

IN THE MATTER OF  
NATIONAL COMMISSION ON EGG NUTRITION, ET AL.

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

*Docket 8987. Decision, July 20, 1976 — Modifying Order, Nov. 17, 1978*

This modified order to cease and desist replaces the order issued on July 20, 1976, 41 FR 34939, 88 F.T.C. 89. In accordance with the November 29, 1977 decision and judgment of the Court of Appeals for the 9th Circuit, as amended on December 6, 1977 (570 F.2d 157 (1977)), the instant order mandates disclosure of controversy among medical experts as to the relationship of dietary cholesterol, including that in eggs, to heart and circulatory disease only when NCEN chooses to make a representation regarding the state of the available evidence or information concerning the controversy.

MODIFIED ORDER TO CEASE AND DESIST

Respondents, having filed in the United States Court of Appeals for the Seventh Circuit petition for review of the Commission's cease and desist order issued herein on July 20, 1976; and the Court having rendered its decision modifying the Commission's order and, as so modified, affirming and enforcing the order; and the Supreme Court of the United States having denied on October 2, 1978, a petition for writ of certiorari filed by the National Commission on Egg Nutrition:

*Now, therefore, it is hereby ordered,* That the aforesaid order to cease and desist be, and it hereby is, modified in accordance with the decision and judgment of the Court of Appeals to read as follows:

*It is ordered,* That respondents National Commission on Egg Nutrition and Richard Weiner, Inc., corporations, their successors and assigns, either jointly or individually, 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 eggs for human consumption do forthwith cease and desist from:

A. Disseminating or causing the dissemination of any advertisement by means of the United States mail or by any means in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act, which directly or indirectly

1. Represents that there is no scientific evidence that eating eggs increases the risk of heart attacks, heart disease, atherosclerosis, arteriosclerosis, or any attendant condition;

2. Represents that there is scientific evidence that dietary cholesterol, including that in eggs, decreases the risk of heart

attacks, heart disease, atherosclerosis, arteriosclerosis, or any attendant condition;

3. Represents that there is scientific evidence that avoiding dietary cholesterol, including that in eggs, increases the risk of heart attacks, heart disease, atherosclerosis, arteriosclerosis, or any attendant condition;

4. Represents that eating eggs does not increase the blood cholesterol level in a normal person;

5. Represents that the blood cholesterol level is prevented from being raised or lowered by dietary cholesterol intake;

6. Represents that the human body increases its manufacture of cholesterol in an amount equal to a decrease in dietary cholesterol intake;

7. Represents that the average human body eliminates the same amount of cholesterol as that eaten;

8. Represents that dietary cholesterol, including that in eggs is needed by the body for building sex hormones, for transmitting nerve impulses and for maintaining life in cells; or

9. Utilizes the name "National Commission on Egg Nutrition" unless it is clearly and conspicuously disclosed in immediate conjunction with the name that the National Commission on Egg Nutrition is composed of egg producers and other individuals and organizations of, or relating to, the egg industry.

B. Disseminating, or causing the dissemination, of any advertisement by means of the United States mail or by any means in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act, which directly or indirectly

1. Represents that eating eggs does not increase the risk of heart attacks, heart disease, atherosclerosis, arteriosclerosis, or any attendant condition or

2. Makes any representation concerning the relationship of dietary cholesterol, including that in eggs, to heart attacks, heart disease, atherosclerosis, arteriosclerosis, or any attendant condition

unless it is clearly and conspicuously disclosed in immediate conjunction therewith that there is a controversy among medical experts concerning the relationship of dietary cholesterol, including that in eggs, to heart disease, and that respondents are presenting their side of that controversy.

C. Disseminating, or causing the dissemination of, any advertisement by means of the United States mail or by any means in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act, which directly or indirectly

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1. Represents that there exists, or describes, scientific evidence which supports the theory that consumption of dietary cholesterol, including that in eggs, does not increase the risk of heart attacks, heart disease, atherosclerosis, arteriosclerosis, or any attendant condition or

2. Makes any representation concerning the state of the available evidence or information concerning the relationship of dietary cholesterol, including that in eggs, to heart attacks, heart disease, atherosclerosis, arteriosclerosis, or any attendant condition

unless it is clearly and conspicuously disclosed in immediate conjunction therewith that many medical experts believe that existing evidence indicates that increased consumption of dietary cholesterol, including that in eggs, may increase the risk of heart disease.

D. Disseminating, or causing the dissemination of, any advertisement by means of the United States mail or by any means in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act, which directly or indirectly

1. Represents as insignificant the available scientific evidence that the consumption of dietary cholesterol, including that in eggs, may increase the risk of heart attacks, heart disease, atherosclerosis, arteriosclerosis, or any attendant condition, or represents that there is overwhelming scientific evidence or otherwise misrepresents the amount of scientific evidence that eating eggs does not increase the risk of heart attacks, heart disease, atherosclerosis, arteriosclerosis, or any attendant condition.

2. Misrepresents in any manner the physiological effects of consuming dietary cholesterol or eggs.

*It is further ordered,* That respondents shall forthwith distribute a copy of this order to each of their operating divisions, and to all current and future members of respondent National Commission on Egg Nutrition.

*It is further ordered,* That each respondent notify the Commission at least thirty (30) days prior to any proposed change in its corporate structure 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 each respondent shall, within sixty (60) days after this order becomes final, file with the Commission a report, in writing, signed by respondent, setting forth in detail the

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manner and form of its compliance with the order to cease and desist.

IN THE MATTER OF  
BLOCK DRUG COMPANY, INC., ET AL.

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

*Docket 9050. Complaint,<sup>1</sup> July 29, 1975 — Decision, Nov. 17, 1978.*

This consent order, among other things, requires Grey Advertising, Inc., a New York City advertising firm, to cease misrepresenting or making unsubstantiated claims regarding the performance or efficacy of denture adhesives and cleansers.

*Appearances*

For the Commission: *Melvin H. Orlans* and *Mark A. Heller*.

For the respondents: *Leonard Orkin* and *Stuart L. Friedel, Davis & Gilbert*, New York City.

DECISION AND ORDER

The Federal Trade Commission having issued a complaint which charges the above-named respondents with violation of the Federal Trade Commission Act; and

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

The Commission having thereafter accepted the executed consent agreement and placed such agreement on the public record for a period of sixty (60) days, now in further conformity with the procedure prescribed in Section 2.34 of its Rules, the Commission hereby makes the following jurisdictional findings, and enters the following order:

1. Respondent Grey is a corporation organized, existing and doing business under and by virtue of the laws of the State of Delaware, with its principal office and place of business located at 777 Third Ave., New York, New York.
2. The Federal Trade Commission has jurisdiction of the subject

<sup>1</sup> Reported in 90 F.T.C. 893.