

Complaint

116 F.T.C.

IN THE MATTER OF

THE CLOROX COMPANY

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

Docket C-3427. Complaint, May 17, 1993--Decision, May 17, 1993

This consent order prohibits, among other things, a California-based manufacturer of various household and food products from misrepresenting the total fat, saturated fat, cholesterol, or sodium content of any salad dressing.

Appearances

For the Commission: *Ann V. Maher and Marianne Watts.*

For the respondent: *Eugene L. Lambert, Covington & Burling,*
Washington, D.C.

COMPLAINT

The Federal Trade Commission, having reason to believe that the Clorox Company, a corporation, hereinafter sometimes referred to as respondent, has violated provisions of the Federal Trade Commission Act, and it appearing to the Commission that a proceeding by it would be in the public interest, alleges:

PARAGRAPH 1. Respondent is a Delaware corporation with its office and principal place of business located at 1221 Broadway, Oakland, California.

PAR. 2. Respondent has advertised, offered for sale, sold, and distributed food products, including Hidden Valley Ranch Take Heart salad dressings (hereinafter, "Take Heart salad dressings").

PAR. 3. Respondent has disseminated or caused to be disseminated advertisements and promotional materials for Take Heart salad dressings, a "food" within the meaning of Sections 12 and 15 of the Federal Trade Commission Act.

PAR. 4. The acts or practices of respondent alleged in this complaint have been in or affecting commerce as “commerce” is defined in the Federal Trade Commission Act.

PAR. 5. Respondent has disseminated or caused to be disseminated advertisements for Take Heart salad dressings, including but not necessarily limited to, the advertisements attached hereto as Exhibits A and B. Specifically, the aforesaid advertisements contain the following statements and depictions:

A. (Depiction of a continuous stream of salad dressing over lettuce). From Hidden Valley comes a delicious way to give up fat and cholesterol. Take Heart. [On screen large-print display: No fat. No cholesterol]. Take Heart fat-free salad dressings have all the delicious taste you’d expect from Hidden Valley. [On screen small-print display: Original Ranch Flavor is 91% fat free]. Original Ranch; sweet, lively French; [Depiction of stream of French dressing over onions] rich, creamy Blue Cheese [Depiction of stream of Blue Cheese dressing over broccoli]. Take Heart. The good for you dressings that taste great. From Hidden Valley [On screen small-print display: As part of a low fat, low cholesterol diet]. (Exhibit A)

B. (Depiction of a continuous stream of salad dressing over lettuce). Ah! From Hidden Valley comes a delicious way to give up fat [On screen large-print display: No fat] and cholesterol [On screen large-print display: No cholesterol]. Take Heart, Take Heart fat-free salad dressings. [On screen small-print display: Original Ranch Flavor is 91% fat free]. The good for you dressing that taste [sic] great from Hidden Valley. [On screen small print display: As part of a low fat, low cholesterol diet]. (Exhibit B)

PAR. 6. Through the use of the statements and depictions contained in the advertisements referred to in paragraph five, including but not necessarily limited to the advertisements attached as Exhibits A and B, respondent has represented, directly or by implication, that in any amount that would be reasonably consumed, Take Heart salad dressings contain no fat.

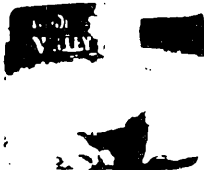
PAR. 7. In truth and in fact, in any amount that would be reasonably consumed, Take Heart salad dressings do contain fat. For example, the dressings contain either .96 grams (Italian, Blue Cheese, French, and Thousand Island varieties) or 2 grams (Original Ranch variety) of fat per two tablespoons. Therefore, the

representation set forth in paragraph six was and is false and misleading.

PAR. 8. The acts or practices of respondent, as alleged in this complaint, constitute unfair or deceptive acts or practices in or affecting commerce and the making of false advertisements in violation of Sections 5(a) and 12 of the Federal Trade Commission Act.

Commissioner Azcuenaga recused.

EXHIBIT A

RADIO TV REPORTS CXWY 1193 41 East 42nd Street New York, NY 10017 (212) 309-1400		PRODUCT HIDDEN VALLEY TAKE HEART DRESSING TITLE "DELICIOUS TASTE" PROGRAM 48 HOURS STATION CBS DATE 05/15/91 LOCATION NEW YORK
		
(MUSIC)	WOMAN ANNCR. From Hidden Valley	comes a delicious wa
		
to give up fat	and cholesterol.	Take Heart.
		
Take Heart fat-free salad dressings have all the delicious taste	you'd expect from Hidden Valley.	Original Ranch; swag French;
		
nch, creamy Blue Cheese.	Take Heart. The good for you dressings that taste great.	From Hidden Valley. OUT

ALSO AVAILABLE IN COLOR VIDEO TAPE CASSETTE

Exhibit A

Complaint

116 F.T.C.

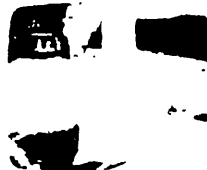
EXHIBIT B

**RADIO
TV REPORTS**

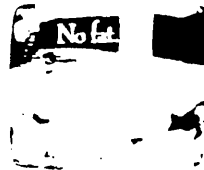
EXH 1005

41 East 42nd Street New York, NY 10017 (212) 309-1400

PRODUCT: HIDDEN VALLEY DRESSING
TITLE: "DELICIOUS WAY"
PROGRAM: WHEEL OF FORTUNE 5/14/91
STATION: NBC (NEW YORK)



(MUSIC) WOMAN: Ah! From Hidden Valley comes a delicious way.



to give up fat



and cholesterol. Take



Take Heart fat-free salad dressings.



The good for you dressing that taste great.



from Hidden Valley. (M OUT)

Exhibit B

ALSO AVAILABLE IN COLOR VIDEO-TAPE CASSETTE

Radio-Television Reports are prepared by the staff of the Federal Trade Commission. The staff is not responsible for the content of the reports. The staff is not responsible for the content of the reports. The staff is not responsible for the content of the reports.

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 respondent 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 respondent with violation of the Federal Trade Commission Act; and

The respondent, its attorneys, and counsel for the Commission having thereafter executed an agreement containing a consent order, an admission by respondent 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 respondent of facts, other than jurisdictional facts, or of violations of law 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 respondent has violated the said Act, and that complaint should issue stating its charges in that respect, and having thereupon accepted the executed consent agreement and placed such agreement on the public record for a period of sixty (60) days, and having duly considered the comments filed thereafter by interested persons pursuant to Section 2.34 of its Rules, now in further conformity with the procedure prescribed in Section 2.34 of its Rules, the Commission hereby issues its complaint, makes the following jurisdictional findings and enters the following order:

1. Respondent the Clorox Company is a corporation organized, existing and doing business under and by virtue of the laws of the State of Delaware, with its office and principal place of business located at 1221 Broadway, Oakland, California.

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 the Clorox Company, a corporation, its successors and assigns, and its officers, representatives, agents, and employees, directly or through any corporation, subsidiary, division or other device, in connection with the advertising, offering for sale, sale, or distribution of any salad dressing 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, through numerical or descriptive terms or any other means:

A. The absolute or comparative amount of total fat, saturated fat, cholesterol, or sodium in any such product; or

B. The existence or the amount of total fat, saturated fat, cholesterol, or sodium in any such product relative to any amount or use being advertised or promoted.

Provided, however, that nothing in provisions A and B above shall prohibit any representation as to the amount of total fat, saturated fat, cholesterol, or sodium in any salad dressing if such representation is specifically permitted in labeling, for the serving size advertised or promoted for such product, by regulations promulgated by the U.S. Food and Drug Administration pursuant to the Federal Food, Drug, and Cosmetic Act.

II.

It is further ordered, That for five (5) years after the last date of dissemination of the representation, the respondent or its successors and assigns, shall maintain and, upon request, make available to the Federal Trade Commission for inspection and copying copies of:

A. All materials that were relied upon by the respondent in disseminating any representation covered by this order; and

B. All test reports, studies, surveys, demonstrations, or other evidence in its possession or control that contradict, qualify, or call into question any representation that is covered by this order.

III.

It is further ordered, That respondent shall notify the Commission at least thirty (30) days prior to any proposed change in the company, 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 company which may affect compliance obligations arising out of this order.

IV.

It is further ordered, That respondent shall, within thirty (30) days after service upon it of this order, distribute a copy of this order to each of its operating divisions, to each of its managerial employees, and to each of its officers, agents, representatives, or employees engaged in the preparation or placement of advertising or other material covered by this order.

V.

It is further ordered, That respondent shall, within sixty (60) days after service upon it of this order 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 it has complied with the requirements of this order.

Commissioner Azcuenaga recused.

IN THE MATTER OF

FLEETWOOD MANUFACTURING, INC., ET AL.

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

Docket C-3428. Complaint, May 18, 1993--Decision, May 18, 1993

This consent order prohibits, among other things, an Arizona-based company and its officer from representing that use, in a manner requiring little or no effort, of their continuous passive motion ("CPM") exercise tables: reduces or helps to reduce body fat; results in or contributes to weight-loss or inch loss; tones or firms human tissue; removes or eliminates cellulite; or provides health or physical fitness benefits similar or superior to those provided by rigorous exercise. In addition, respondents are prohibited from making similar representations, with respect to any passive exercise machine, or fitness or diet program, unless they possess competent and reliable scientific evidence to substantiate such claims. Furthermore, the order also prohibits the respondents from representing that a consumer endorsement or testimonial represents the typical or ordinary experience of those who use the exercise program or CPM machines, unless that is the case.

Appearances

For the Commission: *C. Steven Baker* and *Theresa M. McGrew*.

For the respondents: *Pro se*.

COMPLAINT

The Federal Trade Commission, having reason to believe that Fleetwood Manufacturing, Inc., a corporation, and Thomas A. Fleetwood, individually and as an officer of said corporation, hereinafter referred to as respondents, have violated Sections 5(a) and 12 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, hereby issues this complaint and alleges that: