's a unique product here on QVC. It has been clinically proven to reduce the duration and severity of the common cold. And what we're asking people to do is to take a little more aggressive role in caring for their family.

Show Host: Right.

C. Phillips: To have a strategy to help fight the common cold. The kids are in school. They are there right now.

Show Host: Um-hum.

C. Phillips: And school is one of the most famous places to have --

Show Host: It's a breeding ground for germs.

C. Phillips: It's a breeding ground. Everything they touch -- if the child before had a cold and they touch that spot and they touch their nose, it's off to the races.

Show Host: Sure. That's it.

C. Phillips: So, there's a couple of strategies. One is we can take one a day and try to see if you can beat the cold to what they call prophylactic or a preventive medicine.

Show Host: Excellent.

C. Phillips: Try taking one a day. Or if the child comes home and you see that it's here --

Show Host: Um-hum.

C. Phillips: -- that they have symptoms, start treating the child. Take one every three hours. But everyone in the family should take a couple to prevent picking up that cold.

Show Host: This is safe for kids to take.

C. Phillips: Absolutely.

Show Host: It's certainly safe for adults. It's safe for senior citizens to take. In fact, we got a call the last time I was on the air with Cold-Eezers of a woman whose mom was in a nursing home.

C. Phillips: Yes.

Show Host: And she was taking them one a day as a preventative measure because she was surrounded by lots of other people and lots of other germs. So, it's a great step to take in maintaining your health, and it's also really helpful when you get a cold. In fact, we have someone on the phone who's used Cold-Eezers in the

Complaint Exhibits

past. So, let's say good morning to Renee. Hi, Renee. I'd like you to meet Chuck Phillips.

Caller: Hi. Hi, Chuck.

C. Phillips: Hi, Renee.

Caller: I just wanted you to know I have a granddaughter that's 12 years old, and ever since birth when she gets a cold, it turns into bronchitis.

Show Host: Oh, that's tough.

C. Phillips: Uh-huh.

Caller: And so, I tried these because she was out here visiting from Illinois with me for three months, and it eliminated the cold almost immediately.

C. Phillips: Well, that's really important because we have several customers we know through QVC and other places where they really can't afford to have their children even get a cold because what happens is this exacerbated condition appears.

Show Host: Sure.

C. Phillips: You get bronchitis, pneumonias. And here's an opportunity right in front of us to stop it right now.

Show Host: Right. Exactly.

C. Phillips: Just nail it.

Caller: It -- it worked fantastic.

C. Phillips: Well, I'm glad that you had that.

Show Host: And you saw it work. Hands on experience, right, Renee?

Caller: Yes, I have. Because she was born with a weak lung and weak bronchial tubes.

Show Host: Uh-huh.

Caller: And ever since then, like I say, it goes into bronchitis or pneumonia.

Show Host: She's a little susceptible. Sure.

Caller: And I tried these and the cold just went away.

Show Host: Oh, that is excellent. Good.

C. Phillips: Well, just get a little more aggressive now. Just have her take one during cold season, one a day --

Show Host: Um-hum.

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C. Phillips: -- and that will help to prevent this from even beginning. There's reports out that tell us that over 55 percent of people who get colds end up at the doctors.

Show Host: Ugh.

C. Phillips: So, now you have the doctor's bill --

Show Host: Right.

C. Phillips: -- you have the prescription and you still have the cold and the bronchitis.

Show Host: You have time off from work and you have miserable kids if they're sick, too.

C. Phillips: Absolutely.

Show Host: Well, Renee, I'm so glad it worked for you and for your granddaughter. Thanks for being a part of our show.

Caller: Thank you.

Show Host: You take care.

Caller: And have a great day, both of you.

Show Host: Bye-bye now.

C. Phillips: All right. Thank you, Renee.

Caller: Bye-bye.

C. Phillips: Bye-bye. The other thing is allergies.

Show Host: Yes.

C. Phillips: We have many, many people who have reported to us that their usual choice is to have antihistamines, which make them dopey --

Show Host: Sure.

C. Phillips: -- which make them incapable of functioning, some of them.

Show Host: Right.

C. Phillips: And we suggested they try it. So, we -- they tried it and they take one and they see how long it lasts. It does diminish the symptoms of allergies and --

Show Host: Lots of people have asked exactly how does it work, and we actually have some animation to show you. I'm just showing you, this is what one of the Cold-Eezers looks like up close and personal. Take a look at this. Now --

C. Phillips: Those -- those are purple rhinoviruses.

ON SCREEN: Animation

Complaint Exhibits

- Show Host: Okay.
- C. Phillips: And what they do is in your mouth, they lodge on the cells inside your mouth by, let's say, magnetism, electricity.
- Show Host: Um-hum.
- C. Phillips: Positives and negatives attract.
- Show Host: Um-hum.
- C. Phillips: So, when they lodge, they intrude and replicate themselves, kill the cell, and then you have an irritation. But --
- Show Host: Now, the little blue balls there --
- C. Phillips: That's Cold-Eezer Plus double positive ions. They actually go and coat the areas on the rhinovirus --
- Show Host: Uh-huh.
- C. Phillips: -- that it would normally use to grab on to the cell. Now, they can't because it's an effective blockage to keep them from lodging. So --
- Show Host: So, now, that actual cold cell that -- what gives us a cold, the common cold virus cell, cannot attach itself to our cells.
- C. Phillips: That's right. That's right.
- Show Host: So, it can't dock in and we can't get sick.
- C. Phillips: And that allows the body's natural function, which is mucus --
- Show Host: Um-hum.
- C. Phillips: -- to wash them away. It can happen within eight or nine hours. If you have a rhinovirus enter within eight or nine hours, that process is begun.
- Show Host: How many of these do we have to take, Chuck?
- C. Phillips: You should take one every three to four hours.
- Show Host: Okay.
- C. Phillips: And remember, please, it's medicine. Some -- it tastes good.
- Show Host: It does.
- C. Phillips: It's wonderful. But take one every three hours.
- Show Host: I want to show you some of the people who are able to use this. Airline pilots are allowed to use this. Now, you know that they're not allowed to take decongestants or antihistamines or anything obviously.

Complaint Exhibits

C. Phillips: Exactly. Exactly.

Show Host: School bus drivers can take this. Teachers can take this. Children can absolutely take this. In fact, I've heard how more people will wrap one of these in cheesecloth and let their toddler suck on it so they can get the benefits from it without actually risking choking or anything.

C. Phillips: Um-hum. Yes.

Show Host: Senior citizens can take it. Pregnant ladies can take it. Nursing moms can take it. It's perfectly safe to take. We're going to take a phone call actually.

C. Phillips: Excellent.

Show Host: We're going to head right back to the phones and say good morning to Doris. Hi, Doris. Come on in and meet Chuck Phillips.

Caller: Good morning.

C. Phillips: Good morning, Doris.

Show Host: How are you?

Caller: Just fine. We used these last year. I have a son who goes to college up in Minneapolis.

Show Host: Ah-ha.

Caller: And so, we sent them up there because he has a lot of cold weather and he has allergies.

Show Host: Yeah.

C. Phillips: Uh-huh.

Show Host: Um-hum.

Caller: And I was glad to hear you say something about taking one a day as a preventive. We've never tried that before.

C. Phillips: Yes. Well, now's the time to try it.

Show Host: Yep.

C. Phillips: This is -- this is a strategy that may pay off big-time because it does help block as you saw in the animation. If we can stop the viruses we pick up over the day, they will not have a chance to even start.

Show Host: Perfect.

C. Phillips: Therefore, it will preclude you getting the cold.

Caller: Yes.

Complaint Exhibits

C. Phillips: And it's a good strategy. We highly recommend people try that.

Caller: Well, I'm going to recommend it to him when I send another package to him.

Show Host: Oh, good.

C. Phillips: Good.

Show Host: That's a wonderful care package to get.

Caller: Yeah. It helps us all of us. Since last year, we -- my husband and I have used them and really feel like it does help to keep from getting it any worse than what we do.

Show Host: Right.

C. Phillips: That's good. Well, make sure that you understand that it's got to have what we call ZIGG, zinc gluconate glycine. It is our patented process.

Show Host: Um-hum.

C. Phillips: You're going to see other zincs out in the world, but only Cold-Eezer Plus that has ZIGG in it, zinc gluconate glycine, is the one that's clinically proven, the one that does work.

Show Host: That's the only one.

Caller: Well --

C. Phillips: So, it's -- it's a caution, but you're in the right place and I know they'll get the product to you in a -- quick.

Show Host: Seven to ten days.

Caller: Yeah. Well, we have a few left, but -- and we really like the cherry-flavored ones.

Show Host: Yeah, that's my favorite, too.

Caller: Uh-huh.

Show Host: The other one is -- just for everybody who is watching and wondering, the other one is a little more like a citrus or an orange flavor.

C. Phillips: Um-hum.

Show Host: But I'm with you, I'm a cherry gal all the way.

Caller: Yeah. We are, too.

Show Host: Thanks for calling in and being part of our show.

Caller: Uh-huh. Thank you.

Complaint Exhibits

Show Host: Take care now. Bye-bye.

Caller: Thank you.

C. Phillips: So long.

Show Host: \$18.25. Now, you get 60 lozenges. If you want to do it as a preventative measure, that's going to be a two month supply for you. If you want to stash some in your desk at work, stash some in the glove compartment in your car. Give a couple to your kids at school, because halfway through the day if they start to get that tickle in their throat, by taking one of these, they're already taking steps ahead to prevent getting sicker and to prevent spreading it to the rest of the family. So, these do last you a good long time.

But this is the time of year to stock up. Even if you're not suffering from hay fever and allergies, you know that cold season has pretty much started --

C. Phillips: Oh, it's started.

Show Host: -- or else it's right around the corner.

C. Phillips: It's definitely started.

Show Host: Right back to the phones we go. Chuck --

C. Phillips: Okay.

Show Host: -- this time we're going to say good morning to Alice. Alice, hello. How are you doing?

Caller: Well, good morning to both of you.

Show Host: Good morning.

Caller: And I'm doing great, and, of course, ordering more Cold-Eezers.

C. Phillips: All right.

Show Host: So, you've tried them in the past, have you?

Caller: Oh, absolutely. I wouldn't be without them. I've bought some for my sons who are -- they live kind of close by but they're out of the home, and we all swear by them. And I definitely do. You know, I was kind of skeptical in the beginning about colds --

Show Host: Um-hum.

Caller: -- but they really do -- as soon as you feel you've got a cold, you know, you just put one in your mouth and, oh boy, they are just fantastic. They stop it right away. And like that other lady said, I was delighted to hear this morning that you could take one every day to prevent a cold.

Show Host: Sure.

Complaint Exhibits

Caller: And that's just terrific news. So, I'm going to start doing that right today.

Show Host: Oh, good. Good for you.

C. Phillips: Good. Well, not only that, but zinc is a critical, very important mineral that we all need. A lot of us are deficient in it.

Show Host: Um-hum.

C. Phillips: So, not only are you preventing a cold, but you're getting that zinc which has been proven many times to have a positive effect on many conditions of the body.

Show Host: So you're getting even healthier.

C. Phillips: Absolutely.

Caller: Oh, I think they're wonderful. As a matter of fact, I'm going to order more for my sons. Now that we can take one every day, I'm just going to go back and order some more.

Show Host: Oh, good. Good thinking.

C. Phillips: That's a good idea.

Show Host: Well, Alice, you sit tight on the lines. I'll send you back over to the operators and they can help you out, okay?

Caller: Okay.

Show Host: Take care.

Caller: Thank you very much.

Show Host: Thanks for your call, Alice.

Caller: Bye-bye.

Show Host: Bye-bye now.

Sixty of them, original flavor or cherry flavor for \$18.25. That's a great deal, and that's not a lot of money to spend preventing a cold. Because if you think of it, you go to the drugstore, you're going to spend a \$20 bill getting all the cold medicine and you're going to be out of work for a couple of days. If your kids are sick, you've got to take time off from work. It winds up costing a lot more than \$18.25.

Right back to the phones. Let's see if we can't get in one more quick call. This time we'll say good morning to Rachel. Rachel, how are you this morning?

Caller: Hi. How are you?

Show Host: Great. How are you doing?

Complaint Exhibits

C. Phillips: Hi, Rachel.

Caller: I have to tell you a story and this is honest truth. I have two kids in college.

Show Host: Ah-ha.

C. Phillips: Ahh.

Caller: I gave my son the other flavor, my daughter takes the cherry, and I ran out of it.

Show Host: Uh-oh.

Caller: And she already told me, ma, I think I'm catching a cold.

Show Host: Oh, no. Quick, you got to get her more Cold-Eezers.

Caller: Because -- yeah. Because in college, one person sneezes --

Show Host: Um-hum.

Caller: -- 400, 500 kids, they all catch a cold.

C. Phillips: Oh, yes.

Show Host: You're absolutely right.

C. Phillips: It goes through like lightning.

Show Host: It runs through those dorms.

C. Phillips: Absolutely.

Caller: I wish I had them today. I'm going to go visit her this weekend.

Show Host: Oh.

Caller: But I did two orders again.

Show Host: That is marvelous. And, you know, for you and for everybody else, you can always do our bill to-ship to option. QVC will --

Caller: Yes, that's how I sent it today.

Show Host: Yes. Good for you. We'll do it.

Caller: Yes. Yeah, because they have the cleansing for the face, whatever, when I order from you people.

Show Host: Oh.

Caller: Thank you so much. The most wonderful things with the -- you know, with the zinc and everything.

Show Host: Oh, good.

Complaint Exhibits

Caller: I take it myself.

Show Host: Good.

C. Phillips: Good.

Caller: Because last year I had the worst -- the worst bronchitis.

Show Host: Uh-oh.

Caller: And I didn't have them with me.

Show Host: Oh.

C. Phillips: Ahh.

Show Host: See that?

C. Phillips: Now you know.

Show Host: Well, now you've got them all stocked up for the season. I'm so glad.

Caller: Yes. Yeah, thank you --

Show Host: Good for you.

Caller: -- and have a good day.

Show Host: You, too.

C. Phillips: Thank you.

Show Host: Take care of yourself.

Caller: Thank you again.

Show Host: Bye-bye.

C. Phillips: Bye-bye.

Caller: Bye-bye.

Show Host: If you are sending them to someone you love, family on the other side of the country, kids away in college, use our bill to-ship to. We'll ship them to them, we'll send you the bill. You don't have to worry about it. But be sure to pick some up for yourself.

Sixty of them, two packages. 30 in each package, cherry flavor or original flavor, the Cold-Eezers lozenges, \$18.25.

Chuck Phillips, what a delight to see you. Thanks so much for being a part of our show today.

C. Phillips: Thank you, Patricia.

Complaint Exhibits

Show Host: Good to see you, sir.

C. Phillips: Good to see you.

Show Host: We'll see you back.

C. Phillips: Okay.

(The Cold-Eezers segment was concluded.)

Complaint Exhibits

TRANSCRIPT OF QVC**JANUARY 28, 1997**

Show Host: Please pick up the phone and call us at 1-800-345-1515, if you have used Cold-Eezers and you've knocked out that awful cold and you've taken care of it naturally and healthily because we have Dr. Robert Pollack joining us and we want to get going. We want to get going, we want to hear a story.

R. Pollack: Right, right.

Show Host: Hello, hello.

R. Pollack: Hello.

Show Host: Good morning.

R. Pollack: Nice seeing you again.

Show Host: It's nice to have you back.

R. Pollack: Thank you.

**ON SCREEN:
Dr. Robert Pollack**

Show Host: We're so happy every time you come to town. And I have to tell you every time Dr. Robert is with us, he comes on and he's kind enough to leave a bag or two of the Cold-Eezers up front by the producer's desk and we all kind of pick and choose. Well, the last time you were here, they were gone.

**ON SCREEN:
A-36293
60 Original or Cherry Flavor Cold-Eezers
Lozenges
QVC Price \$18.25
S&H \$3.97
QVC - 1-800-345-1515**

R. Pollack: They were gone.

Show Host: By 9:00 in the morning. Everyone came down and stole them and ran.

R. Pollack: Okay.

Show Host: And that's what happens on air as well. We tend to get these into stock, and the next thing you know, they fly out the door.

R. Pollack: Right, because of the fact that they work.

Complaint Exhibits

Show Host: They sure do.

R. Pollack: They work.

Show Host: We are talking about the Cold-Eezers lozenges, and we have two flavors to choose from, your original, which is sort of a citrusy, kind of an orangy --

R. Pollack: Um-hum.

Show Host: -- and the new cherry flavor. The item number is A-36293. \$18.25, you get two packages of them, so it's 60 lozenges in all.

R. Pollack: Right.

Show Host: And just like Dr. Pollack said, they work. And tell us why they work.

R. Pollack: Well, the fact -- very simply, we've treated the zinc in a certain way, which it is zinc, just normal, natural zinc.

Show Host: Um-hum.

R. Pollack: And it plugs up the viruses, the crevices that attach to the contact points on our cells. There they --

Show Host: Yeah.

ON SCREEN: Animation

R. Pollack: There you see the picture of how the viruses are attaching to the cell.

Show Host: Um-hum.

R. Pollack: You see those little crevices that are in each side.

Show Host: Um-hum.

R. Pollack: They attach onto the cell and that's what causes the cold. They start replicating. Here we have the zinc. Notice how they plug up the crevices and they just can't attach to the cell. It's as simple as that and as effective as that. It's the first treatment that actually treats -- or is effective against the virus that causes the cold --

Show Host: Yes.

R. Pollack: -- not the symptoms, the runny nose or the teary eyes.

Show Host: Right.

R. Pollack: Here, when we eliminate the virus, you eliminate the symptoms, all of them, not just one, the runny nose that you might buy something for, or the cough.

Show Host: Sure, sure.

Complaint Exhibits

R. Pollack: So, you see, that's the difference. And it happens very rapidly.

Show Host: It really does. This cuts down the actual time you spend suffering from a cold. And actually, if you take these on a preventative basis, you might not ever get a cold at all.

R. Pollack: Right. So, there we have the fact that you can see they were plugging them up.

Show Host: Sure. We're going to head off to the phones and take our first phone call of the QVC Morning Show.

Hello, you're live on the air with Dr. Pollack and Patricia. Who's this, please?

Caller: Hello. Pat. This is Alice from (inaudible).

Show Host: Hi. Hi, Alice. How are you doing?

Caller: We're doing fine. How are you?

Show Host: Say hi to Dr. Bob.

R. Pollack: Hi. Hello, Alice.

Caller: Hello.

Show Host: Alice, I --

Caller: We love your cold tablets.

Show Host: Um-hum.

Caller: This is our third order of them. They're very good.

R. Pollack: Well, good, I'm glad that you agree also.

Caller: Yes, we do. We've tried them, both kinds --

Show Host: Um-hum.

Caller: -- and this is the third time we ordered them.

R. Pollack: Um-hum.

Show Host: What kind of results have you seen, Alice?

Caller: Well, as soon as we start getting a runny nose or a sore throat, we take them.

R. Pollack: Um-hum.

Show Host: And does the --

Complaint Exhibits

Caller: They help right away.

Show Host: Yep, they sure do. So, you've made it through this winter season okay, huh?

Caller: Yes, we have.

R. Pollack: Good.

Caller: And I'm 83 years old and I'm doing fine.

R. Pollack: Bless you.

Show Host: Wonderful. That's so wonderful to hear. Alice, thank you very much for your phone call. Thanks for being a part of the morning show.

Caller: Thank you for talking to me.

Show Host: Our pleasure.

Caller: Okay. Bye-bye.

Show Host: Have a great day.

R. Pollack: Bye.

Show Host: Bye-bye.

You know, my own grandma just got over pneumonia.

R. Pollack: Hmm.

Show Host: And I'm sending her these so that she can continue to take them, and as some of the people do, take them on a preventative basis.

R. Pollack: Right. Yes.

Show Host: I know that you have women in nursing homes --

R. Pollack: Right.

Show Host: -- and gentlemen in retirement communities who are taking these.

R. Pollack: Yes. And they find them very effective.

Show Host: They sure do. And we've got --

R. Pollack: Because of all the people together and so on.

Show Host: Well, that's -- that's where you get germs from --

R. Pollack: Right, right.

Complaint Exhibits

Show Host: -- you know, and living in close quarters.

R. Pollack: Right, correct.

Show Host: Sure. We have someone else on the phone, so we'll go ahead right back to the phones and see who else is with us this morning.

Hello. You're on the QVC Morning Show with Patricia and Dr. Robert Pollack and Cold-Eezers. Who's this?

Caller: This is Sandra from Portland, Oregon.

Show Host: Hi.

R. Pollack: Hi, Sandra.

Caller: Good morning.

R. Pollack: Good morning to you.

Caller: I've been -- I've been looking for these for a long time.

Show Host: Um-hum.

Caller: And I just got over a bad cold and I wish I would have had them.

R. Pollack: Ahh.

Show Host: Um-hum.

R. Pollack: Right.

Caller: I recently was -- heard on a national television program that these --

Show Host: Um-hum.

Caller: -- are one of the most effective things in stopping a cold --

R. Pollack: Right.

Caller: -- in about three or four days.

Show Host: Correct.

R. Pollack: Correct. And if you get it right at the beginning --

Show Host: Um-hum.

R. Pollack: -- then it's possible that you would have even greater effect and it would be even less than the three days.

Show Host: Yes.

Complaint Exhibits

R. Pollack: When you get just the first sign and you say to yourself, uh-oh, I got that tickle or I have that --

Show Host: Right.

R. Pollack: -- you know, we know when we're going to get it.

Show Host: Yeah.

R. Pollack: That's the time to have them ready, pop one in your mouth, and it's going to start like that picture you saw, immediately beginning to get an effect.

Caller: Now, what is the action of the zinc? I understand the zinc coats itself to the lining of the nose?

R. Pollack: Well, not quite. We feel that -- have you seen the pictures just before that we had on the air? It appears that the zinc --

ON SCREEN: Animation

Show Host: There you go. There it is.

R. Pollack: There they go.

Show Host: Yeah, um-hum.

