

IN THE MATTER OF

EUROPEAN BODY CONCEPTS, INC., ET AL.

CONSENT ORDER, ETC., IN REGARD TO ALLEGED VIOLATION OF
SECS. 5 AND 12 OF THE FEDERAL TRADE COMMISSION ACT*Docket C-3590. Complaint, June 23, 1995--Decision, June 23, 1995*

This consent order prohibits, among other things, the corporation and its president from making false and unsubstantiated claims that their body wrap causes weight-loss; eliminates cellulite; and is completely safe for all users. In addition, it requires that prominent safety warnings be given to customers.

Appearances

For the Commission: *Nancy S. Warder.*

For the respondents: *Edward Carnot, Carnot, Zapor & Klassen,*
Rockville, MD.

COMPLAINT

The Federal Trade Commission, having reason to believe that European Body Concepts, Inc., a Maryland corporation, European Body Concepts, Inc., a Virginia corporation, European Body Concepts, Inc., a North Carolina corporation, and James Marino, individually and as an officer of said corporations ("respondents"), have violated the provisions of the Federal Trade Commission Act, and it appearing to the Commission that a proceeding by it in respect thereof would be in the public interest, alleges:

PARAGRAPH 1. Respondent European Body Concepts, Inc., a Maryland corporation, had its office and principal place of business at 1 Central Plaza, Suite 907, 11300 Rockville Pike, Rockville, Maryland. Respondent European Body Concepts, Inc., a Virginia corporation, had its office and principal place of business at 6564 Loisdale Court, Suite 420, Springfield, Virginia. Respondent European Body Concepts, Inc., a North Carolina corporation, had its office and principal place of business located at 1515 Mockingbird Lane, Suite 410, Charlotte, North Carolina.

Respondent James Marino is the single shareholder and sole officer and director of the corporate respondents. Individually or in concert with others, he formulates, directs, and controls the acts and practices of the corporate respondents, including the acts and practices alleged in this complaint. His office and principal place of business is located at 11940 Alpharetta Highway, Suite 907, Alpharetta, Georgia.

PAR. 2. Respondents have advertised, offered for sale, and sold weight loss and weight maintenance services and products that they have made available at corporately owned European Body Concepts outlets. These products and services include treatments using medical bandages that are soaked in a solution and wrapped around the bodies of users who are then clothed in vinyl body suits ("European Body Wrap treatment"). The European Body Wrap treatment involves the use of drugs and/or devices as "drug" and "device" are defined in Sections 12 and 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 for their European Body Wrap treatment including, but not necessarily limited to, the advertisements attached hereto as Exhibits A through J. These advertisements contain the following statements:

A. ANNOUNCER: Have you looked at yourself in the mirror lately?

WOMAN [in complaining voice]: All these bumps and bulges and ugly cellulite.

ANNOUNCER: If you're tired of the way you look, tired of the way you feel, call European Body Concepts. We'll rid you of those unwanted inches, bumps and bulges without strict diets or strenuous exercise. We'll wrap you in our all natural mineral solution. We guarantee you'll lose 6 to 30 inches on your first visit or it's free. And it only takes an hour. Right now your introductory visit is \$19.95. This is a limited time offer so call today and watch those inches disappear.

["Wrap it up" lyrics and music continue until end of ad]

European Body Concepts, with 3 convenient locations. In Rockville, call 468-WRAP, that's 468-W-R-A-P. . . . What have you got to lose, but inches. (Exhibit A, radio ad)

B. ANNOUNCER: It's almost that time of year again and the beaches are waiting. It's time to get ready for your bathing suit. Look great without those extra pounds, inches and cellulite with European Body Concepts. The only program that guarantees you'll lose a total of 6 to 30 inches on your first visit or it's free. Men

and women clients agree it really works. Just follow the plan and with each visit watch the pounds and inches disappear. Call now and for a limited time your first visit is only \$19.95. There are no hidden costs such as special foods, vitamins or pills and our staff will assist you in every way. A smaller bathing suit size is awaiting you.

["Wrap it up" lyrics and music played briefly]

So call today and watch those inches start disappearing before you head to the beach. European Body Concepts wraps you in our unique mineral solution while you just relax. Call today.

In Rockville, call 468-WRAP, that's 468-W-R-A-P. . . . (Exhibit B, radio ad)

C. ANNOUNCER: The winds of autumn are coming and before you know it, the holiday parties with all their tempting morsels will be threatening your waistline. Don't wait 'til things get out of control this year, let European Body Concepts help you get a handle on extra pounds and inches. Amazingly, if you call now your first visit is still only \$19.95. Check around, nowhere else will you find a safer, more effective weight control program at a better price. European Body Concepts can wrap you all over or just your problem areas. And we guarantee you'll lose 6 to 30 inches on your first visit. Come in now for your European Body Concepts mineral body wrap and watch those inches disappear in just one hour. How can you lose? European Body Concepts with 3 convenient locations. Call us now.

In Rockville, call 468-WRAP, that's 468-W-R-A-P. . . . (Exhibit C, radio ad)

D. ANNOUNCER: Wait a minute! Will you have this much fun this summer with those extra pounds and inches?

WOMAN [in complaining voice]: Oh, my swim suit didn't look like this last year.

ANNOUNCER: Increase your summer fun factor this year with European Body Concepts. Thousands of our clients have taken-off inches just in time for the summer and you can too. There's still time to look great for the beach season with a European Body Concepts revolutionary body wrap system at an affordable price. Only \$19.95 for your first visit if you call now. Hurry, this offer won't last much longer. The European Body Concepts program is fast, easy and affordable. And we guarantee you'll see results on your first visit. Lose 6 to 30 inches or it's free.

["Wrap it up" lyrics and music until end of ad]

Call now. In Rockville, call 468-WRAP, that's 468-W-R-A-P. . . . (Exhibit D, radio ad)

E. ANNOUNCER: Now's the time to join the thousands of people who are losing inches fast. European Body Concepts, now with 3 Washington locations, celebrates the grand opening of their new Springfield location with a special offer. European Body Concepts guarantees you'll lose 6 to 30 inches on your first visit, or it's free.

MALE CONSUMER: I've lost 60 inches.

FEMALE CONSUMER: I've lost 91 and 3/4 inches.

ANNOUNCER: These are actual European Body Concepts clients. Your results may vary.

FEMALE CONSUMER: I like that it works and that the inches stay off.

ANNOUNCER: We'll wrap you in our special mineral solution and in only one hour you'll lose 6 to 30 inches. Call today for a limited time introductory offer of just \$14.95 for your first visit. You have nothing to lose, but inches.

FEMALE CONSUMER: I have recommended it to many friends.

MALE CONSUMER: I feel good.

ANNOUNCER: European Body Concepts, now with a new Springfield location. Call 313-WRAP. That's 313-W-R-A-P . . . (Exhibit E, radio ad)

F. ANNOUNCER: What can European Body Concepts do for you?

FEMALE CONSUMER: I lost 9 inches my first visit.

ANNOUNCER: Help you lose unwanted inches and pounds easily. Here's your chance to join thousands of successful European Body Concepts clients.

MALE CONSUMER: I feel great. I like it. I enjoy it. I look forward to it. I look forward to going. It's relaxing. I enjoy the weigh in. It's the best. It's marvelous.

ANNOUNCER: Right now for a limited time your first visit is only \$19.95. Plus, we guarantee you'll lose 6 to 30 inches in the first hour or it's free.

MALE CONSUMER: I was plannin' on losing weight but I didn't think I'd take that much, that many pounds off, but I did.

ANNOUNCER: These are actual clients. Your results may vary. You've got nothing to lose but inches. Call European Body Concepts right now and take advantage of our special \$19.95 offer. Lose 6 to 30 inches in the first hour or it's free. In Tysons call 758-WRAP, 758-W-R-A-P. . . .

MALE CONSUMER: I'm living proof that it has worked.

ANNOUNCER: So what are you waiting for? Wrap it up with European Body Concepts. (Exhibit F, radio ad)

G. ANNOUNCER [same statement on full screen video]: Lose 6 to 30 inches on your first visit to European Body Concepts or it's free!

CORINNE [shown speaking]: With this system, you don't get hungry, you don't have to do all these tremendous exercise routines, you don't wear yourself out, you eat the foods that you want to eat, that's the bottom line, it works. It really works.

[full screen video: Corinne Hathaway lost 26 inches and 15 pounds in only 5 visits]

ANNOUNCER: Your introductory visit to European Body Concepts is only \$19.95. In Springfield call 313-WRAP. . . . (Exhibit G, television ad)

H. ANNOUNCER [same statement on full screen video]: Lose 6 to 30 inches on your first visit to European Body Concepts or it's free!

