

Complaint

120 F.T.C.

IN THE MATTER OF

BODY WISE INTERNATIONAL, INC.

CONSENT ORDER, ETC., IN REGARD TO ALLEGED VIOLATION OF  
SECS. 5 AND 12 OF THE FEDERAL TRADE COMMISSION ACT*Docket C-3617. Complaint, Sept. 25, 1995--Decision, Sept. 25, 1995*

This consent order prohibits, among other things, a California-based company from falsely representing that any nutritional supplement, food or drug contains any ingredient that can cause or contribute to achieving or maintaining weight loss without diet or exercise, and bars unsubstantiated weight-loss, weight-loss maintenance, cholesterol reduction, or other health benefit claims for such products. In addition, the consent order prohibits the deceptive use of consumer testimonials or professional endorsements, and requires clear disclosures of any financial connection between endorsers and the respondent or its products.

*Appearances*

For the Commission: *David M. Newman and Jeffrey A. Klurfeld.*  
For the respondent: *Robert Armstrong, Chicago, IL.*

## COMPLAINT

The Federal Trade Commission, having reason to believe that Body Wise International, Inc., a Nevada corporation (hereinafter "Body Wise"), 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 Body Wise is a Nevada corporation with its principal office and place of business located at 6350 Palomar Oaks Court, Suite A, Carlsbad, California.

PAR. 2. Respondent has advertised or otherwise promoted, offered for sale, sold and distributed nutritional supplements, including but not limited to Future Perfect, Right Choice AM, Right Choice PM and The Reshape Formula (hereinafter "weight loss products"), as weight loss products, through a multi-level network of distributors. Respondent has also advertised or otherwise promoted,

offered for sale, sold and distributed Cardio-Wise, a nutritional supplement, as a product that reduces serum cholesterol. Each of respondent's nutritional supplements is a "food" or "drug," within the meaning of Sections 12 and 15 of the Federal Trade Commission Act, 15 U.S.C. 52, 55.

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, 15 U.S.C. 44.

PAR. 4. Respondent has disseminated or caused to be disseminated advertisements and promotional materials for its weight loss products, including but not necessarily limited to, the attached Exhibits A-H. Respondent has disseminated these advertisements and promotional materials directly to consumers and has provided these advertisements and promotional materials to its distributors for dissemination to consumers. These advertisements and promotional materials contain the following statements:

1. "Diets Don't Work, Body Wise Does" (Exhibit A)  
 "Diets don't work . . . *Body Wise Does!*" (Exhibit C)  
 "DIETS DON'T WORK *BODY WISE DOES!*" (Exhibit D)
2. "The Body Wise Weight Management System has been designed to assist you to lose fat and create lean body mass -- all without drugs, deprivation or denial..." (Exhibit A)  
 "The Body Wise Weight Management System is designed to assist you in losing fat and creating lean body mass -- all without drugs, deprivation or denial." (Exhibit B)  
 "The Body Wise Weight Management System has been designed to assist you to lose fat and create lean body mass -- all without drugs, deprivation, or denial ..." (Exhibit C)
3. "Results That Can Last a Lifetime" (Exhibit C)
4. "Whether based on drugs, deprivation or denial, [diets] almost always result in on-again, off-again cycle of weight bounce . . . Body Wise can help provide a long-term solution." (Exhibit A)
5. "LOSE FAT -- FOR LIFE!" (Exhibit B)
6. "I have lost 39 pounds, four inches in the waist, lowered my cholesterol 42 points and reduced my body fat by 14 percent." (Exhibit A)  
 "I lost 39 pounds, 4 inches in my waist, lowered my cholesterol 42 points and reduced my body fat 4%." (Exhibit C)  
 "I've lost 39 pounds, four inches in the waist, lowered my cholesterol 42 points and reduced my body fat by 14%." (Exhibit D)  
 "I've lost 39 pounds, lowered my cholesterol 42 points and reduced my body fat by 14 percent." (Exhibit F)

"I have lost 39 pounds, 4 inches in the waist, lowered my cholesterol 42 points, and reduced my body fat by 4%." (Exhibit H-2)

7. "As an Orthopedic Surgeon, Body Wise has my endorsement. In six weeks I lowered my cholesterol 60 points, triglycerides over 100 points and lost 12 pounds!" (Exhibit A)

8. "My patients on the program are losing fat and feeling great. I personally lost 17 pounds and five percent body fat!" (Exhibit A)

9. "My patients are doing exceptionally well on this program. My staff and I marvel at their lab results, weight loss and improved overall well-being. Personally, I have lost 15 pounds and lowered my cholesterol 45%." (Exhibit E)

"My patients are doing exceptionally well on this program. My staff and I marvel at their lab results, weight loss and improved overall being. Personally, I have lost 15 pounds and lowered my cholesterol 45 points." (Exhibit G)

10. "I LOST 58 POUNDS! My waist went from an extended 40 inches to a comfortable 34." (Exhibit B)

"In just three months I lost 58 pounds and lowered my cholesterol level 104 points. The inches fell off!" Exhibit C)

"I lowered my cholesterol level 104 points and lost 58 pounds in scale weight! My waist went from an extended 40 inches to a comfortable 34." (Exhibit F-2)

11. "In 30 days I lost 3½ inches from my waist, 4 inches from my hips and my body fat dropped 11%." (Exhibit D)

"My body fat dropped 11 percent while my cholesterol level was lowered 26 points! I lost 3½ inches from my waist and four inches from my hips!" (Exhibit F-2)

12. "In seven weeks, I lost 27 pounds, 24 inches of body fat and lowered my cholesterol 43 points!" (Exhibit G)

PAR. 5. Through the use of the statements contained in the advertisements and promotional materials referred to in paragraph four, including but not necessarily limited to the advertisements and promotional materials attached as Exhibits A-H, respondent has represented, directly or by implication, that the use of respondent's weight loss products will enable consumers to lose weight without dieting.

PAR. 6. In truth and in fact, the use of respondent's weight loss products will not enable consumers to lose weight without dieting. Therefore, respondent's representation as set forth in paragraph five was and is false and misleading.

PAR. 7. Through the use of the statements contained in the advertisements and promotional materials referred to in paragraph four, including but not necessarily limited to the advertisements and promotional materials attached as Exhibits A-H, respondent has represented, directly or by implication, that the use of respondent's weight loss products will enable consumers to maintain significant long-term or permanent weight loss.

PAR. 8. Through the use of the statements contained in the advertisements and promotional material referred to in paragraph four, including but not necessarily limited to the advertisements and promotional materials attached as Exhibits A-H, respondent has represented, directly or by implication, that at the time it made the representation set forth in paragraph seven, respondent possessed and relied upon a reasonable basis that substantiated such representation.

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

PAR. 10. Respondent has disseminated or caused to be disseminated advertisements and promotional materials for Cardio-Wise, including but not necessarily limited to, the attached Exhibits C-D and G. Respondent has disseminated these advertisements and promotional materials directly to consumers and has provided these advertisements and promotional materials to its distributors for dissemination to consumers. These advertisements and promotional materials contain the following statements:

1. "Formulated for a cholesterol conscious America, Cardio Wise offers extra nutritional insurance where additional lipid management is indicated."

Highlight Ingredients: "Niacin"

"This crystalline ingredient has been clinically demonstrated to lower serum cholesterol." (Exhibit D)

2. "Cardio Wise® is one of the miracles in nutrition offered by Body Wise for a cholesterol conscious America. It focuses on the use of Niacin . . . because it expands the blood capillaries . . . [and] has been found effective in . . . lowering the level of cholesterol in the blood." (Exhibit C-3)

3. "FOR OPTIMUM HEALTH . . .

Special emphasis is on nutrients for . . . cholesterol management through use of niacin . . ." (Exhibit H)

4. "In rigorous studies, biologically active chromium has been shown to:

\* \* \*

"Lower both total cholesterol and LDL cholesterol." (Exhibit C-2)

5. "Grapefruit Pectin Cellulose -- Which has been demonstrated clinically to be the preferred form of fiber for cholesterol reduction." (Exhibit C-3)

6. "I reduced my cholesterol over 100 points! I began taking Cardio Wise shortly after major surgery. My cholesterol dropped 113 points in six weeks." (Exhibit D)

PAR. 11. Through the use of the statements contained in the advertisements and promotional materials referred to in paragraph ten, including but not necessarily limited to the advertisements and promotional literature attached as Exhibits C-D and G, respondent has represented, directly or by implication, that:

- (a) Cardio Wise significantly reduces serum cholesterol levels; and
- (b) Scientific studies on the ingredients in Cardio Wise demonstrate that Cardio Wise significantly reduces serum cholesterol levels.

PAR. 12. Through the use of the statements contained in the advertisements and promotional material referred to in paragraph ten, including but not necessarily limited to the advertisements and promotional literature attached as Exhibits C-D and G, respondent has represented, directly or by implication, that at the time respondent made the representations set forth in paragraph eleven, it possessed and relied upon a reasonable basis that substantiated such representations.

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

PAR. 14. Through the use of the statements contained in the advertisements and promotional materials referred to in paragraphs four and ten, including, but not necessarily limited to, the attached Exhibits A-H, respondent has represented, directly or by implication, that testimonials from consumers appearing in advertisements for respondent's weight loss products and for Cardio Wise reflect the typical or ordinary experience of members of the public who have used the products.

PAR. 15. In truth and in fact, the testimonials from consumers appearing in advertisements for respondent's weight loss products and for Cardio Wise do not reflect the typical or ordinary experience of members of the public who have used the products. Therefore, the representation set forth in paragraph fourteen was and is false and misleading.

PAR. 16. Through the use of the statements contained in the advertisements and promotional materials referred to in paragraph four and ten, including, but not necessarily limited to, the attached Exhibits A-H, respondent has represented, directly or by implication, that at the time it made the representation set forth in paragraph fourteen, respondent possessed and relied upon a reasonable basis that substantiated such representation.

PAR. 17. In truth and in fact, at the time it made the representation set forth in paragraph fourteen, respondent did not possess and rely upon a reasonable basis that substantiated such representation. Therefore, respondent's representation as set forth in paragraph sixteen was and is false and misleading.

PAR. 18. The advertisements and promotional materials referred to in paragraph four, including but not necessarily limited to the attached Exhibits A-H, contain endorsements of respondent's products by physicians, other health care professionals, and lay persons who are distributors of Body Wise products and who derive income from the sale of Body Wise products. Respondent has failed to disclose, either in its advertising and promotional materials or otherwise, that the physicians, other health care professionals and lay persons whose endorsements of respondent's products are contained in respondent's advertising and promotional materials are distributors of Body Wise products and may have a financial interest in promoting the sale of Body Wise products. This fact would be material to consumers in their purchase decision regarding respondent's products. The failure to disclose this fact, in light of the representations made, was and is a deceptive practice.

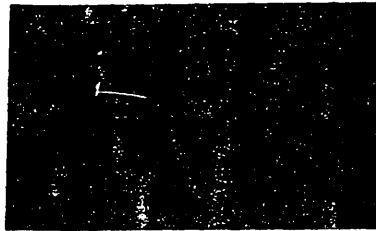
PAR. 19. In the course and conduct of its business, respondent actively recruits physicians and other health-care professionals as Body Wise distributors. Respondent directs such physicians and other health-care professionals to endorse the use of Body Wise products to individual consumers on behalf of other Body Wise distributors. The physicians and other health-care professionals are affiliated with these other Body Wise distributors and derive income from their sale of Body Wise products. Respondent has failed to disclose, in its advertising or promotional materials or otherwise, that the physicians and other health-care professionals who endorse respondent's products to individual consumers, on behalf of other distributors, have a material connection to respondent, in that they are also Body Wise distributors with a direct financial interest in

promoting the other distributors' sale of Body Wise products. This fact would be material to consumers in their purchase and use decisions regarding respondent's products. In light of respondent's practice of directing such physicians and other health-care professionals to endorse respondent's products, the failure to disclose this fact was and is a deceptive act or practice.

PAR. 20. The acts and practices of respondent 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, 15 U.S.C. 45(a) and 52.

## EXHIBIT A

## Spectacular Weight Loss!



Reshape Your Future

YOUR BODY WISE INTERNATIONAL INDEPENDENT CONSULTANT IS:

SPX © 1991. Future Perfect, The Reshape Formula, Right Choice and Reshaping America are trademarks of Body Wise International, Inc. All Rights Reserved. All statements regarding individual health and medical claims are reflections of individual experience and opinion of Body Wise International Independent Consultants and do not constitute claims by Body Wise International, Inc. CODE #244

## The Body Wise Weight Management System is Reshaping America!

## Diets Don't Work, Body Wise Does

Most Americans are at nutritional risk. Over 34 million people are afflicted with potentially life-threatening obesity. To complicate matters, according to a USDA Food Consumption Survey, not a single person of more than 21,500 surveyed consumed 100 percent of the Recommended Dietary Allowances for 10 key nutrients. This statistic alone establishes the need for responsible nutritional supplementation. Quite simply, our foods no longer support a condition of optimum health.

## Part of the Problem is Lack of Knowledge

Despite what we now know about weight loss and weight gain, people still resort to dieting to lose weight. Yet, the evidence is clear: Diets Don't Work! Whether based on drugs, deprivation or denial, they almost always result in an on-again, off-again cycle of weight bounce. Nothing is more frustrating than gaining back more than you lost. Body Wise can help provide a long-term solution.

## If Diets Don't Work, Then What Does?

Scientists now emphasize nutritional supplementation and proper exercise as keys to optimum health. Add to this the U.S. Surgeon General's recommendations on how to eat right, which are: reduce consumption of fat, achieve and maintain a desirable body weight; increase consumption of complex carbohydrates and fiber; and reduce intake of sodium and alcohol.

## Body Wise Results

The Body Wise Weight Management System has been designed to assist you to lose fat and create lean body mass — all without drugs, deprivation or denial which result in the on-again, off-again cycle of weight bounce so often experienced with conventional weight-loss programs.

"As an Orthopedic Surgeon, Body Wise has my endorsement. In six weeks I lowered my cholesterol 60 points, triglycerides over 100 points and lost 12 pounds!"

Richard Saxton, M.D.  
Mansfield, OH

"Over the past sixteen weeks, I have lost 39 pounds, four inches in the waist, lowered my cholesterol 42 points and reduced my body fat by 14 percent. I am very pleased to offer my patients this quality nutrition management program."

R. Stephen Jennings, M.D.  
Huntington Beach, CA

"I started taking the Body Wise Products and something beautiful happened to me. I lost 35 pounds and six inches off my waist. I had more energy than I had ever had in my whole lifetime!"

Alice Verfurth  
Springfield, MO

"I lost 43 pounds, dropped four dress sizes and reduced my cholesterol 60 points. The increased vitality and energy was noticeable right away, creating a tremendous effect on my productivity and overall sense of well-being."

Jan Anderson  
San Diego, CA

"My patients on the program are losing fat and feeling great. I personally lost 17 pounds and five percent body fat!"

Michael F. Drimondo, D.C.  
Huntington Beach, CA

"I lost 25 pounds with the Body Wise Weight Management System. The program is easy and it works! I feel fantastic and ten years younger. Good-bye fat!"

Exhibit A

## EXHIBIT B

# Body Wise is Reshaping America™!



## "I LOST 58 POUNDS!"

"My waist size went from an extended 40 inches to a comfortable 34. My results are proof of this dynamic health and nutrition program!"

Jeff Gordon  
Henderson, NV



### **LOSE FAT — FOR LIFE!**

*The Body Wise Weight Management System is designed to assist you in losing fat and creating lean body mass — all without drugs, deprivation or denial.*

*Through the dynamic and powerful Body Wise educational video and nutritional supplements you will experience the techniques of personal empowerment and with the use of the Body Wise nutritional supplements you will restore and maintain your body's vitality.*

*Body Wise is your passport to freedom from fat!*

- ◆ Fat Reduction
- ◆ Hunger Control
- ◆ Muscle Definition



### **The Body Wise Weight Management System**

- ◆ **Future Perfect Drink**
- ◆ **Right Choice AM /PM Multi Formula Caplets**
- ◆ **The Reshape Formula**
- ◆ **Weight Management System Video**
- ◆ **Fat Gram Counter**

★ *The Networking Company that's Reshaping America!*

**Body Wise**  
INTERNATIONAL, INC.

Exhibit B

EXHIBIT B-2

# Body Wise Benefits Every Body!



**Body Wise Benefits Every Body!**

"The Body Wise Weight Management System and a personal exercise routine for people who want to experience high level wellness."

**James S. Lileberg, M.D.**  
University of California  
Irvine School of Medicine



**Bruce Mathison, Omaha, Nebraska**  
NFL Quarterback 1983-1988  
Body Wise Consultant



**James Mizner, Triathlete and Marianne Berglund, Road Racing Champion**  
La Jolla, California  
Body Wise Consultants

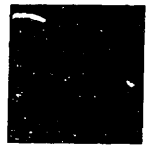


**Mark Mathison, Kansas City, Missouri**  
Mr. Missouri, 1990  
Body Wise Consultant



**Lowered Cholesterol!**  
"In one month with Body Wise, I lost 25 pounds and dropped 7% body fat. I lowered my cholesterol 50 points, kept my strength and maintained the intensity of my workouts. I'll use Body Wise the rest of my life!"

**Craig Chambers**  
Co-Director Health & Fitness Club  
Kansas City, Missouri



**Fantastic Results!**  
"The results are fantastic! In 30 days, I lost 3 1/2 inches from my waist, 4 inches from my hips and my body fat dropped 11%. With all this extra energy, I can't help but share the excitement about Body Wise."

**Christine Padgett**  
Body Wise Consultant  
San Diego, California



**Body Wise Works!**  
"In my first 30 days on Body Wise, I lost 15 unwanted pounds of fat. The products are outstanding. I feel the difference every day!"

**Gary DeWitt**  
Body Wise Consultant  
Fountain Valley, California

- ★ Health Enhancement
- ★ Weight Management
- ★ Cholesterol Concern
- ★ Athletic Performance

To make a *Body Wise* decision for your future, call me:

## Body Wise

INTERNATIONAL, INC.

Exhibit B-2

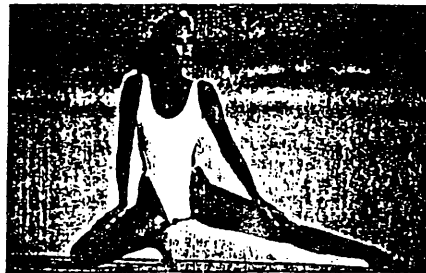
Carlsbad, California 92009

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## EXHIBIT C

Diets don't work...

***Body Wise Does!*****SPECTACULAR WEIGHT LOSS****Results That Can Last A Lifetime™**

The *Body Wise* Weight Management System has been designed to assist you to lose fat and create lean body mass – all without drugs, deprivation, or denial which result in the on-again, off-again cycle of weight bounce so often experienced with conventional weight-loss programs.

In 16 weeks I lost 39 pounds, 4 inches in my waist, lowered my cholesterol 42 points, and reduced my body fat 4%. I am now recommending the Body Wise program to my patients.  
*R. Stephen Jennings, M.D.*  
Huntington Beach, CA

In four months time I lost 43 pounds and reduced my body fat 5%. My wife Marilyn lost 12 pounds of fat, 3 inches in her waist, 2 inches in her thighs, and reduced her body fat 8%.  
*Marc & Marilyn Wilson*  
Burling, IL

I dropped 6 inches from my waist, lost 55½ pounds, lowered my cholesterol 64 points. I feel 20 years younger. It's great to be 70 and feel 50 again!

*Paul Williams*  
Lincoln, NE

I lost 20 pounds on the Body Wise Weight Management System. I lost 3½ inches off my waist and lowered my cholesterol 49 points. Now people tell me I look like a different person!

*Bernice Bryant*  
Lincoln, NE

In just three months I lost 58 pounds and lowered my cholesterol 104 points. The inches fell off! It was an easy and amazing life changing process.

*Jeff Gordon*  
Henderson, NV

*Thank You, Body Wise!*Your *Body Wise* Consultant is:

HEALTH SCIENCES, INC.  
13301 WATERFORD RUN DRIVE  
RIVERVIEW, FLORIDA 33569

Exhibit C

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## EXHIBIT C-2

## The Body Wise™ Products

The Body Wise products form a system for optimal health and fitness that combines advanced nutritional technology with educational understanding and incorporates the latest breakthroughs in research in the fields of nutrition, human physiology and medicine.

Body Wise products focus on sound science and deliver personal results.

### Body Wise™ Right Choice® AM/PM Formula

1. *Right Choice®* is the nutritional foundation upon which all Body Wise Nutrition systems are built—it provides the equivalent of daily nutritional insurance.
2. *Right Choice®* AM & PM are team players that help meet the body's very different needs for daytime and nighttime activity. There are certain nutritional factors that tend to empower our systems to give us energy for daytime activity, and other nutrients that tend to replenish our bone matrix and cell structure—which is particularly important for nighttime.
  - A. AM — The AM (morning) multi-formula is for use soon after we first awake. It furnishes the water and fat soluble vitamins with associated cofactors essential for energy empowerment.
  - B. PM — The PM (evening) multi-formula is specially formulated for replenishment of the skeletal matrix and essential cell repair. Sleep is a recreating event. Minerals are vital catalysts during this period. Proper nighttime nutrition, therefore, contributes to a coordination of rest and a feeling of well-being.
3. *Right Choice®* contains two advanced formulas:
  - A. Biopotential Nutrients — This process, unique to Body Wise, enrobes the water soluble vitamins with a protein so that our bodies can handle it easier. It makes the vitamins "cell ready" for maximum assimilation (few supplements take advantage of this technology, so much less of the nutritional value is absorbed by the body).
  - B. Krebs Cycle Chelates — This process goes beyond normal methods of chelation to maximize active absorption of minerals at the cellular level.
4. *Right Choice®* contains Krebs Cycle Chromium.
 

This is one of the spectacular, home-run nutrients in Right Choice. Krebs Cycle Chromium is a patented mineral similar in form to minerals found in mother's milk and exclusive to Body Wise. In rigorous studies, biologically active chromium has been shown to:

  - Increase lean body mass while burning off fat.
  - Lower both total cholesterol and LDL cholesterol.
  - Optimize the entire metabolic system & boost energy.
  - Increase tissue sensitivity to the anabolic hormone insulin.
  - Contribute directly to weight loss.
  - Improve glucose tolerance.
  - Increase glycogen storage.

Body Wise's Krebs Cycle Chromium works to support the proper functioning of insulin—one of the body's primary anabolic hormones. A key role of insulin is to "escort" amino acids out of the blood stream and into cells where they are assembled into enzymes, organ and muscle tissue. Without biologically active chromium, insulin simply doesn't work—and muscles aren't synthesized. With Body Wise's Krebs Cycle Chromium, tests confirm a 34% gain in lean body mass formulation when compared to control group. Additional highlight nutrients include:

  - A. Beta Carotene — A powerful, non-toxic vitamin, which according to government research, is required to prevent cancer in living tissue.
  - B. Esterified Vitamin C — A user-friendly, scientifically buffered Vitamin C which matches the mood of the body in order to prevent acid upset.
  - C. Boron — A unique mineral which research shows aids in calcium retention.

Exhibit C-2

## EXHIBIT C-3

Page 2

*Future Perfect®*

*Future Perfect®* is a delicious carbohydrate meal replacement drink that contains several key nutrient factors to provide sustained energy and help lower body fat and increase lean body mass. Highlight nutrients include:

- A. Inulin — A botanical from the Dahlia root and Jerusalem Artichoke which has been shown to prolong carbohydrate metabolism and thus "stretch the meal."
- B. Cruciferous Vegetables — These nutrients, which are built right into the formula of Future Perfect, were reported in the June 1988 issue of a leading medical journal, the Journal Of Clinical Nutrition, to have a direct relationship between their intake and the potential for reducing cancer risk.
- C. Micro-Encapsulated Fiber — Future Perfect contains four grams of micro-encapsulated soluble fiber, a technical "plus" which assists the body in lowering cholesterol.
- D. Amino Acid Mix — Future Perfect contains a full spectrum of amino acids—including the essential ones—making it a complete meal.
- E. Krebs Cycle Chromium — This ingredient serves the same function as in the Right Choice PM formula, which is to capitalize on study findings that it can increase lean body mass while lowering body fat, total cholesterol and LDL cholesterol.

*Cardio Wise®*

*Cardio Wise®* is one of the miracles in nutrition offered by Body Wise for a cholesterol conscious America. It focuses on the use of Niacin, L-Carnitine, Co-Enzyme Q<sup>10</sup>, Krebs Cycle Chromium, Silymarin, Grapefruit Pectin and Guar Gum to attack several risk factors associated with premature aging:

- A. Niacin — Functions to produce energy from sugars, fats and protein. It's also said to maintain healthy skin, nerves and digestive systems. More importantly, because it expands the blood capillaries, allowing more throughput and literally not allowing fat to stick to the veins' walls, it has been found effective in improving circulation and lowering the level of cholesterol in the blood.
- B. L-Carnitine — This is a miracle nutrient in its own right, in that it has been demonstrated through research to control weight, prevent heart disease and increase athletic performance.
- C. Krebs Cycle Chromium — The above two nutrients, when used in conjunction with our friend Krebs Cycle Chromium, have a collateral function in cholesterol and fat reduction in the body.
- D. Silymarin — A botanical of European origin (milk thistle), Silymarin is reported to have ten times more anti-oxidant effectiveness than Vitamin E. In addition to being a free radical<sup>1</sup> scavenger, Silymarin creates anti-toxin activity in the liver and causes the body to use oxygen more effectively. In short it prevents premature aging.
- E. Grapefruit Pectin Cellulose — Which has been demonstrated clinically to be the preferred form of fiber for cholesterol reduction. In general, all fiber reduces cholesterol. Grapefruit Pectin Cellulose is among the most effective forms to accomplish this desired effect.
- F. Co-Enzyme B-12 — To build muscle, particularly the heart muscle.

<sup>1</sup>Free radicals harm body cells and may even begin the transformation of normal cells into cancer cells. Free radicals are easily generated from food, water and air; tobacco smoke is filled with them. G-Forces: The 34 Global Forces Restructuring Our Future; P-56, Frank Feather; William Morrow & Co.; 1980

EXHIBIT D

# CARDIO WISE

- Cholesterol Concern
- Fat Reduction
- Heart Health

Formulated for a cholesterol conscious America, Cardio Wise offers extra nutritional insurance where additional lipid management is required.

**Highlight Ingredients:**

- **Neuro** - The exclusive ingredient has been clinically demonstrated to lower triglycerides. Ask your physician.
- **1-4-erythro** - Lowers cholesterol.
- **L-carnitine** - Assists in transforming fat into energy.
- **Nitric oxide** - This anti aging nutrient also has special properties for detoxification.

It's Nature's Gift to Human Life.

# WEIGHT MANAGEMENT SYSTEM

**Love The Fat, Hate The Lean!**

**Task System Contains:**

- 1 month of Future Perfect Dutch Chocolate & French Vanilla
- 1 month of Future Perfect Raspberry
- 1 month of Future Perfect Strawberry
- 1 month of Future Perfect Vanilla
- 1 month of Future Perfect Raspberry
- 1 month of Future Perfect Strawberry
- 1 month of Future Perfect Vanilla

# DIETS DON'T WORK

## BODY WISE DOES!

"The last 30 pounds I had in the waist. I started my Cardio Wise and reduced my body fat by 14%. This is amazing! Body Wise is a quality nutrition management program."

**Dr. Stephen Jennings, M.D.**  
Huntington Beach, CA

"The results are fantastic! In 30 days I lost 35 pounds from my belly fat. I started my Cardio Wise and reduced my body fat by 11%. With all this extra energy, I can't help share the excitement about Body Wise."

**Christine Padgett**  
San Diego, CA

"I reduced my cholesterol once 100 points! I began taking Cardio Wise shortly after major surgery. My cholesterol dropped 111 points in six weeks. My doctor could not believe it. I feel fantastic!"

**Mike Clark**  
Boy, PA, CA

"In one month with Body Wise, I lost 25 pounds and dropped 7% body fat. I lowered my cholesterol 50 points, kept my energy and maintained the intensity of my workouts. I'll use Body Wise the rest of my life."

**Greg Chambers, Co-owner**  
Health & Fitness Club  
Kansas City, MO

# YOUR BODY WISE CONSULTANT IS:

\_\_\_\_\_

# RESHAPE YOUR FUTURE

"Inheritance of diet can influence your health more than any other factor. I'll use Body Wise the rest of my life."

**U.S. Surgeon General**  
C. Everett Koop

**Body Wise**  
NATURAL DIET

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## EXHIBIT E

**PERFORMANCE NUTRITION  
FOR THE 22ND CENTURY**

## Body Wise Wins Again!



**Bruce Mathison**  
Former NFL Quarterback

"Thanks to Body Wise, I lowered my body fat, cholesterol and lost inches. My NFL buddies are noticing the difference. I tell them, 'It's Body Wise.'"

**"I am pleased to offer my patients this quality nutrition management program for treatment of hypertension, hypercholesterolemia, post-partum weight gain, high school sports nutrition and obesity. Patients strive for self-improvement. It is exciting to advise them toward achieving true preventive medicine goals. They live with longevity while feeling better than ever with renewed enthusiasm for living."**

**R. Stephen Jennings, M.D.**  
Huntington Beach, CA

**"As a Family Physician, I have taken on the responsibility for the health of my patients. My patients are doing exceptionally well on this program. My staff and I marvel at their lab results, weight loss and improved overall well-being. Personally, I have lost 15 pounds and lowered my cholesterol 45%. I feel great and must admit the changes in my appearance have been a source of encouragement for my patients."**

**Robert W. Shreck, M.D.**  
Las Vegas, NV

**"After just six weeks on the Body Wise products, my cholesterol level dropped from 234 to 151; my body fat percentage dropped from 29.6% to 23% and my scale weight went from 212 pounds to 180 pounds. I am now at a cholesterol level of 127 and my body fat is 16%. My energy level has never been as high and I require 1-2 hours less sleep per night and feel great! Body Wise products are tops for one reason: 'The World!'"**

**Theodore H. Mortenson, Ph.D.**  
Santa Ana, CA

**"Many of my patients complain of weight gain during their recovery from injury. I am extremely confident in recommending the Body Wise program for fat loss, cholesterol control, improved athletic function and optimal healing. These products have such serious results that patients continue on the program after their full recovery and return to athletics. The solid science behind the products and the education the system provides makes it a pleasure to share with other health professionals. I suggest that they take a serious look at this program for the future health and well-being of their patients."**

**Paul H. Hoseneyager,**  
Physical Therapist  
Huntington Beach, CA

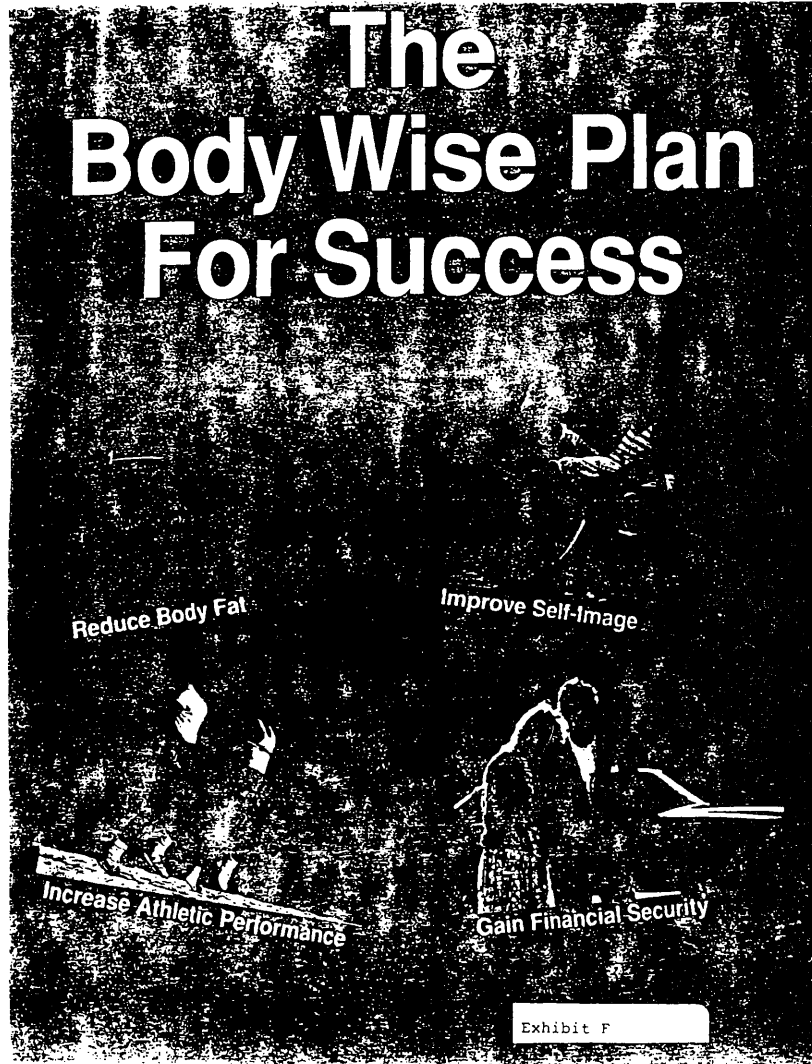
Testimonials presented are based on personal experience and the results, if any, will vary from individual to individual.

Your Body Wise International Independent Consultant is:



© 1992 & 1993 Future Perfect, Right Choice AM & PM Multi Formula Capsules, and The Reshape Formula are all trademarks of Body Wise International, Inc. All Rights Reserved. CODE 8991

EXHIBIT F



Complaint

120 F.T.C.

## EXHIBIT F-2

## SHARE THE DREAM OF SUCCESS

**R. Stephen Jennings, M.D.**  
Huntington Beach,  
California  
"I've lost 39 pounds, lowered my cholesterol 42 points and reduced my body fat by 14 percent. I am pleased to offer my patients this quality nutrition management program to achieve true preventive medicine goals."



**Dan McCormick**  
Trabuco Canyon, California  
"Body Wise has paid me \$50,000 over the past 90 days. I now have an income potential that I know will create massive financial abundance."



**Susan Lowder**  
Irvine, California  
"What an incredible opportunity! Body Wise paid me \$34,000 for one year's part-time effort. This company has started a revolution in preventive health care, and I'm proud and excited to be on its leading edge."



**Mary Nealon**  
Dallas, Texas  
"The Body Wise Business Opportunity has proven to be extremely lucrative for me. I've earned over \$26,000 in 90 days! Body Wise has answered my concerns for a healthier life and happier lifestyle."



**Bruce Mathison**  
Scottsdale, Arizona  
"As a professional athlete using Body Wise, I experienced better concentration and recovery time, as well as increased energy and stamina. I was paid very well in an entertainment business, but my Body Wise checks continue now. I believe I will attain and pass the finances I earned in football."



**Jeff Gordon**  
Renderson, Nevada  
"I lowered my cholesterol level 104 points and lost 58 pounds in scale weight! My waist went from an extended 40 inches to a comfortable 34. I have never felt so strong and vibrant in my life!"



**Christine Paddock**  
San Diego, California  
"My body fat dropped 11 percent while my cholesterol level was lowered 36 points! I lost 31 1/2 inches from my waist and four inches from my hips! The results are so fantastic, I can't help but share the excitement about Body Wise!"

Results are not guaranteed. Body Wise International's Consultants are results of their individual effort and do not reflect performance by Body Wise International, Inc. and its management or staff. Any person who achieves such results according to a plan and effort put into your particular business. All statements regarding individual health and financial status are references of individual consultant and not of Body Wise International, Inc. Body Wise International, Inc. is not a medical institution, nor recommended you see a health professional. Future Profit, Cardiac Wise, The Reshape Formula, Day-G and Bio-Less are all trademarks of Body Wise International, Inc. All rights reserved. © 1992 Body Wise International, Inc.

## CONTACT YOUR LOCAL CONSULTANT

The Networking Company that is Reshaping America!

Exhibit F-2

Body Wise

INDEPENDENT CONSULTANT

704

Complaint

EXHIBIT G

**Congratulations!!**

**You have taken the first easy steps for a Healthier Future!**



**Body Wise**  
International Inc.



"I am pleased to offer my patients this quality nutrition management program for treatment of hypertension, hypercholesterolemia, post-partum weight gain, high school sports nutrition and obesity. Patients strive for self-improvement. It's exciting to advise them toward achieving true preventative medicine goals and wellness longevity while feeling better than ever with renewed enthusiasm for living."

**Robert W. Shreck, M.D.**  
Huntington Beach, CA



"As a Family Physician, I have taken on the responsibility for the health of my patients. My patients are doing exceptionally well on this program. My staff and I marvel at their lab results, weight loss and improved overall being. Personally, I have lost 15 pounds and lowered my cholesterol 45 points. I feel great and must admit the changes in my appearance have been a source of encouragement for my patients."

**Robert W. Shreck, M.D.**  
Las Vegas, NV



"After just six weeks on the Body Wise products, my cholesterol level dropped from 234 to 151; my body fat percentage dropped from 29.6 percent to 23 percent and my scale weight went from 212 pounds to 180 pounds. I am now at a cholesterol level of 127 and my body fat is 16 percent. My energy level has never been as high and I require one to two hours less sleep per night and feel great! Body Wise products are tops for one reason: They Work!"

**Frederick H. Mortensen, Ph.D.**  
San Jose, CA



"Body Wise has changed my whole life! In seven weeks, I lost 27 pounds, 24 inches of body fat and lowered my cholesterol 43 points! My energy level has soared and I feel great!"

**Jay Kitzman**  
Lompoc, CA

Testimonials presented are based on personal experience and the results, if any, will vary from individual to individual. If you have a medical condition, we recommend you consult with a physician.

Your Body Wise Consultant is:

Complaint

120 F.T.C.

## EXHIBIT H

**FOR OPTIMUM HEALTH...**

The Advanced Nutrition System is designed to provide nutritional compliance through client education and access to Body Wise International chemical solvent-free nutritional supplements. Special emphasis is on nutrients for ATP production and cholesterol management through use of niacin, L-Carnitine, and Krebs Cycle minerals. The daily Future Perfect<sup>®</sup> carbohydrate and protein drink is excellent as a low-fat alternative meal when used with an appropriate total daily caloric intake and the Right Choice nutritional supplements.

**FOR WEIGHT MANAGEMENT...**

The Weight Management System is used to support your clinical assessment of client nutrient and caloric needs. Electrolyte uptake (especially potassium) fiber, and lipotropic ingredients are emphasized in formula design. The exclusive Reshape Formula<sup>™</sup> contains amino acid scavengers as well as L-Carnitine and exclusive Krebs Cycle Chromium to optimize beneficial results and establish hunger control. The emphasis on fat reduction rather than weight loss enhances patient compliance.

As a statement regarding health, trademarks are the property of individual companies and agencies. Body Wise International, Inc. is not responsible for the use of trademarks or the use of trademarks in advertising. For the trademark, copyright, and other information, please refer to the appropriate trademark, copyright, and other information.

**DIETS DON'T WORK**

### The Body Wise International Weight Management System & Advanced Nutrition System



Michael F. Neenan, Ph.D.  
Body Wise Scientific & Medical Advisory Board

The Body Wise Advanced Nutrition and Weight Management Systems have been designed to assist your patients to develop and maintain healthy eating habits, lose fat and promote lean body mass -- without drugs, dietary deprivation or denial which results in cyclic weight "bounce" so often experienced with conventional "diet" programs. Your patients will have the opportunity to experience controlled "fat loss" and increased vitality with the use of the Body Wise nutritional supplements. Most importantly, these Body Wise nutrition systems include the most powerful educational video on nutrition ever produced!

For further information about the Body Wise  
Advanced Nutrition System<sup>™</sup> or  
Weight Management System<sup>™</sup> contact:

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**NUTRITIONAL TECHNOLOGY****FOR THE 22ND CENTURY**

## The Professional Choice...

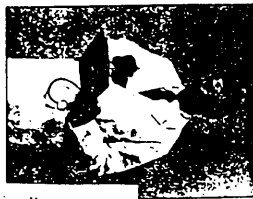


Exhibit H

**Body Wise**  
INTERNATIONAL, INC.

EXHIBIT H-2

## ...To Better Health For Your Patients

Body Wise nutritional systems are designed to sensibly reduce body fat and excess cholesterol while helping to:

- BUILD LEAN BODY MASS
- ENHANCE ENERGY POTENTIAL
- INCREASE NUTRITIONAL COMPLIANCE
- PROMOTE IMPROVED HEALTH HABITS

Poor dietary habits have been shown to be one of the leading causes of disease affecting all organ systems including the heart, the peripheral vascular system, stomach and digestive system, kidneys, skin, endocrine and central nervous system.

U.S. government surveys show that very few Americans receive the full RDAs of essential vitamins and minerals in their daily diets.

Most Americans eat very little fiber.

Most Americans eat too much fatty food.

Most Americans do not eat enough complex carbohydrates.

Body Wise nutritional systems promote good eating habits, provide excellent nutritional supplementation and help lower cholesterol when used with a balanced low-fat diet.

J. Choccol, Alessandro P., and Helen A. Oshin, "Eating behavior and associated nutrient quality of diets," *Human Systems Research Corporation*, New York, New York, 1982.

### THE DIET HABIT

#### THE HEALTH HABIT

- The Diet and Health Industries comprise one of the largest segments of our economy today.
- Many physicians have worked diligently with patients to lose weight by counting calories daily, frequently with dismal results.
- Quick weight loss diet programs rarely produce lasting results and can pose a serious health hazard to patients.



Robert W. Shreck, M.D.  
Las Vegas, Nevada

"My patients are doing extremely well on the Body Wise program, especially my Type II Diabetics. I personally dropped 15 pounds and 40 points off my total cholesterol."

ROBERT W. SHERCK, M.D.  
LAS VEGAS, NEVADA

"I have lost 39 pounds, 4 inches in the waist, lowered my cholesterol 42 points, and reduced my body fat by 4%. This is exciting! Professionally, I am very pleased to offer my patients this quality nutrition management program."

R. STEPHEN JENNINGS, M.D.  
MUNTINGTON BEACH, CALIFORNIA

"I strongly endorse the Body Wise International products. I have seen and heard many testimonials from patients who feel new vigor, strength and sense of well-being, having shed pound after pound of unnecessary and potentially harmful body fat."

DENNIS S. MANN, D.O.  
SEATTLE, WASHINGTON

### THE MARKETING PROGRAM

#### Networking...

The Body Wise International Business Opportunity is based on a method of marketing called Networking or person-to-person marketing. In other words, getting other people involved in the powerful Body Wise nutritional systems. Fellow professionals, associates, friends and even your patients will want to participate in the Body Wise Vision of creating a healthier, more vital America.

#### Income...

The opportunity for retail sales can assist in building your professional practice. The benefits of this program are enhanced patient compliance and patient referrals.



EXHIBIT H-2

#### Group Development...

The Body Wise International Consultants that you sponsor become part of your personal organization and you earn monthly rebates and commissions based on their sales efforts and your own.

## 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 with a copy of a draft of complaint which the San Francisco 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, its attorneys, 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, 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 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 Body Wise International, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of Nevada, with its office, principal place of business and mailing address at 6350 Palomar Oaks Court, Suite A, Carlsbad, California.

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

## DEFINITIONS

For the purposes of this order, the following definitions shall apply:

A. "*Distributor*" means any person, other than direct employees of Body Wise, who has sold nutritional supplements on behalf of Body Wise or who has received any compensation in connection with the sale of nutritional supplements on behalf of Body Wise, whether such person is characterized as a consultant, associate, distributor or otherwise.

B. "*Competent and reliable scientific evidence*" means tests, analyses, research, studies or other evidence based on the expertise of professionals in the relevant area, that have been conducted and evaluated in an objective manner by persons qualified to do so, using procedures generally accepted in the profession to yield accurate and reliable results.

## I.

*It is ordered*, That Body Wise International, Inc., a corporation, its successors and assigns, and its officers, directors, representatives, agents, and employees, directly or through any corporation, subsidiary, division or other device, in connection with the advertising, packaging, labeling, promotion, offering for sale, sale or distribution of nutritional supplements, food or drugs, as "food" and "drug" are defined in Sections 12 and 15 of the Federal Trade Commission Act, 15 U.S.C. 52 and 55, in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from misrepresenting or assisting others in misrepresenting, in any manner, directly or by implication, that the nutritional supplement, food or drug:

a. Can cause, aid, facilitate or contribute to achieving or maintaining weight loss without a reduction in total caloric intake or an increase in exercise; or

b. Contains any ingredient that, individually or in connection with other ingredients, can cause, aid, facilitate or contribute to achieving

or maintaining weight loss without a reduction in total caloric intake or an increase in exercise.

## II.

*It is further ordered*, That Body Wise International, Inc., a corporation, its successors and assigns, and its officers, directors, representatives, agents, and employees, directly or through any corporation, subsidiary, division or other device, in connection with the advertising, packaging, labeling, promotion, offering for sale, sale or distribution of nutritional supplements, food or drugs, as "food" and "drug" are defined in Sections 12 and 15 of the Federal Trade Commission Act, 15 U.S.C. 52 and 55, in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from representing or assisting others in representing, in any manner, directly or by implication, that the nutritional supplement, food or drug:

- a. Can cause, aid, facilitate or contribute to achieving or maintaining weight loss;
- b. Contains any ingredient that, individually or in connection with other ingredients, can cause, aid, facilitate or contribute to achieving or maintaining weight loss;
- c. Reduces, can reduce or helps reduce serum cholesterol levels;
- d. Contains any ingredient that, individually or in connection with other ingredients, reduces, can reduce or helps reduce serum cholesterol levels; or
- e. Provides, can provide, or helps provide any other health benefit;

unless, at the time of making any such representation, respondent possesses and relies upon competent and reliable scientific evidence that substantiates the representation.

## III.

*It is further ordered*, That Body Wise International, Inc., a corporation, its successors and assigns, and its officers, directors, representatives, agents, and employees, directly or through any corporation, subsidiary, division or other device, in connection with

the advertising, packaging, labeling, promotion, offering for sale, sale or distribution of nutritional supplements, food or drugs, as "food" and "drug" are defined in Sections 12 and 15 of the Federal Trade Commission Act, 15 U.S.C. 52 and 55, in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from misrepresenting, in any manner, directly or by implication, the existence, contents, validity, results, conclusions, or interpretations of any test or study.

#### IV.

*It is further ordered*, That Body Wise International, Inc., a corporation, its successors and assigns, and its officers, directors, representatives, agents, and employees, directly or through any corporation, subsidiary, division or other device, in connection with the advertising, packaging, labeling, promotion, offering for sale, sale or distribution of nutritional supplements, food or drugs, as "food" and "drug" are defined in Sections 12 and 15 of the Federal Trade Commission Act, 15 U.S.C. 52 and 55, in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from representing or assisting others in representing, in any manner, directly or by implication, that any endorsement (as "endorsement" is defined in 16 CFR 255.0(b)) of such nutritional supplement, food or drug represents the typical or ordinary experience of members of the public who use the nutritional supplement, food or drug, unless such representation is true and, at the time of making such representation, respondent possesses and relies upon competent and reliable scientific evidence that substantiates such representation.

Provided, however, respondent may use such endorsements if the statements or depictions that comprise the endorsements are true and accurate, and if respondent discloses clearly, prominently, and in close proximity to the endorsement:

a. What the generally expected performance would be in the depicted circumstances; or

b. The limited applicability of the endorser's experience to what consumers may generally expect to achieve; *i.e.*, that consumers should not expect to experience similar results.

## V.

*It is further ordered,* That Body Wise International, Inc., a corporation, its successors and assigns, and its officers, directors, representatives, agents, and employees, directly or through any corporation, subsidiary, division or other device, in connection with the advertising, packaging, labeling, promotion, offering for sale, sale or distribution of nutritional supplements, food or drugs, as "food" and "drug" are defined in Sections 12 and 15 of the Federal Trade Commission Act, 15 U.S.C. 52 and 55, 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, a material connection, when one exists, between a person providing an endorsement for any such product, as "endorsement" is defined in 16 CFR 255.0(b), and respondent or any other individual or entity manufacturing, labeling, advertising, promoting, offering for sale, selling, or distributing such product. For purposes of this order, "material connection" shall mean any relationship that might materially affect the weight or credibility of the endorsement and would not reasonably be expected by consumers.

## VI.

*It is further ordered,* That Body Wise International, Inc., a corporation, its successors and assigns, and its officers, directors, representatives, agents, and employees, directly or through any corporation, subsidiary, division or other device, in connection with the advertising, packaging, labeling, promotion, offering for sale, sale or distribution of nutritional supplements, food or drugs, as "food" and "drug" are defined in Sections 12 and 15 of the Federal Trade Commission Act, 15 U.S.C. 52 and 55, in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from disseminating or assisting others in disseminating any advertisement which contains any reference to physicians or other health care professionals unless respondent discloses clearly and conspicuously that physicians and other health care professionals who endorse Body Wise products may be Body Wise distributors and have a financial interest in promoting the sale of Body Wise products.

## VII.

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.

## VIII.

Nothing in this order shall prohibit respondent 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 respondent shall notify the Commission at least thirty (30) days prior to any proposed change in the corporation, such as dissolution, assignment, sale resulting in the emergence of a successor corporation or association, or the creation or dissolution of subsidiaries or affiliates, or any other change in the corporation that may affect compliance obligations arising under this order.

## X.

*It is further ordered,* That for three (3) years following the 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, copies of:

A. All materials that were relied upon in disseminating such advertisement; and

B. All tests, reports, studies, surveys, demonstrations or other evidence in its possession or control that contradict, qualify, or call

into question such representation, including complaints from consumers.

XI.

*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, and employees engaged in the preparation or placement of advertisements or other materials covered by this order.

XII.

*It is further ordered*, respondent shall distribute a copy of this order to each of its current distributors; provided that respondent may satisfy the requirements of this section with respect to current distributors by publishing the full text of this order clearly and prominently in any periodical which is published by respondent and which is distributed to all of its distributors.

XIII.

*It is further ordered*, That this order will terminate on September 25, 2015, or twenty years from the most recent date that the United States or the Federal Trade Commission files a complaint (with or without an accompanying consent decree) in federal court alleging any violation of the order, whichever comes later; provided, however, that the filing of such a complaint will not affect the duration of:

A. Any paragraph in this order that terminates in less than twenty years;

B. This order's application to any respondent that is not named as a defendant in such complaint; and

C. This order if such complaint is filed after the order has terminated pursuant to this paragraph.

Provided further, that if such complaint is dismissed or a federal court rules that the respondent did not violate any provision of the order, and the dismissal or ruling is either not appealed or upheld on appeal, then the order will terminate according to this paragraph as though the complaint was never filed, except that the order will not terminate

between the date such complaint is filed and the later of the deadline for appealing such dismissal or ruling and the date such dismissal or ruling is upheld on appeal.

XIV.

*It is further ordered,* That respondent shall, within sixty (60) days after service 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 it has complied with this order.

Complaint

120 F.T.C.

IN THE MATTER OF

LOCAL HEALTH SYSTEM, INC., ET AL.

CONSENT ORDER, ETC., IN REGARD TO ALLEGED VIOLATION OF  
SEC. 7 OF THE CLAYTON ACT*Docket C-3618. Complaint, Oct. 3, 1995--Decision, Oct. 3, 1995*

This consent order, among other things, prohibits the merger of the two largest hospitals in St. Clair County, Michigan, and requires the respondents, for three years, to notify the Commission or obtain Commission approval before acquiring certain hospital assets in the Port Huron area.

*Appearances*

For the Commission: *Phillip L. Broyles* and *William Baer*.

For the respondents: *David Ettinger, Honigman, Miller, Schwartz & Cohn*, Detroit, MI.

## COMPLAINT

The Federal Trade Commission, having reason to believe that respondent Local Health System, Inc. (hereinafter sometimes referred to as "Local Health"), has entered into an agreement to acquire the assets of Mercy Hospital-Port Huron and Port Huron Hospital; that the proposed acquisition, if consummated, would violate Section 7 of the Clayton Act, as amended, 15 U.S.C. 18; and it appearing to the Commission that a proceeding by it in respect thereof would be in the public interest, the Commission hereby issues its complaint, pursuant to Section 11 of the Clayton Act, 15 U.S.C. 21, stating its charges as follows:

## I. DEFINITION

1. For purposes of this complaint, "*acute care inpatient hospital services*" means 24-hour inpatient health care, and related medical or surgical diagnostic and treatment services, for physically injured or sick persons with short-term or episodic health problems or infirmities.