

IN THE MATTER OF

NATIONAL DIETARY RESEARCH, INC., ET AL.

CONSENT ORDER, ETC., IN REGARD TO ALLEGED VIOLATION OF
SECS. 5 AND 12 OF THE FEDERAL TRADE COMMISSION ACT*Docket 9263. Complaint, Nov. 9, 1993--Decision, Nov. 7, 1995*

This consent order prohibits, among other things, two Florida-based corporations and their owner from making claims regarding weight loss, hunger reduction, calorie absorption, cholesterol reduction, effects on cellulite or body measurements, or any other health benefits of any product or program they advertise or sell, unless the respondents possess competent and reliable scientific evidence to substantiate the claims. Also, the consent order prohibits the respondents from misrepresenting test results, from representing that any advertisement is something other than a paid advertisement, and from representing that an endorsement is typical of the experience of consumers who use the product, unless the claim is substantiated. In addition, the consent order requires the respondents to pay \$100,000 to the Commission.

Appearances

For the Commission: *Joel Winston, Richard Cleland, C. Lee Peeler and Joan Bernstein.*

For the respondents: *Roger Furey, Arter & Hadden, Washington, D.C. and Donovan Conwell, Fowler, White, Gillen, Boggs, Villareal & Banker, Tampa, FL.*

COMPLAINT

The Federal Trade Commission, having reason to believe that National Dietary Research, a corporation, The William H. Morris Company, a corporation, and William H. Morris, individually and as the sole officer of said corporations ("respondents"), have violated Sections 5(a) and 12 of the Federal Trade Commission Act (15 U.S.C. 45 (a) and 52), and it appearing to the Commission that a proceeding by it in respect thereof would be in the public interest, alleges:

PARAGRAPH 1. (a) Respondent National Dietary Research is a Florida corporation, with its principal office or place of business located at 1377 K Street, N.W., Suite 553, Washington, D.C.

(b) Respondent William H. Morris Company is a Florida corporation, with its principal office or place of business located at 2804 Smitter Road, Tampa, Florida.

(c) Respondent William H. Morris is the President of both National Dietary Research and the William H. Morris Company. Mr. Morris owns 100 percent of the capital stock of both corporations. Individually or in concert with others, he formulates, directs, and controls the acts and practices of the corporate respondents, including the acts and practices alleged in this complaint. His principal office or place of business is located at 2804 Smitter Road, Tampa, Florida.

PAR. 2. Respondents have advertised, offered for sale, sold and distributed Food Source One, a compressed tablet made largely from plant fiber, as a weight loss product. Respondents have also advertised, offered for sale, sold and distributed Vancol 5000, a compressed tablet made from plant fiber and other substances, as a product that reduces serum cholesterol. Each of these products is a "food" and/or "drug" within the meaning of Sections 12 and 15 of the Federal Trade Commission Act.

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

PAR. 4. Respondents have disseminated or have caused to be disseminated advertisements and promotional materials for Food Source One, including, but not necessarily limited to, the attached Exhibits A-F and J-L. These advertisements and promotional materials contain the following statements:

1. WEIGHT LOSS SURPRISES RESEARCHERS

WASHINGTON – A nutrition organization was hopeful that a nutritionally complete "hi-tech" food tablet would help erase world hunger problems, until a study revealed that one of the ingredients could cause significant weight loss without dieting! Researchers in Europe found that an ingredient in the aptly named product Food Source One actually caused people to lose weight, even though specifically instructed not to alter normal eating patterns, according to one study published in the prestigious British Journal of Nutrition. Researchers in an earlier study had speculated that the weight loss was due to a decrease in the intestinal absorption of calories.

While the development of Food Source One, a project of National Dietary Research, would not be used to successfully fulfill its original goal, the discovery has been a windfall for overweight people. A Daytona Beach, Florida woman fighting a weight battle for 12 years used the product on the recommendation of her physician and lost 30 pounds. She stated, "Not only have I lost 30 pounds but my

cholesterol has dropped from 232 to 143. I have two closets full of clothes which have not fit me in two years that I can now wear." In a separate report, a telephone interview revealed that a Wilmington, North Carolina pharmacist lost 14 pounds in 15 days on the product and was never hungry. (Exhibits A, J and L).

2. WEIGHT LOSS MYSTERY Baffles Scientists

WASHINGTON -- Scientists are baffled by a natural food ingredient that causes people to lose weight even though they don't change the way they normally eat.

A study published in The British Journal of Nutrition says that the ingredient, often used to thicken ice cream, can cause significant weight loss without dieting. Although several explanations for the weight loss are suggested, the most likely according to scientists in a Finnish study, is that the ingredient seems to decrease the intestinal absorption of calories.

National Dietary Research, an organization committed to the research and development of nutritional solutions to world-wide health problems, along with consulting scientists, have successfully isolated and incorporated the ingredient into an improved method that greatly enhances the potential for weight loss over the ingredient alone. Called Food Source One, the significant breakthrough in nutritional weight control provides a three-way scientifically designed method to help prevent calorie absorption.

The mechanism by which Food Source One works to decrease body weight is a complicated process called nutri-bonding. When chewed and swallowed immediately before meals, high calorie fats are replaced with lower calorie nutrients, thereby providing optimum nutrition and a minimum number of fat calories as explained in an instruction sheet that accompanies the tablets. The instruction sheet should be followed for optimum results.

....

Physicians and pharmacists are praising Food Source One as a natural, drug free alternative for the treatment of obesity. (Exhibits B and K).

3. WHAT IS FIBERSPAN?

Fiberspan is the trade name for a special formulation of soluble type fiber shown to be effective for weight loss.

....

HOW DOES SOLUBLE FIBER HELP ONE LOSE WEIGHT?

Studies published in respected scientific journals including the American Journal of Clinical Nutrition and The British Journal of Nutrition found that soluble fiber caused patients to lose weight. Part of the reason for the weight loss, according to scientists, is probably due to the appetite reduction properties. However, some studies have found that patients consuming soluble fiber lost weight without altering their normal eating patterns. The appetite reducing effects of the fiber cannot justify this phenomenon. Thus, scientists speculate that the fiber reduces intestinal absorption of a portion of the calories you consume leading to weight loss. The calories are trapped when the fiber forms a gel and are eliminated.

IS FS-1 MORE EFFECTIVE FOR WEIGHT LOSS THAN THE FIBER ALONE?

FS-1 provides a three way scientifically designed process for improved weight loss that fiber alone cannot provide. The human appetite is too complex to be tricked for any length of time by the placement of a non-nutritive substance in the stomach. This is why the nutritional portion of FS-1 is so important.

....

WHAT IS FOOD SOURCE ONE WITH FIBERSPAN?

Food Source One with Fiberspan, commonly referred to as FS-1, is a nutritionally concentrated food tablet with a high fiber content. FS-1 functions just like real food but without all the calories. When chewed, swallowed and followed with water FS-1 expands in the stomach like a sponge as it soaks up water. The nutritional components of the tablet are then released in the stomach so that they are available for absorption.

HOW DOES FS-1 CONTROL THE APPETITE?

The same way eating a six course meal would kill the appetite, with food. First, the fiber creates a temporary full feeling, then the nutritional portion of the tablet gives a gentle rise in blood sugar levels for prolonged appetite suppression, just like a meal. (Exhibit C).

4. Food Source One also contains a unique blend of natural food fiber called Fiberspan. Fiberspan expands in the stomach to many times its own size to help reduce hunger. Furthermore, scientists say that the fiber in Fiberspan helps you lose weight by preventing the absorption of a portion of the calories you consume from food.

....

THE NO DIET DIET - Chew 3 to 5 FS-1 tablets followed by an 8 oz. glass of water, 30 minutes before each meal. FS-1 will reduce hunger so you will be satisfied with less food. You still enjoy all your favorite foods, but you will eat less. (Exhibit D).

5. ACCIDENTAL DISCOVERY MAY END OBESITY

WASHINGTON - Researchers may have discovered a way to end obesity--by accident!

