

IN THE MATTER OF

NATIONAL MEDIA CORPORATION, ET AL.

CONSENT ORDER, ETC., IN REGARD TO ALLEGED VIOLATION OF
SECS. 5 AND 12 OF THE FEDERAL TRADE COMMISSION ACT*Docket C-344l. Complaint, June 24, 1993--Decision, June 24, 1993*

This consent order prohibits, among other things, the Pennsylvania-based corporations from disseminating the infomercials for Cosmetique Francais or for Crystal Power and from making false claims regarding the efficacy or safety of any similar cellulite treatment product, similar crystalline stone or any product. The consent order requires that a disclosure statement be placed in certain video advertisements, and that the respondents pay \$275,000 into a fund for consumer redress to be administered by the Commission.

Appearances

For the Commission: *Patricia A. Hensley and Kathryn C. Nielsen.*

For the respondents: *Steven John Fellman, Galland, Kharasch, Morse & Garfinkle, Washington, D.C.*

COMPLAINT

Pursuant to the provisions of the Federal Trade Commission Act, and by virtue of the authority vested in it by said Act, the Federal Trade Commission, having reason to believe that National Media Corporation and Media Arts International, Ltd., corporations, hereinafter sometimes referred to as respondents, have violated the provisions of said Act, and it appearing to the Commission that a proceeding by it in respect thereof would be in the public interest, hereby issues its Complaint stating its charges in that respect as follows:

PARAGRAPH I. A. Respondent National Media Corporation ("National Media"), is a corporation organized, existing and doing

business under and by virtue of the laws of the State of Delaware. National Media has its principal office and place of business at 4360 Main Street, Philadelphia, Pennsylvania. National Media controls the acts and practices of its wholly-owned subsidiary, Media Arts International, Ltd. (“Media Arts”).

B. Respondent Media Arts is a corporation organized, existing and doing business under and by virtue of the laws of the State of Delaware. Media Arts has its principal office and place of business at 1875 Campus Commons Road, Suite 200, Reston, Virginia.

PAR. 2. Respondents have advertised, offered for sale, sold, and distributed numerous products to consumers throughout the United States, including Crystal Power, crystals that purportedly can heal the human body; Cosmetique Francais, a purported cellulite product; HP-9000, a household cleaning product; and Magic Wand, an immersion-style kitchen mixer. These commercials, which are referred to as program-length commercials, run for 30 minutes or less and fit within normal television broadcasting time slots. The commercials for HP-9000 and Magic Wand are part of a series of commercials titled “Amazing Discoveries.” Respondents’ commercials are broadcast on network independent and cable television stations throughout the United States.

PAR. 3. The Crystal Power crystals and Cosmetique Francais are “drugs,” “devices,” and/or “cosmetics” within the meaning of Sections 12 and 15 of the Federal Trade Commission Act.

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

False and Unsubstantiated Efficacy Claims

PAR. 5. Respondents have disseminated or have caused to be disseminated advertisements for Cosmetique Francais, including but not necessarily limited to a 30-minute television commercial identified as “Cellulite Free in 28 Days” and attached as Exhibit A. This advertisement contains the following statements:

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1. Debra Morris: "So, the bottom line, the question is, can you get rid of cellulite?"
Corrinne Lorraine: "Yes, you can definitely, you know, get rid of it."
2. Debra Morris: "But, if you do have it, can you get rid of it, even if your mother and grandmother have it?"
Corrinne Lorraine: "Yes. Well, maybe they didn't work on it, so they kept it. But if you do what's right, you know, you can definitely get rid of it."
3. Corrinne Lorraine: "And when you use those products and you get to the point where you feel you've gotten rid of all that, then you can just keep using it if you want once or twice a week to keep up and make sure it doesn't come back, you know."
Debra Morris: "So, you're saying in 28 days I can get rid of this?"
Corrinne Lorraine: "Yes."
Debra Morris: "In 28 days. And then only once or twice a week to keep it off?"
Corrine Lorraine: "Yes."
4. Announcer: "Now, from Cosmetique Francais comes the easy, safe, natural body contour system that promises 28 days to freedom. Freedom from those ugly lumps, bumps, and bulges you couldn't lose before.
"During your morning bath or shower, apply the super-concentrated contouring lotion. Rub into the affected areas like liquid soap. This fragrant, pleasant lotion will tighten and reduce spongy skin tissues.
"After you dry off, use the body firming cream. All it takes is a minute of gentle massage. The natural herbs and exotic plant extracts will do the rest, contouring your body, tightening and toning superficial tissues and improving skin texture.
"Each night before retiring, apply a small amount of the Cosmetique Francais tissue refining oil. This is one of nature's most potent beautifiers. It corrects that orange peel appearance, stimulates dermal metabolism, and makes skin silky smooth.
"Yes, only forty-nine-ninety-five to be cellulite-free in 28 days."

5. Suzanne: "It happened and I've gotten rid of it."
"I'm about the same weight. I have lost about five pounds since I've started. And I think it's just I've just gotten more conscious of it now that I've been looking and doing my body. But it tightened up my skin. It got rid of the orange peel area.
"But I had that [orange-peel] area and I was real worried and it did get rid of it. It firmed it up and I do not have it any more."
6. Kathleen: "I told her that no matter how much I worked out, these areas, there wasn't anything I could do to get rid of them. The aerobics wouldn't help, swimming, the weights. Nothing was getting rid of the cellulite in my thighs and on my buttocks.
"So she told me about the products that she was using and I obviously saw the way she looked and I started using them. And I would say it took about a month for me and just all of a sudden one day I looked in the mirror and they were gone. Just slowly but surely. And I kept using them and now it's completely gone. And these were years that I had this. And I had been working out consistently and eating right for years and that wasn't doing it."
7. Debra Morris: "Are you telling me that, right now, if I said, 'Okay, go put on bathing suits,' you three would all come out here and you don't have, I mean, is this, do you have any of those little dimples?"
- Suzanne: "No."
Kathleen: "No."

PAR. 6. Through the use of the statements contained in the advertisements referred to in paragraph five, including but not necessarily limited to the "Cellulite Free in 28 Days" advertisement attached as Exhibit A, respondents have represented, directly or by implication, that:

- A. Use of Cosmetique Francais substantially reduces or eliminates cellulite.
- B. Use of Cosmetique Français stimulates dermal metabolism.

C. Use of Cosmetique Francais substantially reduces or eliminates cellulite in 28 days.

D. Continued use of Cosmetique Francais once or twice a week after the cellulite has been reduced or eliminated will prevent its recurrence.

E. Use of Cosmetique Francais is more effective than dieting or exercise in reducing or eliminating cellulite.

PAR. 7. In truth and in fact:

A. Use of Cosmetique Francais does not substantially reduce or eliminate cellulite.

B. Use of Cosmetique Francais does not stimulate dermal metabolism.

C. Use of Cosmetique Francais does not substantially reduce or eliminate cellulite in 28 days.

D. Continued use of Cosmetique Francais once or twice a week after the cellulite has been reduced or eliminated will not prevent its recurrence.

E. Use of Cosmetique Francais is not more effective than dieting or exercise in reducing or eliminating cellulite.

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

PAR. 8. Through the use of the statements contained in the advertisements referred to in paragraph five, including but not necessarily limited to the "Cellulite Free in 28 Days" advertisement attached as Exhibit A, respondents have represented, directly or by implication, that at the time they made the representations set forth in paragraph six, respondents possessed and relied upon a reasonable basis that substantiated such representations.

PAR. 9. In truth and in fact, at the time they made the representations set forth in paragraph six, respondents did not possess and rely upon a reasonable basis that substantiated such representations. Therefore, the representation set forth in paragraph eight was, and is, false and misleading.

PAR. 10: Respondents have disseminated or have caused to be disseminated advertisements for the Crystal Power crystals, including but not necessarily limited to a 30-minute television commercial identified as "Crystal Power." This advertisement contains the following statements:

1. Eva Sutter: "The doctors couldn't believe I was cured. I couldn't believe - It was, I still don't at times understand exactly what happened. But it did happen."
2. Eva Sutter: "It did happen. It indeed did happen. It was verified. There were mammography tests taken. There were pictures: It was gone. There was this lump that they absolutely told me could not, there was no way, and it happened in a matter of two weeks. It was like, it was a miracle. And it scared me. And it changed things."
"And there was a final moment where I did not frantically (sic), you could not miss this lump, it was so protruding that the slightest touch, you could -- it was sticking up. And I went to this lady who was my therapist who had a tank and had crystals in a tank room. And I said, 'Alma,' I said, 'Alma,' I said, 'Alma, there's this lump and it's this size and it's not a cyst. They don't know what it is. They didn't say it, but pretty clear -- it was pretty clear to me. I got it. I got it.' I was clear what they were telling me."
"And this woman just looked at me and she said, 'I think you should do two things. Find out, find out what that lump is there to tell you. Find out what's going on and do some meditation, do some prayer work, and work with crystals.' And she wasn't going to tell me how to work with crystals either. She said 'You have some crystals.' She gave me one crystal, she did give me one small crystal."
"There I was with the crystal, with the same situation, with the lump and I did it. I for once, I couldn't afford to be the cynical self that just disputed everything. I did, I did exactly the few things that were suggested. I trusted it. I trusted it and I worked with it, not knowing exactly what I was doing. You know, I really didn't know what I was doing. And I had to kind of go with faith and not check it every 15 or 13 (sic) seconds or so. Is the lump still there? Is this still happening? Because I had seen it. I had seen it on the picture. I had felt a needle go

into it. I mean, it was there. And literally, literally it was, it was gone.”

3. Eva Sutter: “The next day, it was gone. Totally, absolutely gone. I mean from this size [indicating the size of a 50 cent piece], the next day it was gone.”
“At that particular time, the crystal saved my life.”

PAR. 11. Through the use of the statements contained in the advertisements referred to in paragraph ten, including but not necessarily limited to the “Crystal Power” advertisement, respondents have represented, directly or by implication, that:

- A. Use of the Crystal Power crystals can cure breast cancer.
- B. Use of the Crystal Power crystals can eliminate lumps in women’s breasts.

PAR. 12. In truth and in fact:

- A. Use of the Crystal Power crystals cannot cure breast cancer.
- B. Use of the Crystal Power crystals cannot eliminate lumps in women’s breasts.

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

PAR. 13. Through the use of the statements contained in the advertisements referred to in paragraph ten, including but not necessarily limited to the “Crystal Power” advertisement respondents have represented, directly or by implication, that at the time they made the representations set forth in paragraph eleven, respondents possessed and relied upon a reasonable basis that substantiated such representations.

PAR. 14. In truth and in fact, at the time they made the representations set forth in paragraph eleven, respondents did not possess and rely upon a reasonable basis that substantiated such representations. Therefore, the representation set forth in paragraph thirteen was, and is, false and misleading.

Deceptive Claim Regarding Product Safety

PAR. 15. Respondents have disseminated or have caused to be disseminated advertisements for HP-9000, including but not necessarily limited to a 30-minute television commercial identified as “Amazing Discoveries: HP-9000.” This advertisement contains the following statements:

1. Ian Long: “Michael, this is actually a chemical bleach, unlike a chlorine bleach which will burn your skin. This will not harm, hurt your skin in any way, shape or form.”
2. Ian Long: “As I say, it’s a chemical bleach. It will not harm your skin in any way, shape or form. In fact, this has been exclusively tested throughout Europe. You know how particular the Germans are. The Germans actually gave this particular product something no other product of this kind has ever, ever had. They actually print it on the box. Look, you can always tell the original, it’s printed on the box the results of that test. Sehr gut means, very simply, very good.”
3. Announcer: “Hands stained with grease, ink and iodine clean up in seconds, even under the fingernails. And HP-9000 is completely safe.”

PAR. 16. Through the use of the statements and depictions contained in the advertisements referred to in paragraph fifteen, including but not necessarily limited to the “Amazing Discoveries: HP-9000” advertisement, respondents have represented, directly or by implication, that HP-9000 is completely safe for use on human skin and will not hurt or harm the skin in any way.

PAR. 17. In truth and in fact HP-9000 is not completely safe for use on human skin and can hurt or harm the skin. Therefore, the representation set forth in paragraph sixteen was, and is, false and misleading.

PAR. 18. Through the use of the statements and depictions contained in the advertisements referred to in paragraph fifteen, including but not necessarily limited to the “Amazing Discoveries: HP-9000” advertisement, respondents have represented, directly or

by implication, that at the time they made the representation set forth in paragraph sixteen, respondents possessed and relied upon a reasonable basis that substantiated such representation.

PAR. 19. In truth and in fact, at the time they made the representation set forth in paragraph sixteen, respondents did not possess and rely upon a reasonable basis that substantiated such representation. Therefore, the representation set forth in paragraph eighteen was, and is, false and misleading.

Deceptive Demonstrations

PAR. 20. Respondents have disseminated or have caused to be disseminated advertisements for the Magic Wand, including but not necessarily limited to a 30-minute television commercial identified as “Amazing Discoveries: Magic Wand.” This advertisement depicts the Magic Wand crushing the pulp of a whole, fresh pineapple and states that it is done “in seconds, literally seconds.” The pulp is then used to make a tropical drink. The advertisement also depicts the Magic Wand whipping skim milk, which is shown in the advertisement being used as mousse-like desserts and cake frosting.

PAR. 21. Through the use of the statements and depictions contained in the advertisements referred to in paragraph twenty, including but not necessarily limited to the “Amazing Discoveries: Magic Wand” advertisement, respondents have represented, directly or by implication, that:

A. The Magic Wand can crush a whole, fresh pineapple in seconds.

B. Skim milk whipped by the Magic Wand can be used as mousse-like desserts and cake frosting.

PAR. 22. In truth and in fact:

A. The Magic Wand cannot crush a whole, fresh pineapple in seconds, or in any reasonable period of time.

B. Skim milk whipped by the Magic Wand cannot be used as mousse-like desserts and cake frosting, because it stays whipped for only a few minutes.

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

PAR. 23. Through the use of the statements and depictions contained in the advertisements referred to in paragraph twenty, including but not necessarily limited to the "Amazing Discoveries: Magic Wand" advertisement, respondents have represented, directly or by implication, that:

A. The demonstration of the Magic Wand included an unaltered, whole, fresh pineapple used to make a tropical drink.

B. The demonstration of the Magic Wand included mousse-like desserts and cake frosting made from skim milk whipped by the Magic Wand.

PAR. 24. In truth and in fact:

A. The demonstration of the Magic Wand did not include an unaltered, whole, fresh pineapple used to make a tropical drink. Respondents substituted crushed pineapple pulp with a slice of pineapple on top to resemble a whole, fresh pineapple.

B. The demonstration of the Magic Wand did not include mousse-like desserts and cake frosting made from skim milk whipped by the Magic Wand. Respondents substituted Cool Whip dairy topping to resemble mousse-like desserts and prepared frosting mix to resemble cake frosting.

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

Deceptive Format

PAR. 25. Through the advertising and dissemination of the “Crystal Power,” “Cellulite Free in 28 Days,” “Amazing Discoveries: HP-9000,” and “Amazing Discoveries: Magic Wand” advertisements, respondents have represented, directly or by implication, that these commercials are independent television programs and not paid commercial advertising.

PAR. 26. In truth and in fact, the “Crystal Power,” “Cellulite Free in 28 Days,” “Amazing Discoveries: HP-9000,” and “Amazing Discoveries: Magic Wand” advertisements are not independent television programs and are paid commercial advertising. Therefore, the representation set forth in paragraph twenty five, was, and is, false and misleading.

Deceptive Endorsements

PAR. 27. Through the use of the statements and depictions contained in the advertisements referred to in paragraph five, including but not necessarily limited to the “Cellulite Free in 28 Days” advertisement, respondents have represented, directly or by implication, that various testimonials and endorsements contained therein reflect the typical or ordinary experiences of consumers, in terms of eliminating cellulite, after using Cosmetique Francais.

PAR. 28. In truth and in fact, the various testimonials and endorsements contained in the advertisements referred to in paragraph five do not reflect the typical or ordinary experiences of consumers, in terms of eliminating cellulite, after using Cosmetique Francais. Therefore, the representation set forth in paragraph twenty seven was, and is, false and misleading.

PAR. 29. Respondents have disseminated or have caused to be disseminated advertisements for various products, including but not necessarily limited to the “Amazing Discoveries: HP-9000” and the “Amazing discoveries: Magic Wand” advertisements, which display the purported seal of an organization called the National Association

of Advertising Producers ("NAAP"), and contain the following statement:

"The following special promotional program has been approved by the National Association of Advertising Producers for its integrity and excellence."

PAR. 30. Through the use of the statements and depictions contained in the advertisements referred to in paragraph twenty nine, including but not necessarily limited to the "Amazing Discoveries: HP-9000" and "Amazing Discoveries: Magic Wand" advertisements, respondents have represented, directly or by implication, that:

A. The NAAP is an existing organization whose qualifications give it the expertise to evaluate commercials for their integrity and excellence.

B. The NAAP is an entity that, at the time of providing its endorsements, was independent from all of the individuals and entities marketing the products.

PAR. 31. In truth and in fact:

A. The NAAP is not an existing organization whose qualifications give it the expertise to evaluate commercials for their integrity and excellence.

B. The NAAP is not an entity that, at the time of providing its endorsements, was independent from all of the individuals and entities marketing the products. In fact, the NAAP was created and controlled by respondents.

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

PAR. 32. The acts and practices of respondents 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.

Commissioner Azcuenaga recused.

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EXHIBIT A

TRANSCRIPTION OF TAPE # 26

CELLULITE FREE IN 28 DAYS

Woman #1: What is cellulite? That's a very good question and one that women never want to answer. It's the little monster pods that form at the bottom of your derriere.

Woman #2: Like most women do, it's that icky stuff that, you know, when you sit down, it kind of oozes out to the side, you know, kind of ripples up. See, whenever you sit down you're so conscious of it so you try to sit on the edge of a chair so it has some place to hang. I don't like it. I don't like it at all.

Woman #3: Cellulite is international and nobody's safe from it .

Woman #4: I think cellulite is people, or pollution on people. We should do everything in our power to get rid of this pollution today. It's just really taking over the population. And I think it's just a disgusting display of human pollution. We should really do something to clean up these beaches.

Man #1: Cellulite -- I think that's one of those new sugar substitutes, isn't it?

Man #2: I would never date a woman with cellulite. That would be the most embarrassing thing, to walk down the street. It'd look like you're dating two people or something like that. I would never, never, no.

Man #3: It's ugly. Right? I'd say it's something that if a woman can get rid of it, that would be great.

Corrinne Lorraine: How do you look from behind? If that's an embarrassing question, you're going to love the next half hour.

Debra Morris: Hi. I'm Debra Morris. Joining me today is my co-host, Craig Morris. Our guest today is Corrinne Lorraine, an actress I'm sure all of you have seen before. Corrinne, welcome!

Corrinne Lorraine: Thank you, Debby.

Debra Morris: Okay, Id like you to tell me your story.

Corrinne Lorraine: One day I was sitting like this on my bed and I just, I put my hands like this and I felt, you know, all those . . . it just felt like little bumps, you know, and I said, "Oh, my God!" and I looked and I saw all this cellulite there, you know, all those little fatty lumps accumulated full of fat. And I just

really, I got crazy, because I said I can't, you know, walk around like this, you know, and what happened is that I knew of a wonderful man whose name is Mark Traynor. He's an internationally well-known cosmetologist and beauty consultant to many stars and I went to him because I know he goes to Europe a lot and always bring back, brings back wonderful products. And I thought, "Well, what better person to ask" you know. So, I went to him, and as a matter of fact, which was really incredible, he was about to go to France, which is my native country. And, I don't say my home any more because I really feel this is my home now. But I was born there, and, you know, in France they use nature's healing products. They use a lot of products from the earth and try to keep things very healthy. They're not into preservatives and colorings and, you know, as much as it's become, unfortunately, here. So, I asked him if maybe he could find something while he was there. And he said, he promised he would come back with an answer for me. So you can imagine how anxious I was to have him back! And when he did come back he had this wonderful three-part body contouring system that just blew my mind. It was just incredible.

Craig Morris: And it did work for you? And it helped you out? Your orange peel syndrome?

Corrinne Lorraine: Yes! Yes, Craig! My orange peel syndrome. Yes! Yes!

Craig Morris: That's pretty traumatic.

Debra Morris: Okay. So how long was it before you started seeing results?

Corrinne Lorraine: It took me about four weeks. I mean, I was, I really had it let go, I mean, let it go and I didn't even know about it. You don't really look at yourself in the mirror like this all the time, you know, you can't look and don't really pay too much attention to that, you know!

Mark Traynor: What do the French women do to treat this particular problem? And I came across a wonderful product that we call Cosmetique Francais. It's a body contouring system. I brought it back. I gave it to Corrinne. She used it. She gave it to her friends. We brought it to a fitness center where numerous women used it and they all seemed to love it.

