

IN THE MATTER OF

PATRICIA WEXLER, M.D.

CONSENT ORDER, ETC., IN REGARD TO ALLEGED VIOLATION OF
SECS. 5 AND 12 OF THE FEDERAL TRADE COMMISSION ACT*Docket C-3400. Complaint, Aug. 31, 1992--Decision Aug. 31, 1992*

This consent order prohibits, among other things, a New York doctor from misrepresenting the efficiency of Omexin, a hair loss treatment, or any similar treatment concerning the curtailment of hair loss or the promotion of hair growth, and from making certain representations unless she possesses competent and reliable scientific evidence to substantiate such representations. The respondent also is prohibited from disseminating or assisting with the dissemination of a program-length advertisement regarding baldness.

Appearances

For the Commission: *Lesley A. Fair, Lisa B. Kopchik and Michael J. Bloom.*

For the respondent: *Mary D. Dorman*, New York, N.Y.

COMPLAINT

The Federal Trade Commission, having reason to believe that Patricia Wexler, M.D., hereinafter sometimes referred to as 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 Patricia Wexler, M.D. ("Wexler") is or was at relevant times herein a medical doctor licensed to practice by the State of New York, with a specialty in dermatology. Dr. Wexler's business address is 568 Broadway, New York, New York. Dr. Wexler has aided in the promotion of the Omexin System for Hair ("Omexin"), a purported treatment for hair loss, by providing an endorsement of the product on the program-length television

advertisement entitled "Can You Beat Baldness?" The advertisements in which respondent Wexler appears depict her as possessing an expertise in dermatology and hair loss superior to that generally acquired by ordinary individuals. Respondent has received compensation for the use of her endorsements in advertisements for Omexin.

PAR. 2. Omexin is a "food," "drug," "device," or "cosmetic," within the meaning of Sections 12 and 15 of the Federal Trade Commission Act.

PAR. 3. The acts and practices of respondent alleged in this complaint have been in or affecting commerce, as "commerce" is defined in Section 4 of the Federal Trade Commission Act, 15 U.S.C. 44.

PAR. 4. Respondent has made statements as an expert endorser in advertisements for Omexin, including but not necessarily limited to the attached Exhibit A. The aforesaid advertisements contain the following statements:

1. Dr. Wexler: "We have patients in both a double-blind study and using what we consider to be a very active ingredient, and what we've seen is that patients are ceasing to lose their hair very quickly within starting Omexin and then within a short time after, they start seeing new hair appear. It's not just fuzz, we're seeing actual pigmented terminal hair, which is very exciting for the patient as well as the doctor." [Exhibit A, p. 10]

2. Dr. Wexler: "I'd say 9 out of 10 patients that I've put on the active ingredient stopped losing hair and that alone is an exciting statement. I think that Omexin is going to be a wonderful treatment for people who are starting to lose hair, who are seeing changes in their hair and who start to use it early, and they can prevent further loss as well as possibly gain new hair. I think it's going to be a great benefit to both men and women with thinning hair." [Exhibit A, p. 11]

3. Dr. Wexler: "Omexin is the first product that I can say with enthusiasm can stop hair loss and promote growth." [Exhibit A, p. 20]

PAR. 5. Through the use of the statements contained in the advertisements referred to in paragraph four, including but not necessarily limited to the advertisement attached as Exhibit A, respondent has represented, directly or by implication, that:

A. Omexin contains an ingredient that curtails hair loss for a large majority of balding men and women.

B. Omexin contains an ingredient that promotes the growth of significant numbers of new, pigmented terminal hairs where hair has previously been lost for a significant number of balding men and women.

C. Omexin contains an ingredient that has been scientifically proven to curtail hair loss for a large majority of balding men and women.

D. Omexin contains an ingredient that has been scientifically proven to promote the growth of significant numbers of new, pigmented terminal hairs where hair has previously been lost for a significant number of balding men and women.

PAR. 6. In truth and in fact:

A. Omexin does not contain an ingredient that curtails hair loss for a large majority of balding men and women.

B. Omexin does not contain an ingredient that promotes the growth of significant numbers of new, pigmented terminal hairs where hair has previously been lost for a significant number of balding men and women.

C. Omexin does not contain an ingredient that has been scientifically proven to curtail hair loss for a large majority of balding men and women.

D. Omexin does not contain an ingredient that has been scientifically proven to promote the growth of significant numbers of new, pigmented terminal hairs where hair has previously been lost for a significant number of balding men and women.

Therefore, the representations set forth in paragraph five were, and are, false and misleading, and respondent knew or should have known that said representations were, and are, false and misleading.

PAR. 7. Through the use of the statements contained in the advertisements and promotional materials referred to in paragraph four, including but not necessarily limited to the advertisement attached as Exhibit A, respondent has represented, directly or by implication, that at the time she made the representations set forth in paragraph five, she possessed and relied upon a reasonable basis for such representations, consisting of an actual exercise of her

represented expertise in the treatment of hair loss, in the form of an examination or testing of Omexin at least as extensive as an expert in that field would normally conduct in order to support the conclusions presented in the endorsement.

PAR. 8. In truth and in fact, at the time she made the representations set forth in paragraph five, respondent did not possess and rely upon a reasonable basis for such representations. Therefore, respondent's representation as set forth in paragraph seven was, and is, false and misleading.

PAR. 9. The acts and practices of respondent as alleged in this complaint constitute unfair or deceptive acts or practices and the making of false advertisements in or affecting commerce in violation of Sections 5(a) and 12 of the Federal Trade Commission Act.

EXHIBIT A

CAN YOU BEAT BALDNESS? LOOKING CLOSER

As Recorded 7/7/88

Roberta Morgan (VO)

(OVER SHOTS OF BALD MEN IN STREET)

To just be told your hair is falling out, and there's nothing wrong with you, and there's nothing we can do about it, is about the most distressing news you could receive.

Brian Cristiano (VO)

(OVER SHOTS OF BALD MEN)

You say, Oh my God, is that going to happen to me too? My brother went bald; my father is completely bald.

Cut to Brian (OC)

So you kind of know what's happening, but you don't want it to happen.

(IMAGE FREEZES) SUPER - IT DOESN'T HAVE TO HAPPEN!

Announcer (VO)

Maybe it doesn't have to happen.

Joe Baldwin (SOT)

Since I started using the Omexin, it stopped falling out and started growing back.

Alex Jimenez (SOT)

This used to be a bald spot back here and it's almost completely covered up now.

Jonathan Avner (SOT)

With the Omexin, it started growing hairs below my hairline. In effect, starting to drop the hairline.

Roberta Morgan (SOT)

I had a tremendous amount of loss through here and in here. I do feel I'm well on the road to recovery now, thanks to the Omexin.

(IMAGE FREEZES)

(DISSOLVE TO 20 SEC. TEASER SPOT)

(ANNOUNCER VO; SUPER CRAWL OF HIS WORDS)

ANNCR (VO)

The following program will give you news of a product unlike anything else available anywhere for stopping hair loss and actually reversing balding by growing new hair. How is this product different? It works, while the others don't! This program presents the facts. We are repeating this broadcast in response to viewer demand.

(SPLIT SCREENS OF USERS; MUSIC STARTS)

Joe Campanella (VO)

(OVER SPLIT SCREENS - SUPER: CAN YOU BEAT BALDNESS?)

Can anything really stop hair loss and grow hair back? Is Omexin as effective as people are saying it is? We'll discover the facts about beating baldness.

(PROGRAM LOGO ANIMATES) (DISSOLVE TO HOST IN STUDIO)

Joe Campanella

Welcome to "Looking Closer." I'm Joseph Campanella. Our show will be exploring some of the innovations, ideas and trends in the news and on our minds. One thing that's very much on our minds and very dear to our hearts is our hair. One-half of all men can expect substantial baldness or hair thinning as they grow older, and many will start losing their hair while still young -- as early as their teenage years. Even though it's called male pattern baldness, many women will lose much of their hair as well. The good news is that you may not have to be resigned to the inevitable anymore. In early 1987, news of the discovery of a substance that reportedly would stop hair loss and grow hair back on balding heads with unprecedented success emerged from the laboratories of an innovative young medical firm. Wall Street insiders were among the first to get wind of this scientific breakthrough. The company went public, and Wall Street responded! News of this new product began to filter through to the press. That product is called Omexin, and it's the subject of our show today.

Is Omexin the breakthrough it's being heralded to be? Does it really work? We're going to look for solid proof of the answers to those questions.

To help us, we've assembled a distinguished panel of highly-qualified experts on hair loss, all of whom are familiar with this new product.

(CU DR. VICTOR ON LARGE SCREEN ON WALL OPPOSITE HOST)

First, Dr. Steven Victor is a dermatologist and hair loss specialist in New York who has been testing Omexin.

(CU DR. WEXLER ON LARGE SCREEN. DR. VICTOR IS

SEEN ON ONE OF THE SMALL SCREENS)

Dr. Patricia Wexler, a board-certified specialist in internal medicine as well as dermatology, has been conducting a controlled study and clinical trials of Omexin.

Complaint

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Joe Campanella

Doctors, thank you for being here. I'll have questions for you shortly. And please feel free to jump into the conversation at any time. The definitive book on baldness and its cure is aptly named "The Bald Book." The author is Walter Klenhard, and he rounds out our panel of experts.

(CU WALTER KLENHARD ON LARGE SCREEN;
REST OF PANEL ON SMALL SCREENS)

Walter, why did you write "The Bald Book?"

Walter

Well, I think the answer to that question should be obvious. I wanted to put some hair on my head.

Joe Campanella

You present a lot of facts in your book. Where do those facts come from?

Walter

Well, I was interested in the subject like I think all bald people are, and I spent 4 years researching the subject to write the book, "The Bald Book." I went across the country. I talked to everybody involved in the hair industry, from people selling treatments to research scientists busy in the laboratories trying to find a cure for baldness, people selling hairpieces to doctors who do transplants and the result of that research was the book, "The Bald Book."

Joe Campanella

Thank you, Walter.

And finally, we invited John Hylan, the President of the Omexin Research Center, to join us. While hardly impartial--he does, after all, represent the manufacturer--he's here as well to answer our questions.

(CU JOHN HYLAN ON LARGE SCREEN;
REST OF PANEL ON SMALL SCREENS)

So that's our distinguished panel; I'll be seeking answers from them to some tough questions about baldness and Omexin shortly. But first, let's take a brief look at the problem. It hurts to lose your hair at a young age.

Cristiano (SOT)

I started losing my hair when I was eighteen. Which was ...it's kind of scary, you know? Losing your hair is bad enough, but at a young age it's even worse.

Weissberg (SOT)

I'm not sick, I have no health problems, I have no reason to feel I'm an old man. But then when I look in the mirror, I'm under 40, why should I feel I'm, ...I look over 40, when I'm under 35?

Maldonado (SOT)

Embarrassed, to say the least. I felt very embarrassed about it. Very embarrassed. I think it's one of the worst things for a man to have to happen to him, is to lose his hair.

Joe Baldwin (SOT)

When my hair started thinning in high school, I started wondering. Am I going to look like my father when he graduated high school in the fifties? Because he was already bald by then.

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Walter (SOT)

Our image of male attractiveness always is a man with hair. The movie star that gets the girl has hair, the guy without hair gets to play Mr. Whipple.

Avner (SOT)

It is devastating to you, whether you're a man or a woman, it is devastating.

Roberta Morgan (SOT)

When I would come and see Dr. Wexler, I would probably spend a good half of every visit crying. I would swear I wasn't going to but my eyes would just start to fill up and ...it's just very deep pain to me.

Joe Campanella

Now, we're not saying that baldness is necessarily bad, or something to be ashamed of, but it certainly seems that given the choice, most balding people would prefer to keep the hair they've got and would be delighted to get back the hair they've lost. The search for a cure is as old as history. In ancient Egypt, they laid pigeon droppings on their scalps. Even Hippocrates, the father of medicine, had his own recipe for a cure. And ever since, there's been a steady stream of treatments, potions and contraption swearing they'll invigorate the scalp, prevent baldness and make what's gone today, hair tomorrow. Baldness is still a growth industry. They're busy trying to beat it all over the globe. But the sad truth is that virtually everything being sold for baldness, even today, just doesn't seem to work. Walter Klenhard, let's get right to the bottom line. Is there anything out there that really works?

Walter

Up until Minoxidil you cannot say there was anything out there that could grow hair on a bald head. I just didn't find anything that convinced me that it would work and I wanted to find something. I mean, I looked at everything out there and I looked at it objectively. Nothing I could find really offered a viable treatment for people suffering from male pattern hair loss.

Joe Campanella

Are you saying there's something else legitimate of the market?

Walter

Now there's another product called Omexin. I've spoken to some doctors who are conducting the first trials for this right now and they said the results they're getting are very promising.

Joe Campanella

What does "promising" mean? Is Omexin really a breakthrough?

Walter

If the results that the doctors are seeing now, the ones I've spoken to, conducting these studies, hold true (and there's no reason to think that they won't), then I think you could safely say that Omexin will be the next breakthrough after Minoxidil.

Joe Campanella

John Hylan. I think I first heard about Omexin in the Wall Street Journal quite some time ago. And I've also seen it mentioned in articles in Playboy and Omni. Why hasn't Omexin been available?

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Hylan

(SUPER: JOHN HYLAN, PRESIDENT, OMEXIN RESEARCH CENTER)
Well, Mr. Campanella ...

Joe Campanella

Please ...it's Joe.

Hylan

Ok ...Joe ...We wanted to research Omexin's effectiveness thoroughly first --it takes time to do valid research, you know.

Campanella

And now?

Hylan

Well, our research is still going on --but ...it has gone far enough to show that Omexin works. We know now that Omexin really does stop hair loss and does grow hair back, so we decided not to wait any longer, and we are now making Omexin available to the public.

Campanella

What's the hurry?

Hylan

If you were losing your hair, Joe, you wouldn't ask that question!

Campanella

We're going to take a closer look at your research and see just what it does show in a minute. But first, John, tell us --how does Omexin work?

Hylan

There's a widely-held theory that loss of blood supply to the affected hair follicles is a factor in male-pattern baldness. Now we discovered and patented a safe, natural formula --Omexin, that in laboratory tests, actually increased the blood supply in fertile chicken eggs. So we got the idea to test it for baldness, and it worked! No, we don't know if that's the reason Omexin grows hair, but we sure do know that it does.

Campanella

And you can prove that?

Hylan

Absolutely! To prove that Omexin really works, we've done thorough, extensive testing using medically sound methods and applying the highest scientific standards.

Campanella

Excuse me, John, give us an example.

Hylan

Omexin's now being tested in a double-blind study being conducted by a major university Medical Center Hair Clinic, which is, in fact, the same clinic that conducted the testing on Minoxidil.

Campanella

What do you mean by "double-blind" study?

Hylan

It's a particularly stringent kind of scientifically valid controlled test.

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Campanella

Dr. Victor, what kind of testing are you now conducting with Omexin?

Dr. Victor

We have several tests on Omexin. We have what we call an open study where we have about 450 men and women who range in age from 18 actually up to 83, who apply the product regularly. Now what we see in that group is that 90 percent of our patients will tell us they stopped losing hair, some within a week, some within a month.

Dr. Victor (VO)

(NURSE AND PATIENT IN EXAMINING ROOM)

Then, on the other side of the coin, we have very controlled scientific studies. We have 2 groups. We actually take the men who are bald. We tattoo theirs scalp and we have them apply the Omexin in the balding area every day, twice a day. Now, every month they come back and we count the numbers of hairs that grow in the area where we tattooed their scalp.

Nurse

I already see an increase in the hairs.

Patient

Substantial ... Or ...

Nurse

Well, it seems to be. The hair seems to be a lot thicker now.

Dr. Victor (VO)

(DR. VICTOR JOINS NURSE AND PATIENT)

We can actually see if there's an increase in hair growth, hair falling out, new hair, vellous hair, new thick hair, terminal hairs.

Dr. Victor (OC)

So far, the studies have shown that these men are growing new hair.

Campanella

What are your initial impressions of Omexin?

Victor

I think in Omexin, we have for men and women a new safe product that they can apply that will stop the hair from falling out, and in a fair number of patients, probably up to 70%, will start growing some new hair.

Campanella

I must say, the test volunteers we've spoken with seem to agree.

Jim Conte

I started using the Omexin and I started to notice results right away. The results I've seen is that I have grown hair and that I have stopped losing hair.

Joe Baldwin

Omexin stopped my hair from falling out, and it started it to growing back to the way it used to be.

Tony Maldonado

I'm going to tell you something. I'm very excited about it. If I can have this much hair grow back, I'm very excited. Because there was nothing there. Literally nothing there.

Complaint

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Weissberg's Barber

This entire part of Steven's hair had been bald. Since I've been taking care of him for a long period of time, within the period of 6 months, this entire section grew in. I have never seen this in my experience and I've been in this business an awful long time.

Campanella

Dr. Wexler, what about your research?

Dr. Wexler

We have patients in both a double-blind study and using what we consider to be a very active ingredient, and what we've seen is that patients are ceasing to lose their hair very quickly within starting Omexin and then within a short time after, they start seeing new hair appear. It's not just a fuzz, we're seeing actual pigmented terminal hair, which is very exciting for the patient as well as the doctor.

Campanella

Really.

Dr. Wexler

They're really excited. These are people who had given up on growing back hair or stopping their loss. And patients on Omexin are excited about the program (sic) they've made.

Campanella

Give us an example

Dr. Wexler

Okay. I have a patient, Roberta, who came to the office 6 months ago with a dramatic thinning of her hair. You could see her scalp through her dark hair and she was very devastated by it.

(CUT TO DR. WEXLER EXAMING ROBERTA)

Roberta

...hairline was receding...

Dr. Wexler (SOT)

Okay, we're going to do what we usually do, which is just try to pull on a few of the hairs to see how many are coming out.

Roberta

It feels much healthier; the hair feels much better.

Dr. Wexler

I'm not getting any, which is a very good sign.

Roberta

That's wonderful. I think we got about 10 in the beginning.

Dr. Wexler

We used to get a clump every time we pulled.

Dr. Wexler

And within 2 months of being on Omexin, her hair stopped falling out and now that she's been on it for 6 months, she has her entire head of hair back and she's really happy and very confident about herself now.

Campanella

And what are your initial impressions of Omexin?

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Wexler

I'd say 9 out of 10 patients that I've put on the active ingredient stopped losing hair and that alone is an exciting statement. I think that Omexin is going to be a wonderful treatment for people who are starting to lose hair, who are seeing changes in their hair and who start to use it early, and they can prevent further loss as well as possibly gain new hair. I think it's going to be a great benefit to both men and women with thinning hair.

Campanella

You know, I'm getting the point here: Omexin really does grow hair. Dr. Victor, how quickly does Omexin work?

Dr. Victor

In Omexin, we've seen results as far as hair stop falling out as early as a week but we've seen that basically, the majority of patients get a good result within 3 weeks.

Campanella

Wow! Dr. Wexler, what about your patients?

Dr. Wexler

Typically, the patients who I've given Omexin to, who are responding quickly --and within 1 month there is a change in their hair pattern. It's either less loss or new growth or both but it's a quick response.

Campanella

Thank you, Doctors. You've been very helpful...and very convincing. It sure sounds like proof to me.

Hylan

Actually, Joe, what you've heard is a group of truly expert doctors reporting on their own extensive observations of their patients. That, by itself, doesn't constitute scientific proof. But from our double-blind study, we have that proof, as well. Our study proves that Omexin stops hair loss and grows hair.

Campanella

Our experts and I will be back, after this.

Maldonado

It took 2 months for this to grow back. And I can honestly say there was nothing there to begin with. But now I have hair from using the product. And I am very, very happy and very pleased with it.

Cristiano

Look at all the hair I grew right here. The crown area -- this was so thin and it grew back. It's so much better. Even my girlfriend -- who's a hair stylist --said that it's like so much healthier hair, that's it's unbelievable. I'm very happy with it.

Weissberg

I've been using Omexin for about 8 to 9 months and I saw results after the first 2 weeks but I really started to see results after 4 weeks. I literally saw new hairs growing where there was a bald spot.

Roberta

I just wanted to say that I think the Omexin is a blessing. I mean, for people like me, it was a godsend and I haven't used anything but that. And it alone, on its own,

has brought back my hair and that has brought back a great deal of happiness to me, to my life, and I'm thrilled with it.

LOOKING CLOSER LOGO

VIDEO: Stark B+W title: (pop on) The Question: (pop on)
What Can You Do About Thinning Hair?

AUDIO: The question: What Can You Do About Thinning Hair?

VIDEO: Stark B+W title: The Answer:

(Answers Pop On, Then... Fade Out) A Hairpiece??

AUDIO: A Hairpiece?

VIDEO: Stark B+W title: Hair Transplants??

AUDIO: Hair Transplants?

VIDEO: Stark B+W title: Drugs??

AUDIO: Drugs?... No, these answers aren't practical for most men - they're expensive, and can be painful or aesthetically unpleasant.

VIDEO: Stark B+W title: The Answer: (Answer Pops On, Then Fades Out) Over-The-Counter Preparations?

AUDIO: What about...over-the-counter preparations? The sad fact is, they just don't work! But now... there's a new answer!

VIDEO: Stark B+W title: (snap on) OMEXIN

VIDEO: Dissolve through to... Omexin product.

The answer is Omexin... newly discovered at the cutting edge of science, completely safe, yet powerfully effective...

VIDEO: dissolve to...Multi-image screen of testifiers, research shots, and graphics from the show.

Omexin has been scrupulously tested by dermatologists, and clinicians, and by thousands of grateful individuals. The test results and the personal stories speak for themselves.

VIDEO: Cut back to...Omexin product.

The bottom line may be the most powerful statement in the history of thinning hair - it's just two words:

VIDEO: Wipe on bold title - OMEXIN WORKS!

Omexin Works!

VIDEO: Pull out from Omexin product to the three-part system.

The Answer couldn't have been simpler. The Omexin System is based on the Omexin Active Treatment, a fine white cream which you simply massage into the affected areas daily. You'll also use the carefully formulated, gentle Omexin Shampoo and Omexin Conditioner. The total System helps care for your hair, insuring maximum benefits from the treatment and keeping your hair looking better than ever before.

VIDEO: Dissolve on 800#.

To start using Omexin couldn't be a simpler decision to make,

VIDEO: Fade on Super: Unconditional 30-Day Money Back Guarantee.

because Omexin is backed with an absolutely unconditional 30 day money-back guarantee. Omexin works for the vast majority of people, but if you're

not satisfied with your results, for any reason, you get your money back. No question asked. It's that simple.

VIDEO: Hold on 800#. Dissolve on Info Panel.

And getting the Omexin System couldn't be simpler, either,. Just dial the toll free number on your screen. Your first 30 day supply of Omexin, the revolutionary, scientific solution to the hair-loss problem is just \$49.95. Complete! Call now: 1-800-777-7777. Please have your credit card number ready. Sorry, no COD's.

VIDEO: Omexin P.O. Box 9010 Southampton, N.Y. 11968

Or, send Check or Money order for just \$49.95 plus \$4.00 for shipping and handling to this address. Call now: 1-800-777-7777.

VIDEO: Back to Omexin product. Super: It works. Omexin. The Answer. It Works.

Campanella

Welcome back. I'm Joesph Campanella and if you've just joined us today on "Looking Closer," we are talking about a new product called Omexin, which has just been made available for sale to the public. It reportedly has stopped the balding process in a high percentage of test subjects and even re-grown healthy new hair for a large number of men and women of all ages. But is that news? What about all the other products on TV that are claiming to grow hair? Is Omexin any differnt or any better? I'm going to ask all four of our experts to respond. Polysorbate products like Helsinki Forumla, for instance, have gotten a lot of attention lately. Walter Klenhard, do they grow hair?

Walter

Well, polysorbate products have had a great deal of popularity in recent years. I spent a lot of time investigating them, and I could really find no eveidence to support their claims as being an effective treatment for male pattern hair loss. There's a number of names: there's the Helsinki Formula, Pantron I; there's New Generation and others. I couldn't find anybody who had grown a decent head of hair using this stuff. And, in fact, some of the studies that have been done -- one at the University of California -- concluded that it was not an effective treatment for male pattern hair loss.

Dr. Wexler

They talk about penetration of the hair shaft and the hair follicle. But really, what they're doing, is they're adding a coating to the hair that makes the hair look thicker, but it's not growing hair. And it's not preventing hair loss. There's no data to support that.

Dr. Victor

We found that over the years, all the patients who try them for months or for years -- that I've seen in the practice -- did not have any hair loss that stopped. Didn't grow any new hair. And actually were disappointed in the products.

Complaint

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Walter

None of the doctors I've talked to either say that there's anything in the product that would help prevent hair loss.

Hylan

They simply don't work. And the sad part is that people are spending hard-earned money for these products.

Campanella

What about their theory that baldness is cured (sic) by an oily scalp, which clogs the hair follicles?

Walter

The theory that male pattern baldness is caused by clogged hair follicles, really doesn't hold any water. That suggest that oil and pollution and general dirt and grime combine together to clog up the follicles on your scalp, and the hair can't grow. All you have to do is go down to any downtown area of any major city, and take a look at all the bums and winos down there who probably shampoo their hair once a year, if that, and they're not bald. They've got full heads of hair. These follicles aren't clogged -- why would these become clogged? The fact that a hair transplant is effective, that you can take a follicle from here and put it on the top will grow. It doesn't become clogged again. So, clogged follicles and dirt and dust and stuff on the scalp really isn't a cause for hair loss.

Campanella

Thank you, Walter, and thank you, doctors. Well, if Omexin does truly stop hair loss and start hair growing again, and if it's true, as our experts say, that the other advertised products don't really work, I'd say it looks like we may have some real news here. John Hylan, where can our viewers find Omexin?

Hylan

They don't have to find it; they just call our toll-free number [ALT: We'll send them an initial 30-day supply. Thereafter, we'll send a fresh 60-day supply automatically, every other month. They'll never have to worry about running out of the product. And of course, they can cancel anytime.]

Campanella

What if Omexin doesn't work for someone?

Hylan

Joe, that's an important point and I'm really glad you asked that question. We haven't forgotten that the flip side of "Omexin works for the vast majority of people" is that it doesn't work for a few. But we don't want consumers to risk anything: we assume that risk. So, Omexin is backed by an unconditional 30-day money-back guarantee. Our customers have to be completely satisfied --and they can define satisfaction any way they want. If they're not satisfied, they simply call our toll-free number and get their money back. It's absolutely risk-free.

Campanella

One final concern: Just how safe is Omexin?

Hylan

Extensive safety testing has been done, much of it by Eli Lilly & Company, a giant pharmaceutical firm. And the tests have established that Omexin has no side effects. There are no adverse reactions. It's a proven fact. Omexin is safe.

Campanella

I'd like to ask each of the experts for their final comments about Omexin.

Dr. Victor

Up until now, all over the counter products and all the products sold on TV haven't really worked. Now, Omexin is a product that can stop hair loss and grow hair for a vast majority of people.

Dr. Wexler

Omexin is the first product that I can say with enthusiasm can stop hair loss and promote growth.

Dr. Victor

What is particularly good about Omexin, for a man or a woman in their early 30's or 20's, with just beginning to thin. If they start using the product religiously, they can stop the hair from falling out. And they can retain the hair they have and remain that way for the rest of their lives.

Walter

Well, anytime a treatment like a treatment like Omexin comes along, where legitimate doctors and scientists are conducting trials; they're using it, they're reporting positive results-- this is very good news. It's very exciting news.

Hylan

This is certain. For the vast majority of people, Omexin stops hair loss. And the most of them are going to grow their hair back.

Wexler

As a doctor, being able to give Omexin means that I can now tell patients who were going to go bald, that they no longer have to do that, and that they can now use a product that can stop their hair loss.

Dr. Victor

I think in Omexin we have, for men and women, a new safe product they can apply that will stop the hair from falling out and in a fair number of patients, probably up to 70% will start growing some new hair. When I say new hair, my concept of new hair is hair you can look in the mirror and actually see. If you can't see it, it's not new hair to me.

Campanella

Is Omexin the baldness breakthrough that will enable you to beat fate and overcome your genes? We've heard and seen a lot of solid evidence in this program. It has come from highly qualified doctors and experts, and from serious, thoughtful people who had a problem and got some real help. There are hundreds of test subjects who are growing hair today where there was none before. And that's a fact. The experts we heard from today have convinced me that Omexin really does work, and may just be the best thing currently available to maintain the head of hair you already have, and bring back the hair you've lost. Omexin just might be worth trying, with that money back guarantee, you've got nothing to lose, I guess. --

Complaint

115 F.T.C.

Except your hair, of course, if you prefer to just let nature have its way. And if that's your choice, well, it's not what's on your head, it's what's in it. I'm Joseph Campanella. Thanks for looking closer with me.

Cheryl Yellin

I noticed a tremendous change in his self-confidence. That was the first thing.

Hairdresser

He developed a lot more hair all back here, you know, in the front rather than in the back, you can see that still, all this hair is new growth as well.

Weissberg

Within the first two weeks of using Omexin, my hair stopped falling out.

Avner

I have experienced some real hair growth with Omexin.

Roberta Morgan

Since using the Omexin, it's not only fuller, it's prettier. It's shinier, it's bouncier. It feels a lot better.

Tony Maldonado

You see something growing, something is happening, it really is. I can honestly say I'm very happy about it, and I know all my hair's going to grow back. All of it.

PROGRAM LOGO

VIDEO: Stark B+W title: (pop on) The Question: (pop on) What Can You Do About Thinning Hair?

AUDIO: The question: What Can you do About Thinning Hair?

VIDEO: Stark B+W title: The Answer: (Answers Pop On, Then... Fade Out) A Hairpiece??

AUDIO: A Hairpiece?

VIDEO: Stark B+W title: Hair Transplants??

AUDIO: Hair Transplants?

VIDEO: Stark B+W title: Drugs??

AUDIO: Drugs?... No, these answers aren't practical for most men - they're expensive, and can be painful or aesthetically unpleasant.

VIDEO: Stark B+W title: The Answer: (Answer Pops On, Then Fades Out) Over-The-Counter Preparations?

AUDIO: What about... over-the-counter preparations? The sad fact is, they just don't work! But now... there's a new answer!

VIDEO: Stark: B+W title: (snap on) OMEXIN

VIDEO: Dissolve through to... Omexin product.

The answer is Omexin... newly discovered at the cutting edge of science, completely safe, yet powerfully effective...

VIDEO: Dissolve to... Mutli-image screen of testifiers, research shows, and graphics from the show.

Omexin has been scrupulously tested by dermatologists, and clinicians, and by thousands of grateful individuals. The test results and the personal stories speak for themselves.

VIDEO: Cut back to... Omexin Product.

The bottom line may be the most powerful statement in the history of thinning hair - it's just two words:

VIDEO: Wipe on bold title - OMEXIN WORKS!

Omexin Works!

VIDEO: Pull out from Omexin product to the three-part system.

The Answer couldn't have been simpler. The Omexin system is based on the Omexin Active Treatment, a fine white cream which you simply massage into the affected areas daily. You'll also use the carefully formulated, gentle Omexin Shampoo and Omexin Conditioner. The total System helps care for your hair, insuring maximum benefits the treatment and keeping your hair looking better than ever before.

VIDEO: Dissolve on 800#.

To start using Omexin couldn't be a simpler decision to make,

VIDEO: Fade on Super: Unconditional 30-Day Money Back Guarantee.

because Omexin is backed with an absolutely unconditional money-back guarantee. Omexin works for the vast majority of people, but if you're not satisfied with your results, for any reason, you get your money back. No question asked. It's that simple.

VIDEO: Hold on 800#. Dissolve on Info Panel

And getting the Omexin System couldn't be simpler, either. Just dial the toll free number now on your screen.

Your first 30 day supply of Omexin, the revolutionary, scientific solution to the hair-loss problem is just \$49.95, complete! Call now: 1-800-777-7777. Please have your credit card number ready. Sorry, no COD's.

VIDEO: Omexin P.O. Box 9010 Southampton, N.Y. 11968

Or, send Check or Money Order for just \$49.95 plus \$4.00 shipping and handling to this address. Call now: 1-800-777-7777.

VIDEO: Back to Omexin product. Super: It Works.

Omexin. The Answer. It Works.

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 complaint which the Bureau of Consumer Protection and the New York Regional Office proposed to present to the Commission for its consideration and which, if issued by the Commission, would charge respondent with violation of the Federal Trade Commission Act; and

The respondent, her attorney, 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 the complaint, a statement that the signing of said agreement is for settlement purposes only and does not constitute an admission by the respondent that the law has been violated as alleged in such complaints and waivers and other provisions as required by the Commission Rules; and

The Commission having thereafter considered the matter and having determined that it has reason to believe that the respondent has violated 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 Patricia Wexler, M.D. ("Wexler") is or was at relevant times herein a medical doctor licensed to practice the State of New York, with a specialty in dermatology. Dr. Wexler's business address is 568 Broadway, New York, New York. After January 1, 1992, Dr. Wexler expects her new business address to be 461 Park Avenue South, New York, 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 Patricia Wexler, M.D., and respondent's agents, representatives and employees, directly or through any partnership, corporation, subsidiary, division or other device, in connection with the endorsing, advertising, packaging, labeling, promotion, offering for sale, sale or distribution of any product or service in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from selling, broadcasting or otherwise disseminating, or assisting others to sell, broadcast or otherwise disseminate, in part or in whole, the program-length television advertisement for Omexin described and identified in the complaint as "Can You Beat Baldness?"

II.

It is further ordered, That respondent Patricia Wexler, M.D., and respondent's agents, representatives and employees, directly or through any partnership, corporation, subsidiary, division or other device, do forthwith cease and desist from:

A. Representing, directly or by implication, in connection with the endorsing, advertising, packaging, labeling, promotion, offering for sale, sale or distribution of Omexin or any other substantially similar hair loss treatment product or service, in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act, that:

1. Such product or service contains an ingredient that can or will curtail hair loss;
2. Such product or service contains an ingredient that can or will promote the growth of new, pigmented terminal hair where hair has already been lost;
3. Such product or service contains an ingredient that has been scientifically proven to curtail hair loss;

4. Such product, or service contains an ingredient that has been scientifically proven to promote the growth of new, pigmented terminal hair where hair has already been lost;

5. Such product or service can or will prevent, cure, relieve, reduce, or reverse hair loss;

6. Such product or service is an effective remedy for hair loss in a large majority of cases; or

7. Any test or study establishes that such product prevents, cures, relieves, reduces, or reverses hair loss.

For purposes of this order a "substantially similar hair loss treatment product or service" shall be defined as any product or service that is advertised or intended for sale over-the-counter to treat, cure or curtail hair loss and which contains omentum or any extract thereof.

B. Representing, directly or by implication, in connection with the endorsing, advertising, packaging, labeling, promotion, offering for sale, sale or distribution of any other product or service in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act, that:

1. The use of the product or service can or will prevent, cure, relieve, reduce, or reverse loss of hair;

2. The use of the product or service can or will promote the growth of new hair where hair has already been lost;

3. The product or service is an effective remedy for hair loss in a substantial number of cases; or

4. Any test or study establishes that the product or service prevents, cures, relieves, reduces, or reverses hair loss,

unless the representation is true and, at the time of making the representation, respondent possesses and relies upon competent and reliable scientific evidence that substantiates the representation. For the purposes of this order, "competent and reliable scientific evidence" shall mean tests, analyses research, studies, or other evidence that has been conducted and evaluated in an objective manner by persons qualified to do so, using procedures generally accepted in the profession or science to yield accurate and reliable results. *Provided that*, for any representation made by respondent as an expert endorser, respondent must possess and rely upon competent

and reliable scientific evidence, and an actual exercise of respondent's represented expertise, in the form of an examination or testing of the products or services at least as extensive as an expert in that field would normally conduct in order to support the conclusions presented in the representation.

III.

It is further ordered, That respondent Patricia Wexler, M.D., and respondent's agents, representatives and employees, directly or through any partnership, corporation, subsidiary, division or other device, in connection with the endorsing, advertising, packaging, labeling, promotion, offering for sale, sale or distribution of any product or service in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from misrepresenting, in any manner, directly or by implication, the existence, contents, validity, results, conclusions, or interpretations of any test or study.

IV.

It is further ordered, That respondent Patricia Wexler, M.D., and respondent's agents, representatives and employees, directly or through any partnership, corporation, subsidiary, division or other device, in connection with the endorsing, advertising, packaging, labeling, promotion, offering for sale, sale or distribution of any food, drug, device, or cosmetic, as those terms are defined in Section 15 of the Federal Trade Commission Act, 15 U.S.C. 55, in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from making any representation, directly or by implication, regarding the performance, benefits, efficiency or safety of, any such product unless at the time of making the representation respondent possesses and relies upon competent and reliable scientific evidence that substantiates the representation. *Provided that*, for any representation made by respondent as an expert endorser, respondent must possess and rely upon competent and reliable scientific evidence, and an actual exercise of respondent's represented expertise, in the form of an examination or testing of the products or services at least as extensive

as an expert in that field would normally conduct in order to support the conclusions presented in the representation.

V.

It is further ordered, That respondent Patricia Wexler M.D., shall, for three (3) years after the date of the last dissemination of any representation covered by this order, maintain and upon request make available to the Federal Trade Commission or its staff for inspection and copying:

A. All materials that were relied upon by respondent to substantiate any such representation;

B. All test reports, studies, or other materials in her possession or control that contradict, qualify, or call into question such representation.

VI.

It is further ordered, That Patricia Wexler, M.D., shall, for a period of six (6) years from the date of service of this order, promptly notify the Commission of the discontinuance of her present business or employment and of her affiliation with a new business or employment whose activities include, or in which her own duties and responsibilities involve, the advertising, endorsing, promotion, offering for sale, sale, or distribution of any food, drug, device, or cosmetic, as those terms are defined in Section 15 of the Federal Trade Commission Act, 15 U.S.C. 55. For each such new affiliation, the notice shall include the name and address of the new business or employment a statement of the nature of the new business or employment, and a description of respondent's duties and responsibilities in connection with the new business or employment.

VII.

It is further ordered, That Patricia Wexler, M.D., shall, within sixty (60) days after service of this order, and at such other times as the Federal Trade Commission may require, file with the Commission a report, in writing, setting forth in detail the manner and form in which she has complied with this order.

IN THE MATTER OF

BELAGE PLASTIC SURGERY CENTER, P.C., ET AL.

CONSENT ORDER, ETC., IN REGARD TO ALLEGED VIOLATION OF
SEC. 5 OF THE FEDERAL TRADE COMMISSION ACT*Docket C-3401. Complaint, Sept. 8, 1992--Decision, Sept. 8, 1992*

This consent order prohibits, among other things, a Virginia-based plastic surgery center and its founder from misrepresenting the likelihood of risks or scarring, the length of the recovery period, the amount of pain, or the need for pain medication, following plastic or cosmetic surgery. In addition, the order requires a risk disclosure any time the respondents state that cosmetic or plastic surgery procedures are safe.

Appearances

For the Commission: *Michael C. McCarey* and *Renate Kinscheck*.

For the respondents: *Lewis Rose* and *Michael Eaton*, *Arent, Fox, Kintner, Plotkin & Kahn*, Washington, D.C.

COMPLAINT

The Federal Trade Commission, having reason to believe that BelAge Plastic Surgery Center, P.C., a corporation, (hereinafter "BelAge") and George F. Miller, Jr., M.D., individually, and as an officer of BelAge ("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. (a) Respondent BelAge Plastic Surgery Center, P.C., is a Virginia corporation. Its offices and principal place of business are at 4900 Seminary Road, Alexandria, VA. (b) Respondent George F. Miller, Jr., M.D., is an individual medical doctor who founded BelAge, and is an officer and director of the corporate respondent. He directs, controls, and formulates the acts