In a study with a potential cholesterol lowering agent, scientists noted an unusual side effect. Instead of lower cholesterol levels, patients receiving a natural plant colloid lost weight while body weight in a control group remained constant.

The scientists say the mechanism behind the weight loss is not clear, but suggest it is partially due to a decrease in the intestinal absorption of calories. Scientists in another study published in the British Journal of Nutrition, found that patients consuming the same colloid lost weight in spite of being instructed not to alter normal eating patterns. Despite this evidence, other scientists may not agree on the weight loss benefits of colloids. Someday, pending further study, there could be universal agreement that colloids are helpful in confronting the problem of obesity. (Exhibit E).

6. WEIGHT LOSS SURPRISES RESEARCHERS

WASHINGTON -- A nutrition organization was hopeful that a nutritionally complete "hi-tech" food tablet would help erase world hunger problems, until a study revealed that one of the ingredients could cause significant weight loss.

Although other studies and scientists may not agree, researchers in Europe found that the ingredient, a natural plant colloid, actually caused people to lose weight, even though specifically instructed not to alter normal eating patterns, according to one study published in the prestigious British Journal of Nutrition. Researchers in an earlier study had speculated that the weight loss was due to a decrease in the intestinal absorption of calories.

While the development of the product called Food Source One, a project of National Dietary Research, would not be used to successfully fulfill its original goal, the formula which has since been improved with other natural colloids has

been a windfall for overweight people. A Daytona Beach, Florida woman fighting a weight battle for 12 years used the product on the recommendation of her physician and lost 30 pounds. She stated, "Not only have I lost 30 pounds but my cholesterol dropped from 232 to 143. I have two closets full of clothes which have not fit me in two years that I can now wear." In a separate report a telephone interview with a Wilmington, North Carolina pharmacist lost 14 pounds in 3 weeks on the product and was never hungry A variety of nutritionally sound diet plans are specially prepared by NDR, accompany each bottle and provide a natural, drug free alternative for confronting the problem of obesity. (Exhibit F)

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-F, and J-L, respondents have represented, directly or by implication, that:

- (a) Food Source One causes significant weight loss.
- (b) Food Source One causes significant weight loss without dieting or otherwise changing normal eating patterns.
- (c) Food Source One is an effective treatment for obesity.
- (d) Food Source One reduces hunger and is an effective appetite suppressant.
- (e) Food Source One decreases the intestinal absorption of calories.
- (f) Food Source One may significantly reduce serum cholesterol.

PAR. 6. 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-F, and J-L, respondents have represented, directly or by implication, that at the time they made the representations set forth in paragraph five, respondents possessed and relied upon a reasonable basis that substantiated such representations.

PAR. 7. In truth and in fact, at the time they made the representations set forth in paragraph five, respondents did not possess and rely upon a reasonable basis that substantiated such representations. Therefore, the representation set forth in paragraph six was, and is, false and misleading.

PAR. 8. Through the use of the statements contained in the advertisements and promotional materials set forth in paragraph four, including but not necessarily limited to the advertisements and

promotional materials attached as Exhibits A-F, and J-L, respondents have represented, directly or by implication, that:

(a) Scientific studies of certain ingredients contained in Food Source One, including studies published in the British Journal of Nutrition and the American Journal of Clinical Nutrition, demonstrate that Food Source One causes significant weight loss.

(b) Scientific studies of certain ingredients contained in Food Source One, including a study published in the British Journal of Nutrition, demonstrate that Food Source One causes significant weight loss without dieting.

(c) Food Source One has a high fiber content.

(d) National Dietary Research is a *bona fide*, independent research organization that has conducted research seeking nutritional solutions to world-wide health problems.

PAR. 9. In truth and in fact:

(a) Scientific studies of certain ingredients contained in Food Source One, including studies published in the British Journal of Nutrition and the American Journal of Clinical Nutrition, do not demonstrate that Food Source One causes significant weight loss.

(b) Scientific studies of certain ingredients contained in Food Source One, including a study published in the British Journal of Nutrition, do not demonstrate that Food Source One causes significant weight loss without dieting.

(c) Food Source One does not have a high fiber content.

(d) National Dietary Research is not a *bona fide*, independent research organization and has not conducted research seeking nutritional solutions to world wide health problems.

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

PAR. 10. Respondents have represented, directly or by implication, that certain of its advertisements for Food Source One, including, but not necessarily limited to, Exhibits B, J, K and L, are independent newspaper stories and not paid advertisements.

PAR. 11. In truth and in fact, the advertisements for Food Source One referred to in paragraph ten are paid commercial advertisements

and not independent newspaper stories. Therefore, the representation set forth in paragraph ten was, and is, false and misleading.

PAR. 12. Respondents have disseminated or have caused to be disseminated advertisements and promotional materials for Vancol 5000, including, but not necessarily limited to, the attached Exhibits G-I. These advertisements and promotional materials contain the following statements:

1. CHOLESTEROL DISCOVERY PASSES MOM'S TEST

WASHINGTON - The mother of a research scientist recently lowered her cholesterol more than 20% without changing her eating habits.

After a visit to her doctor, a Florida woman learned that her cholesterol level was an elevated 308 and she was encouraged to change her eating habits. When she returned 10 weeks later, the doctor was astounded that her cholesterol level has dropped to 243. Asked if she achieved the amazing results just by dieting she replied, "No I didn't diet at all, in fact I ate the things I shouldn't eat like bacon, sausage and ice cream. The only thing I did different was take some tablets my son gave me."

The woman's son is Dr. William Morris, director of research and development [at] National Dietary Research, an Organization dedicated to finding nutritional solutions to health problems.

....

Vancol 5000 is a chewable food tablet that contains extracts from foods known to lower cholesterol. According to the exclusive distributor for Vancol 5000, inquiries about the new product are being received from all over the country and has peaked [sic] the interest of doctors used to prescribing expensive cholesterol lowering drugs. (Exhibit G).

2. THE VANCOL 5000 CHOLESTEROL LOWERING PLAN GUARANTEE

A blood cholesterol level over 270 puts you at a high risk for heart disease. Have your cholesterol checked. If you need to lower your cholesterol, use Vancol 5000 as directed for 30 days. After 30 days, have it checked again. If your cholesterol has not been lowered significantly, bring your test results and empty bottle back for a FULL REFUND! LOWER YOUR CHOLESTEROL IN 30 DAYS OR YOUR MONEY BACK!

National Dietary Research - Washington, D.C. (Exhibit H).

3. Recent Scientific data suggests that the ingredients contained in Vancol 5000 have a beneficial effect on lowering total blood cholesterol levels, LDL cholesterol and may even increase HDL cholesterol. The Vancol 5000 Plan and the nutrients contained in the Vancol 5000 tablet were developed to lower cholesterol levels, improve overall health status and an individuals [sic] quality of life.

....

Beta Sitosterol has been shown experimentally to decrease elevated plasma cholesterol by interfering with the intestinal absorption [sic] of cholesterol.

....

Chromium picolinate supplementation has been shown to decrease LDL and total cholesterol levels and is effective in the treatment of hyperlipidemia.

....

Psyllium decreases absorption of cholesterol and lipids in the small intestines and causes the formation of short chain fatty acids, which are rapidly absorbed and may inhibit cholesterol synthesis.

.....

Calcium carbonate and magnesium stearate have been found to decrease cholesterol as explained in further detail on the following page.

.....