RICHARD [shown speaking]: I've gone down three sizes in my pants size. I've lost 58 pounds.

[full screen video: Richard Shaughnessy lost 44 ½ Inches & 58 Pounds]

RICHARD: I've tried other plans prior to European Body Concepts but the weight would come off, the inches would come off and come right back on. This time, the inches and weight have gone off, stayed off.

ANNOUNCER: Your introductory visit to European Body Concepts is only \$19.95. In Springfield call 313-WRAP. . . . (Exhibit H, television ad)

I. ANNOUNCER [same statement on full screen video]: Lose 6 to 30 inches on your first visit to European Body Concepts or it's free!

DIANE [shown speaking]: I've lost 5 dress sizes and it's the first program that I really have stuck to and felt very comfortable with.

[full screen video: Diane Boyle lost 116 ½ inches]

DIANE: European Body Concepts is not hard to do, the weight came off very easily, the inches. Each time I went it would be a couple more inches and they would start adding up.

ANNOUNCER: Your introductory visit to European Body Concepts is only \$19.95. In Springfield call 313-WRAP. . . . (Exhibit I, television ad)

J. IS THE BODY WRAP HARMFUL?

No. The treatments have proven perfectly safe and non-allergenic. If you have a serious medical problem, we would ask that you consult your physician for our own peace of mind. We will not wrap women during pregnancy, clients who have had recent surgery and have unhealed incisions, or clients with large abrasions or rashes for obvious reasons. Many of our clients have heart trouble, diabetes, kidney or liver problems, varicose veins, asthma, etc. We have not found any condition that the body wrap will aggravate or hurt.

....

BENEFITS AND ADVANTAGES TO YOU

- 100% safe and effective (Exhibit J, brochure)

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 hereto as Exhibits A through J, respondents have represented, directly or by implication, that:

A. The European Body Wrap treatment causes users to lose significant numbers of inches from their body measurements;

B. The European Body Wrap treatment causes significant weight loss;

C. The European Body Wrap treatment causes significant inch and weight loss without diet or exercise;

D. The European Body Wrap treatment causes fast and easy inch and weight loss;

E. The European Body Wrap treatment eliminates cellulite;

F. The European Body Wrap treatment causes weight loss at or reduction in the size of specific areas of the body;

G. Users of the European Body Wrap treatment are successful in maintaining their weight and inch loss; and

H. The European Body Wrap treatment is completely safe for all users.

PAR. 6. In truth and in fact:

A. The European Body Wrap treatment does not cause users to lose significant numbers of inches from their body measurements;

B. The European Body Wrap treatment does not cause significant weight loss;

C. The European Body Wrap treatment does not cause significant inch or weight loss without diet or exercise;

D. The European Body Wrap treatment does not cause fast or easy inch or weight loss;

E. The European Body Wrap treatment does not eliminate cellulite;

F. The European Body Wrap treatment does not cause weight loss at or reduction in the size of specific areas of the body;

G. Users of the European Body Wrap treatment are not successful in maintaining their weight and inch loss; and

H. The European Body Wrap treatment is not completely safe for all users.

Therefore, the representations set forth in paragraph five 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 hereto as Exhibits A through J, respondents have represented, directly or by implication, that at the time they made the representations set forth in paragraph five, 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, 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. Through the use of statements contained in the advertisements referred to in paragraph four, including but not necessarily limited to the advertisements attached as Exhibits E through I, respondents have represented, directly or by implication, that the testimonials from consumers appearing in advertisements for the European Body Wrap treatment reflect the typical or ordinary experience of members of the public who have used the treatment.

PAR. 10. In truth and in fact, the testimonials from consumers appearing in advertisements for the European Body Wrap treatment

do not reflect the typical or ordinary experience of members of the public who have used the treatment. Therefore, the representation set forth in paragraph nine was, and is, false and misleading.

PAR. 11. In their advertising and sale of the European Body Wrap treatment, respondents have represented that the European Body Wrap treatment is completely safe for all users. Respondents have failed to disclose that the European Body Wrap treatment may be dangerous to the health of people with certain medical conditions, including heart disease, high or low blood pressure, or diabetes. This fact would be material to consumers in their purchase or use decisions regarding the treatment. The failure to disclose this fact, in light of the representation made, was, and is, a deceptive practice.

PAR. 12. 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.

Chairman Pitofsky not participating.

Complaint

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EXHIBIT A

"BUMPS AND BULGES"

ANNOUNCER: Have you looked at yourself in the mirror lately?

WOMAN [in complaining voice]: All these bumps and bulges and ugly cellulite.

ANNOUNCER: If you're tired of the way you look, tired of the way you feel, call European Body Concepts. We'll rid you of those unwanted inches, bumps and bulges without strict diets or strenuous exercise. We'll wrap you in our all natural mineral solution. We guarantee you'll lose 6 to 30 inches on your first visit or it's free. And it only takes an hour. Right now your introductory visit is \$19.95. This is a limited time offer so call today and watch those inches disappear.

["Wrap it up" lyrics and music continue until end of ad]

European Body Concepts, with 3 convenient locations. In Rockville, call 468-WRAP, that's 468-W-R-A-P. In Tysons Corner, 758-WRAP, that's 758-W-R-A-P. And in Springfield, 313-WRAP, that's 313-W-R-A-P. What have you got to lose, but inches.

EXHIBIT B

"BEACHES ARE WAITING"

ANNOUNCER: It's almost that time of year again and the beaches are waiting. It's time to get ready for your bathing suit. Look great without those extra pounds, inches and cellulite with European Body Concepts. The only program that guarantees you'll lose a total of 6 to 30 inches on your first visit or it's free. Men and women clients agree it really works. Just follow the plan and with each visit watch the pounds and inches disappear. Call now and for a limited time your first visit is only \$19.95. There are no hidden costs such as special foods, vitamins or pills and our staff will assist you in every way. A smaller bathing suit size is awaiting you.

["Wrap it up" lyrics and music played briefly]

So call today and watch those inches start disappearing before you head to the beach. European Body Concepts wraps you in our unique mineral solution while you just relax. Call today.

In Rockville, call 468-WRAP, that's 468-W-R-A-P. In Tysons Corner, 758-WRAP, that's 758-W-R-A-P. And in Springfield, 313-WRAP, that's 313-W-R-A-P.

EXHIBIT C

"HOLIDAY PARTIES"

ANNOUNCER: The winds of autumn are coming and before you know it, the holiday parties with all their tempting morsels will be threatening your waistline. Don't wait 'til things get out of control this year, let European Body Concepts help you get a handle on extra pounds and inches.

Amazingly, if you call now your first visit is still only \$19.95. Check around, nowhere else will you find a safer, more effective weight control program at a better price. European Body Concepts can wrap you all over or just your problem areas. And we guarantee you'll lose 6 to 30 inches on your first visit. Come in now for your European Body Concepts mineral body wrap and watch those inches disappear in just one hour. How can you lose? European Body Concepts with 3 convenient locations. Call us now.

In Rockville, call 468-WRAP, that's 468-W-R-A-P. In Tysons Corner, 758-WRAP, that's 758-W-R-A-P. And in Springfield, 313-WRAP, that's 313-W-R-A-P.

EXHIBIT D

"SUMMER FUN"

ANNOUNCER: Wait a minute! Will you have this much fun this summer with those extra pounds and inches?

WOMAN [in complaining voice]: Oh, my swim suit didn't look like this last year.

ANNOUNCER: Increase your summer fun factor this year with European Body Concepts. Thousands of our clients have taken off inches just in time for the summer and you can too. There's still time to look great for the beach season with a European Body Concepts revolutionary body wrap system at an affordable price. Only \$19.95 for your first visit if you call now. Hurry, this offer won't last much longer. The European Body Concepts program is fast, easy and affordable. And we guarantee you'll see results on your first visit. Lose 6 to 30 inches or it's free. ["Wrap it up" lyrics and music until end of ad]

Call now. In Rockville, call 468-WRAP, that's 468-W-R-A-P. In Tysons Corner, 758-WRAP, that's 758-W-R-A-P. And in Springfield, 313-WRAP, that's 313-W-R-A-P.

Complaint

119 F.T.C.

EXHIBIT E

"THOUSANDS OF PEOPLE"

ANNOUNCER: Now's the time to join the thousands of people who are losing inches fast. European Body Concepts, now with 3 Washington locations, celebrates the grand opening of their new Springfield location with a special offer. European Body Concepts guarantees you'll lose 6 to 30 inches on your first visit, or it's free.

MALE CONSUMER: I've lost 60 inches.

FEMALE CONSUMER: I've lost 91 and 3/4 inches.

