

Complaint

120 F.T.C.

IN THE MATTER OF

IHI CLINICS, INC., ET AL.

CONSENT ORDER, ETC., IN REGARD TO ALLEGED VIOLATION OF
SEC. 5 OF THE FEDERAL TRADE COMMISSION ACT*Docket C-3595, Complaint, Aug. 1, 1995--Decision, Aug. 1, 1995*

This consent order prohibits, among other things, a Georgia corporation and its officers from misrepresenting the performance, success or efficacy of their smoking cessation, weight loss and maintenance seminars, or any such program, and from representing that the U.S. Government has rated their group hypnosis method as the best way to stop smoking. The consent order requires the respondents to possess and rely upon competent and reliable scientific evidence to substantiate any representation about the performance or efficacy of any smoking cessation or weight loss program, before they make such a claim.

*Appearances*For the Commission: *Matthew Daynard.*For the respondents: *Pro se.*

COMPLAINT

The Federal Trade Commission, having reason to believe that IHI Clinics, Inc. ("IHIC"), a corporation, Gordon Brick, individually and as an officer of said corporation, and Larry Brick, individually and as a former officer of said corporation ("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 IHIC is a Georgia corporation, with its principal office and place of business at 1962 Carthage Road, Tucker, Georgia.

Respondent Gordon Brick is the sole officer, director and shareholder of the corporate respondent. Larry Brick is the former President of the corporate respondent. Together, they formulated, directed, and controlled the acts and practices of the corporate respondent, including the acts and practices alleged in this complaint.

Their principal office or place of business is the same as that of the corporate respondent.

PAR. 2. Respondents have advertised, offered for sale, and sold seminars for smoking cessation and weight loss known as "The IHI Clinic Method of Hypnosis," and other stop-smoking and weight-loss seminars, to consumers. The IHI Clinic Method seminar consists of a single, group hypnosis session, approximately three hours in length, provided to consumers by Larry Brick at various sites throughout the United States.

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 The IHI Clinic Method seminar, including but not necessarily limited to the attached Exhibit A. This advertisement contains the following statements:

SAVE HUNDREDS OF DOLLARS and RESTORE YOUR HEALTH
 STOP SMOKING IN JUST ONE EVENING! NO CRAVING NO STRESS
 NO WEIGHT GAIN The IHI Clinic Method of Hypnosis has helped
 thousands of smokers kick the habit. Of the smokers attending the seminar, over
 95% will discard their cigarettes and Stop Smoking YOUR CRAVING FOR
 CIGARETTES IS GONE! Graduates of this seminar do everything they've
 done before, but they do it without smoking THIS PROGRAM ELIMINATES
 THE NEED, THE DESIRE, THE CRAVING AND THE URGE TO SMOKE.
 Even if you are currently using the patch, you should attend my program. I
 explain why the gum and patch don't work for most people. You'll find my
 program educational, informative, and most important - 95% effective. . . . You will
 be amazed at how easy and pleasant it is to overcome your desire for cigarettes
 ONCE AND FOR ALL You've tried to quit smoking many times before --
 you've tried everything. The gum, the patches, cold turkey, and EVEN WILL
 POWER - Nothing else has worked. My program will end your smoking habit
 forever! NO UNWANTED WEIGHT GAIN! This program helps you
 attain your goal weight and be a health conscious eater LOSE WEIGHT FREE
 THOUSANDS BECOME NON-SMOKERS! Thousands of people just like
 you, with the same doubts, have gone before you and successfully stopped smoking
 with this guaranteed program THE U.S. GOVERNMENT RATES THESE
 PROGRAMS AS THE BEST WAY TO STOP SMOKING

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

A. Ninety-five percent or more of the participants who attend respondents' smoking cessation seminars permanently abstain from smoking after attending those seminars.

B. The United States Government has rated the single-session, group hypnosis seminar used by respondents as the best way to stop smoking.

PAR. 6. In truth and in fact:

A. Ninety-five percent or more of the participants who attend respondents' smoking cessation seminars do not permanently abstain from smoking after those seminars.

B. The United States Government has not rated the single-session, group hypnosis seminar used by respondents as the best way to stop smoking.

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

PAR. 7. Through the use of statements contained in the advertisements referred to in paragraph four, including but not necessarily limited to the advertisement attached as Exhibit A, respondents have represented, directly or by implication, that:

A. Participants who attend respondents' single-session group hypnosis seminar are cured of smoking addiction and permanently abstain from smoking cigarettes.

B. Participants who attend respondents, single-session group hypnosis seminar are cured of smoking addiction without experiencing craving, stress or weight gain.

C. Thousands of consumers have permanently quit smoking as a result of attending respondents' single-session, group hypnosis seminar.

D. Respondents' single-session group hypnosis seminar is more efficacious for smoking cessation than other stop-smoking methods.

PAR. 8. Through the use of the statements in the advertisements referred to in paragraph four, including but not necessarily limited to the advertisement attached as Exhibit A, respondents have represented, directly or by implication, that at the time they made the representations set forth in paragraph seven, respondents possessed

and relied upon a reasonable basis that substantiated such representations.

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

PAR. 10. Respondents have disseminated or have caused to be disseminated advertisements for The IHI Clinic Method seminar, including but not necessarily limited to the attached Exhibit B. This advertisement contains the following statements:

LOSE WEIGHT THRU HYPNOSIS . . . SAVE . . . FAST . . . WITHOUT DIETING . . . THE RESULTS ARE INCREDIBLE . . . Expect results ranging from 20 to 60 lbs. in as little as 3 months, to over 110 lbs. in one year . . . You will lose the weight you wish to lose and keep it off permanently. The program works if you want to lose a little or a lot of weight. LOSE WEIGHT THE EASY WAY . . . DIETS DON'T WORK . . . Say goodbye to diets forever. Remember, you diet, lose weight and 6 months later its all gained back. The true solution is real behavior modification brought about by using the power of the subconscious mind. GAIN CONTROL OF YOUR EATING HABITS . . . This program eliminates the need, the desire, the craving, and the urge to overeat. You will be free of impulsive or compulsive overeating. You will be able to pass up the non-healthy foods with little or no conscious effort. THIS PROGRAM WILL WORK FOR YOU! GUARANTEED . . . OUR WRITTEN GUARANTEE . . . You will lose the weight you wish to lose. If you don't, or if you ever need reinforcement, you'll be admitted to any IHI Clinics Weight Loss Session free of charge.

PAR. 11. Through the use of statements contained in the advertisements referred to in paragraph ten, including but not necessarily limited to the advertisement attached as Exhibit B, respondents have represented, directly or by implication, that:

A. Participants who attend respondents' single-session group hypnosis seminar achieve and maintain weight loss.

B. Participants who attend respondents' single-session group hypnosis seminar achieve weight loss quickly.

C. Respondents' single-session group hypnosis seminar is more efficacious for weight loss and weight-loss maintenance than other weight-loss methods.

PAR. 12. Through the use of the statements in the advertisements referred to in paragraph ten, including but not necessarily limited to the advertisement attached as Exhibit B, respondents have represented, directly or by implication, that at the time they made the representations set forth in paragraph eleven, respondents possessed and relied upon a reasonable basis that substantiated such representations.

PAR. 13. In truth and in fact, at the time that they made the representations set forth in paragraph eleven, respondents did not possess and rely upon a reasonable basis that substantiated such representations. Therefore, the representation set forth in paragraph twelve was, and is, false and misleading.

PAR. 14. Respondents have disseminated or have caused to be disseminated advertisements for The IHI Clinic Method seminar, including but not necessarily limited to the attached Exhibit A. This advertisement contains the following statements:

You too will have a bright Future as a NON-SMOKER!

ENDORSEMENTS

"My wife and I attended your seminar. I wanted to stop smoking and we both wanted to lose weight. Well I haven't smoked since then and we've both reached our weight goal . . ."

Bill and Kathy Woodfin, Lookout Mountain, TN

"I am a cocktail waitress and work around smokers constantly. I didn't think I could stop; but I did and their smoking doesn't bother me one bit. Also since your seminar, I've lost 12 pounds."

Jenny Thigpen, Macon, GA

"Before I attended your seminar, I was obsessed with cigarettes. I smoked 3 packs a day. I haven't had the slightest urge since then -- I am truly a non-smoker today. Many thanks for a better life."

Louise Ross, Tampa, FL

"I lost 38 pounds in seven weeks and it was really easy. I really feel great about myself."

Joe Casbarro, Tucker, GA

"I'd smoked for 36 years, two packs per day. Your seminar was a miracle for me -- I had no withdrawal at all."

George Myers, Tampa, FL

"Four of my fraternity brothers attended with me -- we all quit and we're even losing weight . . ."

Dick Middleton, Thomasville, GA

"It works. I have not smoked since the seminar. It was so easy."

Robert J. Adkins, Stockbridge, GA

PAR. 15. Through the use of statements contained in the advertisements referred to in paragraph fourteen, including but not necessarily limited to the advertisement attached as Exhibit A, respondents have represented, directly or by implication, that testimonials from consumers appearing in advertisements for the IHI Clinic Method seminar reflect the typical or ordinary experience of members of the public who have attended the seminar.

PAR. 16. Through the use of the statements in the advertisements referred to in paragraph fourteen, including but not necessarily limited to the advertisement attached as Exhibit A, respondents have represented, directly or by implication, that at the time they made the representation set forth in paragraph fifteen, respondents possessed and relied upon a reasonable basis that substantiated such representation.

PAR. 17. In truth and in fact, at the time that they made the representation set forth in paragraph fifteen, respondents did not possess and rely upon a reasonable basis that substantiated such representations. Therefore, the representation set forth in paragraph sixteen was, and is, false and misleading.

PAR. 18. The acts and practices of respondents as alleged in this complaint constitute unfair or deceptive acts or practices in or affecting commerce in violation of Section 5(a) of the Federal Trade Commission Act.

EXHIBIT A

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**Thousands
have
become
NON
SMOKERS**

**USING
I H I
Clinic's
METHOD**

You too will have a bright Future as a NON-SMOKER!

ENDORSEMENTS

"I highly recommend this program to any one who smokes or needs help controlling their weight. I am encouraged by the program's results."
Mary Jane Myers Roswell, GA

"It was truly painful!"
Victoria Beardon Ellenwood, GA

"My wife and I attended your seminar. I wanted to stop smoking and we both wanted to lose weight. Well I haven't smoked since then and we've both reached our weight goal. I do want to thank you for the new life we have. We're never felt better."
Bill and Kathy Woodfin Lookout Mountain, TN

"I am a cocktail waitress and work around smokers constantly. I didn't think I could stop; but I did and their smoking doesn't bother me one bit. Also since your seminar, I've lost 12 pounds."
Jenny Thigpen Macon, GA

"At first I was skeptical, but now I am amazed at the results — I am still a non-smoker."
Dr. Millicent Ann Dandridge Atlanta, GA

"Before I attended your seminar, I was obsessed with cigarettes. I smoked 3 packs a day. I haven't had the slightest urge since then — I am truly a non-smoker today. Many thanks for a better life."
Louise Ross Tampa, FL

"I lost 38 pounds in seven weeks and it was really easy. I really feel great about myself."
Joe Casbarro Tucker, GA

"I can now wear the clothes I always wanted to. I can't wait for summer. I'm going to wear a bikini for the first time in my life."
Susan K. Dothan AL

"I'd smoked for 36 years, two packs per day. Your seminar was a miracle for me — I had no withdrawal at all."
George Myers Tampa, FL

"I was amazed at how the pounds just seemed to melt away after your seminar. I didn't experience the first tugging of anxiety either. With your help, I am now a healthy conscious eater."
Susan Ianucci Atlanta, GA

"I wanted to quit, but I didn't think it would work for me. It did, and it was the best bargain in town."
Gleny Nicholson Dublin, GA

"Four of my fraternity brothers attended with me — we all quit and we're even losing weight. Thanks for a great program."
Dick Middleton Thomasville, GA

"You made me a real believer in your seminar. I recommend it to everyone who smokes. It's amazing how I never even think of cigarettes."
Larry Barefoot Sarasota, FL

"It works. I have not smoked since the seminar. It was so easy."
Robert J. Adkins Stockbridge, GA

"It's the damnest thing I've ever seen! I wouldn't have bet five cents that your program would work — but, somehow I'm a non-smoker. I've tried it all before. I considered myself a hard-core smoker — 'one of the few' who just had to smoke in order to function. I wish I could write more but I'm just too excited about my new life to sit still."
Sam Jordan Chattanooga, TN

About your Seminar Leader

Larry Brick, C.H.

Larry Brick, C.H. has presented Stop Smoking Seminars to enthusiastic audiences across the United States. He obtained his BBA degree from the University of Georgia. He is a Certified and Registered Clinical Hypnotherapist with the American Board of Hypnotherapy. He has studied with the American Institute of Hypnotherapy and his seminar is sanctioned by the International Hypnotherapy Institute. Larry is President and co-founder of I H I Clinics, Inc., a Georgia Corporation, based in Atlanta.

I H I Clinics, Inc.
P.O. Box 314
Tucker, GA 30085-0314
1-404-934-4816

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EXHIBIT B

BE A BETTER YOU! COME JOIN US AND . . .

LOSE WEIGHT THRU HYPNOSIS

**SAFE ^{300 BM}
FAST
WITHOUT DIETING
WRITTEN GUARANTEE
ONLY \$3999⁰⁰ COMPLETE**

Cash, Check, Visa, MC, AMEX Discover

THE RESULTS ARE INCREDIBLE!
Expect results ranging from 20 to 60 lbs in as little as 3 months, to over 110 lbs in one year. There will be no pre-packaged foods, no calorie counting, no starving, no dieting, and no cravings. You will lose the weight you wish to lose and keep it off permanently. The program works if you want to lose a little or a lot of weight.

LOSE WEIGHT THE EASY WAY
Hypnosis is normal, natural and pleasant. There is no sleep or loss of control. You will leave the session refreshed and feeling good, because you will be in control of your eating habits **ONCE AND FOR ALL!**

STOP HAVING WEIGHT CONTROL YOUR LIFE
Become the winner you want to be! Feel younger, look younger, gain confidence, and improve your self-esteem.

DIETS DON'T WORK
Say goodbye to diets forever. Remember, you diet, lose weight and 7 months later it's all gained back. The true solution is real behavior modification brought about by using the power of the subconscious mind.

TAKE CONTROL OF YOUR EATING HABITS
See, hear and experience the joyful feeling of becoming a **HEALTHY CONSCIOUS EATER**. This program eliminates the need, the desire, the craving, and the urge to overeat. You will be free of impulsive or compulsive overeating. You will be able to pass up the non-healthy foods with little or no conscious effort.

THIS PROGRAM WILL WORK FOR YOU! GUARANTEED

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Larry Brick
Certified Hypnotherapist
Presented by
IHI Clinics, Inc.
Tucker, GA
1-(404)-934-4816

ROSWELL Monday - May 23 7:00 PM to 8:00 PM Holiday Inn - Holcomb Bridge 1078 Holcomb Bridge Road (GA 400 East Holcomb Bridge)	GWINNETT Thursday - May 23 7:00 PM to 8:00 PM Marriott Gwinnett Place 1778 Pleasant Hill Road (I-405 Exit 40)
MARIETTA Tuesday - May 23 8:00 PM to 9:00 PM Holiday Inn Northwest 2255 Oak Road (I-75 Exit 119)	JONESBORO Saturday - May 28 11:00 AM to 1:00 PM Holiday Inn South 6286 Old Dixie Highway (I-75 Exit 77)
NORTHLAKE Wednesday - May 24 8:00 PM to 9:00 PM Holiday Inn Northlake 2188 Lavette Road (I-20 Exit 28)	GAINESVILLE Sunday - May 22 8:00 PM to 9:00 PM Holiday Inn Gainesville 7350 Jackson Road (I-75 South Exit 13)

OUR WRITTEN GUARANTEE
You will lose all the weight you wish to lose. If you don't, or if you ever need reinforcement, you'll be admitted to any IHI Clinics Weight Loss Session free of charge.

BRING THIS AD FOR AN EXTRA BONUS

EXHIBIT B

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 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, and having duly considered the comments received, 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 IHIC is a Georgia corporation, with its principal office and place of business at 1962 Carthage Road, Tucker, Georgia.
2. Respondent Gordon Brick is the President and Chief Executive officer of said corporation. He formulates, directs and controls the acts and practices of said corporation. Respondent Larry Brick is the former President of said corporation. Together with Gordon Brick, he formulated, directed, and controlled the acts and practices of said corporation. Their address is the same as that of said corporation.
3. The Federal Trade Commission has jurisdiction of the subject matter of this proceeding and of the respondents, and the proceeding is in the public interest.

ORDER

DEFINITION

For the purposes of this order, "*competent and reliable scientific evidence*" shall mean those 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. Survey evidence may be appropriate depending on the representation made.

I.

It is ordered, That respondents IHI Clinics, Inc., a corporation, its successors and assigns, and its officers, Gordon Brick, individually and as an officer of said corporation, and Larry Brick, individually and as a former officer of said corporation, and respondents' agents, representatives and employees, directly or through any corporation, subsidiary, division, or other device, in connection with the advertising, promotion, offering for sale, or sale of any smoking cessation or weight loss program, including any such program that uses hypnosis in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

A. Representing, directly or by implication, that ninety-five percent or more of the participants who attend respondents' smoking cessation seminars permanently abstain from smoking after attending those seminars, unless such is the case.

B. Representing, directly or by implication, that the United States Government has rated the single-session, group hypnosis seminar used by respondents as the best way to stop smoking.

C. Representing, directly or by implication, that participants who attend respondents' single-session group hypnosis seminar are cured of smoking addiction without experiencing craving, stress, weight gain, or other side effects, unless, at the time of making any such representation, respondents possess and rely upon competent and reliable scientific evidence substantiating the representation.

D. Making any representation, directly or by implication, about the relative or absolute performance or efficacy of any smoking cessation program or weight loss program, unless, at the time of making any such representation, respondents possess and rely upon competent and reliable scientific evidence substantiating the representation.

E. Representing through any endorsement or testimonial that any participant(s) of respondents' smoking cessation program or weight loss program have achieved success in smoking abstinence or weight loss unless:

(1) At the time of making such representation, the success claimed is representative of the typical or ordinary experience of all participants of such program, and respondents possess and rely upon competent and reliable scientific evidence that substantiates such representation, or

(2) Respondents disclose, clearly and prominently, and in close proximity to the endorsement or testimonial, either:

(a) What the generally expected results would be for participants in such program, or

(b) 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.

F. Misrepresenting, directly or by implication, the existence, contents, validity, results, conclusions, or interpretations of any test, study, survey or report.

G. Misrepresenting, directly or by implication, the performance or efficacy of any smoking cessation program or weight loss program.

II.

It is further ordered, That for three (3) 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 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.

III.

It is further ordered, That respondents shall notify the Commission at least thirty (30) days prior to the effective date of any proposed change in the corporate respondent such as dissolution, assignment, or sale resulting in the emergence of a successor corporation(s), the creation or dissolution of subsidiaries, or any other change in the corporation that may affect compliance obligations arising out of this order.

IV.

It is further ordered, That the individual respondents named herein shall promptly notify the Commission of the discontinuance of their present business or of their affiliation with the corporate respondent. In addition, for a period of three (3) years from the date of service of this order, each respondent shall promptly notify the Commission of each affiliation with a new business or employment that involves a smoking cessation program or a weight loss program. Each such notice shall include the respondent's new business address and a statement of the nature of the business or employment in which the respondent is newly engaged as well as a description of the respondent's duties and responsibilities in connection with the business or employment.

V.

It is further ordered, That respondents shall distribute a copy of this order to each of their officers, agents, representatives, independent contractors, and employees who are involved in the preparation and placement of advertisements or promotional materials; and, for a period of three (3) years from the date of entry

of this order, distribute same to all future such officers, agents, representatives, independent contractors, and employees.

VI.

It is further ordered, That respondents shall, within sixty (60) days after the date of service of this order, file with the Commission a report, in writing, setting forth in detail the manner and form in which they have complied with this order.

Complaint

120 F.T.C.

IN THE MATTER OF

ORIGINAL MARKETING, INC., ET AL.

CONSENT ORDER, ETC., IN REGARD TO ALLEGED VIOLATION OF
SECS. 5 AND 12 OF THE FEDERAL TRADE COMMISSION ACT*Docket C-3596. Complaint, Aug. 9, 1995--Decision, Aug. 9, 1995*

This consent order prohibits, among other things, the Florida-based corporation, two of its officers and an affiliated advertising agency from making performance or benefit claims for any weight-loss or weight-control product or program or acupressure device unless the claims are true and substantiated by competent and reliable scientific evidence. Also, the consent order prohibits the respondents from misrepresenting any endorsement or testimonial for any weight-loss or weight-control product or program or any acupressure device as representing the typical or ordinary experience of users. In addition, the respondents are required to pay refunds to purchasers of Acu-Stop 2000 who have previously returned it, or who return it within 90 days after the order is final, and the individual respondents are required to post a \$300,000 performance bond, or to pay that amount into an escrow account, before marketing any weight-loss or weight-control product or program or any acupressure device.

*Appearances*For the Commission: *Richard L. Cleland and Brian A. Dahl.*For the respondents: *Sheldon Lustigman, Helfgott & Karas, New York, N.Y.*

COMPLAINT

The Federal Trade Commission, having reason to believe that Original Marketing, Inc., d/b/a Acu-Stop 2000, and Franklin & Joseph, Inc., corporations; Barry A. Weiss, individually and as an officer and director of Original Marketing, Inc.; and Roger Franklin, individually and as an officer and director of Original Marketing, Inc. and Franklin & Joseph, Inc. ("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: