

Complaint

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IN THE MATTER OF

THE J. B. WILLIAMS COMPANY, INC., ET AL.

CONSENT ORDER, ETC., IN REGARD TO THE ALLEGED VIOLATION OF THE
FEDERAL TRADE COMMISSION ACT*Docket C-2037. Complaint, Sept. 9, 1971—Decision, Sept. 9, 1971**

Consent order requiring a New York City manufacturer and distributor of weight reduction wafers and a diet drink mix to cease representing falsely that any such product is effective for weight reduction unless caloric intake, exercise and diet are also mentioned, to affirmatively make a disclosure of the above in its advertising, and to cease making references to scientific and medical tests unless they actually have been made.

COMPLAINT

Pursuant to the provisions of the Federal Trade Commission Act, and by virtue of the authority vested in it by said Act, the Federal Trade Commission, having reason to believe that The J. B. Williams Company, Inc., a corporation, and Parkson Advertising Agency, Inc., a corporation, hereinafter referred to as respondents, have violated the provisions of said Act, and it appearing to the Commission that a proceeding by it in respect thereof would be in the public interest, hereby issues its complaint stating its charges in that respect as follows:

PARAGRAPH 1. Respondent The J. B. Williams Company, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of New York with its principal office and place of business located at 767 Fifth Avenue in the city of New York, State of New York.

Respondent Parkson Advertising Agency, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of New York, with its principal office and place of business located at 767 Fifth Avenue in the city of New York, State of New York.

PAR. 2. Respondent The J. B. Williams Company, Inc., is now, and for some time last past has been engaged in the manufacture, sale and distribution of products for weight reduction designated "Proslim" or "Proslim 7-Day Reducing" wafers and diet drink mix which fall within the classification of "food," as said term is defined in the Federal Trade Commission Act. In conjunction with the use of said products, the said respondent, in a pamphlet enclosed in the product

*Reported as modified by Commission's order of November 11, 1971, by modifying the third paragraph of Article IV of the order.

package, instructs the purchasers thereof to follow a diet plan restricting their caloric intake, and to eat no more than eight wafers or use no more than two packets of diet drink mix each day. Additionally, in said pamphlet such purchasers are encouraged to increase their physical activity and engage in general exercise.

Respondent Parkson Advertising Agency, Inc., is now, and for some time last past has been the advertising agency of The J. B. Williams Company, Inc., and now and for some time last past, has prepared and placed for publication, and has caused the dissemination of advertising material, including but not limited to the advertising referred to herein, to promote the sale of the said "Proslim" or "Proslim 7-Day Reducing" wafers and diet drink mix.

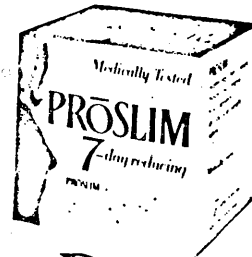
PAR. 3. Respondent The J. B. Williams Company, Inc., causes the said products, when sold, to be transported from its place of business in one State of the United States to purchasers located in various other States of the United States and in the District of Columbia. Respondent The J. B. Williams Company, Inc., maintains, and at all times mentioned herein has maintained, a course of trade in said products in commerce as "commerce" is defined in the Federal Trade Commission Act. The volume of business in such commerce has been and is substantial.

PAR. 4. In the course and conduct of their said businesses, respondents have disseminated, and caused the dissemination of, certain advertisements concerning the said "Proslim" or "Proslim 7-Day Reducing" wafers and diet drink mix by the United States mails and by various means in commerce, as "commerce" is defined in the Federal Trade Commission Act, including but not limited to, advertisements inserted in magazines and other advertising media, and by means of television and radio broadcasts transmitted by television and radio stations located in various States of the United States, and in the District of Columbia, having sufficient power to carry such broadcasts across state lines, for the purpose of inducing and which were likely to induce, directly or indirectly, the purchase of said products; and have disseminated, and caused the dissemination of, advertisements concerning said products by various means, including but not limited to the aforesaid media, for the purpose of inducing and which were likely to induce, directly or indirectly, the purchase of said products in commerce as "commerce" is defined in the Federal Trade Commission Act.

PAR. 5. Typical of the statements and representations in said advertisements, disseminated as aforesaid, but not all inclusive thereof, are the following:

(A) In print advertisements set forth on the following pages:

The most important
reducing figures for
your figure in years!



Doctors Report Pounds And Inches Lost In 7 days

regardless of weight...regardless of shape

(CHECK THE FIGURES FOR YOURSELF)

CLINICAL TEST: PROSLIM 7 DAY REDUCING							
WEIGHT		MEASUREMENTS					
Before Starting PROSLIM	7 Days After Starting PROSLIM	BEFORE STARTING PROSLIM			7 DAYS AFTER STARTING PROSLIM		
		Bust	Waist	Hips	Bust	Waist	Hips
171	163	39 1/2	33	42 1/2	39 1/2	32 1/2	41 1/2
154	145	37	30	40	36	27 1/2	38 1/2
150	145	38	28	40	37 1/2	28	39
140	134	35	28 1/2	38 1/2	35	26 1/2	38
138	135	36 1/2	28 1/2	39 1/2	36 1/2	28	39 1/2
132	128	36 1/2	31 1/2	38	36 1/2	31	38
125	121	35	29	38 1/2	35	28 1/2	38

If you want to lose weight safely and fast, try PROSLIM 7 DAY REDUCING. Study the typical PROSLIM figures above. They show how people with a wide variety of shapes and weights lost pounds and inches in 7 days. With new PROSLIM the average weight loss in the first week was *over 4 pounds!*

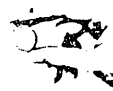
Cut calories and avoid fattening snacks with new PROSLIM 7 DAY REDUCING high protein wafers *and* a medically sound, quick weight loss diet plan. Additional PROSLIM menus help you keep weight off or *lose even more*, after the first 7 days. PROSLIM really helps you reduce!

Start today. You may lose weight every day next week!

New! Delicious diet drink mix and diet plan help slim you down.



PROSLIM
7-day reducing
WHEREVER FINE DRUGS ARE SOLD



Tasty high protein wafers available with diet plan, too.

Start to lose weight tomorrow...

with PROSLIM 7-day reducing

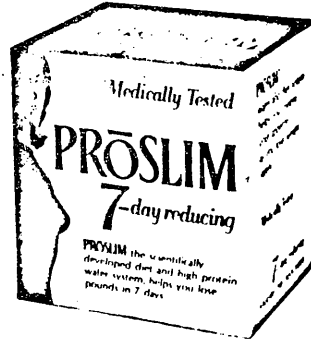
Doctors report pounds and inches lost in 7 days

(CHECK THE FIGURES FOR YOURSELF)

CLINICAL TEST: PROSLIM 7-DAY REDUCING							
WEIGHT		MEASUREMENTS					
Before Starting PROSLIM	7 Days After Starting PROSLIM	BEFORE STARTING PROSLIM			7 DAYS AFTER STARTING PROSLIM		
		Bust	Waist	Hips	Bust	Waist	Hips
171	163	39½	33	42½	39½	32½	41¾
154	145	37	30	40	36	27¾	38¾
150	145	38	28	40	37½	28	39
140	134	35	28½	38½	35	26¾	38
138	135	36¾	28¾	39¾	36½	28	39½
132	128	36½	31½	38	36½	31	38
125	121	35	29	38½	35	28¾	38
118	115	33½	25	38	32½	25	37½

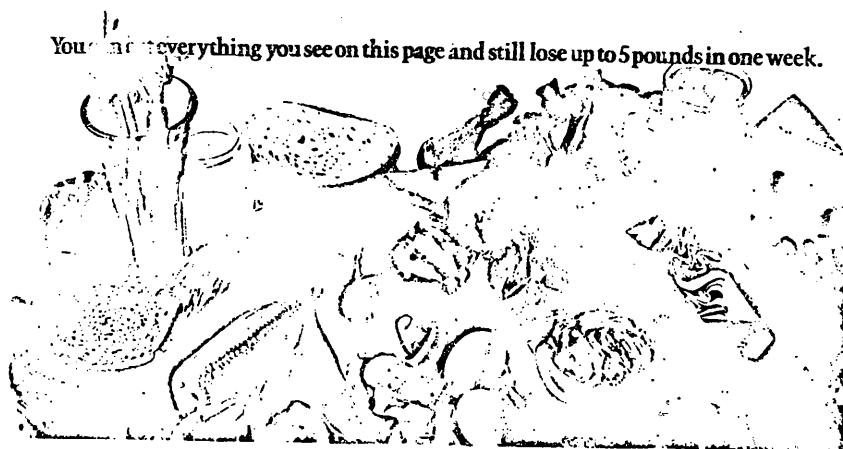
Regardless of your weight or shape, you can lose pounds and inches in a week with Proslim 7-Day Reducing. In a clinical test, the average weight loss was over 4 pounds in the first week with Proslim, as shown in the above chart.

You simply follow the Proslim quick weight loss diet plan. And you enjoy delicious high protein Proslim wafers or the new Proslim diet drink mix to avoid between meal nibbling. Additional menus help you keep the weight off or lose even more. Try Proslim 7-Day Reducing. Wherever fine drugs are sold.



START NOW! YOU MAY LOSE WEIGHT EVERY DAY NEXT WEEK!

You can eat everything you see on this page and still lose up to 5 pounds in one week.



Even potatoes are on the Proslim diet. Even noodles are on the Proslim diet. Even sandwiches are on the Proslim diet.

Proslim 7 Day Reducing. Each day you eat 8 tasty Proslim wafers of concentrated protein, and good, delicious food. And you'll lose ugly weight.

Medically proven Proslim 7 Day Reducing. With Proslim you lose weight in just seven days. And that's dieting without much suffering. Available at all drug counters.

PROSLIM

(B) In radio commercials the following dialogue between two persons interspersed with statements by a third person (emphasis supplied) :

(1) First person : I'm going on vacation next week. I wish I could lose some weight.

Second person : You can! Start to Lose weight *tomorrow*, with Proslim 7-Day Reducing.

Third person : Enjoy delicious Proslim high protein wafers, or new Diet drink and follow the Proslim Diet plan. Doctors report pounds lost in 7 days with Proslim. Extra menus help keep you slim.

Sound : (Boat Whistle.)

Second person : Sue, your dress fits beautifully. Have a good vacation.

First person : I will ! Thanks to Proslim !

Third person : Get Proslim 7-Day Reducing and *start to lose weight tomorrow!*

(2) First person : We're going to the beach next week. I hope I don't look too fat in my bathing suit.

Second person : Well, why *should* you? Start to *lose weight tomorrow* with Proslim 7-Day Reducing.

Third person : Enjoy delicious Proslim high protein wafers or new Diet Drink. Doctors report pounds lost in 7 days with Proslim. Extra menus help keep you slim!

Second person : Betty, your bathing suit fits perfectly !

First person : Thanks to Proslim !

Third person : Get Proslim 7-Day Reducing and *start to lose weight tomorrow!*

(C) In television commercials :

(1) A woman is depicted stepping on a bathroom scale and saying "Oh!" "When am I ever going to lose weight?" As two women, one heavy, the other

thin, are seen talking the camera focuses on the heavy woman, and the announcer says, "Start to lose weight tomorrow * * * with new Proslim 7-Day reducing, you start losing weight the very first day."

(2) Two women are depicted talking. One says, "And we're going to a party next week. I hope my dress isn't too tight." The other says, "you can start to lose weight tomorrow * * * with Proslim 7-Day Reducing!"

(3) Women are depicted talking to each other on the telephone. One woman states, "We're going swimming tomorrow. I hope my bathing suit isn't too tight." While the message flashes "Start to lose weight tomorrow," the second woman says, "You can start to lose weight tomorrow, with Proslim 7-Day Reducing."

In all of the aforesaid television commercials, after the initial conversation between the women, the announcer states, "Eat delicious Proslim high protein wafers * * * instead of fattening snacks and follow * * * The Proslim 7-Day Reducing Plan. Additional menus help keep weight off. In clinical test doctors report pounds lost in 7 days with Proslim. How about you? Get Proslim 7-Day Reducing wafers or * * * diet drink. Start to lose * * * weight tomorrow!"

PAR. 6. Through the use of said advertisements and others similar thereto, not specifically set out herein, disseminated as aforesaid, respondents have represented and are now representing, directly or by implication, that:

1. "Proslim 7-Day Reducing" wafers or diet drink mix are of special, unique or significant value for the purpose of weight reduction.

2. "Proslim 7-Day Reducing" wafers or diet drink mix will cause the consumer thereof to lose weight and inches.

3. Prior to making the aforesaid representations set forth in Paragraph Five hereof, experts qualified by scientific training and experience to evaluate the effectiveness of said products for weight reduction have conducted reliable clinical studies, investigations, or tests, by use of appropriate or recognized scientific procedures, which were adequate to establish that said products are effective in causing weight reduction and reduction of body size, and are of special, unique or significant value for such purposes.

4. The protein content of said products is of significant value or is necessary for weight reduction or reduction of body size.

PAR. 7. In truth and in fact:

1. "Proslim 7-Day Reducing" wafers or diet drink mix are not of special, unique and significant value for the purpose of weight reduction. In fact said products are essentially foods similar in effect to other food products which are available to the consumer.

2. "Proslim 7-Day Reducing" wafers or diet drink mix will not cause the consumer thereof to lose weight and inches. Any reduction of body weight or size which might result after use of the said products in

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conjunction with the diet plan is by reason of the diet plan, set forth in the pamphlet contained in the product package, prescribing a restriction of caloric intake and encouraging increased physical exercise. Similar types of diet plans for weight reduction not involving the Proslim products are available to consumers at relatively little or no cost.

3. Prior to making the representations set forth in Paragraph Five hereof, experts qualified by scientific training and experience to evaluate the effectiveness of said products for weight reduction had not conducted clinical tests, investigations, or studies, by use of appropriate or recognized scientific or medical procedures, which were adequate to establish that said Proslim products are effective in causing weight reduction and reduction of body size, and are of special, unique and significant value for the purpose of weight reduction. Further, any tests or studies which were conducted, were not well controlled.

4. The protein content of said products is not of significant value and is not necessary for weight reduction or reduction of body size. The quality and quantity of protein as prescribed in the said diet plan is in itself adequate, and in fact exceeds the Recommended Dietary Allowance for protein.

Therefore, the advertisements referred to in Paragraph Five were, and are, misleading in material respects and constituted and now constitute, "false advertisements" as that term is defined in the Federal Trade Commission Act, and the statements and representations set forth in Paragraphs Six and Seven were, and are, false, misleading and deceptive.

PAR. 8. Further, through the use of the name "Proslim" or "Proslim 7-Day Reducing," as a designation for said products, respondents have represented, directly or by implication, contrary to fact, that said products are of unique, special or significant value for the purpose of weight reduction and are effective in causing the consumer thereof to lose weight and inches.

Therefore, the names designated for said products, were, and are false, misleading and deceptive.

PAR. 9. The use by respondents of the aforesaid false, misleading and deceptive statements, representations, and practices, and the dissemination of the aforesaid "false advertisements" has had, and now has, the capacity and tendency to mislead members of the consuming public into erroneous and mistaken beliefs about the nature and effectiveness of said products and that said statements and representations were, and are true, and into the purchase of substantial quantities of the products of respondent The J. B. Williams Company, Inc., by reason of said erroneous and mistaken beliefs.

PAR. 10. The aforesaid acts and practices of respondents including the dissemination of "false advertisements," as herein alleged, were, and are, all to the prejudice and injury of the public and constituted and now constitute, unfair and deceptive acts and practices in commerce in violation of Sections 5 and 12 of the Federal Trade Commission Act.

DECISION AND ORDER

The Commission having heretofore determined to issue its complaint charging the respondents named in the caption hereof with violation of the Federal Trade Commission Act, and the respondents having been served with notice of said determination and with a copy of the complaint the Commission intended to issue, together with a proposed form of order; 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 complaint to issue herein, a statement that the signing of said agreement is for settlement purposes only and does not constitute an admission by respondents that the law has been violated as alleged in such complaint, and waivers and other provisions as required by the Commission's rules; and

The Commission having considered the agreement and having accepted same, and the agreement containing consent order having thereupon been placed on the public record for a period of thirty (30) days, now in further conformity with the procedure prescribed in Section 2.34(b) of its rules, the Commission hereby issues its complaint in the form contemplated by said agreement, makes the following jurisdictional findings, and enters the following order:

1. Respondent The J. B. Williams Company, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of New York, with its principal office and place of business located at 767 Fifth Avenue in the city of New York, State of New York.

Respondent Parkson Advertising Agency, Inc., is a corporation, organized, existing and doing business under and by virtue of the laws of the State of New York, with its principal office and place of business located at 767 Fifth Avenue in the city of New York, State of New York.

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

ORDER

I

It is ordered, That respondent The J. B. Williams Company, Inc., a corporation and respondent Parkson Advertising Agency, Inc., a corporation, and their officers, representatives, agents and employees, directly or through any corporate or other device, in connection with the advertising, labeling, offering for sale, sale or distribution of "Proslim" or "Proslim 7-Day Reducing" wafers, diet drink mix, or any other purported weight reducing or weight control product, do forthwith cease and desist from:

1. Disseminating, or causing the dissemination of, any advertisement by means of the United States mails or by any means in commerce, as "commerce" is defined in the Federal Trade Commission Act which represents directly or by implication that:

(a) Any such product is effective or of any value for the purpose of weight reduction, reduction of body size, or weight control, unless in immediate conjunction therewith it is disclosed clearly and conspicuously that any weight reduction, weight control or reduction in body size which might result after use of said product would be by reason of a diet, restricting caloric intake, or an exercise program and diet plan.

(b) The protein content of any such product is of any value for weight reduction or weight control.

2. Disseminating, or causing the dissemination of, any advertisement by means of the United States mails or by any means in commerce, as "commerce" is defined in the Federal Trade Commission Act, in which the words "Proslim" or "Proslim 7-Day Reducing" are used or in which words of similar import or meaning are used as a designation, description or trade name for any such product: *Provided, however*, Respondents may use such words or words of similar import or meaning as a designation, description, or trade name for a diet plan, effective for weight reduction, and the word "plan" or "system" is used as part of and immediately following the words "Proslim" or "Proslim 7-Day Reducing" or words of similar import or meaning with equal prominence and conspicuousness as such designation, description or trade name, and the affirmative disclosure required by Paragraph 1(a) hereof is clearly and conspicuously made in immediate conjunction therewith.

3. Disseminating, or causing the dissemination of, any advertisement by any means, for the purpose of inducing, or which is

likely to induce, directly or indirectly, the purchase of any such product, in commerce, as "commerce" is defined in the Federal Trade Commission Act, which contains any of the representations prohibited in Paragraphs 1 and 2 above.

4. Disseminating, or causing the dissemination of, any advertisement by means of the United States mails or by any means in commerce, as "commerce" is defined in the Federal Trade Commission Act, which contains statements which are inconsistent with, negate or contradict the affirmative disclosure required by Paragraphs 1(a) and 2 above, or which in any way obscures the meaning of such disclosure.

II

It is further ordered, That respondent The J. B. Williams Company, Inc., a corporation, its officers, agents, representatives, and employees, directly or through any corporate or other device, in connection with the advertising, labeling, offering for sale, sale or distribution of any consumer product do forthwith cease and desist from disseminating, or causing the dissemination of, any advertisement by means of the United States mails or by any means in commerce, as "commerce" is defined in the Federal Trade Commission Act, which in any manner makes reference to scientific or medical tests or studies as allegedly substantiating any representation or claim as to the effectiveness or performance of any such product unless scientific or medical tests or studies in fact substantiate such representation or claim.

III

It is further ordered, That the provisions of Parts I and II of this order are not applicable to labels or labeling affixed to or made part of the product package of "Proslim" or "Proslim 7-Day Reducing" wafers and diet drink mix or any other purported weight reducing or weight control product prior to the effective date of this order, and as to all other consumer products Part II hereof is not applicable to labels or labeling which have been purchased prior to the effective date of this order.

IV*

It is further ordered, That respondents shall forthwith distribute a copy of this order to each of their operating divisions.

It is further ordered, That respondents notify the Commission at least thirty (30) days prior to any proposed change in the corporate

*Reported as modified by Commission's order of November 11, 1971, by modifying the third paragraph of Article IV of the order.

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respondent such as dissolution, assignment or sale resulting in the emergence of a successor corporation, the creation or dissolution of subsidiaries or any other change in the corporation, which may affect compliance obligations arising out of the order.

It is further ordered, That respondents submit to the Commission within sixty (60) days after the order becomes final all advertising, labels and labeling, for "Proslim" or "Proslim 7-Day Reducing" wafers, diet drink mix, or any other purported weight reducing or weight control product, and all advertisements for any consumer product which in any manner make reference to scientific or medical tests or studies as allegedly substantiating any representation or claim as to the effectiveness or performance of any such product, to show the manner of compliance with this order, and thereafter will submit samples of all such advertising, labels and labeling each six (6) months to show continued compliance.

IN THE MATTER OF

THE PAPERCRAFT CORPORATION