

IN THE MATTER OF

GENETUS ALEXANDRIA, INC., ET AL.

CONSENT ORDER, ETC., IN REGARD TO ALLEGED VIOLATION OF
SECS. 5 AND 12 OF THE FEDERAL TRADE COMMISSION ACT*Docket C-3639. Complaint, Feb. 12, 1996--Decision, Feb. 12, 1996*

This consent order prohibits, among other things, the Virginia-based corporations and their officers from misrepresenting the nature or extent of a physician's participation in any treatment procedure, the safety or efficacy of any treatment procedure, and the extent to which a treatment is covered by a patient's medical insurance. The consent order requires the respondents to pay \$250,000 in consumer redress to the Commission.

Appearances

For the Commission: *Sondra L. Mills* and *Eric J. Bash*.

For the respondents: *Charles D. Nelson*, in-house counsel,
Washington, D.C.

COMPLAINT

The Federal Trade Commission, having reason to believe that Genetus Alexandria, Inc., a corporation ("Genetus"), George Oprean, individually and as President and a director of said corporation, and Linda Huffman Oprean, individually and as an officer and a director of said corporation, have violated the provisions of the Federal Trade Commission Act, and that Galen Medical Centers, Ltd., a corporation, is a successor corporation to Genetus and is an *alter ego* of Genetus and/or George Oprean, and it appearing to the Commission that a proceeding by it in respect thereof would be in the public interest, alleges:

PARAGRAPH 1. Respondent Genetus Alexandria, Inc. ("Genetus") is a corporation formed under the laws of the Commonwealth of Virginia with its office and principal place of business located at 2843 Duke Street, Alexandria, Virginia. From approximately March of 1991 through July of 1994, Genetus operated a clinic for the treatment of impotence at this location.

Respondent Galen Medical Centers, Ltd. ("Galen") is a corporation formed under the laws of the Commonwealth of Virginia with its office and principal place of business located at 2843 Duke Street, Alexandria, Virginia. Some time after May 10, 1994, Galen acquired certain assets of, and became obliged to guarantee payment of certain debts incurred by, respondent Genetus. Commencing in approximately July of 1994, Galen began operating the impotence treatment clinic previously operated by Genetus located at 2843 Duke Street, Alexandria, Virginia. Galen also operates a clinic for treating impotence located at 714 Park Avenue in Baltimore, Maryland. Galen is a successor corporation to Genetus and is the *alter ego* of Genetus and/or George Oprean.

Respondent George Oprean is the President, Secretary, Treasurer and a director of respondent Genetus. George Oprean is also the President and a director of respondent Galen. Individually, or in concert with others, he formulates, directs, controls and performs the acts and practices of Genetus and Galen, including the acts and practices alleged in this complaint. His principal office or place of business is the same as that of Genetus and Galen.

Respondent Linda Huffman Oprean ("Linda Oprean") is the Vice President and a director of Genetus and is also a director of Galen. She was licensed as a registered nurse by the Virginia Board of Nursing from approximately June of 1991 until approximately July 13, 1994, when this license was revoked by the Virginia Board of Nursing. Individually, or in concert with others, including respondent George Oprean, she formulates, directs, controls and performs the acts and practices of Genetus and Galen, including the acts and practices alleged in this complaint. Her principal office or place of business is the same as that of Genetus, Galen and George Oprean.

PAR. 2. Since approximately March of 1991, respondents have been engaged in the offering for sale and the sale of services in connection with the treatment of impotence. Impotence is the inability of a man to attain and maintain an erection of sufficient rigidity and/or duration to permit him to engage in sexual intercourse. Impotence is frequently a symptom or side-effect of serious diseases, such as arteriosclerosis, aneurysms, high blood pressure, diabetes, strokes, kidney disease, and spinal cord injuries. Impotence can be a side-effect of various prescription medications or alcoholism, and can also be caused by depression, stress, anxiety and other psychological factors.

Impotence can be treated by various methods. Some methods treat the underlying physical, psychological or behavioral causes of impotence. Other methods produce an erection without treating the underlying cause of the impotence. The only treatment method offered by Genetus consisted of injections of the drug Prostaglandin E1 or of a solution containing a combination of Prostaglandin E1, Papaverine and Phentolamine (hereinafter referred to as "Tri-mix"). Prostaglandin E1 or Tri-mix may, if injected in appropriate doses into the patient's penis, cause an erection to occur for a patient experiencing impotence. Injections of Prostaglandin E1 or Tri-mix do not, however, treat the underlying condition that causes a patient's impotence.

Patients purchasing Genetus' treatments typically received an examination and a test injection of Prostaglandin E1 and had blood and urine specimens taken and submitted to a laboratory. Genetus prepared the prescribed dosage of the Prostaglandin E1 or Tri-mix and sold these drugs directly to patients. Genetus also taught patients how to self-inject the Prostaglandin E1 or Tri-mix and sold them a self-injection device and additional supplies of the drug.

In many instances, Genetus submitted claims for reimbursement for services, laboratory tests, drugs and devices directly to the patients' medical insurance companies. In other instances, patients paid Genetus directly and submitted the invoices themselves to their medical insurers for reimbursement. Genetus typically required its patients to make an initial cash payment and to pay for all or part of the charges not paid to Genetus by the patients' insurance companies.

PAR. 3. In the course and conduct of Genetus' business, respondents Genetus, George Oprean and Linda Oprean have disseminated or caused to be disseminated advertisements and promotional materials for the purpose of promoting the sale of impotence treatment services described above in paragraph two. The self-injection device prescribed and sold by Genetus is a "device" for purposes of Section 12 of the Federal Trade Commission Act. Prostaglandin E1, Papaverine, Phentolamine, and the Tri-mix combination prescribed and sold by Genetus are "drugs" for purposes of Section 12 of the Federal Trade Commission Act. Genetus, George Oprean and Linda Oprean placed, or caused to be placed, advertisements on various radio stations broadcast generally to the public to promote their impotence treatment services to prospective patients. Genetus, George Oprean and Linda Oprean further

advertised their impotence treatment services through the use of fact sheets, letters, brochures, and pamphlets provided to patients and prospective patients.

PAR. 4. 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. 5. Respondents Genetus, George Oprean and Linda Oprean have disseminated or have caused to be disseminated radio advertisements and promotional materials, including but not necessarily limited to the attached Exhibits A, B, and C.

PAR. 6. The radio advertisements and promotional materials referred to in paragraph five contained the following statements:

A. Did you know that impotence is a medical problem? It can be caused by diabetes, alcohol, smoking or stress. There are over 200 prescription and non-prescription medications that can cause impotence. This is Phil Chenier speaking to you on behalf of Genetus. Before Genetus, most men with impotence suffered needlessly not knowing that there was help available. Now thanks to the doctors and medical staff at Genetus, thousands of men are functioning better than ever before. At Genetus, you'll be medically evaluated, tested and treated and when you leave on your very first visit, you will be functional again. Many members of the Genetus staff have experienced some problem with impotence. They understand what a man goes through when impotence creeps up on him. They know how it can affect his life and relationships. So if you are having any problem with impotence, call the impotence specialists at Genetus today at 703/461-9269. That's 703/461-9269 for Genetus. Your best chance to restore your life. (Exhibit A);

B. Impotence. The word itself would strike down the strongest of men, but no more. Medical science has discovered a simple, safe and effective way to treat impotence. I am George Oprean speaking for Genetus where all we do is treat impotence. If you are one of the seven hundred thousand men in this area that are afflicted by impotence, I want you to know that you don't have to suffer anymore. By calling 703/461-9269 you can permanently arrest your impotence. At Genetus, you will be medically evaluated and treated, and when you leave you will be functional -- or as I like to say, you're back in business. Impotence is not curable. It knows no age, color or creed. But it is 100% treatable. You no longer have to say I'm sorry or feel guilty. Call 703/461-9269 and find out for yourself what a new beginning feels like. That's 703/461-9269. And believe me, it works. (Exhibit B);

C.

THE GENETUS PROGRAM

Impotence is a disease but not a primary disease. When you call you will be given an appointment to see one of the Genetus physicians. You will be given a complete medical evaluation. The purpose of the evaluation is to find out what is the underlying cause of your impotence. You will also be given a diagnostic

injection of Prostaglandin E-1, and you will be asked to keep track of two very important things duration and rigidity. The erection should last at least one hour. It may last longer or less than an hour. You rate the rigidity on a scale of 1-10. This information is important to us so that we can adjust your final dosage to [sic] that you are pleased with the end product.

Prostaglandin E-1, or PG-1 is the medication that is used to produce the erection. PG-1 is a vaso dilator that expands the vessels in the penis and draws the blood into the penis so that an erection can occur. Without getting blood into the penis and keeping it in the penis you cannot have or maintain an erection.

PG-1 has no side effects or contraindications which means that it does not effect [sic] any other organ in your body nor does it effect [sic] any medication that you might be taking. It passes out of your body in your urine and there are no residual effects. It is the safest drug that can be used.

You will be asked to return within 72 hours. At that time all your lab work will be back and you will tell us about the duration and rigidity. It is at this time that the medical staff will determine your maintenance dosage. You will also be taught how to use the Inject Ease system so that you can self inject. In fact you will self inject yourself with normal saline so that we know you know the proper method.

There after [sic] each time you use the PG-1 you will achieve an erection that will last you at lease [sic] an hour, even after ejaculation takes place.

IN MOST CASES YOUR INSURANCE WILL COVER THE MAJORITY OF THE COSTS [sic] IT DEPENDS ON YOUR COMPANY AND YOUR COVERAGE.

....

(Exhibit C).

PAR. 7. Through the use of the statements contained in the radio advertisements and promotional materials referred to in paragraph six, including but not necessarily limited to the promotional materials attached as Exhibits A, B and C, respondents Genetus, George Oprean and Linda Oprean have represented, directly or by implication, that:

A. Each patient purchasing Genetus' services would be examined by a physician at Genetus.

B. Each patient purchasing Genetus' services would receive a medical diagnosis and treatment of the underlying cause of his impotence.

C. Each patient purchasing Genetus' services would be evaluated and treated by a physician or other medical practitioner licensed to do so.

PAR. 8. In truth and in fact:

A. Not every patient who purchased Genetus' services was examined by a physician; in fact, many patients were examined solely by respondent Linda Oprean, who was not a physician.

B. Not every patient who purchased Genetus' services received a medical diagnosis and treatment of the underlying cause of his impotence.

C. Not every patient was evaluated and treated by a physician or other medical practitioner licensed to do so; in fact, many patients were evaluated or treated solely by respondent Linda Oprean, who was not licensed to perform these activities.

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

PAR. 9. Through the use of the statements contained in the radio advertisements and promotional materials referred to in paragraph six, including but not necessarily limited to the radio advertisements and promotional materials attached as Exhibits A, B and C, respondents Genetus, George Oprean and Linda Oprean have represented, directly or by implication, that:

A. Prostaglandin E1 has no side-effects or contraindications.

B. The treatment program offered by Genetus is unqualifiedly safe.

C. The treatment program offered by Genetus would arrest each patient's impotence.

PAR. 10. In truth and in fact:

A. Prostaglandin E1 has possible side-effects, including priapism (a prolonged erection) and fibrosis of penile tissue, and use of Prostaglandin E1 is contraindicated for certain patients.

B. The treatment program offered by Genetus was not unqualifiedly safe.

C. The treatment program offered by Genetus did not arrest each patient's impotence.

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

PAR. 11. In the course and conduct of Genetus' business, respondents Genetus, George Oprean and Linda Oprean represented,

directly or by implication, to doctors who were employed by Genetus, to patients who received various services from Linda Oprean, and to insurance companies to whom Genetus and its patients submitted claims for reimbursement for goods and services provided to patients, that Linda Oprean was a "nurse practitioner" under the laws of Virginia.

PAR. 12. In truth and in fact, respondent Linda Oprean is not now, and never has been, a "nurse practitioner" under the laws of Virginia; rather she was licensed in Virginia only as a registered nurse. Therefore, the representations set forth in paragraph eleven were, and are, false and misleading.

PAR. 13. In the course and conduct of Genetus' business, respondents Genetus, George Oprean and Linda Oprean represented, directly or by implication, to patients and to insurance companies that:

A. All medical tests and laboratory procedures billed by Genetus had been performed.

B. All patients had been diagnosed by, and services performed or ordered by, a medical practitioner licensed to do so.

C. All claims submitted by Genetus to insurance companies for reimbursement were signed, or approved for signature, by a physician.

PAR. 14. In truth and in fact:

A. Not all medical tests and laboratory procedures billed by Genetus were performed.

B. Not all patients were diagnosed by, nor were services rendered or ordered by, a medical practitioner licensed to do so in many instances, patients were purportedly diagnosed by, and services rendered or ordered by, respondent Linda Oprean, who was not licensed to perform these services.

C. Not all claims submitted by Genetus to insurance companies for reimbursement were signed, or approved for signature, by a physician; in many instances, claims were instead signed by respondent Linda Oprean without a physician's knowledge or permission.

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

PAR. 15. Through the representations in paragraph thirteen and through the letter attached hereto as Exhibit C, respondents Genetus, George Oprean and Linda Oprean also falsely represented to patients and prospective patients that in most cases, the majority of the costs of Genetus' treatment program would be covered by the patients' medical insurance, depending on the insurance company and the patients' coverage.

PAR. 16. In truth and in fact, the majority of the costs billed to insurance companies for Genetus' treatment program were not, in most cases, covered by the patients' insurance for reasons independent of the scope of the patients' health insurance policy. In fact, insurers frequently rejected claims for goods and services billed by Genetus for numerous reasons, including, but not limited to:

A. The reasons set forth in paragraph fourteen; and

B. The fact that the amounts Genetus charged for certain goods and services bore no reasonable relationship to their costs and substantially exceeded the amounts insurers had agreed to pay for such goods and services.

Consequently, patients were responsible for paying most or all of the costs billed by Genetus.

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

PAR. 17. The acts and practices of respondents as alleged in this complaint constitute unfair or deceptive acts or practices in or affecting commerce in violation of Sections 5(a) and 12 of the Federal Trade Commission Act.

PAR. 18. Respondent Galen is a successor corporation to respondent Genetus and is the *alter ego* of respondents Genetus and/or George Oprean. As such, Galen is liable for the false, misleading and deceptive acts and practices in violation of Sections 5(a) and 12 of the FTC Act committed by Genetus and George Oprean as alleged herein.

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EXHIBIT A

GENETUS CHENIER TAPE #2

VOICEOVER:

Did you know that impotence is a medical problem? It can be caused by diabetes, alcohol, smoking or stress. There are over 200 prescription and non-prescription medications that can cause impotence. This is Phil Chenier speaking to you on behalf Genetus. Before Genetus, most men with impotence suffered needlessly not knowing that there was help available. Now thanks to the doctors and medical staff at Genetus thousands of men are functioning better than ever before. At Genetus, you'll be medically evaluated, tested and treated and when you leave on your very first visit, you will be functional again. Many members of the Genetus staff have experienced some problem with impotence. They understand what a man goes through when impotence creeps up on him. They know how it can affect his life and relationships. So if you are having any problem with impotence. Call the impotence specialist at Genetus today at 703/461-9269. That's 703/461-9269 for Genetus. Your best chance to restore your life.

EXHIBIT B

GENETUS - GEORGE OPREAN TAPE

VOICEOVER:

Impotence. The word itself would strike down the strongest of men, but no more. Medical science has discovered a simple, safe and effective way to treat impotence. I am George Oprean speaking for Genetus where all we do is treat impotence. If you are one of the seven hundred thousand men in this area that are afflicted by impotence, I want you to know that you don't have to suffer anymore. By calling 703/461-9269 you can permanently arrest your impotence. At Genetus, you will be medically evaluated and treated, and when you leave you will be functional -- or as I like to say, you're back in business. Impotence is not curable. It knows no age, color or creed. But it is 100% treatable. You no longer have to say I'm sorry or feel guilty. Call 703/461-9269 and find out for yourself what a new beginning feels like. That's 703/461-9269. And believe me, it works.

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EXHIBIT C

GENETUS CORP.

Welcome to GENETUS:

Thank you for your inquiry about GENETUS and its impotence treatment program. Enclosed is the information you requested.

As you read this information, I would like you to understand a few things. First, male sexual dysfunction (more commonly referred to as impotence) is primarily a medical problem. Second, there are very few people who are suffering from this problem solely as a result of psychological difficulties. Third, THAT IMPOTENCE IS NOT CURABLE, BUT IS 100% TREATABLE.

The medical community has only recently recognized male sexual dysfunction as being primarily a medical problem. Previously, due to the lack of understanding and disinterest it was universally thought of as a mental problem, giving rise to the lie that "It's all in your head." In fact, psychogenic impotence occurs in less than 10% of the male population. Today, it is generally agreed that most impotence is a symptom of a physical disorder originating elsewhere in the body and can be serious if not diagnosed and treated.

Until recently, the subject of impotence was never discussed publicly. The media and others shunned the topic. Even today in this enlightened age, many local and national television, radio outlets and magazines will not accept advertising that would let people know there is a medically approved treatment program, like ours, that is effective for 95% of the men suffering from any form of impotence.

We at GENETUS take pride in the leading role that we have taken in providing a safe effective treatment program and more important in making the public aware of the fact that IMPOTENCE IS A MEDICAL PROBLEM AND JUST LIKE DIABETES IS NOT CURABLE BUT IS TREATABLE.

Impotence can and does destroy a man's self esteem, confidence and personal relationships, believe me I know because I have been there.

The staff at GENETUS is here to help in any way we can. GENETUS MEANS A NEW BEGINNING. It has been that for hundreds of thousands of men, and it could be yours too.

Sincerely;

George Oprean
President

THE GENETUS PROGRAM

Impotence is a disease but not a primary disease. When you call you will be given an appointment to see one of the Genetus physicians. You will be given a complete medical evaluation. The purpose of the evaluation is to find out what is the underlying cause of your impotence. You will also be given a diagnostic injection of Prostaglandin E-1, and you will be asked to keep track of two very important things duration and rigidity. The erection should last at least one hour. It may last longer or less than an hour. You rate the rigidity on a scale of 1-10. This information is important to us so that we can adjust your final dosage to that you are pleased with the end product.

Prostaglandin E-1, or PG-1 is the medication that is used to produce the erection.

PG-1 is a vaso dilator that expands the vessels in the penis and draws the blood into the penis so that an erection can occur. Without getting blood into the penis and keeping it in the penis you cannot have or maintain an erection.

PG-1 has no side effects or contraindications which means that it does not effect any other organ in your body nor does it effect any medication that you might be taking. It passes out of your body in your urine and there are no residual effects. It is the safest drug that can be used.

You will be asked to return within 72 hours. At that time all your lab work will be back and you will tell us about the duration and rigidity. It is at this time that the medical staff will determine your maintenance dosage. You will also be taught how to use the Inject Ease system so that you can self inject. In fact you will self inject yourself with normal saline so that you know the proper method.

There after each time you use the PG-1 you will achieve an erection that will last you at lease an hour, even after ejaculation takes place.

IN MOST CASES YOUR INSURANCE WILL COVER THE MAJORITY OF THE COSTS IT DEPENDS ON YOUR COMPANY AND YOUR COVERAGE. Appointments are required so please call before you come.

DECISION AND ORDER

The Federal Trade Commission having initiated an investigation of certain acts and practices of the respondents named in the caption hereof, and the respondents having been furnished thereafter with a copy of a draft of a complaint which the Bureau of Consumer Protection proposed to present to the Commission for its consideration, and which, if issued by the Commission would charge respondents Genetus Alexandria, Inc. ("Genetus"), George Oprean, and Linda Huffman Oprean ("Linda Oprean"), with violation of the Federal Trade Commission Act, and would charge respondent Galen Medical Centers, Ltd. ("Galen") as a successor to Genetus and an *alter ego* of Genetus and/or George Oprean; and

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

The Commission having thereafter considered the matter and having determined that it had reason to believe that the respondents Genetus, George Oprean, and Linda Oprean had violated said Act, and that respondent Galen is the successor corporation to Genetus and an *alter ego* of Genetus and/or George Oprean, and that the complaint should issue stating its charges in those respects, 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 filed thereafter by interested persons pursuant to Section 2.34 of its Rules, now in further conformity with the procedure prescribed by Section 2.34 of its Rules, the Commission hereby issues its complaint, makes the following jurisdictional findings and enters the following order:

1. Respondent Genetus Alexandria, Inc. is a corporation organized, existing and doing business under and by virtue of the

laws of the Commonwealth of Virginia, with its office and principal place of business located at 2843 Duke Street, Alexandria, Virginia.

Respondent Galen Medical Centers, Ltd. is a corporation organized, existing and doing business under and by virtue of the laws of the Commonwealth of Virginia, with its office and principal place of business located at 2843 Duke Street, Alexandria, Virginia.

Respondent George Oprean is the President, Secretary, Treasurer and a director of Genetus and is the President and a director of Galen. He formulates, directs, controls and implements the policies, acts and practices of Genetus and Galen. His address is 2843 Duke Street, Alexandria, Virginia.

Respondent Linda Huffman Oprean is the Vice President and a director of Genetus and is a director of Galen. Together with George Oprean, she formulates, directs, controls and implements the policies, acts and practices of Genetus and Galen. Her address is 2843 Duke Street, Alexandria, Virginia.

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

ORDER

DEFINITIONS

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

1. "*Impotence*" means the inability of a man to attain and maintain an erection of sufficient rigidity and/or duration to enable him to engage in sexual intercourse.

2. "*Treatment procedure*" means any method of treating impotence or any other medical condition, disease or symptom, including, but not limited to, injections, drug therapy, hormone replacements, use of devices to induce erections, vascular surgery, use or implantation of devices, behavior modification, counseling, psychotherapy, or any other method.

I.

It is ordered, That respondents Genetus Alexandria, Inc., a corporation, ("Genetus"), Galen Medical Centers, Ltd. ("Galen"), their successors and assigns, and their officers, and George Oprean, individually and as President and a director of Genetus and Galen, and Linda Huffman Oprean ("Linda Oprean"), individually and as an officer and a director of Genetus and as a director of Galen, and respondents' agents, representatives and employees, directly or through any corporation, subsidiary, division or other device, in connection with the advertising, promotion, offering for sale or sale of any treatment procedure in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from, in any manner, directly or by implication:

A. Falsely representing in any manner, directly or by implication, that each individual purchasing any impotence treatment procedure will receive an examination by a physician, or otherwise misrepresenting the nature or extent of physician participation in any treatment procedure;

B. Falsely representing in any manner, directly or by implication, that each individual purchasing any impotence treatment procedure will receive a medical diagnosis and treatment of the underlying cause of his impotence, or otherwise misrepresenting the nature or extent of medical diagnosis or treatment provided in connection with any treatment procedure;

C. Falsely representing in any manner, directly or by implication, the qualifications, credentials, or licenses held by any person involved in providing any treatment procedure;

D. Representing in any manner, directly or by implication, that Prostaglandin E1, Papaverine, or Phentolamine, or any combination thereof, has no side-effects or contraindications, or otherwise misrepresenting the side-effects or contraindications of any drug or treatment procedure;

E. Falsely representing in any manner, directly or by implication, that any impotence treatment procedure is unqualifiedly safe, or otherwise misrepresenting the safety of any treatment procedure;

F. Falsely representing in any manner, directly or by implication, that any impotence treatment procedure will arrest impotence, or

otherwise misrepresenting the efficacy or the duration of results of any treatment procedure;

G. Falsely representing in any manner, directly or by implication, the extent to which medical insurance will cover the costs of any treatment procedure;

H. Falsely representing in any manner, directly or by implication, that medical procedures were performed;

I. Falsely representing in any manner, directly or by implication, that claims submitted to insurance companies were signed, or approved for signature, by a physician;

J. Misrepresenting the safety, side-effects, or efficacy of, or the extent, nature, or duration of results of, any treatment procedure.

II.

It is further ordered, That respondents and their officers, agents, servants, employees, attorneys, subsidiaries, affiliates, successors, assigns, and all persons in active concert or participation with them who receive actual notice of this order by personal service or otherwise, and each of them, shall take no further actions to collect any payments from customers of Genetus on any outstanding accounts receivable of Genetus; provided, however, that this paragraph shall not prohibit respondents from fulfilling any legal obligations arising out of any *bona fide* pledge or assignment of such accounts receivable made to third party creditors of Genetus prior to September 1, 1994.

III.

It is further ordered:

A. That respondents Genetus, George Oprean and Linda Oprean shall jointly and severally pay to the FTC as consumer redress the sum of \$250,000; provided, however, that this liability will be suspended, subject to the provisions of subparts B and C below, upon the execution and submission to the Commission of a truthful sworn declaration by respondents Genetus, Galen, George Oprean, and Linda Oprean, in the form shown on Exhibit A to this order, no later than three (3) days after the date of service of this order, that shall reaffirm and attest to the truth, accuracy and completeness of the

financial statement provided by each such respondent dated August - - , 1995, and previously submitted to the Commission.

B. That the Commission's acceptance of this order is expressly premised upon the financial statements and related documents provided by respondents to the FTC referred to in subpart A above. After service upon respondents of an order to show cause, the FTC may reopen this proceeding to make a determination whether there are any material misrepresentations or omissions in said financial statements and related documents. Respondents shall be given an opportunity to present evidence on this issue. If, upon consideration of respondents' evidence and other information before it, the FTC determines that there are any material misrepresentations or omissions in said financial statements and related documents showing that any of the respondents failed to disclose the existence of assets in the financial statements, that determination shall cause the entire amount of \$250,000 to become immediately due and payable to the FTC, and interest computed at the rate prescribed in 28 U.S.C. 1961, as amended, shall immediately begin to accrue on any unpaid balance of this amount. Proceedings initiated under Part III are in addition to, and not in *lieu* of, any other civil or criminal remedies as may be provided by law, including any proceedings the FTC may initiate to enforce this order.

C. That any funds paid by respondents pursuant to subparts A and B above shall be paid into a redress fund administered by the FTC and shall be used to provide direct redress to consumers who purchased Genetus' services. If the FTC determines, in its sole discretion, that redress to consumers is wholly or partially impracticable, any funds not so used shall be paid to the United States Treasury. Respondents shall be notified as to how the funds are disbursed, but shall have no right to contest the manner of distribution chosen by the Commission.

IV.

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:

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

B. All tests, reports, studies, surveys, demonstrations or other evidence in their possession or control that contradict, qualify, or call into question such representation, or the basis relied upon for such representation, including complaints from consumers.

V.

It is further ordered, That, for a period of five (5) years from the date of entry of this order, respondents shall distribute a copy of this order to each of their operating divisions, to each of their managerial employees, and to each of their officers, agents, representatives, or employees engaged in the preparation or placement of advertising or other material covered by this order and shall secure from such person a signed statement acknowledging receipt of this order.

VI.

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

VII.

It is further ordered, That, for a period of ten (10) years from the date of entry of this order, each individual respondent named herein shall promptly notify the Commission of the discontinuance of his or her present business or employment, with each such notice to include the respondent's new business address and a statement of the nature of the business or employment in which the respondent is newly engaged as well as a description of respondent's duties and responsibilities in connection with the business or employment.

VIII.

It is further ordered, That this order will terminate on February 12, 2016, 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 a 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.

IX.

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

Decision and Order

121 F.T.C.

EXHIBIT A

DECLARATION OF _____ PURSUANT TO 28 U.S.C. 1746

Pursuant to 28 U.S.C. 1746, I, _____, hereby state that the information contained in the financial statement of _____, provided to the Federal Trade Commission on _____, 1995, was true, accurate and complete at such time.

I declare under penalty of perjury that the foregoing is true and correct.

Dated: _____

[signature]

IN THE MATTER OF

FRANK A. LATRONICA, JR., ET AL.

CONSENT ORDER, ETC., IN REGARD TO ALLEGED VIOLATION OF
SEC. 5 OF THE FEDERAL TRADE COMMISSION ACT*Docket C-3640. Complaint, Feb. 12, 1996--Decision, Feb. 12, 1996*

This consent order requires, among other things, the distributor and the manufacturer of the Duram Emergency Escape Mask to possess competent and reliable scientific evidence to substantiate claims that their mask will absorb, filter out, or otherwise protect the user from any hazardous gas or fumes associated with fires, and for claims that the mask is appropriate for use in mines. In addition, the consent order requires the respondents to provide a disclosure statement on all package labels and inserts for the mask, or any substantially similar products.

Appearances

For the Commission: *Alan E. Krause* and *C. Steven Baker*.

For the respondents: *George Miron, Feith & Zell*, Washington, D.C.

COMPLAINT

The Federal Trade Commission, having reason to believe that Frank A. Latronica, Jr., individually and doing business as Life Safety Products; and Duram Rubber Products, a partnership, ("respondents"), have violated the provisions of the Federal Trade Commission Act, and it appearing to the Commission that a proceeding by it in respect thereof would be in the public interest, alleges:

PARAGRAPH 1. Respondent Frank A. Latronica, Jr., is an individual doing business as Life Safety Products. His principal office or place of business is located at 412 North Pacific Coast Highway, Suite 357, Laguna Beach, California.

PAR. 2. Respondent Duram Rubber Products is a registered partnership of Kibbutz Ramat Hakovesh with its principal office or place of business at Kibbutz Ramat Hakovesh, 44930 Israel.