

IN THE MATTER OF

L&S RESEARCH CORPORATION, ET AL.

CONSENT ORDER, ETC., IN REGARD TO ALLEGED VIOLATION OF
SECS. 5 AND 12 OF THE FEDERAL TRADE COMMISSION ACT*Docket C-3534. Complaint, Oct. 6, 1994--Decision, Oct. 6, 1994*

This consent order requires, among other things, the New Jersey corporation and its officer to pay \$1.45 million to the United States Treasury, prohibits the respondents from making misrepresentations regarding the efficacy of their bodybuilding and weight loss products, and requires them to possess competent and reliable scientific evidence to substantiate future bodybuilding and weight loss claims. In addition, the order restricts the use of endorsements, including "before" and "after" pictures, which do not represent the typical experience of users.

Appearances

For the Commission: *Richard L. Cleland, Nancy S. Warder and Carol A. Kando.*

For the respondents: *Paul M. Hyman, Hyman, Phelps & McNamara, Washington, D.C. and Harry J. Levin, Levin & Rosen, River, N.J.*

COMPLAINT

The Federal Trade Commission, having reason to believe that L&S Research Corporation, a corporation, and Scott Chinery, individually and as an officer of said corporation ("respondents"), have violated Sections 5 and 12 of the Federal Trade Commission Act (15 U.S.C. 45 and 52), and it appearing to the Commission that a proceeding by it in respect thereof would be in the public interest, alleges:

PARAGRAPH 1. Respondent L&S Research Corporation is a New Jersey corporation with its office and principal place of business located at 450 Oberlin Ave., S., Lakewood, New Jersey.

Respondent Scott Chinery is the founder, chairman of the board, and chief executive officer of the corporate respondent named herein. Individually, or in concert with others, he formulates, directs, and

controls the acts and practices of the corporation, including the acts and practices alleged in this complaint. His office and principal place of business is the same as that of the corporate respondent.

PAR. 2. Respondents are engaged, and have been engaged, in the manufacturing, offering for sale, selling, advertising, promoting, and distributing to the public of nutrient supplements, including products sold under the name Cybergenics. Such products are foods and/or drugs as "food" and "drug" are defined in Section 15 of the Federal Trade Commission Act.

PAR. 3. 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.

PAR. 4. Respondents have disseminated or have caused to be disseminated advertisements and promotional materials, including but not necessarily limited to the attached Exhibits A-C, all of which prominently feature pictures of the advertised products. These advertisements contain the following statements about the following products:

A. In regard to Cybergenics Total Body Building System:

1. "...[N]o other product works like Cybergenics Total Body Building System. This truly amazing breakthrough product is the result of the most sophisticated scientific research available. All of the before and after photos on this page show the results achieved with Cybergenics . . . These photos accurately depict the ultra-powerful, muscle building, that is possible for anyone who uses this product in just 8 short weeks . . . If you use this product as directed, you will experience the most incredible muscular development, fat depletion and total physique enhancement of your entire life." (Exhibit A)

2. "The Cybergenics Total Body Building System is unlike any other product currently available to athletes anywhere. It is truly an amazing breakthrough in the science of physique enhancement that can enable anyone who uses it to add a significant amount of muscle to their physique in a very short time." (Exhibit A)

3. It is "... the absolute most effective means of building muscle in the world" (Exhibit A)

4. It is "... based on a bedrock of reliable scientific research. The mechanism which promotes unprecedented gains in lean body mass is based on an ingenious and extremely sophisticated theory called Anabolic Matrix Alteration (AMA). The premise of this theory is that the mechanism of anabolism can be emphasized as a priority metabolic cycle through the implementation of a broad, but extremely exacting scope of stimulus." (Exhibit A)

5. "In just weeks after beginning, you will see a dramatic increase in muscle, a noticeable depletion of body fat. . ." (Exhibit A)

6. "Nothing on earth builds muscle like this amazing system." (Exhibit B)

7. "The amazing before and after photos on this page depict the incredible muscle-building and fat-loss power of the most sophisticated muscle building system in the world. . . ." (Exhibit B)

8. "This product builds muscle every time." (Exhibit B)

B. In regard to Cybergenics for Hard Gainers:

1. "This system singularly addresses the unique metabolism of the hard gainer and finally creates the potential for unprecedented gains . . ." (Exhibit C)

2. "A system of unparalleled power that really supplies you with all the elements and tools, to accomplish . . . ultimate muscle mass." (Exhibit C)

3. It is ". . . the most revolutionary mass-building system ever created." (Exhibit C)

4. "A methodology which if used properly, can literally change your physical appearance and strength in 60 short days." (Exhibit C)

5. It is ". . . a complete package incorporating state-of-the-art supplements to support mass building. Everything you need to begin making significant gains is in this box[.]" (Exhibit C)

PAR. 5. Through the use of the statements contained in the advertisements referred to in paragraph four, including but not necessarily limited to the advertisements attached as Exhibits A-C, respondents have represented, directly or by implication, that:

A. In regard to Cybergenics Total Body Building System:

1. The product component of Cybergenics Total Body Building System causes its users to lose more body fat and to gain more muscle than non-users of the product, all other conditions remaining equal.

2. The product component of Cybergenics Total Body Building System causes its users to lose body fat and to gain muscle more rapidly than non-users of the product, all other conditions remaining equal.

3. Cybergenics Total Body Building System causes its users to gain more muscle than users of other body building products, all other conditions remaining equal.

4. Scientific research demonstrates that the product component of Cybergenics Total Body Building System causes its users to gain more muscle than non-users of the product, all other conditions remaining equal.

5. The product component of Cybergenics Total Body Building System works for all people who use it.

6. Cyberganics Total Body Building System is new and unique.

B. In regard to Cyberganics for Hard Gainers:

1. Cyberganics for Hard Gainers is new and unique.
2. The product component of Cyberganics for Hard Gainers causes its users to gain more muscle than non-users of the product, all other conditions remaining equal.
3. Cyberganics for Hard Gainers causes its users to gain more muscle than users of other body building products, all other conditions remaining equal.

PAR. 6. In truth and in fact:

A. In regard to Cyberganics Total Body Building System:

1. The product component of Cyberganics Total Body Building System will not cause its users to lose more body fat and to gain more muscle than non-users of the product, all other conditions remaining equal.
2. The product component of Cyberganics Total Body Building System will not cause its users to lose body fat and to gain muscle more rapidly than non-users of the product, all other conditions remaining equal.
3. Scientific research does not demonstrate that the product component of Cyberganics Total Body Building System causes its users to gain more muscle than non-users of the product, all other conditions remaining equal.
4. The product component of Cyberganics Total Body Building System does not work for all people who use it.
5. Cyberganics Total Body Building System is not new and unique.

B. In regard to Cyberganics for Hard Gainers:

1. Cyberganics For Hard Gainers is not new and unique.
2. The product component of Cyberganics for Hard Gainers does not cause users to gain more muscle than non-users of the product, all other conditions remaining equal.

Therefore, the representations set forth in paragraph five A (1), (2), and (4) through (6); and five B (1) and (2) were, and are, false and misleading.

PAR. 7. Through the use of the statements contained in the advertisements referred to in paragraph four, including but not necessarily limited to the advertisements attached as Exhibits A-C, respondents have represented, directly or by implication, that at the time they made the representations set forth in paragraph five A (1) through (3) and (5); and five B (2) and (3), they possessed and relied upon a reasonable basis that substantiated such representations.

PAR. 8. In truth and in fact, at the time they made the representations set forth in paragraph five A (1) through (3) and (5); and five B (2) and (3), respondents did not possess and rely upon a reasonable basis that substantiated such representations. Therefore, the representation set forth in paragraph seven was, and is, false and misleading.

PAR. 9. Respondents have disseminated or have caused to be disseminated advertisements and promotional materials, including but not necessarily limited to the attached Exhibits D-G, two of which, Exhibits D and E, prominently feature pictures of the advertised products. These advertisements contain the following statements about the following products:

A. In regard to Cybertrim:

1. "Cybergenics Cybertrim Fat Loss System is the most comprehensive, safest, and most effective approach to fat-loss that is on the market today." (Exhibit D)
2. "Through the implementation of a plethora of landmark technological innovation. . . CYBERTRIM offers everyone, regardless of genetic predispositions, the potential to experience the single most, incomparable weight-loss and body-shaping ever seen in the history of medically approved appearance enhancement sciences." (Exhibit D)
3. "CYBERTRIM controls the appetite more effectively than any other product by not only suppressing hunger but by also actually blocking the biochemical messages stimulated by the catabolism of fat." (Exhibit D)
4. ". . . CYBERTRIM allows for the maximum depletion of body fat while actually gaining muscle." (Exhibit D)
5. "CYBERTRIM's concentrated formulas incorporate the following powerful, research-driven ingredients: chromium picolinate (clinically proven to build muscle, reduce fat and lower cholesterol) . . ." (Exhibit D)

6. "CYBERTRIM is the most sophisticated fat-loss system in the world. It is designed for the fastest possible weight loss ever. It is research-proven, medically approved, extremely easy to use" (Exhibit D)

7. "... CYBERTRIM is a major breakthrough in safe, medically approved weight loss. The product . . . has been thoroughly tested in both laboratory and clinical trials." (Exhibit E)

8. "The formulas and components of this revolutionary product are proprietary and cannot be duplicated." (Exhibit E)

B. In regard to Mega-Fat Burner Tablet (also called Super Fat-Loss Tablet):

1. "...[H]elps to increase the body's ability to burn fat for energy." (Exhibit E)
2. "It can be used . . . to maintain your weight loss." (Exhibit E)

C. In regard to Cybergenics QuickTrim:

1. "QuickTrim is the absolute fastest way possible to lose weight!" (Exhibits F and G)
2. "There is nothing else that even remotely compares to this truly revolutionary product!" (Exhibits F and G)
3. "This medically-approved, weight-loss miracle uses the research-proven technology that is on the cutting edge of nutrition science." (Exhibits F and G)
4. "Whether you're trying to lose a lot or that last stubborn 15 lbs., this . . . can release you from excess weight -- all in just two short weeks!" (Exhibits F and G)
5. "QuickTrim is extremely easy to use, and does not require any great effort. Rather, it is an ingenious technology whereby the body is gently coaxed into an accelerated lipotropic (fat-burning) state." (Exhibits F and G)
6. "It's also great for maturing women whose metabolism is beginning to slow down." (Exhibits F and G)

PAR. 10. Through the use of the statements contained in the advertisements referred to in paragraph nine, including but not necessarily limited to the advertisements attached as Exhibits D-G, respondents have represented, directly or by implication, that:

A. In regard to Cybertrim:

1. The product component of Cybertrim causes its users to lose body fat and weight more rapidly than non-users of the product, all other conditions remaining equal.

2. The product component of Cybertrim causes its users to lose more body fat and weight than non-users of the product, all other conditions remaining equal.

3. Cybertrim causes its users to lose more body fat and weight than users of all other weight loss products, all other conditions remaining equal.

4. Cybertrim is superior to other appetite suppressants on the market.

5. Cybertrim suppresses hunger and blocks biochemical messages stimulated by the catabolism of fat.

6. The product component of Cybertrim causes its users to gain more muscle than non-users of the product, all other conditions remaining equal.

7. Cybertrim contains an ingredient, chromium picolinate, which has been clinically proven to build muscle, reduce fat, and lower cholesterol.

8. Scientific evidence demonstrates that the product component of Cybertrim causes its users to lose more fat and weight, and gain more muscle, than non-users of the product, all other conditions remaining equal.

9. Cybertrim is new and unique.

B. In regard to Mega-Fat Burner Tablet (also called Super Fat-Loss Tablet):

1. Mega-Fat Burner Tablet causes its users to burn more fat, compared to non-users of the product, all other conditions remaining equal.

2. Mega-Fat Burner Tablet causes its users to maintain weight loss longer, compared to non-users of the product, all other conditions remaining equal.

C. In regard to Cybergenics QuickTrim:

1. The product component of Cybergenics QuickTrim causes its users to lose more weight than non-users of the product, all other conditions remaining equal.

2. The product component of Cybergenics QuickTrim causes its users to lose fat and weight more rapidly than non-users of the product, all other conditions remaining equal.

3. Cybergenics QuickTrim causes its users to lose weight more rapidly than users of all other weight loss products, all other conditions remaining equal.

4. Cybergenics QuickTrim provides a benefit to maturing women which causes maturing women to lose more weight than non-users of the product, all other conditions remaining equal.

5. Scientific evidence demonstrates that the product component of Cybergenics QuickTrim causes its users to lose more weight or fat than non-users of the product, all other conditions remaining equal.

6. Cybergenics QuickTrim is easy to use and does not require any great effort.

PAR. 11. In truth and in fact:

A. In regard to Cybertrim:

1. Scientific evidence does not demonstrate that the product component of Cybertrim causes it users to lose more fat and weight, and gain more muscle, than non-users of the product, all other conditions remaining equal.

2. Cybertrim is not new and unique.

B. In regard to Mega-Fat Burner Tablet (also called Super Fat-Loss Tablet):

1. Mega-Fat Burner Tablet does not cause its users to maintain weight loss longer, compared to non-users of the product, all other conditions remaining equal.

C. In regard to Cybergenics QuickTrim:

1. Cybergenics QuickTrim does not provide a benefit to maturing women which causes maturing women to lose more weight than non-users of the product, all other conditions remaining equal.

2. Scientific evidence does not demonstrate that the product component of Cybergenics QuickTrim causes its users to lose more fat and weight than non-users of the product, all other conditions remaining equal.

3. Cybergenics QuickTrim is not easy to use and does require effort.

Therefore, the representations set forth in paragraph ten A (8) and (9); ten B (2); and ten C (4) through (6) were, and are, ~~false~~ and misleading.

PAR. 12. Through the use of the statements contained in the advertisements referred to in paragraph nine, including but not necessarily limited to the advertisements attached as Exhibits D-G, respondents have represented, directly or by implication, that at the time they made the representations set forth in paragraph ten A (1) through (7), ten B (1) and (2), and ten C (1) through (4), they possessed and relied upon a reasonable basis that substantiated such representations.

PAR. 13. In truth and in fact, at the time they made the representations set forth in paragraph ten A (1) through (7), ten B (1) and (2), and ten C (1) through (4), respondents did not possess and rely upon a reasonable basis that substantiated such representations. Therefore, the representation set forth in paragraph twelve was, and is, false and misleading.

PAR. 14. Through the use of statements in advertisements, including but not necessarily limited to the advertisements attached as Exhibits A-D and F-G, and depictions, including pictures of individuals "before" and "after" a period of use of the advertised product, contained in those advertisements, respondents have represented, directly or by implication, that testimonials from consumers appearing in advertisements for Cybergenics Total Body Building System, Cybergenics for Hard Gainers, Cybertrim, and Cybergenics QuickTrim reflect the typical or ordinary experience of members of the public who have used the products.

PAR. 15. Through the use of the statements contained in advertisements, including but not necessarily limited to the advertisements attached as Exhibits A-D and F-G, and depictions, including pictures of individuals "before" and "after" a period of use of the advertised product, contained in those advertisements, respondents have represented, directly or by implication, that at the time they made the representation set forth in paragraph fourteen that such representation was true and that respondents possessed and relied upon a reasonable basis that substantiated such representation.

PAR. 16. In truth and in fact, testimonials from consumers appearing in advertisements for Cybergenics Total Body Building System, Cybergenics for Hard Gainers, Cybertrim, and Cybergenics QuickTrim do not reflect the typical or ordinary experience of members of the public who have used the products and at the time they

made the representation set forth in paragraph fourteen, respondents did not possess and rely upon a reasonable basis that substantiated such representation. Therefore, the representation set forth in paragraph fifteen was, and is, false and misleading.

PAR. 17. Through the use of pictures of a man "before" and "after" he used Cybergenics Total Body Building System for six (6) months in advertisements, including but not necessarily limited to the advertisement attached as Exhibit A, respondents have represented, directly or by implication, that this man is typical of users of the product and that the results depicted in the "after" picture reflect the typical or ordinary experience of members of the public who have used the product.

PAR. 18. In truth and in fact, prior to the time the "before" picture of this man was taken, he was a champion body builder. Therefore, he is not typical of users of Cybergenics products and his results as depicted in the "after" picture do not reflect the typical or ordinary experience of members of the public who have used the product. Therefore, the representation set forth in paragraph seventeen above was, and is, false and misleading.

PAR. 19. 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.

EXHIBIT A

Experience Mind Blowing Gains

Never received such an accolade of praise from both the scientific and medical communities, as well as from professional bodybuilders, top trainers, and athletes from all sports where strength, muscle-mass and stamina are important.

► Renowned medical expert, Steven Crawford, M.D., from the prestigious All-American Sports Medicine, calls it "a true and unprecedented milestone in the field of sports medicine; a natural product that really works in adding pounds of pure muscle—fast."

H.K. Panjwani, M.D., Ph.D., and member of the exclusive Royal Society of Medicine says, "The Cybergens Total Body Building System is unlike any other product

called Cybergens—the most incredible thing I have ever used. It literally changed my physique to this extent without it."

► Charles Durr, NPC Mr. USA and possessor of the world's most massive physique, says, "There is nothing else that works like Cybergens—nothing even comes close."

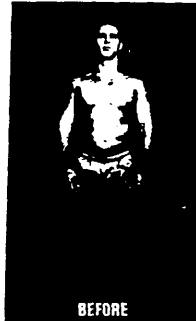
► *Muscle Training Illustrated* reported in the August '89 issue that "Cybergens Total Body Building System is the first real alternative to anabolic steroids."

► And Bob Kennedy's *Muscle-Mag International* said of Cybergens in the November '91 issue: "The Cybergens Total Body Building System seems to have a metaphysical mystique about it—like an ancient formula with herculean power that chisels

by sophisticated theory called Anabolic Matrix Alteration (AMA). The premise of this theory is that the mechanism of anabolism can be emphasized as a priority metabolic cycle through the implementation of a broad, but extremely exacting scope of stimulus. This theory, nearly a decade old, is drawing critical and unprecedented support from members of the scientific medical communities."

► Dr. Doug Price, from the Council of Sports Injuries and Physical Fitness and a six-time All-American shotputter says: "Cybergens' AMA theory is redefining the way we look at building muscle. The concept is brilliant and indeed very impressive."

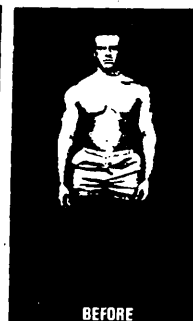
The Cybergens Total Body Building



BEFORE



AFTER



BEFORE



AFTER

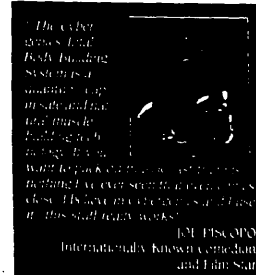
currently available to athletes anywhere. It is truly an amazing breakthrough in the science of physique enhancement that can enable anyone who uses it to add a significant amount of muscle to their physique in a very short time."

► Renowned fitness expert and celebrity trainer Darryl James, whose client list includes names like Eddie Murphy, Arsenio Hall and the Jackson Brothers, to name a few, calls the Cybergens Total Body Building System "the absolute most effective means of building muscle in the world—a program that works better than anything else anywhere."

► Eric Dorsey, super-star defensive end from the Super Bowl Champion, New York Giants says, "It made me bigger and stronger than I ever thought I could be. This product is amazing beyond anything I could even imagine."

the body into Adonis-like proportions."

The Cybergens Total Body Building System is based on a bedrock of reliable scientific research. The mechanism which



System utilizes seven concentrated isolate formulas that are the cornerstone of this amazing system. They are unlike any other mere nutritional supplement. These isolates are pharmaceutical-grade nutritional substrates which contain proprietary blends and compounds which *cannot* be produced in any other product in the world. They have been formulated to exact specifications in a proprietary delivery system called CyberTab™ which makes these critical components more bio-available than ever before possible. In just days after beginning the Cybergens Total Body Building System, subjects have reported "actually feeling the puny and potency of these amazing compounds."

The Cybergens Total Body Building System is a complete system that takes all of the guesswork out of building muscle. *Nothing* is left to chance. The program incorporates a highly specialized, revolutionary

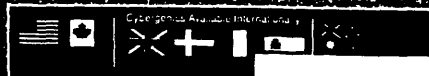


EXHIBIT A

CYBER

EXHIBIT A

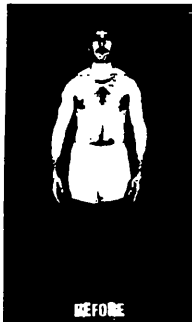
With The World's #1 Mass Builder!

...ing... time... days per week. Workouts can be performed morning, afternoon, or evening. The kit also includes a complete dietary regimen which is the third piece to the Cybergenics anabolic triad. It is important to note that this system is extremely easy to use and, if used properly, works *every time*.

If you have never used this remarkable system before, you owe it to yourself to try it. In just weeks after beginning, you will see a dramatic increase in muscle, a noticeable depletion of body fat, and an increase in strength and increased energy levels. There is truly nothing else in the world like the Cybergenics Total Body Building System!

potent muscle-building characteristics of the Cybergenics Total Body Building System.

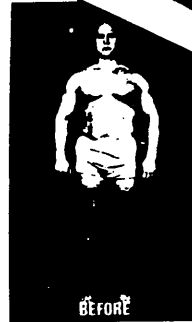
In less than 6 months, Franco transformed his body into a world-class physique. Franco would later say of his experience, "It's obvious to me now, that the turning point in my life was when I began using Cybergenics. It has truly enabled me to live my dream!"



BEFORE



AFTER



BEFORE



AFTER

GUARANTEED TO BUILD MUSCLE FAST!

The Cybergenics Total Body Building System is guaranteed to produce the most phenomenal muscle-building and fat-depleting results possible or we will refund your money—unconditionally. In fact, we guarantee that if used properly, this system will *dramatically* change your entire physique in just 60 short days. No other company can make this offer because no other product works like the Cybergenics Total Body Building System. This truly amazing breakthrough product is the result of the most sophisticated scientific research available. All of the before and after photos on this page show the results achieved with Cybergenics. They were all taken two months apart except for Franco Santorillo's which were taken five months apart. These photos accurately depict the ultra-powerful, muscle-building, that is possible for anyone who uses this product in just 8 short weeks. If you use this product as directed, you will experience the most incredible muscular development, fat depletion and total physique enhancement of your entire life. **WE GUARANTEE IT!**

GENIES

EXHIBIT A (cont.)

Available at:

NATURE FOOD CENTERS
and other fine Health Food Stores

NEW 120 DAY KIT

SAVE \$60.00



3/93 MTI CY

CALL 24 HOURS FOR
IMMEDIATE SERVICE
1-800-635-8970

**ASK US ABOUT
OVERNIGHT
DELIVERY**

**FREE VIDEO
CYBERGENICS
SEMINAR
WITH EACH KIT!**

On phone orders please use
special account #

Please Rush Me The Following:

☐ 60 DAY KIT \$139.95 ☐ 120 DAY KIT \$219.95

☐ CYBER VIDEO \$19.95

(All orders ship FREE)

L&S RESEARCH CORPORATION

450 Oberlin Avenue South Lakewood New Jersey 08701 (908) 363-5620

Name _____

Address _____

City _____ State _____ Zip _____

☐ Check ☐ MO Enclosed ☐ VISA ☐ MC

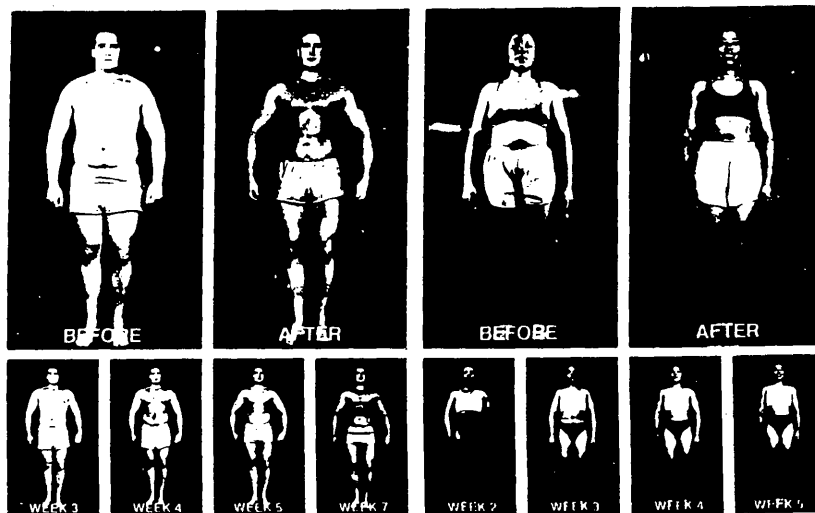
Card No. _____ Exp. Date _____

Signature _____

EXHIBIT B

Introduces

THE WEIGHT-LOSS MIRACLE OF THE DECADE!



Your product is truly amazing. I have tried everything and every way to lose fat but nothing worked. Your program changed my whole life. Not only did I lose fat quicker than I ever thought possible, but I actually gained a lot of muscle at the same time!

—JOHN GORDON

I never thought I could look like this. In 6 weeks I lost 31 lbs. and toned & reshaped my body. I still can't believe it's me when I look in the mirror! Thank you, CYBERGENICS!

—BARBARA BUTTERFIELD

GUARANTEED TO WORK!

Cybergens CYBERTRIM is guaranteed to produce phenomenal results or we will refund your money—unconditionally! No other company can make this offer, because no other product works like CYBERTRIM. This truly amazing breakthrough program is the product of the most sophisticated scientific research available. All of the before and after photos on these pages are the product of Cybergens. They were all taken six weeks apart—except for John Gordon's, which

were taken eight weeks apart and Penny Estelle's, which were taken fourteen days apart. These photos accurately represent the ultra-powerful weight-loss that is possible for anyone who uses CYBERTRIM in just 6 short weeks. If you use this product as directed, you will experience the most incredible weight-loss of your entire life. We guarantee it!

EXHIBIT B (cont.)

EXHIBIT C

NEW **INTRODUCING THE MOST POWERFUL**

Attention Hard Gainers

Cybergenics has designed a truly revolutionary system for hard gainers. It is the most exciting development I have seen in this field during my entire career in the sports nutrition field. This system singularly addresses the unique metabolism of the hard gainer and finally creates the potential for unprecedented gains for guys who, until now, just could not gain muscle mass. I have personally supervised and observed hard gainers like Mike Dunphy, pictured here, make such astounding gains that I am confident this system for hard gainers will change the way athletes approach building muscle. It is truly the most advanced system my company has ever produced, and I give my personal guarantee that if used properly, this system will produce significant muscular gains in even the hardest gainer. Please consider giving this incredible product a chance. You have my promise that it will be the most productive and rewarding experience in your training career.

Yours in good health,

Scott Chinery
Chairman & CEO of Cybergenics

"Being a true hard gainer, I know how hard and frustrating it can be putting on real size. But with the Hard Gainers System the gains are unreal. This has to be the most powerful and most advanced system Cybergenics has ever produced."
—MIKE DUNPHY

Imagine discovering a method, a sophisticated technology that changes the way you look and feel. A system of unparalleled power that really supplies you with all of the elements and tools to accomplish what you only dreamed about—ultimate muscle mass. This is the premise for the most revolutionary mass-building system ever created—**Cybergenics For Hard Gainers**.

Within this system, you will find the keys with which to unlock the metabolism of the true hard gainer. A methodology which if used properly, can literally change your physical appearance and strength in 60 short days. It is the turn-key approach that leaves absolutely nothing to chance. By simply following the step by step instructions, you will embark on a journey of physical development that you never thought possible.

Cybergenics For Hard Gainers carries a unique money back guarantee—one which you will not see anywhere else. The bottom line is this, that if within the first 30 days you have not experienced the most significant gains of your training career, then simply return the product for a full refund—no questions asked.

If you are someone who has a deep desire to possess a strong and massive physique, then seize the moment! Do not let any more time pass—live your dreams. This system contains everything you need to set in motion, the power for you to truly become what you want to be. Dare to dream—make the commitment now and begin today to change the way you look and feel forever.

BEFORE

Available Only At:
GNC
and
NATURE FIDOC CENTRES

GUARANTEED TO PRODUCE AMAZING RESULTS

CYBERGENICS
POWERFUL
FOR HARD GAINERS

EXHIBIT C

Complaint

EXHIBIT C

ERFUL CYBERGENICS SYSTEM EVER

AFTER



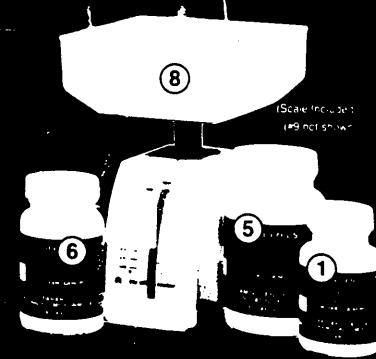
Mike Dunphy
literally
changed his
entire physique
in just
months using
Cybergenics
state-of-the-art
muscle building
products

Cybergenics For Hard Gainers is a blessing for hard gainers. I have never seen a product attack mass building like this one. I recommend this product with all of my heart to anyone who is having trouble gaining size. This is the best product I have ever seen.

FRANCO SANTORIELLO

Your **Cybergenics For Hard Gainers** is a complete package incorporating the following state-of-the-art supplements to support mass building. Everything you need to begin making significant gains is in this box:

1. **HG1 SUPER ANTI-FATIGUE SUSPENSION COMPLEX** is a potent formula of ingredients that is designed to help you push through exhaustion and maintain perfect form during rigorous training.
2. **HG2 GLYCOGEN TRANSPORT & HYPERTROPHY FORMULA** a revolutionary supplement that helps increase carbohydrate synthesis, assisting in the production and retention of glycogen within the muscle.
3. **HG3** contains the ultimate synergy of intense reactive enzymes for the rapid digestion and metabolism of protein, carbohydrates, and fats.
4. **HG4 BIO-CELLULAR PURIFICATION FORMULA** composed of concentrated biological materials designed to cleanse and scour the intestinal tract for superior absorption of vital nutrients such as vitamins, minerals, and amino acids.
5. **HG5** helps maximize the protein efficiency ratios of ingested proteins by effective assimilation of amino acids into the bloodstream.
6. **HG6** is designed to assist the vital recovery process.
7. The most comprehensive training and dietary manual ever published, incorporating all aspects of the Hard Gainers System process.
8. Analog food scale to accurately measure food values in grams or ounces, enabling precision nutrient intake.
9. Durable folding hand guide of food composition values to be used in daily meal preparation.



(Scale included)
(HG not shown)

ICS

Cybergenics Available Internationally

USA: 1-800-851-1111
Canada: 1-800-851-1111
UK: 01-235-8811

L&S Research Corporation
450 Oberlin Ave. South
Lakewood, NJ 08701

Please Rush Me The Following:
CYBERGENICS FOR HARD GAINERS KIT (Scale included) **\$139.95**

Name _____
Address _____
City _____ State _____ Zip _____
Phone () _____
Check ☐ MO Enclosed ☐ Visa ☐ MC ☐
Card No. _____ Exp. Date _____
Signature _____
On phone orders please use special account #

3/93-W

EXHIBIT C (cont.)

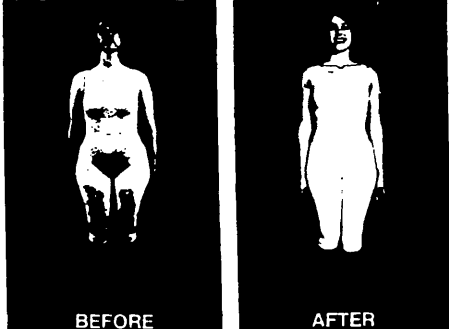
EXHIBIT D



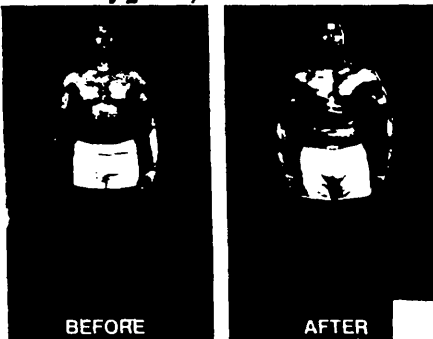
“Cybergenics CyberTrim Fat Loss System is the most comprehensive, safest, and most effective approach to fat loss that is on the market today. It combines nutritive supplements, exercise and diet in a complete fat-loss program which is on the cutting edge of sports nutrition technology.”

Steven Crawford, M.D.
Sports Physician
All American Sports
Medicine Associates P.A.

arely in medical annals has a single development had such an immediate and significant impact as has the newly-developed Cybergenics CYBERTRIM weight-loss technology. Through the implementation of a plethora of landmark technological innovation, Cybergenics' revolutionary CYBERTRIM offers everyone, regardless of genetic predispositions, the potential to experience the single most, incomparable weight-loss and body-shaping ever seen in the history of medically approved appearance-enhancement sciences. Never has a product received such a universal accolade of praise from members of the medical profession, as well as fitness experts and authorities. It has been called "sheer genius—a remarkable product that makes weight-loss easier, faster and more permanent than anything else ever developed," by H.K. Panjwani, M.D., Ph.D., re-



BEFORE **AFTER**



BEFORE **AFTER**

POWER

EXHIBIT D

CYBERTRIM

THE
STATE OF THE ART
IN WEIGHT-LOSS
TECHNOLOGY!

All of the before and after photos on these pages were taken six weeks apart (with the exception of John Gordon's and Ray Ford's which were taken eight weeks apart, and Lisa Macrina's, which were taken 14 days apart) and were supervised independently. They clearly demonstrate the powerful weight-loss power of this truly amazing breakthrough product.

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L FAT LOSS TECH

EXHIBIT D (cont.)

GUARANTEED: TO ORDER CALL

Complaint

118 F.T.C.

EXHIBIT D



Barbara Butterfield's
magnificent progress
speaks for itself!

CYBERTRIM's spectra-nutritional profile will actually enhance your energy levels, making you feel livelier and more energetic.

CYBERTRIM is extremely easy to use.

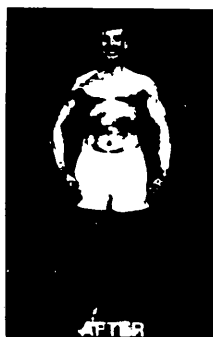
CYBERTRIM's concentrated formulas also incorporate the following powerful, research-proven ingredients: chromium picolinate (clinically proven to build muscle, reduce fat and lower cholesterol), carnitine (for accelerated fat-loss), anti-oxidants (for free radical

scavenging), as well as an ultra-sophisticated profile of vitamins, minerals, fibers and enzymes to optimize the depletion of body fat, while simultaneously replenishing and nourishing muscle cells.

A Cybergenics skinfold caliper is included to measure fat-loss progress.

CYBERTRIM is the most sophisticated fat-loss system in the world. It is designed for the fastest possible weight-loss ever. It is research-proven, medically approved, extremely easy

to use, and 100% natural. Use it now and change the way you look and feel.



NOLOGY

EXHIBIT D (cont.)

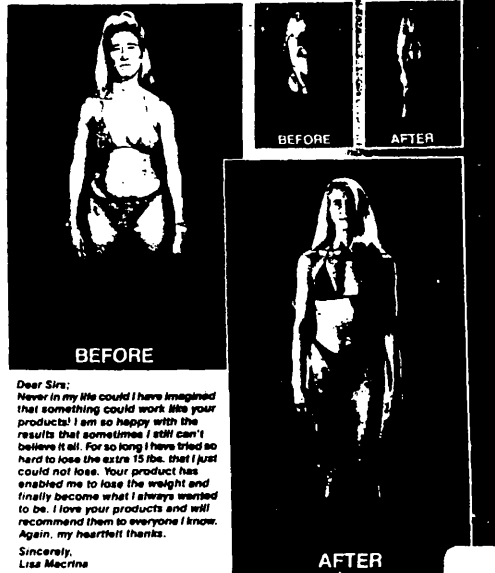
Barbara Butterfield's photos clearly depict the powerful weight-loss properties of Cybergenics CYBERTRIM. In 6 short weeks, CYBERTRIM released Barbara from a cloak of fat that, for years, she had tried to lose. In a mere six weeks, Barbara changed the way she looked, the way she felt and her entire life with this truly revolutionary product.

EXHIBIT E

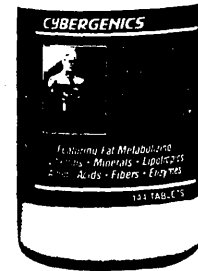
Cybergenics CYBERTRIM produce the most phenomenal muscle-toning and total body toning possible or we will refund your money unconditionally! No other company can because no other product works like this truly amazing breakthrough program. The most sophisticated scientific research of the before and after photos on the product of Cybergenics. They were six weeks apart—except for John George Ray Ford's which were taken eight weeks apart. Lisa Macrina's, which were taken four weeks apart. These photos accurately represent powerful weight-loss that is possible for anyone who uses CYBERTRIM in just 6 short weeks. If you use the product as directed, you will experience the incredible weight-loss of your entire life. We

GUARANTEED TO WORK!

Lisa Macrina made this incredible progress using Cybergenics of-the-art weight-loss products. You can too!

**FAT BURNER**

Featuring Fat-Metabolizing:
**Vitamins,
Minerals,
Lipotropics,
Amino Acids,
Fibers, Enzymes**



Designed to provide you with a unique mixture of nutrients, herbs, fibers and enzymes, this sophisticated fat-burner actually helps to increase the body's ability to burn fat for energy. It can be used with CYBERTRIM for maximum results, or after your CYBERTRIM cycle to maintain your weight loss. Cybergenics CYBERTRIM includes:

1. Key fat burning vitamins and minerals.
2. Lipotropic Optimizer Complex from: Choline, Inositol, Betaine, Lecithin, Linoleic and Oleic Acids, and Medium Chain Triglycerides.
3. Lipotropic Amino Acid complex from: L-Carnitine, Methionine, DL-Phenylalanine, Taurine and Glycine.
4. Herbal complex from: Buchu, Chickweed, Couch Grass, Cornsilk, Cranberry, Hydrangea, Juniper Berries, Urva Ursi.
5. Fiber complex from: Grapefruit Concentrate, Glucomanan, Galactomannan, Oatbran, Vegetable Cellulose.
6. Enzyme complex from: Lipase, Cellulase, Amylase, Papain and Papaya.
7. Plus 100 mg of Chromium Picolinate a clinically-proven muscle builder and fat reducer.

**SATISFACTION GUARANTEED:
TO ORDER CALL
1-800-635-8970**

EXHIBIT E

8-9/92 C

CYBERGENICS

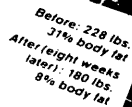
best Chinery
Chinery
of Product Development

Product Development

Cybernetics is the number one selling sports nutrition line in the world. We introduced the *Cybernetics Total Body Building* supplement, the #1 selling performance supplement in the world. *Cybernetics Cold* is the #50,000 retail outlets worldwide. *Cybernetics Creatine*, *Cybernetics Hormone*, *Cybernetics World of Sports*, *Cybernetics Muscle*, *Cybernetics Health*, *Cybernetics Nutrition*, *Cybernetics* and *Cybernetics* are based on a backdrop of reliable scientific research and the art in nature. *Cybernetics* is a company you can depend on for the latest in sports nutrition technology. *Cybernetics* products that improve the quality of life.

CYBERGENICS

World Headquarters, Lakewood, N.J.



—JOHN GORDON

John Gordon's progress epitomizes the rapid fat-loss during CYBERTRIM. John lost an amazing 48 lbs. during 8 weeks (John used CYBERTRIM for 8 weeks instead of six).

SATISFACTION GUARANTEED
TO OBTAIN YOUR FREE TRIAL

**SATISFACTION GUARANTEED:
TO ORDER CALL
1-800-635-8970**

EXHIBIT E (cont.)

Complaint

EXHIBIT E

CYBERGENICS
introduces
**THE WEIGHT LOSS MIRACLE
OF THE DECADE!**

“CYBERTRIM is the best thing to
ever happen to me! This product helped
me to change my whole life!”

RAY FORD



BEFORE

BEFORE

AFTER

WEEK 2

WEEK 4

WEEK 5

WEEK 7

“I never thought I
could look like this. Thank
you, CYBERGENICS!”

BARBARA BUTTERFIELD

Turn the page for more photos
of Barbara and others who've
changed their lives with CYBERTRIM!

EXHIBIT E (cont.)

Complaint

118 F.T.C.

EXHIBIT F

"I only had 2 weeks..."

"QuickTrim is the ideal solution for 14 days and fast. I was 14 pounds heavier when I started this special diet. Thanks to QuickTrim, I lost 14 pounds in just 14 days!"

JIMMY KIMM

"SHIR GENIUS!"

★★★★

"I was 14 pounds heavier when I started this special diet. Thanks to QuickTrim, I lost 14 pounds in just 14 days!"

H. K. Panwar, MD, PhD
Renowned Medical Expert,
Member of the Prestigious
Royal Society of Medicine

Lose 14 pounds in wedding gown
in 14 days and follow in her
steps to "SHIR GENIUS!"
in 14 days!

QuickTrim is the absolute fastest possible way to lose weight!

Have you ever had a reason to lose weight fast? Maybe you wanted to get into that special dress for a wedding, prom, reunion, or some other special event. Or maybe you were dreading that upcoming vacation when you would have to wear a bathing suit in public? Well, **QuickTrim** was developed with exactly these kinds of situations in mind. It can help you to lose weight and look your best in just two weeks!

This medically approved weight-loss miracle uses research proven techniques that are the cutting edge of nutrition science. **QuickTrim** attacks weight loss from every possible angle.

Whether you are trying to lose a lot of weight or that last stubborn 15 lbs., **QuickTrim** is a simple, powerful house that releases you from the excess weight—all without your usual dieting. **QuickTrim** is a simple, easy to use, and **does not** require any great effort. Rather, it is an amazingly powerful, safe, and gentle, gently coaxed into an accelerated lipotropic (fat-burning) state.

You will feel more energetic and healthier on **QuickTrim** than ever before. It's because your metabolism, which women whose metabolism is beginning to slow down.

QuickTrim is a comprehensive program that leaves nothing to chance. It includes a manual setting the complete **QuickTrim** program.

If you have never tried **QuickTrim**, you will be amazed at how fast it will help you lose weight. **QuickTrim** is 100% guaranteed to change the way you look and feel—no matter how much weight you want to lose.

Available at
GNC
NATURE FOOD CENTRES Great Britain
NUTRITION CENTRES
and other fine health food stores

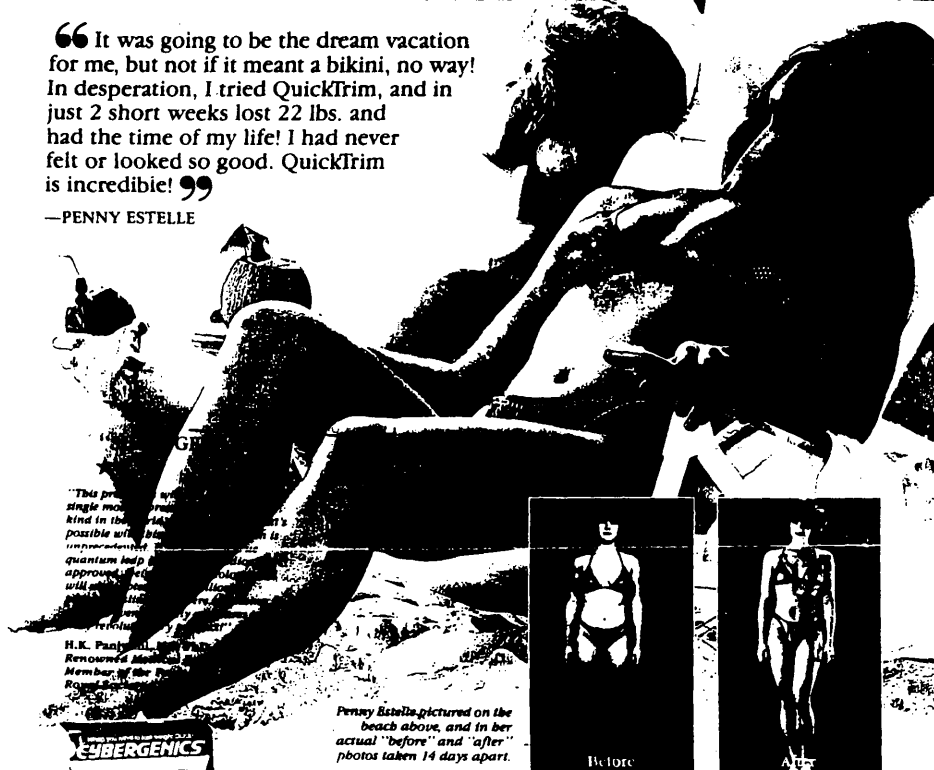
To order Cybergenics QuickTrim for \$49.95
call 1-800-635-8970 or r
L&S Research Corp., 450 Oberlin Ave. S
30 Day Satisfaction t

EXHIBIT F

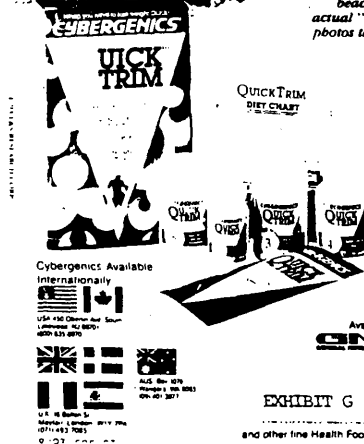
"I only had 2 weeks..."

"It was going to be the dream vacation for me, but not if it meant a bikini, no way! In desperation, I tried QuickTrim, and in just 2 short weeks lost 22 lbs. and had the time of my life! I had never felt or looked so good. QuickTrim is incredible!"

—PENNY ESTELLE



Penny Estelle pictured on the beach above, and in her actual "before" and "after" photos taken 14 days apart.



QuickTrim is the absolute fastest possible way to lose weight!

Have you ever had a reason to lose weight fast? Maybe you wanted to get into that special dress for a wedding, prom, reunion, or some other special event. Or maybe you were dreading that upcoming vacation, when you would have to wear a bathing suit in public? Well, QuickTrim was developed with exactly these kinds of situations in mind. It can help you to lose weight and look your best in just two weeks!

This medically-approved, weight-loss miracle uses research-proven technology that is on the cutting edge of nutrition science. QuickTrim attacks weight loss from every possible angle.

Whether you are trying to lose a lot of weight or that last stubborn 15 lbs., this 100% natural weight-loss powerhouse can release you from the excess weight—all in just two short weeks! QuickTrim is extremely easy to use, and does not require any great effort. Rather, it is an ingenious technology whereby the body is gently coaxed into an accelerated lipotropic (fat-burning) state.

You will feel more energetic and healthier on QuickTrim than ever before. It's also great for maturing women whose metabolism is beginning to slow down.

QuickTrim is a comprehensive program that leaves nothing to chance. It includes a manual detailing the complete QuickTrim program.

If you have never tried QuickTrim, you will be amazed at how fast it will help you lose weight. QuickTrim is 100% guaranteed to change the way you look and feel—or your money back.

When you need to lose weight quickly, you need QuickTrim!

To order Cybergenics QuickTrim for \$49.95 call 1-800-635-8970 or mail your order to: L&S Research Corp., 450 Oberlin Ave. South, Lakewood, N.J. 08701

EXHIBIT G

and other fine Health Food Stores

DECISION AND ORDER

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

The respondents, their 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 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, or that the facts as alleged in such complaint, other than jurisdictional facts, are true 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 a 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 L&S Research Corporation is a corporation organized, existing and doing business under and by virtue of the laws of the State of New Jersey, with its offices and principal place of business located at 450 Oberlin Ave., S., in the City of Lakewood, State of New Jersey.

Respondent Scott Chinery is an officer of said corporation. He formulates, directs, and controls the policies, acts and practices of said corporation, and his principal office and place of business is located at the above stated address.

2. The Federal Trade Commission has jurisdiction of the subject matter of this proceeding and of the respondents, and the proceeding is in the public interest.

ORDER

For purposes of this order the following definitions apply:

A. "*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 by others in the profession to yield accurate and reliable results.

B. "*Substantially similar product*" shall mean any product that is substantially similar in composition, in terms of the types of ingredients that it contains, or possesses substantially similar properties.

I.

It is ordered, That respondents, L&S Research Corporation, a corporation, its successors and assigns, and Scott Chinery, individually and as an officer of said corporation, and respondents' agents, representatives, and employees, directly or through any corporation, subsidiary, division, or other device, in connection with the manufacturing, labeling, advertising, promotion, offering for sale, sale, or distribution of the product component of Cybergenics Total Body Building System, Cybergenics for Hard Gainers, or any substantially similar product, in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from representing, in any manner, directly or by implication, that:

A. Any such product component causes a user of such product to achieve greater or more rapid loss of fat or gain of muscle than a non-user of such product; or

B. Any such product component works for all users.

II.

It is further ordered, That respondents, L&S Research Corporation, a corporation, its successors and assigns, and Scott Chinery, individually and as an officer of said corporation, and respondents' agents, representatives, and employees, directly or through any cor-

poration, subsidiary, division, or other device, in connection with the manufacturing, labeling, advertising, promotion, offering for sale, sale, or distribution of Cybergenics Mega-Fat Burner Tablet (also known as Super Fat-Loss Tablet) [referred to herein as Cybergenics Mega-Fat Burner Tablet], or the product component of Cybertrim, Cybergenics QuickTrim, or any substantially similar product, in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from representing, in any manner, directly or by implication, that:

A. Any such product component or Cybergenics Mega-Fat Burner Tablet causes a user of such product to maintain weight loss longer than a non-user of such product; or

B. Any such product component or Cybergenics Mega-Fat Burner Tablet provides a benefit to a maturing person who uses such product which causes that person to lose more weight than a non-user of such product.

III.

It is further ordered, That respondents, L&S Research Corporation, a corporation, its successors and assigns, and Scott Chinery, individually and as an officer of said corporation, and respondents' agents, representatives, and employees, directly or through any corporation, subsidiary, division, or other device, in connection with the manufacturing, labeling, advertising, promotion, offering for sale, sale, or distribution of Cybergenics Mega-Fat Burner Tablet, or the product component of Cybergenics Total Body Building System, Cybergenics for Hard Gainers, Cybertrim, Cybergenics QuickTrim, or any substantially similar product, do forthwith cease and desist from representing, directly or by implication, contrary to fact, that scientific evidence demonstrates that:

A. Any such product intended for body building causes a user to lose more fat or gain more muscle than a non-user of such product; or

B. Any such product intended for weight or fat loss causes a user to lose more fat or weight than a non-user of such product.

IV.

It is further ordered, That respondents, L&S Research Corporation, a corporation, its successors and assigns, and Scott Chinery, individually and as an officer of said corporation, and respondents' agents, representatives, and employees, directly or through any corporation, subsidiary, division, or other device, in connection with the manufacturing, labeling, advertising, promotion, offering for sale, sale, or distribution of any product or program in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from representing, in any manner, directly or by implication, that:

A. Any such product or program causes, assists, or enables a user to lose or control weight or fat loss, or maintain weight or fat loss, or to suppress hunger or appetite;

B. Any such product or program causes, assists, or enables a user to achieve muscle gain or development;

C. Any such product or program works for all users;

D. Chromium picolinate in any such product, or used in conjunction with any such program, builds muscle, reduces fat, or lowers cholesterol; or

E. Any such product or program intended for body building, weight loss, or fat loss is more effective than other products or programs intended for similar purposes;

unless, 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, L&S Research Corporation, a corporation, its successors and assigns, and Scott Chinery, individually and as an officer of said corporation, and respondents' agents, representatives, and employees, directly or through any corporation, subsidiary, division, or other device, in connection with the manufacturing, labeling, advertising, promotion, offering for sale, sale, or distribution of any product or program in or affecting commerce, as "commerce" is defined in the Federal Trade Commis-

sion Act, do forthwith cease and desist from representing, in any manner, directly or by implication, that any endorsement (as "endorsement" is defined in 16 CFR 255.0(b), including "before" and "after" pictures) of a product or program represents the typical or ordinary experience of members of the public who use the product or program, unless at the time of making such representation, the representation is true, and respondents possess and rely upon competent and reliable evidence, which when appropriate must be competent and reliable scientific evidence, that substantiates such representation, provided, however, respondents may use such endorsements, including accurate "before" and "after" pictures, if the statements or depictions that comprise the endorsements are true and accurate, and if respondents disclose clearly and prominently and in close proximity to the endorsement what the generally expected performance would be in the depicted circumstances or the limited applicability of the endorser's experience to what consumers may generally expect to achieve, that is, that consumers should not expect to experience similar results.

VI.

It is further ordered, That respondents, L&S Research Corporation, a corporation, its successors and assigns, and Scott Chinery, individually and as an officer of said corporation, and respondents' agents, representatives, and employees, directly or through any corporation, subsidiary, division, or other device, in connection with the manufacturing, labeling, advertising, promotion, offering for sale, sale, or distribution of any product or program 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, that:

- A. Any such product or program is new or unique; or
- B. The ease of use of, or lack of effort required by, any such product or program intended for weight or fat loss if achieving the advertised results depends on adhering to a special diet or exercising.

VII.

It is further ordered, That respondents, L&S Research Corporation, a corporation, its successors and assigns, and Scott Chinery, individually and as an officer of said corporation, and respondents' agents, representatives, and employees, directly or through any corporation, subsidiary, division, or other device, in connection with the manufacturing, labeling, advertising, promotion, offering for sale, sale, or distribution of any product or program 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 contents, validity, results, conclusions, or interpretations of any test or study.

VIII.

It is further ordered, That within five (5) business days of the date of service of this order, respondent L&S Research Corporation, or its successors and assigns, shall pay the sum of one million four hundred fifty thousand dollars (\$1,450,000.00) to the United States Treasury. Such payment shall be by cashier's check or certified check made payable to the United States Treasury. In the event of default of payment, which default continues for more than ten (10) days beyond the due date of payment, and without any notice required to be given to the respondents:

A. Respondent shall also pay interest as computed under 28 U.S.C. 1961, which shall accrue on the unpaid balance from the date of default until the date the balance is fully paid;

B. Individual respondent Scott Chinery shall become liable for the full unpaid balance and interest; and

C. The Commission may draw the balance of the payment due on the Irrevocable Standby Letter of Credit, which has been provided by respondent as security for the payment provided for herein.

No portion of the payment herein described shall be deemed a payment of any fine, penalty, or punitive assessment against respondents with respect to the acts and practices which are the subject of the complaint and which occurred prior to issuance of the order.

IX.

It is further ordered, That the corporate respondent L&S Research Corporation shall for five (5) years following the service of this order, notify the Commission at least thirty (30) days prior to any change in the corporate respondent such as dissolution, assignment, or sale resulting in the emergence of a successor corporation, the creation or dissolution of subsidiaries, or any other change in the corporation that may affect compliance obligations arising out of the order, or of any change in the position and responsibilities of the individual respondent Scott Chinery in regard to L&S Research Corporation or any subsidiary of which he is an officer. The expiration of the notice provisions of this part shall not affect any other obligation arising out of this order. In addition, respondents shall require, as a condition precedent to the closing of the sale or other disposition of L&S Research Corporation or the right to the use of the name Cybergenics or to market any of the products in its product line, that the acquiring party file with the Commission, prior to the closing of such sale or other disposition, a written agreement to be bound by the provisions of this order.

X.

It is further ordered, That the individual respondent Scott Chinery promptly notify the Commission of the discontinuance of his present business or employment and of his affiliation with a new business or employment. In addition, for a period of five (5) years from the date of service of this order, the individual respondent shall promptly notify the Commission of each affiliation with a new business or employment. Each such notice shall include the individual respondent's new business address and a statement of the business or employment in which the respondent is newly engaged as well as a description of respondent's duties and responsibilities in connection with the business or employment. The expiration of the notice provisions of this part shall not affect any other obligation arising under this order.

XI.

It is further ordered, That for five (5) years after the last date of dissemination of any representation covered by this order, respon-

dents, or their successors or assigns, shall 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; and

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.

XII.

It is further ordered, That respondent L&S Research Corporation shall:

A. Within thirty (30) days after service of this order, provide a copy of this order to each of respondent's current principals, officers, directors and managers, and to all personnel, agents, and representatives having sales, advertising, or policy responsibility with respect to the subject matter of this order;

B. For a period of five (5) years from the date of entry of this order, provide a copy of this order to each of respondent's principals, officers, directors, and managers, and to all personnel, agents, and representatives having sales, advertising, or policy responsibility with respect to the subject matter of this order who are associated with respondent or any subsidiary, successor, or assign, within three (3) days after the person assumes his or her position; and that respondent secure from each such person a signed statement acknowledging receipt of said order.

XIII.

It is further ordered, That the respondents herein shall within sixty (60) days after service upon them 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 they have complied with this order.

INTERIM AGREEMENT

L&S Research Corporation and Scott Chinery (proposed respondents) acknowledge receipt of a copy of the proposed agreement containing order to cease and desist (consent agreement) between proposed respondents and the Federal Trade Commission (Commission). Proposed respondents acknowledge that under the terms of the consent agreement they are obligated to pay \$1,450,000.00, and that, pursuant to Part IX of the consent agreement, proposed respondents are obligated to require, as a condition precedent to the closing of the sale or other disposition of L&S Research Corporation or the right to the use of the name Cybergenics or to market any of the products in its product line, that the acquiring party file with the Commission, prior to the closing of such sale or other disposition, a written agreement to be bound by the provisions of this consent agreement.

Commission staff requires as a condition of settlement that an Irrevocable Standby Letter of Credit for the full \$1,450,000.00 be delivered within three (3) days of notification that there is an agreement in principle to settle the Commission's Part II investigation of L&S Research Corporation, Nonpublic File No. 912-3004, and that proposed respondents enter into this agreement.

As an inducement for the Commission to accept and make final the consent agreement, the proposed respondents agree:

- A. To deliver the Irrevocable Standby Letter of Credit, in a form approved by the Commission staff, as security for the payment due under the consent agreement to Richard L. Cleland, Federal Trade Commission, at 601 Pennsylvania Avenue, N.W. Washington, D.C.; and
- B. If L&S Research Corporation or the right to use the name Cybergenics or to market any of the products in its product line is sold before the Commission accepts the consent agreement, to require the acquiring party to file with the Commission, prior to the closing of such sale or other disposition, a written agreement to be bound by the provisions of the order included in the consent agreement, if and when it is finally accepted by the Commission.

It is further agreed that in the event that the consent agreement does not become final on or before September 15, 1995, the

Irrevocable Standby Letter of Credit shall be returned to the respondent L&S Research Corporation or Scott Chinery.

This agreement shall terminate on September 15, 1995, provided that, in the event the consent agreement is finally accepted by the Commission, this agreement shall terminate upon service of the order provided for in the consent agreement.

CONCURRING STATEMENT OF COMMISSIONER MARY L. AZCUENAGA

The Commission has strong evidence supporting the central allegations in this complaint, and I have voted to accept the consent agreement. In my view, however, the complaint should not allege that the maintenance claim for Mega-Fat Burner and the maturing women weight loss claim for QuickTrim were false. I am inclined to believe that the claims are false but I would prefer to have some corroborating evidence of falsity before finding reason to believe that Section 5 of the FTC Act has been violated. Because the available information shows only that there is no evidence that these claims are true, it seems to me more appropriate to allege that they are unsubstantiated.

In addition, the QuickTrim weight loss allegations seem inconsistent in light of the evidence. The complaint alleges that the weight loss claim for maturing women users of QuickTrim is false but alleges that the same claim for all users of QuickTrim is unsubstantiated. Yet we have no evidence indicating that the weight loss claims are any more likely to be false for maturing women than for users generally.

I therefore do not support the complaint to the extent that the maintenance claim for Mega-Fat Burner and the maturing women weight loss claim for QuickTrim are alleged to be false, not unsubstantiated.

Complaint

118 F.T.C.

IN THE MATTER OF

BPI ENVIRONMENTAL, INC.

CONSENT ORDER, ETC., IN REGARD TO ALLEGED VIOLATION OF
SEC. 5 OF THE FEDERAL TRADE COMMISSION ACT*Docket C-3535. Complaint, Oct. 17, 1994--Decision, Oct. 17, 1994*

This consent order prohibits, among other things, a Massachusetts-based corporation from making unsubstantiated degradability claims for its plastic grocery bags or any of its plastic products in the future. The order also requires the respondent to possess competent and reliable evidence to substantiate claims regarding any environmental benefit of its plastic products.

*Appearances*For the Commission: *Gary S. Cooper.*For the respondent: *Dennis N. Caulfield*, President, North Dighton, MA.

COMPLAINT

The Federal Trade Commission, having reason to believe that BPI Environmental, Inc., successor to Beresford Packaging, Inc., a corporation, 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 BPI Environmental, Inc. ("BPI") is a Delaware corporation with its office and principal place of business located at 155 Myles Standish Boulevard, Taunton, Massachusetts.

Beresford Packaging, Inc. ("Beresford") was a Massachusetts corporation with its office and principal place of business located at 155 Myles Standish Boulevard, Taunton, Massachusetts.

On or about August 2, 1990, Beresford was merged into BPI, at which time the separate corporate existence of Beresford ceased and BPI became the surviving corporation. BPI, as the successor in merger to Beresford, is the legal successor to Beresford and is responsible for the acts or practices of Beresford alleged herein.