

Complaint

120 F.T.C.

IN THE MATTER OF

THE ESKIMO PIE CORPORATION

CONSENT ORDER, ETC., IN REGARD TO ALLEGED VIOLATION OF
SECS. 5 AND 12 OF THE FEDERAL TRADE COMMISSION ACT*Docket C-3597. Complaint, Aug. 11, 1995--Decision, Aug. 11, 1995*

This consent order prohibits, among other things, a Virginia-based corporation from misrepresenting the existence or amount of calories or any other nutrient or ingredient in any frozen dessert product and from falsely claiming that any frozen dessert product has been approved, endorsed or recommended by any person, group or organization. In addition, the consent order requires a disclosure statement, should Eskimo Pie represent that any frozen dessert is a useful or appropriate part of a diabetic's diet.

Appearances

For the Commission: *C. Steven Baker and Barbara DiGiulio.*

For the respondent: *F. Clairborne Johnston, Jr., Mays & Valentine*, Richmond, VA. and *Stuart M. Pape and Daniel Krakov, Patton, Boggs & Blow*, Washington, D.C.

COMPLAINT

The Federal Trade Commission, having reason to believe that The Eskimo Pie Corporation ("respondent"), a corporation, 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 The Eskimo Pie Corporation is a Delaware corporation, with its principal office or place of business at 901 Moorefield Park Drive, Richmond, Virginia.

PAR. 2. Respondent has advertised, labelled, offered for sale, sold, and distributed a number of different varieties of Eskimo Pie Sugar Freedom frozen dessert products to the public. Each of these products is a "food" within the meaning of Sections 12 and 15 of the Federal Trade Commission Act.

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.

PAR. 4. Respondent has disseminated or has caused to be disseminated advertisements for Eskimo Pie Sugar Freedom Products, including but not necessarily limited to the attached Exhibits 1 through 6. These advertisements contain the following statements:

A. SLIM DOWN FOR SUMMER

[Among the products depicted in this advertisement are boxes of Eskimo Pie Sugar Freedom products. The packages for these products feature the name Sugar Freedom and the NutraSweet name and logo.]

[The advertisement also depicts figures engaged in exercise activities, such as weight lifting, bicycling, and jogging, and a tape measure running through it.] (Exhibit 1).

B. NOW IS YOUR LAST CHANCE TO SLIM DOWN FOR SUMMER, AND THE FOLLOWING GREAT TASTING FOODS CAN HELP.

* * *
SATISFY YOUR SWEET TOOTH WITH SUGAR FREEDOM ESKIMO PIE NOVELTY TREATS. MADE WITH THE GREAT TASTE OF NUTRASWEET, REFRESHING SUGAR FREEDOM ESKIMO PIE COMES IN BARS, CONES, SANDWICHES AND NOW HALF GALLONS.

[Transcript of tape recording attached as Exhibit 2]

(Tape recording attached as Exhibit 3).

C. SWEET SAVINGS

Millions of you who are trying to eat smarter enjoy NutraSweet in things like sodas and gum and yogurts. Many of you stock your kitchens with frozen desserts and jams sweetened with NutraSweet. But what about trying the other products sweetened with the great taste of NutraSweet? You can start by clipping these valuable coupons here and save!

At NutraSweet we believe that you shouldn't have to compromise on the delicious things in life for any reason -- even calories.

* * *
Sugar Freedom Eskimo Pie

[The coupon book in which this appeared contains a cents off coupon for Eskimo Pie Sugar Freedom products.]

(Exhibit 4).

D. [Advertisement depicts 1/2 gallon carton of Eskimo Pie Sugar Freedom, which features the following:]

Sugar Freedom

A Proud Sponsor of the

[ADA Triangle Logo] American Diabetes Association

[NutraSweet Swirl Logo] NutraSweet

(Exhibit 5).

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E. [The first side of a coupon states, in part,:]

PROUD PARTNERS.

PURE PLEASURE.

[ADA triangle] AMERICAN DIABETES ASSOCIATION

ESKIMO PIE [logo in bold]

[The other side states, in part,:]

Now Eskimo Pie and the American Diabetes Association are partners in providing the pure pleasure of frozen novelties to everyone! Just look for the ADA logo proudly displayed on all Sugar Freedom Eskimo Pie bars, cones and sandwiches made with NutraSweet.

(Exhibit 6).

PAR. 5. 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 1 through 6, respondent represented, directly or by implication:

(a) That Eskimo Pie Sugar Freedom products are significantly reduced in calories compared with comparable foods.

(b) That Eskimo Pie Sugar Freedom products are low in calories.

PAR. 6. In truth and in fact:

(a) Most Eskimo Pie Sugar Freedom products are not significantly reduced in calories compared with comparable foods. Most are not significantly reduced in calories compared with comparable foods on an equivalent weight basis.

(b) Eskimo Pie Sugar Freedom products are not low in calories.

Therefore, the representation set forth in paragraph five was, and is, 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 advertisements attached as Exhibits 5 and 6, respondent represented, directly or by implication, that the American Diabetes Association has approved or endorsed Eskimo Pie Sugar Freedom products.

PAR. 8. In truth and in fact, the American Diabetes Association has not approved or endorsed Eskimo Pie Sugar Freedom products. 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 limited to the advertisements attached as Exhibit 5 and 6, respondent has represented, directly or by implication, that Sugar Freedom products are particularly useful or appropriate in the diabetic's diet. Respondent has failed to disclose:

A. That many Sugar Freedom products are high in total fat and saturated fat. Diabetics are at increased risk of heart disease and many diabetics are advised to regulate their total fat and saturated fat intake. Some Sugar Freedom products contain as much as 16 grams of total fat and 10 grams of saturated fat per serving. Some contain over 13 grams of total fat and many contain well over 4 grams of saturated fat per serving. While no food is inherently inappropriate for people with diabetes, in light of respondent's representation that Sugar Freedom products are particularly useful or appropriate in the diabetic's diet, the high total fat and saturated fat content of these Sugar Freedom products would be material to diabetics in deciding to purchase and use them and the failure to disclose these facts is deceptive.

B. That many Sugar Freedom products are not low or reduced in calories. Many diabetics are advised to regulate their caloric intake. Some Sugar Freedom products contain as many as 260 calories per serving. While no food is inherently inappropriate for people with diabetes, in light of respondent's representation that Sugar Freedom products are particularly useful or appropriate in the diabetic's diet, the fact that these Sugar Freedom products are not low or reduced in calories would be material to diabetics in deciding to purchase and use them and the failure to disclose these facts is deceptive.

PAR. 10. The acts and practices of the respondent as alleged in this complaint constitute unfair or deceptive acts of 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.

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[illegible]

EXHIBIT 2

Radio Spot

NOW IS YOUR LAST CHANCE TO SLIM DOWN FOR SUMMER, AND THE FOLLOWING GREAT TASTING FOODS CAN HELP

START EACH DAY LIGHT WITH FARM RICH LIGHT NON-DAIRY BREAKFAST CREAMER. CHOLESTEROL FREE AND LOW IN SATURATED FAT, FARM RICH LIGHT NON-DAIRY CREAMER IS DELICIOUS IN COFFEE, ON CEREAL OR ADDED TO SLICED FRUIT.

FOR A TASTY, LOW CALORIE SNACK, TRY CHICO SAN FLAVORED POPCORN CAKES AND RICE CAKES. MADE FROM NUTRITIOUS, WHOLESOME GRAINS AND DELICIOUS ALL-NATURAL FLAVORS, CHICO SAN IS THE IDEAL ALTERNATIVE TO HIGH FAT SNACKS.

QUENCH ANY THIRST WITH GRAYSON MOUNTAIN WATER, BOTTLED AT ITS SOURCE ATOP VIRGINIA'S BLUE RIDGE MOUNTAINS. GRAYSON IS THE FINEST NATURAL DRINKING WATER IN THE WORLD. LOOK FOR GRAYSON IN YOUR FAVORITE GROCERY STORE.

FOR A QUICK SERVING SIDE DISH, TRY PICTSWEET EXPRESS FROZEN VEGETABLES. READY TO SERVE IN THREE MINUTES, U.S.A GROWN PICTSWEET ALL NATURAL VEGETABLES PROVIDE AN EXCELLENT SOURCE OF VITAMINS AND ARE LOW IN FAT.

SATISFY YOUR SWEET TOOTH WITH SUGAR FREEDOM ESKIMO PIE NOVELTY TREATS. MADE WITH THE GREAT TASTE OF NUTRASWEET, REFRESHING SUGAR FREEDOM ESKIMO PIE COMES IN BARS, CONES, SANDWICHES AND NOW HALF GALLONS. *

LOOK FOR MONEY SAVING COUPONS AND A CHANCE TO WIN A LUXURY WEEKEND AT THE ABBEY RESORT AND FONTANA SPA IN THIS WEEK'S LOCAL VALUES MAGAZINE AND CHICAGO TRIBUNE.

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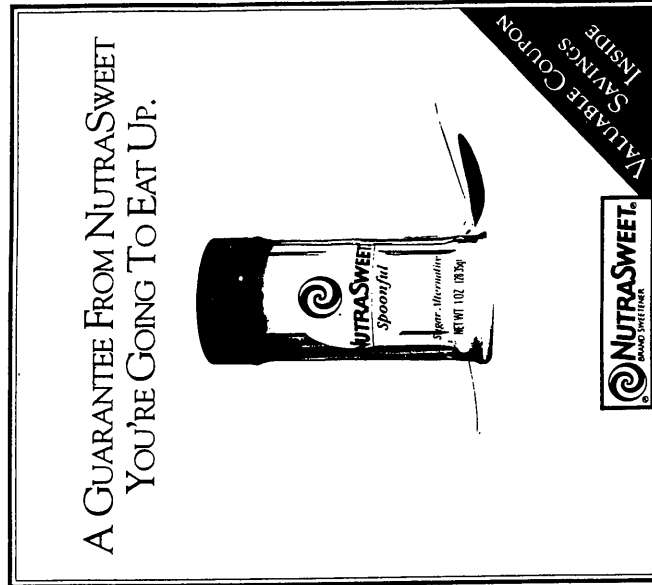
EXHIBIT 3

EXHIBIT THREE IS A TAPE RECORDING
AND IS AVAILABLE UPON REQUEST
FROM THE PUBLIC REFERENCE BRANCH

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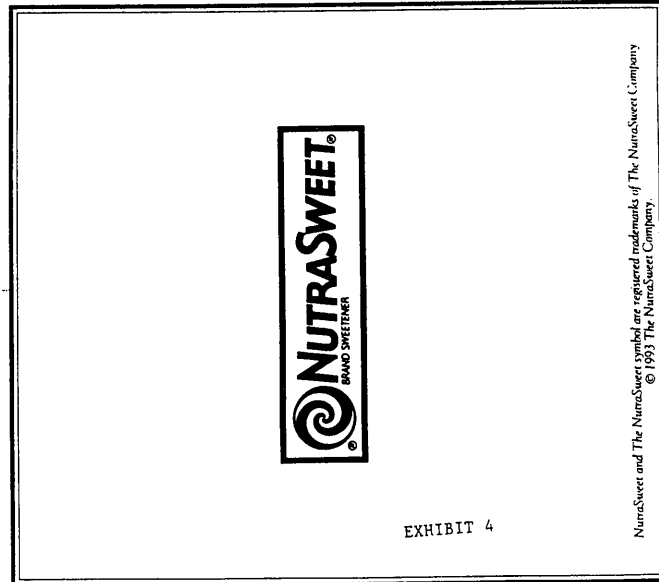
Complaint

EXHIBIT 4



Item 1-70

2/REG



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EXHIBIT 4

THE NUTRASWEET® SATISFACTION GUARANTEE IF FOR SOME REASON YOU ARE NOT COMPLETELY SATISFIED WITH ANY ONE OF THE PRODUCTS ADVERTISED IN THIS BOOKLET, FOLLOW THE INSTRUCTIONS ON THE BACK PAGE AND SEND IN FOR A REFUND. (MAXIMUM REFUND \$4.00 PER HOUSEHOLD)

SWEET SAVINGS

Millions of you who are trying to eat smarter enjoy NutraSweet in things like sodas and gum and yogurts. Many of you stock your kitchens with frozen desserts and jams sweetened with NutraSweet. But what about trying the other products sweetened with the great taste of NutraSweet? You can start by clipping these valuable coupons here and save!

At NutraSweet we believe you shouldn't have to compromise on the delicious things in life for any reason — even calories.

A TASTEFUL OFFER

A few of the delicious products sweetened with the great taste of NutraSweet® brand sweetener have teamed up to make you a delicious deal—a personal taste satisfaction guarantee.

NutraSweet is putting its money where your mouth is—and giving you money back if you're not completely satisfied with any ONE of the products featured in this booklet.

TRUST THE SWIRL

For over a decade, NutraSweet® brand sweetener has been an important ingredient in thousands of products. Today, products sweetened with NutraSweet are enjoyed by 200 million people around the world, making them feel better about eating and drinking what they want. With 200 million votes of confidence, it's easy to make you this guarantee.

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EXHIBIT 4

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BUY 3 GET 4TH FREE
Free Diet 7UP or Diet Cherry 7UP
Free Diet 7UP or Diet Cherry 7UP
2 liter when you purchase three 2 liter of any 7UP brands
(7UP, Diet 7UP, Cherry 7UP, Diet Cherry 7UP)
Retail Price - good up to \$1.49 Value
Offer valid 10/1/93 to 10/31/93. Offer good only in the United States. See back for details. © 1993 The NutraSweet Company. All rights reserved.

STORE COUPON REDEEMABLE AT FACE VALUE ONLY

Save 35¢
on any Sugar Freedom®
ESKIMO PIE® Product

NOT SUBJECT TO DOUBLING

EXPIRES 10/31/93

STORE COUPON REDEEMABLE AT FACE VALUE ONLY

SAVE \$1.00 NOW!
WHEN YOU BUY ONE 8 QT. BOX
OR THREE 2 QT. ENVELOPES,
ANY FLAVOR, 1-70

NOT SUBJECT TO DOUBLING

EXPIRES 10/31/93

CONSUMER REFUND OFFER

Satisfaction Guarantee.
Maximum refund - \$4.00 per household.
Requests must be received by September 6, 1993.
In the event you are not satisfied with your purchase of ONE of the products offered in the 1993 NutraSweet Spoonful Coupon Booklet, you may send for a refund on the purchase price of that product up to \$4.00.

In order to receive your refund by mail, please send us (1) the original cash register receipt with the purchase price circled, (2) the product's original UPC code (exception: with Diet Barq's can, UPC codes may be written down on a 3" X 5" card) and (3) a completed official refund form found in the 1993 NutraSweet Spoonful Coupon Booklet (no photocopies accepted). Refund requests that do not contain the register receipt, UPC code and completed refund form will not be honored.

Mail your refund request to NutraSweet Satisfaction Guarantee Program, P. O. Box 83287, Milwaukee, WI 53224. All refund requests must be received by September 6, 1993. Please allow 10 weeks for processing. Refund will be made in the form of a check. Refund limited to purchase of ONLY ONE of those products offered in the 1993 NutraSweet Spoonful Coupon Booklet.

Limit of one refund on one product per household. In issuing refund, the sponsor of this offer shall not be deemed to have acknowledged your reason for refund. Not responsible for lost, late, misdirected or postage due mail or incomplete or illegible requests. Void where taxed, prohibited or restricted. Offer good only in the United States.

Maximum refund \$4.00. Refunds available only through this address. This offer is made exclusively by The NutraSweet Company. Do NOT request your refund from the product's manufacturer or your supermarket.

Please direct any questions or comments regarding this offer to NutraSweet Satisfaction Guarantee Program, P. O. Box 83287, Milwaukee, WI 53224.

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EXHIBIT 4

STORE COUPON REDEEMABLE AT FACE VALUE ONLY	EXPIRES 9/30/93	NOT SUBJECT TO DOUBLING
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To The Dealer: The Seven-Up Bottling Company will reimburse you the face value of this coupon plus 8¢ handling if you and the consumer have met the offer's terms. Void if prohibited, taxed, restricted, transferred, assigned, if coupon is reproduced, dated, or in mint condition, or if retailer cannot provide invoices to prove sufficient stock upon request. Consumer pays deposit and taxes. Cash value 1/20th of face value only in U.S.A. ONE COUPON PER CONSUMER PURCHASE. REDEEM BY MAILING TO THE SEVEN-UP BOTTLING COMPANY, P.O. Box 870133 El Paso, TX 88587-0133

Retail Price:

514-373
78000-77001

STORE COUPON REDEEMABLE AT FACE VALUE ONLY | EXPIRES 12/31/93 | NOT SUBJECT TO DOUBLING

30¢ OFF!

of Diet Barq's Root Beer

6-packs, 12-packs, or 2-liter bottles



STORE COUPON REDEEMABLE AT FACE VALUE ONLY | EXPIRES 8/31/93 | NOT SUBJECT TO DOUBLING

SAVE 35¢

on your next purchase of

Tropicana Twister Light

Good on one 46 oz. bottle of Tropicana Twister Light.



801228

NEW!

STORE COUPON REDEEMABLE AT FACE VALUE ONLY | EXPIRES 8/31/93 | NOT SUBJECT TO DOUBLING

SAVE 50¢

Edy's

on any flavor half gallon or quart of Edy's Sugar Free.

SUGAR FREE



STORE COUPON REDEEMABLE AT FACE VALUE ONLY | EXPIRES 6/30/94 | NOT SUBJECT TO DOUBLING

To The Dealer: We will pay legitimate retailers face value plus 8¢ handling for each coupon received in connection with the retail sale of the products indicated. Coupon void and forfeited if invoices providing purchase of sufficient stock to cover rate of redemption are not produced on request, or if coupon assigned, transferred or presented by one not a retail seller of these products. Presentation for redemption without compliance constitutes fraud. Customer pays any applicable tax. Limit one coupon per purchase (or customer's cash redemption value 1/20th of face value). Reproduction prohibited. Send to P.C., CMS Dept. #72800, One Fawcett Drive, Del Rio, TX 78840. Void where prohibited by law.

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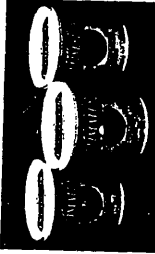
STORE COUPON REDEEMABLE AT FACE VALUE ONLY | EXPIRES 10/31/93 | NOT SUBJECT TO DOUBLING

Save \$1.00 when you buy one 8 qt. box or three 2 qt. envelopes, any flavor, Sugar Free Kool-Aid® Brand Soft Drink Mix.

This coupon good only on purchase of product indicated. Any other use constitutes fraud. COUPON NOT TRANSFERABLE. LIMIT ONE COUPON PER PURCHASE. To the retailer: KGF will reimburse you for the face value of this coupon plus 8¢ if submitted in compliance with KGF Redemption Policy C-1, incorporated herein by reference. Valid only if redeemed by retail distributors of our merchandise or anyone specifically authorized by KGF. Cash value 1/20th of face value only. © 1993 KGF Foods, Inc., P.O. Box 103, Kankakee, IL 60902. OFFER EXPIRES 10/31/93.

GFACLA13
43000-81476-0

EXHIBIT 4

STORE COUPON REDEEMABLE AT FACE VALUE ONLY EXPIRES 12/31/93 NOT SUBJECT TO DOUBLING CUSTOMER: Only use this coupon to purchase the products specified. You must pay any sales tax. RETAILER: We will reimburse you the face value of this coupon plus 8¢ handling, provided you honor this coupon for retail sales of the product specified and furnish proof of purchase on request. Coupon is not redeemed legitimately could violate U.S. mail statutes. Void where prohibited. Transferred, assigned, loaned, restricted or where prohibited. Send to Barq's, Inc. CRC Dept. 95, P.O. Box 1825, Del Rio, TX 78840. Cash value 1/100th cent. Limit one coupon per purchase. 1033  \$ 71702 53030-1	STORE COUPON REDEEMABLE AT FACE VALUE ONLY EXPIRES 8/31/93 NOT SUBJECT TO DOUBLING GROCER: We will reimburse you for the face amount of the coupon plus 8¢ handling provided you and the consumer have complied with the terms of this offer. Presentation for redemption without such compliance constitutes fraud. Invoices proving purchase of sufficient stock of our brand(s) to cover coupon presented for redemption must be shown upon request. Consumer must pay any sales tax. Coupon may not be transferred or assigned and is void where its use is prohibited, taxed or otherwise restricted. Cash value 1/20¢. This offer is limited to one coupon per purchase. Redeem by mailing to: Tropicana Products, Inc., CMS Dept. 746500, One Fawcett Drive, Del Rio, TX 78840.  \$ 46500 50035	STORE COUPON REDEEMABLE AT FACE VALUE ONLY EXPIRES 8/31/93 NOT SUBJECT TO DOUBLING ATTENTION GROCER: Edy's will pay you the face value of this coupon plus 8¢ handling, provided you and the consumer have complied with the terms of this offer. Consumer must purchase specific product. This coupon is non-assignable and may not be reproduced. Invoices that prove purchase of sufficient stock of product specified to cover coupons must be shown on request. Ship coupons to EDY'S GRAND ICE CREAM, CMS Dept. 441548, One Fawcett Drive, Del Rio, TX 78840. Limit one coupon per purchase. 41548-8235
Save 55¢ on one 8-qt. or 12-qt. canister any flavor. Crystal Light® SUGAR FREE  STORE COUPON REDEEMABLE AT FACE VALUE ONLY EXPIRES 10/31/93 NOT SUBJECT TO DOUBLING	Save 30¢ When You Buy Any Two Weight Watchers® Ultimate 90° Yogurt  STORE COUPON REDEEMABLE AT FACE VALUE ONLY EXPIRES 9/30/93 NOT SUBJECT TO DOUBLING	Save 30¢ On Any Sugar Free or Diet Carnation® Hot Cocoa Mix  6651

FEDERAL TRADE COMMISSION DECISIONS

Complaint

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55¢ STORE COUPON REDEEMABLE AT FACE VALUE ONLY EXPIRES 10/31/93 NOT SUBJECT TO DOUBLING This coupon good only on purchase of product indicated. Any other use constitutes fraud. COUPON NOT TRANSFERABLE. LIMIT ONE COUPON PER PURCHASE. To the retailer: KGF will reimburse you for the face value of this coupon plus 8¢ if submitted in compliance with KGF Redemption Policy C-1, incorporated herein by reference. Valid only if redeemed by retail distributor of our merchandise or anyone specifically authorized by KGF. Cash value 1/20th¢. Mail to: Kraft General Foods, Inc., P.O. Box 103, Oakdale, IL 60072. Expires on December 31, 1993. GT 11614 813 18 \$ 43000 81135 0	55¢ STORE COUPON REDEEMABLE AT FACE VALUE ONLY EXPIRES 10/31/93 NOT SUBJECT TO DOUBLING CONSUMER: Only one coupon is redeemable per purchase on Weight Watchers Ultimate 90 Yogurt. You pay any sales tax. Void if transferred to any person or group prior to redemption. Any other use constitutes fraud. RETAILER: We will reimburse you for the face value of this coupon plus 8¢ if submitted in compliance with our coupon redemption policy (available upon request). Void where prohibited, taxed, restricted by law. Send coupons to: Weight Watchers Food Co., P.O. Box 10131, El Paso, TX 78587-0131. Cash value 1/100 of 1¢. Good only in the U.S.A. © 1993 Weight Watchers International, Inc. Owner of the trademark Weight Watchers. All rights reserved. 180084 \$ 71984 11038 5	55¢ STORE COUPON REDEEMABLE AT FACE VALUE ONLY EXPIRES 10/31/93 NOT SUBJECT TO DOUBLING CONSUMER: Limit one coupon per item purchased. This coupon good only on product sizes and flavors indicated. RETAILER: NESTLE USA, INC., will reimburse you face value plus 8¢ if submitted in compliance with NESTLE USA Manufacturers Coupon Redemption Policy dated 10/91, available upon request. Consumer must pay sales tax. Good only in USA. Send coupons to NESTLE USA, INC., CMS Department 00020, 1 Fawcett Drive, Del Rio, TX 78840. Cash value 1/20¢. Void where prohibited or restricted. © 1993 S.P.N., Nestle Beverage Co. 6651 \$ 50000 17230 5
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STORE COUPON REDEEMABLE AT FACE VALUE ONLY EXPIRES 10/31/93 NOT SUBJECT TO DOUBLING Save 50¢ On Any Variety or Size of Lipton Sugar Free Iced Tea Mix 	STORE COUPON REDEEMABLE AT FACE VALUE ONLY EXPIRES 10/31/93 NOT SUBJECT TO DOUBLING Save 75¢ on one pint of Simple Pleasures® Light made with  &  
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MOVE OVER SUGAR.
MAKE ROOM FOR NUTRASWEET® SPOONFUL.



You can sprinkle it on cereal. Or spoon it on fruit. You can use it, mix it, even use it in salad dressing. In fact, you can use it in just about anything you use sugar. Because NutraSweet® comes in a new form called "NutraSweet® Spoonful" that looks, tastes and, spoon for spoon, measures like sugar. Which makes a question. Why use sugar?

STORE COUPON REDEEMABLE AT FACE VALUE ONLY / EXPIRES 12/31/93 / NOT SUBJECT TO DOUBLING

SAVE 55¢
ON NUTRASWEET® SPOONFUL®
SUGAR ALTERNATIVE
(ON ANY SIZE EXCEPT 0.5 OZ. TRIAL SIZE)



©1993 ESKIMO PIE CORPORATION. GOOD ONLY ON PURCHASE OF PRODUCT INDICATED. NOT VALID FOR CASH. A LIMITED TIME OFFER. TO BE USED BY 12/31/93. NO PURCHASE NECESSARY. COUPON VALUE 55¢. OFFER GOOD ON ANY SIZE EXCEPT 0.5 OZ. TRIAL SIZE. *NutraSweet is a registered trademark of E.I. du Pont de Nemours and Company. Spoonful is a registered trademark of E.I. du Pont de Nemours and Company. E.I. du Pont de Nemours and Company is not responsible for any errors or omissions. ©1993 E.I. du Pont de Nemours and Company.

STORE COUPON REDEEMABLE AT FACE VALUE ONLY / EXPIRES 12/31/93 / NOT SUBJECT TO DOUBLING

#23033

RETAILER: Thomas J. Lipton Co. will reimburse you for the face value of this coupon plus 8¢ handling allowance if submitted in compliance with T. J. Lipton's Redemption Policy incorporated by reference herein. Void where taxed, restricted, prohibited or prevented by other than retailers of our products. Cash value: 1/100th of face. Mail to: Thomas J. Lipton Co., Dept. #41000, 1 Fawcett Drive, Del Rio, TX 78840. ONE COUPON PER ITEM PURCHASED. REDEEM PROMPTLY

61000-11050

STORE COUPON REDEEMABLE AT FACE VALUE ONLY / EXPIRES 12/31/93 / NOT SUBJECT TO DOUBLING

GOOD ON ANY SIMPLE PLEASURES® LIGHT FLAVOR

5177

Simple Pleasures. LIGHT

©1993 ESKIMO PIE CORPORATION. GOOD ONLY ON PURCHASE OF PRODUCT INDICATED. NOT VALID FOR CASH. A LIMITED TIME OFFER. TO BE USED BY 12/31/93. NO PURCHASE NECESSARY. COUPON VALUE 51¢. OFFER GOOD ON ANY SIZE EXCEPT 0.5 OZ. TRIAL SIZE. *NutraSweet is a registered trademark of E.I. du Pont de Nemours and Company. Spoonful is a registered trademark of E.I. du Pont de Nemours and Company. E.I. du Pont de Nemours and Company is not responsible for any errors or omissions. ©1993 E.I. du Pont de Nemours and Company.

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EXHIBIT 4

OFFICIAL REFUND FORM

Please see page 4 for details and completely fill out the following: Reason for refund _____

Name _____

Address _____

City/State/Zip _____

Enclose with UPC code and register receipt and mail to: NutraSweet Satisfaction Guarantee Program, P.O. Box 81287, Milwaukee, WI 53228. Please allow 10 weeks for processing.

WE'D LIKE TO KNOW WHAT YOU THINK.

We'd like you to take a few minutes to answer these four questions about NutraSweet®. Just fill in the information and mail this form back to us. We'll be sending the first 5,000 people who send in their answers a special-edition 32 oz. drink cup with NutraSweet® logo. Please print clearly.

Name _____ Age _____ Sex _____

Address _____ City _____ State _____ Zip _____

Telephone _____ Date _____ (ZIP REQUIRED)

1. To introduce you to NutraSweet® Spoonful®, we asked you to taste it at the grocery store. Based on its taste, how likely are you to use it in your products sweetened with NutraSweet®? Would you say you are:

☐ More likely ☐ Just as likely ☐ Less likely

2. We also gave you this booklet containing coupons for products sweetened with NutraSweet. How effective was this coupon booklet in getting you to try the products featured in this booklet? Would you say it was:

☐ Extremely effective ☐ Very effective ☐ Somewhat effective ☐ Not too effective ☐ Not at all effective

3. How do you feel about the inclusion of a money-back guarantee in a booklet like this? Would you say it is ...

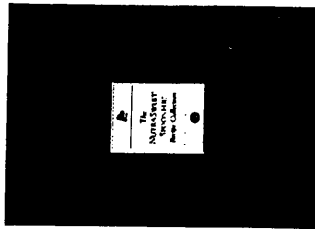
☐ A positive aspect ☐ A neutral aspect ☐ A negative aspect

4. Now that you have tasted NutraSweet® Spoonful® and were given a coupon booklet for products sweetened with NutraSweet, how effective would you say this promotional approach was in your looking for and trying other products sweetened with NutraSweet not featured in this booklet? Would you say it was ...

☐ Extremely effective ☐ Very effective ☐ Somewhat effective ☐ Not too effective ☐ Not at all effective

PLEASE ALLOW EIGHT TO TEN WEEKS FOR DELIVERY OF DRINK CUP. Please cut out this page and mail your survey to: NutraSweet Survey, P.O. Box 81197, Milwaukee, WI 53211. Offer limited to the first 5,000 surveys received. Offer expires July 15, 1991. Void where prohibited. Offer good only in the U.S.A. Limit one cup per household. Not responsible for loss, late, postage due or undelivered mail. No mechanical reproductions accepted.

THE NUTRASWEET® SPOONFUL®
RECIPE COLLECTION IS NOW AVAILABLE.



Over 100 recipes from appetizers to desserts and more. All under one cover and all available with just one purchase of products from your NutraSweet® Spoonful®. Send one original UPC symbol along with your name, address and products to: NutraSweet Spoonful Recipe Collection, P.O. Box 7777-R500, Mt. Prospect, IL 60056-7777. ALLOW 8 TO 10 WEEKS FOR SHIPMENT. Offer good only in the U.S.A. Void where prohibited or restricted by law. OFFER EXPIRES 12/31/91 or while supplies last. Limit one per family, household, group or organization.

STYRE CUP/TON REPEMABLE AT FACE VALUE ONLY/EXPIRES 12/31/91/NOT SUBJECT TO DOUBLING

THINK OF IT AS TODAY'S SUGAR



MEASURE IT



DIP IT



MIX IT



RUST IT

© 1991 The NutraSweet Company. NutraSweet and the NutraSweet symbol are registered trademarks of The NutraSweet Company.

EXHIBIT 5

EXHIBIT 5

**PROUD PARTNERS.
PURE PLEASURE.**

ESKIMO PIE **American
Diabetes
Association.**

See other side for valuable coupon.

Good For 35¢ Off Any

35¢
off

35¢
off

10900 113712

DECISION AND ORDER

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

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

The Commission having thereafter considered the matter and having determined that it had reason to believe that the respondent has 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 The Eskimo Pie Corporation is a Delaware corporation, with its office and principal place of business located at 901 Moorefield Park Drive, Richmond, Virginia.
2. The Federal Trade Commission has jurisdiction of the subject matter of this proceeding and of the respondent, and the proceeding is in the public interest.

ORDER

I.

It is ordered, That respondent The Eskimo Pie Corporation, a corporation, its successors and assigns, and its officers, agents,

representatives, and employees, directly or through any corporation, subsidiary, division or other device, in connection with the manufacturing, labelling, advertising, promotion, offering for sale, sale, or distribution of any frozen dessert product in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from misrepresenting, in any manner, directly or by implication, through numerical or descriptive terms, logos, symbols, or any other means:

A. The existence or amount of calories or any other nutrient or ingredient in any such product; or

B. That such product has been approved, endorsed or recommended by any person, group or organization.

II.

It is ordered, That respondent The Eskimo Pie Corporation, a corporation, its successors and assigns, and its officers, agents, representatives, and employees, directly or through any corporation, subsidiary, division or other device, in connection with the manufacturing, labelling, advertising, promotion, offering for sale, sale, or distribution of any frozen dessert product in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from failing to disclose clearly and prominently in any advertisement or promotional material that represents, in any manner, directly or by implication, through numerical or descriptive terms, logos, symbols, or any other means, that such product is a useful or appropriate part of a diabetic's diet:

A. The fat content per serving of such product expressed as 1) the number of grams and 2) the percentage of the "Maximum Daily Value," unless such product is low in total fat;

B. The saturated fat content per serving of such product expressed as 1) the number of grams and 2) the percentage of the "Maximum Daily Value" of the saturated fat, unless such product is low in saturated fat; and

C. The statement "Not a reduced calorie food" when such a statement would be required on the label pursuant to regulations promulgated by the Food and Drug Administration.

The statements required by subparagraphs A.1 and A.2 and B.1 and B.2 of this Part shall appear in close proximity. For purposes of this Part, the term "Maximum Daily Value" shall mean the daily reference value or other daily intake limit for total fat or saturated fat established in an effective final regulation of the Food and Drug Administration. For purposes of this Part, "low in fat" and "low in saturated fat" shall mean the qualifying amount for such terms as set forth in regulations promulgated by the Food and Drug Administration.

For purposes of this order, "clearly and prominently" shall mean as follows:

1. 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 and for a duration 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;

2. In a print advertisement, the disclosure shall be in close proximity to the representation that triggers the disclosure in at least twelve (12) point type; and

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

III.

Nothing in this order shall prohibit respondent 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.

IV.

It is further ordered, That for five (5) years after the last date of dissemination of any representation covered by this order, respondent, or its 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 test reports, studies, surveys, demonstrations, or other evidence in its possession or control that contradict, qualify, or call into question such representation, including correspondence from consumers.

V.

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

VI.

It is further ordered, That respondent shall distribute a copy of this order to each of its operating divisions and to each of its officers, agents, representatives, employees, and licensees engaged in the preparation or placement of advertisements or other materials covered by this order.

VII.

It is further ordered, That respondent, or its successors and assigns, shall, for three (3) years after the date of the last dissemination of the representation to which they pertain, maintain and upon request make available to the Federal Trade Commission for inspection and copying all advertisements containing any representation covered by this order.

VIII.

It is further ordered, That respondent shall, within sixty (60) days after service of this order, and at such other time as the Commission may require, file with the Commission a report, in writing, setting forth in detail the manner and form in which it has complied with this order.

Complaint

120 F.T.C.

IN THE MATTER OF

APM ENTERPRISES - MINN INC.

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

Docket C-3598-Complaint, Aug. 11, 1995--Decision, Aug. 11, 1995

This consent order requires, among other things, a video dating service franchise to properly and accurately disclose the annual percentage rate ("APR") and other credit terms of financed memberships, as required by the federal Truth in Lending Act, and requires the franchise to establish adjustment refund programs to compensate its past and current members who overpaid finance charges.

Appearances

For the Commission: *Stephen Cohen and Judy Nixon.*

For the respondent: *Basil Demeur, Knechtel & Demeur, Oak Park, IL.*

COMPLAINT

The Federal Trade Commission, having reason to believe that Great Expectations Creative Management, Inc. has violated the Federal Trade Commission Act ("FTC Act"), and that Great Expectations, Inc., GEC Illinois, Inc., GEC Tennessee, Inc., GEC Alabama, Inc., Great Southern Video, Inc., New West Video Enterprises, Inc., San Antonio Singles of Texas, Inc., Austin Singles of Texas, Inc., Great Expectations of Baltimore, Inc., Great Expectations of Washington, D.C., Inc., Great Expectations of Washington, Inc., Sterling Connections, Inc., Private Eye Productions, Inc., Great Expectations - Columbus, Inc., JAMS Financial, Inc., V.L.P. Enterprises, Inc., APM Enterprises - Minn Inc., KGE, Inc., G.E.C.H., Inc., MWVE, Inc., GREATEX Denver, Inc., Sun West Video, Inc., and TRIAAC Enterprises, Inc. (hereinafter sometimes referred to collectively as "Great Expectations") have violated the Truth in Lending Act ("TILA"), its implementing Regulation Z, and the FTC Act, and it appearing to the