

IN THE MATTER OF
UNIVERSAL BODYBUILDING, INC., ET AL.

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

Docket C-3048. Complaint, Nov. 5, 1980—Decision, Nov. 5, 1980

This consent order requires, among other things, a Redford, Mich. seller of various bodybuilding and self-improvement courses and products to cease from using adult models and testimonials in advertisements directed to non-adults; and advertising or promoting the sale of bodybuilding products or courses, unless it has tests or studies available which indicate that unsupervised use of its products will not be harmful to non-adults. The firm is further prohibited from making any unfair, deceptive or unsubstantiated product claim in advertising or other promotional material; and required to maintain specified records for a particular period.

Appearances

For the Commission: *Deandra Kraus.*

For the respondent: *Richard B. Poling, Jr., Moore, Sills, Poling, Wooster & Sinn, Birmingham, Mich.*

COMPLAINT

The Federal Trade Commission has reason to believe that Universal Bodybuilding, Inc., a corporation, and Morris Mitchell, individually and as an officer of Universal Bodybuilding, Inc., have violated the provisions of the Federal Trade Commission Act. It appears to the Commission that a proceeding by it would be in the public interest. The Commission hereby issues its complaint as follows:

PARAGRAPH 1. Respondent Universal Bodybuilding, Inc. is a corporation with its principal office and place of business located at 26903 West Eight Mile Road, Redford, Michigan.

Respondent Morris Mitchell is president of Universal Bodybuilding, Inc. He formulates, directs and controls the policies, acts and practices of Universal Bodybuilding, Inc. His address is the same as that of Universal Bodybuilding, Inc.

All allegations made in the present tense include the past tense.

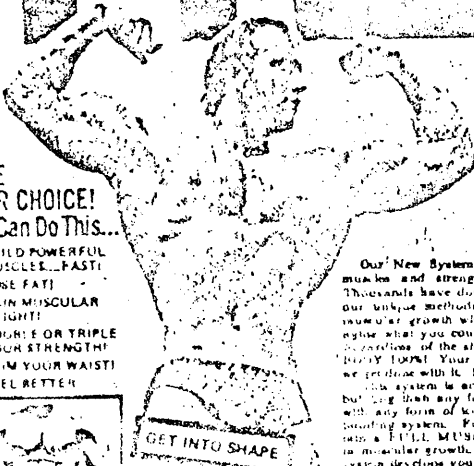
PAR. 2. In the conduct of their business, respondents sell bodybuilding, muscle-building and other self-improvement courses, devices, and products (hereafter products) directly to the purchasing public, including young people under 17 years of age (non-adults),

through the mail in various States of the United States and in the District of Columbia.

PAR. 3. To promote the sale of their products, respondents prepare, or cause to be prepared, advertisements which they publish or cause to be published in various publications, including publications directed to and read primarily by non-adults, which are distributed throughout the United States.

PAR. 4. Typical but not all inclusive of such advertisements are the following:

FREE



TAKE YOUR CHOICE! You Can Do This...

- BUILD POWERFUL MUSCLES...FAST!
- LOSE FAT!
- GAIN MUSCULAR WEIGHT!
- DOUBLE OR TRIPLE YOUR STRENGTH!
- TRIM YOUR WAIST!
- FEEL BETTER!



Shape-Up, Get that wastline down and muscularize it!

GET INTO SHAPE

LIKE MORE FACTS!

We'll be glad to send you free Colorful Brochures and make a free loan to you. Ask you how to do it and we'll send you a brochure.

Booklet

SEE YOUR OWN RESULTS FROM DAY 1 TO DAY 100

YOU'LL PUT ON INCHES OF POWERFUL MUSCLES ON YOUR BODY!

Our New System will develop muscles so fantastic that your muscles and strength will seem to be almost Super-Human! Thousands have doubled or tripled their strength while following our unique methods. It is actually possible to have everyday muscular growth while following our body building system! Imagine what you could accomplish while following our methods? Hundreds of the shape you're in, WE CAN IMPROVE YOUR BODY TODAY! Your own friends won't recognize your body when we produce with it. FANTASTIC! BUT TRUE!

This system is actually 100% more effective in muscle-building than any form of健美. Don't confuse this method with any form of健美 — this is a "full-constructive" body-building system. Full Constructive Methods enable you to develop a FULL MUSCLE PUMP — which is absolutely necessary in muscular growth. Our methods have nothing to chance — our system develops your body TOTALLY!

SLENNY?

MUSCLES WILL APPEAR... ALMOST LIKE MAGIC!



FAT?

FAT WILL DISAPPEAR — REPLACED BY MUSCLES!



YOUR NEW MUSCLES WILL FEEL LIKE DYNAMITE!