ANNOUNCER: These are actual European Body Concepts clients. Your results may vary.

FEMALE CONSUMER: I like that it works and that the inches stay off.

ANNOUNCER: We'll wrap you in our special mineral solution and in only one hour you'll lose 6 to 30 inches. Call today for a limited time introductory offer of just \$14.95 for your first visit. You have nothing to lose, but inches.

FEMALE CONSUMER: I have recommended it to many friends.

MALE CONSUMER: I feel good.

ANNOUNCER: European Body Concepts, now with a new Springfield location. Call 313-WRAP. That's 313-W-R-A-P, or in Rockville, call 468-WRAP. And in Tysons call 758-WRAP. European Body Concepts. The new number in Springfield is 313-WRAP.

EXHIBIT F

"WRAP IT UP"

ANNOUNCER: What can European Body Concepts do for you?

FEMALE CONSUMER: I lost 9 inches my first visit.

ANNOUNCER: Help you lose unwanted inches and pounds easily. Here's your chance to join thousands of successful European Body Concepts clients.

MALE CONSUMER: I feel great. I like it. I enjoy it. I look forward to it. I look forward to going. It's relaxing. I enjoy the weigh in. It's the best. It's marvelous.

ANNOUNCER: Right now for a limited time your first visit is only \$19.95. Plus, we guarantee you'll lose 6 to 30 inches in the first hour or it's free.

MALE CONSUMER: I was plannin' on losing weight but I didn't think I'd take that much, that many pounds off, but I did.

ANNOUNCER: These are actual clients. Your results may vary. You've got nothing to lose but inches. Call European Body Concepts right now and take advantage of our special \$19.95 offer. Lose 6 to 30 inches in the first hour or it's free. In Tysons call 758-WRAP, 758-W-R-A-P. Rockville call 468-WRAP, 468-W-R-A-P. Springfield call 313-WRAP, 313-W-R-A-P.

MALE CONSUMER: I'm living proof that it has worked.

ANNOUNCER: So what are you waiting for? Wrap it up with European Body Concepts.

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Complaint

EXHIBIT G

"CORINNE H."

ANNOUNCER [same statement on full screen video]: Lose 6 to 30 inches on your first visit to European Body Concepts or it's free!

CORINNE [shown speaking]: With this system, you don't get hungry, you don't have to do all these tremendous exercise routines, you don't wear yourself out, you eat the foods that you want to eat, that's the bottom line, it works. It really, works. [full screen video: Corinne Hathaway lost 26 inches and 15 pounds in only 5 visits]

ANNOUNCER: Your introductory visit to European Body Concepts is only \$19.95. In Springfield call 313-WRAP. In Tysons call 758-WRAP. In Rockville call 468-WRAP.

[full screen video: Your introductory visit to European Body Concepts is only \$19.95!

European Body Concepts

In Springfield call 313-WRAP

9 7 2 7

In Tysons call 758-WRAP

9 7 2 7

In Rockville call 468-WRAP

9 7 2 7]

EXHIBIT H

"RICHARD S."

ANNOUNCER [same statement on full screen video]: Lose 6 to 30 inches on your first visit to European Body Concepts or it's free!

RICHARD [shown speaking]: I've gone down three sizes in my pants size. I've lost 58 pounds.

[full screen video: Richard Shaughnessy lost 44 ½ Inches & 58 Pounds]

RICHARD: I've tried other plans prior to European Body Concepts but the weight would come off, the inches would come off and come right back on. This time, the inches and weight have gone off, stayed off.

ANNOUNCER: Your introductory visit to European Body Concepts is only \$19.95. In Springfield call 313-WRAP. In Tysons call 758-WRAP. In Rockville call 468-WRAP.

[full screen video: Your introductory visit to European Body Concepts is only \$19.95!

European Body Concepts

In Springfield call 313-WRAP

9 7 2 7

In Tysons call 758-WRAP

9 7 2 7

In Rockville call 468-WRAP

9 7 2 7]

Complaint

119 F.T.C.

EXHIBIT I

"DIANE B."

ANNOUNCER [same statement on full screen video]: Lose 6 to 30 inches on your first visit to European Body Concepts or it's free!

DIANE [shown speaking]: I've lost 5 dress sizes and its the first program that I really have stuck to and felt very comfortable with.

[full screen video: Diane Boyle lost 116 ½ inches]

DIANE: European Body Concepts is not hard to do, the weight came off very easily, the inches. Each time I went it would be a couple more inches and they would start adding up.

ANNOUNCER: Your introductory visit to European Body Concepts is only \$19.95. In Springfield call 313-WRAP. In Tysons call 758-WRAP. In Rockville call 468-WRAP.

[full screen video: Your introductory visit to European Body Concepts is only \$19.95!

European Body Concepts

In Springfield call 313-WRAP

9 7 2 7

In Tysons call 758-WRAP

9 7 2 7

In Rockville call 468-WRAP

9 7 2 7]

947

Complaint

EXHIBIT J

— You —
WERE
MEANT
TO BE
BEAUTIFUL



**EUROPEAN
BODY
CONCEPTS INC.**

*Sounds incredible but we
prove it every hour of the day
with our thousands of clients
that have been to European
Body Concepts.*



**EUROPEAN
BODY
CONCEPTS INC.**

8260 Greensboro Drive
Suite 550
McLean, VA 22102
703-758-9727

6564 Loisdale Ct.
Suite 420
Springfield, VA 22150
703-313-9727

11300 Rockville Pike
Suite 907
Rockville, MD 20852
301-468-9727

BENEFITS AND ADVANTAGES TO YOU

- Noticeable difference in one visit
- Works for men & women
- No special foods to buy
- No pills or shots
- No exhausting exercise or perspiration
- 100% safe and effective
- Skin feels tighter, cleaner & silky soft
- Great maintenance program

**AND BEST OF
ALL A SLIMMER
AND TRIMMER
LOOKING YOU
STARTING TODAY**

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 send 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, 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 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 European Body Concepts, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of Maryland, with its office and principal place of business formerly located at 1 Central Plaza, Suite 507, 11300 Rockville Pike in the City of Rockville, State of Maryland.

Respondent European Body Concepts, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of Virginia, with its office and principal place of business formerly located at 6564 Loisdale Court, Suite 420 in the City of Springfield, State of Virginia.

Respondent European Body Concepts, Inc., is a corporation organized, existing and doing business under and by virtue of the

laws of North Carolina, with its office and principal place of business formerly located at 1515 Mockingbird Lane, Suite 410 in the City of Charlotte, State of North Carolina.

Respondent James Marino is an officer of said corporations. He formulated, directed, and controlled the policies and practices of said corporations, and his principal office and place of business is located at 11940 Alpharetta Highway, Suite 709 in the City of Alpharetta, State of Georgia.

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:

1. *"Clearly and prominently"* means as follows:

A. In a television or videotape advertisement, the disclosure shall be presented simultaneously in both the audio and video portions of the advertisement. The audio disclosure shall be delivered in a volume and cadence sufficient for an ordinary consumer to hear and comprehend it. The video disclosure shall be of a size and shade, and shall appear on the screen for a duration, sufficient for an ordinary consumer to read and comprehend it.

B. In a radio advertisement, the disclosure shall be delivered in a volume and cadence sufficient for an ordinary consumer to hear and comprehend it.

C. In a print advertisement the disclosure shall be in at least twelve (12) point type, in print that contrasts with the background against which it appears, and in a location that is sufficiently noticeable that the ordinary consumer will see and read it.

2. *"Competent and reliable scientific evidence"* means 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.

3. "*European Body Wrap treatment*" means the treatment used at European Body Concepts centers during which clients are wrapped in medical bandages and placed in vinyl body suits.

I.

It is ordered, That respondents European Body Concepts, Inc., a Maryland corporation, European Body Concepts, Inc., a Virginia corporation, European Body Concepts, Inc., a North Carolina corporation, their successors and assigns, and their officers; James Marino, individually and as an officer and director of said corporations; and respondents' agents, representatives and employees, directly or through any partnership, corporation, subsidiary, division or other device, in connection with the advertising, promotion, offering for sale, sale or distribution of the European Body Wrap treatment or any substantially similar treatment 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. Such treatment causes weight loss;
- B. Such treatment causes weight loss without diet or exercise;
- C. Such treatment causes fast or easy weight loss;
- D. Such treatment eliminates cellulite;
- E. Such treatment causes weight loss at specific areas of the body;
- F. Users of such treatment are successful in maintaining their weight loss;
- G. Users of such treatment are successful in maintaining their inch loss; or
- H. Such treatment is completely safe for all users.

II.

It is further ordered, That respondents European Body Concepts, Inc., a Maryland corporation, European Body Concepts, Inc., a Virginia corporation, European Body Concepts, Inc., a North Carolina corporation, their successors and assigns, and their officers; James Marino, individually and as an officer and director of said corporations; and respondents' agents, representatives and employees, directly or through any partnership, corporation, subsidiary, division

or other device, in connection with the advertising, promotion, offering for sale, sale or distribution of any body wrap treatment 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. Such treatment causes users to lose inches from their body measurements;
- B. Such treatment causes inch loss without diet or exercise;
- C. Such treatment causes fast or easy inch loss; or
- D. Such treatment causes reduction in the size of specific areas of the body;

unless, (1) 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; and (2) respondents disclose, clearly and prominently, that: (a) any inch loss or reduction in body size will be temporary; provided however, that this disclosure shall not be required if respondents possess and rely upon competent and reliable scientific evidence demonstrating that any such inch loss or reduction in body size will not be temporary; and (b) such treatment does not cause weight loss; provided however, that this disclosure shall not be required if respondents possess and rely upon competent and reliable scientific evidence demonstrating that such treatment causes weight loss.

III.

It is further ordered, That respondents European Body Concepts, Inc., a Maryland corporation, European Body Concepts, Inc., a Virginia corporation, European Body Concepts, Inc., a North Carolina corporation, their successors and assigns, and their officers; James Marino, individually and as an officer and director of said corporations; and respondents' agents, representatives and employees, directly or through any partnership, corporation, subsidiary, division or other device, in connection with the advertising, promotion, offering for sale, sale or distribution of the European Body Wrap treatment or any substantially similar treatment in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act do forthwith cease and desist from:

A. Making any representation, directly or by implication, regarding the safety of any such treatment, unless respondents disclose, clearly and prominently, and in close proximity to such representation that the treatment may be dangerous to the health of people with heart disease, high or low blood pressure, or diabetes and that any such person should consult a doctor before using the treatment;

B. Failing to disclose prior to purchase the warning set forth below to each prospective user of any such treatment:

(i) By including the warning in the program description brochure delivered to each such person, with the warning printed in bold on the front panel in ten (10) point type surrounded by a bold two (2) point rule, in print that contrasts with the background against which it appears; or

(ii) If respondents cease to provide prospective users with a program description brochure, by delivering to each such person a five (5) by eight (8) inch card on which the warning and nothing else is printed in twelve (12) point type:

"CAUTION: If you suffer from heart disease, high or low blood pressure, or diabetes, you should consult your physician before using this treatment to determine whether it poses a risk to your health;" and

C. Failing to post in a conspicuous place where it is likely to be noticed by, and is legible to, prospective users, in the reception area of any location where any such treatment is offered for sale, sold, or used, a sign containing the warning in subpart B and nothing else printed in letters one inch high.

IV.

It is further ordered, That respondents European Body Concepts, Inc., a Maryland corporation, European Body Concepts, Inc., a Virginia corporation, European Body Concepts, Inc., a North Carolina corporation, their successors and assigns, and their officers; James Marino, individually and as an officer and director of said corporations; and respondents' agents, representatives and employees, directly or through any partnership, corporation, subsidiary, division

or other device, in connection with the advertising, promotion, offering for sale, sale or distribution of any weight control or weight reduction treatment, program, product, or service in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from making any representation, in any manner, directly or by implication, that any such treatment, program, product, or service has any effect on weight or body size, unless they disclose, clearly and prominently, and in close proximity to such representation that diet and/or increasing exercise is required to lose weight; provided however, that this disclosure shall not be required if respondents possess and rely upon competent and reliable scientific evidence demonstrating that the treatment, program, product, or service is effective without either dieting or increasing exercise.

V.

It is further ordered, That respondents European Body Concepts, Inc., a Maryland corporation, European Body Concepts, Inc., a Virginia corporation, European Body Concepts, Inc., a North Carolina corporation, their successors and assigns, and their officers; James Marino, individually and as the sole officer and director of said corporations; and respondents, agents, representatives and employees, directly or through any partnership, corporation, subsidiary, division or other device, in connection with the advertising, promotion, offering for sale, sale or distribution of any weight control or weight reduction treatment, program, product, or service in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from misrepresenting, in any manner, directly or by implication, that any endorsement (as "endorsement" is defined in 16 CFR 255.0(b)) represents the typical or ordinary experience of members of the public who use such treatment, program, product, or service.

VI.

It is further ordered, That respondents European Body Concepts, Inc., a Maryland corporation, European Body Concepts, Inc., a Virginia corporation, European Body Concepts, Inc., a North Carolina corporation, their successors and assigns, and their officers; James Marino, individually and as an officer and director of said corporations; and respondents' agents, representatives and employees, directly or through any partnership, corporation, subsidiary, division or other device, in connection with the advertising, promotion, offering for sale, sale or distribution of any treatment, program, product, or service in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from making any representation, in any manner, directly or by implication, that:

A. Such treatment, program, product, or service has any weight control, weight loss or weight maintenance benefit;

B. Such treatment, program, product, or service has any effect on cellulite;

C. Such treatment, program, product, or service has any effect on users' body measurements; or

D. Using any such treatment, program, product, or service designed or used to prevent weight gain or produce weight loss, reduce or eliminate fat or cellulite, or reduce body measurements is safe or without risk;

unless, at the time of making such representation, respondents possess and rely upon competent and reliable scientific evidence that substantiates the representation.

VII.

Nothing in this order shall prohibit respondents from making any representation that is specifically permitted in labeling for any product by regulations promulgated by the Food and Drug Administration pursuant to the Nutrition Labeling and Education Act of 1990.

VIII.

Nothing in this order shall prohibit respondents from making any representation for any drug that is permitted in labeling for any such drug under any tentative final or final standard promulgated by the Food and Drug Administration, or under any new drug application approved by the Food and Drug Administration.

IX.

It is further ordered, That respondents European Body Concepts, Inc., a Maryland corporation, European Body Concepts, Inc., a Virginia corporation, and European Body Concepts, Inc., a North Carolina corporation, shall:

A. Within thirty (30) days after service of the order, provide a copy of this order to each of respondents' 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; and

B. For a period of five (5) years from the date of issuance of this order, provide a copy of this order to each of respondents' future 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, within three (3) days after the person assumes his or her responsibilities.

X.

It is further ordered, That for five (5) years after the last date of dissemination of any representation covered by this order, respondents, or their successors and assigns, shall maintain and upon request make available to the Federal Trade Commission or its staff for inspection and copying:

A. Copies of all advertisements which contain any such representation, including tape recordings of all broadcast advertisements;

B. All materials that were relied upon in disseminating such representation; and

C. 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 but not limited to, complaints from consumers and complaints or inquiries from government organizations.

XI.

It is further ordered, That respondents European Body Concepts, Inc., a Maryland corporation, European Body Concepts, Inc., a Virginia corporation, European Body Concepts, Inc., a North Carolina corporation, shall notify the Federal Trade Commission at least thirty (30) days prior to any proposed change in their corporate structures, including but not limited to dissolution, assignment, or sale resulting in the emergence of a successor corporation, the creation or dissolution of subsidiaries or affiliates, or any other corporate change that may affect compliance obligations arising out of this order.

XII.

It is further ordered, That respondent James Marino shall for a period of five (5) years from the date of issuance of the order, notify the Commission within thirty (30) days of the discontinuance of his present business or employment and of his affiliation with any new business or employment. Each notice of affiliation with any new business or employment shall include respondent's new business address, and a statement describing the nature of the business or employment and his duties and responsibilities.

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.

Chairman Pitofsky not participating.

IN THE MATTER OF

MATTEL, INC.

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

Docket C-3591. Complaint, June 23, 1995--Decision, June 23, 1995

This consent order prohibits, among other things, a California-based corporation from representing that any aerosol product it sells offers any environmental benefit, unless it can substantiate the claim.

Appearances

For the Commission: *Michael Dershowitz, Kevin Bank and Michael Ostheimer.*

For the respondent: *James M. Johnstone, Wiley, Rein & Fielding, Washington, D.C.*

COMPLAINT

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

PARAGRAPH 1. Respondent Mattel, Inc. ("Mattel"), is a Delaware corporation with its principal office or place of business at 333 Continental Blvd., El Segundo, CA.

PAR. 2. Respondent has advertised, labeled, offered for sale, sold, and distributed foam soap products including Barbie Bath Blast Fashion Foam Soap, and other products to the public. Barbie Bath Blast Fashion Foam Soap contains hydrochlorofluorocarbons -- chlorodifluoroethane (HCFC-142b) and chlorodifluoromethane (HCFC-22).

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