VANCOL 5000

Elevated Cholesterol Levels and Dietary Supplementation Chromium Picolinate
Experimental study: Supplementation with 50-200 mcg of chromium daily, improved blood cholesterol and triglyceride levels. The decrease was due to chromiums [sic] function in fat metabolism and sugar metabolism. (Anderson, Richard A. Agricultural Research, 10:14-16, 1990)

Experimental Double-blind Crossover Study: During a 42 day period, 28 subjects were given chromium tripicolinate (200 mcg) or a placebo daily. The subjects ingesting chromium had a significant decrease in total cholesterol, LDL cholesterol (10.5% decrease) and serum apolipoprotein B, (the principal protein of LDL cholesterol fraction) decreased. HDL cholesterol and apolipoprotein A increased. Subjects ingesting the placebo had elevated apolipoprotein B levels. (Press RI et al. The effect of chromium picolinate on serum cholesterol and apolipoprotein fractions in human subjects. West J. Med. 1990 Jan; 152:41-45)

Psyllium

Double-blind Placebo Controlled Study: 26 hypercholesterolemic men were treated with psyllium or a placebo for 8 weeks. The psyllium group showed a 14% decrease in total cholesterol, 14.8% decrease in LDL/HDL cholesterol ratio and 20% decrease in LDL cholesterol. The placebo group showed no significant changes. (Anderson, J.W. et al. Cholesterol lowering effect of psyllium for hypercholesterolemic men. Arch Intern Med. 148:292-296)

Double-blind Study: 96 subjects with hypercholesterolemia were given 5.1 gms of psyllium or a placebo twice daily for 16 weeks, while following a prudent diet. Psyllium decreased total cholesterol by 5.6% and LDL cholesterol by 8.6%. The levels in the placebo group were unchanged. (Levin, E.G. et al. Comparison of psyllium and cellulose as adjuncts to a prudent diet in the treatment of hypercholesterolemia. Arch Intern Med. 150: 1822-1827, 1990)

BETA SITOSTEROL

Experimental Study: A diet containing .5% cholesterol plus .5% sitosterol, resulted in a significant decrease of liver cholesterol, showing the inhibitory effect of sitosterol on cholesterol absorption [sic]. (Ikeda, I. et al. J. Nutr. Sci. Vitaminol 35:361-369, 1989)

QUINONES

Quinones are natural antioxidants that help control and minimize free radical reactions to help lower cholesterol.

Calcium Carbonate

Although the mechanism of action is unknown, calcium has been shown to decrease cholesterol. One physician, a former medical editor for a national magazine, has advanced his "hard water" theory as a possible answer. CaCO_3 is the most common substance in hard water. According to the doctor, just as body oils and detergents mix with CaCO_3 to form an insoluble "bathtub ring", it can also inhibit the intestinal absorption of fat and cholesterol.

Magnesium Stearate

Magnesium stearate is a by product of stearic acid. Scientific data has shown, that when stearic acid is used in place of other fats in the diet, there is a significant reduction of plasma levels of cholesterol and LDL cholesterol (total cholesterol decreased by an average of 14%).

NOTE: No statement contained in this publication shall be construed as a claim or representation that any product is intended for use in the diagnosis, cure, mitigation, treatment, or prevention of any disease. This report is intended for professional use only. Certain persons considered experts may disagree with one or more of the statements and/or conclusions found in this report. Notwithstanding the above, this information is of current nutritional interest and is based upon sound and reliable authority. (Exhibit I).

PAR. 13. Through the use of the statements contained in the advertisements and promotional materials referred to in paragraph twelve, including but not necessarily limited to the advertisements and promotional materials attached as Exhibits G-I, respondents have represented, directly or by implication, that:

- (a) Vancol 5000 significantly reduces serum cholesterol.
- (b) Vancol 5000 significantly reduces serum cholesterol without changes in diet or eating habits.

PAR. 14. Through the use of the statements contained in the advertisements and promotional materials referred to in paragraph twelve, including but not necessarily limited to the advertisements and promotional materials attached as Exhibits G-I, respondents have represented, directly or by implication, that at the time they made the representations set forth in paragraph thirteen, respondents possessed and relied upon a reasonable basis that substantiated such representations.

PAR. 15. In truth and in fact, at the time they made the representations set forth in paragraph thirteen, respondents did not possess and rely upon a reasonable basis that substantiated such representations. 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 set forth in paragraph twelve, including but not necessarily limited to the promotional materials attached as Exhibit I, respondents have represented, directly or by implication, that scientific studies of certain ingredients

contained in Vancol 5000 demonstrate that Vancol 5000 significantly reduces serum cholesterol.

PAR. 17. In truth and in fact, scientific studies of certain ingredients contained in Vancol 5000 do not demonstrate that Vancol 5000 significantly reduces serum cholesterol. Therefore, the representation set forth in paragraph sixteen was, and is, false and misleading.

PAR. 18. Through the use of the statements contained in the advertisements set forth in paragraphs four and twelve, including but not necessarily limited to the advertisements attached as Exhibits A, F, G, J and L, respondents have represented, directly or by implication, that testimonials from consumers appearing in advertisements for Food Source One and Vancol 5000 reflect the typical or ordinary experience of members of the public who have used the products.

PAR. 19. Through the use of the statements contained in the advertisements set forth in paragraphs four and twelve, including but not necessarily limited to the advertisements attached as Exhibits A, F, G, J and L, respondents have represented, directly or by implication, that at the time they made the representation set forth in paragraph eighteen, respondents possessed and relied upon a reasonable basis that substantiated such representation.

PAR. 20. In truth and in fact, at the time they made the representation set forth in paragraph eighteen, respondents did not possess and rely upon a reasonable basis that substantiated such representation. Therefore, the representation set forth in paragraph nineteen was, and is, false and misleading.

PAR. 21. The acts and practices of respondents as alleged in this complaint constitute unfair or deceptive acts or practices and the making of false advertisements in or affecting commerce in violation of Sections 5(a) and 12 of the Federal Trade Commission Act.

893

Complaint

EXHIBIT A

November 14, 1990

EXHIBIT A

Weight Loss Surprises Researchers

WASHINGTON—A nutrition organization was hopeful that a nutritionally complete "nutrient food substitute" would help erase world hunger problems until a study revealed that one of the ingredients could cause significant weight loss without dieting. Researchers in Europe found that an ingredient in the aptly named product Food Source One actually caused people to lose weight even though specifically instructed not to alter normal eating patterns according to one study published in the prestigious British Journal of Nutrition. Researchers in an earlier study had speculated that the weight loss was due to a decrease in the intestinal absorption of calories. While the development of Food Source One, a project of National Dietary Research, would not be used to successfully fulfill its original goal, the discovery has been a windfall for

overweight people. A Daytona Beach, Florida woman fighting a weight battle for 12 years used the product on the recommendation of her physician and lost 20 pounds. She stated, "Not only have I lost 20 pounds but my cholesterol has dropped for 232 to 143. I have two closets full of clothes which have not fit me in two years that I can now wear." In a separate report, a telephone interview revealed that a Wilmington, North Carolina pharmacist lost 14 pounds in 15 days on the product and was never hungry. Food Source One is available through physicians and pharmacies without a prescription because it is not a drug and contains only natural ingredients already known to be safe. Copies of the referenced study are available free from National Dietary Research, Suite 553, 1377 K St., Washington, DC 20005, however please include \$2 postage & handling for each request.

ASK YOUR PHARMACIST

Food Source One is available at a pharmacy near you:

Bridley Drug Co.
6049 Hwy. 100
357-1122

Bradshaw Drugs
4041 Hillboro Rd.
385-3828

Brooks Pharmacy
6701 Treaddale Dr.
833-1467

Drug Mart
2614 Old Lebanon Rd.
833-8515

Health Care Plus
1613 Hillboro Rd.
385-3861

Hickory Park Pharmacy
2894 Old Lebanon Road
833-8813

Mayfield Drug Co.
3302 Nolanville Rd. & Antioch Pike
833-1790

Malone Drug Co.
2762 Lebanon Rd.
865-3258

McIntosh Rd.
8643 Harding Rd.
385-4667

Green Hills Prescription Shoppe
3900 Hillboro Rd.
297-0086

The Medicine Shoppe
1910 Church St.
329-2211

Todd's Drug Store
2319 Dickerson Rd.
262-1911

J.P. Brown Drug Store

601 Gallean Rd.
1113 Murfreesboro Rd.
Stewart Ferry Pike

227-1101 3109 Dickerson Rd.
361-5700 3637 Dickerson Rd.
863-0131

228-3531
865-0287

Elders Pharmacy
210 Goodlettsville Plaza
856-1331

McGee's Prescription Shoppe
842 Union Street
664-7936

Portland Prescription Shoppe
105 Broadway
325-4141

P & P Drugs
811 W. Main St.
826-1215

Esperville Drug Center
Highway 41-A
276-4866

Woodbury Drug Center
223 W. Main St.
363-2332

Martin Retail Drugs
On The Square
893-7326

Murfreesboro Drug Center
1703 Bradyville Rd.
1004 N. Highland
1115 Memorial Blvd.
893-4022
893-7413
896-8161

Pugh's Pharmacy Inc.
511 Gallean Rd. SE
866-3432

The Medicine Shoppe
222 S. Ave. N.
796-3070

Springfield Drug
S. N. Water Ave.
483-3434

Complaint

120 F.T.C.

EXHIBIT B

WEIGHT LOSS MYSTERY BAFFLES SCIENTISTS

WASHINGTON—Scientists are baffled by a natural food ingredient that causes people to lose weight even though they don't change the way they normally eat.

A study published in *The British Journal of Nutrition* says that the ingredient, often used to thicken ice cream, can cause significant weight loss without dieting. Although several explanations for the weight loss are suggested, the most likely according to scientists in a Finnish study, is that the ingredient seems to decrease the intestinal absorption of calories.

National Dietary Research, an organization committed to the research and development of nutritional solutions to world-wide health problems, along with consulting scientists, have successfully isolated and incorporated the ingredient into an improved method that greatly enhances the potential for weight loss over the ingredient alone. Called Food Source One, the significant breakthrough in nutritional weight control provides a three-way scientifically designed method to help prevent calorie absorption.

The mechanism by which Food Source One works to decrease body weight is a complicated process called nutrient-bonding. When chewed and swallowed immediately before meals, high calorie fats are replaced with lower calorie nutrients, thereby providing optimum nutrition and a minimum number of fat calories as explained in an instruction sheet that accompanies the tablets. The instruction sheet should be followed for optimum results.

Food Source One is unlike any other product on the market and is available immediately because it is not a drug and only contains natural ingredients already known to be safe. Physicians and pharmacists are praising Food Source One as a natural, drug free alternative for the treatment of obesity.

© 1990 Omicron International

Food Source One is available at:

A&M Prescription Pharmacy
23 12th Avenue NW 223-0671

(Advertisement)

Ardmoreite
Ardmore, OK
December 9, 1990

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893

Complaint

EXHIBIT C

EXHIBIT C Page One

QUESTIONS & ANSWERS ABOUT

**FOOD
SOURCE
ONE**with
FIBERSPAN™**Concentrated Food Tablets****WHAT IS A FOOD TABLET?**

A food tablet is not just a vitamin tablet, because it packs the balanced nutrition of a meal into a compact tablet. Just as we get our required calories from food, a food tablet can provide the calories your body needs to function without the excess calories you would get from an average meal.

The concept for a food tablet probably began when the time space travel became a reality. The need for nutrition in outer space, yet in a convenient compact form led scientists in search of a solution. A food tablet packs optimum nutrition into the smallest possible form.

WHAT IS FOOD SOURCE ONE WITH FIBERSPAN?

Food Source One with Fiberspan, commonly referred to as FS-1, is a nutritionally concentrated food tablet with a high fiber content. FS-1 functions just like real food but without all the calories, when chewed, swallowed and followed with water. FS-1 expands in the stomach like a sponge as it soaks up water. The nutritional components of the tablet are then released in the stomach so that they are available for absorption.

HOW DOES FS-1 CONTROL THE APPETITE?

The same way eating a six course meal would kill the appetite, with food. First, the fiber creates a temporary full feeling, then the nutritional portion of the tablet gives a gentle rise in blood sugar levels for prolonged appetite suppression, just like a meal.

DOES FS-1 HAVE SIDE EFFECTS?

FS-1 is food and not a drug, so side effects are limited to those that might be experienced when one overeats. For example, some people become full after consuming a small amount of food whereas others require more food to become full. Therefore, some people will be satisfied with fewer FS-1 tablets, while others will require more tablets to become full. If one becomes "bloating" or experiences an upset stomach when taking FS-1, reducing the number of tablets for the first few days will alleviate this feeling.

HOW MUCH DOES FS-1 COST?

The price of FS-1 is about 75 cents per serving which is easily offset by the reduction in food one would ordinarily consume. On a serving per serving basis, FS-1 is about the same price as the leading liquid weight loss formula.

CAN I EAT EVERYTHING I WANT WHEN TAKING FS-1?

Dieters often get discouraged when they are deprived of their favorite foods. Make room for the key FS-1 will help you feel satisfied with less, not that it's a good thing.

FOOD SOURCE ONE WITH FIBERSPAN

Research and development by:
NATIONAL DIETARY RESEARCH
SUITE 553, 1377 K STREET
WASHINGTON, DC 20005

Distributed world wide by

OMICRON INTERNATIONAL
P.O. Box 270665
Tampa, FL 33688

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Complaint

120 F.T.C.

EXHIBIT C

patients. The appetite reducing effects of the fiber cannot justify this pleaseson. Thus, scientists speculate that the fiber reduces the nutritional absorption of a portion of the calories you consume, leading to weight loss. The calories are trapped when the fiber forms a gel and are eliminated.

IS FS-1 MORE EFFECTIVE FOR WEIGHT LOSS THAN THE FIBER ALONE?

FS-1 provides a three way scientifically designed process for improved weight loss that fiber alone cannot provide. The human appetite is hungry to be tricked for any length of time by the placement of a non-nutritive substance in the stomach. This is why the nutritional portion of FS-1 is so important.

WHAT IS NUTRI-BONDING?

Nutri bonding is the process that makes the FS-1 tablet so unique. The nutritional portion of the tablet is bound to the fiber portion. When the tablet is consumed, the nutrients are released from the fiber so they can be absorbed into the body. Without nutri bonding the nutrients would be absorbed by the fiber and eliminated from the body without being absorbed.

IS CHEWING THE TABLETS IMPORTANT?

Yes, chewing the tablets is important but not absolutely essential. First, chewing retards the rate of calorie ingestion and secondly, chewing satisfies a psychological need for chewing often absent or decreased in persons on a weight reduction program. National Dietetic Research, however, has formulated several delicious milk shake recipes using FS-1 as a base. These milk shakes are also effective in weight reduction. A powder form of FS-1 used with skim milk is also available. The powder form of FS-1 is also very popular.

IS FS-1 A DRUG?

No! FS-1 is a natural food substance with all ingredients previously recognized as safe by the FDA. Just as regular supermarket food is inspected, FS-1 is federally inspected by the FDA.

HOW DOES THIS HELP ONE LOSE WEIGHT?

Unlike a six course meal which would contain many calories, FS-1 only contains 2 few calories per tablet. FS-1 satisfies your desire to eat, but with a minimum number of calories.

WHAT IS FIBERSPAN?

Fiber span is the trade name for a special formulation of soluble type fiber shown to be effective for weight loss.

WHAT IS SOLUBLE FIBER?

Fiber is the residue from plants that resists digestion in the gastrointestinal tract. Fiber is not absorbed and does not supply calories in the diet. Although there are five types of dietary fiber, generally fiber is classified as either soluble or insoluble. Soluble fiber is derived from various plant sources and when ingested takes on water to form a gel. Insoluble fiber is found mostly in cereal grains and bran and does not take on water.

IS INSOLUBLE FIBER HELPFUL FOR WEIGHT LOSS?

No, only soluble type fiber has been shown to help in weight loss. Insoluble fiber's effect is generally limited to its ability to act as a laxative by increasing fecal bulk. Bran and grain fibers are being promoted by some companies for weight loss, however one should be cautioned that these fibers are virtually useless for weight loss.

HOW DOES SOLUBLE FIBER HELP ONE LOSE WEIGHT?

Studies published in respected scientific journals including the American Journal of Clinical Nutrition and the British Journal of Nutrition found that soluble fiber caused patients to lose weight. Part of the reason for weight loss, according to scientists, is probably due to the appetite reduction properties. However, some studies have found that patients consuming soluble fiber lost weight without altering their normal eating

EXHIBIT C Page Two

893

Complaint

EXHIBIT D

EXHIBIT D

Page One

NEW IMPROVED FORMULA - LESS FAT - FEWER CALORIES

NATURAL, NUTRITIONAL,

★ ★ ★ ★ ★ WEIGHT LOSS ★ ★ ★ ★ ★

with

FOOD
SOURCE
ONE

With

*Fiberspan*TM

Concentrated Food Tablets

THE NO DIET DIET - Chew 1 to 3 FS-1 tablets, followed by an 8 oz. glass of water. 30 minutes before each meal. FS-1 will reduce hunger so you will be satisfied with less food. You still enjoy all your favorite foods, but you will eat less.

BUSINESSMAN'S DIET OR SALESMAN'S DELIGHT - This plan is designed for those people who must entertain clients for lunch. Substitute an FS-1 milkshake in place of breakfast and dinner. For lunch, chew 2 or 3 FS-1 tablets followed by 8 oz. of water 30 minutes before you eat, then enjoy your usual meal.

SNACKER'S DELIGHT - This plan is the answer for those individuals who don't eat a lot at mealtime, but are continually hungry and satisfy that hunger by nibbling. In place of candy bars, potato chips and other snack food, substitute 2 or 3 FS-1 tablets followed by an 8 oz. glass of water to satisfy hunger.

FASTING - For one or two days each week, eliminate all regular food and drink one FS-1 milkshake 3 times a day.

FAST START - For the first 3 days of your diet, eliminate all regular food. In place of food, substitute one FS-1 milkshake 3 times a day. At the end of 3 days, continue by selecting one of the plans above.

Remember, when dieting be sure to drink 8 glasses of water or fluid daily. Restrictive diets containing less than 1,000 calories per day should not be continued for more than 6 consecutive weeks without a 2 week rest period. Food Source One is not intended to be the sole source of nutrition for more than 3 consecutive days or 3 days per week.

Research and development by:

NATIONAL DIETARY RESEARCH

Suite 553, 1377 K Street

Washington, DC 20005

Distributed world-wide by:

OMICRON INTERNATIONAL

P.O. Box 270465 Tampa, FL 33688

Food Source One with Fiberspan is a wholesome and nutritionally balanced dietary regimen in a pleasant tasting compact chewable tablet. Food Source One has the proper balance of the essential vitamins, minerals, protein, carbohydrates, fatty acids, and fiber that would be contained in a well balanced meal, but with a minimum number of fat calories. Food Source One also contains a unique blend of natural food fiber called Fiberspan. Fiberspan expands in the stomach to many times its own size to help reduce hunger. Furthermore, scientists say that the fiber in Fiberspan helps you lose weight by preventing the absorption of a portion of the calories you consume from food.

The Food Source One program is truly a nutritional breakthrough for weight control. Scientifically designed, Food Source One nutritionally satisfies your whole, even for those who are dieting.

Complaint

120 F.T.C.

EXHIBIT D

EXHIBIT D Page Two

DINNER TIME - Substitute an FS-1 milk shake twice daily in place of breakfast and lunch. In the evening, chew 2 to 3 FS-1 tablets followed by an 8 oz. glass of water 30 minutes before enjoying your usual dinner meal.

DINNER TIME (MODIFIED) - Same as above, but in place of your usual evening meal create your dinner by selecting one item from each column. For dessert you may have one serving of flavored low calorie gelatin. You may also have diet sodas, coffee, tea, and artificial sweetener. Steak sauce, ketchup, lemon juice, vinegar and mustard should be used sparingly.

1	2	3	4	5
4 med. broiled steak with 2 tbsp. low cal dressing	8 oz skim milk or 8 oz low fat yogurt	3 1/2 oz broiled or baked fish or 3 1/2 oz broiled ground round or chuck	1 cup of any of the following: broccoli cabbage beans broiled sprouts cucumbers spinach 2 cups cauliflower flower	1 roll or biscuit with 1 pat low calorie margarine
1 sliced beefsteak with 1 tbsp. low cal dressing	4 oz low fat fruit yogurt	3 1/2 oz chicken or turkey (skin removed)	12 asparagus spears	1 slice whole wheat with 1 pat low calorie margarine
2 raw carrots		3 1/2 oz shrimp, lobster or crab		1 small baked potato with 1 pat low calorie margarine
1 R or glass beef juice		3 1/2 oz tuna (packed in water)		1/2 cup cooked pasta
1/2 cup apple-juice				1 cup vegg table or chicken soupe soup
				1/2 cup cooked rice
				1 small eat of corn with 1 pat low calorie margarine

HOW TO USE FS-1

Here are 8 methods for living weight naturally and safely with FS-1, however always remember that you should be checked by a physician before starting any weight loss program to make sure you are in otherwise good physical condition. FS-1 food tablets can be taken before meals to reduce hunger and caloric intake or transformed into delicious milk shakes (see separate recipe brochure) as a meal replacement.

BREAKFAST CLUB - Studies indicate that individuals who consume two thirds of their daily calories before noon are less likely to be obese. Chew 2 or 3 FS-1 tablets 30 minutes before breakfast, followed by an 8 oz. glass of water. Then create and build your choice of breakfast by selecting one item from each column listed below. Drink an FS-1 milk shake in place of your other two meals. You may also have diet soft drinks, coffee, tea, and artificial sweeteners.

1	2	3	4
1 medium apple	8 oz skim milk	3 oz broiled salmon	2 slices whole wheat toast
1 medium orange	8 oz low fat yogurt	3 oz smoked ham (fat removed)	1 small bagel
6 oz orange juice	4 oz low fat fruit yogurt	3 oz broiled ground round	1 small English muffin
1 large tomato		3 oz chicken or turkey (skin removed) baked or stewed	2 biscuits
1/2 large grapefruit		3 oz broiled or baked fish	2 plain donuts
1 banana		1/2 cup low fat cottage cheese	1 pancake or waffle with 1 tbsp. low cal syrup
10 grapes		1 egg scrambled with 2 tsp. whole egg ma- ggs and 1/2 serving of one of the items above	1 cup corn flakes
1 wedge cantaloupe			

893

Complaint

EXHIBIT E

EXHIBIT E

Oakland Tribune
September 20, 1992

ADVERTISEMENT

Accidental discovery may end obesity

WASHINGTON—Researchers may have discovered a way to end obesity—by accident.

In a study with a potential cholesterol lowering agent, scientists noted an unusual side effect. Instead of lower cholesterol levels, patients receiving a natural plant colloid lost weight while body weight in a control group remained constant.

The scientists say the mechanism behind the weight loss is not clear, but suggest it is partially due to a decrease in the intestinal absorption of calories. Scientists in another study published in the *British Journal of Nutrition*, found that patients consuming the same colloid lost weight in spite of being instructed not to alter normal eating patterns. Despite this evidence, other scientists may not agree on the weight loss benefits of colloids. Someday, pending further study, there could be universal agreement that colloids are helpful in confronting the problem of obesity.

National Dietary Research, whose research topics have been the subject of articles published in recent medical and nutritional journals, has successfully incorporated a series of colloids into a chewable food tablet called FS-1. When used as directed, FS-1 replaces high calorie fats with lower calorie nutrients, thus providing optimum nutrition with a minimum number of fat calories. According to an article published in the *American Journal of Clinical Nutrition*, consciously limiting the amount of food one consumes is not necessary to lose weight, provided you limit the fat.

A Florida company has obtained exclusive distribution rights to FS-1, which is available through pharmacies and other health care professionals.

©1992 Quilora International

Food Source One is available at:
LINCOLN SQUARE PHARMACY
4100 Redwood Road 531-0602
MONTCLAIR PHARMACY
6123 Lasalle Ave 339-9393

EXHIBIT F

Weight Loss Surprises Researchers

WASHINGTON — A Nutrition organization was hopeful that a nutritionally complete "hi-tech" food tablet would help erase world hunger problems, until a study revealed that one of the ingredients could cause significant weight loss

Although other studies and scientists may not agree, researchers in Europe found that the ingredient, a natural plant colloid, actually caused people to eat less. In fact, even though specifically instructed not to alter normal eating patterns, according to one study published in the prestigious British Journal of Nutrition, researchers in an earlier study speculated that the weight loss was due to a decrease in the intestinal absorption of calories.

While the development of the product called Food Source One, a project of National Dietary Research, would not be used to successfully fulfill its original goal, the formula

**ASK YOUR PHARMACIST
FOOD SOURCE ONE IS AVAILABLE AT:**

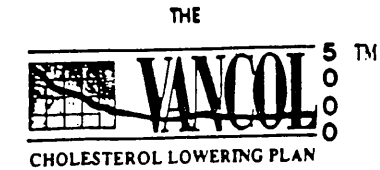
[illegible]

Washington Post January 27, 1993

Complaint

120 F.T.C.

EXHIBIT H

**GUARANTEE**

A blood cholesterol level over 270 puts you at a high risk for heart disease. Have your cholesterol checked. If you need to lower your cholesterol, use Vancol 5000 as directed for 30 days. After 30 days, have it checked again. If your cholesterol has not been lowered significantly, bring your test results and empty bottle back for a **FULL REFUND!**

**LOWER YOUR CHOLESTEROL IN 30 DAYS
OR YOUR MONEY BACK!**



893

Complaint

EXHIBIT I

Technical Sheet

Research & Development by
NATIONAL DIETARY RESEARCH
1377 K Street, Suite 653
Washington, DC 20005

VANCOL 5000

Mini Flavored Chewable
Tablets with Cholesterol
Lowering Plan

Cholesterol Lowering Formula

Each Chewable Tablet Supplies:
Beta Sitosterol 10 mg
Psyllium 200 mg
Chromium from picolinate 50 mcg
with Natural quinone antioxidants in a base of
Calcium carbonate & Magnesium stearate

VANCOL 5000 is composed of nutrients which research has shown to decrease LDL cholesterol levels. VANCOL 5000 is available in chewable tablet form and intended to be used with a cholesterol lowering diet as a drug free alternative for the problem of elevated blood cholesterol levels.

Recent scientific data suggests that the ingredients contained in Vancol 5000 have a beneficial effect on lowering total blood cholesterol levels, LDL cholesterol and may even increase HDL cholesterol. The Vancol 5000 Plan and the nutrients contained in the Vancol 5000 tablet were developed to lower cholesterol levels, improve overall health status and an individual's quality of life.

Beta Sitosterol has been shown experimentally to decrease elevated plasma cholesterol by interfering with the intestinal absorption of cholesterol.

Researchers have found that patients with coronary heart disease had lower concentrations of chromium in the blood than healthy patients. Picolinic acid is a natural chelating agent, which aids in trace mineral absorption. Chromium picolinate supplementation has been shown to decrease LDL and total cholesterol levels and is effective in the treat-

ment of hyperlipidemia.

Psyllium has been studied as a cholesterol reducing agent because it binds to bile acids in the gut preventing reabsorption. Psyllium decreases absorption of cholesterol and lipids in the small intestines and causes the formation of short chain fatty acids, which are rapidly absorbed and may inhibit cholesterol synthesis.

Calcium carbonate and magnesium stearate have been found to decrease cholesterol as explained in further detail on the following page. While quinones may lower cholesterol levels, they are natural antioxidants that prevent oxygen from combining with cholesterol to form plaque on arterial walls.

RECOMMENDATIONS: Chew 2 tablets with each meal.

Package Size: 180 tablets.

Distributed by:

**OMICRON
INTERNATIONAL**
P.O. Box 2706, Torrance, CA 90506

1-800-634-2348

Complaint

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EXHIBIT I

EXHIBIT I page two

VANCOL 5000

Elevated Cholesterol Levels and Dietary Supplementation**Chromium picolinate**

Experimental study: Supplementation with 50-200 mcg of chromium daily, improved blood cholesterol and triglyceride levels. The decrease was due to chromiums function in fat metabolism and sugar metabolism. (Anderson, Richard A. Agricultural Research, 10:14-16, 1990)

Experimental Double-blind Crossover Study: During a 42 day period, 28 subjects were given chromium picolinate (200 mcg) or a placebo daily. The subjects ingesting chromium had a significant decrease in total cholesterol, LDL cholesterol (10.5% decrease) and serum apolipoprotein B, (the principal protein of LDL cholesterol fraction) decreased. HDL cholesterol and apolipoprotein A increased. Subjects ingesting the placebo had elevated apolipoprotein B levels. (Press R et al. The effect of chromium picolinate on serum cholesterol and apolipoprotein fractions in human subjects. West J. Med. 1990 Jan; 152:41-45)

Psyllium

Double-blind Placebo Controlled Study: 26 hypercholesterolemic men were treated with psyllium or a placebo for 8 weeks. The psyllium group showed a 14% decrease in total cholesterol, 14.8% decrease in LDL/HDL cholesterol ratio and 20% decrease in LDL cholesterol. The placebo group showed no significant changes. (Anderson, JW et al. Cholesterol lowering effect of psyllium for hypercholesterolemic men. Arch Intern Med. 148:292-296)

Double-blind Study: 96 subjects with hypercholesterolemia were given 5.1 gms of psyllium or a placebo twice daily for 16 weeks, while following a prudent diet. Psyllium decreased total cholesterol by 5.6% and LDL cholesterol by 8.6%. The levels in the placebo group were unchanged. (Levin, EG et al. Comparison of psyllium and cellulose as adjuncts to a prudent diet in the treatment of hypercholesterolemia. Arch Intern Med. 150:1822-1827, 1990)

BETA SITOSTEROL

Experimental Study: A diet containing .5% cholesterol plus .5% sitosterol, resulted in a significant decrease of liver cholesterol, showing the inhibitory effect of sitosterol on cholesterol absorption. (Ikeda J et al. J. Nutr. Sci. Vitaminol 35:361-369, 1989)

QUINONES

Quinones are natural antioxidants that help control and minimize free radical reactions to help lower cholesterol.

Calcium Carbonate

Although the mechanism of action is unknown, calcium has been shown to decrease cholesterol. One physician, a former medical editor for a national magazine, has advanced his "hard water" theory as a possible answer. CaCO₃ is the most common substance in hard water. According to the doctor, just as body oils and detergents mix with CaCO₃ to form an insoluble "bathtub ring", it can also inhibit the intestinal absorption of fat and cholesterol.

Magnesium Stearate

Magnesium stearate is a by product of stearic acid. Scientific data has shown, that when stearic acid is used in place of other fats in the diet, there is a significant reduction of plasma levels of cholesterol and LDL cholesterol (total cholesterol decreased by an average of 14%).

NOTE: No statement contained in this publication shall be construed as a claim or representation that any product is intended for use in the diagnosis, cure, mitigation, treatment, or prevention of any disease. This report is intended for professional use only. Certain persons considered experts may disagree with one or more of the statements and/or conclusions found in this report. Notwithstanding the above, this information is of current nutritional interest and is based upon sound and reliable authority.

EXHIBIT J

A 1989 graduate of Grandview High School, he joined the Marine Corps in March 1990.

Information to have o
regarding death of ve

The 24-mile boat trip here from Santa Barbara takes two hours, 20 minutes by plane. The island's dirt runways slope upward from the sea for landings, downward for takeoffs.

[illegible]

The Nature Conservancy owns the

Sheep The Mature Conservancy owns the rest of the island, 90 percent. The sheep and cattle which it has already removed last ground-breaking year 1890 to a new Frenchman, Justinian Cave, and some partners bought the original Spanish land grant. It is with three grand-grandchildren of Cave that the Park Service is negotiating for the rest of the island.

The Conservancy bought its portion of the island in 1974 for \$2.6 million in a deferred agreement with the Carr-Saunders, 50,000 acres whose father had purchased 100,000 acres from the Cave in 1935 to raise cattle. When Saunders died in 1967, his part of the island became part

popular go-to guy for the Hollywood film community. Polizzi Bay was the scoring for several silent films, including, "Phantom," "Pearls of Paradise," "Demands on the Sky," "Serenade of the Sea" and "Adam and Eve."

Conservancy Ranch means for Welborn, one of its permanent residents on the island, says about 4,000 to 5,000 visitors come out here last year, mostly by private aircraft private yachts or charter boats. The Conservancy eventually would like to convert it a campground to protect educational trees of the island.

'Twas the night
before Christmas
the neighborhood slept,
no robberies or burglaries,
not one single theft.

I was making my rounds,
it's my job, name's McGruff,
when people work together,
crooks can't do their stuff.

I see you have deadbolts,
and your windows are pinned.
You've joined "Neighborhood Watch,"
and that's how you win.

When your neighbor
goes travelling,
keep an eye on his house,
to keep creatures from stirring
except maybe a mouse.

You locked your car while shopping, and kept packages out of view, you double-checked your charge slips, and tore up the coupons too.

Well—gotta run.
I'm out of time,
so Happy Holidays,
and thanks for helping me...

**TAKE A BITE OUT OF
CRIME**

Weight Loss Surprises Researchers

WASHINGTON—A nutrition organization was hopeful that a nutritional compliance "tooth" food labels would help ease other food waste problems, until a study revealed that one of the ingredients could cause significant weight loss without dieting.

Researchers in Europe found that an ingredient in the rapidly gained product *Popo Source One* actually caused people to lose weight, even though specifically instructed not to alter normal eating patterns, according to one study published in the prestigious *British Journal of Nutrition*. Researchers on the earlier study had speculated that the weight loss was due to a

On the development of Food Source One, a project of National Dairy Research, would not be used to successfully submit an original grant, the discovery has been a wasteful for overage people. A Dryness Search, Florida women fighting a weight battle for 12 years used the product on the recommendation of her physician and lost 30 pounds. She stated, "I lost only one 100 pounds but my cholesterol has dropped from 272 to 143. I have two children full of clothes which I never fit in. I am a mother and I am a mother." In another report, a telephone interview revealed that a Wilmington, North Carolina pharmacist lost 14 pounds in 15 days on the product and was never hungry.

Food Source One is available

through physicians and pharmacists without a prescription because it is not a drug and contains only natural ingredients already known to be safe. Copies of the referenced study are available free from Medicinal Dietary Research, Suite 553, 13771 K St., Westminster, CO 80040. For more information, call 800-368-6666.

Available in Keene at:
KEENE PHARMACY
103 Old Berry Rd 643-7336

Available in Keene at:
KEENE PHARMACY
103 Old Berry Rd 645-7534

EXHIBIT K

882-8181
MAY 3, 1990

Christ, pray for this
natural, loving family
together. You must
experience the benefits
of belief in J.M.

This is the first time
I've been referred by
39 years. Thanks
UB

People Are Saying Good
Things About Your Visit To
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Chiropractic makes a very and the moment is a special occasion.
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Vincennes, Indiana 47591

Genuine
Vincennes from
Doctor and
Staff

Dr. Snider is gentle & takes the time to listen
L.L.

The therapy is helping - and it's better than taking pills
J.K.

INDIANA
COUNTY MAPS
IN STATE BOOK

A new publication of the Indiana State Department of Transportation. This book contains 100 maps of Indiana's 92 counties. Each map shows the county's location, major roads, and other features. The book is available for purchase at a special price of \$1.95 per copy. To order, call 1-800-333-3333 or write to the Indiana State Department of Transportation, 400 N. Capitol Ave., Indianapolis, IN 46204.

WEIGHT LOSS
MYSTERY
BAFFLES
SCIENTISTS

WASHINGTON - Scientists are baffled by a natural food ingredient that appears to cause weight loss. They say they don't know enough about it to change the way they normally eat.

Sirloin Stockade
Weekday
Specials!

EVERY MONDAY & THURSDAY
Club Steak \$2.99 with Side \$4.99
in the heart of Tappan

EVERY TUESDAY
Club Steak \$2.99 with Side \$4.99

EVERY WEDNESDAY
Chicken Fried Steak \$2.99 with Side \$4.99

ESTATE PLANNING FOR F
NOVEMBER 13, 19
6:30 p.m. to 9:00

Shake Learning Resource Center located
of 2nd Street and Indianapolis Ave. (V.I)

COST OF THIS
SPECIAL WORKSHOP:
\$25 per couple - space
will be limited - Call
your reservations in
early. 885-4344

DINNERS INCLUDE:
Baked Potato or
French Fries &
Stockade Toast

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WORKSHOP LEADER:
Karin L. Green, Senior
Advisor, Small Business
Administration, U.S. Small
Business Administration,
Washington, D.C.

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of 2nd Street and Indianapolis Ave. (V.I)

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EXHIBIT K
VINCENNES, INDIANA
November 14, 1990

EXHIBIT L

Available at:
LOCK DRUG COMPANY
228 East Hillside
Carter City, N.J. 07008
CARMON PHARMACY
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Carter City, N.J. 07008

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the author of *Blame* since 1957

917

1

**THIS WEIGHT LOSS PROGRAM
COMES WITH ALL THE TRIMMINGS.**

weighting him and having that
no may feel. OptiLean's
the most effective weight loss
aid. Offers a proven combina-
tion of herbs, vitamins and
fatty acids, proven by a medical
and a comprehensive pro-
gram to help you lose weight for good.

St. Mary's Hospital and Medical Center 
San Francisco

Caring. Conscientiousness is to Judaism as Serving Your Needs is to the nation of Israel since 1947.

DECISION AND ORDER

The Commission having heretofore issued its complaint charging the respondents named in the caption hereof with violation of Sections 5 and 12 of the Federal Trade Commission Act, as amended, and the respondents having been served with a copy of that complaint, together with a notice of contemplated relief; and

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

The Secretary of the Commission having thereafter withdrawn this matter from adjudication in accordance with Section 3.25(c) of its Rules; and

The Commission having considered the matter and having thereupon accepted the executed consent agreement and placed such agreement on the public record for a period of sixty (60) days, and having duly considered the comments received, now in further conformity with the procedure prescribed in Section 3.25(f) of its Rules, the Commission hereby makes the following jurisdictional findings and enters the following order:

1. Respondent National Dietary Research, Inc. is a corporation organized, existing, and doing business under and by virtue of the laws of the State of Florida, with its office and principal place of business located at 1377 K Street, N.W., Suite 553, in the District of Columbia.

2. Respondent The William H. Morris Company is a corporation organized, existing, and doing business under and by virtue of the laws of the State of Florida, with its office and principal place of business located at 2804 Smither Road, in the City of Tampa, State of Florida.

3. Respondent William H. Morris is an officer of said corporations. He formulates, directs, and controls the policies, acts, and practices of said corporations. His home address is at 2906 Smither Road, in the City of Tampa, State of Florida.

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

ORDER

I.

It is ordered, That respondents National Dietary Research, Inc., a corporation, its successors and assigns, and its officers, agents, representatives, and employees, The William H. Morris Company, a corporation, its successors and assigns, and its officers, agents, representatives, and employees, and William H. Morris, individually and as an officer of the corporate respondents, directly or through any partnership, corporation, subsidiary, division or other device, in connection with the advertising, packaging, labeling, promotion, offering for sale, sale or distribution of any product or program in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from representing, in any manner, directly or by implication, that the product or program

- a. Provides any weight loss benefit;
- b. Is an effective treatment for obesity;
- c. Reduces hunger or is an effective appetite suppressant;
- d. Decreases the intestinal absorption of calories;
- e. Reduces, can reduce or helps reduce serum cholesterol;
- f. Provides, can provide or helps provide any other health benefit; or
- g. Has any effect on cellulite or on the user's body measurements,

unless, at the time they make such representation, respondents possess and rely upon competent and reliable scientific evidence that substantiates the representation. For purposes of this order, competent and reliable scientific evidence shall mean tests, analyses, research, studies, or other evidence based on the expertise of professionals in the relevant area, that has been conducted and evaluated in an objective manner by persons qualified to do so, using procedures generally accepted in the profession to yield accurate and reliable results.

II.

It is further ordered, That respondents National Dietary Research, Inc., a corporation, its successors and assigns, and its officers, agents, representatives, and employees, The William H. Morris Company, a corporation, its successors and assigns, and its officers, agents, representatives, and employees, and William H. Morris, individually and as an officer of the corporate respondents, directly or through any partnership, corporation, subsidiary, division or other device, in connection with the advertising, packaging, labeling, promotion, offering for sale, sale or distribution of any product or program in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from misrepresenting, in any manner, directly or by implication,

- a. The existence, contents, validity, results, conclusions, or interpretations of any test or study;
- b. The amount of fiber or any other nutrient or dietary constituent contained in or provided by the product or program, whether described in quantitative or qualitative terms;
- c. That the product or program contains or provides a high, rich, excellent or superior source of fiber or any other nutrient or dietary constituent using those words or words of similar meaning; or
- d. The research activities or other activities of National Dietary Research or any other organization affiliated with respondents.

III.

It is further ordered, That respondents National Dietary Research, Inc., a corporation, its successors and assigns, and its officers, agents, representatives, and employees, The William H. Morris Company, a corporation, its successors and assigns, and its officers, agents, representatives, and employees, and William H. Morris, individually and as officer of the corporate respondents, directly or through any partnership, corporation, subsidiary, division or other device, in connection with the advertising, packaging, labeling, promotion, offering for sale, sale or distribution of any product or program in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from creating, producing, selling or disseminating any advertisement that

misrepresents, in any manner, directly or by implication, that it is not a paid advertisement.

IV.

It is further ordered, That respondents National Dietary Research, Inc., a corporation, its successors and assigns, and its officers, agents, representatives, and employees, The William H. Morris Company, a corporation, its successors and assigns, and its officers, agents, representatives, and employees, and William H. Morris, individually and as officer of the corporate respondents, directly or through any partnership, corporation, subsidiary, division or other device, in connection with the advertising, packaging, labeling, promotion, offering for sale, sale or distribution of any product or program in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from representing, in any manner, directly or by implication, that any endorsement (as "endorsement" is defined in 16 CFR 255.0(b)) of a product or program represents the typical or ordinary experience of members of the public who use the product or program, unless at the time of making such representation, the representation is true, and respondents possess and rely upon competent and reliable evidence, which when appropriate must be competent and reliable scientific evidence, that substantiates such representation, provided, however, respondents may use such endorsements if the statements or depictions that comprise the endorsements are true and accurate, and if respondents disclose clearly and prominently and in close proximity to the endorsement what the generally expected performance would be in the depicted circumstances or the limited applicability of the endorser's experience to what consumers may generally expect to achieve, that is, that consumers should not expect to experience similar results.

V.

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

VI.

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

VII.

It is further ordered, That no later than the date that this order becomes final, respondents National Dietary Research, Inc., a corporation, its successors and assigns, The William H. Morris Company, a corporation, its successors and assigns, and William H. Morris, individually and as officer of the corporate respondents, shall deposit into an escrow account, to be established by the Commission for the purpose of receiving payment due under this order ("escrow account"), the sum of one hundred thousand dollars (\$100,000).

The funds paid by respondents, together with accrued interest, shall, in the discretion of the Commission, be used by the Commission to provide direct redress to purchasers of Food Source One in connection with the acts or practices alleged in the complaint, and to pay any attendant costs of administration. If the Commission determines, in its sole discretion, that redress to purchasers of this product is wholly or partially impracticable or is otherwise unwarranted, any funds not so used shall be paid to the United States Treasury. Respondents shall be notified as to how the funds are distributed, but shall have no right to contest the manner of distribution chosen by the Commission. No portion of the payment as herein provided shall be deemed a payment of any fine, penalty, or punitive assessment.

At any time after this order becomes final, the Commission may direct the escrow agent to transfer funds from the escrow account, including accrued interest, to the Commission to be distributed as herein provided. The Commission, or its representative, shall, in its sole discretion, select the escrow agent.

Respondents relinquish all dominion, control and title to the funds paid into the escrow account, and all legal and equitable title to the funds vests in the Treasurer of the United States and in the designated consumers. Respondents shall make no claim to or demand for return

of the funds, directly or indirectly, through counsel or otherwise; and in the event of bankruptcy of respondents, respondents acknowledge that the funds are not part of the debtor's estate, nor does the estate have any claim or interest therein.

VIII.

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

1. All materials that were relied upon to substantiate any representation covered by this order; and
2. All test reports, studies, surveys, demonstrations or other evidence in their possession or control, or of which they have knowledge, that contradict, qualify, or call into question such representation or the basis upon which respondents relied for such representation, including complaints from consumers.

IX.

It is further ordered, That the corporate respondents shall notify the Federal Trade Commission at least thirty (30) days prior to any proposed change in the corporations 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 corporations which may affect compliance obligations arising under this order.

X.

It is further ordered, That the corporate respondents shall distribute a copy of this order to each of their operating divisions and to each of their officers, agents, representatives, or employees engaged in the preparation or placement of advertisements, promotional materials, product labels or other such sales materials covered by this order.

XI.

It is further ordered, That the individual respondent shall, for a period of five (5) years from the date of issuance of this order, notify the Commission within thirty (30) days in the event of the discontinuance of his present business or employment, the activities of which include the advertising, offering for sale, sale, or distribution of consumer products, and of his affiliation with any new business or employment involving such activities. Each notice of affiliation with any new business or employment shall include respondent's new business address and telephone number, current home address, and a statement describing the nature of the business or employment and his duties and responsibilities.

XII.

This order will terminate on November 7, 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.

XIII.

It is further ordered, That respondents shall, within sixty (60) days after service of this order upon them and at such other times as the Federal Trade Commission may require, file with the Commission a report, in writing, setting forth in detail the manner and form in which they have complied or intend to comply with this order.

Set Aside Order

120 F.T.C.

IN THE MATTER OF

NATIONAL DAIRY PRODUCTS CORP.

SET ASIDE ORDER IN REGARD TO ALLEGED VIOLATION
OF SEC. 2 OF THE CLAYTON ACT*Docket 8548. Consent Order, June 28, 1967--Set Aside Order, Nov. 8, 1995*

This order reopens a 1967 consent order--which prohibited National Dairy Products Corp. and subsequently its successor, Kraft Foods, Inc., from engaging in territorial price discrimination in the sale of its jellies, preserves and other food products--and sets aside the consent order pursuant to the Commission's Sunset Policy Statement, under which the Commission presumes that the public interest requires terminating competition orders that are more than 20 years old.

ORDER REOPENING PROCEEDING
AND SETTING ASIDE ORDER

On July 13, 1995, Kraft Foods, Inc. ("Kraft"), as respondent and successor to National Dairy Product Corp., filed its Petition To Reopen and Set Aside ("Petition") in this matter. Kraft request that the Commission set aside the 1969 order, pursuant to Section 5(b) of the Federal Trade Commission Act, 15 U.S.C. 45(b), Rule 2.51 of the Commission's Rules of Practice, 16 CFR 2.51, and the Commission's Statement of Policy With Respect to Duration of Competition Orders and Statement of Intention to Solicit Public Comment With Respect to Duration of Consumer Protection Orders, issued on July 22, 1994, and published at 59 Fed. Reg. 45,286-92 (Sept. 1, 1994) ("Sunset Policy Statement"). In the Petition Kraft affirmatively states that it has complied with the requirements of the order. The Petition was placed on the public record for thirty days, and no comments were received.

The Commission in its Sunset Policy Statement said, in relevant part, that "effective immediately, the Commission will presume, in the context of petitions to reopen and modify existing orders, that the public interest requires setting aside orders in effect for more than twenty years."¹ The Commission's cease and desist order in Docket No. 8548, issued on June 28, 1967, affirmed as modified by the United States Court of Appeals for the Seventh Circuit on June 20,

¹ Sunset Policy Statement, 59 Fed. Reg. at 45,289.