R. Pollack: See, here's a virus with the crevices that you see, and they attach onto positively charged projections that are in our -- that line our nose and mouth and throat. Now, here's the zinc. Notice how they plug up the crevices --

Caller: Oh.

R. Pollack: -- and they can't attach to the cell and there is no way then that they're going to replicate and give us the cold.

Caller: Oh.

R. Pollack: That's the whole key. Now, the point is that we were talking before we came on the program --

Show Host: Right.

R. Pollack: -- there are others that are out there that are trying to imitate this, and they say because Cold-Eezer Plus has zinc and ours has zinc, they must be alike.

Show Host: Uh-uh.

R. Pollack: They're not.

Caller: No.

R. Pollack: Because in attempting to flavor them, they tie up the zinc so tightly, they can't

Complaint Exhibits

get down into those crevices that you saw in the picture and they won't work. Only Cold-Eezer Plus will do what you see -- well, here, of course, is where they're attaching again.

ON SCREEN: Animation

Show Host: Um-hum.

R. Pollack: And that's where the cold starts.

Caller: Well, thank you very much for the product. I really appreciate it.

Show Host: You're welcome, Sandra. Thank you for your phone call.

Caller: Thank you very much.

Show Host: Sure. Bye-bye now.

Caller: Bye.

Show Host: Just like Dr. Robert says, these are effective and they work like no others out there, because these don't have other agents in them that prevent the zinc from doing the job they need to do.

Something else that's very important about these, they are non-medicating, they are not -- they will not make you drowsy, they are safe for pregnant ladies, they are safe for babies.

R. Pollack: Right.

Show Host: In fact, your grandson takes these, isn't that right?

R. Pollack: Yes, right. Just like that child there you see.

Show Host: Um-hum.

R. Pollack: It's safe for children, it's safe for adults.

Show Host: Yep.

R. Pollack: You are quite right, there is nothing in Cold-Eezer Plus that will stop any medication from working.

Show Host: Right.

R. Pollack: It doesn't really matter. It's all-natural.

Show Host: Um-hum.

R. Pollack: We need the items anyway, the nutrients that are there.

Show Host: Yes.

Complaint Exhibits

R. Pollack: It's just that we've treated them so that they're effective against the virus. Here you have a pilot -- or a child that is there.

Show Host: Um-hum.

R. Pollack: The mother is putting it in her backpack to take to school.

Show Host: Right, sure.

R. Pollack: And they're beginning to recognize when a child is sucking on something, and there are a lot of colds going around, chances are it's a Cold-Eezer and not just some candy.

Show Host: It's safe for your kids, it's safe for your grandkids, it's safe for --

R. Pollack: There's the pilot.

Show Host: -- pilots and school bus drivers --

R. Pollack: Right, right.

Show Host: -- and anyone who is going to be driving a vehicle at all.

R. Pollack: Oh, right. They are -- they're prevented by law from taking anything that's -- that will sedate them.

Show Host: Absolutely.

R. Pollack: Cold-Eezer Plus is the only thing that they're allowed to take.

Show Host: There you go. We're going to head right back to the phones and see who else is taking Cold-Eezers with us.

Hello. You're on the Morning Show. Who's this, please?

Caller: This is Margie from Philadelphia, Pennsylvania.

Show Host: Hi, Margie. How are you doing?

Caller: I'm fine. How are you both?

Show Host: Great.

R. Pollack: Okay.

Show Host: Are you taking Cold-Eezers, Margie?

Caller: Well, this is the first time we've ever been able to get it.

Show Host: Oh.

Caller: And I'm really excited, because as you just showed, I have a four-year old.

Complaint Exhibits

Show Host: Hmm.

R. Pollack: Right.

Caller: And at school, they kept passing the colds around.

R. Pollack: Right.

Show Host: Yep.

Caller: So, I was really excited that I got through this morning.

R. Pollack: Good, good. Now you don't have to worry about that four-year old cold walking in through the door or the --

Caller: Exactly.

Show Host: Well, you know how it is, they bring you home gifts from school.

R. Pollack: Yeah, right.

Show Host: They bring home a picture they colored and they bring you home a cold all at the same time.

R. Pollack: Right.

Caller: Exactly. That's why I'm so excited. I was afraid to give her the zinc just by itself.

R. Pollack: Right.

Show Host: Right. Um-hum.

Caller: And with this being all-natural, then I'm really excited.

R. Pollack: Okay.

Show Host: Exactly. Well, you know, if Dr. Bob gives it to his grandson, it's got to work and it's definitely safe for kids.

R. Pollack: Right.

Show Host: So, that's super. Well, I'm glad you could get them.

Caller: Thank you.

Show Host: You were very smart to call in early.

Caller: I'm glad we got through. Thanks.

Show Host: They do tend to sell out every time we have them on air.

Complaint Exhibits

Caller: Yes, they do.

Show Host: It's a good thing you called in this morning.

Caller: Yes.

Show Host: Thanks, Margie.

Caller: Thank you.

Show Host: Bye-bye now.

Caller: Bye-bye.

R. Pollack: Bye.

Show Host: You know, this is just about the only place that you can get them.

R. Pollack: Yes. It seems that this is true. And it's so wonderful that we have this national ability to get in touch with people and that they can get this, because you alluded to it before, the amount of money spent on just someone getting a cold is really incredible.

Show Host: Oh, it sure is.

R. Pollack: The wages that are concerned, if you can't get into work.

Show Host: Sure.

R. Pollack: If a child gets a cold, who's going to stay home with that --

Show Host: Mom's got to stay home.

R. Pollack: Right. It's mom that generally is going to be doing that.

Show Host: Sure. And those cold medicines are \$6 and \$7 a bottle.

R. Pollack: Right.

Show Host: And they don't do anything for your cold. They treat your symptoms.

R. Pollack: Exactly.

Show Host: They knock you on your butt. You're sleeping.

R. Pollack: Right.

Show Host: Sure, you're sleeping 12 hours a day, that's great. But they're doing nothing for the actual cold. This is revolutionary because it's actually doing something to prevent the cold virus from locking on to the respiratory cells. That's how we get sick.

Complaint Exhibits

- R. Pollack: And clinically tested. They were actually clinically tested.
- Show Host: Yes.
- R. Pollack: And that's the marvelous part about it.
- Show Host: It sure is. Everyone at QVC has used these. All of the hosts have used them. The last time I had a cold, I used them. My cold was gone, I couldn't even believe it, in about a day and a half. I saw instant results and that was it. And I didn't take lots of them. I took one about, oh, gosh, every maybe four hours or so.
- R. Pollack: Every three -- right. But see, you started early. That was the key.
- Show Host: Yeah, um-hum.
- R. Pollack: Right.
- Show Host: I'm going to unwrap this just so you can see what it looks like. There are two flavors. There's cherry, which is the newer flavor, this is what the cherry one looks like. And then there's your original. And they don't look too different, but I'm just going to hold them up so you can see. It's just a little hard candy, a little lozenge.
- R. Pollack: Right.
- Show Host: And if you've seen Dr. Bob on before and you haven't given these a try, I really encourage you, please don't miss out on them because every time he's on air, we sell out. And we don't know when we can get him back in and get more Cold-Eezers back in.
- R. Pollack: Right, right.
- Show Host: You won't find these in the store probably.
- R. Pollack: Right.
- Show Host: Probably. They either sell out very quickly --
- R. Pollack: Right, correct.
- Show Host: -- if you can get a store that carries them at all.
- R. Pollack: Correct, yes.
- Show Host: What you will find are other zinc products that are not at all like this, that don't work, that actually have ingredients added to them to prevent them from working. I know that sounds crazy, but it's true. This is it, right?
- R. Pollack: Right.
- Show Host: This is what you need to knock out that cold. Thank you so much.

Complaint Exhibits

R. Pollack: Thank you. It's been a pleasure.

Show Host: It's nice to see you again, Dr. Pollack.

R. Pollack: All right.

Show Host: The item number is A-36293. You're going to receive 60 of them -- that's two separate bags -- for \$18.25.

R. Pollack: Right.

Show Host: What a deal.

(The Cold-Eezers segment was concluded.)

Complaint Exhibits

TRANSCRIPT OF QVC**MARCH 31, 1997**

ON SCREEN:
A-36293
60 Original or Cherry Flavor Cold-Eezers
Lozenges
QVC Price \$18.25
S&H \$3.97
QVC - 1-800-345-1515

Show Host: All right. We're going to continue on. This is the final product we'll have an opportunity to get to. I want to ask you, if you're already using the Cold-Eezers Plus, to give us a quick call. I'd love to talk with you, I'd love to hear your comments and what you think about these. The Cold-Eezers, you've probably read all the articles, you've been listening to television and radio news reports on the concept of zinc. The Cold-Eezer Plus is exclusive to QVC. Plus meaning more zinc in the mix. So, this configuration of the Cold-Eezer Plus you will only find here. There are other products out on the market. Those are available at retail. The Plus is only available at QVC.

We are offering you 60 lozenges. You choose the cherry flavor or the original flavor for \$18.25. If you're thinking, oh, well, cold season is over, we're already into April 1st, let me tell you, many, many, many of our viewers and studies will prove that the Cold-Eezers Plus are also effective on airborne allergies. If you are just about to get into ragweed season in your part of the country, if you are constantly dealing with allergic reactions to all of the pollen, if you have to deal with sinus infections because you're just breathing in the junk, this is the alternative.

ON SCREEN: Animation

Show Host: What does Cold-Eezers Plus do? Well, it's the zinc. The zinc that's included within this product literally prohibits the virus or the airborne allergies from adhering to the tissue inside your nose. What you're seeing right there is an animation that shows the virus, that big cube thing, but then you see the Cold-Eezer Plus zinc filling up the spaces where it would adhere, and it literally bounces off the surface of the skin much like a ball would bounce off a hard surface. It cannot adhere. If it can't adhere, it can't make you sick.

This is a perfect way also to take care of yourself in a preventive measure. Are you about to take a long airplane trip? And I want to say this off the top, I know that a lot of airlines are doing more and more to improve the quality of the air within the jets and whatnot, but as we all know, at this point, you still have recirculated air. And if you're going overseas, if you're going to Italy, if you're going to Germany, boy, you're going to be on that plane for six to eight hours. You better get ready. You're going to be breathing in everything that everyone has brought on on that plane, every cold, every allergy, every sinus infection. Everything is being recirculated.

Even if you don't have a tinge of a sore throat yet, even if you're not sneezing,

Complaint Exhibits

even if your nose is not itching, pop one of these in your mouth before you get on that airplane. These are preventive measures as well.

Let's say hello to Nadine. How are you?

Caller: Hi, Lisa.

Show Host: Hi. Nice to have you with us today.

Caller: My mother got me started on these --

Show Host: She did?

Caller: -- maybe last year.

Show Host: Okay.

Caller: And I was very skeptical about them.

Show Host: Right.

Caller: And they looked like candy to me. And -- but I figured, okay, mom uses them, so fine, I'll try it.

Show Host: Sure.

Caller: And then this year, I ordered some myself --

Show Host: Okay.

Caller: -- in the cherry. Very good.

Show Host: Yes, they are.

Caller: And I just -- I have not really had a cold this year.

Show Host: And what part of the country do you live in?

Caller: Iowa.

Show Host: Wow. So, you've had your share of tumultuous weather to say the least.

Caller: We have. Yes, I --

Show Host: You really have.

Caller: Yes, I'm really ready for spring, you know.

Show Host: Yes. Well, and this is also going to help -- from what the information has told us and what from viewers tell us, this is going to help during your allergy season, because you guys have a lot of beautiful flowering plants out that way. So, this is going to help if you are ever subject to allergy attacks.

Complaint Exhibits

Caller: Well, you know, I hadn't thought about that.

Show Host: But it will. This will work just as well in that allergy scenario for you as well as the cold.

Caller: Really?

Show Host: Yes. Isn't that great?

Caller: Now, I hadn't thought about that. My son has allergies.

Show Host: Absolutely.

Caller: I hadn't thought about that.

Show Host: Yes. It's the zinc, and if the zinc is in your system, it will not allow any of the -- the bad stuff to adhere to the nasal passages and to the skin. It just won't allow it to happen. So, the same way it helps prevent the cold, it will help with all the post-nasal drip, with the stuffy nose, with all of the junk that's associated with allergy attacks.

Caller: Well, I'll have to remember that.

Show Host: Please do. And it was nice to have spoken with you.

Caller: Well, very nice to have spoken to you.

Show Host: Thank you now.

Caller: Thanks for speaking to me, Lisa.

Show Host: My pleasure. Bye-bye.

Caller: Bye now.

Show Host: When you also think about the alternative, many of us when we have a cold or an allergy attack or a sinus infection, we medicate the whole body. It makes you drowsy. It's not always good for you. And if you can avoid that, especially if you're behind the wheel of a car all day or you're a school teacher or you just don't like that drugged out feeling, this is the alternative.

Hi, Lillian. What do you think?

Caller: I think it's great.

Show Host: You already use these?

Caller: Yes.

Show Host: Tell me your experiences with Cold-Eezers Plus.

Caller: Well, my husband and I both have been using it. We get the beginning of a cold, the burning watery eyes --

Complaint Exhibits

Show Host: Yeah.

Caller: -- and runny nose and all that --

Show Host: Uh-huh.

Caller: -- and start taking them, and by the next evening, we have no signs of it.

Show Host: It's amazing, isn't it?

Caller: Yes, it is.

Show Host: Well, you know, from what the information tells us, people have known for centuries that zinc was the way to go. The problem was it was so terrible to taste.

Caller: Yeah.

Show Host: So, now -- you know what I'm saying? It just -- it was unpalatable.

Caller: I know. We've tried the ones around here.

Show Host: Yeah, exactly.

Caller: They're powdery weird stuff.

Show Host: Exactly.

Caller: And taste terrible.

Show Host: They taste horrible.

Caller: Yes, they do. We still have them.

Show Host: So, what was -- yeah. What was great about this product is the zinc is in there, but it's just like a little very tasty lozenge.

Caller: Yeah.

Show Host: Absolutely. I'm glad it's worked so well for you. I really appreciate you taking a few minutes to call us.

Caller: That's good.

Show Host: And stay well.

Caller: We will. We've ordered more.

Show Host: Good. Thanks now. Take care.

Caller: Uh-huh. Bye-bye.

Show Host: Bye-bye.

Complaint Exhibits

I realize tomorrow is April the 1st and I know a lot of people think, ah, cold season is behind us. Actually, the spring cold can be the worst cold. When you think about the changing temperatures. Philadelphia is a perfect example. Yesterday, it was 70. Today, there's snow on the ground and blowing snow. It's freezing cold.

Where you may be living there may be a lot of change in the weather as well. There could be children that are home on spring break giving each other colds -- spring colds and taking them right back to the family. This is the kind of preventive measure you need to keep in your pocketbook, keep one at the office, keep one at Sunday school, keep one wherever, in the car as you're travelling, because you're going to save so much money, you know, by not missing work, by not having to go to the doctor all of the time, you just feel better.

Hi, there. Is it Vicky or Nicky?

Caller: Yeah, it's Vicky.

Show Host: Hi. How are you?

Caller: Hi. Good. How are you?

Show Host: I'm doing great. It's nice to talk with you today.

Caller: Nice to talk with you.

Show Host: Well, what are your thoughts on the Cold-Eezers Plus?

Caller: Well, my son's had a chronic sinus infection, so I'm hoping that these will help him a little bit.

Show Host: It should help a bit, and maybe more than a bit. The whole concept of the zinc, if it has anything to do with the nose and the nasal passages and all of that part of the head --

Caller: Um-hum.

Show Host: -- it's going to help.

Caller: Oh, great.

Show Host: Now, does he have severe problems?

Caller: Yes, he does. He's actually missed several days of school.

Show Host: Oh, my goodness.

Caller: Yeah.

Show Host: You know what I would suggest, and of course you're going to do the best for him as his mother, visit with his pediatrician or his physician.

Caller: Uh-huh.

Complaint Exhibits

Show Host: But I'll bet you a dollar they'll say it can't hurt and it may even really help.

Caller: I'll certainly do that.

Show Host: Please do. And let us know -- I'd love to know if it works out for his situation as well.

Caller: Okay.

Show Host: Thank you for calling.

Caller: Thank you.

Show Host: Take care.

Caller: Bye-bye.

Show Host: Bye-bye.

The cold season, the allergy season, for post-nasal drip, for sinusitis, it's zinc. The Cold-Eezers Plus, more zinc, you can only get here. You can't get it anywhere else. Only at QVC.

Hey, it's been fun this Problem Solvers. I'm glad you spent a little bit of time with us. Colors of Gold coming up next and then Collectible Dolls at 5:00. See you right around the corner.

Complaint Exhibits

TRANSCRIPT OF QVC (Q2)

FEBRUARY 5, 1997

ON SCREEN: 1-800-345-1331
Fast Fun QVC Shopping

Show Host: Yee-ha, yeah, \$18.25, A-36293. It can work for you as well. You've probably heard all about these on the news. Let's check them out with Rick Joe Meyer.

(Brief pause)

ON SCREEN:
A-36293
60 Original or Cherry Flavor Cold-Eezers
Lozenges
QVC Price \$18.25
S&H \$3.97
QVC - 1-800-345-1515

R. Pollack: Now's the season for office parties and the kids coming together and where the viruses just love, we're giving them a ball, you know, this opportunity.

Show Host: Yeah, I'm telling you, if you don't have them yet, you got to have them. But wait a minute, they're lozenges, what's the big deal? What is the big deal, my friend?

R. Pollack: The zinc. The ionic zinc that is going to react with the virus, inactivate it and then there's no cold. We'll see that later on in the show.

Show Host: What was the problem in the past with the zinc? Not a good flavor.

R. Pollack: Right.

Show Host: Well, not anymore. These are delicious. They are -- you have your choice of the original, which I'm going to have, or the cherry.

R. Pollack: Or the cherry.

Show Host: If you happen to be a construction worker, an airline pilot.

R. Pollack: Right, yeah.

Show Host: If you're a school bus driver or if you're working as a teacher, if you work at a keyboard in an office with a lot of other people saying hello to you and germs passing all day long.

R. Pollack: Right.

Show Host: What happens is you pop one of these, about how often?

R. Pollack: One every three hours.

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Show Host: That's it?

R. Pollack: Yeah, that's it. That's it. Nothing else to do.

Show Host: What are we looking at here, Dr. Bob? We're going to take a look at a little animation.

ON SCREEN: Animation

R. Pollack: Oh. Those are the viruses that are attaching on to the human cell and that's when we get all of the symptoms of the common cold, the sneezing and the sniffing and the coughing and so on. And then, what we're going to see now, there are the zinc ions that are plugging up the virus. They're not able to attach on to the human cell, no cold, and that's what it is. When we get that first feeling, that tickle, that uh-oh, we're headed for it, that's what's going to happen by the next morning, no cold.

Show Host: Hi. You're live on the air. What's your name and where are you calling from?

Caller: Hi. My name is Judy and I'm calling from Niceville, Florida.

R. Pollack: Yes?

Show Host: Judy?

Caller: Yes.

Show Host: You got a cold or not?

Caller: Not yet.

R. Pollack: Right.

Show Host: Because of the Cold-Eezers?

Caller: Yes. I did call about the Cold-Eezers.

Show Host: Wow, that's great. You're getting these for yourself?

Caller: For me and my husband, I sure am.

Show Host: Oh, that's --

Caller: We read about them in the local newspaper.

R. Pollack: Um-hum.

Show Host: I'm telling you, you read about them in the newspaper, I've seen articles on ABC News, NBC News, CBS News, articles on, you know, do they really work.

R. Pollack: Yeah.

Show Host: Some of those consumer reporting kind of TV articles.

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R. Pollack: Right.

Show Host: And you know what everybody says time and time and time again? You know what, we were skeptical --

R. Pollack: Right.

Show Host: -- but they work.

R. Pollack: This morning on This America -- what's that show?

Show Host: Good Morning America.

R. Pollack: Right. This morning.

Show Host: You're kidding?

R. Pollack: Right, right. I was just told while I was sitting in the green room.

Show Host: That's another one. Add it to the list.

R. Pollack: There you go, right.

Show Host: And add you to the list, too. Congratulations.

Caller: Thank you.

Show Host: Okay.

R. Pollack: Right.

Show Host: Bye-bye.

Caller: Bye-bye.

Show Host: It's becoming a national phenomenon. You're surprised -- I mean, amazed at just how big this has gotten.

R. Pollack: And it's --

Show Host: Because -- yeah, nobody realized.

R. Pollack: No.

Show Host: And guess what? They debuted right here on QVC.

R. Pollack: Right. Correct.

Show Host: Cold-Eezers. The Cold-Eezer Plus with just a little more zinc in them --

R. Pollack: Right.

Show Host: -- for even more powerful protection.

Complaint Exhibits

R. Pollack: For more powerful protection, correct.

(Brief pause)

Show Host: Now, I like the all-natural, Bonnie Johnson likes the cherry. But I'm telling you something, I'm always sick. November of every year, I get strep throat, tonsillitis, I always get some sort of horrible throat ailment. And, you know, this year, I didn't get it and I really am a firm believer in these. I think that they're preventing me from getting sick.

So, there you have it, folks. A-36293. And they must be working because they've sold out before and you can't get them in any stores anymore. So, get them with us. For \$18.25, you're getting two bags in your choice of the natural or the cherry. 1-800-345-1331.

(The Cold-Eezers segment was concluded.)

Complaint Exhibits

TRANSCRIPT OF QVC

OCTOBER 2, 1997

- Show Host: We're going to start off our Health Connection with something that, I guess, a lot of us -- a lot of us hopefully -- I'm actually fighting one right now.
- C. Phillips: Oh.
- Show Host: So, I'm going to start taking mine since you're here.
- C. Phillips: Excellent. Start right now at the first sign.
- Show Host: Chuck Phillips is joining us to talk about Cold-Eezers. Thanks so much for joining us.
- C. Phillips: Sure.
- Show Host: We're just kind of meeting right here. So, we're going to jump in. You are, in fact -- you are the founder of the Quigley Corporation who brings us Cold-Eezers.
- C. Phillips: One of the founders.
- Show Host: One of the founders.
- C. Phillips: Right.
- Show Host: And this is something -- and if you have it, please give us a call, because many of you have used Cold-Eezers in the past. Maybe if you had the summer cold, you used them this summer. But I know the moms out there really want to hear about this.
- ON SCREEN:**
A-36293
60 Original or Cherry Flavor Cold-Eezers
Lozenges
QVC Price \$18.25
S&H \$3.97
QVC - 1-800-345-1515
- C. Phillips: Absolutely.
- Show Host: It helps reduce the symptoms of the common cold.
- C. Phillips: Right.
- Show Host: This formula.
- C. Phillips: Moms are waking up right now.

