

IN THE MATTER OF
ITT CONTINENTAL BAKING COMPANY, INC.

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

Docket C-2989. Complaint Aug. 24, 1979 — Decision, Aug. 24, 1979

This order, among other things, requires a Rye, N.Y. manufacturer and seller of bakery products to cease disseminating advertisements which contain unsubstantiated comparative claims regarding the dietary fiber content of "Fresh Horizons" bread and other such food products; or which fail to include a statement disclosing that fiber ingredient in Fresh Horizons is derived from tree pulp. Such statement is required for two and one-half years in all advertisements for food products containing wood fiber. The order also prohibits the company from representing that an ingredient in Fresh Horizons or in other food products has been recommended or approved by a doctor or scientist unless that party has been fully informed of the ingredient's identity and derivation. Additionally, respondent is required to review and conform to the terms of the order all advertising claims for bakery and/or cereal-based products prepared or financed by its corporate parent.

Appearances

For the Commission: *Maryanne S. Kane, Robert L. Patterson and Sandra N. Hammer.*

For the respondent: *Gordon Thomas, Rye, N.Y.*

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 ITT Continental Baking Company, Inc. ("ITT Continental"), a corporation, hereinafter referred to as respondent, has 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. ITT Continental 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 on Halstead Ave., Rye, New York.

PAR. 2. Respondent ITT Continental, a wholly-owned subsidiary of International Telephone and Telegraph Corporation, is now and has been engaged in the manufacturing, advertising, offering for sale, sale and distribution of a bakery product designated by the trade name,

"Fresh Horizons." This product as advertised, is a "food" within the meaning of Section 12 of the Federal Trade Commission Act, 15 U.S.C. 52.

PAR. 3. In the course and conduct of its business, respondent ITT Continental causes its food product, Fresh Horizons when sold, to be transported from respondent's places of business located in various States of the United States to purchasers thereof located in various other States of the United States and the District of Columbia. Respondent ITT Continental maintains, and at all times mentioned herein has maintained, a substantial course of trade in its bakery products, including Fresh Horizons. The volume of business for Fresh Horizons alone, in or affecting such commerce, has been and is substantial.

PAR. 4. In the course and conduct of its business, respondent has disseminated or caused the dissemination of various advertisements for Fresh Horizons by the United States mail and by various means in commerce, as "commerce" is defined in the Federal Trade Commission Act, including advertisements inserted in magazines and newspapers and also advertisements broadcast by television and radio stations located in various States of the United States and in the District of Columbia that have sufficient power to carry such broadcasts across state lines into other States of the United States. The purpose of all of these advertisements has been to induce, directly or indirectly, the purchase of Fresh Horizons and it is likely that these advertisements have succeeded in inducing consumers to purchase this product.

PAR. 5. Typical of the statements and representations in said advertisements are those found in Exhibits A-F attached to this complaint.

PAR. 6. Through the use of said advertisements referred to in Paragraphs Four and Five, and other advertisements not specifically set forth herein, and because of the nature of the Fresh Horizons product, respondent has represented and now represents, directly or by implication, that

a. Fresh Horizons is a product made only with ingredients commonly used in the manufacture of bread or that it does not contain any major ingredient not commonly used, or anticipated by consumers to be commonly used, in bread;

b. The fiber in Fresh Horizons is the same kind of fiber as that in whole wheat bread or 100% all-bran cereal.

PAR. 7. Through the use of said advertisements referred to in Paragraphs Four and Five, and other advertisements not specifically

set forth herein, respondent ITT Continental has represented and now represents directly or by implication, that

- a. Fresh Horizons, in a one slice serving, contains five times the amount of fiber contained in one slice of 100% whole wheat bread; and
- b. Fresh Horizons, in a one slice serving, contains as much fiber as one serving of 100% all-bran cereal.

PAR. 8. In truth and in fact:

- a. Fresh Horizons is not made only with ingredients commonly used in the manufacture of bread, but rather contains as one of its major ingredients fiber derived from wood, an ingredient not commonly used, nor anticipated by consumers to be commonly used, in bread;
- b. Fresh Horizons, in a one slice serving, does not contain five times the amount of fiber contained in one slice of 100% whole wheat bread; and
- c. Fresh Horizons, in a one slice serving, does not contain as much fiber as one serving of 100% all-bran cereal.

Respondent's statements and representations as set forth in Paragraphs Six and Seven are false, deceptive, and misleading. These representations, rendered and now renders the advertisements referred to in Paragraphs Four and Five false, deceptive, misleading and unfair. These advertisements constituted and now constitute false advertisements.

PAR. 9. Furthermore, respondent marketed and advertised Fresh Horizons without disclosing to the purchasing public through its advertising that the product is made with fiber derived from wood or that its extra fiber is fiber derived from wood.

PAR. 10. Respondent's failure to identify the fiber found in Fresh Horizons is misleading in a material respect, in that disclosure of this fact to consumers would be likely to affect their decisions of whether or not to purchase said product. Since consumers would not expect to find fiber derived from wood as an ingredient in a bread or bakery product, respondent's failure to disclose this material fact rendered and now renders, the advertisements referred to in Paragraphs Four and Five false, deceptive, misleading and unfair.

PAR. 11. Furthermore, through the use of said advertisements referred to in Paragraphs Four and Five and other advertisements not specifically set forth herein, respondent ITT Continental has represented directly or by implication, that three out of five doctors recommend Fresh Horizons for its fiber alone.

PAR. 12. At the time of the first dissemination of the representation

contained in Paragraph Eleven, respondent ITT Continental did not possess and rely upon a reasonable basis for making this representation. Therefore, the making and dissemination of this representation, as alleged, without a reasonable basis therefor, constituted and now constitutes unfair or deceptive acts or practices in or affecting commerce.

PAR. 13. In the course and conduct of its aforesaid business, and at all times mentioned herein, respondent ITT Continental has been, and now is, in substantial competition in commerce, with various corporations, firms, and individuals engaged in the sale of food products of the same general kind and nature as those advertised and/or sold by respondent.

PAR. 14. The use by respondent of the aforesaid unfair or deceptive representations 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 the erroneous and mistaken belief that said representations were and are true and into the purchase of substantial quantities of said food product by reason of said erroneous and mistaken belief.

PAR. 15. The aforesaid acts and practices of respondent, as herein alleged including the dissemination of the aforesaid false advertisements, were and are all to the prejudice and injury of the public and of respondent's competitors and constituted, and now constitute, unfair methods of competition in or affecting commerce, and unfair or deceptive acts or practices in or affecting commerce, in violation of Sections 5 and 12 of the Federal Trade Commission Act.

Commissioner Clanton did not participate.

Complaint

TED BATES & COMPANY
Advertising

CLIENT: ITT CONTINENTAL TACKLING CO.
 PRODUCT: FRESH HORIZONS
 AS FILMED TV COMM LNO: ITT-H050
 TITLE: "NEWS"

DATE: 5/7/76
 LENGTH: 30 SECONDS

1. (SFX) SPOKESMAN: (VO) It's been in newspapers.

2. (SFX) medical publications, (VO) Now, it's here. (VO) New Fresh Horizons.

3. (SFX) and on TV news.

4. (VO) Now, it's here. (VO) New Fresh Horizons.

5. A major breakthrough in bread making. 30% fewer calories.

6. (VO) New Fresh Horizons.

7. As much fiber per ounce, as 100% all-bran cereal.

8. No other bread makes all these claims. Compare.

9. (VO) New Fresh Horizons.

10. White or Wheat.

11. We add more fiber and leave fewer calories.

12. and leave fewer calories.

Complaint

94 F.T.C.

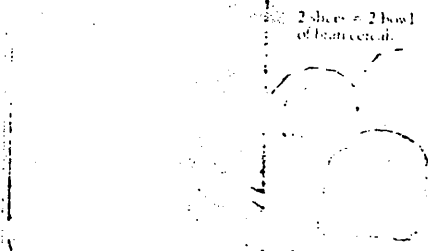
TELD BAKERS & COMPANY
© Lindberg
 CLIENT: ITS CONTINENTAL BAKING CO.
 PRODUCT: FRESH HORIZONS
 AS FILMED TV COMMERCIAL ITEM C013
 TITLE: "TWO LADIES/NEW PACKAGE"

DATE: 8/4/76
 LENGTH: 30 SECONDS

1. WOMAN 1: I won't give up bread, but I'd like one with fewer calories.
 2. WOMAN 2: I don't eat bran cereal, but I do need more fiber.
 3. ANNCR: (VO) Introducing Fresh Horizons bread.
 4. Lower in calories, 30% lower than white.
 5. because it's higher in fiber.
 6. 5 times the fiber of whole wheat.
 7. WOMAN 1: 30% fewer calories.
 8. I just changed my bread.
 9. WOMAN 2: 5 times the fiber.
 10. I just changed my bread.
 11. ANNCR: (VO) To new Fresh Horizons, white or wheat.
 12. We add fiber and take out calories.

30% fewer calories
 We add fiber and take out calories.
 We add fiber and take out calories.

Two slices of Fresh Horizons® have as much crude fiber or roughage as two bowls of 100% bran cereal.



David Shaub, North Truro, Mass.

Two slices of Fresh Horizons® have as much crude fiber or roughage as two bowls of 100% bran cereal. As much crude fiber as 6 cups of raw celery. Now your family can get the fiber you want them to have in a food they'll want to eat—delicious Fresh Horizons. Wheat and White.

Fresh Horizons.
We add fiber and take out calories.

SEAFARER'S SUPPER

- 2 (10½-ounce) cans condensed Manhattan-style clam chowder
- 2 soup cans water
- ¼ pound fillet of white fish, cut in 2-inch pieces
- 1 (8-ounce) can whole kernel golden corn, undrained
- ½ cup fine noodles
- ½ cup green pepper strips
- ¼ teaspoon hot pepper sauce

In a saucepan, combine ingredients. Bring to a boil; reduce heat. Simmer for about 10 minutes, stirring occasionally. Serves 5.

HEARTY VEGETABLE SOUP

- 1 (10½-ounce) can condensed beef broth
- 1 (10½-ounce) can condensed vegetable soup
- 2 soup cans water
- 2 cups cabbage, cut in long thin shreds
- 1 cup cooked beef, cubed
- 1 (8-ounce) can tomatoes, cut up
- ½ cup small shell macaroni, uncooked
- 1 medium onion, sliced
- 2 tablespoons Parmesan cheese, grated
- 1 medium clove garlic, minced
- ½ teaspoon caraway seeds

In a large saucepan, combine ingredients. Bring to a boil; reduce heat. Simmer for about 30 minutes, stirring occasionally. Serves 5.

30 FAMILY HEALTH

GULF GUMBO

- 1 (10½-ounce) can condensed chicken broth
- 1 (10½-ounce) can condensed chicken pan sauce
- 1½ soup cans water
- 1½ cups cooked chicken, cubed
- 2 cups raw potato, shredded
- 1 (10-ounce) package frozen mixed vegetables
- 1 large onion, chopped
- 1 medium green pepper, cut in 1-inch squares
- ½ teaspoon dried savory leaves, crushed
- ¼ teaspoon pepper

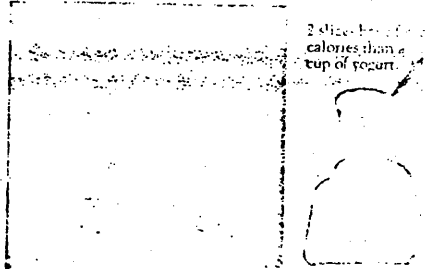
In a large saucepan, combine ingredients. Bring to a boil; reduce heat. Cover and simmer for about 20 minutes, stirring often. Serves 5.

SOUTHERN POTPOURRI

- 1 (10½-ounce) can condensed chicken broth
- 1 (10½-ounce) can condensed turkey vegetable soup
- 2 soup cans water
- 1½ cups cooked ham, diced
- 1 cup quick-cooking rice, uncooked
- 1 (10-ounce) package frozen peas
- 1 (2-ounce) can sliced mushrooms, drained
- ¼ teaspoon rubbed sage

In a large saucepan, combine ingredients. Bring to a boil; reduce heat. Simmer for about 5 minutes, stirring occasionally. Serves 5.

"Fewer calories than yogurt?
I just changed my bread!"



Judy Stewart, La Mesa, California

Two slices of Fresh Horizons® have fewer calories than a cup of unflavored, low-fat yogurt. Fewer than a cup of plain gelatin, or a half-cup of creamed cottage cheese. With Fresh Horizons you don't have to give up bread. All you give up is calories. Wheat and White.

Fresh Horizons.
We add fiber and take out calories.

Complaint

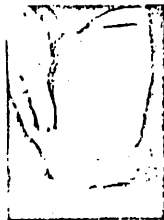
94 F.T.C.

TED BATES & COMPANY
Adventure
 CLIENT: ITT CONTINENTAL BAKING
 PRODUCT: FRESH HORIZONS
 AS FILMED TO COMPLY WITH FTC 1640090
 TITLE: "TWO PERSONS"

DATE: 6/5/77
 LENGTH: 30 SECONDS



1. WOMAN: A bread with fewer calories than yogurt.



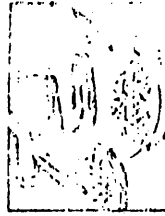
2. ANNCR: (VO) Two slices of Fresh Horizons.



3. ANNCR: (VO) Two slices of Fresh Horizons.



4. WOMAN: A bread with fewer calories than yogurt.



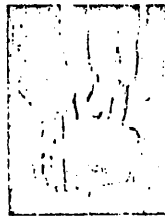
5. or gelatin.



6. MAN: A bread with as much fiber as bran cereal?



7. ANNCR: (VO) Two slices of Fresh Horizons.



8. have as much crude fiber as you eat every day?



9. or all this celery.



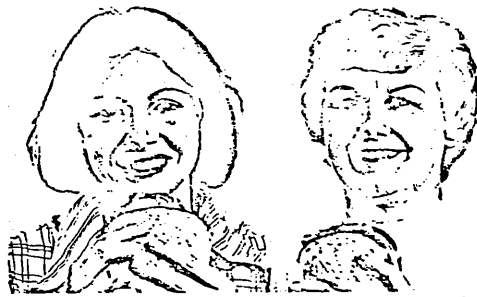
10. WOMAN: Fewer calories than yogurt. MAN: A bread with as much crude fiber as bran cereal.



11. ANNCR: (VO) Fresh Horizons, Wheat and White.



12. We add fiber and take out calories.



"30% fewer calories than white bread? I just changed my bread."

Sandra Baynard, St. Petersburg, Fla.

"Five times the fiber of whole wheat bread? I just changed my bread."

Beverly Sees, Independence, Mo.

Why are so many women like these changing their family's bread to Fresh Horizons?

30% fewer calories than white bread.

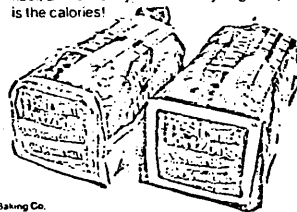
In fact, 2 full slices of Fresh Horizons[®] have fewer calories than a cup of gelatin or a cup of plain yogurt. Fewer than a half cup of creamed cottage cheese. Now you don't have to give up bread. With Fresh Horizons, all you give up is calories.

Five times the crude fiber of whole wheat bread.

You get as much crude fiber or roughage in 2 slices of Fresh Horizons as you get in 2 bowls of bran cereal. Now your family can get the fiber many authorities agree they need in a food they'll like to eat—delicious Fresh Horizons bread!

A taste the whole family likes.

The many women who bought Fresh Horizons for the calories and the fiber found their families liked Fresh Horizons for the taste. That goes for both wheat and white. With Fresh Horizons you get all the fiber, all the taste you want. All you give up is the calories!



© 1977, Continental Baking Co.

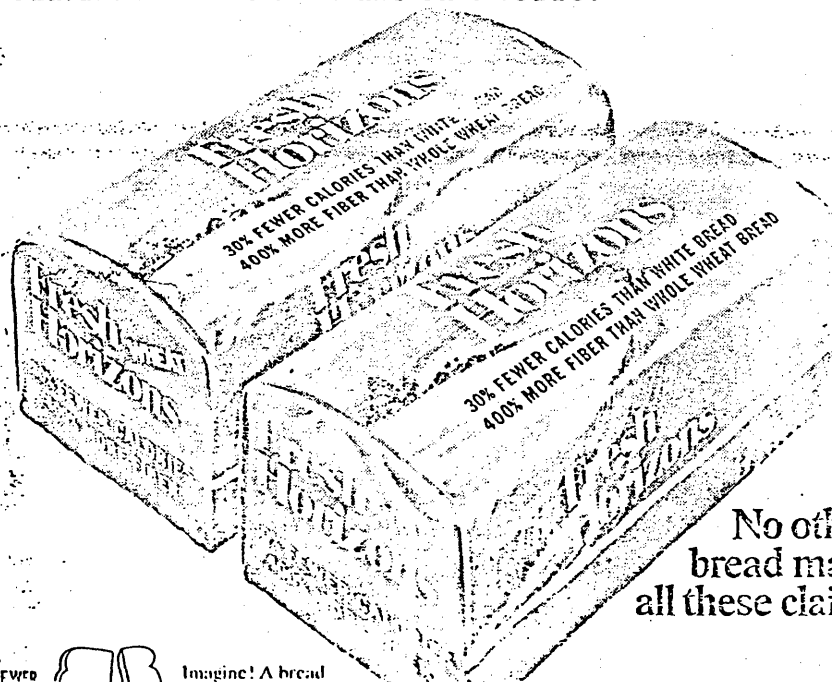
® Fresh Horizons is a registered trademark of ITT Continental Baking Co.

Introducing

the bread with 30% fewer calories than white,
and 400% more fiber than whole wheat.

Fresh Horizons.

A new kind of bread 3 out of 5 doctors
recommend for its fiber alone.



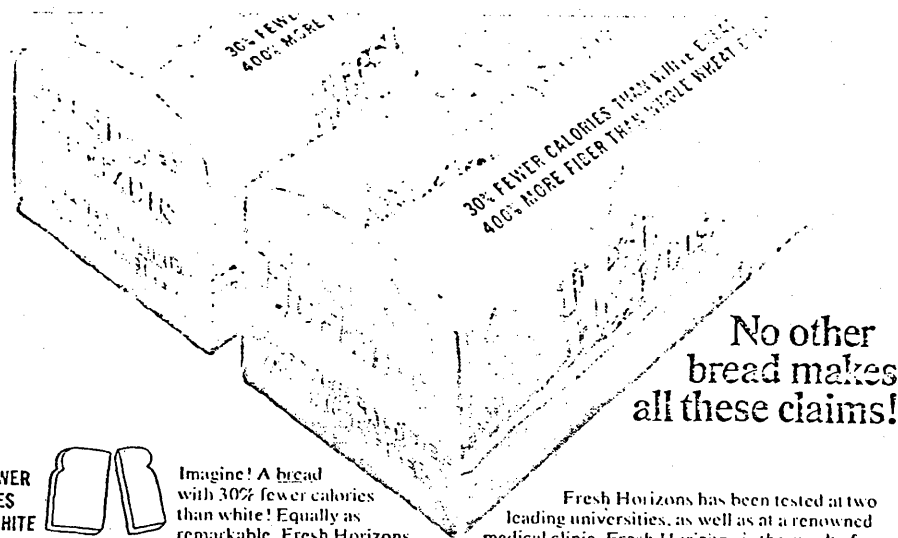
No other
bread makes
all these claims!

30% FEWER



Imagine! A bread

Complaint



No other
bread makes
all these claims!

NER
ES
HITE



Imagine! A bread
with 30% fewer calories
than white! Equally as
remarkable, Fresh Horizons
has 400% more fiber than
any other bread, almost any other food.
It tastes delicious.

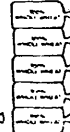
Compared to whole wheat bread, Fresh Horizons has
40% more fiber. One slice even
has the fiber in a serving of 100% All-Bran Cereal. Yet
Fresh Horizons gives you 30% fewer calories than
white bread. Incredible? Yes! In a nationwide
survey of doctors, 3 out of 5 said they would recommend
Fresh Horizons bread for its fiber alone.

Fresh Horizons has been tested at two
leading universities, as well as at a renowned
medical clinic. Fresh Horizons is the result of a
long search for a high-fiber food with reduced calories
that looks and tastes good. And it's here now!

Now's the time to try it. With the
store coupon below, you can save on
your first loaf of white or wheat.

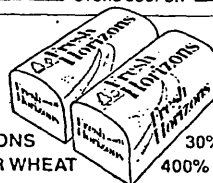
Fresh Horizons. The bread with
30% fewer calories, 400% more fiber.
A new kind of bread 3 out of 5 doctors
recommend for its fiber alone.

400%
MORE
FIBER



ave

15¢



15¢

FRESH HORIZONS
— WHITE OR WHEAT

30% FEWER CALORIES
400% MORE FIBER

Mr. Green: You are authorized as our agent to redeem this coupon
for 15¢ on the purchase of new Fresh Horizons Bread. We will pay you
15¢ plus 5¢ handling charge for each of these coupons redeemed in
accordance with the terms of this offer. To obtain payment send to:
Fresh Horizons, P.O. Box 1354, Clinton, Iowa 52734. Coupons will not
be honored and will be void if presented through outside agencies.

brokers or others who are not retail distributors of our merchandise
unless specifically authorized by us. Customers must pay any sales
tax. Investors proving purchase of sufficient stock to cover coupons
presented for redemption must be shown on request. Coupon void
where taxed, restricted or prohibited by law. Cash value - 1/20¢.
Expires April 30, 1977.

A NEW KIND OF BREAD 3 OUT OF 5 DOCTORS RECOMMEND FOR ITS FIBER ALONE

DECISION AND ORDER

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

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

The Commission having considered the matter and having determined that it had reason to believe that the respondent has violated the said Act, and that complaint should issue stating its charges in that respect, and having thereupon accepted the executed consent agreement and placed such agreement on the public record for a period of sixty (60) days, *and having duly considered the comments filed thereafter by interested persons pursuant to Section 2.34 of its Rules*, now in further conformity with the procedure prescribed in Section 2.34 of its Rules, the Commission hereby issues its complaint, makes the following jurisdictional findings, and enters the following order:

1. Respondent ITT Continental Baking Company, Inc. 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 on Halstead Ave., Rye, New York.
2. The Federal Trade Commission has jurisdiction of the subject matter of this proceeding and of the respondent, and the proceeding is in the public interest.

ORDER

I

It is ordered, That respondent ITT Continental Baking Company, Inc., a corporation, its successors and assigns, and its 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 a bakery product called Fresh

Horizons or any other food product, do forthwith cease and desist from disseminating or causing the dissemination of any advertisement by means of the United States mail or by any means in or affecting commerce which, directly or indirectly:

A. Makes any comparative claim regarding the amount of fiber in any such product, as compared with that in any other food product, unless the claim is based on measurement of "dietary fiber" by the neutral detergent fiber method with an amylase modification. The neutral detergent fiber method with an amylase modification shall be used until such time as the Food and Drug Administration officially adopts a method for measuring dietary fiber in foods. At that time, the officially approved method for measuring dietary fiber shall be used for comparative quantity claims.

B. Makes any representation regarding the fiber content of any such product, unless respondent possesses and relies upon a reasonable basis consisting of competent and reliable scientific evidence for each such representation.

II

It is further ordered, That respondent ITT Continental Baking Company, Inc., a corporation, its successors and assigns, and its 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 a bakery product called Fresh Horizons or any other food product, do forthwith cease and desist from disseminating or causing the dissemination of any advertisement by means of the United States mail or by any means in or affecting commerce which, directly or indirectly, makes any representation that any such product or any ingredient in such product has been recommended or approved by any doctor(s) or scientist(s), unless:

A. Before giving such recommendation or approval for such product, the doctor(s) or scientist(s) had been fully informed of the identity and derivation of all of the ingredients in such product, except those incidental ingredients which are added to assist in the food processing function which amount to less than 2% each of the final product on a weight basis, or

B. Before giving such recommendation or approval for any such ingredient, the doctor(s) or scientist(s) had been fully informed of the identity and derivation of that ingredient.

III

It is further ordered, That respondent, its successors and assigns, and its 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 the bakery product called Fresh Horizons or any other bread product containing alpha cellulose derived from wood, do forthwith cease and desist from disseminating or causing the dissemination of any advertisement, by means of the United States mail or by any means in or affecting commerce, which fails to disclose clearly and conspicuously in each advertisement in the *exact* language listed below for two and one-half years from the effective date of this order:

The source of (this/the) fiber is wood; or
Contains fiber derived from pulp of trees.

Upon the expiration of this two and one-half year period respondent shall disclose clearly and conspicuously in each such advertisement for such bakery product in no more than ten (10) words that the source of the fiber in such product is wood or that such product contains fiber derived from the pulp of trees.

Either of these disclosures shall be required so long as wood continues to be a fiber component of such product.

Coupons without any advertising claims and point of purchase advertising without general text are exempt from the requirements of this provision. Advertisements which make advertising claims and also contain a coupon are subject to the requirements of this order.

IV

It is further ordered, That respondent, its successors and assigns, and its 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 any bakery product or cereal-based product do forthwith cease and desist from disseminating or causing the dissemination of any advertisement, by means of the United States mail or by any means in or affecting commerce, which represents directly or by implication that such product contains only ingredients commonly used, or anticipated* by

* An ingredient shall be considered "commonly used or anticipated" for purposes of this order:

(1) if it is enumerated under 21 C.F.R. 170.3(n) or,

(2) if it is included under 21 C.F.R. 170.3(o) and meets the requirements of the definition of common usage,

Provided that for substances containing an ingredient which is included under 21 C.F.R. 170.3(o) to be considered "commonly used or anticipated," such substances must be used in amounts which do not exceed levels of common usage when performing the same function in other foods.

(Continued)

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Decision and Order

consumers to be commonly used, in the making of such a product, unless

- A. such is the case;
- B. the total of the unanticipated and uncommonly used ingredients in the final product is 4 percent or less by weight;** or
- C. the presence, identity, and source of each unanticipated or uncommonly used ingredient is disclosed clearly and conspicuously when the total of the unanticipated and uncommonly used ingredients in the final product is greater than 4 percent of that product by weight.**

V

It is further ordered, That respondent, its successors and assigns, and its officers, agents, representatives and employees, directly or through any corporation, subsidiary, division or other device review and conform all advertising claims for any bakery and/or cereal-based product prepared and/or financed by the International Telephone and Telegraph Corporation, its subsidiaries or divisions, to the provisions of this order.

VI

It is further ordered, That respondent forthwith distribute a copy of this order to each of its operating divisions.

VII

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

VIII

It is further ordered, That the respondent shall within sixty (60) days after service of this order, submit to the Commission a report, in

For purposes of this order, common usage shall mean a history of consumption of a substance by a significant number of consumers in the United States.

** For purposes of cumulating the 4% threshold:

- (a) when a subsection (c) substance is used to perform a function for which there is no common usage of that substance for that function in foods, the entire amount of the substance shall be cumulated;
- (b) when a subsection (c) substance is used to perform a function for which there is common usage of that substance for that function in foods, the amount which exceeds the highest previous level which has been commonly used to perform that function shall be cumulated.

writing, setting forth in detail the manner and form in which it has complied with this order. The effective date of Parts I-VI shall be the sixtieth day after service of this order.

IX

It is further ordered, That the respondent maintain all files and records related to the requirements of Parts I-V of this order for a period of three (3) years after the dissemination of any advertisement of any product covered by this order, and that such material shall be made available to the Federal Trade Commission or its staff for inspection and copying upon reasonable demand.

Commissioner Clanton did not participate.

IN THE MATTER OF
BANKERS LIFE AND CASUALTY COMPANY, ET AL.

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

Docket 9075. Complaint, Feb. 26, 1976 — Decision, Aug. 27, 1979

This consent order, among other things, requires Bankers Life and Casualty Company (Bankers Life), an individual, and eleven corporate associates, all engaged in the advertising, promotion and sale of undeveloped land, to cease misrepresenting that undeveloped land purchase is a safe investment; involves little financial risk; and is a means of achieving financial security. The order requires that all advertising, promotional materials and sales contracts include specified disclosures regarding risks involved in undeveloped land investment; the advisability of consulting with a real estate specialist prior to contracting; the availability and cost of utilities; and the identity of lots in flood plain areas. Respondents must provide purchasers with cooling-off periods and information regarding their right to cancellation and refund. The firms are also prohibited from mortgaging any subdivision in the future, without ensuring that paid-up purchasers of lots in that subdivision will receive their warranty deeds, and be permitted to retain their rights. Additionally, the order requires respondents to make prescribed restitution to eligible purchasers who defaulted on their payments; and provide all active and paid-in-full purchasers, who had contracted for land at particular subdivisions during a certain time period, with an opportunity to cancel their contracts and receive specified refunds. The order holds Bankers Life responsible for assuring that proper restitution is made.

Appearances

For the Commission: *Gerald H. Jagers, William K. Hickey, John T. Hankins and Jay W. Madden.*

For the respondents: *William T. Kirby and James T. Griffin, Hubachek, Kelley, Rauch & Kirby, Chicago, Ill. for Bankers Life and Casualty Company, Robert D. Inman, Inman & Flynn, Denver, Colo. for San Luis Valley Ranches, Inc., Larwill Costilla Ranches, Inc., Rio Grande Ranches of Colorado, Inc., Top of the World, Inc., Materic, Inc., G-R-P Corporation, and Richard Greenberg, Alan H. Bucholtz, Quiat, Bucholtz, Bull & Laff, Denver, Colo. for Colorado Properties, Inc. and Milco Associates, Inc., J. Wallace Adair and John F. Bruce, Howrey & Simon, Washington, D.C. for Southern Realty & Utilities Corporation, Hartsel Ranch Corporation and Estates of the World, Inc. and Jeffrey P. Berg, Berg & Spire, Beverly Hills, Calif. for Alice Holguin.*

COMPLAINT

Pursuant to the provisions of the Federal Trade Commission Act, as