Doriann Traina: I found out through Bobbi Strauss, our exercise studio here. She introduced it one morning before classes and asked for some volunteers to give it a trial basis. And about seven of the girls volunteered and I was a little

- skeptical in the beginning, but I figured I'd give it a shot. And I exercise five days a week and I try to eat properly, but I still had the problem areas on the upper thigh and on the abdomen. And I tried it for and after two weeks, I really started to see a difference in my skin texture and in the firmness on my upper thigh.
- Renee Lawrence: She said that they had this new product on the market and would any of us care to try it. And I'm interested in staying youthful so I said, "I've got some problem areas. I'd be delighted to try it." So I did. And I was amazed. I really saw results. And just to make sure that I wasn't deluding myself, I asked my husband. He's pretty honest. And he said, "You know, it really looks better."
- Linda Allen: When I turn around and look at myself in the mirror, there is such a difference. It, it's I can't believe it myself. It is, it is really a wonder process. It, it's just very exciting to use. It feels good to put on. I just feel totally different about my body now.
- Dorothee Heller: She asked for volunteers. I think I was the one with the hand up first.
- Interviewer: And why was that?
- Dorothee Heller: Because I do have a problem. I have very heavy thighs. And when I shower or whatever, putting on stockings, I feel those lumps and bumps. It's really very upsetting. And I thought to try this and see if it would help.
- Interviewer: And?
- Dorothee Heller: And it did. It really did. I found after, I used it for about four weeks and I found that the lumps and bumps disappeared. It was much smoother, much firmer. Very, very smooth. Smooth thighs. Nice.
- Maggie Amrhein: I've had people stop me, parents, students, people on the street, commenting and telling me how great I look. How great my body looks. How much of an improvement they've seen in the past month. And I really feel this has a lot to do with it.
- Dorothee Heller: First of all, that it made my skin very smooth.
- Interviewer: Uh, huh.
- Dorothee Heller: So my husband told me I have very smooth thighs. I asked him, "Compared to whom?"
- Debra Morris: I understand that anyone can reduce cellulite in 28 days and that you have some tips that will help us do that.
- Corrinne Lorraine: That's right. So my tips are, first drink a lot of water. Then, avoid fatty foods. Exercise. Stimulate circulation.

- Every morning use a body firming creme. And, every evening use a tissue refining oil.
- Debra Morris: So, the bottom line, the question is, can you get rid of cellulite?
- Corrinne Lorraine: Yes, you can definitely, you know, get rid of it.
- Debra Morris: Is it in your genes? Do you have it from the time you're born?
- Corrinne Lorraine: No, you're not born with it, although they think, studies have shown that it's genetically carried. And if your mother and grandmother have it, there's very strong chances that you'll have it to some extent in your body. Yes.
- Debra Morris: But, if you do have it, can you get rid of it even if your mother and grandmother have it?
- Corrinne Lorraine: Yes. Well, maybe they didn't work on it, so they kept it. But if you do what's right, you know, you can definitely get rid of it.
- Debra Morris: What is your answer to, say, to someone who says there is no such thing as cellulite?
- Corrinne Lorraine: You know, I don't know about them saying there's no cellulite. I mean, call it again my orange peel, you know, type skin look or any words you want to use, but I mean, if you just, as you were saying, look at the women on the beach and if you ask the millions of women who have problems with it if it exists, I mean they'll tell you. I mean, it's just, you know, I don't think it's funny at all to say it doesn't exist, because women are really having a terrible problem with it, you know. They lose their, their, their shape, they feel less sexy, they feel old, they don't want to put on shorts or bathing suits when they go on the beach, you know. And plus, it's not even a question of age, you know, young girls get it, you know, 15, 16, 17. I mean you see them on the beach, you know. It's just terrible! So to say it doesn't exist, I think, is a little crazy.
- Craig Morris: Can thin people get cellulite also?
- Corrinne Lorraine: Yes! Well, I did!
- Craig Morris: Really?
- Corrinne Lorraine: Yes, I did.
- Craig Morris: Is it harder for thin people to get rid of cellulite or . . . ?
- Corrinne Lorraine: I think it shows more because it's not lost in the . . . It does show right away, you know, when you're thin, I mean, and right away you can see those. . .
- Craig Morris: And it's the same little dimples that you get?

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Corrinne Lorraine: Yes, yes. And they're not cute, those dimples!

Debra Morris: Is it a gradual process?

Corinne Lorraine: Yes.

Debra Morris: And once you get it off, do you have to keep up whatever you're doing to keep it off? Do you understand my question?

Corrinne Lorraine: Yes, I think so. Yes. What you want to know is, can you do it in one time? No. I mean it would be, that would be too much of a miracle. But I think, already, to be able to do it in 28 days is a great miracle. I mean, what's a month in somebody's life when you've been plagued with something like that sometimes for years, and, you know, months and months. So, I think 28 days is close to a miracle, you know. And when you use those products and you get to the point where you feel you've gotten rid of all that, then you can just keep using it if you want once or twice a week to keep up and make sure it doesn't come back, you know. So, you're saying in 28 days I can get rid of this?

Debra Morris: Yes.

Corinne Lorraine: Yes.

Debra Morris: In 28 days. And then only once or twice a week to keep it off?

Corrinne Lorraine: Yes.

Debra Morris: Then how come there are so many women walking around . . .

Corrinne Lorraine: Because they don't know about it, Debby, not yet. But I guess after this they will. Hopefully, they'll be using the product and, you know, it works for most people, and, you know, I can't say that it works for, you know, everybody because I don't think any product, you know, on the market works for everybody. There might be a few people that it's not going to help. I don't know. But I can tell you that it's worked for myself. It's worked for my friends, you know, and I just know that it works.

Doriann Traina: I started seeing a difference after about two weeks.

Interviewer: Uh, huh.

Doriann Traina: About two weeks, I started . . . the difference on the smoothness of my skin . . .

Interviewer: Yes.

Doriann Traina: . . . was much faster. Probably about after about really seven days of continuing it. And I did it religiously. I figured if I was going to do it . . .

Interviewer: Do it.

- Doriann Traina: . . . I was going to do it religiously. And after about seven days I definitely felt a difference in the texture of my skin. And my husband even noticed it, because we have a summer house and I went out with a bathing suit on for the first time last week, and he said he saw a difference also.
- Kathy Robson: I have an eight year old son. Jeffrey. And he is skinny! And I always say, "Oh, Jeff, if I had your legs I'd be so happy." And I started using this cream and I put on a bathing suit, literally about two weeks later, he said, "Mom: You look good." He said, "From the back, you look nice!" And he doesn't understand what happened or what went on, but for him to notice, I thought it was great, I ran to the beach.
- Dorothee Heller: I think, definitely, to try it. I just feel it's a good product and it's something that you should try, if you have that, that sort of a problem.
- Maggie Amrhein: I would say try it. It's going to make a difference and it's easy to use and I think that's the results.
- Linda Allen: I have used the system for a month now. And all you need is two, three weeks to really see any results. I feel better. I look better. I feel sexier. It just, it's, I just don't think a woman can not afford to use it. I mean, you just have to. It's wonderful.
- Announcer: From France, the beauty capital of the world, comes the long-awaited answer to one of the human body's most nagging problems. The unsightly burden of cellulite. The formations of fat attack thighs, buttocks, abdomen and arms of young and old alike.
- Now, from Cosmetique Francais comes the easy, safe, natural body contour system that promises 28 days to freedom. Freedom from those ugly lumps, bumps and bulges you couldn't lose before.
- Yes, you can be only 28 days away from a slimmer, sexier, more attractive you! With this remarkable and simple-to-use three-step body contour system. During your morning bath or shower, apply the super-concentrated contouring lotion. Rub into the affected areas like liquid soap. This fragrant, pleasant lotion will tighten and reduce spongy skin tissues. After you dry off, use the body firming cream. All it takes is a minute of gentle massage. The natural herbs and exotic plant extracts will do the rest, contouring your body, tightening and toning superficial tissues and improving skin texture. Each night before

retiring, apply a small amount of the Cosmetique Francais tissue refining oil. This is one of nature's most potent beautifiers. It corrects that orange peel appearance, stimulates dermal metabolism, and makes skin silky smooth. One. Two. Three. The simple, safe, easy three-step body contouring system from Cosmetique Francais. In less than five minutes a day of faithful use, you can start being proud of your figure again. Wear shorts, a bathing suit, lingerie, without being ashamed of unsightly cellulite. With this amazing French system you'll see results in just 28 days without painful surgery or spending huge amounts of money. The complete Cosmetique Francais body contouring system is now available in the United States through this exclusive television offer. And it's only forty-nine-ninety-five, plus three dollars shipping and handling. Yes, only forty-nine-ninety-five to be cellulite-free in 28 days. And as an extra bonus you'll receive an imported all-natural loofah pad to stimulate your skin while bathing or showering and to make you feel good all over. Now with the revolutionary body contouring system from Cosmetique Francais you can say good-bye to unsightly cellulite and hello to a slimmer, smoother, sexier, you! The complete system is only forty-nine-ninety-five, plus three dollars shipping and handling. And it comes with a one hundred percent money back guarantee. Keep it for ten days. If not totally satisfied, return for a full refund.

Debra Morris:

We've just been joined by Suzanne and Kathleen, who are also actresses. And so my question to you is, okay, Kathleen, tell me, or Suzanne, tell me your story.

Suzanne:

Um, well, I feel very fortunate to have met Corrinne. I was having a problem. I was going out on auditions and I was having a problem. My agent would call and he would say, "Okay, you have a bathing suit audition," and I would just go "oh, no!" and cringe and not want to go out. So I knew I had a problem. And I knew I had some, I had to do something about it. And I've tried all sorts of things that haven't worked and, finally, Corrinne introduced me to the body contouring, the three, the three steps of it. And it worked, and I just, I feel so relieved because I thought this was going to be a problem I was going to have for a long time, for the rest of my life. It happened and I've gotten rid of it.

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- Debra Morris: Now, were you heavy? You haven't lost any weight. You're the same weight, you've just gotten. . .
- Suzanne: Right. I'm about the same weight. I have lost about five pounds since I've started. And I think it's just, I've just gotten more conscious of it now that I've been looking and doing my body. But it tightened up my skin. It got rid of the orange peel area.
- Corrinne Lorraine: That famous orange peel area that Craig loves so much.
- Craig Morris: I don't like the orange peel! Let's get something straight here! I can get in a lot of trouble here!
- Suzanne: Right. But I had that area and I was real worried and it did get rid of it. It firmed it up, and I do not have it anymore.
- Renee Lawrence: Well, frankly, I did it very religiously. It was kind of fun and very effortlessly (sic). I put it on in the morning and in the evening and I couldn't believe it, but I thought I started to see results. So I kind of asked my husband. And he said, "Yeah, I really think it's better." I could not believe it. I really, because friends of mine have actually gone for operations and here, you know, I could just do it so easily. So I felt, "Gee, this is wonderful."
- Suzanne: I just, I feel so much better about myself. You were talking about, "Do you feel sexier and better about yourself?" And, um, I do. I feel, I feel wonderful.
- Craig Morris: So are you still doing the upkeep now, a couple times a week or what?
- Suzanne: Yes. I'm doing it three times a week because I just love it. I feel like when I go out of the house in the morning without the cream and without doing the gel in the shower, that I've forgotten something. I just love it. I've really gotten used to it.
- Corrinne Lorraine: That's great. I'm really happy.
- Debra Morris: Okay, Kathleen, tell me your story.
- Kathleen: Well, I met Corrinne at the gym. We were both working out one day and we were talking and she's an actress and I'm an actress and a model and I was really working, you know, with the weights and I was telling her that I had an audition the next day and I had to wear a bathing suit. And I said I had been in the gym for the last seven days in a row trying, you know, working there . . . seeing me there, they were ready to reserve a sleeping space for me at night.
- Corrinne Lorraine: I noticed.
- Kathleen: I told her that no matter how much I worked out, these areas, there wasn't anything I could do to get rid of them.

- The aerobics wouldn't help, swimming, the weights. Nothing was getting rid of the cellulite in my thighs and on my buttocks. So she told me about the products that she was using and I started using them. And I would say it took about a month for me and just all of a sudden one day I looked in the mirror and they were gone. Just slowly but surely. And I kept using them and now it's completely gone. And these were years that I had this. And I had been working out consistently and eating right for years and that wasn't doing it.
- Corrinne Lorraine: It's amazing, because, before I found this, you know, I had the same, the same thing, you know. I was going to the gym, and going crazy, and on the bicycle and the weights and. . .
- Kathleen: You do, because you think that's what's going to work for you.
- Corrinne Lorraine: . . . I mean what, why isn't this going away? I mean, you lose weight, you know, overall, but in those specific areas, it's just stay (sic) there, you know, they just don't budge. I mean and . . .
- Kathleen: They don't at all.
- Corrinne Lorraine: And, uh, you kill yourself, you know, you're exhausted, and you still look like . . . You don't want to put a bathing suit on. So.
- Kathleen: That's right.
- Corrinne Lorraine: Yeah. So I was, it's, it's amazing.
- Kathleen: The other great thing about it, too, is I noticed that after a couple of weeks, my skin really was so much softer, too, than it had been. Really. It just, I don't know if it was, I think it was the combination of the contouring cream and then the oil that I was using at night just really left it soft. So it was not only I got rid of the orange peel, but my skin was much softer, too.
- Woman #5: Well, during the test period of the time that I was using the product, I did notice at the end of the, well, even at the end of a week, I saw a change coming about in the outer thigh and hip area, which is where I was using the product.
- Bobbi Strauss: So I took a long look in the mirror, and sure enough, I had a few spots that I wanted to really work on. I used the cream for a month. My husband even remarked when I put my suit on, "Boy, your rear looks tighter and your legs look great." So, I guess it worked!

- Debra Morris: Are you telling me that, right now, if I said, "Okay, go put on bathing suits," you three would all come out here and you don't have, I mean, is this, do you have any of those little dimples?
- Suzanne: No.
- Kathleen: No.
- Debra Morris: To me, I just can't imagine thighs without dimples. I mean, they go together!
- Craig Morris: There's still hope for you!
- Debra Morris: He knows! I do still have it. And I noticed all three of you have incredible legs. I don't know if you can tell! You're all wearing short skirts. I mean . . .
- Corrinne Lorraine: That's true.
- Debra Morris: Does this come with, I mean, is this part of the territory? Do you all of a sudden.
- Corrinne Lorraine: I think so. I guess when you feel, you know good about the way you look, I mean, you just, I mean, not that you want to show everything! But, you can show a lot more, you know. And like here, too, you know, you get cellulite here sometimes. You know, you feel your knees are, like, all fat and full, you know. And, I mean, look! Now it's nice.
- Suzanne: Right. Like I said, I, like you were talking, I do feel sexier, and I do feel that I can wear the shorter skirts . . .
- Corrinne Lorraine: Exactly.
- Suzanne: . . . And I'm not going to walk by a group of guys and have them go "uhhh." Or have them, have them say something. So I do wear them and it is a direct result of using the system.
- Craig Morris: I want to know, specifically, when you wake up in the morning and you say, "Okay, today I'm going to do the cellulite program" or something, what actually do you use? What steps do you take?
- Corrinne Lorraine: No, I don't look that serious about it.
- Suzanne: Right.
- Kathleen: Yeah.
- Corrinne Lorraine: Because it's fun to use. It's easy, you know, and it's not "I'm going to do this!" But I definitely think about doing it. I wouldn't forget. The first thing you do is, when you're in the shower, you use this loofah mitt that I showed you before already that stimulates circulation. And the best way to use it is, you rub in a circular motion one way first. And then you rub the other way. And it really works, you

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know, deep inside the tissues and everything, so that's the first thing to do.

Debra Morris: Okay. Okay. So after step one, what do you do then?

Corrinne Lorraine: Then, in the shower, you use this, which is the contouring lotion, which is like a, um, liquid soap and it's beautiful. It's just great. It's, it's really wonderful.

Debra Morris: It smells really good.

Corrinne Lorraine: Yeah. It smells wonderful. I mean, the products are just great. They smell wonderful. And they're really fun, you know.

Craig Morris: And you just put that on, when you're in the shower, just like a soap?

Corrinne Lorraine: Yeah, it's easy.

Suzanne: Yeah.

Kathleen: You just rub it in.

Corrinne Lorraine: And then when you get out and you're all towel dry...

Debra Morris: Now, do you have to get the area very dry, I mean...

Corrinne Lorraine: For the morning cream, yes.

Debra Morris: Okay.

Corrinne Lorraine: You should be, you know, dry. I mean not, you know...

Craig Morris: Air dried.

Corrinne Lorraine: Yes, just dry, you know, just dry yourself with a towel. And then you use the body firming cream, which is also very nice.

Suzanne: It's wonderful.

Corrinne Lorraine: It's a very light-textured cream. Like this! And not greasy at all. You know, you can see it just disappears into the skin.

Debra Morris: Okay. Now.

Corrinne Lorraine: It smells so nice.

Debra Morris: Yeah, it does.

Corrinne Lorraine: You know, keep rubbing it and it, it feels like water after a while, just absolutely not greasy at all.

Debra Morris: So it's not . . . so you massage . . . so you massage... does it help if you massage this in, too?

Corrinne Lorraine: Uh, yeah, I think you should really massage it and, and the best way to do it is to rub towards . . . you should always rub towards your heart. You know, to stimulate the blood better and going towards your heart, so up, you know, it's better.

Debra Morris: Okay.

Corrinne Lorraine: Yeah.

Debra Morris: Okay. And so, this is the morning regimen.

- Corrinne Lorraine: Yes.
- Debra Morris: And you said at night you were supposed to do something, too?
- Corrinne Lorraine: Yes. And it's this tissue refining oil, which is wonderful. And as Suzanne was saying, you know, it leaves your skin very smooth and soft and succulent. And it's also, you know, wonderful. So, this is it.
- Debra Morris: Okay, so you, you put this on, on top of . . . at the end of the day, like before you go to sleep?
- Corrinne Lorraine: Your skin should be a little . . . yes, and you can just moisten your skin a little before for the night one. So, it just helps a little more.
- Craig Morris: So now we've taken care of my sister's cellulite on her hands . . .
- Corrinne Lorraine: Yes, the fat off your fingers!
- Debra Morris: Now if we can just work on a couple of other areas I would be set. Now, now what is in this? I mean what am I putting on my thighs?
- Corrinne Lorraine: Wonderful, wonderful exotic plants, herbal extracts.
- Maggie Amrhein: I thought, at first I thought, "Oh, no, it's so involved. I have to do this and that and this." And I have a very busy lifestyle I'm out in the morning. I'm dancing and teaching all day long. I don't get home until late at night. But I found it very easy to use. It just takes a couple of seconds. There's really nothing to it. It's very easy.
- Renee Lawrence: It makes you feel very smooth and, my God, it's wonderful to lose that ugly cellulite. It's just so awful. Makes you feel younger. It gives you a lift. And I think, in life, that's what you want. A little fun. A little lift. Feel better. Look better. And I've enjoyed it.
- Linda Allen: If a woman cares about herself, she will definitely use the French body contour system. Definitely.
- Announcer: From France, the beauty capital of the world comes the long-awaited answer to one of the human body's most nagging problems. The unsightly burden of cellulite. The formations of fat attack thighs, buttocks, abdomen and arms of young and old alike. Now, from Cosmetique Francais comes the easy, safe, natural body contour system that promises 28 days to freedom. Freedom from those ugly lumps, bumps and bulges you couldn't lose before. Yes, you can be only 28 days away from a slimmer, sexier, more attractive you! With this remarkable and simple-to-use three-step body contour system. During your morning

bath or shower, apply the super-concentrated contouring lotion. Rub into the affected areas like liquid soap. This fragrant, pleasant lotion will tighten and reduce spongy skin tissues. After you dry off, use the body firming cream. All it takes is a minute of gentle massage. The natural herbs and exotic plant extracts will do the rest, contouring your body, tightening and toning superficial tissues and improving skin texture. Each night before retiring, apply a small amount of the Cosmetique Francais tissue refining oil. This is one of nature's most potent beautifiers. It corrects that orange peel appearance, stimulates dermal metabolism, and makes skin silky smooth. One. Two. Three. The simple, safe, easy three-step body contouring system from Cosmetique Francais. In less than five minutes a day of faithful use, you can start being proud of your figure again. Wear shorts, a bathing suit, lingerie without being ashamed of unsightly cellulite. With this amazing French system you'll see results in just 28 days without painful surgery or spending huge amounts of money. The complete Cosmetique Francais body contouring system is now available in the United States through this exclusive television offer. And it's only forty-nine-ninety-five, plus three dollars shipping and handling. Yes, only forty-nine-ninety-five to be cellulite-free in 28 days. And as an extra bonus you'll receive an imported all natural loofah pad to stimulate your skin while bathing or showering and to make you feel good all over. Now with the revolutionary body contouring system from Cosmetique Francais you can say good-bye to unsightly cellulite and hello to a slimmer, smoother, sexier you! The complete system is only forty-nine-ninety-five, plus three dollars shipping and handling. And it comes with a one hundred percent money back guarantee. Keep it for ten days. If not totally satisfied, return for a full refund.

Renee Lawrence:
Man #3:
Debra Morris:
Maggie Amrhein:

It's easy. It's pleasant. And it does the job.
Ladies, keep America beautiful. Get rid of that cellulite!
This has been an exciting show. Thank you for joining us.
I think they'll make their body look much better, much smoother, and the best of results in a very quick time with a very easy process.

DECISION AND ORDER

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

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

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

1. National Media Corporation is a Delaware corporation with its principal office and place of business at 4360 Main Street, Philadelphia, Pennsylvania.
2. Media Arts International, Ltd., is a Delaware corporation with its principal office and place of business at 1875 Campus Commons Road, Suite 200, Reston, Virginia.
3. The Federal Trade Commission has jurisdiction of the subject matter of this proceeding and of the respondents, and the proceeding is in the public interest.

ORDER

DEFINITIONS

For purposes of this order, “*competent and reliable scientific evidence*” shall mean tests, analyses, research, studies or other evidence based on the expertise of professionals in the relevant area, that has been 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.

I.

It is ordered, That respondents National Media Corporation and Media Arts International, Ltd., corporations, their successors and assigns, and their officers, agents, representatives and employees, directly or through any partnership, corporation, subsidiary, division or other device, in connection with the packaging, labeling, advertising, 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:

A. The 30-minute television advertisement for Cosmetique Francais described in the complaint and sometimes known as “Cellulite Free in 28 Days.”

B. The 30-minute television advertisement for crystals described in the complaint and sometimes known as “Crystal Power.”

II.

It is further ordered, That respondents National Media Corporation and Media Arts International, Ltd., corporations, their successors and assigns, and their officers, agents, representatives

and employees, directly or through any partnership, corporation, subsidiary, division or other device, do forthwith cease and desist from:

A. Representing, in any manner, directly or by implication, in connection with the packaging, labeling, advertising, promotion, offering for sale, sale or distribution of Cosmetique Francais or any substantially similar cellulite treatment product in or affecting commerce, as “commerce” is defined in the Federal Trade Commission Act, that:

- (1) Use of such product substantially reduces or eliminates cellulite;
 - (2) Use of such product stimulates dermal metabolism;
 - (3) Use of such product substantially reduces or eliminates cellulite in 28 days;
 - (4) Continued use of such product once or twice a week after the cellulite has been reduced or eliminated will prevent its recurrence;
- or
- (5) Use of such product is more effective than dieting or exercise in reducing or eliminating cellulite.

For purposes of this part II, a “substantially similar cellulite treatment product” shall be defined as any product of substantially similar composition or possessing substantially similar properties.

B. Representing, in any manner, directly or by implication, in connection with the packaging, labeling, advertising, 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, that:

- (1) Use of such product or service substantially reduces or eliminates cellulite;
- (2) Use of such product or service stimulates dermal metabolism;

(3) Use of such product or service substantially reduces or eliminates cellulite in 28 days;

(4) Continued use of such product or service once or twice a week after the cellulite has been reduced or eliminated will prevent its recurrence; or

(5) Use of such product or service is more effective than dieting or exercise in reducing or eliminating cellulite, unless such representation is true and, at the time of making such representation, respondents possess and rely upon competent and reliable scientific evidence that substantiates the representation.

III.

It is further ordered, That respondents National Media Corporation and Media Arts International, Ltd., corporations, their successors and assigns, and their officers, agents, representatives and employees, directly or through any partnership, corporation, subsidiary, division or other device, do forthwith cease and desist from:

A. Representing, in any manner, directly or by implication, in connection with the packaging, labeling, advertising, promotion, offering for sale, sale or distribution of crystals or any substantially similar crystalline stone in or affecting commerce, as “commerce” is defined in the Federal Trade Commission Act, that:

(1) Use of such product can cure breast cancer; or

(2) Use of such product can eliminate lumps in women’s breasts.

For purposes of this part III, a “substantially similar crystalline stone” shall be defined as a mineral substance having a crystalline structure.

B. Representing, in any manner, directly or by implication, in connection with the packaging, labeling, advertising, 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, that:

- (1) Use of such product or service can cure breast cancer;
- (2) Use of such product or service can eliminate lumps in women’s breasts
- (3) Such product or service has the ability to cure or lower the risk of disease, unless such representation is true and, at the time of making such representation, respondents possess and rely upon competent and reliable scientific evidence that substantiates the representation.

IV.

It is further ordered, That respondents National Media Corporation and Media Arts International, Ltd., corporations, their successors and assigns, and their officers, agents, representatives, and employees, directly or through any partnership, corporation, subsidiary, division or other device, do forthwith cease and desist from:

A. Representing, in any manner, directly or by implication, in connection with the packaging, labeling, advertising, promotion, offering for sale, sale or distribution of HP-9000 or any substantially similar product in or affecting commerce, as “commerce” is defined in the Federal Trade Commission Act, that such product is completely safe for use on human skin or will not hurt or harm the skin in any way.

For purposes of this part IV, a “substantially similar product” shall be defined as any product that is advertised as a stain remover or cleaning product and that contains as an ingredient: naphtha, sodium hydrosulfite, sodium phosphate or sodium carbonate.

B. Making any representation, in any manner, directly or by implication, in connection with the packaging, labeling, advertising, promotion, offering for sale, sale or distribution of any stain-removal or cleaning product in or affecting commerce, as “commerce” is

defined in the Federal Trade Commission Act, about the safety or health risks associated with the use of such product, unless such representation is true and, at the time of making such representation, respondents possess and rely upon competent and reliable scientific evidence that substantiates the representation.

V.

It is further ordered, That respondents National Media Corporation and Media Arts International, Ltd., corporations, their successors and assigns, and their officers, agents, representatives and employees, directly or through any partnership, corporation, subsidiary, division or other device, do forthwith cease and desist from misrepresenting, in any manner, directly or by implication, in connection with the packaging, labeling, advertising, promotion, offering for sale, sale or distribution of the Magic Wand or any other immersion-style kitchen mixer of similar size and construction in or affecting commerce, as “commerce” is defined in the Federal Trade Commission Act, that:

- A. The product can crush a whole, fresh pineapple in seconds.
- B. Skim milk whipped by the product can be used as mousse-like desserts and cake frosting.

VI.

It is further ordered, That respondents National Media Corporation and Media Arts International, Ltd., corporations, their successors and assigns, and their officers, agents, representatives and employees, directly or through any partnership, corporation, subsidiary division or other device, partnership labeling, advertising, in connection with the packaging, 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:

A. Making any representation, in any manner, directly or by implication, regarding the performance, benefits, efficacy or safety of any food, drug or device, as those terms are defined in Section 15 of the Federal Trade Commission Act, 15 U.S.C. 55, unless at the time of making such representation respondents possess and rely upon competent and reliable scientific evidence that substantiates the representation, *provided, however*, that any such representation for any food product that is specifically permitted in labeling for such food product by regulations promulgated by the Food and Drug Administration pursuant to the Nutrition Labeling and Education Act of 1990 will be deemed to be substantiated by competent and reliable scientific evidence; *provided, further*, that any such representation for any over-the-counter drug product that is specifically permitted in labeling for such over-the-counter drug product in Final Regulations establishing conditions under which such product is safe and effective promulgated by the Food and Drug Administration under the Food, Drug, and Cosmetic Act, will be deemed to be substantiated by competent and reliable scientific evidence.

B. Making any representation, in any manner, directly or by implication, regarding the performance, benefits, efficacy or safety of any product or service (other than a product or service covered under subpart VI.A above), unless at the time of making such representation respondents possess and rely upon competent and reliable evidence that substantiates the representation.

VII.

It is further ordered, That respondents National Media Corporation and Media Arts International, Ltd., corporations, their successors and assigns, and their officers, agents, representatives and employees, directly or through any partnership, corporation, subsidiary, division or other device, in connection with the packaging, labeling, advertising, 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:

A. Representing, in any manner, directly or by implication, that any endorsement (as “endorsement” is defined in 16 CFR 255.0(b)) of the product or service represents the typical or ordinary experience of members of the public who use the product or service, unless such is the case.

B. Representing, in any manner, directly or by implication, by words, depictions or symbols, that such product or service has been endorsed by a person, group or organization that is an expert with respect to the endorsement message unless:

(1) The endorser is an existing person, group or organization whose qualifications give it the expertise that the endorser is represented as possessing with respect to the endorsement; and

(2) The endorsement is supported by an objective and valid evaluation or test using procedures generally accepted by experts in that science or profession to yield accurate and reliable results.

VIII.

It is further ordered, That respondents National Media Corporation and Media Arts International, Ltd., corporations, their successors and assigns, and their officers, agents, representatives and employees, directly or through any partnership, corporation, subsidiary, division or other device, in connection with the packaging, labeling, advertising, 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, in connection with any advertisement depicting a demonstration, experiment or test, do forthwith cease and desist from making any representation, in any manner, directly or by implication, that any demonstration, picture, experiment or test depicted in the advertisement proves, demonstrates or confirms any material quality, feature or merit of any product, when such demonstration, picture, experiment or test does not prove, demonstrate or confirm the representation for any reason, including but not limited to:

A. The undisclosed use or substitution of a material mock-up or prop.

B. The undisclosed material alteration in a material characteristic of the advertised product or any other material prop or device depicted in the advertisement.

C. The use of a visual perspective or camera, film, audio or video technique that, in the context of the advertisement as a whole, materially misrepresents a material characteristic of the advertised product or any other material aspect of the demonstration.

IX.

It is further ordered, That respondents National Media Corporation and Media Arts International, Ltd., corporations, their successors and assigns, and their officers, agents, representatives and employees, directly or through any partnership, corporation, subsidiary, division or other device, in connection with the packaging, labeling, advertising, promotion, offering for sale, sale or distribution of an product or service in or affecting commerce, as “commerce” is defined in the Federal Trade Commission Act, do forthwith cease and desist from creating, producing, selling or disseminating:

A. Any advertisement that misrepresents, directly or by implication, that it is not a paid advertisement.

B. Any commercial or other video advertisement fifteen (15) minutes in length or longer or intended to fill a broadcasting or cablecasting time slot of fifteen (15) minutes in length or longer that does not display visually, in a clear and prominent manner and for a length of time sufficient for an ordinary consumer to read, within the first thirty (30) seconds of the commercial and immediately before each presentation of ordering instructions for the product or service, the following disclosure:

“THE PROGRAM YOU ARE WATCHING IS A PAID ADVERTISEMENT FOR [THE PRODUCT OR SERVICE].”

Provided that, for the purposes of this provision, the oral or visual presentation of a telephone number or address for viewers to contact to place an order for the product or service shall be deemed a presentation of ordering instructions so as to require the display of the disclosure provided herein; provided further that, for a period of six (6) months following the date of entry of this order, subpart IX.B. shall not apply to any commercial or other video advertisement produced prior to the date of entry of this order that contains a disclosure of the fact that the program is a paid advertisement or commercial at the beginning of said program.

X.

It is further ordered, That respondents National Media Corporation and Media Arts International, Ltd., their successors or assigns, shall pay to the Federal Trade Commission, by cashier's check or certified check made payable to the Federal Trade Commission and delivered to the Regional Director, Federal Trade Commission, 915 Second Avenue, Suite 2806, Seattle, Washington, the sum of two hundred seventy-five thousand dollars (\$275,000.00). Respondents shall make this payment on or before the tenth day following the date of entry of this order. In the event of any default on any obligation to make payment under this section, interest, computed pursuant to 28 U.S.C. 1961(a), shall accrue from the date of default to the date of payment. The funds paid by respondents shall, in the discretion of the Federal Trade Commission, be used by the Commission to provide direct redress to purchasers of Cosmetique Francais, Crystal Power and/or the Magic Wand. If the Federal Trade Commission determines, in its sole discretion; that redress to purchasers of these products is wholly or partially impracticable or is otherwise unwarranted, any funds not so used shall be paid to the United States Treasury. Respondents shall be notified as to how the funds are disbursed, but shall have no right to contest the manner of distribution chosen by the Commission.

XI.

It is further ordered, That respondents shall distribute a copy of this order to each of their operating divisions, to each of respondents' present and future principals and officers, and to every present and future employee, agent and representative who performs discretionary functions in sales or advertising, and shall secure from each such person a signed statement acknowledging receipt of the copy of the order.

XII.

It is further ordered, That respondents shall notify the Commission at least thirty (30) days prior to any proposed change in the corporation, such as a dissolution, the emergence of a successor corporation, the creation or dissolution of a subsidiary, transfer of the business by assignment to another entity, or any other change in the corporation that may affect compliance obligations under the order.

XIII.

It is further ordered, That respondents shall, for five (5) 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 for inspection and copying:

A. All materials that were relied upon in disseminating such representation.

B. All tests, reports, studies, surveys, demonstrations, or other evidence in their possession or control that contradict, qualify or call into question such representation, or the basis relied upon for such representation, including complaints from consumers.

C. All advertisements and promotional materials subject to this order.

XIV.

It is further ordered, That respondents shall, within sixty (60) days after service of this order upon them, 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 Azcuenaga recused.

Complaint

116 F.T.C.

IN THE MATTER OF

ABBOTT LABORATORIES

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

Docket C-3442. Complaint, June 24, 1993--Decision, June 24, 1993

This consent order prohibits, among other things, an Illinois-based marketer of very-low-calorie diet programs (rapid weight loss, modified fasting diets of 800 or fewer calories per day) from making false or unsubstantiated claims about health risks, weight loss, or weight loss maintenance; and requires certain disclosures in conjunction with safety and weight loss maintenance claims.

Appearances

For the Commission: *Brinley H. Williams* and *David V. Plottner*.

For the respondent: *Katherine M. Grundin*, in-house counsel,
Abbott Park, IL.

COMPLAINT

The Federal Trade Commission, having reason to believe that Abbott Laboratories, a corporation (hereinafter "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 Abbott Laboratories is an Illinois corporation, with its offices and principal place of business at One Abbott Park Road, Abbott Park, Illinois.

PAR. 2. Respondent is engaged, and has been engaged, in the sale and offering for sale of the physician-supervised New Direction Weight Control System (hereinafter "New Direction") very-low-calorie diet ("VLCD") programs and related nutritional products to the public through cooperating physicians, hospitals and clinics.