Complaint Exhibits

- Show Host: Um-hum.
- C. Phillips: And they're hearing that little voice --
- Show Host: Um-hum.
- C. Phillips: -- mom, I don't feel so good. Well, what we're going to do this year is get more aggressive, we're going to attack the cold. We're suggesting to moms, get Cold-Eezer Plus in the house.
- Show Host: Um-hum.
- C. Phillips: Have it ready, and at the very first hint of a cold, start applying it. But even before then, try to use it as a preventative measure, so that if you know that the child has had an exposure, which is school, they can take one a day --
- Show Host: Um-hum.
- C. Phillips: -- to try to prevent getting a cold.
- Show Host: And you're talking about schools, I mean, everywhere you go, I mean, other children have it, other adults have it, you're just always exposed.
- C. Phillips: Always exposed, exactly. You touch things.
- Show Host: Um-hum.
- C. Phillips: You touch a doorknob and you go up and you touch your nose, you've got the chance to have it.
- Show Host: Right.
- C. Phillips: So, what we're saying is, point one, if you don't have it in the house, get some in the house so that you have it to use at the very first sign of a cold.
- Show Host: Um-hum.
- C. Phillips: That's the important thing. This year we're saying, have it around and take one a day. Give your child one before he goes to school, that way, it can possibly prevent that child from getting a cold.
- Show Host: Now, what do these contain? How do these work?
- C. Phillips: Well, it contains what we call ZIGG, zinc gluconate glycine.
- Show Host: Um-hum.
- C. Phillips: And it's a patented formula. It is homeopathic, it is all-natural. It's --
- Show Host: Right. That's important I know, especially when we're talking about little ones.
- C. Phillips: Little ones, right. It's non-sedating.
- Show Host: So, anybody -- you're not going to fall asleep on these.

Complaint Exhibits

- C. Phillips: No, you're not.
- Show Host: Which a lot of cold medicines make you fall asleep.
- C. Phillips: They tend to make you drowsy.
- Show Host: Um-hum.
- C. Phillips: And they sort of take the wind out of your sails --
- Show Host: Right.
- C. Phillips: -- and make you feel tired. Cold-Eezer Plus will not do that.
- Show Host: Um-hum.
- C. Phillips: You take one every three hours when you're treating a cold, but as I say, let's get aggressive, let's take one a day to see if we can stop the cold from even coming onto you. Another strategy is if a child comes home, they have a cold, it's very evident, they've started to sneeze --
- Show Host: Um-hum.
- C. Phillips: Everyone in the family should take one or two --
- Show Host: To prevent them --
- C. Phillips: -- to prevent them to be infected by this infection that's now come into the house.
- Show Host: Now, if -- like I said, last Saturday, I woke up with a sore throat.
- C. Phillips: Right.
- Show Host: So, I mean, I -- this, I should take -- you know, I didn't have them in the house, so --
- C. Phillips: Oh, boy.
- Show Host: Now, I have them. I'm going to take one now. But this will help reduce -- if it's too late, if somebody already has gotten the signs of a cold, how does it help to reduce -- what symptoms will it help reduce?
- C. Phillips: It's not too late.
- Show Host: Okay.
- C. Phillips: If you've had a cold for one or two days, it will basically reduce the duration of what's left of the cold nearly in half.
- Show Host: Okay. Oh, really?
- C. Phillips: Sure. So, it's not -- it's never too late.
- Show Host: Um-hum.

Complaint Exhibits

- C. Phillips: The thing is, we want to be quicker, we want to catch it before it starts, and we want to even come before that and become preventative --
- Show Host: Right.
- C. Phillips: -- and try to anticipate things. You know when you've been infected. You've been on an airplane flight. That's recycled air.
- Show Host: Um-hum.
- C. Phillips: And you're breathing it in. It just takes one person on that plane --
- Show Host: To be sick.
- C. Phillips: -- to fill the air.
- Show Host: Um-hum.
- C. Phillips: And you land, take your Cold-Eeze.
- Show Host: Right. Because you have many -- I do that all the time. In fact, when I came back from New York, I was on a train, and I think the trains are similar to the planes with that air.
- C. Phillips: Sure. It's a contained space.
- Show Host: And that's where I think I got my cold Saturday morning.
- C. Phillips: Sure. Cold-Eezer Plus should be taken, you know --
- Show Host: Right when I got off the train, I should have taken one.
- C. Phillips: -- as soon as you're off the train.
- Show Host: Right.
- C. Phillips: Or in the evening at your home and you've had most of the exposure or you've touched everything you're going to touch, you've washed your hands, take a Cold-Eezer Plus.
- Show Host: Now, with this, you're going to get two bags, each contain 30 lozenges and each have 135 grams of the zinc in it, which --
- C. Phillips: Well, each Cold-Eezer Plus lozenge has --
- Show Host: Right.
- C. Phillips: -- 14.2 milligrams of zinc gluconate glycine.
- Show Host: Um-hum.
- C. Phillips: And basically one every three hours to treat the cold.
- Show Host: Um-hum.

Complaint Exhibits

C. Phillips: Or take one a day to try to prevent it.

Show Host: Preventive.

C. Phillips: It's also excellent for allergies.

Show Host: Oh, really?

C. Phillips: Absolutely.

Show Host: We're going to go to the phones and see who's shopping with us this morning. Hi, Geraldine.

Caller: Hi. How are you this morning?

Show Host: I'm great. Now, do you have Cold-Eezers or are you picking them up?

Caller: I'm just buying them.

Show Host: Oh, good.

C. Phillips: Oh, good.

Show Host: Now, why did you decide to pick them up?

Caller: I have a grandson that lives with me that goes to preschool. He brings a cold home every season. My husband and I are sick all winter.

Show Host: Oh, no.

C. Phillips: Oh, boy.

Caller: So, we're hoping that this -- I'm going to try this and hope it will cut down the effects that we usually receive --

Show Host: Um-hum.

Caller: -- from the cold seasons. We haven't ever been this sick in years. But he brings all the fresh, nice, young germs into the house that we can't fight.

Show Host: The new germs.

Caller: Yes.

Show Host: Well, you know -- and as Chuck said, take this as a preventative, too. So, I mean, when he starts the preschool, you know, start taking maybe one a day.

C. Phillips: Right.

Show Host: And then if he brings it home, you're not going to get that.

Caller: Well, here's hoping because my husband moans.

Show Host: Oh.

Complaint Exhibits

Caller: He says, every time this kid goes to school, I'm sick.

Show Host: Um-hum.

C. Phillips: Well, have him take one a day and he will not catch it and have the child, perhaps, take one in the morning before they go to school and --

Caller: Oh, that's a good idea.

C. Phillips: -- to prevent them from even getting the cold. It's preventive medicine. It's an aggressive family strategy to stop this spreading of the cold --

Show Host: Um-hum.

C. Phillips: -- and to help the child out almost instantly.

Show Host: And it's nice, too, because it's all-natural. It's like a homeopathic way to prevent the cold and prevent the symptoms and it's also non-sedating. So, they're not going to go to preschool and be like, you know, snoozing on the side because there's no, you know, medicines in here to really bother you or the little ones.

C. Phillips: They won't become tired. And rest assured, it's a stocking item here at QVC. You can get Cold-Eezer Plus 24 hours a day. You can't run out.

Show Host: Right.

Caller: Well, if they work -- if they work, I guarantee you, you'll have a lifetime member.

C. Phillips: Oh, good.

Show Host: Well, and let us know, Geraldine. Call us back after you try them and let us know how they do work for you. Okay?

Caller: I certainly will.

Show Host: Thank you so much.

Caller: And thank you for talking to me, and you have a real nice day.

Show Host: You, too.

C. Phillips: You, too. Bye-bye.

Caller: Bye-bye.

Show Host: I want to let everyone know, too, because a lot of people think zinc, they think bad taste. You've really helped that out a lot. You have two flavors to choose from, original or cherry. I love the cherry.

C. Phillips: Yes. Well, zinc -- you can take zinc --

Show Host: Um-hum.

Complaint Exhibits

- C. Phillips: -- gluconate lozenges, just tablets and let them dissolve, but they actually can make you nauseous.
- Show Host: Um-hum.
- C. Phillips: So, Dr. John Godfrey, the inventor of our formula, found a way to sweeten zinc gluconate -
- Show Host: Um-hum.
- C. Phillips: -- yet release the zinc ions to the mucosal surfaces which does the job.
- Show Host: Um-hum.
- C. Phillips: That's what is stopping the rhinovirus from reproducing, but it's also what we think is perhaps clamping on the nerve endings in here and telling your system that you don't need to have mucus being produced.
- Show Host: Right. I think we have some tape that will show that.
- C. Phillips: Yes, good.
- Show Host: And maybe you can explain it again as we see it.
- ON SCREEN: Animation**
- C. Phillips: Absolutely. It's -- you see that the purple items are your rhinovirus in and around your mouth, and as they come in and touch the walls of the inside of your mouth and nose, they attach themselves.
- Show Host: Um-hum.
- C. Phillips: Boom, you have an infection going. They intrude, they replicate, and they kill the cell and send billions more out there.
- Show Host: Hmm.
- C. Phillips: Now what you see is the blue double positive zinc ions of Cold-Eezer Plus in and around the rhinovirus and they actually plug up the areas that the rhinovirus normally would use to, let's say, magnetically, by forces, positive and negative like a magnet, lodge onto your cells. So, the zinc gluconate glycine is stopping that. The zinc double positive ions are preventing the rhinovirus from even having a chance to get a foothold, and it just gets washed away by the body's normal system of cleaning this area, which is mucus.
- Show Host: Um-hum.
- C. Phillips: So, it works rather well.
- Show Host: And it will help reduce the symptoms and the duration. Not only the symptoms like the coughing --
- C. Phillips: Exactly.

Complaint Exhibits

- Show Host: -- the cough and the stuffy nose and the sore throat and the nasal drip and the sneezing, but also the duration.
- C. Phillips: The duration, which is the most important thing anyway.
- Show Host: Because if you're out of work for three or four days, I mean, that's a long time --
- C. Phillips: Yes.
- Show Host: -- to not get that paycheck or to just be out of work on your back and miserable. I'd be miserable.
- C. Phillips: Well, miserable, the agony, the misery is what you want to get rid of.
- Show Host: I know.
- C. Phillips: Absolutely.
- Show Host: And as Geraldine said, you know, her husband is moaning. I mean, then the agony for everybody in the family.
- C. Phillips: Oh, really, everybody is awake.
- Show Host: And the little ones who wake up and, you know, mom, I don't feel good, you know. This is going to --
- C. Phillips: And then you're into the whole thing. Mom's got to deal with this.
- Show Host: Um-hum.
- C. Phillips: But we can stop that.
- Show Host: And then she gets the cold.
- C. Phillips: We can stop it --
- Show Host: Preventative.
- C. Phillips: -- (inaudible).
- Show Host: Right.
- C. Phillips: Now, there's a word about business in general, if you own a business, whether it's a single proprietor or AT&T.
- Show Host: Um-hum.
- C. Phillips: We suggest they take a good hard look at having Cold-Eezer Plus around for their employees.
- Show Host: Mmm.
- C. Phillips: Now, the United States last year lost \$21 billion from the common cold. We have them here at QVC.

Complaint Exhibits

- Show Host: Um-hum.
- C. Phillips: And they're available to most everyone here and we've heard that it works rather well.
- Show Host: My mother picked them up last year for her work.
- C. Phillips: Okay.
- Show Host: And she works -- she has a store, and so, you have, you know, all sorts of people coming in --
- C. Phillips: Sure.
- Show Host: -- and employees as well that you're going to get the cold.
- C. Phillips: Well, of all the people to protect, your employees are very important.
- Show Host: Right.
- C. Phillips: It costs a business approximately \$125 a day for that person to be absent.
- Show Host: Um-hum.
- C. Phillips: Now, if they're there, they're also spreading the cold, right? And so, I mean, it doubles the problem. Why not stop it immediately?
- Show Host: Right.
- C. Phillips: Have it available to the people that work for you. It's -- 55 percent of all colds end up at the doctor. It's amazing. Fifty five percent of everyone who gets a cold gets a condition that the cold began and --
- Show Host: Um-hum.
- C. Phillips: -- now it's gotten worse.
- Show Host: So, take this as a preventative, like once a day, but also, you know, take it -- if you were not able to do the preventative, make sure you take it once it starts and reduce the symptoms and reduce the duration.
- C. Phillips: Right. Real important, too, is the value of zinc. Nearly everyone in the United States is zinc deficient. There's very few places to get natural zinc.
- Show Host: Um-hum.
- C. Phillips: Oysters, things like this, which aren't readily available every day.
- Show Host: No. And some people don't like oysters.
- C. Phillips: Right. And being zinc deficient puts you into various categories that are not good, let's say.
- Show Host: Um-hum.

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- C. Phillips: If you're taking the zinc, it will help aging, it will help immunity, it will help vision. It's good for 26 or 27 conditions of the human body. So, taking one a day, you're getting nearly the daily requirement --
- Show Host: Um-hum.
- C. Phillips: -- but you're also preventing that cold from getting a foothold on you.
- Show Host: Right.
- C. Phillips: And it stops the whole process --
- Show Host: Reducing --
- C. Phillips: -- right in its tracks.
- Show Host: -- the symptoms and the duration of the common cold. We do have cherry flavor or original. You're going to have two bags of 30 lozenges in each one. They're \$18.25. Try them out. They really, really do work. I've used them. My mom has used them. Actually, I have one right now.
- C. Phillips: You have one right now. There's one working right now.
- Show Host: I know. There's one working right now. A-36293, and they do taste great. I like the cherry personally, but there are -- you know, the other flavor is just as good. Both of those, \$18.25.
- Thank you so much, Chuck.
- C. Phillips: Thank you, Bonnie.
- Show Host: Thanks for keeping us healthy.
- C. Phillips: Oh, I'll be glad to.
- Show Host: I'm sorry that you weren't here Saturday morning. But now my cold will go --
- C. Phillips: One a day and you won't have this problem.
- Show Host: That's right. Thanks so much. A-36293.
- (The Cold-Eezers segment was concluded.)**

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<http://home.earthlink.net/~cmocure/cmo/index.htm>**Home Page**

Welcome to the home page of our Web Site. This site contains information about arthritis, CMO and our company policies. If you would just like an overview of CMO and its effects on arthritis, please go to our other site by clicking [here](#). You will find it only takes a few minutes to view the other site.

CMO is the leader in a new category of nutraceuticals that doctors claim is the cure for arthritis. Being the largest distributor of CMO in the world, we have been privy to almost all of the information available about it. Browse to your heart's content, you will find a wealth of information. Thank you for dropping by!

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- [CMO Information](#)
- [Arthritis Information](#)
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- [Marketing & Sales](#)
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- [Notices, Memos & Info Links](#)
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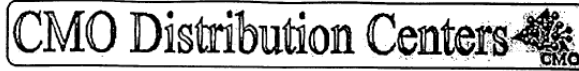
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Exhibit B
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Letter of Introduction

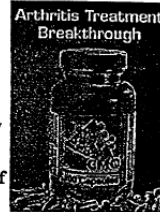
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Letter of Introduction

Dear Visitor,

This site contains exciting information about a naturally derived substance called CMO. It is being hailed by it's users, doctors and the media as the cure for arthritis. The discovery that lead to the development of CMO was made by a researcher at the US National Institutes of Health. It was introduced to the medical community in December 1995, at the National Medical Conference on Aging. Now it is available to arthritis sufferers.



CMO has been clinically tested and found to relieve the symptoms of virtually all forms of arthritis except gouty arthritis. CMO is a one time treatment consisting of 100 capsules taken orally over a period of 16 days. The benefits of CMO should last a lifetime. CMO is reported to be effective on 80% of the people who have used it as a dietary supplement. In clinical studies with a controlled diet, CMO has been reported to be effective on 96% of the people who have used it. CMO can benefit almost everyone who suffers from arthritis with just one treatment. The treatment program is fast, easy, safe and very effective. CMO can halt arthritis and prevent future pain, swelling and stiffness. CMO can rescue someone from the physical damage that a future with arthritis holds.

If you are interested in even more information about CMO and it's effects on arthritis, there are information pamphlets and an information tape. The cassette tape is an interview with the director of the clinic that conducted the clinical study on CMO. We provide this information at no charge, so feel free to call or email us with your request. You can do this by clicking on the email button at the bottom of this page or by filling out the form in our guestbook. See [Contact Us](#) for more details.

We are always interested in opening new avenues of distribution. If this is an area of interest to you, please drop us a line before you leave the site.

I hope we can be of service to you.

Sincerely,

Kal Samulonis
President
CMO Distribution Centers of America



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CNO Information

<http://home.earthlink.net/~cmocure/cmo/cm00002.html>

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CMO Information

Welcome to our CMO Information page. Due to the volume of information on this page, we have installed this menu and "Back to Top" buttons to help you navigate this page more effectively.

- [The History and Discovery of CMO](#)
- [How it Works](#)
- [Frequently Asked Questions](#)
- [What do doctors say about CMO?](#)
- [What is the media saying about CMO?](#)
- [What are people saying about CMO?](#)

The History and Discovery of CMO

In 1971, Cetyl myristoleate, which eventually evolved into CMO, was first discovered by a researcher at the National Institutes of Health. He was responsible for testing anti-inflammatory drugs on lab animals. In order for him to achieve this, he first had to artificially induce arthritis in the animals. This was achieved by injecting a heat killed bacterium called Freund's adjuvant. A strange thing happened one day. A particular group of animals called Swiss albino mice, did not get arthritis. After testing the batch of Freund's adjuvant and finding that it was not defective, the researcher then set out to discover exactly what was in Swiss albino mice that protected them from arthritis.



Unable to get his research funded by the National Institutes of Health, he slowly carried on at his own expense. Eventually he discovered four substances that were unique to the Swiss albino mice, one of which was cetyl myristoleate. Testing showed that substance to have protective properties against artificially induced arthritis when injected into lab animals.

The researcher had arthritis. After his doctor could provide no further relief through conventional medicine he injected himself with cetyl myristoleate and successfully reversed his arthritis symptoms. The doctor was so amazed at the results he urged him to publish a report. That researcher is in his 80's now and has not had a recurrence of arthritis.

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In March of 1994, a report about injectable cetyl myristoleate was published in The Journal of Pharmaceutical Sciences. In that report the researcher expressed his hope that other studies would be conducted, "particularly, more extensive tests of cetyl myristoleate analogues".



In late 1994, the San Diego Clinic, with its research partners did exactly what that researcher had hoped for in his report. They conducted extensive testing to find a highly bio-available analogue that could be orally administered. They succeeded in an even greater way than they had expected. They derived an even more effective substance from beef tallow. It is a natural dietary supplement called CMO, which is the trade name for cerasomal-cis-9-cetylmristoleate.



The San Diego Clinic did the first clinical research on CMO. Dr. Sands the director of the clinic was personally afflicted with arthritis and he tested CMO on himself. After the successful results of that test, they then tested a select group of staff, friends and family before the official clinical study on dose effectiveness began in August of 1995. That study proved CMO to be of great benefit to for osteo, rheumatoid and reactive arthritis. Subsequent data proves its value for nearly all other forms of arthritis except gouty arthritis.

In December 1995, CMO capsules were introduced to the medical community at the National Medical Conference on Aging in Nevada. Five doctors afflicted with a variety of arthritis conditions tried CMO at the conference. All five doctors responded successfully within three days and CMO became the "star" of the conference resulting in hundreds of doctors using CMO on their patients.

After successful results in the medical community CMO became publicly available through local independent distributors in February 1996. Its success rate was so great that it inspired Dr. Douglas Hunt to write a book called "Boom You're Well". The book was independently released in 1996, but only 3,000 copies rolled off the press before the rights to the book were bought and international distribution was arranged for late 1997.

The demand for CMO seemed unlimited and grew exponentially with public awareness even though CMO was only available in a few states. On August 13, 1996 CMO Distribution Centers of America was formed to provide national distribution of CMO and increase public awareness.

In December 1996, contracts to provide CMO with international distribution were signed with a multinational corporation.

By January 1997, the success of the CMO was so awesome, it had inspired several corporate criminals to market the less effective injectable predecessor as an oral liquid. This became quite a problem because they even illegally used the trademark name (CMO). Notices of trademark violation were sent out.

In February 1997, Dr. Sands began writing his book about CMO called "Rescued From Arthritis". He says it will be finished by the end of summer.

March 1997, marked the first delivery of CMO to the multinational corporation. It will be available as part of a complete care package for arthritis. The official national release of their package will in August 1997. The success of CMO in it's prerelease stage has been outstanding.

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Also in March 1997, cease and desist orders were sent to the counterfeiters that failed to respond the trademark violation notices.

On June 10, 1997 a million dollar lawsuit for CMO trademark violation was filed in federal court.

In July 1997, production of the television commercial for Dr. Hunt's revised book about CMO was finished. In the United States, the commercial will air in early fall.

On August 6, 1997 a half million dollar judgement was granted for CMO trademark violation.

With the research concluded, effectiveness improved, medical community acceptance, impostors and counterfeiters in check, the television commercial finished, the books written, and the distribution arranged, CMO can finally finish it's 26 year long journey from the point of discovery to benefit the general public.

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How it Works

In their October 28, 1996 issue, Time magazine reported on the three most promising developments in arthritis research. The scientists participating in all three projects are intensely focused on intervening in the immune system's involvement in the arthritic process.

According to doctors, that is exactly what CMO™ does. It corrects the disease at the source in the immune system. Dr. Len Sands the director of the San Diego Clinic says:

“Unlike everything else made for arthritis, you don't have to take it over and over again. CMO™ is not a pain reliever, anti-inflammatory, cortisone or other steroid. CMO™ is an immunomodulator, it regulates your immune system. There's never been anything like it before for arthritis. Instead of treating the symptoms of pain and inflammation, CMO™ capsules act directly against the cause of arthritis, the memory T-cells in your immune system that create the attacks against your joints. Once the error in your immune system is corrected by CMO™, the attacks on your joints stop and the pain and inflammation should be relieved forever. Once the problems are corrected, they stay corrected and you no longer need CMO™ or other arthritis remedies.”

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Frequently Asked Questions

The following questions were answered by the doctors, staff and research associates of the San Diego Clinic. You can scroll down the page to view them all, or click on specific

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<http://home.earthlink.net/~cmocure/cmo/cm0002.html>

question to view the answer. Use "Back to FAQs" button to return to questions after viewing an answer.

- [What makes CMO different from all the other remedies?](#)
- [Does that mean a person takes CMO only once and that's it?](#)
- [Does it work for both rheumatoid and osteoarthritis?](#)
- [Does CMO improve joint mobility?](#)
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- [How long before it takes effect?](#)
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- [What about really severe cases?](#)
- [What about joints where the cartilage is completely worn away?](#)
- [Does it work for everyone?](#)
- [Can I continue with my usual medications while taking CMO?](#)
- [Do I have to go on a special diet?](#)
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- [What is CMO? Where does it come from?](#)
- [Is CMO used for any other ailments?](#)

What makes CMO different to other remedies?

CMO is not a pain reliever, nor is it a steroid or anti-inflammatory. It is an immunomodulator. There's never been anything like it before for arthritis. Instead of treating the symptoms of pain and inflammation, CMO act against the cause of arthritis – the erroneously programmed Memory T Cells of your own immune system that cause the attacks against your joints. Once the attacks on your joints are halted the symptom of pain and inflammation is promptly remedied.

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Does that mean a person takes CMO only once and that's it?

Yes. Most afflicted persons need to take the capsules for only a couple of weeks to be free of arthritis symptoms forever. No further medication is ever necessary, not even CMO.

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Does it work for both rheumatoid and osteoarthritis?

Both types respond equally well. It also works for most other types of arthritis such as those

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associated with Ankylosing Spondylitis. Reiter's syndrome. Behcet's syndrome, Sjogren's syndrome and Psoriasis. It has also been found to relieve various types of back pain of undetermined origin (probably arthritis related)

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Does CMO improve joint mobility?

Yes, it can! If the joint can be moved, joint mobility may be improved. But if the bones have fused and grown together, only surgery can help those particular joints.

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Does it stop arthritis pain?

Arthritis pain will disappear completely in almost every instance. In a few extreme cases pain was reduced by only 70% to 90%, which was still of such major benefit that it allowed the persons to function normally again.

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Does CMO reduce inflammation?

Yes, and it does so very effectively. The pressure in the joints caused by the inflammation is the major cause of stiffness and pain.

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How long before it takes effect?

Most people can begin to feel relief within a couple of weeks. Others may need several months.

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Will it correct deformities?

Yes. Deformed fingers and toes are often caused by inflammation which swells joints and

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pushes the bones out of place. Reduction of the swelling alone improves appearance dramatically and often allows the dislocated bones to return to their normal positions. Extreme cases may require some physical therapy.

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What about really severe cases?

Even most persons previously confined to bed or to wheelchairs have responded dramatically and are now no longer dependent on others for care. A number of these cases received additional benefit from repeating the treatment one more time. A few others found that physical therapy or exercise programs also helped.

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What about joints where the cartilage is completely worn away?

Unless the bones have fused together, the usual problem is not lack of mobility, but pain. The majority of such drastic cases have responded favorably resulting in painless movement, even in the knees.

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Does it work for every one?

No. CMO has been able to help many individuals, but not everyone will see an improvement in their arthritic symptoms. We all have different bodies, lifestyles, eating habits, etc., therefore the results will vary. Digestive problems or liver function impairment, can sometimes interfere with success.

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Can I continue with my usual medications while taking CMO?

Yes, but after a few days you probably won't need them. However, it's best to avoid steroids if possible.

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<http://home.earthlink.net/~cmocure/cmo/cm00002.html>**Do I have to go on a special diet?**

Alcohol, chocolate, and tea should be avoided. Some users find that avoiding or limiting other foods helps improve effectiveness. A recommended diet accompanies this product, but it only need be followed for a few weeks. Many people take digestive enzymes with CMO to help them absorb it. Afterwards, there are no restrictions.

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Will I have to exercise?

The absence of pain and return of joint mobility is so profound that normal activities will follow quite naturally. No special exercises are necessary. Actually, the usual tendency is to overindulge in the new found freedom, sometimes temporarily resulting in soreness of muscles previously unused.

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Is it okay to exercise?

Yes. Many people want to lose weight and or rebuild strength once they are free to do so again painlessly. But, as with all sound fitness programs, it's best to do so gradually. Your body will need time to adjust.

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Is it expensive?

The cost of treatment is very modest. Most arthritis victims are already spending more on pain and anti-inflammation medications in just a few months. Since you usually need to take only one set of CMO capsules, it actually saves thousands of dollars in the long run.

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Is age a factor?

Not really. All ages respond well. Although arthritis becomes far more common with advancing age, even very young children are sometimes afflicted.

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What causes arthritis?

The numerous theories about what causes arthritis have filled hundreds of volumes. But one thing we do know is that the arthritic process is regulated by Memory T Cells which have been erroneously programmed, causing attacks on your own joints and cartilage.

In osteoarthritis, this faulty programming usually results from physical damage (like a fall, sports injury, vehicle accident, repeated operation of vibrating machinery, long-term strenuous physical work or sports activities, and continuous repetitive motions of certain joints) etc. The damage results in an immune response involving the memory T cells producing attacks against the affected joints. Unfortunately, there's no stop or end command given and the attack continues against healthy cartilage and joints as well. That's why arthritis is called an autoimmune disease, our own body is attacked by our own immune cells.

Although the various forms of rheumatoid arthritis are usually caused by some ineffective microorganism. Memory T cells is again involved in the same arthritic process. Without CMO it continues to worsen.

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How does CMO work?

CMO corrects the root cause of arthritis by erasing the memory of the badly programmed memory T cells. Once the destruction of your joints is halted, your body can begin its repair process without interference, and joints begin to normalize. Although the major benefits come promptly, minor improvements continue even for several months after finishing CMO. With the pain and inflammation relieved, the joints can function again quite normally. Despite minor physical damage to bones as a result of long affliction, perfectly normal joint function usually returns regardless.

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Is it harmful in any way?

CMO studies began at the US National Institutes of Health more than 20 years ago. Recently, clinical applications studies were conducted in San Diego. No harmful short or long-term effects were ever observed in humans, or in laboratory animals even at extremely high doses. Similar substances have long been used in common foods including cheese and chocolate, and even in medicines and cosmetics. It is a perfectly safe and naturally derived substance.

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What is CMO? Where does it come from?

Cerosomal-cis-9-cetylmyristoleate is the biomedical name. CMO is the trade name. It is a completely natural substance found in certain animals such as cows, beavers, mice, and whales. As supplied in capsules, it is a naturally derived, highly purified and refined waxy ester prepared for oral administration.

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Is CMO used for any other ailments?

Current studies include CMO as a part of therapeutic protocol for other disorders with autoimmune components including multiple sclerosis, leukemia, lupus, emphysema, certain cancers, benign prostatic hyperplasia, silicon breast disease, and especially asthma. It also works for dogs, cats, horses and other animals.

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What do doctors say about CMO?

Dr. Douglass wrote in his newsletter: "A New Miracle Cure for Arthritis ...now we have a new star on the horizon that promises as much (or more) than the old sure-cures."

Dr. Muller of Ferndale, Mich. says there's a cure. He knows, he's taken it. Dr. Muller had osteoarthritis for 30 years. Bravely he forged ahead into the naturopathic remedy and tried CMO™. Dr. Muller is no longer troubled by arthritis.

Dr. Hunt was so impressed by CMO™ he wrote a book called "Boom, You're Well". In that book he says: "...rheumatoid arthritis damages tissues, causes extreme suffering, and premature death. ...If you have rheumatoid arthritis, or you know someone who has it, then you know I am reporting a miracle ... A MIRACLE."

Dr. Sands the director of the San Diego Clinic knows there's a cure. He's taken it and now he says, "I was rescued from arthritis". In fact that is the name of his forthcoming book about CMO™. In that book he says, "The arthritic process can be halted. Arthritis can be reversed. The pain and inflammation can be relieved. And it's all been done without any harmful side effects."

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What is the media saying about CMO?

Books, Television News, Radio Health Talk Shows, Medical Newsletters and Scientific Journals all report CMO™ to be a revolutionary breakthrough!

Quotes extracted from: The Mark Scot Show, WXYT Radio Detroit, December 1996:
"Hang on folks because if you haven't heard this before, it certainly is going to be an eye opener for you. ...Amazing is not the word for it. ...CMO™ gets to the source of the problem, it actually stops the arthritic process."

Quotes extracted from: The Don Bodenbach Show, KCEO Radio San Diego, August 1996
"...It may be what we consider almost a miracle cure for arthritis, and the form of arthritis doesn't matter. ...What is more impressive is once you undergo the appropriate treatment ...you are in most cases free from arthritis symptoms forever."

Quotes extracted from: The Nature of Health Magazine, Stop Arthritis Now! The Amazing Story of CMO™, September 1996 "CMO™ is a natural substance and is considered an immunomodulator. The reason for the enormous interest is the effect of CMO™ on both rheumatoid and osteoarthritis... The results of CMO™ are so impressive that nothing that mainstream or natural medicine has to offer can come close to the dramatic reversals in arthritis that have been observed. The link between CMO™ and arthritis was discovered at the National Institutes of Health... Standard medical treatment is aimed at symptomatic relief of pain and inflammation and has shown to actually accelerate the disease process... In contrast, the CMO™ protocol works rapidly and does not need to be continued in the vast majority of cases."

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What are people saying about CMO?

"It's a miracle! Ten years with arthritis ... three in a wheelchair ... and now I've got a completely normal life again. Just watch me make up for lost time."

"As crippled as I was, I hadn't worn out a pair of shoes in seven years. Now I'm out shopping for them again all by myself. My whole life has made a complete about face."

"Even as a doctor, I find CMO™ miraculous. It cured my knee problems, and it's performing every bit as well for my patients, too. I've seen several 'miracle cures' already."

"After nine years of crippling pain, I can't believe I'm actually skiing again. CMO™ is truly incredible."

"After two years in a wheelchair, I just can't believe that I'm taking care of myself and my family again."

"I am a trophy winning martial arts competitor and I had to quit three years ago because of my arthritis. I'm 100% now that I tried CMO™. I look forward to going to Australia next year to compete again."

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"I couldn't even put on my own socks. My wife had to do it. Now after seven years of excruciating pain, I'm out golfing again."

"Before, I needed two hands just to lift a cup of coffee. Now I find myself rearranging furniture all by myself. Last week I even changed a flat tire on the car."

"I didn't even realize CMO™ had worked for me till I found myself moving a bunch of heavy junk out of the garage. The change was so smooth and natural I just took it for granted."

"Imagine my agony. I was a professional athlete all my life. CMO™ gave me back my life. Even knee surgery didn't do that for me. It's amazing how CMO™ ended up fixing all my joints."

"... The pain and stiffness in my hands kept me from performing even simple office surgery. CMO gradually returned my ability for fine control."

"... CMO alters the immune response ... I'm really impressed with the reports I'm getting from my colleagues. This may well be the cure we have been looking for ... it's going to cost you ... to find out [if it works for you]. But I think it's worth the investment ..." Dr. William C. Douglass, MD."

"... rheumatoid arthritis damages tissues, causes extreme suffering, and premature death. And so do many of the other diseases that CMO reverses ... If you have rheumatoid arthritis ... then you know I am reporting a miracle ... A MIRACLE." Dr. Douglas Hunt, MD.

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Arthritis Information

<http://home.carthlink.net/~cmocure/cmo/cm0003.html>



Arthritis Information

Welcome to our Arthritis Information page. Due to the volume of information on this page, we have installed this menu and "Back to Top" buttons to help you navigate this page more effectively.

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- [Who has arthritis and how does that affect us?](#)
- [What causes arthritis?](#)
- [Who says there's a cure for arthritis?](#)
- [What will cure arthritis?](#)

What is arthritis?

There are so many forms of arthritis that they can't all be presented here. According to the Arthritis Foundation, arthritis refers to more than 100 different diseases that cause pain, swelling and limited movement in joints and connective tissue throughout the body. It is usually chronic, meaning that it lasts a lifetime. The disease process also varies depending on the form of arthritis.

The three most prevalent forms are osteoarthritis (OA), fibromyalgia and rheumatoid arthritis (RA). Osteoarthritis is a degenerative joint disease in which the cartilage that covers the ends of bones in the joint deteriorates, causing pain and loss of movement as bone begins to rub against bone. In fibromyalgia, widespread pain affects the muscles and attachments to the bone. In rheumatoid arthritis the joint lining becomes inflamed as part of the body's immune system activity. The chronic inflammation causes deterioration of the joint and the pain and limited movement. You should be aware that osteoarthritis or degenerative joint disease is the most common. CMO is effective on all forms of arthritis except gouty arthritis. The following is what the Arthritis Foundation of New York has to say about osteoarthritis:

Osteoarthritis or Degenerative Joint Disease

Arthritis refers to inflammation of the joint space. Osteoarthritis also known as degenerative joint disease (DJD) is a slow and progressive form of degenerative arthritis that is seen most commonly in the elderly. Joints that have been previously injured (fractured or severely sprained), or subject to chronic stress (obesity or repetitive overuse syndrome) can also lead to premature degenerative changes in the younger patient.

The joints are lined with a material known as cartilage, which provides a smooth surface over which the joint can "glide" without difficulty. Degenerative arthritis causes destruction of the cartilage, predominantly in the

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Arthritis Information

<http://home.earthlink.net/~cmocure/cmo/cm00003.html>

weight bearing (high stress) joints of the body.

The main joints affected by DJD are the hands, hips, knees, cervical (neck) spine, and the lumbar (lower back) spine. Almost all patients over the age of 60 have some degree of DJD in one or more of these locations.

Common symptoms and the appearance of degenerative arthritis include a long history (over years) of episodic joint pain with occasional mild swelling to the joints. DJD does not necessarily produce the remarkable joint swelling, warmth, and tenderness as that of septic arthritis or rheumatoid arthritis. Overweight patients tend to have more low back, hip, and knee problems.

Cervical (or lumbar) degenerative joint disease will commonly result in progressive neck (or back) pain and stiffness. More advanced cases can result in impingement (compression) of exiting nerve roots, giving rise to numbness, tingling, or weakness to the upper (or lower) extremities.

Evaluation will include a history and physical examination. X-rays of the involved joints will show characteristic changes associated with DJD. Serologic tests (rheumatoid factor) may be performed to exclude the possibility of rheumatoid arthritis. Magnetic resonance scanning of the neck or back will be performed in cases where nerve root compression is suspected.

Treatment includes aspirin or nonsteroidal anti-inflammatory agents (ibuprofen) for acute attacks and long-term symptomatic management. Chiropractic manual manipulation and acupuncture are recognized alternatives. In cases of obesity, weight reduction should be considered part of the treatment. Physical therapy to strengthen muscles can take stress off the joints and will have a dramatic effect on decreasing the arthritic pain (and progression of the disease).

Artificial joint replacement has been used successfully for advanced disease in the knees (knee arthroplasty), hips (hip arthroplasty), shoulders, elbows, and joints of the hand and wrist. An Orthopedic Surgeon is the expert in the management of this common problem. Cases involving nerve compression will require referral to a Neurosurgeon.

Note: The last 2 paragraphs list what were the most common remedies available to victims of arthritis before the development of CMO. Given the choice of surgery, a life time of pain pills or taking CMO only once, it is easy to see why CMO is so popular.

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Who has arthritis and how does that affect us?

There are nearly 40 million Americans with arthritis that could benefit from CMO. World wide the figures are far more than double. With the examples of DHEA, melatonin, glucosimine sulfate, chondroitin sulfate, shark cartilage and home remedy books, the public in general has shown it is ready for CMO. The Arthritis Foundation publishes this general

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information about arthritis:

- Arthritis is the #1 crippling disease in the U.S.
- Nearly 40 million Americans have arthritis
- One in seven Americans have arthritis
- Nearly two-thirds of those with arthritis are women
- Nearly 23 million women of all ages have arthritis
- By the year 2020, 59.6 million Americans will have arthritis unless steps are taken now to limit its impact
- Arthritis limits everyday activities -- such as dressing, climbing stairs, getting in and out of bed or walking -- for about 7 million Americans
- \$54.6 billion financial impact nationwide each year
- Arthritis causes \$133 billion in lost wages and productivity annually
- 427 million work days each year are lost to arthritis

The number of people with arthritis is staggering and there are 500,000 new cases each year. Take one of our less populated states like Tennessee. The Arthritis Foundation publishes this about their Tennessee chapter:

- 823,000 people with arthritis
- One in seven people
- 364,589 people with osteoarthritis
- 130,034 people with rheumatoid arthritis
- 1,481 children with arthritis

It is no wonder that arthritis has become one of the top headline news stories in all forms of mass media. The public response to CMO has been overwhelming. News broadcasts and talk shows bring record numbers of callers to sponsoring stations.

In San Diego when a local radio station interviewed Dr. Sands they got so many calls their switchboard overloaded! The host of that show wrote in *The Nature of Health* magazine: "On August 3, 1996, I interviewed Dr. Len Sands on my radio program... Our topic of discussion was cerasomal-cis-9-cytlmyristoleate or CMO. That one hour program generated more calls than any show I've ever done and in fact was the largest response ever for a single show in the history of the radio station."

In Detroit the response was so heavy that the show's host canceled all other guests and extended the interview for 2 hours. The traffic on local telephone circuits for that station's exchange were so heavily taxed that callers to that area could only get a circuit busy signal.

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What causes arthritis?

Dr. Sands the Director of the San Diego Clinic explains it by saying: "The numerous theories about what causes arthritis have filled hundreds of volumes. But one thing we do know is that the arthritic process is regulated by "Memory T-cells" which have been erroneously programmed, causing attacks on your own joints and cartilage. In osteoarthritis, this faulty programming usually results from physical damage (like a fall, sports injury, vehicle accident, long-term strenuous physical work or sports activities, or any frequent jarring or shocking of the joints, etc.).

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The damage results in an immune response involving the memory T-cells, producing attacks against the affected joints. Unfortunately, there's no 'stop button' or 'end program' command in the memory T-cells and the attack continues against healthy cartilage and joints as well. That's why we call arthritis an autoimmune disease - because your body is attacked by your own immune cells. Although the various forms of rheumatoid arthritis are usually caused by some infective microorganism, memory T-cells are again involved in the same arthritic process. Without CMO, it continues to worsen."

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Who says there's a cure for arthritis?

Time Magazine

As we mentioned earlier in the CMO Information section, in their October 28, 1996 issue, Time magazine reported on the three most promising developments in arthritis research. The scientists participating in all three projects are intensely focused on intervening in the immune system's involvement in the arthritic process.

According to doctors that is exactly what CMO does. It corrects the disease at the source in the immune system and doesn't require a lifetime maintenance program.

Rescued From Arthritis

Rescued From Arthritis, the book by Dr. Len Sands, answers most questions you would have about the clinical research on CMO at the San Diego Clinic. It also recounts several case histories as well as Dr. Sands personal recovery from arthritis with CMO.

"Two years ago I was a closet cripple; bone-on-bone in my knees. Then CMO gave me back a normal life... Following eight years of excruciating pain from bone grinding against bone in my knees, I find it hard to believe that I'm still 95% pain free two years after taking CMO... The arthritic process can be halted. Arthritis can be reversed. The pain and inflammation can be relieved. And it's all been done without any harmful side effects."

Boom, You're Well

The book *Boom, You're Well*, by Dr. Hunt, documents his observations of over 40 patients that recovered from arthritis with the use of CMO. The following is just one

...Robin already had a long history of severe arthritis, including back surgery ten years earlier when she had the misfortune of being shot. The bullet entered through her left shoulder and exploded into her chest cavity. Surgery left her with a titanium rod in her arm from her shoulder to her elbow. Her doctors told her that arthritis would surely follow. It did _ in just four months.

Then Robin found CMO... The next day she was able to move her arm somewhat _ and she had more flexibility in her back. On the fourth day her back was so improved, she was actually able to curl up in a ball for the first

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time in ten years. As she says, "without any pain or clicking."

Second Opinion

Second Opinion is a newsletter published by Dr. William Douglass. This newsletter enjoys a readership of over 100,000 informed doctors, health professionals and health conscious readers. Dr. Douglas describes CMO as a "miracle cure."

"A New "Miracle Cure" for Arthritis ...now we have a new star on the horizon that promises as much (or more) than the old sure-cures. Again, I'm skeptical _ been through this so many times that I believe in the power of negative thinking _ but it does indeed look promising. ...a 40-year employee of the [U.S. Government] National Institutes of Health (NIH) reports: "Four years ago, I had arthritis so bad I could hardly walk and it was in my hands, too." He is 84 now and remarkably improved from treating himself with a compound I am still trying to learn to pronounce. It's called Cerasomal-cis-9-Cetyl Myristoleate. The trade name is CMO™, so that's what we'll call it.

[One] study involved 48 subjects of both sexes ranging in age from 29 to 82. ...Most patients had a 70 to 100 percent return of joint mobility and a 70 to 100 percent reduction in pain. The initial response time is two to seven days and maximum response time is from seven to 21 days."

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What will cure arthritis?