Improve your health and confidence and your outlook on life as you become more muscular. No matter what your age, height, or weight build, we'll help you build a better body. Thousands of people have been doing the same with fantastic results — why not you? Whenever you look like today, we can improve on it. We guarantee it!

☐ **ARM** — Develop big powerful arms. Build and give your muscles the look of a champion.

☐ **LEG** — Develop strong, powerful legs. Build and give your muscles the look of a champion.

☐ **WAST** — Develop your waist. Build and give your muscles the look of a champion.

☐ **SHOULDER** — Build and give your shoulders the look of a champion.

☐ **TRICEP** — Build and give your triceps the look of a champion.

☐ **ARM** — Build and give your arms the look of a champion.

Universal, Dept. BAA-1
Box 2054
Detroit, Mich. 48240

You bet I want MUSCLES! rush me your FREE Booklet and all your Colorful Brochures! I am sending you 25c to help cover postage and handling costs. (please PRINT clearly)

Name _____ Age _____

Address _____

City _____ State _____ Zip _____

MAIL THIS COUPON TODAY

DO NOT WRITE OR PRINT IN THESE SPACES

FEDERAL TRADE COMMISSION DECISIONS

Complaint

96 F.T.C.

Super

BODYBUILDING COURSE —

INTRODUCING

THE BODYBUILDING SYSTEM THAT GUARANTEES —
YOU'LL PUT ON INCHES OF POWERFUL
MUSCLES ON YOUR BODY!

At last, NEW bodybuilding secrets are now available for your use. Finally, after years of experimenting we have come up with the fastest muscle building system in the world. Our course really works — thousands have taken our course and have obtained fantastic results. Right in the privacy of your own bathroom, you can completely transform your body.

HOW CAN I GET THIS FAST?

I can have POWERFUL MUSCLES FAST... not by fits and years of hard work... but by simply following our fascinating system... a system that works so fast you can see results from day to day! That's the kind of course you want? We absolutely guarantee results.

ARE JUST A FEW OF THE LETTERS WE HAVE RECEIVED

"I'm making fantastic following your new... of muscle building... I knew it could be so easy... muscles." J. Johnson

"I'm a skinny weakling... I've gained 30 pounds in just 45... I'm now amazed... I'm... to be dynamic... at the... B. Adams

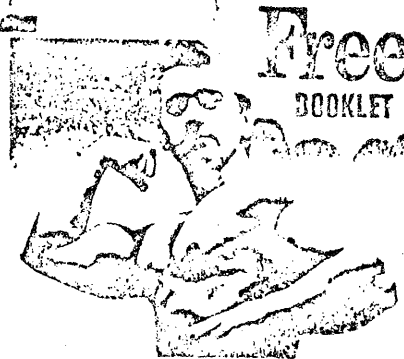


"In just 3 weeks I have gained 15" on my arms and 4" on my chest. I have also lost 4" off my waist. Your course is just great." D. Roberts

"I'm transforming all the fat off my body and changing it into rock hard muscles. It's amazing... I have lost 8" off my waist. I can actually see my muscles growing from day to day." P. Williams

"I have gained 20 pounds in just 30 days and I have gained over 2 inches on my chest. I find that my pump has doubled. In sports I am a winner in everything I do." G. Daniels

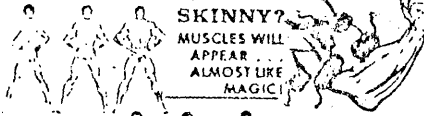
"I have gained 5" on my arms and 12" on my chest while losing 3" off my waist. I have found my power and speed. Thanks for what you have done for me." M. Robinson



MORRIS MITCHELL GAINED 65 POUNDS OF MUSCLE WHILE FOLLOWING OUR "REVOLUTIONARY NEW METHODS" ON BODYBUILDING.

TAKE YOUR CHOICE! You Can Do This...

★ DOUBLE OR TRIPLE YOUR STRENGTH in record time! It wouldn't take long before you can perform feats of strength.



FAT? YOUR NEW MUSCLES WILL FEEL LIKE DYNAMITE! FAT WILL DISAPPEAR — REPLACED BY MUSCLES!

Universal Bodybuilding
Box 6634 Dept CHA
Detroit, Mich. 48240

Shoot the "envelope" to me free! Rush me all the free muscle-building information, so that I can add inches of powerful muscles — all in the privacy of my home. I am sending 25¢ to help cover postage and handling costs. I am under no obligation. (Please print)

Name _____ Age _____

Address _____

City _____ State _____ Zip _____

MAIL THIS COUPON TODAY

PAR. 5. By and through the preceding advertisements and other advertisements, respondents represent, directly or by implication, that a typical consumer who is likely to respond to respondents' advertisements will attain rapid improvement in his physical appearance, add muscles, lose fat and gain respect from his peers.

PAR. 6. By and through the preceding advertisements and other similar representations, respondents represent, directly or by implication, that the Universal Bodybuilding System:

1. makes muscles appear quickly and easily, with little effort;
2. is 200% to 300% more effective in muscle-building than any form of isometrics; and
3. is the fastest muscle-building system in the world.

This list is representative, but not all inclusive, of the representations made by respondents.

PAR. 7. By and through the preceding advertisements and other similar advertisements, respondents represent, directly or by implication, that the endorsements presented in the advertisements represent the typical and expected results of use of respondents' products in the manner depicted in the advertisement by a typical consumer who is likely to respond to respondents' advertisements.

PAR. 8. By and through the preceding advertisements and other advertisements, respondents represent, directly or by implication, that the physical stature of the models featured in the advertisements is attainable through use of respondents' products in the manner depicted in the advertisements by a typical consumer who is likely to respond to respondents' advertisements.

PAR. 9. By and through the preceding advertisements and other advertisements, respondents represent, directly or by implication, that they have, and rely on, competent scientific tests or studies sufficient to provide a reasonable basis to believe that the above representations are true.

PAR. 10. By and through the preceding advertisements and other advertisements directed to and read primarily by non-adults, respondents represent that use of respondents' products without appropriate supervision will not be harmful to non-adult consumers.

PAR. 11. In truth and in fact and in contradiction to the representations of respondents:

A. Use of respondents' products will not allow a typical consumer who is likely to respond to respondents' advertisements to rapidly attain a change in physical appearance, add muscles, lose fat or command respect from everyone he meets.

In addition:

1. the Universal Bodybuilding System does not make muscles appear quickly and easily, with little effort;
2. the Universal Bodybuilding System is not 200 to 300 percent more effective in muscle-building than any form of isometrics; and
3. the Universal Bodybuilding System is not the fastest muscle-building system in the world.

B. The endorsements presented in respondents' advertisements do not represent the typical and expected results of use of respondents' products in the manner depicted in the advertisements by a typical consumer who is likely to respond to respondents' advertisements.

C. The physical stature of the models featured in these advertisements is not attainable through use of respondents' products in the manner depicted in the advertisements by a typical consumer who is likely to respond to respondents' advertisements.

D. Respondents, at the time such representations were made, did not possess and rely on competent substantiation sufficient to provide a reasonable basis to believe that the representations were true.

E. Respondents, at the time the representation in Paragraph Ten was made, did not have, and rely on, competent scientific tests or studies sufficient to provide a reasonable basis to believe that use of respondents' products without appropriate supervision will not be harmful to non-adult consumers.

Therefore, the advertisements referred to above are unfair and deceptive.

PAR. 12. To promote the sale of their products, respondents disseminate advertisements which are directed to non-adults and which are read by an audience which is primarily composed of non-adults. In these advertisements, respondents make use of pictures or drawings of professional adult bodybuilding or weight-lifting models to promote their products. The physical stature of the models depicted in these advertisements is unattainable by the non-adults who read them. In these advertisements, respondents also make use of testimonials of adults who have used respondents' products. The results achieved by these adults cannot be achieved by the non-adults who read these advertisements.

PAR. 13. The use by respondents of the pictures or drawings described in Paragraph Twelve has the tendency and capacity to

mislead non-adults as to the results they might achieve through use of respondents' products.

PAR. 14. The use by respondents of testimonials which relate the experience of adults who have used respondents' products as related in Paragraph Twelve has the tendency and capacity to mislead non-adults to believe that they will experience similar results.

Therefore, the advertisements referred to in Paragraph Twelve are unfair and deceptive.

PAR. 15. The use by respondents of these unfair and deceptive advertisements has the tendency and capacity to mislead consumers, especially non-adults, into erroneous and mistaken beliefs regarding the results of use of respondents' products and to purchase substantial quantities of respondents' products by reason of these erroneous and mistaken beliefs.

PAR. 16. The acts and practices of respondents, as alleged in the preceding paragraphs, are all to the prejudice and injury of the public and constitute unfair and deceptive acts and practices in or affecting commerce in violation of Section 5 of the Federal Trade Commission Act, as amended.

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 Seattle Regional Office 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, their attorneys, 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, 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 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, 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 Universal Bodybuilding, Inc. is a corporation with its principal office and place of business located at 26903 West Eight Mile Road, Redford, Michigan.

Respondent Morris Mitchell is president of Universal Bodybuilding, Inc. He formulates, directs and controls the policies, acts and practices of Universal Bodybuilding, Inc. His address is the same as that of Universal Bodybuilding, Inc.

