

IN THE MATTER OF
VITAMIN EDUCATION INSTITUTE, ET AL.

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

Docket 8979. Complaint, July 3, 1974—Decision, Mar. 1, 1976

Consent order requiring three Tarzana, Calif., affiliates engaged in selling and distributing vitamin supplements and a dietary regimen to use with those supplements, among other things to cease using deceptive weight loss claims; using words implying professional or institutional connections as part of the corporate or trade name; and to discontinue representing the *Research Report* as a bona fide medical or scientific research report.

Appearances

For the Commission: *David G. Cameron* and *Blanche R. Deight*.

For the respondents: *Lawrence R. Gordon, Gordon, Weinberg & Gordon*, Los Angeles, Calif.

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 Vitamin Education Institute, a corporation, and Certified Research Foundation, a corporation trading and doing business under its own name and as Natural Vitamin Research Council, and Marketing Group One, a corporation, and Herbert B. Pastor, individually and as an officer of the said corporations, 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 Vitamin Education Institute is a corporation organized, existing, and doing business under and by virtue of the laws of the State of California, with its principal office and place of business located at 10203 Riverside Dr., North Hollywood, California.

Respondent Certified Research Foundation is a corporation organized, existing, and doing business under and by virtue of the laws of the State of California, trading and doing business under its own name and as Natural Vitamin Research Council, with its principal office and place

* Reported as amended by administrative law judge's Order Amending Complaint issued Nov. 15, 1974.

of business located at 10203 Riverside Dr., North Hollywood, California.

Respondent Marketing Group One is a corporation organized, existing, and doing business under and by virtue of the laws of the State of California, with its principal office and place of business located at 10203 Riverside Dr., North Hollywood, California.

Respondent Herbert B. Pastor is an individual and is an officer of the corporate respondents. He formulates, directs, and controls the acts and practices of the corporate respondents, including the acts and practices hereinafter set forth. His address is the same as that of the corporate respondents.

PAR. 2. Respondents are now, and for some time last past have been, engaged in the advertising, offering for sale, sale and distribution of dietary vitamin supplements and literature setting forth a diet regimen for weight loss to be followed in conjunction with the use of the said vitamin supplements. The said vitamin supplements come within the classification of food or drugs, as "food" and "drug" are defined in the Federal Trade Commission Act.

PAR. 3. In the course and conduct of their businesses as aforesaid, respondents now cause, and for some time last past have caused, their said products, when sold, to be shipped from the State of California to purchasers thereof located in various other States of the United States, and maintain, and at all times mentioned herein have maintained, a substantial course of trade in said products in commerce, as "commerce" is defined in the Federal Trade Commission Act.

PAR. 4. In the course and conduct of their aforesaid businesses, respondents have disseminated and now disseminate, and have caused and now cause the dissemination of, certain advertisements concerning the said products 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 newspapers of general interstate circulation, for the purpose of inducing and which were likely to induce, directly or indirectly, the purchase of the said products; and have disseminated and now disseminate, and have caused and now cause the dissemination of, certain advertisements concerning the said products by various means, including the aforesaid media, for the purpose of inducing and which were likely to induce, directly or indirectly, the purchase of the said products in commerce, as "commerce" is defined in the Federal Trade Commission Act.

Typical and illustrative of numerous statements and representations in the said advertisements but not all inclusive thereof, are the following:

Pounds and inches begin to disappear with your first hearty breakfast of eggs, ham, juice, toast and coffee!

Documented weight-losses of 12 pounds, 19 pounds, 28 pounds, and many other fantastic reports have now been Institute Certified.

Thousands and thousands of men and women in the U.S. and Canada are enjoying similar success.

The concentrated power of your "MEGA-VITAMIN" Diet will enable you to eat steaks, chicken, hamburgers (including the buns), plus delicious desserts. Yes, EVEN BREAD and BAKED POTATOES.

In fact, you would have to eat 2! [sic: 2 1/2] entire grapefruits every day, skin included, to get the same weight-loss effect as these super-concentrated Mega-Vitamins.

A newly developed SUPER PROTEIN TABLET, CREATED ESPECIALLY FOR THIS DIET, contains a whopping 570 milligrams of solid natural protein. Each tiny milligram zeros-in on fatty tissues to break down and burn-off many, many times its equivalent weight.

These natural products assimilate into your body faster * * * working on your body while the more common synthetic, chemically manufactured products would still be lying fallow, waiting for your body to accept the foreign object.

PAR. 5. By and through the use of the above-quoted statements and representations, and others of similar import and meaning, but not expressly set out herein, respondents have represented, and are now representing, directly or by implication:

1. That a breakfast of eggs, ham, juice, toast and coffee is a typical breakfast prescribed as a part of the "MEGA-VITAMIN" Diet regimen.

2. That weight losses as a result of using the "MEGA-VITAMIN" Diet have been documented or independently verified other than by the unsupported assertions of persons claiming to have experienced such weight losses.

3. That respondents are in possession of documentation or independent verification of weight losses as a result of using the "MEGA-VITAMIN" Diet on the part of two thousand or more persons in the United States and Canada.

4. That steaks, hamburgers, and baked potatoes are typical foods prescribed in the "MEGA-VITAMIN" Diet menus.

5. That Mega-Vitamins are responsible, in whole or in part, for weight loss.

6. That the Mega-Vitamin Super Protein Tablet is responsible, in whole or in part, for any breaking down and burning off of fatty tissue resulting from the use of the "MEGA-VITAMIN" Diet.

7. That so-called "natural" ingredients, such as those allegedly used in Mega-Vitamins, are assimilated into the body more quickly than so-called "synthetic" ingredients.

PAR. 6. In truth and in fact:

1. A breakfast of eggs, ham, juice, toast, and coffee is not a typical breakfast prescribed as a part of the "MEGA-VITAMIN" Diet regimen;

meat and toast appear in only one out of the seven suggested breakfast menus per week.

2. Weight losses as a result of using the "MEGA-VITAMIN" Diet have not been documented or independently verified other than by the unsupported assertions of persons claiming to have experienced such weight losses.

3. Respondents are not in possession of documentation or independent verification of weight losses as a result of using the "MEGA-VITAMIN" Diet on the part of two thousand or more persons in the United States and Canada.

4. Steaks, hamburgers, and baked potatoes are not typical foods prescribed in the "MEGA-VITAMIN" Diet regimen; a week of "MEGA-VITAMIN" Diet menus includes only one grilled hamburger patty on one bun, one four-ounce broiled steak, and one small baked potato.

5. Mega-Vitamins are not responsible, in whole or in part, for weight loss; the diet regimen of restricted caloric intake is responsible for any weight loss experience through the use of the "MEGA-VITAMIN" Diet.

6. The Mega-Vitamin Super Protein Tablet is not responsible, in whole or in part, for any breaking down and burning off of fatty tissue resulting from the use of the "MEGA-VITAMIN" Diet; such breaking down and burning off, if any, results from the body's reliance on such tissue for its caloric needs in lieu of excessive caloric intake.

7. So-called "natural" ingredients, such as those allegedly used in the Mega-Vitamins, are not assimilated into the body more quickly than so-called "synthetic" ingredients.

Therefore, the statements as set forth in Paragraphs Four and Five hereof were and are false, misleading and deceptive.

PAR. 7. In the course and conduct of their aforesaid businesses, and for the purpose of inducing the acceptance for publication of advertising of their said products, respondents have distributed a booklet entitled *The "Mega-Vitamin" Diet Regimen Research Report*, designating Certified Research Foundation as its source, and which contains numerous statements and representations.

Typical and illustrative of said statements and representations, but not all inclusive thereof, are the following:

At this time, it is the opinion of this agency [Certified Research Foundation] that, based upon the documentation contained herein, The "MEGA-VITAMIN" Diet Regimen (hereinafter referred to as The Diet) is completely safe, harmless and 100% effective, as claimed.

Apparently, the formulators of The Diet were aware that any practical reducing diet is, first of all, as comfortable as possible.

These certified laboratory reports are available from this research agency.

PAR. 8. By and through the use of the above-quoted statements and representations, and others of similar import and meaning, but not expressly set out herein, respondents have represented, and are now representing, directly or by implication:

1. That Certified Research Foundation is a research agency independent of the creators or distributors of the "MEGA-VITAMIN" Diet.

2. That the booklet entitled *The "Mega-Vitamin" Diet Regimen Research Report* is a bona fide medical or scientific research report.

PAR. 9. In truth and in fact:

1. Certified Research Foundation is not a research agency, nor is it independent of the creators or distributors of the "MEGA-VITAMIN" Diet; it is under the same ownership, direction, and control.

2. The booklet entitled *The "Mega-Vitamin" Diet Regimen Research Report* is not a bona fide medical or scientific research report, but was written entirely by the individual respondent Herbert B. Pastor, who has no medical or scientific qualifications to evaluate the said diet regimen.

Therefore, the statements as set forth in Paragraphs Seven and Eight hereof were and are false, misleading and deceptive.

PAR. 10. In the course and conduct of their aforesaid business, and at all times mentioned herein, respondents have been, and are now, in substantial competition, in commerce, with corporations, firms, and individuals, in the sale of products of the same general kind and nature as those sold by respondents.

PAR. 11. The use by respondents of aforesaid false, misleading, and deceptive statements, representations, acts and practices, has had, and now has, the capacity and tendency to mislead members of the purchasing public into the erroneous and mistaken belief that said statements and representations were and are true and into the purchase of substantial quantities of respondents' products by reason of said erroneous and mistaken belief.

PAR. 12. The aforesaid acts and practices of respondents, as herein alleged, were and are all to the prejudice and injury of the public and of respondents' competitors and constituted, and now constitute, unfair methods of competition in commerce and unfair or deceptive acts or practices in commerce, in violation of Sections 5 and 12 of the Federal Trade Commission Act.

DECISION AND ORDER

The Commission having issued its complaint on July 3, 1974, charging respondents with violation of Sections 5 and 12 of the Federal Trade Commission Act, and the respondents having been served with a copy

of that complaint, and the administrative law judge having issued his order on November 15, 1974, amending the said complaint in accordance with Sections 3.15(a)(1) and 3.22 of the Commission's Rules, and the respondents having been served with a copy of that order; and

The Commission having duly determined upon a joint motion of counsel supporting the complaint and respondents' counsel that in the circumstances presented, the public interest would be served by withdrawal of the matter from adjudication pursuant to Section 3.25(c) of the Commission's Rules; and

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

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

1. Respondent Vitamin Education Institute is a corporation organized, existing, and doing business under and by virtue of the laws of the State of California, with its principal office and place of business located at 18340 Ventura Blvd., Tarzana, California.

Respondent Certified Research Foundation is a corporation organized, existing, and doing business under and by virtue of the laws of the State of California, trading and doing business under its own name and as Natural Vitamin Research Council, with its principal office and place of business located at 18340 Ventura Blvd., Tarzana, California.

Respondent Marketing Group One is a corporation organized, existing and doing business under and by virtue of the laws of the State of California, with its principal office and place of business located at 18340 Ventura Blvd., Tarzana, California.

Respondent Herbert B. Pastor is an individual and is an officer of the corporate respondents. He formulates, directs, and controls the acts and practices of the corporate respondents, including the acts and practices hereinafter set forth. His address is the same as that of the corporate respondents.

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

It is ordered, That respondents Vitamin Education Institute, a corporation, and Certified Research Foundation, a corporation trading and doing business under its own name, or as Natural Vitamin Research Council, or under any other name or names, and Marketing Group One, a corporation, and Herbert B. Pastor, individually and as an officer of the said corporations, their successors and assigns, and respondents' officers, agents, representatives, and employees, directly or through any corporation, subsidiary, division or other device, in connection with the advertising, offering for sale, sale or distribution of vitamin supplements or any other products, do forthwith cease and desist from:

1. Disseminating, or causing to be disseminated, by means of the United States mails or by any means in or having an effect upon commerce, as "commerce" is defined in the Federal Trade Commission Act, as amended, any advertisement which represents, directly or by implication, that:

(a) Specified food items are typical of a meal or meals included in a weight reduction diet regimen, or are typical of the regimen as a whole, where such is not the case, or otherwise misrepresents any fact concerning such a regimen.

(b) Respondents are in possession of documentation or independent verification of specified weight losses or other therapeutic or beneficial effects purporting to be the result of following a weight-loss diet regimen or other use of any product, without:

(i) in the case where such documentation or independent verification consists only of the unsupported assertions of persons claiming to have experienced such weight losses or other effects, *both* clearly and conspicuously disclosing that such is the case *and* having signed, written communications embodying each such assertion from each such person, and

(ii) having substantiation for such documentation or independent verification obtained through an unbiased scientific study by an organization independent to the respondents, retaining said substantiation and making said substantiation available to the Commission's staff for inspection and copying upon request.

(c) Any particular number of persons have obtained a specified result from the use of any such product, when respondents do not have written documentation of the experiences of each such person.

(d) The use of vitamin supplements, whether alone or in conjunction

with the use of any product, diet regimen, exercise plan, or any other means to achieve weight loss, can result in weight loss, or otherwise misrepresents the results of using vitamin supplements.

(e) The use of protein tablets is responsible, in whole or in part, for any breaking down and burning off of fatty tissue resulting from the use of a weight-loss diet regimen, or otherwise misrepresents the results of using protein tablets.

(f) "Natural" ingredients contained in any such product are assimilated more quickly into the body than "synthetic" ingredients, or that "natural" ingredients are in any way superior to "synthetic" ingredients.

2. Disseminating or causing to be disseminated, by any means, for the purpose of inducing or which is likely to induce, directly or indirectly, the purchase of any vitamin supplement or other food, drugs, devices, or cosmetics in or having an effect upon commerce, as "commerce" is defined in the Federal Trade Commission Act, as amended, any advertisement which contains any of the representations prohibited in Paragraph 1 hereof.

It is further ordered, That respondents Vitamin Education Institute, a corporation, and Certified Research Foundation, a corporation trading and doing business under its own name, or as Natural Vitamin Research Council, or under any other name or names, and Marketing Group One, a corporation, and Herbert B. Pastor, individually and as an officer of the said corporations, their successors and assigns, and respondents' officers, agents, representatives, and employees, directly or through any corporation, subsidiary, division or other device, in connection with the advertising, offering for sale, sale or distribution of vitamin supplements or any other products in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act, as amended, do forthwith cease and desist from:

1. (a) Using the words "education," "institute," "research," "foundation," "council," or any other word or words of similar import or meaning in or as part of respondents' corporate or trade name or names; or representing, orally or in writing, directly or indirectly, that they are an educational, research, nonprofit, or eleemosynary organization; or misrepresenting in any manner the actual nature and scope of their business operations or their trade or business status.

(b) Failing to disclose clearly and conspicuously the nature and extent of any relationships existing between any two or more of the individual and corporate respondents or their successors or assigns, whenever they are referred to in any advertisement, publication, or the like.

2. Representing, directly or indirectly, that the booklet entitled *The*

"Mega-Vitamin" Diet Regimen Research Report is a bona fide medical or scientific research report, or misrepresenting in any manner the nature of any publication produced by the respondents.

3. Publishing, participating in, or causing the publication of a book, booklet, pamphlet, leaflet, or the like, without clearly and conspicuously disclosing in the publication and on its dust jacket or on its cover if there be no dust jacket, or by its title, that it is published by, or in cooperation or association with, a supplier or suppliers of, or a corporation having the same or substantially similar ownership to a supplier or suppliers of, a commercial product or service mentioned or referred to in the publication, where such is the case, and the identity of such product or service.

4. Misrepresenting by any means or in any manner the quality, merits, or result of use of, respondents' product or products, or advertising, offering for sale, selling or distributing the said product or products with the effect, purpose or intent to deceive, to mislead, or to make any false or unsubstantiated claims concerning the quality, merits, or result of use of, the said product or products.

It is further ordered, That the individual respondent named herein promptly notify the Commission of the discontinuance of his present business or employment and/or of his affiliation with a new business or employment. Such notice shall include respondent's current business address and a statement as to the nature of the business or employment in which he is engaged as well as a description of his duties and responsibilities.

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

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

Complaint

87 F.T.C.

IN THE MATTER OF

STEWART FROST, INC., ET AL.

CONSENT ORDER, ETC., IN REGARD TO ALLEGED VIOLATION OF
SECS. 5 AND 12 OF THE FEDERAL TRADE COMMISSION ACT*Docket 9021. Complaint,* Mar. 1, 1976—Decision, Mar. 1, 1976*

Consent order requiring a New York City seller and distributor of a weight and body-reducing kit, among other things to cease misrepresenting that any product or services for the treatment of obesity which utilizes a body wrapping device will result in any loss of weight or permanent reduction in any part of the body or that such products may be used by all persons without danger of any resulting physical harm or injury. Further, respondents are required to place a cautionary statement regarding the use of such products in all advertising and promotional material and on all packaging.

Appearances

For the Commission: *David I. Paul* and *Harriet G. Mulhern*.

For the respondents: *Sheldon S. Lustingman, Bass & Ullman*, New York City.

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 Stewart Frost, Inc., a New York corporation, Stuart Frost, Inc., a New Jersey corporation, and Alvin Meyer and Elaine Nelson, individually and as officers of said corporations, and Trim-A-Way Figure Contouring, Ltd., a corporation and Sam Bernard, individually and as an officer of said corporation, hereinafter sometimes referred to as respondents, have violated Sections 5 and 12 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 Stewart Frost, Inc., a New York corporation, 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 551 Fifth Ave., New York, N.Y.

Respondent Stuart Frost, Inc., a New Jersey corporation, is a corporation organized, existing and doing business under and by virtue

* Reported as modified.