Dr. Jason Theodosakis' book *The Arthritis Cure* gives the impression that glucosamine and chondroitin sulfate are the cure for arthritis. In fact neither of those substances have any effect on arthritis. What glucosamine sulfate and chondroitin sulfate do have an effect on is cartilage growth. To term these compounds as a "cure" is like saying you can cure a disease with continuous treatment of the symptoms and not permanently treating the cause. Even the Arthritis Foundation says *The Arthritis Cure* is not recommended and they cannot recommend glucosamine and chondroitin sulfate as a treatment for osteoarthritis or any other form of arthritis.

Glucosamine sulfate, chondroitin sulfate, cartilage, natural unflavored gelatin, or similar compounds are the building blocks for cartilage growth. Once the arthritic process is stopped they are much more beneficial.

Speaking of the Arthritis Foundation, they will neither confirm, nor deny that CMO is the cure for arthritis. We are aware of several cases where CMO was presented members of the AF. In turn, they were cured and presented CMO to AF staff. To this day, despite the fact that CMO has cured some of their members, the only official comment the AF has made, was to suggest that when taking CMO, you should consult your physician before reducing steroids or other medications.

According to doctors, clinical studies, users and the media, CMO would certainly seem like the most likely candidate to be given the true title being of a "cure" for arthritis. When asking Dr. Sands if CMO is the only cure for arthritis he replies:

"According to the *Journal of Rheumatology* (1993; 20:137-140) bone marrow

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transplants seem to have succeeded in curing two cases of arthritis."

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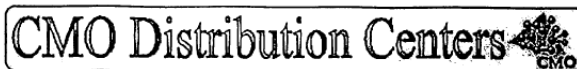


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Clinical Information

Welcome to our Clinical Information page. Due to the volume of information on this page, we have installed this menu and "Back to Top" buttons to help you navigate this page more effectively.

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Research

CMO Distribution Centers of America in conjunction with the San Diego Clinic act as a clearing house for all the latest information on CMO. With this joint research effort, a network of communication is established between all medical professionals and distributors. This allows for up to the minute information sharing. This will facilitate the application of CMO to uses other than for arthritis. Currently, studies for the use of CMO on other auto-immune diseases are in progress. It is hoped that the Lupus Foundation will conduct one such study. We have offered to fund the protocol.

Current studies of CMO as a part of therapeutic protocol for other diseases include asthma, scleroderma, fibromyalgia, lupus, emphysema, certain cancers, and benign prostrate hyperplasia. CMO Distribution Centers of America and The San Diego Clinic team have dedicated themselves to that research and the results will expand the potential of CMO to other diseases. These CMO pages will reflect any progress we make. In the near future, a user BBS will be added for public access to the latest data base information posted by medical professionals.

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Clinical Study

A Study on Dose Effectiveness and Patient Response Conducted by the San Diego Clinic

Welcome to the Clinical Study section of our page. Due to the volume of information in this study, we have installed this menu, "Back to Top" and "Back to Study" buttons to help you navigate this page more effectively.

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The Purpose

The effectiveness and nontoxicity of CMO (cerasomal-cis-9-cetylmristoleate) for arthritis symptoms of pain, inflammation, and impaired mobility having been previously established, the purpose of the present study was:

- 1.) to determine optimum dosage levels for various types of arthritis,
- 2.) to determine if different dosage levels would be required relative to the severity of each type of arthritis,
- 3.) to observe response time required for initial and partial relief of symptoms,
- 4.) to observe response time required for complete relief of symptoms, and
- 5.) to determine factors influencing subjects who may not respond to the protocol.

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The Subjects

Subjects were volunteers treated as outpatients. They presented with osteoarthritis,

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rheumatoid arthritis, and other forms of reactive arthritis.

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The Study

The study involved 48 subjects. Female subjects (28) ranged from 33 to 82 years of age. Male subjects (20) ranged from 29 to 74 years of age. All races and many ethnic backgrounds were represented. Age, gender, race, and ethnological background appeared to be irrelevant to patient response in this study.

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The Protocol

CMO was administered orally in the form of 75mg capsules each morning and evening. The number of capsules and duration of treatment varied for each group of subjects. Subjects were advised to take capsules on an empty stomach with water only; and to avoid tea, chocolate, alcohol, coffee, cola, and other caffeinated drinks for five hours after taking the capsules. Subjects were advised to completely avoid chocolate and alcohol during the entire trial period of two to four weeks duration. With a few exceptions for subjects who could not function without them, steroids were also prohibited. Otherwise diet was not controlled in any way. Subjects were permitted to continue taking their customary pain and non-steroidal anti-inflammatory medications until they were no longer needed. Subjects were asked to visit or call in to report progress at least twice weekly.

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The Results

Only two subjects failed to show marked or complete relief of all symptoms of pain and limited mobility normally associated with arthritis. Both of these non-responding subjects had suffered prior hepatic problems: one from alcohol abuse resulting in cirrhosis of the liver; the other, a former professional athlete, presented with considerable liver damage from steroid abuse. Further studies are necessary to determine the role of liver function capacity with respect to this protocol. Liver damage resulting from steroids previously prescribed for arthritis may also prove to be a factor affecting patient response.

Two other subjects showed less than a 75% return of articular mobility. The balance of all

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subjects reported 80% to 100% return of articular mobility as well as a 70% to 100% decrease of pain. Relief of inflammation frequently resulted in at least partial correction of some deformities. Informal independent trials at clinics, by individual medical doctors, and other health practitioners appear to have brought approximately the same results.

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GROUP # 1**Mild to moderately severe osteoarthritis & reactive psoriatic arthritis**

In Group #1, eleven subjects presenting with mild to moderately severe osteoarthritis and one with reactive psoriatic arthritis were supplied with 16 capsules, two 75mg capsules to be taken each morning and evening for four days. Nine reported about 20% to 30% improvement in articulation and inflammation and about 40% to 50% relief of arthritic pain within 36 hours. In these nine subjects improvement continued rapidly for the next 60 hours, reaching a 70% to 80% overall improvement by the end of the four days. Two of the three latter subjects continued to improve over the following week despite the fact that they were no longer taking the capsules. However, about half of this group experienced the return of some mild arthritic symptoms after about three to five weeks. (Although not included as part of this study, all of the subjects in this group were treated again and their symptoms have not returned.) The patient with reactive psoriatic arthritis also experienced an almost complete reversal of his associated very severe psoriatic skin condition affecting about 20% of his total skin area.

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GROUP # 2**Severe to crippling rheumatoid arthritis**

In Group #2, nine subjects presenting with severe to crippling rheumatoid arthritis were supplied with 50 capsules to be taken in two series, two 75mg capsules each morning and evening for seven days, with a seven day interval before repeating the same dosage for 5-1/2 more days. Four of these subjects were unable to walk and were accustomed to being transported by wheelchairs. One, her femur being fused at the hip, was unable to achieve a sitting position for wheelchair transport. She could, however, move about slowly on crutches as long as she was accompanied by someone to aid her in maintaining her balance. Otherwise she could only stand or lie down. The remaining four could move about with canes or walkers. All nine subjects presented with pain, inflammation, and marked deformation of nearly all proximal interphalangeal and large joints. Five presented with limited lumbar flexion and pain in the vertebral column. All had difficulty grasping and manipulating common objects.

Within three days of treatment six subjects in the group reported a 30% to 50% decrease in pain and 20% to 30% increase in joint mobility, and three subjects reported little change. Within seven days five subjects reported a 70% to 90% decrease in pain and 70% to 80%

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increase in joint mobility. Three subjects reported to be totally free of pain with almost complete return of joint mobility and marked improvement in joint deformation. One patient reported no perceptible change.

On the fourteenth day, at the end of the one week interval without treatment, six subjects reported minor continuing improvement; two reported maintaining their improved status, and one continued to show no improvement. Treatment was resumed on the fifteenth day for 5-1/2 more days.

By the end of the treatment period all but two subjects reported to be 90% free of pain with return of 70% to 100% mobility. The fused hip joint remained fused, of course, but with a return of over 70% mobility in other joints the subject felt hip surgery now to be worth consideration. The one nonresponsive subject proved to have cirrhosis of the liver, which may have been the reason for her inability to respond to treatment. Further investigation is necessary to determine the role of liver function in this protocol.

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GROUP # 3

Mild to moderately severe rheumatoid arthritis

In Group #3, fourteen subjects presenting with mild to moderately severe rheumatoid arthritis were supplied with 24 capsules, two 75mg capsules to be taken each morning and evening for six days. After three days of treatment eleven reported about 20% to 30% improvement in articulation and inflammation, and about 40% to 50% relief of arthritic pain. In these eleven subjects improvement continued rapidly over the next four days, approaching the 80% to 100% level. The remaining three subjects reported similar improvements by the end of the fourth day, with an overall improvement of 70% to 80% after seven days.

Most of the subjects continued to report minor additional improvement for one week or more even though they were no longer under treatment. However, six in this group began to experience the return of some mild arthritic symptoms after about three to four weeks. (Although not included as part of this study, all of the subjects in this group were treated again and their level of improvement has subsequently stabilized).

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GROUP # 4

Severe to crippling osteoarthritis

In Group #4, fourteen subjects presenting with severe to crippling osteoarthritis were supplied with 50 capsules to be taken in two series, two 75mg capsules each morning and evening for seven days, with a seven day interval before repeating the same dosage for 5-1/2 more days. Three of these subjects were unable to walk and were accustomed to being

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transported by wheelchairs. The other eleven could move about with crutches, walkers, or canes. All presented with pain, inflammation, and marked deformation of nearly all interphalangeal and large joints. Four presented with limited lumbar flexion and pain in the vertebral column. Ten had difficulty grasping and manipulating common objects.

After four days of treatment ten in this group reported 30% to 50% improvement in articulation and inflammation and about 40% to 60% relief of arthritic pain. In these ten subjects improvement continued rapidly over the next three days, reaching 80% to 100% by the end of seven days. One reported no perceptible change.

On the fourteenth day, at the end of the one week interval without treatment, nine subjects reported continuing minor improvement, four reported maintaining their improved status, and one continued to show no improvement. Treatment was resumed on the fifteenth day for 5-1/2 more days.

By the end of the treatment period eleven subjects reported 80% to 100% relief of pain with a return of 80% to 100% mobility. Two subjects reported 70% to 80% return of articular mobility with a 70% to 90% reduction of arthritic pain. The one non-responsive subject proved to have previous liver damage as a result of sports-related steroid abuse. Further studies are necessary to determine the role of liver function in this protocol.

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Summary

The results of this study lead to several conclusions regarding its five principal objectives:

- 1.) Optimum dosage levels appear to be equal for all three types of arthritis investigated: osteoarthritis, rheumatoid arthritis, and reactive psoriatic arthritis. This is evidenced by the gradual return of minor arthritis symptoms in several of those treated with only 16 or 24 capsules, and no regression in those treated with 50 capsules in two series separated by one week without treatment.
- 2.) Dosage level requirements appear to be equal irrespective of the severity of the subject's condition.
- 3.) Initial response time for minor improvement appears to vary from two to seven days irrespective of the severity of the subject's condition.
- 4.) The time for maximum attainable response appears to vary from seven to twenty-one days, resulting in 70% to 100% overall improvement. (Apart from this study, three of the most severely afflicted subjects were treated again after a five week interval, resulting in an additional 10% to 20% overall improvement.)
- 5.) The two non-responding subjects both proved to have suffered previous damage to the liver from steroid or alcohol abuse, indicating that impaired liver function may preclude success with this protocol.

In addition, it was evident that for many subjects the relief of inflammation resulted in marked improvement in joint deformation.

(This study was conducted at several different sites after the model prepared by the developers of CMO.)

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Case Histories

Condensed Highlights From Case Histories Recorded By The San Diego Clinic

From case history #38:
Medical Doctor. Pain and stiffness in hands for several years. Unable to perform simple office surgery. One day of CMO brought relief. Dexterity and fine surgical ability returned gradually. Ordered CMO for his patients.

From case history #39:
Male. Medical Doctor/psychiatrist. This physician complained of persistent pains along his spine and in his feet. He became completely free of pain in both the spine and feet within two days of starting CMO capsules. Remission continues.

From case history # 33:
Medical Doctor. Auto wreck ten years earlier damaged hip, caused limp and arthritis. CMO relieved pain permanently in one day for the first time after many years. The limp problem is irreparable. Ordered CMO for his patients.

From case history # 06:
Female. Age 45. Arthritis attack worsened rapidly over a period of only seven months. Required a wheelchair to be moved about. Frequently unable to leave bed in mornings because of debilitating pain. Seeking relief, she worked with a personal trainer. She was incapable of holding a five pound weight, unable to make a fist. Saw immediate improvement with CMO in just three days. Two weeks after the first, she took a second course of CMO. She is now able to perform a full workout, has no difficulty making a fist, wakes in the mornings free of pain, and has resumed a normal active life.

From case history # 29:
Female. Age 63. Despite devoted adherence to a truly natural diet, suffered severe osteoarthritis in most joints for over ten years. Woke to agonizing pain. Even simple chores were arduous. CMO brought total relief in ten days.

From case history # 24:
Female. Age 50. Family history of arthritis. Pain in shoulders. Severe pain, limited mobility, and gross swelling in hands and fingers. By the third day of CMO, hands were free of pain, mobility had increased immensely, and finger swelling decreased so dramatically she had to have all her rings re-sized. Repeated treatment three weeks later. Totally free of pain and inflammation since. For the first time in many years, she was recently delighted to experience a pain-free skiing holiday.

From case history # 22:
Female. Clinically obese. Arthritis in neck and spinal column resulting in joint mobility limitations. Despite impaired liver function which frequently inhibits the benefits of CMO, her range of motion increased by 100% within one week. A repeat course of CMO two weeks later has resulted in even greater and continuing improvement.

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Male. Age 32. Rheumatoid arthritis at age 25. Family history of arthritis. Seven years of pain in hands, shoulders, legs, and ankles. Although subject saw substantial improvement after taking CMO for three days, he did not experience complete relief with continuing remission for about two weeks. He has subsequently enjoyed skiing holidays and has been able to return to playing golf without the discomfort of any pain

From case history # 17:

Female. Age 60. Physician. Relentless pain from hip injury one year prior. Diverse treatments and medicines brought little relief. With CMO and massages to reduce edema and improve muscle activity, her pain gradually diminished in two weeks. Now remains completely free of pain.

From case history # 15:

Lifelong athlete. Arthritic pain and/or stiffness in hands, feet, knees, neck, and shoulders especially with exposure to the cold. With three days of CMO, was totally free of pain with dramatically increased articulation in the joints. Further improved mobility came with a repeat set of CMO three weeks later. He now enjoys skiing and other activities with the vigor and delight he lost so many years ago.

From case history # 11:

Male. Age 58. Ex football player. Clinically obese. Had knee surgery three times about 15 years ago. Had extreme pain upon lying down. Often slept in a recliner chair instead. With his first evening dose of CMO capsules, he slept soundly and arose the next morning completely free of pain. He has enjoyed continuing pain-free remission ever since the first day.

From case history # 08:

Male. Medical Doctor/psychiatrist. Pains in feet daily for over five years. With CMO almost constant pain disappeared within a day. Ordered CMO for his patients.

From case history #32:

Female. Age 66. Rheumatoid arthritis rendered hands useless, gnarled, inflexible, agonizingly painful six years ago. Pain relieved and full use of hands restored after five days of CMO.

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Suggested Use

Suggested Use:

Take three (3) capsules in the morning, and three (3) capsules at night (bedtime), until you finish all the capsules. Do not drink anything but water for two hours before and one hour after taking your CMO capsules. Very Important: Do not take CMO with alcohol, caffeine or chocolate. This may render your CMO capsules totally ineffective. Following the recommended diet and suggested nutrients will improve effectiveness.

Recommended Diet:

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The golden rule while taking CMO:

To improve effectiveness, abstain from the use of alcohol, caffeine and chocolate during the entire period while taking CMO and for two weeks after taking your final capsules. This includes non-alcohol beer, coffee (even decaffeinated), black tea, colas or other caffeine containing substances. Consult your doctor before making radical changes to your diet.

Additional hints to improve effectiveness while taking CMO:

Minimize or avoid eating Nightshades (tomatoes, potatoes, green, red and yellow bell peppers, and eggplant). Some users find it also helps to reduce the consumption of fats, oils, beans, lentils, and all forms of wheat, rye, corn and barley during the protocol. You should remain on this diet for the entire period of protocol and the following two weeks for optimum results. Consult your doctor before making radical changes to your diet.

A diet for anyone with arthritis:

As with all arthritis sufferers, it is best to avoid the "nightshade" group of vegetables whether you are taking CMO or not. Nightshades have been found to aggravate the arthritic condition. You can check with your local Arthritis Foundation for more information or ask them about the Help Yourself Cookbook, the cookbook for people with arthritis. Cookbook toll-free number: 1-800-454-4662. We are not affiliated with the AF or the makers of the cookbook. We only provide this information in response to the many request we get for type of information. Consult your doctor before making radical changes to your diet.

Medications:

CMO does not interfere with any known medications or alter there effects. Medications do not interfere with the effects of CMO except in two cases, methotrexate and steroids.

Methotrxtate:

The prescription drug methotrexate or (Rheumatrex) will completely block the effects of CMO. Methotrexate is an immune suppressant, CMO is a an immune modulator, to two actions are contradictory and the effects of CMO are blocked. Request that your doctor allow you to discontinue these drugs for at least one week prior to starting CMO. Consult with your physician before making any changes in your current medications.

Steroids:

In some cases, cortisone or other steroids, have hindered the benefits of CMO. Because your liver is so busy processing them, you can't absorb the full benefits of CMO. If you are taking cortisone or other steroids, advise your doctor that it would be better to avoid them or reduce their dosage levels. If not ask him about taking half doses. Then as your pain disappears you may request that he discontinue them completely. Consult with your physician before making any changes in your current medications.

Pain Medications: After taking CMO, you may find you no longer need pain medications. If

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wish to discontinue taking your pain medications, consult with your physician.

Nutritional Supplements: CMO does not interfere with the effects of nutritional supplements. Nutritional supplements do not interfere with the effects of CMO, except in some cases they may actually improve it's effectiveness. In most cases there is no need for additional supplements. However, in a few cases, users report they have found the following protocols to help boost the effects of CMO when they felt they were receiving below average benefits. According to users, digestive enzymes are the single most popular way to help your body absorb CMO. Consult your physician before making radical changes to your diet or adding nutritional supplements.

Digestive Enzymes: CMO may be taken with digestive enzymes to improve it's effectiveness. They seem to aid in the assimilation of CMO through the digestive track. Consult your doctor before making radical changes to your diet.

Enzyme mixtures that contain lipase, protease and amylase are recommended. Avoid combinations containing hydrochloric acid (HCL) or pancreatin. It is not necessary to take enzymes with meals, only with your CMO capsules. Consult your physician before making radical changes to your diet or adding nutritional supplements.

Whey Protein: Although the general rule is to take CMO on an empty stomach with water, CMO capsules may also be taken with a whey protein drink and digestive enzymes to further improve it's effectiveness. This is a new protocol developed by a doctor who says that he has been getting very good results. Consult your physician before making radical changes to your diet or adding nutritional supplements.

Cartilage Supplements: Glucosamine sulfate, chondroitin sulfate, cartilage, natural unflavored gelatin, or similar substances may help to promote the regeneration of joint cartilage during and after CMO use. They may be taken during the CMO protocol as well as afterwards. This may promote the healing of your cartilage. Consult your physician before making radical changes to your diet or adding nutritional supplements.

Fish Oils: Natural fish oil supplements have been highly recommended by Dr. Hunt in his book "Boom You're Well." They can act as a lubricant to reduce wear and tear on your healing joints. Many user report to us that within a week, they can feel the benefits of fish oil. This may be taken during the CMO protocol as well as afterwards. Consult your physician before making radical changes to your diet or adding nutritional supplements.

Liver Cleansers: Users report that using a natural liver cleansing product several days before starting CMO capsules may improve it's effectiveness. This is especially true among moderate to heavy users of alcohol and those on strong medications. Such cleansers among others include milk thistle extract (active ingredient selenium) and phosphatidylcholine. Consult your physician before making radical changes to your diet or adding nutritional supplements.

Note: All of these products are available at your local health and nutrition stores where the sales people are generally very helpful. These products are inexpensive and easy to use. Simply follow the instructions that come with them. Consult your physician before making radical changes to your diet or adding nutritional supplements.

Detoxification: Some persons who have been ill for many years may sometimes experience the effects of a "detoxification reaction". This can occur when the body is unable to eliminate large amounts of newly cleansed toxins fast enough. If after a few days of taking CMO, feelings of nausea and or weakness appear, feel free to stop taking the capsules until the body cleanses and the symptoms are gone. This generally takes only a couple of days. Then continue with your CMO capsules as before. Since the beneficial effects are cumulative, any temporary interruptions will not affect the final outcome. Although rare, a

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Initial Information

<http://home.earthlink.net/~cmocure/cmo/cm00004.html>

few people with rheumatoid arthritis have felt a short-term, temporary worsening of their symptoms. This has lasted for a few days after which their progress has then continued normally. Sometimes it may appear that the full benefits of CMO have occurred early in the treatment. However it is advised to take all 100 capsules to assure the complete, long lasting benefits of CMO.

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Complaint Exhibits

Manufacturing & Specifications

<http://home.earthlink.net/~cmocure/cmo/cm00005.html>**CMO Distribution Centers** **Manufacturing & Specifications**

CMO is produced and bottled in the USA. The production facilities are state of the art and inspected by the state Food and Drug Branch of Health Services. CMO is bottled in a state of the art facility with cleanrooms and air lock doors.



- [Method of Manufacture](#)
- [Quality Control](#)
- [Specifications](#)
- [Packaging & Labeling](#)
- [Supply](#)
- [Ordering Policy](#)
- [Shipping](#)
- [Guarantee](#)

Method of Manufacture

- **Premises:** All manufacturing is conducted in a plant which is a facility approved for food products and is licensed for the manufacture of therapeutic products.
- **General:** All manufacturing is conducted in cleanrooms provided with filtered air. Entry to the manufacturing area is through air locks.
- **Quality Control:** The raw material CMO (cerasomal-cis-9-cetylmyristoleate) powders derived from beef tallow, the calcium phosphate, and silicon dioxide are tested and approved by Quality Control and weighed into clean, dry plastic buckets.
- **Weighing:** The weighing of each ingredient is checked by at least two workers who must each initial the manufacturing batch record.
- **Mixing:** Depending on the size of the batch, the powders are transferred to a ribbon blender or a drum mixer which was first inspected for cleanliness and dryness. The mixing time is strictly controlled according to manufacturing instructions and must be entered into the manufacturing batch book.
- **Filling:** The resulting mix is transferred to a semiautomatic encapsulator machine by means of plastic buckets. At predetermined times during the filling process, samples of the capsules are evaluated by Quality Control for proper weight of mix. If it is determined that any problem exists, all capsules filled since the previous check are destroyed.
- **Bottling:** The filled capsules are placed in a semiautomatic bottling machine which dispenses the proper amount of capsules into each bottle.
- **Labeling:** A semiautomatic labeling machine is used to apply supplied labels and print batch numbers and expiration dates or a separate batch number.

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Quality Control

The strictest quality control is maintained. Lots are analyzed and a specifications sheet is generated (see below). Batch records are logged and must be signed by both parties inspecting the run. Should an error in the fill weight be detected, all product since the last check is removed and destroyed. Each capsule of CMO has been checked 3 times. Content, quality and quantity (fill weight) are checked at three different points during the manufacturing process.

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Specifications

This is a copy of one of the specification sheets: Document NO: CMO 863 effective August 3, 1996, the specifications are as follows:

- Product: CMO (cerasomal-cis-9-cetylmyristoleate)
- Description: Nutritional / dietary supplement consisting of white crystalline powder encapsulated in size 00 white capsules.
- Containers: 125 ml or 225 ml white polypropylene bottle with safety seal, a white plastic screw cap, and a white shrink-wrap seal around top of bottle neck. Packaged twelve (12) per case.
- Fill Weight: 770 mg per capsule, one hundred (100) capsules per bottle.
- Formula:
 - CMO cerasomal-cis-9-cetylmyristoleate derived from natural bovine tallow in a mix of related natural tallow-derived waxes.....50%
 - Calcium Phosphate.....48%
 - Silicon Dioxide......02%
- Identification: Mixed ester, alcohol, tallow-acid wax.
- Melting Point: 34-39°C
- Differential Thermal Analysis (DTA): Minimum between 50-60°C with thermogram structure depending on scan rate and packing sample tube. Matches standards.
- Infrared Spectrum: Neat on NaCl plates. Matches standards.
- Microbial Testing: Plate count <10cfu per gram. E. Coli: Negative. Salmonella: Negative.
- Certification: CMO is a substance naturally derived from natural bovine tallow in a mix of naturally derived bovine tallow waxes, containing only naturally derived ingredients.

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Packaging & Labeling

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CMO comes in units of 100 capsules per bottle. The 225 ml white polypropylene bottles with safety seals, white plastic screw caps, and white shrink-wrap seals around top of bottle necks, come packaged 12 per case. The cases are standard #8 shipping cartons. Batch numbers are applied to the bottom of the bottle. Distributors labels are applied to the side of the bottle. Labels are supplied by the distributor for application at the bottling facility. Distributors labels must be supplied to CMO Distribution Centers of America Inc. 7 days prior to ordering to allow time for shipment to the bottling facility. There is no charge for label application on orders of 1,000 or more.

Labels supplied for application at the bottling facility should be pressure sensitive and on rolls of 2,500 to 3,500. If you wish to print the labels in California, Hunter Pacific (714-975-1331) is close to the bottling plant and familiar with our requirements.

- Label Dimensions : 2 1/8 inches by 5 1/2 inches, Horizontal
- Maximum Roll Size: 9 inches (2,500 - 3,500 average)
- Core Dimensions: 3 inches V Orientation: Right to Left

Standard 2 inch by 4 inch labels will be supplied by CMO Distribution Centers of America Inc. for orders of less than 1,000 units. These labels must be applied by the distributor. Labels will include distributors name and all other standard label information. Custom labels are available.

Standard Suggested Use pamphlets will be supplied by CMO Distribution Centers of America Inc. for orders of less than 1,000 units. These pamphlets must be folded by the distributor. Pamphlets will include distributors name and all other standard use information. Custom pamphlets are available. Special inserts, mailing containers, product boxes and other materials can be supplied by distributor for assembly, insertion or application. Price is bid per job.

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Supply

We are currently able to manufacture 40,000 units (100 capsule bottles) of CMO per week. Provisions have been made to produce over 100,00 units per week. That would be over 7 million units per year or over 500,000 units per month.

- 5 million units of raw materials on hand.
- 220,000 units of finished product on hand.
- 66,000 units of finished product in bottling plant at all times.

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Ordering Policy

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Retail orders must be paid in full at time of order. Orders will arrive within 2 weeks from the time we receive payment. Rush orders can be arranged.

Wholesale orders of 1,000 units or more require 50% upon order, net upon delivery. Orders of less than 1,000 units must be paid in full at time of order. Orders must be placed at least:

- 10 days prior to FOB pick up from plant in Anaheim, California.
- 14 days prior to FOB pick up from our offices in Sarasota, Florida.
- 18 days prior to air express shipment.
- 21 days prior to land carrier shipment.

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Shipping

- 5 lbs and under: N/C
- Over 5 lbs: FOB

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Guarantee

CMO Distribution Centers of America Inc. guarantees that the product we ship meets all the above specifications.

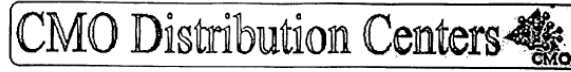
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Complaint Exhibits

Marketing & Sales

<http://home.earthlink.net/~cmocure/cm000006.html>

Marketing & Sales

Marketing & Sales

Market Information

The following is not intended as a projected market share. It is provided only as an overview of the potential market size for CMO as applied to arthritis. An accurate market potential for CMO as applied to arthritis is impossible to project. The following figures were based on the statistics of 50 million Americans with arthritis, 500,000 new cases each year and CMO retailing for \$295.00 per bottle.

The gross retail value of the U.S. market for CMO as applied to arthritis is 14.75 billion dollars. The reoccurring gross annual new market in the U.S. is 147.5 million dollars. If you were to speculate that a 5% market share were possible, then the gross retail value of the U.S. market would be 737.5 million dollars. Even if you did cure everyone with arthritis in America, the annual figures for new buyers, based on 5% of the new cases of arthritis each year, would be a gross retail value of 7.37 million dollars. No matter how you look at it, the figures are staggering.

Furthermore, the effects of CMO on other autoimmune diseases is still under study. Current studies of CMO as a part of therapeutic protocol for other diseases include asthma, scleroderma, fibromyalgia, lupus, emphysema, certain cancers, and benign prostrate hyperplasia. The CMO Distribution Centers and San Diego Clinic team have dedicated themselves to that research and the results will expand the market potential of CMO to other diseases.

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Domestic Market

- Over 50 million Americans have arthritis.
- Over 40 million individuals list arthritis as a cause for visiting their doctors each year.
- CMO benefits all types of arthritis except gouty arthritis.
- Over 500,000 Americans with new cases of arthritis every year.

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International Market

CMO has a certificate of Free Trade and is available for export. The full potential of the international market for CMO should be more than double that of the US market. However, a world wide market is impossible to project without first answering these questions:

- What is the true scope of effectiveness for CMO on other autoimmune related diseases?
- How will price positioning effect foreign markets?

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Current Market

Last year independent distributors sales of CMO expanded at a rate of approximately 20% per month. Orders for this coming year exceed 100,000 units..

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Counterfeit & Inferiort

With the success of CMO in the marketplace, counterfeit, inferior and legally questionable products are rapidly appearing. Already two such impostors have been forced to comply with cease and desist orders and a third that refused to comply was sued resulting in a half million dollar judgement. Various companies are marketing cetylmyristoleate as CMO. This is very deceptive because CMO is not cetylmyristoleate. This is also illegal since a trademark registration for CMO was filed and those rights were assigned to CMO Distribution Centers of America Inc. Our investigations reveal only three manufacturers of cetylmyristoleate. All of their end products can be identified as liquid, 48 capsule or 60 capsule units. Though cetylmyristoleate was effective as an injectable compound, it is not nearly as effective as an orally administered agent. CMO is cerasomal-cis-9-cetylmyristoleate a highly bio-available analogue that is designed to be orally administered and is over 90% effective. Only CMO has been tested clinically. CMO is naturally derived from beef and may be sold directly to the public without regulatory intervention.

Synthetic cetylmyristoleate appears to be in the market without clinical study or the proper regulatory approval. This synthetic version of the original injectable compound is being sold as an orally administered product. Reports of it's effectiveness have not been favorable. In fact, it has been so ineffective the mere association of this product with CMO is about to inspire legal action. This high failure rate can be explained by the manufacturer's own words. Published in the Journal of Pharmaceutical Sciences he said that cetylmyristoleate was most effective when injected near the site of the arthritis. We agree with that observation completely. That's why we formulated an orally administered analogue.

There is a very odd collection of characters with uncertain backgrounds that were trying to market cetylmyristoleate and other substances as CMO. They have been forced to comply with a cease and desist order. They are hard to keep track of because they collectively have several corporations that

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change names frequently. They are easy to identify because no matter what corporation they operate behind, their literature claims that their cetylmyristoleate comes from "vegetable sources". This claim has our biochemist feeling a little bit confused, because there are no adequate vegetable sources for cetylmyristoleate. This brings to mind the question of exactly what is the source of their product? We have done some investigation and find that many of it's users complain of intense nausea and diarrhea to the point where they cannot continue the protocol. We suspect the presence of noxious or toxic substances. It is our moral duty to protect the potential victims of this product and we plan to fund the costly chemical analysis. It is of course our hope that this is not the case. We have addressed two of the three forms of cetylmyristoleate that are available on the market. The third is hardly worth mentioning. This product contains whale spermaceti. Cows, beavers, whales and Swiss albino mice contain cetylmyristoleate. However, injecting these creatures will not be of very much benefit to the arthritis sufferer. Neither will this product. In mentioning inferior products, we cannot overlook glucosamine sulfate and chondroitin sulfate. These compounds help the body repair cartilage at an accelerated rate so long as you continue to take them and the disease doesn't progress to the point where arthritis is removing cartilage faster than your body can rebuild it. The down side of glucosamine sulfate and chondroitin sulfate is that you have to continually take it for the rest of your life to maintain any kind of relief and you have to accompany it with the 9 point program and stringent diet outlined in Dr. Theodosakis' book. It is a similar protocol to pain killers, anti-inflammatory drugs and steroids. While you take them your arthritis will not bother you as much, but once you stop you're soon back to square one again. Even the Arthritis Foundation cannot recommend glucosamine and chondroitin sulfate as a treatment for osteoarthritis or any other form of arthritis.

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Unique

CMO is in a totally different category than the 9 point program, glucosamine sulfate, chondroitin sulfate, cartilage and natural unflavored gelatin. We have always acknowledged the potential benefits of these substances and mention them in our suggested use pamphlets under Nutrients .

CMO is in a totally different category than cetylmyristoleate. CMO is:

- Naturally derived from beef
- Legally sold directly to the public
- Backed by clinical study
- Supported by ongoing research
- Developed for oral administration
- Highly effective
- Beneficial to all types of arthritis except gouty arthritis
- Manufactured by a reliable and reputable company
- Protected by trademark registration

As you can see, we have a unique product and we have moved swiftly to protect it's reputation from counterfeiters and imitators. We have been working on securing the status of CMO in the market place through a consumer awareness campaign. The next page reflects just one of the ideas that may be used in health trade journals.

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Promotion

Target Market

With 85% of Americans over 65 years old and 40% of Americans over 40 years old being afflicted with arthritis, the target market is plain to see. All senior and adult health related media is prime launch ground for any campaign and has brought at least a 2 to 1 return. Detroit metropolitan areas are generating 3 to 1 returns in senior oriented newspaper print media. Television advertising is untested at this point. Radio advertising response has been varied. Direct mail has been approached with several methods and a variety of results. Mailings to seniors organizations have brought less than a 1% return, but direct mail test marketing to seniors in Southfield, Michigan brought a staggering 7% return.

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Print

This approach to print ads keep any claims about the product itself from falling under regulatory agency scrutiny. Currently all distributors are modifying their approach to parallel this one. Ad placement has proven crucial to the response rate from print advertising. Classified ads barely brought a 1 to 1. Home Living, Senior Living and Health and Fitness magazine inserts proved to be very responsive. Responses of 3 to 1 are achieved through these type of placements as well as standard placement in news sections carrying health related articles. Display ads have been anywhere from 2 to 5 column inches on the average. The ad on this page is a typical 4 column inch size.

Currently all advertising is geared to generate a mailing. All product information pamphlets should contain something similar to this statement: "CMO is naturally derived. It is sold only as a dietary supplement not intended to treat, cure, or diagnose any disease. Therefore, it is available mail order without prescription." Response to requested mailings are better than 10%.

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Radio

Radio health talk shows have proven to generate an overwhelming response. Both Dr. Sands and Dr. Muller are available for interviews. In Detroit the response to the Mark Scott Show with both Dr. Sands and Dr. Muller generated sales of over 80 bottles per week for over 5 weeks running. Zerbo's Health Foods in Livonia Michigan ran only 2 radio ads during the Mark Scott Show and they are selling about a dozen bottles per week. Their sales have not trickled off as would be expected.

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Television

Being that CMO is a consumable, we feel that the best suggested approach to marketing through television is to promote the product through a mini infomercial. The book by Dr. Sands will be available

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<http://home.earthlink.net/~cmocure/cmocm00006.htm>

very soon. An interview style infomercial with Dr. Sands about the book and how CMO is the cure for arthritis would be the key to get people to call. Then when callers reach an operator, they are converted to purchase CMO as well. This approach keeps any claims about the product itself from falling under regulatory scrutiny. This is the same approach that was used for shark cartilage and it proved to be very effective. We do not have the official facts and figures from shark cartilage sales, but we are told that sales reached 10,000 per week using this technique.

In the meantime, television advertising could be limited to the same technique as print advertising using the "Who Says There's A Cure For Arthritis" slogan and mailing out free information pamphlets and tapes. This could be done very economically with the shortest available spots targeted at the senior and adult health interest shows.

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CMO In The Media

Quotes extracted from: *BOOM You're Well*, by Dr. Douglas Hunt

"Let me give you a feel for the scope of this nutrient, and a sense of how many lives it will improve. ARTHRITIS: It is 98% "effective", I mean it will either cure the disease outright, or at least leave the recipient greatly improved. There are over 50,000,000 Americans with osteoarthritis and another 6,000,000 with rheumatoid arthritis... There are 6 billion people on earth, most of whom are going to get arthritis someday."

Quotes extracted from: *The Nature of Health* KCEO Radio San Diego, August 1996 (see attached tape)

"...It may be what we consider almost a miracle cure for arthritis, and the form of arthritis doesn't matter. ...What is more impressive is once you undergo the appropriate treatment... you are in most cases free from arthritis symptoms forever."

Quotes extracted from: *The Mark Scott Show* WXYT Radio Detroit, December 1996 (see attached tape)

"Hang on folks because if you haven't heard this before, it certainly is going to be an eye opener for you. ...Amazing is not the word for it. ...CMO gets to the source of the problem, it actually stops the arthritic process."

Quotes extracted from: *Rescued From Arthritis*, by Dr. Len Sands (see attached manuscript)

"This book reports on a substance discovered years ago... It is already available now and has already succeeded in that magical immunological intervention for thousands of grateful ex-arthritic individuals... it's best known by its trademarked name of CMO"

Quotes extracted from: *Second Opinion*, May, 1996. Newsletter by Dr. William Campbell Douglass (see attached)

Now we have a new star on the horizon that promises as much (or more) than the old sure-cures... The trade name is CMO, so that's what we'll call it."

Quotes extracted from: *Journal of Pharmaceutical Sciences*, Vol. 83, No 3, March, 1994.

"It is to be hoped that our very promising but preliminary results will stimulate other investigators to repeat and extend our studies with larger test groups and more exact protocols with respect to dosages

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<http://home.earthlink.net/~cmocure/cmo/cm00006.html>

and length of trials and, particularly, more extensive tests of cetyl myristoleate analogues."

Quotes extracted from: *The Nature of Health Magazine*, September, 1996.

"On August 2, 1996, I interviewed Dr. Len Sands on my radio program... Our topic of discussion was cerasomal-cis-9-cetylmyristoleate or CMO. That one hour program generated more calls than any other show I've ever done and in fact was the largest response ever for a single show in the history of the radio station. CMO is a natural substance and is considered an immunomodulator. The reason for the enormous interest is the effect of CMO on both rheumatoid and osteoarthritis. The results of CMO are so impressive that nothing that mainstream or natural medicine has to offer can come close to the dramatic reversals in arthritis that have been observed. The link between CMO and arthritis was discovered at the National Institutes of Health... It is estimated that arthritis affects approximately 50 million people in the United States alone. Standard medical treatment is aimed at symptomatic relief of pain and inflammation and has shown to actually accelerate the disease process... In contrast, the CMO protocol works rapidly and does not need to be continued in the vast majority of cases. The rest of this article is devoted to the most commonly asked questions regarding the potential benefits of CMO ...

Does CMO stop arthritis pain? Arthritis pain will disappear completely in almost every instance. In a few extreme cases pain was reduced by only 70% to 90%, which was still of such major benefit that it allowed the persons to function normally again.

Does CMO improve joint mobility? Absolutely! If the joint can be moved just slightly, by the afflicted person or even by someone else, joint mobility can usually be restored. But if the bones have fused and grown together only surgery can help those particular joints.

Can it correct deformities? Yes. Deformed fingers and toes are often caused by inflammation which swells joints and pushes the bones out of place. Reduction of the swelling alone improves appearance dramatically and often allows the dislocated bones to return to their normal positions. Extreme cases may require some physical therapy."

Does it work for both rheumatoid and osteoarthritis? Both types of arthritis respond equally well to CMO. It also works for most other types of arthritis such as those associated with ankylosing spondylitis, Reiter's syndrome, Sjogren's syndrome, Behçet's syndrome, and psoriasis. It has also been found to relieve various types of back pain of undetermined origin, which is more than likely arthritis related.

What about really severe cases? Most people previously confined to bed or to wheelchairs are no longer dependent on others for care. A number of these cases received an additional benefit from repeating the treatment one more time. A few others found that physical therapy or exercise programs also helped.

Does it work for everyone? So far CMO has been able to help everyone who has not suffered from digestive problems or liver function impairment, which usually results from disease, alcohol or steroid abuse.

Is age a factor? Not really. All ages respond well. Although arthritis becomes far more common with advancing age, even young children are sometimes afflicted."

RESOURCES Services CMO Distribution Centers's entire staff is at your disposal. There are also graphic artists, copy writers, market analysts and attorneys who are completely familiar with this project and they are available on a free-lance basis.

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Personnel There are dozens of doctors available to help promote CMO. There is a multitude of

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<http://home.earthlink.net/~cmocure/cm0/cm00006.html>

ex-arthritis sufferers that would like to help spread the word. The list of people available for media appearances grows daily. Just to mention a few familiar names:

Dr. Sands is available for telephone interviews or on location interviews. As director of the San Diego Clinic that developed CMO he will provide all the help he can from his location. He is an experienced advertising campaign manager and copywriter. His work with Pontiac, Bendix, AAMCO, AC Spark plugs, and Michigan International Speedway was notable. You will find an example of his personable approach in the attached live radio interviews. Dr. Muller is a walking testimonial to the effectiveness of CMO. His personal experience with arthritis and being cured with CMO makes an incredible first hand report. He is more than willing to appear in person for television, radio, newspaper and magazine interviews.

Dr. Hunt, the author of the book (Boom You're Well), has assured us of his interest and cooperation in connection with promotional appearances. He is a published author with 2 books available through Warner publishing. As an ex-disc jockey from his college days, this multi-talented doctor presents himself smoothly and is very articulate. His enthusiasm for CMO is reflected not only in his writings, but also in his actions. He was motivated to publish the book because felt that the public needed to know about this revolutionary new substance. The book is very informative. It is easy to read and is based on Dr. Hunt's personal observations about CMO. There were more than 40 patients studied to provide the material for the book. Many of their case histories are contained within.

NOTE: The rights to Dr. Hunt's book were recently purchased for international distribution. All promotional appearances must be approved by the proprietary rights holder.

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Materials CMO Distribution Centers of America Inc. has the most comprehensive graphic and print resources available on CMO. All these resource in the form of master art are available at no charge. Master art for our brochures, press releases, print ads, information pamphlets, stationary and business cards are all available to you. We will even type set your company name and logo into our existing material at no expense.

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World Wide Web Our web site is currently under construction. We invite you to visit us at <http://home.earthlink.net/~cmocure/>. CMO Distribution Centers of America Inc. will list all distributors and their contact information on the web site. We will list any additional services related to arthritis that distributors offer. In addition to the existing web site, there will soon be 24 hour support through a private access site for ordering, downloading latest press releases, a doctors data base and a marketing data base. The marketing database will be updated with information requests from yet another site called the Arthritis Information Net. This site will have the capability to process forms. There will be a section for visitors to fill out information request forms. Access to the information requests will be segmented and relayed according to distributors territorial regions.

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Research CMO Distribution Centers of America Inc. in conjunction with the San Diego Clinic act as a clearing house for all the latest information on CMO. With this joint research effort a network of

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<http://home.earthlink.net/~cmocure/cmo/cm00006.html>

communication is established between all medical professionals and distributors. This allows for up to the minute information sharing. This will facilitate the expansion of the market for CMO to uses other than for arthritis.

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Complaint Exhibits

Counterfeit & Inferior Warning

<http://home.earthlink.net/~cmocure/cmo/cm0007.html>

Counterfeit & Inferior Warning

There are a lot of people out there now claiming to have a "cure" for arthritis. I'm afraid that we are responsible for starting all this ruckus. Unfortunately for the consumer, those other people are mostly doing nothing but making "claims". We've been too busy taking care of the research end of arthritis to get involved in any shouting match. Now our product name has been imitated. This has caused a lot of unsatisfied consumers to come to us and ask us to correct the problem. You'll be pleased to know that those imitators have been stopped. Only CMO™ is naturally derived from beef tallow and backed by clinical research. Please look for the TM symbol and accompanying graphic to make sure the product you purchase is authentic.

Counterfeit & Inferior

With the success of CMO in the marketplace, counterfeit, inferior and legally questionable products are rapidly appearing. Already two such impostors have been forced to comply with cease and desist orders and a third that refused to comply was sued resulting in a half million dollar judgment. Various companies are marketing cetylmyristoleate as CMO. This is very deceptive because CMO is not cetylmyristoleate. This is also illegal since a trademark registration for CMO was filed and those rights were assigned to SKF Marketing Inc. Our investigations reveal only three manufacturers of cetylmyristoleate. All of their end products can be identified as liquid, 48 capsule or 60 capsule units. Though cetylmyristoleate was effective as an injectable compound, it is not nearly as effective as an orally administered agent. CMO is cerasomal-cis-9-cetylmyristoleate a highly bio-available analogue that is designed to be orally administered and is over 90% effective. Only CMO has been tested clinically. CMO is naturally derived from beef and may be sold directly to the public without regulatory intervention. Synthetic cetylmyristoleate appears to be in the market without clinical study or the proper regulatory approval. This synthetic version of the original injectable compound is being sold as an orally administered product. Reports of its effectiveness have not been favorable. In fact, it has been so ineffective the mere association of this product with CMO is about to inspire legal action. This high failure rate can be explained by the manufacturer's own words. Published in the Journal of Pharmaceutical Sciences he said that cetylmyristoleate was most effective when injected near the site of the arthritis. We agree with that observation completely. That's why we formulated an orally administered analogue. There is a very odd collection of characters with uncertain backgrounds that were trying to market cetylmyristoleate and other substances as CMO. They have been forced to comply with a cease and desist order. They are hard to keep track of because they collectively have several corporations that change names frequently. They are easy to identify because no matter what corporation they operate behind, their literature claims that their cetylmyristoleate comes from "vegetable sources". This claim has our biochemist feeling a little bit confused, because there are no adequate vegetable sources for cetylmyristoleate. This brings to mind the question of exactly what is the source of their product? We have done some investigation and find that many of its users complain of intense nausea and diarrhea to the point where they cannot continue the protocol. We suspect the presence of noxious or toxic substances. It is our moral duty to protect the potential victims of this product and we plan to fund the costly chemical analysis. It is of course our hope that this is not the case. We have addressed two of the three forms of cetylmyristoleate that are available on the market. The third is hardly worth mentioning. This product contains whale spermaceti. Cows, beavers, whales and Swiss albino mice contain cetylmyristoleate. However, ingesting these creatures will not be of very much benefit to the arthritis sufferer. Neither will this product. In mentioning inferior products, we cannot overlook glucosamine sulfate and chondroitin sulfate. These compounds help the body repair cartilage at an accelerated rate so long as you continue to take them and the disease doesn't progress to the point where arthritis is removing cartilage faster than your body can rebuild it. The down side of glucosamine sulfate

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counterfeit & Inferior Warning

<http://home.earthlink.net/~cmocure/cmo/cm00007.html>

and chondroitin sulfate is that you have to continually take it for the rest of your life to maintain any kind of relief and you have to accompany it with the 9 point program and stringent diet outlined in Dr. Theodosakis' book. It is a similar protocol to pain killers, anti-inflammatory drugs and steroids. While you take them your arthritis will not bother you as much, but once you stop you're soon back to square one again. Even the Arthritis Foundation cannot recommend glucosamine and chondroitin sulfate as a treatment for osteoarthritis or any other form of arthritis.

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* Naturally derived from beef * Legally sold directly to the public * Backed by clinical study * Supported by ongoing research * Developed for oral administration * Highly effective * Beneficial to all types of arthritis except gouty arthritis * Manufactured by a reliable and reputable company * Protected by trademark registration

As you can see, we have a unique product and we have moved swiftly to protect it's reputation from counterfeiters and imitators. We have been working on securing the status of CMO in the market place through a consumer awareness campaign.

MEMORANDUM - CMOTM, CM Pure, CM Plus, Cetylmyristoleate, et al.

The marketplace seems to be sprouting new CMO counterfeit impersonators every day. Consumers, distributors, nutritionists, scientists, physicians, and other health care professionals are confused and dizzy from the spin put on these phony products. We hope to clarify and differentiate between as many of these various fraudulent impostors as best we can. However, we may not be able to keep up with all the new ones as fast as they appear. Still, you should be able to apply many of the points here to other products as well. First and foremost, let me emphasize that we are the one and only producer of CMOTM. It is strictly our own proprietary product. There is no other. And it is the only naturally derived product of its kind on the market. As such it contains many beneficial closely related trace substances which aid in its effectiveness -- just as the bioflavonoids accompanying vitamin C aid in its effectiveness.

HERE ARE SOME FACTS FOR YOU TO DIGEST:

1. CMOTM is the only naturally derived immunomodulator marketed in the world. There is no other.
2. CMO is the one and only effective orally administered immunomodulator marketed in the world.
3. CMO is the only product of its kind derived from cows. (MOOOve over, impostors.)
4. The biochemical name for CMO is cerasomal-cis-9-cetylmyristoleate. It is not cetylmyristoleate. It is an analog of cetylmyristoleate produced by a complex proprietary process.
5. CMOTM is our proprietary trademarked designation for cerasomal-cis-9-cetylmyristoleate. We are the only manufacturer of CMO. There is no other. Products called CMO by other manufacturers are counterfeits that have virtually no effect on the arthritic process.
6. Cetylmyristoleate is not CMO. Cetylmyristoleate is an injectable. In his own journal article, the discoverer of cetylmyristoleate himself states that it works best when it is injected at or near the site of the arthritic inflammation. It has a very low bioavailability level in oral administration.
7. Myristoleic acid is absolutely essential to make cetylmyristoleate. Myristic acid cannot be used to synthesize cetylmyristoleate or any of its analogs. Any that claim to be phonies.

Complaint Exhibits

Counterfeit & Inferior Warning

<http://home.earthlink.net/~cmocure/cm0/cm0007.html>

8. There is no vegetable source for myristoleic acid. Coconut and a few other vegetable oils do yield myristic acid. Products made from myristic acid do not function as immunomodulators.
9. It is virtually impossible to convert cetylmyristoleate (an oil) into a powder for capsules. Any capsule containing powder is not cetylmyristoleate. It's probably spermaceti or some myristic acid product, both of which have absolutely no immunomodulating properties whatsoever.
10. Spermaceti is a synthetic imitation of a natural compound found in sperm whale oil. It has a molecular structure somewhat like cetylmyristoleate, but it has no effect on the arthritic process. Bottles of spermaceti capsules fraudulently labeled "CMO" keep turning up here and there.
11. Any real cetylmyristoleate that may be available is synthetic and lacks the associated beneficial complexes that occur with our naturally derived CMO. (Refer back to items 4 and 6.) Cetylmyristoleate is a thick oily substance with a very low level of bioavailability when administered orally. It cannot be capsuled without significant leakage.
12. The product called "Myristin" appears to be synthetic (injectable) cetylmyristoleate being marketed as an oral product. But the maker is putting out contradictory information. First, the compound myristin can be found in the Merck Chemical Index as a synonym for glyceryl trimyristate. It seems odd to choose a name which indicates that it could not possibly be cetylmyristoleate. Second, the claims are that the product is derived from vegetable source oils. Perhaps they're just trying to confuse any possible imitators. If it's really cetylmyristoleate, it sure confuses us.
13. Analysis of a sample of the "CM Protocol" product reveals that it contains about 63% propylene glycol – which seems to indicate that the raw materials used are not meant for human consumption! CM Protocol is made by Draco International and is being distributed by private labeling entities as well (e.g. Advanced Labs). Draco also uses the "CM" designation for several other products. Who knows what an analysis of those will show. They first tried calling their products "CMO" but dropped the "O" when we applied proper legal recourse.
14. In checking out the "CM Pure" product (from Biosynergy?) we find that it is based on myristic acid which is not in any way even close to being an immunomodulator. Nor can myristic acid even be used to synthesize cetylmyristoleate. Remember, that requires myristoleic (not myristic) acid.
15. Any product described as being white, tasteless, and odorless (like "CM Pure") could not possibly contain CMO, cetylmyristoleate, or any of its analogs because these are all unpleasant tasting, yellowish in color, and have a strong odor. (Employees hate it when we run CMO at the plant.)
16. Remember, there is no vegetable source for myristoleic acid. Thus, anyone claiming to have an effective product derived from vegetable sources is either terribly mistaken or blatantly lying.
17. When someone claims to have "eliminated the esters" from their product, you can be sure it is not an immunomodulator of any sort.
18. There are an awful lot of incompetent biochemists and unscrupulous crooks out there.
19. We have the one and only CMO. There is no other.

We will try to keep you posted on any relevant new products as we become aware of them. Please advise us of any that come to your attention.

We would be most happy to conference call with any prospective dealer or distributor, or with anyone from any laboratory, research, or medical facility. We would also be delighted to debate representatives from any so-called "competitive" manufacturer.

Complaint Exhibits

Counterfeit & Inferior Warning

<http://home.earthlink.net/~cmocure/cm/cm00007.html>



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Notices, Memos & Info Links

<http://home.earthlink.net/~cmocure/cm0/cm00008.htm>

Notices, Memos & Info Links

NOTICES Copyright & Trademark The information, data and graphics embodied in this business presentation are copyrighted and may not be used without the prior written consent from an officer of SKF Marketing Inc. in Florida. CMO and the accompanying graphic is trademarked. For the convenience of the reader we have omitted the TM symbol in most of our titles and body text. However, the omission of the TM symbol for CMO in our text does not release our proprietary claim to it's exclusive use.

Legal Memorandum The following presentation represents management's best current estimate of the potential of the business, the estimated current business transacted, market sizes, history and future. It is recognized that no presentation of this size can be completely free of errors. Therefore investors, partners and contractors should be aware that all business ventures have inherent risks that must be evaluated, discussed with management and experts capable of interpreting the information prior to making any legal commitments. The materials in this presentation are not intended to be, nor offered as, a prospectus to be used as an investment tool or guide. No representations set forth herein should be inferred or implied as projections on a return of investment. The materials in this presentation have not been reviewed or authorized by any local, state or federal governmental agency.

Manufacturers Statement Modestly speaking, CMO™ is a revolutionary new product. CMO™ is naturally derived, it is sold only as a dietary supplement not intended to treat, cure, or diagnose any disease. Therefore it is available mail order without prescription. CMO™ is produced and bottled in the USA. The production facilities are state of the art and inspected by the California State Food and Drug Branch of Health Services.



Last Update: 09/01/97

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tp://home.earthlink.n...mocure/cmo/cm00009.html

http://home.earthlink.net/~cmocure/cmo/cm00009.html

Contact Us

To learn more about us or CMO, you can call or email us with your questions All of our information services are free of charge.

Web sites: [Consumer Information \(http://home.earthlink.net/~cmocure/cmocure\)](http://home.earthlink.net/~cmocure/cmocure)

Toll Free: (800) 909-CURE (800) 909-2873 Phone: (941) 954- 2100

AOL email: cmocenter@aol.com ("CMO Center" from within AOL) Internet email: cmocure@earthlink.net

Postal: CMO Distribution Centers of America 5726 Cortez Road West # 202 Bradenton, FL 34210



Name:
City/State/Country:
Email Address:

Guest Book Comments:

Order Form

To:
Subject:
Name:
E-mail Addr:
Company:
Address:
Address:
Address:
City: State: Postal:
Country:
Home Phone:

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<http://home.earthlink.net/~cmocure/cmo/cm00009.html>

<http://home.earthlink.net/~cmocure/cmo/cm00009.html>

Home Fax:
Work Phone:
Work Fax:

Item Descriptions:

Name On Card:

VISA/MasterCard #:

Expiration Date:

(submit this order) (clear this order)

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DECISION AND ORDER

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

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

The Commission having thereafter considered the matter and having determined that it had reason to believe that the respondents have violated the 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 thirty (30) 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:

Decision and Order

1. Respondent CMO Distribution Centers of America, Inc., is a Michigan and Florida corporation with its principal office or place of business at 6479 Parkland Drive, Sarasota, FL 34243.
2. Respondent Kalon Samulonis is the President of the corporate respondent. Individually or in concert with others, he formulates, directs, or controls the policies, acts, or practices of the corporation. His principal office or place of business is the same as that of the corporate respondent.
3. The Federal Trade Commission has jurisdiction of the subject matter of this proceeding and of the respondents, and the proceeding is in the public interest.

ORDER

DEFINITIONS

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

1. "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.
2. "CMO" shall mean any product or substance that contains or purports to contain cetylmyristoleate (also known as cetyl myristoleate) or "CMO," any analogue of cetylmyristoleate, or any formulation of cetyl alcohol and myristoleic acid, including but not limited to CMO™.
3. Unless otherwise specified, "respondents" shall mean CMO Distribution Centers of America, Inc. ("CDC"), its successors and assigns; Kalon Samulonis, individually and as an officer of the

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corporation; and each of their agents, representatives and employees.

4. "Clearly and prominently" shall mean as follows:
 - A. In an advertisement communicated through an electronic medium (such as television, video, radio, and interactive media such as the Internet and online services), the disclosure shall be presented simultaneously in both the audio and video portions of the advertisement. Provided, however, that in any advertisement presented solely through video or audio means, the disclosure may be made through the same means in which the ad is presented. The audio disclosure shall be delivered in a volume and cadence sufficient for an ordinary consumer to hear and comprehend it. The video disclosure shall be of a size and shade, and shall appear on the screen for a duration, sufficient for an ordinary consumer to read and comprehend it. In addition to the foregoing, in interactive media the disclosure shall also be unavoidable and shall be presented prior to the consumer incurring any financial obligation.
 - B. In a print advertisement, promotional material, or instructional manual, the disclosure shall be in a type size and location sufficiently noticeable for an ordinary consumer to read and comprehend it, in print that contrasts with the background against which it appears.
 - C. On a product label, the disclosure shall be in a type size and location sufficiently noticeable for an ordinary consumer to read and comprehend it, in print that contrasts with the background against which it appears.

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The disclosure shall be in understandable language and syntax. Nothing contrary to, inconsistent with, or in mitigation of the disclosure shall be used in any advertisement or on any label.

5. "Purchaser" shall mean any transferee of any product covered by this order who purchased such product from respondents or any of respondents' distributors for personal use or for the use of a member of the purchaser's family.

6. "Commerce" shall mean as defined in Section 4 of the Federal Trade Commission Act, 15 U.S.C. § 44.

I.

IT IS ORDERED that respondents, directly or through any partnership, corporation, subsidiary, division, or other device, including franchisees, licensees or distributors, in connection with the manufacturing, labeling, advertising, promotion, offering for sale, sale, or distribution of CMO or any substantially similar product, in or affecting commerce, shall not represent, in any manner, expressly or by implication, that such product:

- A. Is effective in the mitigation, treatment, prevention and cure of arthritis;
- B. Provides significant relief from symptoms of arthritis, including pain, swelling, impaired mobility, or deformity;
- C. Is as effective as, or superior to, prescription medications for the treatment of arthritis or the relief of arthritis symptoms;
- D. Is effective in the treatment of multiple sclerosis, leukemia, lupus, emphysema, cancer, benign prostate hyperplasia, silicone breast disease, asthma, fibromyalgia, or scleroderma; or
- E. Is safe or has no harmful side effects;

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unless, at the time the representation is made, respondents possess and rely upon competent and reliable scientific evidence that substantiates the representation.

II.

IT IS FURTHER ORDERED that respondents, directly or through any partnership, corporation, subsidiary, division, or other device, including franchisees, licensees or distributors, in connection with the manufacturing, labeling, advertising, promotion, offering for sale, sale, or distribution of CMO products or any other food, dietary supplement or drug, as “food” and “drug” are defined in Section 15 of the Federal Trade Commission Act, or program, in or affecting commerce, shall not make any representation, in any manner, expressly or by implication, about the performance, safety, efficacy or health benefits of any such product or program, unless, at the time the representation is made, respondents possess and rely upon competent and reliable scientific evidence that substantiates the representation.

III.

IT IS FURTHER ORDERED that respondents, directly or through any partnership, corporation, subsidiary, division, or other device, including franchisees, licensees or distributors, in connection with the manufacturing, labeling, advertising, promotion, offering for sale, sale, or distribution of CMO products or any other food, dietary supplement or drug, as “food” and “drug” are defined in Section 15 of the Federal Trade Commission Act, or program, in or affecting commerce, shall not use the name “cmocure,” use the word “cure” in an address or telephone number, or use any other name, address, or telephone number that represents expressly or by implication, that the

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product will cure any disease or health-related condition, unless, at the time the representation is made, respondents possess and rely upon competent and reliable scientific evidence that substantiates the representation.

IV.

IT IS FURTHER ORDERED that respondents, directly or through any partnership, corporation, subsidiary, division, or other device, including franchisees, licensees, or distributors, in connection with the advertising, promotion, offering for sale, sale, or distribution of any product or program in or affecting commerce, shall not misrepresent, in any manner, expressly or by implication, that such product or program is endorsed or approved by any governmental, professional, or private organization or association, or complies with or meets standards or guidelines for such products or programs established by any such organization or association.

V.

IT IS FURTHER ORDERED that respondents, directly or through any partnership, corporation, subsidiary, division, or other device, including franchisees, licensees, or distributors, in connection with the advertising, promotion, offering for sale, sale, or distribution of any product or program in or affecting commerce, shall not misrepresent, in any manner, expressly or by implication, the existence, contents, validity, results, conclusions or interpretations of any test, study, or research.

VI.

IT IS FURTHER ORDERED that respondents, directly or through any partnership, corporation, subsidiary, division, or other device, including franchisees, licensees or distributors, in connection with the manufacturing, labeling, advertising, promotion, offering for sale, sale, or distribution of any product or program in or affecting commerce, shall not represent, in any

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manner, expressly or by implication, that the experience represented by any user testimonial or endorsement of the product or program represents the typical or ordinary experience of members of the public who use the product or program, unless:

- A. At the time it is made, respondents possess and rely upon competent and reliable scientific evidence that substantiates the representation; or
- B. Respondents disclose, clearly and prominently, and in close proximity to the endorsement or testimonial, either:
 - 1. What the generally expected results would be for users of the product or program; or
 - 2. The limited applicability of the endorser's experience to what consumers may generally expect to achieve, that is, that consumers should not expect to experience similar results.

For purposes of this Part, "endorsement" shall mean as defined in 16 C.F.R. § 255.0(b).

VII.

Nothing in this order shall prohibit respondents from making any representation for any product that is specifically permitted in the labeling for such product by regulations promulgated by the Food and Drug Administration pursuant to the Nutrition Labeling and Education Act of 1990.

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VIII.

Nothing in this order shall prohibit respondents from making any representation for any drug that is permitted in the labeling for such drug under any tentative final or final standard promulgated by the Food and Drug Administration or under any new drug application approved by the Food and Drug Administration.

IX.

IT IS FURTHER ORDERED that:

- A. Respondents shall not disseminate to any distributor any material containing any representations prohibited by this order.
- B. Respondents shall not, directly or indirectly, authorize any distributor to make any representations prohibited by this order.
- C. Within thirty (30) days after service of this order, respondents shall send by first class mail, with postage prepaid, two exact copies of the notice attached hereto as Attachment A to each distributor with whom respondents have done business between January 1, 1996, and the date of service of this order, to the extent that such distributor is known to respondents through a diligent search of their records, including but not limited to computer files, sales records, and inventory lists. The mailing shall not include any other documents. For purposes of this mailing, respondents shall treat as a distributor any person:
 1. Who purchased a CMO product from respondents for resale;

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2. Who purchased a CMO product from respondents at a discounted or wholesale price unavailable to the general public at the time of the purchase; or
3. Who purchased more than twelve (12) bottles or packages of CMO products from respondents within any twelve (12) month period.

Respondents shall require each distributor with whom they did business between January 1, 1996, and the date of service of this order, to execute and return a copy of Attachment A as a condition of remaining or once again becoming a distributor of CDC.

- D. For a period of three (3) years following service of this order, respondents shall provide two exact copies of the notice attached hereto as Attachment B to each new distributor with whom respondents do business after the service of this order. Such notice shall be sent with the first shipment of respondents' products or programs. Respondents shall require each new distributor to execute and return a copy of the letter as a condition of being a distributor of CDC.
- E. Respondents shall require distributors to submit to respondents all advertising and promotional materials and claims for any products or programs covered by this order for review prior to their dissemination and publication. Respondents shall not authorize distributors to disseminate these materials and claims unless they are in compliance with this order.

Respondents may also comply with the obligations set forth above in this Subpart by:

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1. disseminating to distributors marketing materials that comply with this order; and
 2. requiring those distributors to submit for review all advertising and promotional materials for a particular product or program covered by this order that contain representations that are not substantially similar to the representations for the same product or program contained in the advertising and promotional materials most recently forwarded to the distributors by respondents.
- F. Respondents shall use reasonable efforts to monitor distributors' advertising and promotional activities. In the event that respondents receive any information that, subsequent to receipt of Attachment A or Attachment B pursuant to Subparts C and D of this Part, any distributor is using or disseminating any advertisement or promotional material or making any oral statement that contains any representation prohibited by this order, respondents shall immediately terminate said distributor's right to market respondents' products or programs, and immediately provide, by certified mail, all relevant information, including name, address, and telephone number of the company at issue, the nature of the violation, and any relevant materials used or disseminated, to the Associate Director, Division of Enforcement, Federal Trade Commission, Washington, D.C. 20580.

X.

IT IS FURTHER ORDERED that respondents shall refund the full purchase price of their CMO products, including shipping and handling and applicable taxes, to each eligible purchaser who requests a refund, under the following terms and conditions:

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- A. Within thirty (30) days after service of this order, respondents shall send by first class mail, with postage prepaid, an exact copy of the notice attached hereto as Attachment C, showing the date of mailing to each purchaser other than a distributor as defined in Part IX, who purchased respondents' CMO products between January 1, 1996, and the date respondents executed this order, to the extent that such purchaser is known to respondents through a diligent search of their records, including but not limited to computer files, sales records, and inventory lists. The mailing shall not include any other documents.

- B. If any purchaser other than a distributor as defined in Part IX, within one hundred and twenty (120) days of the service of this order, makes a request for a refund substantially in the form of the request contained in Attachment C, and respondents' diligent inquiry and examination of the corporate respondent's books and records reasonably substantiates the purchaser's claim of purchase or the purchaser provides proof of purchase, including but not limited to any of the following: return of goods or packaging, canceled check(s), credit card invoice(s) or receipt(s), the refund shall be paid within fifteen (15) business days of respondents' receipt of the refund request.

XI.

IT IS FURTHER ORDERED that respondent CDC and its successors and assigns, and respondent Kalon Samulonis shall, no later than one hundred eighty (180) days after the date of service of this order, send by certified mail a monitoring report, in the form of a sworn affidavit executed on behalf of respondents, to the Associate Director, Division of Enforcement, Bureau of

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Consumer Protection, Federal Trade Commission, Washington, D.C. 20580. This report shall specify the steps respondents have taken to comply with the terms of Part X of this order and shall state, without limitation:

- A. The name and address of each purchaser from whom respondents received a refund request;
- B. The date on which each request was received, the amount of the refund request, and the amount of the refund provided by respondents to each such purchaser;
- C. The status of any disputed refund request and the identification of each purchaser whose refund request is disputed, by name, address, and amount of the claim; and
- D. The total amount of refunds paid by respondents.

XII.

IT IS FURTHER ORDERED that respondent CDC and its successors and assigns, and respondent Kalon Samulonis shall, for five (5) years after the last correspondence to which they pertain, maintain and upon request make available to the Federal Trade Commission for inspection and copying: Copies of all notification letters sent to distributors, communications between respondents and distributors referring or relating to the requirements of Part IX, and any other materials created pursuant to Parts IX or X of this order.

XIII.

IT IS FURTHER ORDERED that respondent CDC and its successors and assigns, and respondent Kalon Samulonis shall, for five (5) years after the last date of dissemination of any representation covered by this order, maintain and upon request make available to the Federal Trade Commission for inspection and copying:

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- A. All advertisements and promotional materials containing the representation;
- B. All materials that were relied upon in disseminating the representation; and
- C. All tests, reports, studies, surveys, demonstrations, or other evidence in their possession or control that contradicts, qualifies, or calls into question the representation, or the basis relied upon for the representation, including complaints and other communications with consumers or with governmental or consumer protection organizations.

XIV.

IT IS FURTHER ORDERED that respondent CDC and its successors and assigns, and respondent Kalon Samulonis shall deliver a copy of this order to all current and future principals, officers, directors, and managers, and to all current and future employees, agents, and representatives having responsibilities with respect to the subject matter of this order, and shall secure from each such person a signed and dated statement acknowledging receipt of the order. Respondents shall deliver this order to current personnel within thirty (30) days after the date of service of this order, and to future personnel within thirty (30) days after the person assumes such position or responsibilities.

XV.

IT IS FURTHER ORDERED that respondent CDC and its successors and assigns, and respondent Kalon Samulonis shall notify the Commission at least thirty (30) days prior to any change

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in the corporation(s) that may affect compliance obligations arising under this order, including but not limited to dissolution, assignment, sale, merger, or other action that would result in the emergence of a successor corporation; the creation or dissolution of a subsidiary, parent, or affiliate that engages in any acts or practices subject to this order; the proposed filing of a bankruptcy petition; or a change in the corporate name or address. Provided, however, that, with respect to any proposed change in the corporation about which respondents learn less than thirty (30) days prior to the date such action is to take place, respondents shall notify the Commission as soon as is practicable after obtaining such knowledge. All notices required by this Part shall be sent by certified mail to the Associate Director, Division of Enforcement, Bureau of Consumer Protection, Federal Trade Commission, Washington, D.C. 20580.

XVI.

IT IS FURTHER ORDERED that respondent CDC and its successors and assigns, and respondent Kalon Samulonis shall, within sixty (60) days after the date of 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.

XVII.

This order will terminate on May 16, 2020, or twenty (20) years from the most recent date that the United States or the Federal Trade Commission files a complaint (with or without an accompanying consent decree) in federal court alleging any violation of the order, whichever comes later; provided, however, that the filing of such a complaint will not affect the duration of:

- A. Any Part in this order that terminates in less than twenty (20) years;

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- B. This order's application to any respondent that is not named as a defendant in such complaint; and
- C. This order if such complaint is filed after the order has terminated pursuant to this Part.

Provided, further, that if such complaint is dismissed or a federal court rules that the respondent did not violate any provision of the order, and the dismissal or ruling is either not appealed or upheld on appeal, then the order will terminate according to this Part as though the complaint had never been filed, except that the order will not terminate between the date such complaint is filed and the later of the deadline for appealing such dismissal or ruling and the date such dismissal or ruling is upheld on appeal.

By the Commission.

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ATTACHMENT A**LETTER TO DISTRIBUTORS WITH WHOM RESPONDENTS
HAVE DONE BUSINESS PRIOR TO SERVICE OF THIS
ORDER**

[To be printed on letterhead of CMO Distribution Centers of
America, Inc.]

[Name and address of recipient] [Date]

Dear [recipient's name]

It is against the law to make false claims about any product or to make any health-related claims about any product of CMO Distribution Centers of America, Inc., which are not substantiated by competent and reliable scientific evidence. Competent and reliable scientific evidence is defined as tests, 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. Anecdotal evidence and consumer testimonials are not considered competent and reliable scientific evidence.

The Federal Trade Commission has determined that it has reason to believe that claims that CMO Distribution Centers of America, Inc.'s cetyl myristoleate ("CMO") products are effective in the treatment, relief, mitigation, prevention, or cure of arthritis and other health conditions are not substantiated by competent and reliable scientific evidence. As a result of this determination, CMO Distribution Centers of America, Inc., has agreed to send this letter to its current and former distributors and institute certain procedures, described below.

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CMO Distribution Centers of America, Inc., intends to abide by the law and demands that its distributors do the same. Therefore, as a condition of your future purchase of CMO Distribution Centers of America, Inc.'s products intended for distribution, or resale, or recommendation to others in the context of a professional or commercial relationship, you must agree not to use, rely on, or distribute any advertising or promotional materials containing false or unsubstantiated claims. You must further agree not to make false or unsubstantiated oral representations with regard to any product or program of CMO Distribution Centers of America, Inc. You must also notify your customers who purchase the products for redistribution to do the same. If you or those customers use such materials or make such representations we will stop doing business with you.

In order that CMO Distribution Centers of America, Inc., may assure itself that you are in compliance with the aforesaid requirements, you must, as a condition of distributing the Company's products, agree to submit to CMO Distribution Centers of America, Inc., in advance and prior to use, dissemination, or publication, all advertisements or promotional materials that you intend to use, publish, or disseminate with regard to any CMO Distribution Centers of America, Inc., product or program. In addition, you must furnish us with the URL (Internet address) of any web site you intend to use in connection with the marketing or promotion of our products. You must further agree not to use, disseminate, or publish any such advertisement or promotional materials without our prior approval. We may, in our discretion, send you materials you are authorized to use in your advertising.

Should you fail or refuse to comply with the terms of this letter, we will not do business with you. Furthermore, if CMO Distribution Centers of America, Inc., has reason to believe that you have misrepresented or made claims with respect to any of

Decision and Order

our products that are false or not substantiated by competent and reliable scientific evidence, CMO Distribution Centers of America, Inc., will report your violation to the Federal Trade Commission. Please sign, date, and return the enclosed copy of this letter to CMO Distribution Centers of America, Inc., 6479 Parkland Drive, Sarasota, FL 34243, acknowledging your receipt of this letter and your agreement to the terms set forth herein.

Thank you very much for your cooperation.

Sincerely,

Kalon Samulonis
President

ACKNOWLEDGMENT AND AGREEMENT

The undersigned acknowledges receipt of this letter and hereby agrees to its terms and conditions.

Date

Signature

Title

Decision and Order

ATTACHMENT B

**LETTER TO DISTRIBUTORS WITH WHOM RESPONDENTS
HAVE DONE BUSINESS SINCE RESPONDENTS
EXECUTED THIS ORDER**

[To be printed on letterhead of CMO Distribution Centers of
America, Inc.]

[Name and address of recipient] [Date]

Dear [recipient's name]

It is against the law to make false claims about any product or to make any health-related claims about any product of CMO Distribution Centers of America, Inc., which are not substantiated by competent and reliable scientific evidence. Competent and reliable scientific evidence is defined as tests, 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. Anecdotal evidence and consumer testimonials are not considered competent and reliable scientific evidence.

The Federal Trade Commission has determined that it has reason to believe that claims made in the past that CMO Distribution Centers of America, Inc.'s CMO products are effective in the treatment, relief, mitigation, prevention, or cure of arthritis and other health conditions are not substantiated by competent and reliable scientific evidence. As a result of this determination, CMO Distribution Centers of America, Inc., has agreed to send this letter to its customers who purchase the Company's product for distribution or resale.

Decision and Order

CMO Distribution Centers of America, Inc., intends to abide by the law and demands that its distributors do the same. Therefore, as a condition of your purchase of CMO Distribution Centers of America, Inc.'s products intended for distribution, or resale, or recommendation to others in the context of a professional or commercial relationship, you must agree not to use, rely on, or distribute any advertising or promotional materials containing false or unsubstantiated claims. You must further agree not to make false or unsubstantiated oral representations with regard to any product or program of CMO Distribution Centers of America, Inc. You must also notify your customers who purchase the products for redistribution to do the same. If you or those customers use such materials or make such representations, we will stop doing business with you.

In order that CMO Distribution Centers of America, Inc., may assure itself that you are in compliance with the aforesaid requirements, you must, as a condition of distributing the Company's products, agree to submit to CMO Distribution Centers of America, Inc., in advance and prior to use, dissemination, or publication, all advertisements or promotional materials that you intend to use, publish, or disseminate with regard to any product of CMO Distribution Centers of America, Inc. In addition, you must furnish us with the URL (Internet address) of any web site you intend to use in connection with the marketing or promotion of our products. You must further agree not to use, disseminate, or publish any such advertisement or promotional materials without our prior approval. We may, in our discretion, send you materials you are authorized to use in your advertising.

Should you fail or refuse to comply with the terms of this letter, we will not do business with you. Furthermore, if CMO Distribution Centers of America, Inc., has reason to believe that you have misrepresented or made claims with respect to any of our products that are false or not substantiated by competent and reliable scientific evidence, CMO Distribution Centers of

Decision and Order

America, Inc., will report your violation to the Federal Trade Commission.

Please sign, date, and return the enclosed copy of this letter to CMO Distribution Centers of America, Inc., 6479 Parkland Drive, Sarasota, FL 34243, acknowledging your receipt of this letter and your agreement to the terms set forth herein.

Thank you very much for your cooperation.

Kalon Samulonis
President

ACKNOWLEDGMENT AND AGREEMENT

The undersigned acknowledges receipt of this letter and hereby agrees to its terms and conditions.

Date

Signature

Title

Decision and Order

ATTACHMENT C**LETTER TO CUSTOMERS (OTHER THAN DISTRIBUTORS)
WITH WHOM RESPONDENTS HAVE DONE BUSINESS
PRIOR TO EXECUTING THIS ORDER**

[To be printed on letterhead of CMO Distribution Centers of
America, Inc.]

[Name and address of recipient]

[Date]

Dear [recipient's name]

The Federal Trade Commission has determined that it has reason to believe that claims made in the past that CMO Distribution Centers of America, Inc.'s cetyl myristoleate ("CMO") products are effective in the treatment, relief, mitigation, prevention, or cure of arthritis and other health conditions are not substantiated by competent and reliable scientific evidence. As a result of this determination, CMO Distribution Centers of America, Inc., has agreed to send this letter to its retail customers and former customers and institute the refund program described below.

If your purchase of CMO Distribution Centers of America, Inc., CMO products was intended for the personal use of you or your family and not for distribution, or resale, or for recommendation to others in the context of a professional or commercial relationship, you may be entitled to a refund of the purchase price, together with any shipping and handling charges and applicable sales taxes. As part of its agreement with the Federal Trade Commission, CMO Distribution Centers of America, Inc., has agreed to offer refunds to certain customers who verify that they purchased CMO Distribution Centers of America, Inc.'s CMO products for their own use or the use of their families and did not offer the products for resale, and that they are not satisfied with the purchase.

Decision and Order

To claim a refund, please complete the attached form, or a copy of it, and return it to the indicated address within ninety (90) days of the date of this letter. If possible, please indicate on the form the price you paid for the products you purchased, including any shipping or handling charges or sales taxes; and you may submit copies of any documentation substantiating the expense. If you do not supply this information, we will calculate your refund from our records.

We will honor all eligible, undisputed claims within fifteen (15) business days after receiving them.

Sincerely,

Kalon Samulonis
President

Decision and Order

To apply for a refund:

Complete the form below, or make a copy of it. Please print legibly.

Return the form to CMO Distribution Centers of America, Inc., 6479 Parkland Drive, Sarasota, FL 34243, no later than ninety (90) days after the date of this letter.

To: CMO Distribution Centers of America, Inc., 6479 Parkland Drive, Sarasota, FL 34243

From: _____ (Name)

_____ (Mailing Address)

_____ (City, State, and Zip Code)

_____ (Telephone Number)

I purchased one or more cetyl myristoleate (CMO) products made or distributed by your company, for my personal use or the use of persons in my family. I am not satisfied with the purchase.

Please refund my purchase price of \$_____ (amount, if known), together with the amounts I was charged for shipping and handling \$_____ (amount, if known) and sales tax \$_____ (amount, if known).

Date

Signature

Analysis to Aid Public Comment

Analysis of Proposed Consent Order to Aid Public Comment

The Federal Trade Commission has accepted, subject to final approval, an agreement to a proposed Consent Order (“proposed order”) from CMO Distribution Centers of America, Inc., and Kalon Samulonis, individually and as an officer of CMO Distribution Centers of America, Inc.

The proposed consent order has been placed on the public record for thirty (30) days for the reception of comments by interested persons. Comments received during this period will become part of the public record. After thirty (30) days, the Commission will again review the agreement and will decide whether it should withdraw from the agreement or make final the agreement’s proposed order.

This matter concerns advertisements on the Internet for a product called “CMO,” described as a form of cetylmyristoleate, said to be derived from beef. CMO is purportedly useful in the treatment or cure of arthritis and other diseases. According to the proposed respondents’ advertising, CMO affects the human immune system in one or two courses of treatment, each lasting less than three weeks. The proposed respondents claimed their product permanently relieves the symptoms of osteoarthritis and rheumatoid arthritis and reverses the effects of the disease. CMO was also claimed to be useful for the treatment, mitigation, prevention, and cure of most forms of arthritis and a number of other diseases.

The Commission’s complaint charges that the proposed respondents engaged in deceptive advertising in violation of Sections 5 and 12 of the FTC Act by making unsubstantiated claims that their CMO products: (1) are effective in the mitigation, treatment, prevention, and cure of all forms of arthritis, except gouty arthritis; (2) relieve all symptoms of

Analysis to Aid Public Comment

arthritis, including pain, impaired mobility, swelling, and deformity; (3) are as effective as, or superior to, prescription medications for the treatment of arthritis and the relief of arthritis symptoms; (4) are effective in the treatment of multiple sclerosis, leukemia, lupus, emphysema, cancer, benign prostate hyperplasia, silicone breast disease, asthma, fibromyalgia, and scleroderma; and (5) are completely safe and without harmful side effects, even at extremely high doses.

The complaint further alleges that the proposed respondents made false claims that: (1) clinical studies prove that CMO is a safe and effective treatment for virtually all forms of arthritis except gouty arthritis; (2) CMO is accepted by the medical community; (3) *Time* magazine reported in its October 28, 1996 issue that CMO™ is one of the most promising developments in arthritis research; and (4) the Arthritis Foundation has not commented on CMO, except to suggest that when taking CMO, patients should consult their physicians before reducing steroids or other medications.

The proposed order contains provisions designed to remedy the violations charged and to prevent proposed respondents from engaging in similar acts in the future.

Paragraph I of the proposed order prohibits proposed respondents from making any representation that CMO or any similar product: (1) is effective in the mitigation, treatment, prevention, or cure of arthritis; (2) provides significant relief from symptoms of arthritis, including pain, swelling, impaired mobility, or deformity; (3) is as effective as, or superior to, prescription medications for the treatment of arthritis or the relief of arthritis symptoms; (4) is effective in the treatment of multiple sclerosis, leukemia, lupus, emphysema, cancer, benign prostate hyperplasia, silicone breast disease, asthma, fibromyalgia, or scleroderma; or (5) is safe or has no adverse side effects, unless, at the time the representation is made, respondents possess and rely upon competent and reliable scientific evidence that substantiates the representation.

Analysis to Aid Public Comment

Paragraph II of the proposed order prohibits proposed respondents from making any representations about the performance, safety, efficacy, or health benefits of CMO or any other food, dietary supplement, or drug, unless the claims are substantiated by competent and reliable scientific evidence.

Paragraph III of the proposed order prohibits proposed respondents from using the name “cmocure,” using the word “cure” in an address or telephone number, or using any other name, address, or telephone number in marketing a food, dietary supplement, drug, or program, to represent a cure for any disease or health-related condition, unless the respondents possess and rely upon competent, reliable scientific evidence substantiating the representation.

Paragraph IV of the proposed order prohibits the proposed respondents from misrepresenting that a product or program is endorsed or approved by any governmental, professional, or private organization or association, or complies with standards or guidelines established by such organization or association.

Paragraph V of the proposed order prohibits proposed respondents from misrepresenting the existence, contents, validity, results, conclusions, or interpretations of any test, study, or research.

Paragraph VI of the proposed order prohibits proposed respondents from representing that the experience represented by any user testimonial or endorsement of any product or program represents the typical or ordinary experience of members of the public who use the product or program, unless the representation is true, and competent and reliable scientific evidence substantiates that claim, or respondents clearly and prominently disclose either: (1) what the generally expected results would be

Analysis to Aid Public Comment

for users or the product or program; or (2) the limited applicability of the endorser's experience to what consumers may generally expect to achieve, that is, that consumers should not expect to experience similar results.

Paragraph VII of the proposed order provides that proposed respondents are not prohibited from making representations which are specifically permitted by regulations of the Food and Drug Administration pursuant to the Nutrition Labeling and Education Act of 1990. Paragraph VIII of the proposed order provides that proposed respondents are not prohibited from making representations for a drug that are permitted under tentative final or final standards issued by the Food and Drug Administration or under any new drug application approved by that agency.

Paragraph IX of the proposed order requires that proposed respondents: (1) not disseminate to any distributor any material containing any representations prohibited by the order; (2) not authorize any distributor to make any representations prohibited by the order; (3) send a required notice to each distributor with whom proposed respondents have done business since January 1, 1996, requesting that the distributor cease using any advertising or promotional materials containing unsubstantiated claims for CMO, requesting distributors not to make unsubstantiated oral representations, informing the distributor of this settlement, and not including any other documents in the mailing; (4) for a period of three (3) years following service of the order, send the required notice to each distributor who has not previously received the notice; the notices shall be sent with the first shipment of respondents' products to the distributor; (5) require distributors to submit to proposed respondents all advertising and promotional materials and claims for any products or programs covered by the order for review prior to their dissemination and publication, and not authorize distributors to disseminate materials and claims unless they comply with the order; alternatively, proposed respondents must furnish to distributors marketing materials that comply with the order and require the distributors to submit for review all advertising and promotional materials for a particular

Analysis to Aid Public Comment

product covered by the order that contain representations that are not substantially similar to the representations for the same product or program contained in the marketing materials most recently provided to the distributors by proposed respondents; and (6) use reasonable efforts to monitor distributors' advertising and promotional activities, immediately terminate the right of any distributor who disseminates advertisements or marketing material or makes oral representations prohibited by the order, and immediately provide information to the Federal Trade Commission about any such distributor and the materials used. "Distributor" is defined in the proposed order to mean any person who purchased a product covered by the order from the respondents for resale or at a discounted or wholesale price unavailable to the general public at the time of the purchase, or who has purchased more than twelve bottles or packages of a covered product from respondents within a twelve-month period.

Paragraph X of the proposed order requires the proposed respondents to send a prescribed notice to each person, other than a distributor, who purchased respondents' CMO products and can be identified through a diligent search of respondents' records. The notice offers a refund of the purchase price and any shipping or handling charges to customers who purchased respondents' CMO product for personal use or the use of a family member and who make a request for a refund within ninety days of the date of the notice. Paragraph XI of the proposed order requires the proposed respondents to submit a report to the Federal Trade Commission specifying the actions they have taken to comply with the provisions of Paragraph X. Paragraph XII of the proposed order requires proposed respondents to retain for five years after the last correspondence to which they pertain and to make available to the Federal Trade Commission on request, copies of notification letters, communications with distributors, and other materials relating to the requirements of Paragraph IX and Paragraph X.

Analysis to Aid Public Comment

Paragraph XIII of the proposed order contains record keeping requirements for materials that substantiate, qualify, or contradict covered claims and requires proposed respondents to keep and maintain all advertisements and promotional materials containing any representation covered by the proposed order. In addition, Paragraph XIV requires distribution of a copy of the consent decree to current and future officers and agents. Further, Paragraph XV requires the filing of a compliance report. Paragraph XVI of the proposed order requires the respondents to notify the Federal Trade Commission in advance of any change in the corporation that may affect compliance obligations arising under the order.

Finally, Paragraph XVII of the proposed order provides for the termination of the order after twenty years under certain circumstances.

The purpose of this analysis is to facilitate public comment on the proposed order, and it is not intended to constitute an official interpretation of the agreement and proposed order, or to modify in any way their terms.