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

This order applies to respondent Universal Bodybuilding, Inc., a corporation, its successors and assigns and its officers, agents, representatives and employees, in connection with offering for sale, sale or distribution of any bodybuilding, muscle-building or other self-improvement products, devices or courses directly or through any corporation, subsidiary, division, or other device in or affecting commerce, as commerce is defined in the Federal Trade Commission Act, as amended. This order applies to respondent Morris Mitchell in connection with advertising, offering for sale, sale or distribution of any bodybuilding, muscle-building or other self-improvement products, devices or courses in or affecting commerce, as commerce is defined in the Federal Trade Commission Act, as amended. This order shall not apply to Morris Mitchell insofar as he is involved only in the bona fide sale of advertising services to businesses which are not involved in the sale or offering for sale of any bodybuilding, muscle-building, or other self-improvement products, devices or courses and in which he or members of his immediate family have no financial interest.

For purposes of this order "non-adults" shall mean persons under 17 years of age. Advertisements directed to non-adults shall mean all advertisements and promotional material:

1. whose dominant appeal is to non-adults;
2. mailed directly to a person who respondent has reason to believe is a non-adult; or
3. disseminated in publications whose audience for the prior 12 months was composed of a majority of non-adults.

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Decision and Order

Such publications shall include all comic books, *Mad Magazine*, *Boy's Life*, *Children's Digest* and *Jack and Jill*. This list is intended to be representative of publications covered by this order but not exclusive.

I.

It is ordered, That in all advertisements directed to non-adults respondents cease and desist from:

A. Advertising or in any way promoting the sale of bodybuilding or muscle-building products, devices or courses (hereafter referred to as products) until respondents have available and rely on competent scientific or medical tests or studies adequate to show that use of the products without appropriate supervision will not be harmful to non-adult consumers.

B. Using pictures or drawings of adults or professional models to promote the sale of bodybuilding or muscle-building products.

C. Making any representation, directly or by implication, unless, at the time the representation is made, respondents have, and rely on, substantiation sufficient to provide a reasonable basis to believe that the representation is true for the typical non-adult consumer of respondent's products. In interpreting this provision, respondents shall not represent that a consumer can achieve any result unless and until respondents can substantiate by competent tests or studies that the result can be attained by a typical non-adult who uses the product in the manner depicted in the advertisement. The original data collected for any such studies performed at the request of or with the financial assistance of respondents and a detailed description of how the test or study was performed must be available for inspection by the Federal Trade Commission for at least two years following the final use of the representation.

D. Using any testimonial which does not represent the typical experience of non-adult consumers of respondents' products.

E. Making any representation, directly or indirectly, which exaggerates or overstates the results which may reasonably be expected to result from use of any product by a non-adult.

II.

It is further ordered, That in all advertisements respondents cease and desist from:

A. Representing in any manner, directly or by implication,

his duties and responsibilities in connection with the business or employment. The expiration of the notice provision of this paragraph shall not affect any other obligation arising under this order.

VI.

It is further ordered, That the respondents herein shall, within sixty days after service of this order, file with the Commission a written report setting forth in detail the manner and form of their compliance with this order.

Complaint

IN THE MATTER OF

GENSTAR LIMITED

CONSENT ORDER, ETC., IN REGARD TO ALLEGED VIOLATION OF
SEC. 5 OF THE FEDERAL TRADE COMMISSION ACT AND SEC. 7 OF
THE CLAYTON ACT

Docket C-3049. Complaint, Nov. 10, 1980—Decision, Nov. 10, 1980

This consent order requires, among other things, a Canadian corporation engaged in various business enterprises, including the manufacture and sale of portland cement and gypsum wallboard, to cease, for a prescribed period, from entering into or carrying out supply agreements with U.S. competitors that provide for the exchange of cost and pricing information and permit the firm to share in profits realized from the resale of its products in the United States. The firm is also prohibited, for a specified time, from selling or delivering to any "Cement Facility" for further processing or resale, products produced at company-owned cement manufacturing plants located outside the United States. Further, for each calendar year, beginning January 1, 1981 and ending December 31, 1984, respondent is required to make available for sale to manufacturers having cement facilities located in the "Northwest Cement Market," all cement or clinker produced at its plant at Tilbury Island, British Columbia, that is not sold to Canadian customers. Additionally, the firm is prohibited from acquiring, without prior Commission approval, any portland cement or gypsum wallboard manufacturing plant that is located within geographic areas set forth in the order.

Appearances

For the Commission: *Robert W. Mannix* and *Alfred J. Ferrogari*.

For the respondent: *Lucian C. Jones, Shearman & Sterling*, New York City.

COMPLAINT

Pursuant to the provisions of the Federal Trade Commission Act and the Clayton Act, as amended, and by virtue of the authority vested in it, the Federal Trade Commission, having reason to believe that Genstar Limited, a corporation subject to the jurisdiction of the Commission, has violated said Acts, and it appearing that a proceeding by it in respect thereof would be in the public interest, hereby issues its complaint and states its charges as follows: