

IN THE MATTER OF
HAVERHILLS, ET AL.

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

Docket C-3322. Complaint, Jan. 25, 1991—Decision, Jan. 25, 1991

This consent order prohibits, among other things, a California mail order company and its owners from making certain misrepresentations and unsubstantiated health and safety claims, in the sale of artificial tanning devices or any other device, and from making unsubstantiated fuel economy claims, with respect to any engine oil additive, automobile gasoline additive, or automobile retrofit device. In addition, respondents would be required to distribute a copy of the order to officers, employees, and representatives involved in sales or advertising.

Appearances

For the Commission: *Joel C. Winston* and *C. Lee Peeler*.

For the respondents: *Gerardo Joffe, President*, San Francisco, CA.

COMPLAINT

The Federal Trade Commission, having reason to believe that Haverhills, a corporation, and Gerardo Joffe and Priscilla Joffe, individually and as officers of Haverhills, hereinafter sometimes referred to as respondents, have violated the provisions of the Federal Trade Commission Act, and it appearing to the Commission that a proceeding by it in respect thereof would be in the public interest, alleges:

PARAGRAPH 1. Respondent Haverhills is a California corporation, with its office and principal place of business located at 131 Townsend Street, San Francisco, California.

Respondents Gerardo Joffe and Priscilla Joffe are officers and directors of the corporate respondent. They formulate, direct and control the acts and practices of said corporate respondent. Gerardo Joffe's and Priscilla Joffe's addresses are the same as that of respondent Haverhills.

PAR. 2. Respondents have advertised, offered for sale, sold and distributed tanning devices for the artificial tanning of humans,

including tabletop units and overhead canopy lamp systems, through advertising in respondents' catalog. These tanning devices are marketed under the trade name Solar Gold Tanners. Solar Gold Tanners are "devices" within the meaning of that term in Section 12 of the Federal Trade Commission Act.

PAR. 3. Respondents have advertised, offered for sale, sold and distributed a product known as the Fuel Magnetizer, which product is advertised as a means of improving fuel economy in automobiles, through advertising in respondents' catalog. This product is an automobile retrofit device as "automobile retrofit device" is defined in Section 511 of the Motor Vehicle Information and Cost Savings Act, 15 U.S.C. 2011.

PAR. 4. Respondents have disseminated or caused to be disseminated advertisements for Solar Gold Tanners and Fuel Magnetizers. These advertisements have been disseminated by various means in or affecting commerce, including catalogs distributed across state lines, for the purpose of inducing purchases of such devices by members of the public.

PAR. 5. The acts and practices of respondents alleged in this complaint have been in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act.

PAR. 6. Typical of respondents' advertisements, but not necessarily all-inclusive thereof, are the attached Exhibits A and B. The aforesaid advertisements contain the following statements or depictions:

1. "Too much exposure to the sun's rays dries and ages the skin prematurely, leading to blotches, wrinkles—even skin cancer. Solar Gold Home Tanners help to solve that problem." (Exhibit A)

2. "Sunlight contains three types of ultraviolet radiation: UVA tans you. UVB tans, but also burns. And UVC causes nothing but harm. These units produce 99.7% UVA, only 0.3% UVB, and no UVC at all." (Exhibit A)

3. The model in the advertisement is shown using the Solar Gold Facial Tanner and Tanning Canopy without wearing protective eyewear. (Exhibit A)

4. "Save up to 25% on your gas mileage with this ingenious device....You'll notice better gas mileage right away because the Fuel Magnetizer changes the molecular structure of fuel—negatively charged fuel and oxygen molecules attract for combustion efficiency. Your fuel and money savings will pay for the Magnetizer in no time at all." (Exhibit B)

PAR. 7. Through the use of the statements and depictions referred to in paragraph six, and others in advertisements not specifically set forth herein, respondents have represented, directly or by implication, that:

1. Use of the Solar Gold Tanner does not pose a risk of the harmful side effects associated with exposure to the sun's radiation.
2. Use of the Solar Gold Tanner does not increase the risk of developing skin cancer.
3. Use of the Solar Gold Tanner does not contribute to skin aging.
4. The sun emits UVC radiation that penetrates the earth's atmosphere and therefore causes the harmful side effects associated with exposure to the sun's radiation.
5. The Solar Gold Tanner can be used safely without protective eyewear.
6. Under normal driving conditions, a typical driver can usually obtain a fuel economy improvement of up to 25% when the Fuel Magnetizer is installed in his or her automobile.

PAR. 8. In truth and in fact:

1. Use of the Solar Gold Tanner does pose a risk of the harmful side effects associated with exposure to the sun's radiation.
2. Use of the Solar Gold Tanner does increase the risk of developing skin cancer.
3. Use of the Solar Gold Tanner does contribute to skin aging.
4. While the sun does emit UVC, these rays do not penetrate the earth's atmosphere and therefore do not cause the harmful side effects associated with exposure to the sun's radiation.
5. The Solar Gold Tanner cannot be used safely without protective eyewear.
6. Under normal conditions, a typical driver cannot usually obtain a fuel economy improvement of up to 25% when the Fuel Magnetizer is installed in his or her automobile.

Therefore, the representations set forth in paragraph seven were, and are, false and misleading.

PAR. 9. Through the use of the statements and depictions set forth in paragraph six, and others not specifically set forth herein, respondents have represented, directly or by implication, that at the time respondents made the representations set forth in paragraph seven, respondents possessed and relied upon a reasonable basis for said representations.

PAR. 10. In truth and in fact, at the time respondents made said statements and depictions, respondents did not possess and rely upon a reasonable basis for making the representations set forth in paragraph seven. Therefore, respondents' representation as set forth in paragraph nine was, and is, false and misleading.

PAR. 11. In the advertising and sale of the Solar Gold Tanner, respondents have failed to disclose that the use of the device poses the risks of skin cancer, skin aging and eye injury, and that the use of the device without protective eyewear poses a risk of eye damage. These facts would be material to consumers in their purchase and use of the Solar Gold Tanner. The failure to disclose these facts, in light of the representations made as alleged in paragraph six was, and is, a deceptive act or practice.

PAR. 12. The acts and practices of respondents as alleged in this complaint constitute unfair or deceptive acts or practices in or affecting commerce and the dissemination of false advertisements in violation of Sections 5(a) and 12 of the Federal Trade Commission Act.

Commissioner Starek was recorded as not participating.

Complaint

EXHIBIT A

(right): Carried by diplomats in the corridors of Europe. Two zippered compartments and a 6" gusset guarantee plenty of room for your files, papers, spare clothing. Outside snap pockets hold your personal articles, calculator, etc. Made of softened full-grain Colombian cowhide with padded handles, two-buckle closure and adjustable 28" matching shoulder strap. 15"l x 12" w x 6" d. ■ #1314, Black Attaché Case \$99.95. ■ #1313, Natural Attaché Case \$99.95.



Euro Sideboard Table

(left) An ingenious design for modern living. This sleek Euro-style sideboard cabinet embodies the continental flair for the dramatic in furniture. Roll it away from the wall, pull the tabletop forward and flip it open, and you have a 59"l x 35.5" w x 28.3" h table. It's made of European black ash melamine, with the look, texture and feel of natural ash wood. Both cabinet and table have hidden hinges, and the unit is on smooth-rolling casters. A little quick and easy assembly is all it requires. You will find it ideal for those intimate dinner parties in your cozy apartment. ■ #1170, \$395.00. Add'l. Frt. \$40.00.

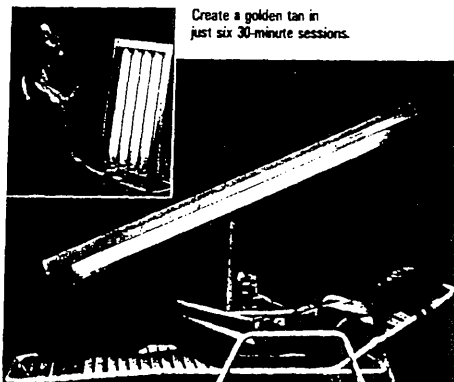
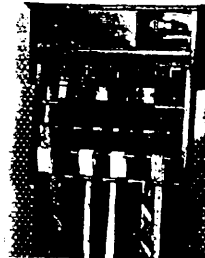


Chinese Exercise Spheres

(above) For centuries, the Chinese have used these balls to increase the strength and dexterity of their hands. When the chrome plated, hollow steel spheres are rotated in the hand a few minutes a day, they stimulate the acupuncture points, benefitting the entire body. It's quite relaxing, too. ■ #4077, \$29.95.

Executive Closet Valet

(right) It's really too attractive to mount in a closet—though Haverhills will allow it if necessary. The Valet brings all your accessories together. The sectional top holds cufflinks, watch, keys, wallet. A secret compartment guards documents or a "cash stash." The four-bar tie rack has room for forty or more ties—or for trousers, etc. All are easily accessible; the rack pivots up and locks, folds down for space-saving, wrinkle-free storage. Six brass hooks can handle up to eighteen belts and suspenders. Women use the Valet for scarves, jewelry, perfumes. 19" x 19" x 5" d, hand-finished pine with solid brass hardware. ■ #4195, \$59.95.

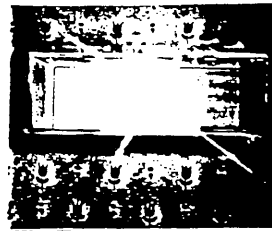


Create a golden tan in just six 30-minute sessions.

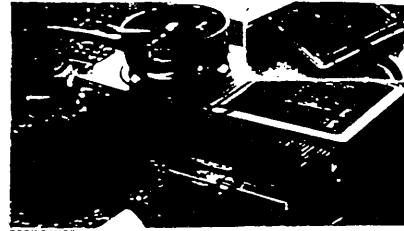
Solar Gold™ Tanners

(left) Too much exposure to the sun's rays dries and ages the skin prematurely, leading to blotches, wrinkles—even skin cancer. Solar Gold Home Tanners help to solve that problem. Sunlight contains three types of ultraviolet radiation: UVA tans you. UVB tans, but also burns. And UVC causes nothing but harm. These units produce 99.7% UVA, only 0.3% UVB, and no UVC at all. The lamps create a rich, golden tan in just six 30-minute sessions. The Facial Tanner, a tabletop model, is 27" h x 15.5" w x 2.3" d, with 30-min. timer, Plexiglas shield, wire stand. Use the Tanning Canopy over your bed or chair. Has adjustable-height stand, wheels make it easily movable. It's 6' long, with 30-min. timer and cooling fan. Protective eye goggles come with both models. 90-day limited warranty. ■ #4242 Facial Tanner \$199.95. ■ #4243 Tanning Canopy \$599.95. Add'l. Frt. (Canopy) \$45.00.

EXHIBIT B



NEED-A-LITE



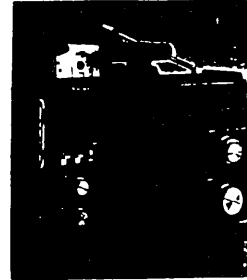
BROILRANGE



FUEL MAGNETIZER



NIKKO ROBE



MULTI-BAND RECEIVER

NEED-A-LITE

There's always someplace around the house or the shop where you could use a small, serviceable light. This is the place for *Need-A-Lite*. It has a long-life intensity bulb and mounts on most surfaces almost effortlessly—just make sure the area is clean, then attach with its pressure sensitive tape backing. Measures 8" x 4" x 2"; requires 3 "AA" batteries (not included).

■#4940. *Need-A-Lite* \$9.95.

FUEL MAGNETIZER

Save up to 25% on your gas mileage with this ingenious device. It attaches to your fuel line (as easily as putting on a seat belt). Once in place it never needs to be replaced. You'll notice better gas mileage right away because the *Fuel Magnetizer* changes the molecular structure of fuel—negatively charged fuel and oxygen molecules attract for combustion efficiency. Your fuel and money savings will pay for the *Magnetizer* in no time at all. ■#4032. *Fuel Magnetizer* \$39.95.

NIKKO ROBE

The fine hotels of the world are masters at caring for your personal comfort. Wrap yourself in the *Nikko Robe*—named in honor of the great Japanese hotel group. The *Nikko* for men and women is made from super-absorbent, deep-pile terry (100% cotton) that wears exceptionally well and looks fresh even after many washings. Wide collar and deep pockets for extra comfort. It's great for drying off without chills after your bath. And perfect for your daily beauty ritual, shaving or lounging about. Machine wash and dry. Men's and Women's in one-size fits all.

■#1686. Men's *Nikko Robe* \$79.95.

■#1685. Ladies' *Nikko Robe* \$79.95.

BROILRANGE

Remember the old hotplate—you tried to do everything on it, but were lucky to set water to *Boil*. The concept of a multi-purpose appliance has come a long way. Now there is *BroilRange*—the tabletop stove that does everything. Broil your favorite T-bone, chops or a nice piece of trout. Cook a casserole or stew. You can grill burgers and fry chicken. And even heat English muffins and dinner rolls or warm leftovers. *BroilRange* has a griller/broiler and a separate stove top cooking element. There are two controls that offer a wide range of temperature settings—from simmer/warm to cook/broil. Made in the USA from precision-built, solid 800w tubular elements that assure even heat distribution. 120V AC only. Weighs 8 lbs.; measures 14 x 9 x 7". Perfect for a student because it can cook quickly and cleans easily. Two year warranty.

■#4385. \$79.95.

MULTI-BAND RECEIVER

Monitor emergencies. Tune in standard AM or FM programs; or choose the TV audio from channels 2 through 13. Hear continuous U.S. Weather Bureau forecasts. Listen in on police, fire, Civil Defense and private mobile unit transmissions. *Intertune* brings you the entire international shortwave spectrum, from 4 to 12MHz. Catch the fascinating chatter on ham radio, 40-channel CB and aircraft communications. You can even use the unit as a P.A. system. Works on 120V house current. 6 "D" batteries (not included) or outside DC source. Also comes in a cassette player model.

■#1195. *Multi-Band Receiver* \$99.95.

■#1196. *Multi-Band with Cassette* \$129.95.

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 Bureau of Consumer Protection 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 and counsel for the Commission having thereafter executed an agreement containing a consent order, an admission by 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.

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. Haverhills is a California corporation;
2. The above corporate respondent has its principal office and place of business at 131 Townsend Street, San Francisco, California;
3. Gerardo Joffe and Priscilla Joffe are officers and directors of the corporate respondent. They formulate, direct and control the acts and practices of the corporate respondent, including the acts and practices alleged in this complaint. Their principal office and place of business are the same as that of the corporation;
4. The aforementioned respondents cooperate and act together in carrying out the acts and practices alleged in this complaint;
5. 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

DEFINITIONS

For the purpose of this order, the following definition shall apply:

“*Tanning device*” means any product designed to incorporate one or more ultraviolet lamps and intended for irradiation of any part of the living human body by ultraviolet radiation to induce skin tanning.

“*Health or safety representation*” means any general or specific, oral or written representation that relates or refers to the maintenance, preservation, or improvement of a consumer’s health or physical safety.

I.

It is ordered, That respondent Haverhills, a corporation, its successors and assigns, and its officers and directors; and Gerardo Joffe and Priscilla Joffe, individually and as officers of said corporation, and respondents’ agents, representatives and employees, directly or through any corporation, subsidiary, division, independent contractor or other device, in connection with the advertising, offering for sale, sale or distribution of any tanning device, in or affecting commerce, as “commerce” is defined in the Federal Trade Commission Act, do forthwith cease and desist from misrepresenting, directly or by implication, that:

A. Use of any such device does not pose a risk of the harmful side effects associated with exposure to the sun’s radiation;

B. Use of any such device does not increase the risk of developing skin cancer;

C. Use of any such device does not contribute to skin aging; and

D. The sun emits UVC radiation that penetrates the earth’s atmosphere and therefore causes the harmful side effects associated with exposure to the sun’s radiation.

II.

It is further ordered, That respondent Haverhills, a corporation, its successors and assigns, and its officers and directors; and Gerardo Joffe and Priscilla Joffe, individually and as officers of said corporation, and respondents’ agents, representatives and employees, directly

or through any corporation, subsidiary, division, independent contractor or other device, in connection with the advertising, offering for sale, sale or distribution of any tanning device, in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from misrepresenting, directly or by implication, that use of any such device without protective eyewear is safe.

Provided that, for the purposes of this order, any advertisement or promotional material depicting models using tanning devices without appropriate protective eyewear will be deemed to be a representation covered by this section, unless the advertisement or promotional material clearly and conspicuously, and in close proximity to such depiction, discloses (i) that protective eyewear is needed to prevent eye injury, and (ii) if such promotional material depicts models wearing what might appear to be ordinary sunglasses, that ordinary sunglasses do not offer adequate protection.

III.

It is further ordered, That, for one (1) year after the date of service of this order, respondent Haverhills, a corporation, its successors and assigns, and its officers and directors; and Gerardo Joffe and Priscilla Joffe, individually and as officers of said corporation, and respondents' agents, representatives and employees, directly or through any corporation, subsidiary, division, independent contractor or other device, in connection with the advertising, offering for sale, sale or distribution of any tanning device, in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from failing to disclose in any advertisement or any other promotional material the following statement:

NOTICE—Read the mandatory FDA warning label found on every tanning machine for important information on potential eye injury, skin cancer, skin aging and photosensitive reactions.

The above-required language shall be included in printed material printed in a typeface and color that are clear and conspicuous; and shall be included in any television, radio, film, video tape, or slide promotional material either orally or visually in a manner designed to ensure clarity and prominence. Nothing contrary to, inconsistent with, or in mitigation of the above-required statement shall be used in any advertising or promotional materials.

IV.

It is further ordered, That, commencing one (1) year after the date of service of this order, respondent Haverhills, a corporation, its successors and assigns, and its officers and directors; and Gerardo Joffe and Priscilla Joffe, individually and as officers of said corporation, and respondents' agents, representatives and employees, directly or through any corporation, subsidiary, division, independent contractor or other device, in connection with the advertising, offering for sale, sale or distribution of any tanning device, in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from representing, directly or by implication, that the tanning device is safe or safer than any other method of tanning, that the device has any health benefit, or that the device may be safely used without wearing protective eyewear, unless the following statement is disclosed as specified below:

NOTICE—Read the mandatory FDA warning label found on every tanning machine for important information on potential eye injury, skin cancer, skin aging and photosensitive reactions.

The above-required language shall be included in printed material printed in a typeface and color that are clear and conspicuous; and shall be included in any television, radio, film, video tape, or slide promotional material either orally or visually in a manner designed to ensure clarity and prominence. Nothing contrary to, inconsistent with, or in mitigation of the above-required statement shall be used in any advertising or promotional materials.

V.

It is further ordered, That respondent Haverhills, a corporation, its successors and assigns, and its officers and directors; and Gerardo Joffe and Priscilla Joffe, individually and as officers of said corporation, and respondents' agents, representatives and employees, directly or through any corporation, subsidiary, division, independent contractor or other device, in connection with the advertising, offering for sale, sale, or distribution of any device, as "device" is defined in the Federal Trade Commission Act, in or affecting commerce, as "commerce" is defined in that Act, do forthwith cease and desist from making, directly or by implication, any health or safety representa-

tion, unless, at the time of such representation, respondents possess and rely upon a reasonable basis for such representation, consisting of reliable and competent scientific evidence that substantiates such representation; *provided, however*, that to the extent such evidence consists of scientific or professional tests, analyses, research, studies, or any other evidence based on expertise of professionals in the relevant area, such evidence shall be “competent and reliable” only if those tests, analyses, research, studies, or other evidence are conducted and evaluated in an objective manner by persons qualified to do so, and using procedures generally accepted in the profession to yield accurate and reliable results.

VI.

It is further ordered, That respondent Haverhills, a corporation, its successors and assigns, and its officers and directors; and Gerardo Joffe and Priscilla Joffe, individually and as officers of said corporation, and respondents’ agents, representatives and employees, directly or through any corporation, subsidiary, division, independent contractor or other device, in connection with the advertising, offering for sale, sale, or distribution of the automobile retrofit device known as the Fuel Magnetizer, or any other automobile retrofit device (as “automobile retrofit device” is defined in Section 511 of the Motor Vehicle Information and Cost Savings Act, 15 U.S.C. 2011) having substantially similar properties, in or affecting commerce as “commerce” is defined in the Federal Trade Commission Act, cease and desist from representing, directly, or by implication, that such retrofit device will or may result in fuel economy improvement when installed in an automobile, truck, recreational vehicle, or other motor vehicle.

VII.

It is further ordered, That respondent Haverhills, a corporation, its successors and assigns, and its officers and directors; and Gerardo Joffe and Priscilla Joffe, individually and as officers of said corporation, and respondents’ agents, representatives and employees, directly or through any corporation, subsidiary, division, independent contractor or other device, in connection with the advertising, offering for sale, sale, or distribution of any automobile gasoline additive, engine oil additive, or automobile retrofit device (as “automobile retrofit

device” is defined in Section 511 of the Motor Vehicle Information and Cost Savings Act, 15 U.S.C. 2011), in or affecting commerce as “commerce” is defined in the Federal Trade Commission Act, do forthwith cease and desist from representing, directly or by implication, that such device will or may result in fuel economy improvement when installed in an automobile, truck, recreational vehicle, or other motor vehicle unless, and only to the extent, respondents possess and rely upon a reasonable basis for such representation. This reasonable basis shall consist of competent and reliable tests, such as:

a. Chassis dynamometer tests done according to procedures that simulate typical urban and highway driving patterns, such as the then current urban and highway driving test schedules established by the Environmental Protection Agency; or

b. Track or road tests done according to procedures that simulate urban and highway driving patterns, such as those established by the Environmental Protection Agency.

A competent and reliable test means one conducted and evaluated in an objective manner by persons qualified to do so using procedures generally accepted in the profession to yield accurate and reliable results.

Respondents shall, when using the results of any tests required by this part, clearly and conspicuously disclose the limitations upon the applicability of the results to any automobile, truck, recreational vehicle, or other motor vehicle. Where the results of such tests are used in connection with a representation of fuel economy improvement expressed in miles per gallon (or liter), miles per tankful, or percentage, or where the representation of the benefit is expressed as a monetary saving in dollars or percentages, all advertising and other sales promotional materials that contain the representation must also clearly and conspicuously disclose the following disclaimer: “RE-MINDER: Your actual saving may vary. It depends on the kind of driving you do, how you drive and the condition of your car.”

VIII.

It is further ordered, That respondents shall distribute a copy of this order to each current officer, employee, agent and/or representative having sales, advertising or promotional responsibilities with respect to the subject matter of this order and shall obtain from each such person a signed statement acknowledging receipt of the order.

IX.

It is further ordered, That for three (3) years from the date of the last dissemination of each representation which is subject to this order, respondents and their successors and assigns shall maintain and upon request make available to the Federal Trade Commission for inspection and copying:

a. All materials relied upon to substantiate any representation covered by this order; and

b. All test reports, studies, surveys, or other materials in its possession or control that contradict, qualify, or call into question such representation or the basis upon which respondent relied for such representation, including complaints from consumers.

X.

It is further ordered, That respondents and their successors and assigns shall notify the Commission at least thirty (30) days prior to any proposed change in the corporate 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 under this order. Respondents shall require, as a condition precedent to the closing of any sale or other disposition of all or a substantial part of their assets, that the acquiring party file with the Commission, prior to the closing of such sale or other disposition, a written agreement to be bound by the provisions of the order.

XI.

It is further ordered, That for a period of ten (10) years from the date of service of this order, each of the individual respondents named herein shall promptly notify the Commission in the event of the discontinuance of his/her present business or employment and of each affiliation with a new business or employment. Each such notice shall include the individual respondent's new business address and a statement of the nature of the business or employment in which said respondent is newly engaged as well as a description of said respondent's 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.

XII.

It is further ordered, That respondents shall, within sixty (60) days after service of this order upon it, and at such other times as the Commission may require, file with the Commission a report, in writing, setting forth in detail the manner and form in which they have complied with this order.

Commissioner Starek was recorded as not participating.

IN THE MATTER OF

MILES INC.

CONSENT ORDER, ETC., IN REGARD TO ALLEGED VIOLATION OF
SECS. 5 AND 12 OF THE FEDERAL TRADE COMMISSION ACT*Docket C-3323. Complaint, Jan. 28, 1991—Decision, Jan. 28, 1991*

This consent order prohibits, among other things, an Indiana corporation from making any benefit claims relating to the consumption of any vitamin or mineral supplement, and from making any representation concerning the need for, or benefit from, consumption of any One-A-Day vitamin product, unless respondent possesses competent and reliable scientific evidence to substantiate the representation.

Appearances

For the Commission: *Brinley H. Williams* and *Mark D. Kindt*.

For the respondent: *James M. Johnstone, Wiley, Rein & Felding*, Washington, D.C. and *Brian S. Schuster*, Elkhart, IN.

COMPLAINT

The Federal Trade Commission, having reason to believe that Miles Inc., a corporation ("respondent"), has violated the provisions of the Federal Trade Commission Act, and it appearing to the Commission that a proceeding by it in respect thereof would be in the public interest, alleges:

PARAGRAPH 1. Respondent is an Indiana corporation, with its office or principal place of business located at 1127 Myrtle Street, Elkhart, Indiana.

PAR. 2. Respondent has advertised, offered for sale, sold or distributed vitamin and mineral supplements, including One-A-Day Maximum Formula, One-A-Day Stressgard, One-A-Day Essential, One-A-Day Plus Extra C, and One-A-Day Within (hereinafter referred to collectively as "One-A-Day").

PAR. 3. The acts and practices of respondent alleged in this complaint have been in or affecting commerce.

PAR. 4. Respondent has disseminated or caused to be disseminated advertisements for One-A-Day, a product subject to the provisions of