

Complaint

123 F.T.C.

IN THE MATTER OF

CALIFORNIA SUNCARE, INC., ET AL.

CONSENT ORDER, ETC., IN REGARD TO ALLEGED VIOLATION OF
SECS. 5 AND 12 OF THE FEDERAL TRADE COMMISSION ACT*Docket C-3715. Complaint, Feb. 11, 1997--Decision, Feb. 11, 1997*

This consent order prohibits, among other things, a California-based company and its president from misrepresenting the safety, benefits, performance or efficacy of tanning products and UV exposure, or any tests, studies or endorsements of their tanning products. The consent order requires the respondents to possess scientific evidence to substantiate such claims, and to send letters to distributors and retailers summarizing the Commission's action.

Appearances

For the Commission: *Joel Winston, Nancy Warder, Laura Fremont and Toby M. Levin.*

For the respondents: *Andrew J. Strenio, Jr., Hunton & Williams, Washington, D.C. and Norm D. St. Landau, Tucker, Flyer & Lewis, Washington, D.C.*

COMPLAINT

The Federal Trade Commission, having reason to believe that California SunCare, Inc., a corporation, and Donald J. Christal, individually and as an officer of said corporation ("respondents"), have violated the provisions of the Federal Trade Commission Act, and it appearing to the Commission that a proceeding by it in respect thereof would be in the public interest, alleges:

PARAGRAPH 1. Respondent California SunCare, Inc., is a California corporation, with its principal office or place of business at 1100 Glendon Avenue, Suite 1250, Los Angeles, California.

Respondent Donald J. Christal is an officer of the corporate respondent. Individually or in concert with others, he formulates, directs and controls the acts and practices of the corporate respondent, including the acts and practices alleged in this complaint. His principal office and place of business is the same as that of the corporate respondent.

PAR. 2. Respondents have manufactured, advertised, labeled, offered for sale, sold, and distributed skin care products for use in

connection with tanning in sunlight or indoor UV radiation emitted by tanning beds and artificial sunlamps, and other products. These skin care products are sold under the trade name Heliotherapy™ and the brand name California Tan® (hereinafter referred to as "California Tan Heliotherapy products"). California Tan Heliotherapy products are "drugs" or "cosmetics" 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 California Tan Heliotherapy products, including but not necessarily limited to the attached Exhibits A-J. These advertisements and promotional materials contain the following statements and depictions:

A. "I love the sun, but how can I feel good about tanning?"
Heliotherapy™ ... The Positive Effects of The Sun™

While overexposure to the sun and burning are bad for you, medical studies demonstrate that, in moderation, exposure to sunlight is crucial for the maintenance of good physical and psychological health. Besides making you feel good about how you look, numerous studies indicate that little to no exposure to the sun may be equally as bad, if not worse, to your overall health as too much sun.
Did You Know?

....

*Exposure to sunlight increases the body's ability to metabolize cholesterol, leading to a 13% decrease in blood cholesterol levels. (New England Medical Journal, 1953)

* Studies indicate that exposure to UV light may have similar effects as exercise: a decrease in blood pressure, a lower resting heart rate and a 39% increase in the heart's output of blood. (University of Frankfurt, Germany, 1992)

* Seasonal Affective Disorder (SAD), with symptoms such as as [sic] sadness, insomnia and carbohydrate cravings, is common in northern areas where exposure to sunlight in winter months is significantly decreased. (National Institute of Mental Health, 1985)

* Of course, no single study or studies may prove scientific fact. As further studies are done, science will tell us more about the effects of sun exposure. However, as these studies emphasize, the sun may have positive as well as negative effects. REMEMBER! The key to maximizing the positive effects of the sun is to achieve the perfect balance. Take care to get just the right amount of sun to maintain your health, but don't ever allow yourself to burn. REPEATED OVEREXPOSURE TO THE SUN CAN LEAD TO PREMATURE AGING, WRINKLING AND SKIN CANCER.

Moderate exposure, however, in combination with the use of California Tan's exclusive Heliotherapy™ formulas can help you to optimize a proven positive effect of the sun - your tan.

CAUTION: California Tan® products are intended to be used for tanning and moisturization only. They ARE NOT intended to produce any of the reported physiological and psychological benefits of the sun that are described above. Studies provided by California Tan's Scientific Research Center (Exhibit A, brochure)

B. VITATAN™ The Tanning Technology of the Future

* VITATAN™ delivers an additional molecule of oxygen to the surface of the skin which significantly enhances the oxidation of melanin for faster tanning results. When compared to Unipertan, products containing 2% VITATAN™ help improve your natural ability to develop a golden brown base tan by up to 67%.

Heliotherapy™ Maximizer - VT™

[new page]

Heliotherapy™ . . . The Positive Effects of The Sun™

California Tan's Scientific Research Center, a panel of renowned scientists and researchers, reviews thousands of studies on the effects of sunlight. Inspired by Heliotherapy™ . . . The Positive Effects of the Sun™, California Tan® created the complete Heliotherapy™ three step system to help you maximize a proven positive effect of the sun - your tan.

CONDITION

MEDICAL EFFECT

AIDS

AIDS is a fatal and incurable epidemic

Preliminary studies indicate that phototherapy may be beneficial in treating patients with AIDS-related complex.

Cancer Prevention

Breast and colon cancer can be fatal if not detected early.

Sunlight exposure may prevent certain types of cancer: colon and breast cancer rates are three times higher in northern states like New Hampshire and Vermont compared to sunny states like New Mexico and Arizona.

Fitness

Fitness increases energy and reduces risk of heart disease.

Exposure to sunlight may have similar effects to exercise: decreased blood pressure, lower resting heart disease and a 39% increase in the output of blood.

[each "MEDICAL EFFECT" accompanied by citation]

Studies provided by California Tan's Scientific Research Center

While these studies indicate a wealth of benefits may result from sun exposure, no single study or studies may prove scientific fact. As research continues, science will reveal more about the effects of the sun. These studies emphasize that the sun may have positive as well as negative effects.

Remember!

To maximize the benefits of sun exposure you must achieve balance. . . .

REPEATED OVEREXPOSURE TO THE SUN CAN LEAD TO PRE-MATURE AGING, WRINKLING AND SKIN CANCER.

However, moderate exposure in combination with California Tan's exclusive Heliotherapy™ formulas can help you optimize the beneficial aspects of having a

spectacular, golden brown tan while minimizing the negative effects of skin dehydration.

Caution:

California Tan® products are intended to be used for tanning and moisturization only. They ARE NOT intended to produce any of the reported possible physiological and psychological benefits of the sun that are described above and California Tan® does not represent that such benefits result from the use of its products.

HELIO THERAPY (Exhibit B, brochure)(sources for each medical effect omitted)

C. Heliotherapy™ . . . The Positive Effects of The Sun™

2 * What is Heliotherapy?

he-li-o-ther-a-py. . . [HELIO- + THERAPY] the treatment of disease by exposing the body to sunlight Heliotherapy is a science, documented by thousands of scientific studies which have been conducted on the benefits of sun exposure. Acknowledged and practiced by the American Medical Association, heliotherapy is the treatment of disease by means of the sun's electromagnetic waves. Red, orange, yellow, green, blue, indigo, violet, and mid and near ultraviolet waves are used whether collectively or independently to treat and cure everything from acne to jaundice.

Did you know that?

*Heliotherapy is the only known cure for Seasonal Effective [sic] Disorder, a cyclic mood disorder caused by sunlight deprivation during fall and winter months.

*Currently, AIDS research clinics use heliotherapy as an effective tool for boosting the body's immune system.

. . . .

*Scientists at the Baylor University Medical Center have successfully used heliotherapy to destroy the AIDS virus and other infectious diseases and are developing heliotherapy to decontaminate blood for transfusions. . . .

While fully recognizing that long term overexposure to the sun and burning can result in skin cancer, premature aging and wrinkling in some cases, the science of heliotherapy supports that the sun also offers many benefits. In the months to come, California Tan's Scientific Research Center will uncover the FACTS about Heliotherapy™ ... The Positive Effects of The Sun™.

Studies provided by California Tan's Scientific Research Center

. . . .

1-800-SUN-CARE

CALIFORNIA

TAN®

The science of heliotherapy has inspired the California Tan® Heliotherapy™ line of products. These products are intended to be used for tanning and moisturization only and not for any of the psychological or physiological benefits described in this advertisement.

SOLD IN SALONS

(Exhibit C, magazine ad)

D. Is Sunlight the Answer for cancer prevention?

New studies from the University of California, San Diego indicate that exposure to sunlight may play an important role in the prevention of certain types of cancer. While long-term overexposure to the sun and burning can be harmful, this research

shows that the sun may have many properties that help prevent breast, colon and ovarian cancer.

As a leader in the study of Heliotherapy, California Tan's Scientific Research Center has uncovered thousands of studies demonstrating the benefits of UV-exposure.

Studies by Dr. Edward Gorham at the University of California, San Diego, show that the incidence of breast cancer is lowest in countries nearest the equator where the opportunity for sunlight exposure is highest. Vitamin D produced by exposure to sunlight is associated with a lower rate of fatal breast cancer.

Vitamin D produced by exposure to sunlight is associated with a lower risk of fatal breast cancer. [banner]

It's not surprising that within the U.S., colon and breast cancer rates are three times higher in northern states like New Hampshire and Vermont compared to sunny states like New Mexico and Arizona, according to research conducted by Dr. Frank Garland at the University of California, San Diego.

In addition, the Melanoma Clinic at the University of Sydney, Australia released new research showing that the lowest incidence of skin cancer occurs in those people whose main occupation is outdoors.

While the jury is still out on the true effects of sun exposure, the science of Heliotherapy indicates that the sun is necessary for our health and well being. Experts agree that overexposure and burning can lead to skin cancer in some cases. However, with moderation, exposure to sunlight may bring us many benefits.

....
CALIFORNIA TAN® Heliotherapy™ . . . The Positive Effect of The Sun™
(Exhibit D, magazine ad)

E. From high blood pressure to AIDS . . . Is Sunlight the Cure of the '90's?
Although the experts warn against long-term overexposure to the sun and burning, new research points to the healing powers of the sun....

Today, people are looking for more natural cures for everything from common ailments to serious diseases. As a major contributor to the science of Heliotherapy™, California Tan's Research Center has uncovered hundreds of studies demonstrating the positive effects of sun exposure.

*In a recent study by Dr. Zane Kime, patients with high blood pressure experienced a dramatic decrease in blood pressure lasting five to six days after just one treatment of UV- light. . . .

*According to studies conducted by Dr. Norman Rosenthal at the National Institute of Mental Health, light treatment is the most effective cure for Seasonal Affective Disorder (SAD), or the winter blues.

*UV-light treatment is on the forefront of the search for an AIDS cure. Scientists at Baylor University Medical Center have used light to destroy the AIDS virus and other infectious diseases.

Even though the jury is still out on the true effects of sun exposure, we are now discovering that the sun plays an important role in the maintenance of good health. Through the science of Heliotherapy™, we are learning that balance is most important. Overexposure and burning can lead to skin cancer in some cases. However, in the right amounts, we can benefit from the sun's healing powers.

....
CALIFORNIA TAN®
Heliotherapy™ . . . The Positive Effects of The Sun™
(Exhibit E, magazine ad)

F. Heliotherapy™ The Positive Effects of The Sun™
CALIFORNIA TAN®

California Tan's Scientific Research Center, a panel of renowned doctors, researchers and dermatologists, reviews thousands of studies each year about the positive and negative effects of UV-light. Overexposure and burning are bad for you and may lead to premature aging and skin cancer. However, medical evidence shows that sunlight is connected to everything from osteoporosis prevention to vitamin D synthesis.

[picture of California Tan Heliotherapy products]

Inspired by the science of Heliotherapy, California Tan® has created scientifically proven formulations to help you maximize a proven positive effect of the sun - your tan. [caption]

CANCER PREVENTION: Research from Dr. Cedric Garland at the University of California, San Diego suggests that sunlight may prevent certain types of cancer: colon and breast cancer rates are three times higher in northern states compared to sunny southern states. OSTEOPOROSIS: A new study by Dr. J. Rosen demonstrates that reduced winter sunlight can lead to osteoporosis and the vitamin D deficient bone disease osteomalacia (adult rickets). SEASONAL AFFECTIVE DISORDER (SAD): A 1993 study by Dr. A. Wirz-Justice shows that 70% of SAD patients show improvement after light treatment, the only known cure for the "winter blues." SKIN CANCER: Skin cancer has been linked to non-UV causes: diet, genetics, and alcohol, according to a 1992 study by Dr. L. Marchand. VITAMIN D: A 1990 study by Dr. Matsuoka shows that vitamin D, which regulates calcium and phosphorus absorption and is needed to maintain a healthy skeleton, is produced during the tanning process.

California Tan products are intended to be used for tanning and moisturization only. They ARE NOT intended to produce any of the reported possible physiological and psychological benefits of the sun that are described above.

(Exhibit F, magazine ad)

G. CALIFORNIA TAN® TROPICAL FURY™
Heliotherapy™ MAXIMIZER™ Maximize The Positive Effects of the Sun™

....

A unique, scientifically proven blend of California Tan's Heliotherapy™ MAXIMIZER Complex provides the most effective moisturization to help you achieve up to 42% better tanning results and counteract the drying effects of the sun for a spectacular, golden brown tan.

....

CALIFORNIA TAN®
Heliotherapy™ . . . The Positive Effects of The Sun™

California Tan's exclusive Heliotherapy™ formulas are a precise, scientifically proven combination of state-of-the-art skin care and tanning ingredients that help you maximize a proven positive effect of the sun - your tan!

While it's true that over exposure to the sun and burning are bad for you, medical science has also discovered that, in moderation, exposure to the sun is crucial to the maintenance of good physical and psychological health.

In addition to the fact that a tan makes you feel good about how you look, a number of studies have noted that little to no sun exposure may be equally as bad, if not worse, to your overall health as too much sun.

DID YOU KNOW THAT?

*According to a study conducted by the University of Sydney and Melanoma Clinic in 1982, the people with the lowest risk of skin cancer were those whose main outdoor activity was sunbathing.(see note 1)

*The same study also found that the highest incidence of skin cancer occurred in those who spent most of their time indoors under fluorescent lighting which is deficient of the ultraviolet portion of the sun spectrum.(see note 2)

....

*In a 1980 study, it was concluded that exposure to sunlight produces the same benefits as exercise: increases in strength, energy, endurance, tolerance to stress, and the ability of the blood to absorb and carry oxygen; and decreasing the resting heart rate, blood pressure, respiratory rate, blood sugar and lactic acid.(see note 6)

....

*Researchers also found that the dietary vitamin D found in milk and vitamin supplements is not a sufficient replacement to the vitamin D that is produced by exposure to the sun for the maintenance of healthy bones and teeth and at high levels, dietary vitamin D has been found to be very toxic.(see note 8)

*Studies indicate that exposure to ultra-violet light is an effective tool for lowering elevated blood pressure.(see note 9)

*According to a recent study conducted at the Tulane University, the heart became stronger and pumped more blood when the subjects were exposed to ultra-violet light.(see note 10)

....

*Sunlight has been scientifically proven in numerous studies to reduce serum cholesterol levels.(see note 12)

*In a study conducted by The American Society for the Study of Arteriosclerosis, 97% of the subjects had a 13% decrease in the level of cholesterol within two hours after the first exposure.(see note 13)

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*In 1987, the Wall Street Journal reported that chickens raised under full-spectrum lighting, the closest match to natural sunlight, lived twice as long, laid more eggs, were less aggressive, and laid eggs that were 25% lower in cholesterol than chickens raised under fluorescent lighting.(see note 15)

....

Of course, no single study or studies may prove scientific fact. And as further studies are done, science will tell us more about the effects of sun exposure. But these studies emphasize that the sun may have positive as well as negative effects.

REMEMBER!

The key to maximizing the positive effects of the sun is to achieve the perfect balance. Take care to get just the right amount of sun to maintain your health, but don't ever allow yourself to burn. REPEATED OVEREXPOSURE TO THE SUN CAN LEAD TO PRE-MATURE AGING, WRINKLING AND SKIN CANCER. Moderate exposure, however, in combination with the use of California Tan's exclusive Heliotherapy™ formulas can help you optimize the beneficial aspects of having a spectacular, golden brown tan while minimizing the negative effects of over exposure and skin dehydration.

CALIFORNIA TAN®

Heliotherapy™

ACHIEVE A SPECTACULAR DEEP DARK, TAN AND FEEL GOOD ABOUT IT

CAUTION

California Tan products are intended TO BE USED FOR TANNING AND MOISTURIZATION ONLY. They ARE NOT intended to produce any of the physiological and psychological benefits of the sun that the studies describe.

Studies provided by California Tan's Scientific Research Center

(Exhibit G, Tropical Fury Heliotherapy™ Maximizer label)(references omitted)

H. Heliotherapy™ Update

CALIFORNIA TAN®

Heliotherapy™ The Positive Effects of the Sun™

Only California Tan's exclusive Heliotherapy™ formulas are the precise scientifically proven combination of extraordinary skin care and tanning ingredients to help you maximize a proven positive effects of the sun ... your tan. While overexposure to the sun and burning are bad for you, medical studies demonstrate that, in moderation, exposure to sunlight is crucial for the maintenance of good physical and psychological health.

Besides making you feel good about how you look, numerous studies demonstrate that little to no exposure to the sun may be equally as bad, if not worse, to your overall health as too much sun.

Did You Know That?

*Sunlight is the only reliable source of vitamin D and provides the vitamin D requirement for most of the world's population. (Boston University, 1989)

....

*Exposure to sunlight increases the body's ability to metabolize cholesterol, leading to a 13% decrease in blood cholesterol levels. (New England Medical Journal, 1953)⁴

*Studies indicate that exposure to UV light may have similar affects [sic] as exercise: decreased blood pressure, lower resting heart rate and a 39% increase in output of blood. (University of Frankfurt, Germany, 1992)⁵

*Seasonal Affective Disorder (SAD), with symptoms such as as [sic] sadness, insomnia, carbohydrate cravings, anxiety and irritability, is commonly found in northern areas where exposure to sunlight in winter months is significantly decreased. (National Institute of Mental Health, 1985)⁶

....

*Studies indicate that people with the lowest risk of skin cancer are those whose main occupation is outdoors. (Lancet, 1982)⁹

*Significant seasonal bone loss, as a result of inadequate vitamin D formation, occurs in people who live in areas with reduced winter sunlight. Bone loss can lead to Osteoporosis and Osteomalacia, a softening of the bones. (University of Maine, 1993)¹¹

*Colon and breast cancer deaths are three times higher in northern states like New Hampshire and Vermont compared to sunny states like New Mexico and Arizona. (University of California, San Diego, 1986)¹²

....

Of course, no single study or studies may prove scientific fact. As further studies are done, science will tell us more about the effects of sun exposure. However, as these studies emphasize, the sun may have positive effects as well as negative effects.

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Remember!!

The key to maximizing the positive effects of the sun is to achieve the perfect balance. Take care to get just the right amount of sun to maintain your health, but don't ever allow yourself to burn. REPEATED OVEREXPOSURE TO THE SUN CAN LEAD TO PRE-MATURE AGING, WRINKLING AND SKIN CANCER. However, moderate exposure in combination with the use of California Tan's exclusive Heliotherapy™ formulas can help you optimize the beneficial aspects of having a spectacular, golden brown tan while minimizing the negative effects of overexposure and dehydration.

.....

CAUTION:

California Tan® products are intended to be used for tanning and moisturization only. They ARE NOT intended to promote any of the reported physiological and psychological benefits of the sun that are described above.

Studies provided by California Tan's
Scientific Research Center

(Exhibit H, Tropical Sizzle Heliotherapy™ Maximum Strength Intensifier label)(citations omitted)

I. Heliotherapy™ . . . The Positive Effects of the Sun™

California Tan's Scientific Research Center, a panel of the world's most renowned scientists, reviews thousands of studies relating to light and health which inspired California Tan to create its exclusive Heliotherapy™ three step system that contains the precise combination of proven tanning and skin care ingredients to help you maximize a positive effect of the sun - your tan. Burning and overexposure are bad for you. But sunlight is essential for your psychological and physiological good health.

HELIO THERAPY™ REFERENCE CHART**CONDITION****MEDICAL EFFECT****AIDS**

AIDS is a fatal and incurable epidemic.

Preliminary studies indicate that phototherapy may be beneficial in treating patients with AIDS-related complex.

Cancer Prevention

Breast and colon cancer can be fatal if not detected early.

Sunlight exposure may prevent certain types of cancer: colon and breast cancer rates are three times higher in northern states like New Hampshire and Vermont compared to sunny states like New Mexico and Arizona.

.....

Fitness

Fitness increases energy and reduces risk of heart disease.

Exposure to sunlight may have similar effects as exercise: decreased blood pressure, lower resting heart rate, a 39% increase in the output of blood.

.....

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Osteoporosis

Osteoporosis is a growing epidemic of weak bones in the U.S.

....

CONDITION

Seasonal Affective Disorder (SAD)
More than 25 million Americans suffer from SAD each year.

....

Skin Cancer

....

Significant seasonal bone loss due to lack of sunlight produced vitamin D is prominent in areas with reduced winter sunlight and can lead to Osteoporosis.

MEDICAL FACT/BENEFIT

A 1993 study shows that 70% of patients with SAD show improvement after light treatment, the only known cure for the "winter blues."

Skin cancer has been linked to non-UV causes: diet, genetics and alcohol.

[each "EFFECT" or "BENEFIT" accompanied by citation]

Studies provided by California Tan's Scientific Research Center

While these studies indicate a wealth of benefits may result from sun exposure, no single study or studies may prove scientific fact. As research continues, science will reveal more about the effects of the sun. These studies emphasize that the sun may have positive as well as negative effects.

Remember!

To maximize the benefits of sun exposure you must achieve balance and determine the best amount of sun exposure for you based on your skin type and how easily you burn. Consult your physician if you have any doubt and don't ever allow yourself to burn.

REPEATED OVEREXPOSURE TO THE SUN CAN LEAD TO PRE-MATURE AGING, WRINKLING AND SKIN CANCER.

However, moderate exposure in combination with the use of California Tan's exclusive Heliotherapy™ formulas can help you optimize the beneficial aspects of having a spectacular, golden brown tan while minimizing the negative effects of skin dehydration.

Caution:

California Tan® products are intended to be used for tanning and moisturization only. They ARE NOT intended to produce any of the reported possible physiological and psychological benefits of the sun that are described above and California Tan® does not represent that such benefits result from use of its products. (Exhibit I, Tan & Tone Legs Maximum Strength Heliotherapy™ Maximizer- VT Contouring Cream label)(sources for each medical benefit omitted)

J. MORE ABOUT HELIOTHERAPY™

Promoting Heliotherapy™

CAN INCREASE YOUR LOTION SALES

Let your customers know that....

*Let your clients know that lotions can help them reap the positive effects of the sun and UV-light (a tan, increased immunity, lower cholesterol, etc.) while protecting

FAST FACTS ON HELIOTHERAPY™

Did you know that the sun produces many of the same benefits as exercise?

Such as:

themselves from and/or preventing the negative effects.

*Say to clients when they're signing in -- "Did you know that the sun has some of the same effects on your body as exercise, like lower cholesterol and and more oxygen going into your cells?"

*Put up a Heliotherapy™ poster at eye-level in each changing room.

*Make it a point to post one new positive effect of UV-light exposure per week in an area where salon employees will be most likely to read it. (See box-right).

*Lowering blood cholesterol levels

*Lowering your resting heart rate

*Increasing your oxygen intake into cells

*Increasing your energy level

From Dr. Zane Kime's book;
Sunlight

Tape this on the outside of your cash register where all your clients will see it and watch your membership sales soar!

(Exhibit J, salon owner newsletter)

PAR. 5. Through the use of the statements and depictions 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-J, respondents have represented, directly or by implication, that:

A. The negative effects of exposure to sunlight or indoor UV radiation, including skin cancer and premature skin aging, are caused only by overexposure or burning and not by moderate exposure, over a period of years, including exposure sufficient to cause tanning.

B. Tanning as a result of exposure to sunlight or indoor UV radiation is not harmful to the skin.

C. Use of California Tan Heliotherapy products prevents or minimizes the negative effects of exposure to sunlight or indoor UV radiation, including skin cancer and premature skin aging.

D. Exposure to sunlight or indoor UV radiation reduces the risk of skin cancer.

PAR. 6. In truth and in fact:

A. The negative effects of exposure to sunlight or indoor UV radiation, including skin cancer and premature skin aging, are not caused only by overexposure or burning, but also can be caused by cumulative moderate exposure, over a period of years, including exposure sufficient to cause tanning.

B. Tanning as a result of exposure to sunlight or indoor UV radiation is harmful to the skin.

C. Use of most California Tan Heliotherapy products in conjunction with exposure to sunlight or indoor UV radiation does not reduce the risk of skin cancer or premature skin aging, because most California Tan Heliotherapy products do not contain sunscreen.

D. Exposure to sunlight or indoor UV radiation does not reduce the risk of skin cancer.

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

PAR. 7. Through the use of the statements and depictions 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-J, respondents have represented, directly or by implication, that:

A. Exposure to sunlight or indoor UV radiation prevents or reduces the risk of colon and breast cancer.

B. Exposure to sunlight or indoor UV radiation lowers elevated blood pressure.

C. Exposure to sunlight or indoor UV radiation has benefits similar to those of exercise, including decreased blood pressure and lower heart rate.

D. Exposure to sunlight or indoor UV radiation significantly reduces serum cholesterol.

E. Exposure to indoor UV radiation is an effective treatment for Seasonal Affective Disorder.

F. Exposure to sunlight or indoor UV radiation is an effective treatment for AIDS.

G. Exposure to sunlight or indoor UV radiation enhances the immune system.

H. For the general population, reduced winter sunlight can lead to bone disorders such as osteoporosis and osteomalacia, and increased exposure to sunlight or indoor UV radiation is necessary to reduce the risk of such disorders.

I. California Tan Heliotherapy MAXIMIZERS help users achieve up to 42% better tanning results.

J. California Tan Heliotherapy products that contain 2% VITATAN improve users' ability to tan by up to 67%.

PAR. 8. Through the use of the statements and depictions 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-J, respondents have represented, directly or by implication, that at the time they made the representations set forth in paragraphs five and seven, respondents possessed and relied upon a reasonable basis that substantiated such representations.

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

PAR. 10. Through the use of the statements and depictions 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-J, respondents have represented, directly or by implication, that:

A. Scientific studies demonstrate that exposure to sunlight or indoor UV radiation provides the health benefits set forth in paragraphs five and seven.

B. The American Medical Association has endorsed exposure to sunlight or indoor UV radiation as an effective medical treatment.

PAR. 7. In truth and in fact,

A. Scientific studies do not demonstrate that exposure to sunlight or indoor UV radiation provides the health benefits set forth in paragraphs five and seven.

B. The American Medical Association has not endorsed exposure to sunlight or indoor UV radiation as an effective medical treatment.

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

PAR. 12. 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.

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EXHIBIT A

Exhibit A



CT 001827

The Complete
Three-Step
Tanning
System With
Exceptional
Care For
Your Skin

CALIFORNIA
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30012082

itive Effects of The Sun™

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EXHIBIT A

Exhibit A (cont)



00612063

California Tan's[®] Quick Reference Tanning Guide*

Tanning Need	Solution	Result
Developing a base tan	Step 1 Heliotherapy [™] Maximizers [™]	Up to 42% better tanning results with exceptional care for your skin
Developing a base tan but concerned about burning	Step 1 SPF Heliotherapy [™] Maximizers [™]	Up to 42% better tanning results with protection 2, 4, 8 or 15 times longer in the sun without burning
Don't want to tan	Step 1 SPF 25 Sublact	Total sun protection
Unable to get any darker	Step 2 Heliotherapy [™] Intensifiers	Breaks through your Tanning Plateau for the deepest, darkest tan possible
Sunburn	Step 3 Luscance [™]	Soothes sunburn pain, takes you from a red tan to a brown tan overnight
Feeling and looking and/or dry skin	Step 3 Heliotherm [™]	12 hours of intensive moisturization, helps reduce wrinkle depth and fine lines by up to 64% when used regularly
Don't want to tan, but want the appearance of a tan	Self-Action Tanning Gel	Creates a natural, golden brown tan without the sun
Want to protect lips from burning	Lip Defense [™] SPF 25	Pamper's lips for silky moisturization and 25 times longer protection in the sun without burning

*If your skin does not tan easily, please use extreme caution when using any product that does not contain a high SPF level. Burning and long-term overexposure to the sun may cause premature aging, wrinkling and skin cancer.

Exhibit A (cont)

"I love the sun,
but how can I
feel good about
tanning?"

Heliotherapy . . . The Positive Effects of The Sun

While overexposure to the sun and burning are bad for you, medical studies demonstrate that, in moderation, exposure to sunlight is crucial for the maintenance of good physical and psychological health.

Besides making you feel good about how you look, numerous studies indicate that little to no exposure to the sun may be equally as bad, if not worse, to your overall health as too much sun.



Did You Know?

- Sunlight is the only reliable source of vitamin D and provides the vitamin D requirement for most of the population. (Boston University, 1989)
- According to Dr. Cyril Garland, just 15 minutes of exposure to natural sunlight per day on your hands and face is sufficient, in most cases, to obtain the Recommended Daily Allowance of vitamin D. (University of California, San Diego 1992)
- Exposure to sunlight increases the body's ability to metabolize cholesterol, leading to a 15% decrease in blood cholesterol levels. (New England Medical Journal, 1993)



- Studies indicate that exposure to UV light may have similar effects as excessive ultraviolet in blood pressure, a lower resting heart rate and a 33% increase in the heart's output of blood (University of Frankfurt, Germany, 1992).
- Seasonal Affective Disorder (SAD), with symptoms such as sadness, insomnia and irritable/rate cravings, is common in northern areas where exposure to sunlight in winter months is significantly decreased (National Institute of Mental Health, 1993).

Of course, no single study or studies may prove a significant fact. As further studies are done, a service will tell us more about the effects of sun exposure. However, as these studies emphasize, the sun may have positive as well as negative effects.

陳建煊提醒，在了解及掌握這些可能的效果之前，我們必須先了解「什麼才算是好的教育」？他認為，教育不該只為了「升學」而升學，而應以「健全人格」為目的。他認為，在升學壓力下，家長應先了解孩子是否「快樂」，而非一味地要求孩子「考好成績」。

ATTENTION: All items and products are intended to be used for farming and maintenance only. (Do NOT attempt to produce any of the reported physiological and psychological benefits of the sun that are described above.)

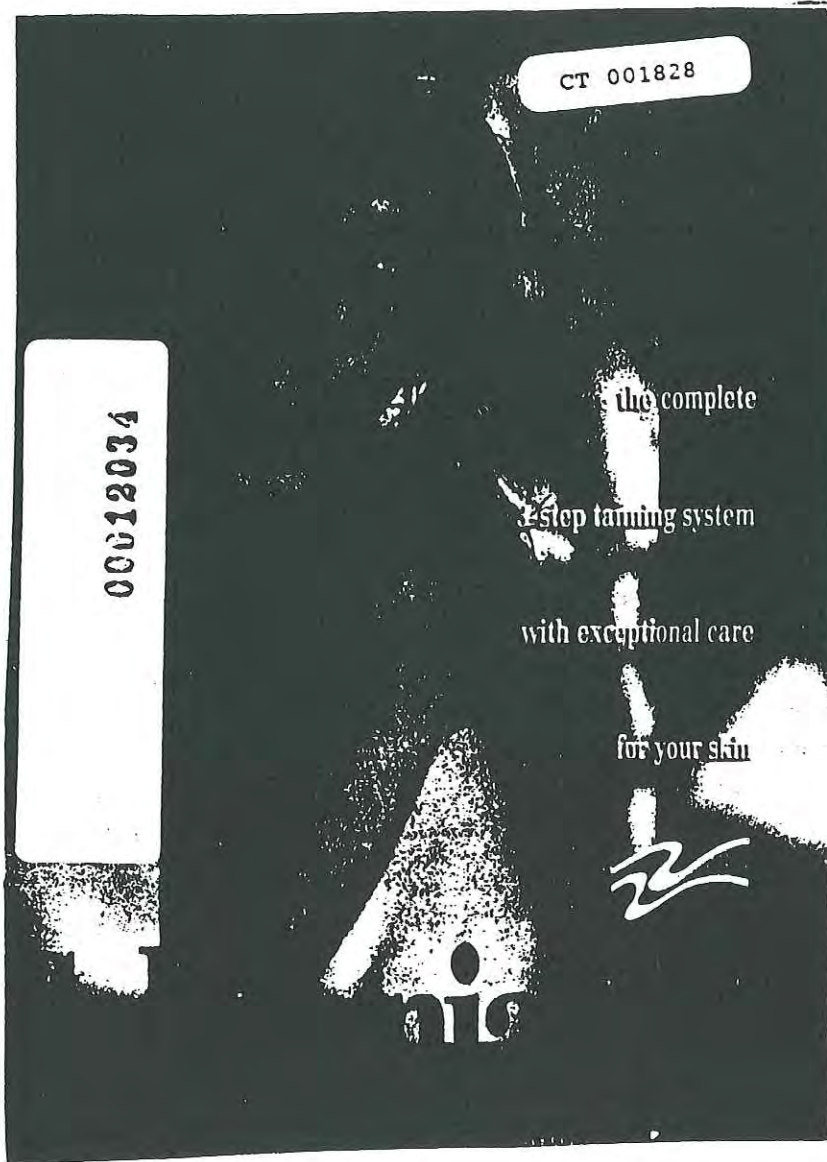
Studies provided by California Taxpayers' Scientific Research Center

Complaint

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EXHIBIT B

Exhibit B



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EXHIBIT B

Climax™ Private Reserve™ Limited Edition

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For those who choose only the best money can buy, the laboratories of California Tan™ have created the ultimate tanning experience - Limited Edition Climax™. Combining years of research with private reserve levels of our revolutionary new VITATAN™ (patent pending) technology, Climax™ is scientifically proven to help improve your natural ability to develop a base tan by up to 67%, while minimizing the signs of aging.

VITATAN™

The Tanning Technology of The Future

- VITATAN™ is encapsulated in the most technologically advanced, multi-level liposome system, delivering up to 50% more of the actives in the tanning source for rich, golden brown results.
- VITATAN™ contains a revolutionary DNA enzyme that helps to minimize sun damage and reduce the appearance of fine lines and wrinkle depth by up to 64%.
- Through the use of anti-oxidants, such as Vitamins A, C, E, and F, VITATAN™ works to neutralize the free radicals that can cause lines and wrinkles.
- VITATAN™ delivers an additional molecule of oxygen to the surface of the skin which significantly enhances the oxidation of melanin for faster tanning results.

Exhibit B (cont)



When compared to Unipertan, products containing 2% VITATAN™ help improve your natural ability to develop a golden brown base tan by up to 67%.

STEP 1

Heatrap Maximizer - V



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EXHIBIT B

Heliotherapy™ . . .
The Positive Effects of The Sun™

California Tan's Scientific Research Center, a panel of renowned scientists and researchers reviews thousands of studies on the effects of sunlight. Inspired by Heliotherapy™, the Positive Effects of the Sun™, California Tan™ created the complete Heliotherapy™ three-step system to help you maximize a proven positive effect of the sun - your tan.

CONDITION	MEDICAL EFFECT	SOURCE
AIDS AIDS is a fatal and incurable epidemic.	Preliminary studies indicate that phototherapy may be beneficial in treating patients with AIDS-related complex.	Taylor A. et al. Extracorporeal Photocoagulation for Cutaneous T Cell Lymphoma and Other Diseases. <i>Seminars in Hematology</i> 19: 212 1982
Cancer Prevention Sunlight exposure may prevent certain types of cancer. In fact, sunny states are more than 50% higher in northern states like New Hampshire and Vermont compared to sunny states like New Mexico and Arizona.	Sunlight exposure may prevent certain types of cancer. In fact, sunny states are more than 50% higher in northern states like New Hampshire and Vermont compared to sunny states like New Mexico and Arizona.	Guarini D. et al. Calcium and Colon Cancer. <i>Clinical Nutrition</i> July August 1981 6: 148
Common Cold Symptoms include: runny nose, sneezing, sore throat, coughing, muscle aches.	10 minute exposure to ultraviolet light one to three times a week may result in a reduction of frequency of colds up to 40%.	Klein, Dr. J. Sunlight. <i>Medical CA World Health</i> 1980 January 1980
Fitness Fitness increases energy and reduces risk of heart disease.	Exposure to sunlight may have similar effects - exercise decreased blood pressure and increased a 15% increase in the output of blood.	Faberman, Dr. A. et al. Heart Rate Variability. <i>Biological Effects of Light</i> . New York: Walter de Gruyter 1982

Studies provided by California Tan's Scientific Research Center

While these studies indicate a wealth of benefits may result from sun exposure, no single study or studies may prove scientific fact. As research continues, the sun may have positive as well as negative effects.

Remember!

To maximize the benefits of sun exposure, just make a few balance and determine

the best amount of sun exposure for you based on your skin type and how much you like to tan. Use these guidelines to help you decide and don't overdo it. Visit us at the California Tan's Scientific Research Center.

However, moderate exposure in moderation with the use of California Tan's Heliotherapy™ system can help you optimize the benefits of having a spectacular golden

tan while minimizing the negative effects of sun. In fact, about 10 minutes of sun exposure is all that is needed to be used for tanning. Heliotherapy™ is the only tanning system that is designed to produce the repeated possible physiological and psychological benefits of the sun that is safe and effective. Heliotherapy™ does not require the use of any products.

Exhibit B (cc



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EXHIBIT C

Exhibit C

Heliotherapy™...The Positive Effects of The Sun

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2 • What Is Heliotherapy ?

he-li-o-ther-a-py (he li ò ther a pi) is HELIO- THERAPY
the treatment of disease by exposing the body to sunlight

Heliotherapy is a science, documented by thousands of scientific studies which have been conducted on the benefits of sun exposure. Acknowledged and practiced by the American Medical Association, heliotherapy is the treatment of disease by means of the sun's electromagnetic waves. Red, orange, yellow, green, blue, indigo, violet, and mid and near ultraviolet waves are used either collectively or independently to treat and cure everything from acne to jaundice.

Did you know that?

- Dermatologists use heliotherapy for the treatment of acne, psoriasis and other skin disorders.
- Heliotherapy is a chiropractic treatment used for muscular stimulation and relaxation.
- Heliotherapy is the only known cure for Seasonal Affective Disorder, a cyclic mood disorder caused by sunlight deprivation during fall and winter months.
- Currently, AIDS research clinics use heliotherapy as an effective tool for boosting the body's immune system.
- Heliotherapy used in hospital operating rooms reduces the bacteria count by as much as 50%. As a result, patients have been found to recover faster and have fewer post-operative infections.
- Scientists at the Baylor University Medical Center have successfully used heliotherapy to destroy the AIDS virus and other infectious diseases and are developing heliotherapy to decontaminate blood for transfusions.

• Heliotherapy is practiced in Cancer Research Institutes for successful DNA repair. Within hours of light treatments, the cancer cells begin to die, leaving the normal tissue unharmed. 70% to 80% of the tumors treated responded positively after just one treatment.

• Heliotherapy is used as an effective tool for eradicating the blood of cancer patients.

• The maternity wards of most major hospitals use heliotherapy for the treatment of hyperbilirubinemia (neonatal jaundice), a condition found in over 60% of prematurely born infants.

While fully recognizing that long term overexposure to the sun and burning can result in skin cancer, premature aging and wrinkling in some cases, the science of heliotherapy supports that the sun also offers many benefits. In the months to come, California Tan's Scientific Research Center will uncover the FACTS about Heliotherapy™. The Positive Effects of The Sun™.

Studies provided by California Tan's Scientific Research Center

For more information on Heliotherapy™ and a complete list of sources, please call

1-800-SUN-CARE
CALIFORNIA
TAN'S

The science of heliotherapy has inspired the California Tan's Heliotherapy line of products. These products are intended to be used for tanning and moisturization only and not for any of the psychological or physiological benefits described in this advertisement.

SOLD IN SALONS

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EXHIBIT D

Exhibit D

Is Sunlight the Answer for cancer prevention?

New studies from the University of California, San Diego indicate that exposure to sunlight may play an important role in the prevention of certain types of cancer. While long-term overexposure to the sun and burning can be harmful, this research shows that the sun may have many properties that help prevent breast, colon and ovarian cancer.

As a leader in the study of heliotherapy, California Tan's Scientific Research Center has uncovered thousands of studies demonstrating the benefits of UV-exposure.

Studies by Dr. Edward Gorham at the University of California, San Diego, show that the incidence of breast cancer is lowest in countries nearest the equator where the opportunity for sunlight

Vitamin D produced by exposure to sunlight is associated with a lower risk of fatal breast cancer.

exposure is highest. Vitamin D produced by exposure to sunlight is associated with a lower risk of fatal breast cancer.

It's not surprising that within the U.S., colon and breast cancer rates are three times higher in northern states like New Hampshire and Vermont compared to sunny states like New Mexico and Arizona, according to research conducted by Dr. Frank Garland at the University of California, San Diego.

In addition, the Melanoma Clinic at the University of Sydney, Australia, released new research showing that the lowest incidence of skin cancer occurs in those people whose main occupation is outdoors.

While the jury is still out on the true effects of sun exposure, the science of Heliotherapy indicates that the sun is necessary for our health and well-being. Experts agree that overexposure and burning can lead to skin cancer in some cases. However, with moderation, exposure to sunlight may bring us many benefits.

To find out more about Heliotherapy™ - The Positive Effects of The Sun, please call 1-800-SUNCARE.

... The Positive Effects of The Sun



EXHIBIT E

Exhibit E

From high blood pressure to AIDS . . .

Is Sunlight the Cure of the '90's?

Although the experts warn against long-term over-exposure to the sun and burning, new research points to the healing powers of the sun. As Dr. Jacob Liberman suggests, with over 100 biological functions affected by exposure to sunlight, it's not surprising that the sun plays such a vital role in our health and well-being.

Today, people are looking for more natural cures for everything from common ailments to serious diseases. As a major contributor to the science of Heliotherapy™, California Tan's Scientific Research Center has uncovered hundreds of studies demonstrating the positive effects of sun exposure.

• In a recent study by Dr. Zane Kime, patients with high blood pressure experienced a dramatic decrease in blood pressure lasting five to six days after just one treatment of UV-light.

• The National Psoriasis Foundation has released studies stating that 80% of psoriasis sufferers show improvement with exposure to UV-light.

• According to studies conducted by Dr. Norman Rosenthal at the National

Institute of Mental Health, light treatment is the most effective cure for Seasonal Affective Disorder (SAD), or the winter blues.

• UV-light treatment is on the forefront of the search for an AIDS cure. Scientists at Baylor University Medical Center have used light to destroy the AIDS virus and other infectious diseases.

Even though the jury is still out on the true effects of sun exposure, we are now discovering that the sun plays an important role in the maintenance of good health. Through the science of Heliotherapy™, we are learning that balance is most important. Overexposure and burning can lead to skin cancer in some cases. However, in the right amounts, we can benefit from the sun's healing powers.

To find out more about Heliotherapy™...The Positive Effects of the Sun™ attend one of California Tan's Heliotherapy™ Symposia hosted by distributors across America. Please call 1-800-SUNCARE or your local authorized California Tan® distributor for the Symposium nearest you.

CALIFORNIA
TAN®

30612154

Heliotherapy™ . . . The Positive Effects of The Sun™

©1991 California Tan's Scientific Research Center. Please send comments to: Donna J. Liberman, Product, 270 N. Canyon Dr., Ste. 129, Beverly Hills, CA 90210.

Circle Reader Service No. 82

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EXHIBIT F

Exhibit F

Heliotherapy™

The Positive Effects of The Sun™

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CALIFORNIA
TAN[®] 

CT 001681

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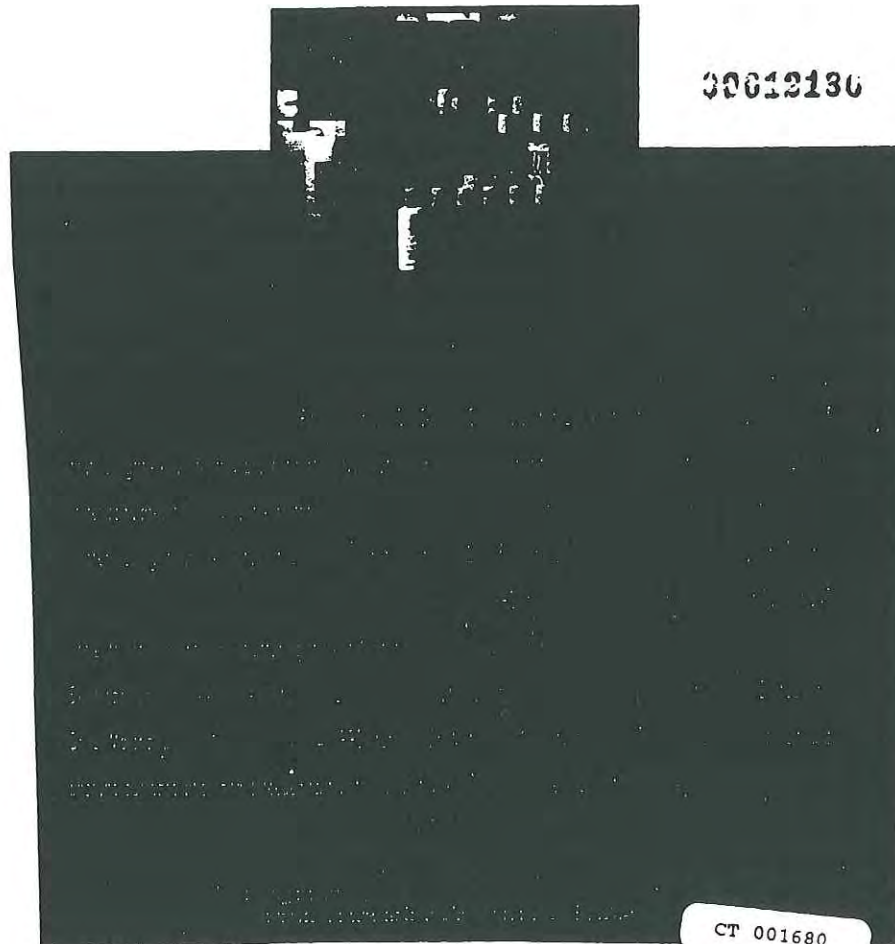
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EXHIBIT F

Exhibit F (cont)

California Sun's Scientific Research Group, a panel of renowned doctors, researchers and dermatologists, reviews thousands of studies each year about the positive and negative effects of UV light. Overexposure and burning are bad for you and may lead to premature aging and skin cancer. However, medical evidence shows that sunlight is connected to everything from osteoporosis prevention to vitamin D synthesis.



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EXHIBIT G

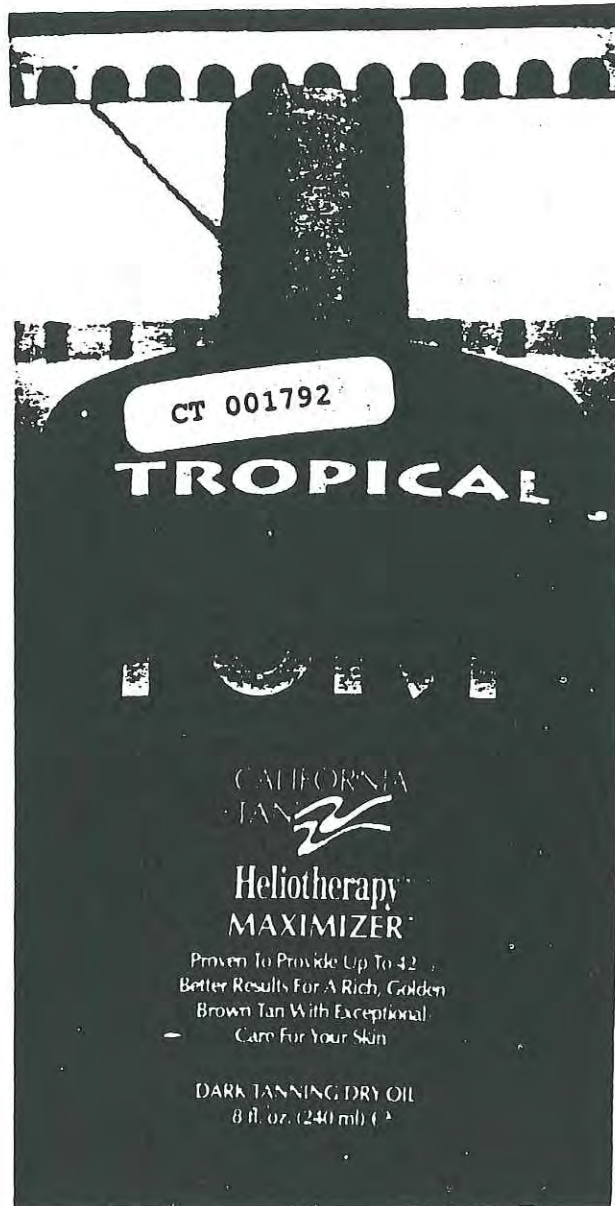


Exhibit G

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EXHIBIT G



Exhibit G (cont)

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EXHIBIT G

Exhibit G (cont)

CALIFORNIA TAN
TROPICAL FURY™**Heliotherapy™ MAXIMIZER™***Maximize The Positive Effects of The Sun*

With California Tan's exclusive **Heliotherapy™** formula, Tropical Fury is the first dry oil that actually provides you with all the tanning and moisturizing benefits of a real oil without the greasy after-feel and absolutely no mineral oils. The most effective, rare, exotic oils combined with the most precise blend of tanning and skin care ingredients provide up to 42% better tanning results for a deep, dark, *luminous* tan with exceptional care for your skin.

- A unique, scientifically proven blend of California Tan's **Heliotherapy™** MAXIMIZER Complex provides the most effective moisturization to help you achieve up to 42% better tanning results and counteract the drying effects of the sun for a spectacular, golden brown tan.
- The most effective combination of rare, exotic oils provide all the tanning and moisturizing benefits of an oil for the deepest, richest tan possible without the greasy after-feel.
- Shea Butter combined with the exact level of Vitamin C helps restore your skin's optimum moisture balance and neutralize the free radicals that can cause lines and wrinkles.
- Scientifically proven Unifrenol dramatically helps reduce the appearance of wrinkle depth and line lines by up to 64% when used regularly.
- Cruelty-Free. Contains no mineral oils, sunscreens, animal by-products, dyes or artificial colorations.

PULL HERE TO OPEN
PRESS TO RESEAL

EXHIBIT G

Exhibit G (cont)

CALIFORNIA TAN **Heliotherapy™ . . .**

The Positive **Effects of The Sun**

California Tan's exclusive **Heliotherapy™** formulas are a precise, scientifically proven combination of state-of-the-art skin care and tanning ingredients that help you maximize a proven positive effect of the sun - your tan!

While it's true that over exposure to the sun and burning are bad for you, medical science has also discovered that, in moderation, exposure to the sun is crucial to the maintenance of good physical and psychological health.

In addition to the fact that a tan makes you feel good about how you look, a number of studies have noted that little to no exposure to the sun may be equally as bad, if not worse, to your overall health as too much sun.

DID YOU KNOW THAT?

*According to a study conducted by the University of Sydney and Melanoma Clinic in 1982, the people with the lowest risk of skin cancer were those whose main outdoor activity was sunbathing. (see note 1)

*The same study also found that the highest incidence of skin cancer occurred in those who spent most of their time indoors under fluorescent lighting which is deficient of the ultra-violet portion of the sun spectrum. (see note 2)

*The findings of the above study were confirmed in 1985 by Dr. F. Alan Anderson, a physicist with the Food and Drug Administration at the New York University of Medicine, who found that over a period of time, fluorescent lights alone emit enough radiation to cause skin cancer. (see note 3)

*Mice living under natural unfiltered sunlight have been proven to live more than twice as long as mice living under fluorescent lights. (see note 4)

*According to Dr. Jacob Liberman, exposure to the sun is necessary to the maintenance of over 100 vital biological functions. (see note 5)

*In a 1980 study, it was concluded that exposure to sunlight produces the same benefits as

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EXHIBIT G

Exhibit G (cont)

Exercise: increases in strength, energy, endurance, tolerance to stress, and the ability of the blood to absorb and carry oxygen; and decreasing the resting heart rate, blood pressure, respiratory rate, blood sugar and lactic acid. (see note 6)

• Massachusetts General Hospital reported that exposure to UV light is essential for a healthy level of vitamin D in the body. Vitamin D is necessary for the absorption of calcium and other vital minerals from the diet. (see note 7)

• Researchers also found that the dietary vitamin D found in milk and vitamin supplements is not a sufficient replacement to the vitamin D that is produced by exposure to the sun for the maintenance of healthy bones and teeth and at high levels, dietary vitamin D has been found to be very toxic. (see note 8)

• Studies indicate that exposure to ultra-violet light is an effective tool for lowering elevated blood pressure. (see note 9)

• According to a recent study conducted at the Tulane University, the heart became stronger and pumped more blood when the subjects were exposed to ultra-violet light. (see note 10)

• A recent study reports that light plays an important role in how effectively certain enzymes can regulate vital bodily functions. (see note 11)

• Sunlight has been scientifically proven in numerous studies to reduce serum cholesterol levels. (see note 12)

• In a study conducted by The American Society for the Study of Arteriosclerosis, 97% of the subjects had a 13% decrease in the level of cholesterol within two hours after the first exposure. (see note 13)

• According to the University of Carolina, exposure to sunlight is necessary to the production of Solitrol (an important hormone found within the skin). (see note 14)

• In 1987, the Wall Street Journal reported that chickens raised under full-spectrum lighting, the closest match to natural sunlight, lived twice as long, laid more eggs, were less aggressive, and laid eggs that were 25% lower in cholesterol than chickens raised under fluorescent lighting. (see note 15)

• Medical findings indicate that the sex hormones are most efficient when a woman or man is exposed to sunlight. (see note 16)

• The pineal gland located in the deep center of the brain regulates the numerous biological functions by processing the body's exposure to regular day and night cycles. (see note 17)

• In many northern European countries, stud-

EXHIBIT G

Exhibit G (cont)

ies have found that a direct correlation exists between decreased exposure to sunlight and a higher incidence of insomnia, irritability, alcoholism, depression, and suicide. (see note 18)

•The National Psoriasis Foundation reports that 80% of the people suffering from Psoriasis improve when exposed to sunlight. (see note 19)

Of course, no single study or studies may prove scientific fact. And as further studies are done, science will tell us more about the effects of sun exposure. But these studies emphasize that the sun may have positive as well as negative effects.

REMEMBER!

The key to maximizing the positive effects of the sun is to achieve the perfect balance. Take care to get just the right amount of sun to maintain your health, but don't ever allow yourself to burn. **REPEATED OVEREXPOSURE TO THE SUN CAN LEAD TO PRE-MATURE AGING, WRINKLING AND SKIN CANCER.** Moderate exposure, however, in combination with the use of California Tan's exclusive **Heliotherapy** formulas can help you optimize the beneficial aspect of having a spectacular, golden brown tan while minimizing the negative effects of over exposure and skin dehydration.

CALIFORNIA TAN Heliotherapy™

ACHIEVE A SPECTACULAR
DEEP, DARK TAN AND FEEL
GOOD ABOUT IT

CAUTION

California Tan products are intended to BE USED FOR TANNING AND MOISTURIZATION ONLY. They ARE NOT intended to produce any of the reported physiological and psychological benefits of the sun that the studies describe.

Studies provided by California Tan's Scientific Research Center

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123 F.T.C.

EXHIBIT G

Exhibit G (cont)

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18. See note 5.

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For more information
on Heliotherapy, please write to:
California Tan's Scientific Research Center,
Donald J. Christal - President
270 N. Canon Dr., Ste. 129
Beverly Hills, CA 90210
Made In The U.S.A.

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EXHIBIT H

Exhibit H

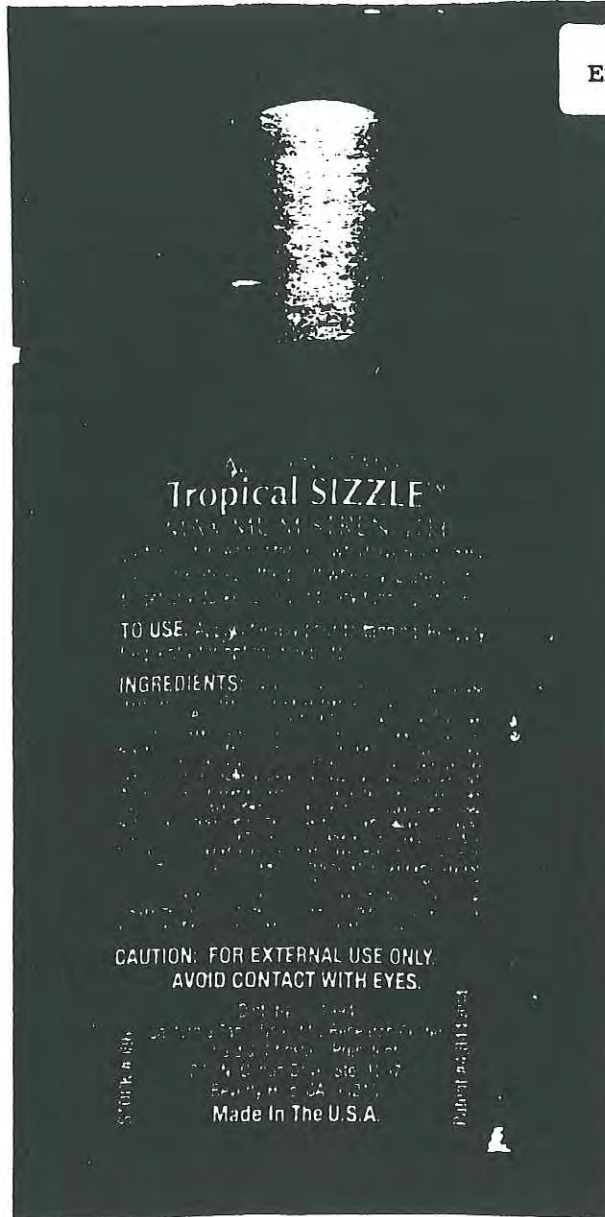


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EXHIBIT H

Exhibit H (cont)



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EXHIBIT H

Exhibit H (cont)

STEP 2
Heliotherapy INTENSIFIER
Takes You Beyond Your
Tanning Plateau

*Designed for serious
tanners who have reached
the Tanning Plateau*

CALIFORNIA TAN®
Tropical SIZZLE™
MAXIMUM STRENGTH

What is the Tanning Plateau?
Studies conducted by International Research
Labs show that after a period of tanning,
your skin begins to thicken, blocking ultra-
violet (UV) exposure and reducing further
tanning. This is known as the Tanning Plateau.



Continued inside...

PULL GENTLY HERE

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EXHIBIT H

Exhibit H (cont)

Tropical SIZZLE's exclusive Helioltherapy™ formula contains a powerful combination of scientifically proven tanning and skin care ingredients. This maximum strength blend is designed to help you break through your Tanning Plateau faster than ever before, giving you the deep, dark intensified tan you've always wanted.

- Maximum levels of micro-encapsulated Tissue Respiratory Factors (TRF) react to the areas of your skin that are most in need where they work to return your skin back to its natural, healthy state. As a result, optimum UV penetration is restored, allowing you to achieve a greater level of darkness than you ever thought possible.
- Maximum levels of Copper Peptide nanospheres zone in on the areas of your skin that are copper deficient, resulting in a heightened level of skin darkening.
- Maximum levels of Unifrenol drastically reduce the appearance of fine lines and wrinkles by up to 64%.
- Maximum levels of California Tan's 12-Hour Hydration Complex help prevent peeling and flaking and prolong the life of your tan.

Helioltherapy™ Update

CALIFORNIA TAN®
Helioltherapy™
The Positive Effects
of the Sun™

Only California Tan's exclusive Helioltherapy™ formulas are the precise scientifically proven combination of extraordinary skin care and tanning ingredients to help you maximize a proven positive effect of the sun ... your tan.

While over exposure to the sun and burning are bad for you, medical studies demonstrate that, in moderation, exposure to sunlight is crucial for the maintenance of good physical and psychological health.

Besides making you feel good about how you look, numerous studies demonstrate that little to no exposure to the sun may be equally as bad, if not worse, to your overall health as too much sun.

Did You Know That?

- Sunlight is the only reliable source of vitamin D and provides the vitamin D requirement for most of the world's population. (Boston University, 1989) 1
- According to Dr. Gailre Garland, just 15 minutes of exposure to natural sunlight per day on your hands and face is sufficient, in most cases, for the Recommended Daily Allowance of vitamin D. (University of California, San Diego 1993) 2
- Tanning beds that emit UVB may be useful for the production of vitamin D. (Boston University, 1992) 3
- Exposure to sunlight increases the body's ability to metabolize cholesterol, leading to a 13% decrease in blood cholesterol levels. (New England Medical Journal, 1953) 4
- Studies indicate that exposure to UV light may have similar affects as exercise: decreased blood pressure, lower resting heart rate and a 39% increase in output of blood. (University of Frankfurt, Germany, 1992) 5
- Seasonal Affective Disorder (SAD), with symptoms such as as sadness, insomnia, carbohydrate cravings, anxiety and irritability, is commonly found in northern areas where exposure to sunlight in winter months is significantly decreased. (National Institute of Mental Health, 1985) 6
- When the chest and back are exposed to sunlight, the male sex hormones may increase by 120%. (Dr. Z. Kline, 1980) 7
- Reports indicate that 80% of people suffering from psoriasis improve when exposed to sunlight. (The National Psoriasis Foundation, 1986) 8
- Studies indicate that people with the lowest risk of skin cancer are those whose main occupation is outdoors. (Lancet 1982) 9
- Sunlight affects over 100 vital biological functions. (Lieberman, 1991) 10

Complaint

EXHIBIT H

Exhibit H (cont)

Remember!!

• Significant seasonal bone loss, as a result of inadequate vitamin D formation, occurs in people who live in areas with reduced winter sunlight. Bone loss can lead to Osteoporosis and Osteomalacia, a softening of the bones. (University of Maine, 1993) 11

• Colon and breast cancer deaths are three times higher in northern states like New Hampshire and Vermont compared to sunny states like New Mexico and Arizona. (University of California, San Diego, 1986) 12

• Ozone levels naturally fluctuate up to 5% daily based on weather, time of day and time of year. (Reading University, England, 1990-91) 13

Of course, no single study or studies may prove scientific fact. As further studies are done, science will tell us more about the effects of sun exposure. However, as these studies emphasize, the sun may have positive as well as negative effects.

The key to maximizing the positive effects of the sun is to achieve the perfect balance. Take care to get just the right amount of sun to maintain your health, but don't ever allow yourself to burn. REPEATED OVEREXPOSURE TO THE SUN CAN LEAD TO PRE-MATURE AGING, WRINKLING AND SKIN CANCER. However, moderate exposure in combination with the use of California Tan's exclusive "h-holotherapy"™ formulas can help you optimize the beneficial aspects of having a spectacular, golden brown tan while minimizing the negative effects of overexposure and skin dehydration.

**No Animal Testing • No Animal By-Products
No Mineral Oils • No Artificial Dyes or
Colorations • Won't Clog Pores**

CAUTION:

California Tan® products are intended to be used for tanning and moisturization only. They are NOT intended to produce any of the reported physiological and psychological benefits of the sun that are described above.

Studies provided by California Tan's
Scientific Research Center

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12. Garland, Dr. C. et al. "Calcium and Cancer," *Clinical Nutrition*, July/August 1986, 161-6.
13. Webb, Dr. A., "Spectral Measurements," *American Meteorological Society*, 1991.

Complaint

123 F.T.C.

EXHIBIT I

Exhibit I

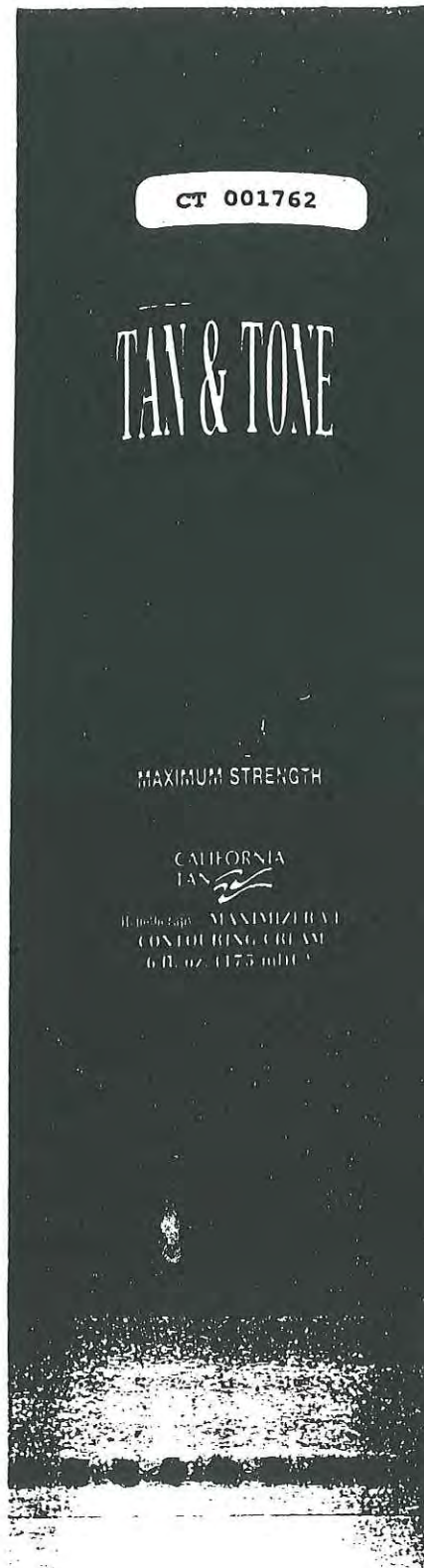


EXHIBIT I

Exhibit I (cont)

CALIFORNIA TAN
Tan & Tone
LEGS™
MAXIMUM STRENGTH

TO USE: Apply liberally to legs immediately prior to turning. Reapply frequently for optimum results.

CONTAINS NO SUNSCREENS

[illegible]

ALLERGY TESTED

- No Animal Testing
- No Animal By-Products
- No Mineral Oils
- No Artificial Dyes or Colorations
- Won't Clog Pores

CAUTION:

FOR EXTERNAL USE ONLY.
AVOID CONTACT WITH EYES.

Dist by ©1995

California Tan's

Scientific Research Center
Donald J. Christal, President
270 N. Canon Drive, Ste. 1207
Beverly Hills, CA 90210
Made In The U.S.A.

Учредитель: 475.015

Control Fracture

Complaint

123 F.T.C.

EXHIBIT I

Exhibit I (cont)



OPEN

CALIFORNIA TAN

Tan & Tone
LEGS

MAXIMUM STRENGTH

*Dark Tanning And
Contouring Cream Gel*

Tan & Tone Legs maximum strength dark tanning and slimming formula contains our exclusive VT technology and proven firming agents to diminish the appearance of unsightly cellulite while achieving spectacular tanning results. Maximum strength levels of VITATAN (patent pending) deliver up to 53% better tanning results while minimizing the signs of aging. Plus, Legs lifts and tightens for visibly toned thighs, hips and buttocks.

Continued inside...

EXHIBIT I

Exhibit I (cont)



When compared to Unipertan, products containing 1% VITATAN[®] help improve your natural ability to develop a golden brown tan by up to 53%.

Information Request 1-800-761-1144 ext. 301

- VITATAN[®] delivers up to 50% of the actives to the tanning source through the most technically advanced multi-level liposome system.

- Specialized liposomes encapsulate the proven contouring complex and target cellulite to smooth the appearance of sponginess after just one use.

- Scientifically-proven skin care ingredients maintain optimum moisture balance, leaving skin soft, supple and silky smooth.

- Fast-acting cream gel formula absorbs quickly without the sticky after-feel of ordinary gels.

- Ideal for every day use.

Heliotherapy[®]
The Positive Effects of the Sun[®]
California Tan's Scientific Research Center, a panel of the world's most renowned scientists, reviews

CONDITION

HELIO THERAPY[®] REFERENCE CHART

MEDICAL EFFECT

SOURCE

AIDS
AIDS is a fatal and incurable epidemic.

Preliminary studies indicate that photo-therapy may be beneficial in treating patients with AIDS-related complex.

thousands of studies relating to light and health which inspired California Tan to create its exclusive Heliotherapy[®] three step system that contains the precise combination of proven tanning and skin care ingredients to help you maximize a positive effect of the sun - your tan. *Burning and overexposure are bad for you. But sunlight is essential for your psychological and physiological good health.*

Cancer Prevention
Breast and colon cancer can be fatal if not detected early.

Sunlight exposure may prevent certain types of cancer. Colon and breast cancer rates are three times higher in northern states like New Hampshire and Vermont compared to sunny states like New Mexico and Arizona.

Common Cold
Symptoms include: runny nose, sneezing, sore throat, coughing, muscle aches.

10 minute exposure to ultraviolet light one to three times a week results in a reduction of frequency of colds up to 40.3%.

Fitness
Fitness increases energy and reduces risk of heart disease.

Exposure to sunlight may have similar effects as exercise: decreased blood pressure, lower resting heart rate, a 39% increase in the output of blood.

Obesity
Obesity is one of the leading causes of death in the U.S.

Sunlight stimulates the thyroid gland which boosts your metabolism.

Osteoporosis
Osteoporosis is a growing epidemic of weak bones in the U.S.

Significant seasonal bone loss due to lack of sunlight produced vitamin D is prominent in areas with reduced winter sunlight and can lead to Osteoporosis.

Psoriasis
Psoriasis is a chronic condition with no known cure.

80% of Psoriasis sufferers show improvement with UV exposure.

Chart Continues (in Reverse)

- Taylor, A. et al. "Extracorporeal Photocoagulation for Cutaneous T-Cell Lymphoma and Other Diseases - *Seminars in Hematology*, 29:2, 192, 1992.
- Garland, Dr. C. et al. "Calcium and Colon Cancer. *Clinical Nutrition*, July/August 1991-6, 1985.
- King, Dr. Z. *Sunlight*. Penryn, CA World Health Publications, 1980.
- Falkenbach, Dr. A. et al. "Heart Rate Variability - *Biological Effects of Light*. New York, Walter de Gruyter, 1992.
- Hollwich, Fritz. *The Influence of Ocular Light Perception on Melatoninism in Man and in Animal*. New York, Springer Verlag, 1979.
- Rosen, Dr. C. et al. "Seasonal Effects of Sunlight on Bone Mass in Elderly Women. *Biological Effects of Light*. New York, Walter de Gruyter, 1994.
- "PUVA Myths." *Pharmacy News*, vol 6, 1, 1994.

Complaint

123 F.T.C.

EXHIBIT I

Exhibit I (cont)

CONDITION	MEDICAL FACT/BENEFIT	SOURCE
Seasonal Affective Disorder (SAD) More than 25 million Americans suffer from SAD each year.	A 1993 study shows that 70% of patients with SAD show improvement after light treatment, the only known cure for the winter blues.	Wirz-Justice, A. et al. "Light Therapy in Seasonal Affective Disorder: Dependence on Time of Day or Circadian Phase." <i>Arch Gen Psychiatry</i> , 50:929, 1993.
Sex Drive	When the chest and back are exposed to sunlight, the male sex hormones may increase by up to 120%.	Kline, Dr. Z. Sunlight, Penryn, CA: World Health Publications, 1980.
Skin Cancer	Skin Cancer has been linked to non-UV causes: diet, genetics and alcohol.	Marchand, Dr. L. "Dietary Factors in the Etiology of Melanoma." <i>Clinics in Dermatology</i> , 10:79, 1992.
Stress Stress increases the risk of illness two to four times.	Sunlight exposure decreases adrenaline and noradrenaline levels for an "anti-stressing" effect and releases endorphins for the feeling of "well-being."	Greiner, F. et al. "UV Conditioning: Physical and Physiological Impact." <i>Current Problems in Dermatology</i> , Vol. 15:282-9, 1986.
Vitamin D Deficiency Vitamin D regulates calcium, magnesium and phosphorus absorption.	Sunlight is the most responsible source of vitamin D. During the process of tanning, vitamin D is also produced.	Holick, Dr. M. et al. "Sunlight Regulates Vitamin D." <i>Journal of Endocrinology and Metabolism</i> , 68:882, 1989. Matsuoka, L. et al. "Sunbathing and Cutaneous Synthesis of Vitamin D3." <i>Journal of Clinical Medicine</i> , 116:87, 1990.

Studies provided by California Tan's Scientific Research Center

While these studies indicate a wealth of benefits may result from sun exposure, no single study or studies may prove scientific fact. As research continues, science will reveal more about the effects of the sun. These studies emphasize that the sun may have positive as well as negative effects.

Remember!

To maximize the benefits of sun exposure, you must achieve balance and determine the best amount of sun exposure for you based

on your skin type and how easily you burn. Consult your physician if you have any skin condition and don't ever allow yourself to burn.

REPEAT/DO NOT EXPOSE TO THE SUN LEAD TO PRE-MATURE AGING, WRINKLING, AND SKIN CANCER.

However, moderate exposure in combination with the use of California Tan's exclusive "Heliotherapy" formula can help you optimize the beneficial aspects of having a spectacular, golden brown tan while

minimizing the negative effects of skin dehydration.

Caution:

California Tan products are intended to be used for tanning and moisturization only. They ARE NOT intended to produce any of the reported possible physiological and psychological benefits of the sun that are described above and California Tan does not represent that such benefits result from use of its products.

EXHIBIT J

California Tan

Heliotherapy

REPORT



FEBRUARY ■ 1994

Exhibit J

Advertising

Spotlight

Salon Success

• 1-800-222-SALON
(Toll-Free Referral Number)
How it Works

• Heliotherapy™

• Product Parade

FREE ADVERTISING For Preferred Salons Begins February 8th

Through an intense consumer advertising campaign in *People* and *YM* magazines, California Tan® will do for tanning in the '90s what Nexxus and Paul Mitchell did for hair care in the '80s. For the first time ever, consumers who currently purchase Hawaiian Tropic and Coppertone from the multi-billion

industry will look to salons for higher quality products. California Tan® profit center, salons automatically qualify for the Preferred Salon program. And by calling the toll-free number, 1-800-222-SALON, consumers can find the nearest Preferred Salon. Every week during the height of the tanning season, 32 million people will see our ads and the toll-free Preferred Salon referral number every week throughout the height of the tanning season.



ADVERTISING SCHEDULE

In addition to the 30 million Americans who read *People* magazine, California Tan® is aggressively targeting the all-important teen market through *YM* magazine advertisements. Our research shows that teens are into tanning and love trying new products!

32 million people will see our ads and the toll-free Preferred Salon referral number every week throughout the height of the tanning season.

MAGAZINE	ISSUE	ON SALE	WHY
<i>YM</i>	March	2/8	It's the Prom Issue (Need we say more?)
	April	3/8	It's the height of the season!
	May	4/12	
<i>People</i>	Special 20th Annv. Issue	2/28 - 3/15	Everyone reads it!
	4/4	3/28	It's the height of the season!
	4/11	4/4	
	4/18	4/11	

EXHIBIT J

(t)

Know What's In Your Lotion



**TANNING
LOTION**

Ingredients such as melanin, keratin, or Protovanol are fine for bronzers and sunless tanning lotions. But, these ingredients are showing up in products labeled "accelerators." The resulting color (as with all dyes and self-tanners) is fake and fades in a day or two.

Clients who use these products and get disappointed may blame your bulbs — never to return to your salon. Your salon's reputation is at stake when you sell a product that makes claims and does not deliver the expected results.

Read labels carefully to protect yourself and your clients. Make sure you are selling "real" tanning in a bottle (see box).

California Tan[®] has been approached by major chemical companies to buy these dyes and skin reddening agents for our products. We have steadfastly refused to use them. California Tan[®] uses only ingredients that maximize real tanning.

READ THE LABELS

Beware of so-called tanning "accelerators" with these ingredients:

INGREDIENT	WHAT IT DOES	PRODUCTS THAT USE IT
✓ Keratin or Beta Carotene	Temporary Dye	Swedish Beauty Australian Gold
✓ Melanin	Temporary Dye	Body Drench's Boost & Source Supre's Jam and Extreme Island Heat
✓ Protovanol	Irritant that makes skin warm and red	Island Heat Bronz Tan

Look for ingredients that maximize and promote real tanning:

Unipertan P-242

Cancer Protection

MORE ABOUT HELIOTHERAPY

Promoting Heliotherapy[™] CAN INCREASE YOUR LOTION SALES

Let your customers know that

• Let your clients know that lotions can help them reap the positive effects of the sun and UV-light (a tan, increased immunity, lower cholesterol, etc.) while protecting themselves from and/or preventing the negative effects.

• Say to clients when they're signing in — "Did you know that the sun has some of the same effects on your body as exercise, like lower cholesterol and more oxygen going into your cells?"

• Put up a Heliotherapy[™] poster at eye-level in each changing room.

• Make it a point to post one new positive effect of UV-light exposure per week in an area where salon employees will be most likely to read it. (See box-right).

FAST FACTS ON HELIOTHERAPY

Did you know that the sun produces many of the same benefits as exercise? Such as:

- ♥ Lowering blood cholesterol levels
- ♥ Lowering your resting heart rate
- ♥ Increasing your oxygen intake into cells
- ♥ Increasing your energy level

From Dr. Zane Kime's book, Sunlight

Tape this on the outside of your cash register where all your clients will see and watch your membership sales soar!

NOW AVAILABLE HELIOTHERAPY[™] SYMPOSIUM VIDEO

In response to heavy demand, California Tan[®] is making available the 90-minute Heliotherapy[™] Product Symposium Video. If you can't make it to one of the symposiums, or if you've attended and need a refresher — the Heliotherapy[™] Product Symposium Video is just the thing. Like the live symposiums, the video cover heliotherapy[™], selling techniques and easy-to-remember information about the product line in an entertaining format. \$9.95 plus postage and handling. Call: 1-800-STX-CARE to order.



Heliotherapy[™]... The Positive Effects of The Sun[®]

AT 000760

EXHIBIT J

CALIFORNIA TAN[®] EXPERTS OF THE MONTH

These tanning salon suppliers are certified experts on Heliotherapy[™] and have made California Tan[®] their premier product line. Feel free to call the one nearest you.



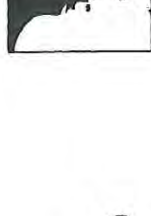
Ronnie and Johnie Allen
Four Seasons Sales
and Service
Paris, TN
(800) 326-2769



Andy and Tom Kuhn
Island Sun Burst
Naples, FL
(800) 462-0333



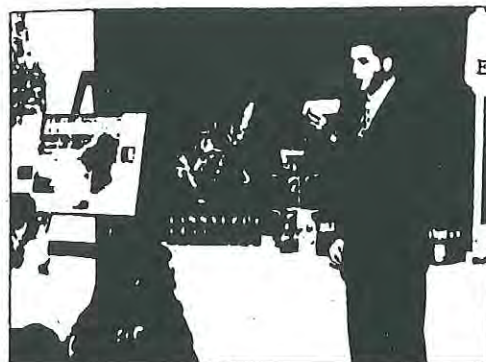
Mary Beth Simons
PC Marketing
Ridgefield, NJ
(201) 247-4301



Pat Vincent
Vincent Sunbed Supply
Salt Lake City, UT
(801) 272-4100

Martha Quing
Sunbelievable
Distributors
Huron, OH
(800) 686-8826

Cindy Austin
Tan Systems
Huron, OH
(800) 999-8266



California Tan[®] Heliotherapy[™] Product Symposium

**IS COMING TO YOUR AREA
FOR ONE ENGAGEMENT ONLY**

Distributors across America will be hosting a national series of California Tan[®] Heliotherapy[™] Product Symposiums to educate salons on various aspects of the tanning business. Guest speaker, Mike Brady, will show salons how to increase lotion sales by as much as 400%. Topics of discussion include:

- Comprehensive product knowledge
- Successful merchandising and sales techniques
- The facts about Heliotherapy[™] ... The Positive Effects of the Sun[™]
- The importance of point-of-purchase displays and educational literature
- How to expand your customer base and sell more sessions

SCHEDULE

DATE	PHONE #	LOCATION
02-17-94	800-727-8266	PHOENIX, AZ
02-23-94	800-99-8831	VIRGINIA BEACH, VA
02-27-94	704-522-1752	CHARLOTTE, NC
03-08-94	800-845-3740	WILLIAMSBURG, VA
03-07-94	800-776-4247	DETROIT, MI
03-08-94	800-776-4247	INDIANAPOLIS, IN
03-09-94	800-776-4247	CLEVELAND, OH
03-12-94	800-776-4247	CHICAGO, IL
03-19-94	412-744-4844	JEANETTE, PA

OVERHEARD

Salon owners are talking about California Tan's Heliotherapy[™] Product Symposiums:

"My sales really did increase 4 times after attending one of Cal Tan's Heliotherapy[™] Symposiums!"

"The speaker was fabulous!"

"I'm very glad I came; I learned a lot!"

"I've heard the presentation before and every time I learn something new!"



Complaint

123 F.T.C.

EXHIBIT J

SALON VERSION

Exhibit J (cont)

Permit No. 1750
Beverly Hills, CA
PAID
U.S. Postage
Bulk Rate

California Tan
REPORT
1100 Gleason Avenue, Suite 1250
Los Angeles, CA 90024

NEW PRODUCT PARADE

HELIX

#1 SELLER

In over 100 clinical tests, Helix™ out-performs, out-tans and out-moisturizes its leading competitors (even the other California Tan products) by up to 63%.

Once customers know about the exclusivity of Helix™ and its phenomenal tanning results they are gladly paying the premium price.

FEVER

TAKES OFF

This Step-1 CREME GEL Maximizer® is taking the industry by storm.

Tropical Fever™ is great for getting those building a base tan hooked on lotions.

It simultaneously maximizes tanning results, optimizes exposure time and reduces the appearance of fine lines and wrinkles.

FUSION

EXPLODES

Tropical Fusion™ is already the fastest growing gel on the market. This Step-2 Intensifier should be prominently displayed — its fun packaging and bright purple gel can't be ignored. The Fusion™ ultra-light gel gets you beyond the "tanning plateau" to a rich, deeper tan faster than ever.

How it works

The toll-free Salon referral number in *People and* magazine advertising:

- The number will be operational 24-hours a day, seven days a week and, even during holidays.
- Callers to the toll-free number will get a live operator for the first few months, and an automated one after that. They will be asked to give their zip code or enter it from their touch tone phone.
- The computer system will pull up the name and phone number of the Preferred Salon in the caller's area based on the zip code provided.
- The callers will also be given the option of getting up to three salon listings if there are three Preferred Salons in their area.
- To maximize individual retailer benefit, if there are three Preferred Salons in a given zip code, then each salon's name will be the first referral on every third call to the toll-free number.

The Heliotherapy Report is a timely newsletter containing the latest scientific facts about the positive effects of the sun and sun-care products for sun-care specialists and their salons.

Published By
California Tan®
1100 Gleason Ave., Suite 1250
Los Angeles, CA 90024
1-800-SUN-CARE

Cheryl Stone
Editor

Carla Swartz
Art Director

CT 000762

DECISION AND ORDER

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

The respondents, 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 aforesaid draft of complaint, a statement that the signing of said agreement is for settlement purposes only and does not constitute an admission by respondents that the law has been violated as alleged in such complaint, or that the facts as alleged in such complaint, other than jurisdictional facts, are true and waivers and other provisions as required by the Commission's Rules; and

The Commission having thereafter considered the matter and having determined that it had reason to believe that the respondents have violated the said Act, and that a complaint should issue stating its charges in that respect, and having thereupon accepted the executed consent agreement and placed such agreement on the public record for a period of sixty (60) days, now in further conformity with the procedure prescribed in Section 2.34 of its Rules, the Commission hereby issues its complaint, makes the following jurisdictional findings and enters the following order:

1. Respondent California Suncare, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of California, with its office and principal place of business located at 1100 Glendon Avenue in the City of Los Angeles, State of California.

Respondent Donald J. Christal is an officer of said corporation. He formulates, directs and controls the policies, acts and practices of said corporation, and his principal office and place of business is located at the above stated address.

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

ORDER

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

1. "*California Tan Heliotherapy products*" shall mean the Heliotherapy™ line of skin care products for use in connection with tanning as a result of exposure to sunlight or indoor UV radiation sold under the brand name California Tan®.

2. "*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.

3. "*Purchaser for resale*" shall mean any person that has bought any California Tan Heliotherapy products to sell to another business or members of the public including, but not limited to, wholesalers, distributors, tanning salons, beauty parlors, health spas, and gyms.

I.

It is ordered, That respondents, California SunCare, Inc., a corporation, its successors and assigns, and its officers, and Donald J. Christal, individually and as an officer of said corporation, and respondents' agents, representatives and employees, directly or through any corporation, subsidiary, division or other device, in connection with the manufacturing, labeling, advertising, promotion, offering for sale, sale, or distribution of any California Tan Heliotherapy product or any other product or service for use in connection with tanning, in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

A. Representing, in any manner, directly or by implication, that the negative effects of exposure to sunlight or indoor UV radiation, including skin cancer and premature skin aging, are caused only by overexposure and burning or are not caused by cumulative moderate exposure, over a period of years, including exposure sufficient to cause tanning;

B. Representing, in any manner, directly or by implication, that tanning as a result of exposure to sunlight or indoor UV radiation is not harmful to the skin;

C. Misrepresenting, in any manner, directly or by implication, that the use of such product or service prevents or minimizes the negative effects of exposure to sunlight or indoor UV; or

D. Representing, in any manner, directly or by implication, that exposure to sunlight or indoor UV radiation reduces the risk of skin cancer.

II.

It is further ordered, That respondents, California SunCare, Inc., a corporation, its successors and assigns, and its officers, and Donald J. Christal, individually and as an officer of said corporation, and respondents' agents, representatives and employees, directly or through any corporation, subsidiary, division or other device, in connection with the manufacturing, labeling, advertising, promotion, offering for sale, sale, or distribution of any California Tan Heliotherapy product or any other product or service for use in connection with tanning, 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:

A. Exposure to sunlight or indoor UV radiation prevents or reduces the risk of cancer, including but not limited to colon or breast cancer;

B. Exposure to sunlight or indoor UV radiation lowers blood pressure;

C. Exposure to sunlight or indoor UV radiation has benefits similar to those of exercise, including but not limited to decreased blood pressure or lower heart rate;

D. Exposure to sunlight or indoor UV radiation reduces serum cholesterol;

E. Exposure to indoor UV radiation is an effective treatment for Seasonal Affective Disorder;

F. Exposure to sunlight or indoor UV radiation is an effective treatment for AIDS;

G. Exposure to sunlight or indoor UV radiation enhances the immune system;

H. For the general population, reduced winter sunlight leads to bone disorders such as osteoporosis and osteomalacia and increased exposure to sunlight or indoor UV radiation is necessary to reduce the risk of such disorders; or

I. Exposure to sunlight or indoor UV radiation has any health benefit,

unless, at the time of making such representation, respondents possess and rely upon competent and reliable scientific evidence that substantiates the representation.

III.

It is further ordered, That respondents, California SunCare, Inc., a corporation, its successors and assigns, and its officers, and Donald J. Christal, individually and as an officer of said corporation, and respondents' agents, representatives and employees, directly or through any corporation, subsidiary, division or other device, in connection with the manufacturing, labeling, advertising, promotion, offering for sale, sale, or distribution of any California Tan Heliotherapy product or any other product or service for use in connection with tanning, in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from making any representation, in any manner, directly or by implication:

A. That the use of such product or service prevents or minimizes the negative effects of exposure to sunlight or indoor UV radiation, including but not limited to skin cancer or premature aging;

B. That the use of such product or service will improve users' ability to tan; or

C. Regarding the performance, safety, benefits, or efficacy of such product or service,

unless, at the time of making such representation, respondents possess and rely upon competent and reliable scientific evidence that substantiates the representation.

IV.

It is further ordered, That respondents, California SunCare, Inc., a corporation, its successors and assigns, and its officers, and Donald J. Christal, individually and as an officer of said corporation, and respondents' agents, representatives and employees, directly or through any corporation, subsidiary, division or other device, in connection with the manufacturing, labeling, advertising, promotion, offering for sale, sale, or distribution of any product or service, 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; or

B. That any person, firm, organization, or government agency approves or endorses any such product or service or exposure to sunlight or indoor UV radiation.

V.

It is further ordered, That respondents, California SunCare, Inc., a corporation, its successors and assigns, and its officers, and Donald J. Christal, individually and as an officer of said corporation, and respondents' agents, representatives and employees, directly or through any corporation, subsidiary, division or other device, in connection with the manufacturing, labeling, advertising, promotion, offering for sale, sale, or distribution of any California Tan Heliotherapy product or any other product or service for use in connection with tanning, in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

A. Failing to display, clearly and prominently, in any advertising or promotional material for any such product(s), one or more of which does not contain a sunscreen ingredient providing a minimum of SPF 2, the following disclosure:

CAUTION: Tanning in sunlight or under tanning lamps can cause skin cancer and premature skin aging -- even if you don't burn.

The disclosure requirements set forth in this subparagraph shall terminate at such time as respondents have expended at least one million, five hundred thousand dollars (\$1,500,000) on the dissemination to consumers of advertising and promotional material for the product(s) specified above.

For purposes of this subparagraph "advertising or promotional material" shall include such material that is disseminated to consumers either directly, or indirectly through any purchaser for resale, but shall not include television advertising, billboards, or advertising appearing in any periodical sold only by subscription for which fifty percent (50%) or more of the readership is comprised of tanning or beauty salon professionals. Provided, however, that in the event that respondents have not expended at least one million, five hundred dollars (\$1,500,000) on the dissemination of the advertising and promotional material defined above within two (2) years and six (6) months after the date of service of this order, the exclusions contained in that definition shall terminate and all advertising and promotional material for any such product(s) shall be subject to the disclosure requirements of this subparagraph.

In calculating the amount of expenditures on the dissemination to consumers of the advertising and promotional materials specified above, the costs of distributing, publishing, or broadcasting the advertising and promotional material shall be included, but the costs of developing, designing, creating, or producing the advertising or promotional material (other than printing) shall not be included.

B. Making any representation in any advertising or promotional material for any such product(s), in any manner, directly or by implication, about the safety or any health benefits of exposure to sunlight or indoor UV radiation unless respondents disclose, clearly and prominently, the following:

CAUTION: Tanning in sunlight or under tanning lamps can cause skin cancer and premature skin aging.

For purposes of this subparagraph, "advertising or promotional material" shall include television advertising, billboards, or advertising appearing in any periodical sold only by subscription for which fifty percent (50%) or more of the readership is comprised of tanning or beauty salon professionals, and, once the requirements of subparagraph A above have been satisfied, all other advertising and promotional material.

C. Making any representation on the labeling or package of any such product that does not contain a sunscreen ingredient providing a minimum of SPF 2, in any manner, directly or by implication, about the safety or any health benefits of exposure to sunlight or indoor UV radiation unless respondents disclose, clearly and prominently, the following:

CAUTION: Tanning in sunlight or under tanning lamps can cause skin cancer and premature skin aging.

This product does not contain a sunscreen and does not protect against sunburn.

For purposes of the display of the disclosure or the corrective statement required by this part ("required information"), "clearly and prominently" shall mean as follows:

1. In a television, broadcast, or video advertisement, the required information shall be presented simultaneously in both the audio and video portions of the advertisement. The audio disclosure shall be delivered in a volume and cadence sufficient for an ordinary consumer to hear and comprehend it. The video disclosure shall be of a size and shade, and shall appear on the screen for a duration, sufficient for an ordinary consumer to read and comprehend it.

2. In a radio advertisement, the required information shall be delivered in a volume and cadence sufficient for an ordinary consumer to hear and comprehend it.

3. In a print advertisement or other printed promotional material, the disclosure shall be displayed in a manner sufficient for an ordinary consumer to see and read it, considering factors including but not necessarily limited to type size and style, location, layout, and contrast with the background against which it appears. No other elements in the advertisement including but not necessarily limited to the layout, graphics, other copy, or depictions, shall detract from or obscure the prominence of the disclosure. In multipage documents, the disclosure shall appear on the cover or first page.

4. On product labeling, the required information shall be set out in the same format in which it appears in subparagraph C above, in at least ten (10) point Times New Roman Bold, in a location on the principal display panel that is sufficiently noticeable for an ordinary consumer to read and comprehend it, and in a print that contrasts sharply with the background against which it appears.

5. On a product package, the required information shall be set out in the same format in which it appears in subparagraph C above, in at least twelve (12) point Times New Roman Bold, in a location on the principal display panel that is sufficiently noticeable for an ordinary consumer to read and comprehend it, and in a print that contrasts sharply with the background against which it appears.

Nothing contrary to, inconsistent with, or in mitigation of the required information shall be used in any advertising, promotional material, labeling, or packaging.

VI.

It is further ordered, That respondents, California SunCare, Inc., its successors and assigns, and Donald J. Christal shall:

A. Within thirty (30) days after the date of service of this order, send by first class certified mail, return receipt requested, to each purchaser for resale of any California Tan Heliotherapy product with whom respondents have done business since January 1, 1993, an exact copy of the notice attached hereto as Attachment A. The mailing shall include no other document;

B. In the event that respondents receive any information that subsequent to receipt of Attachment A any purchaser for resale is using or disseminating any advertisement or promotional material that contains any representation prohibited by this order, respondents shall immediately notify the purchaser for resale that respondents will terminate the use of said purchaser for resale if it continues to use such advertisements and promotional materials; and

C. Terminate any purchaser for resale about whom respondents receive any information that such purchaser for resale has continued to use advertisements or promotional materials that contain any representation prohibited by this order after receipt of the notice required by subpart B of this part.

VII.

It is further ordered, That the provisions of this order shall not apply to any label or labeling printed prior to the date of service of this order and shipped by respondents to purchasers for resale prior to one hundred (100) days after service of this order; provided,

however, that any multipage fold-out labels that contain claims that violate Parts I through IV of this order shall be removed from all products in respondents' inventory prior to shipping after the date of service of this order.

VIII.

It is further ordered, That respondents, California SunCare, Inc., its successors and assigns, and Donald J. Christal shall for five (5) years after the last correspondence to which they pertain, maintain and upon request make available to the Federal Trade Commission for inspection and copying:

A. Copies of all notification letters sent to purchasers for resale pursuant to subparagraph A of part VI of this order; and

B. Copies of all communications with purchasers for resale pursuant to subparagraphs B and C of part VI of this order.

IX.

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.

X.

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 or government organizations.

XI.

It is further ordered, That respondent California SunCare, Inc., its successors and assigns, shall:

A. Within thirty (30) days after the date of service of this order, provide a copy of this order to each of respondent's current principals, officers, directors, and managers, and to all personnel, agents, and representatives having sales, advertising, or policy responsibility with respect to the subject matter of this order; and

B. For a period of ten (10) years from the date of service of this order, provide a copy of this order to each of respondent's future principals, officers, directors, and managers, and to all personnel, agents, and representatives having sales, advertising, or policy responsibility with respect to the subject matter of this order within three (3) days after the person assumes his or her position.

XII.

It is further ordered, That respondent Donald J. Christal shall for a period of ten (10) years from the date of service of this order, notify the Commission within thirty (30) days of the discontinuance of his present business or employment and his affiliation with any new business or employment. Each such 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.

XIII.

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

XIV.

This order will terminate on February 11, 2017, or twenty (20) 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 of this order that terminates in less than twenty (20) years;

B. The 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 respondents 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.

XV.

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

ATTACHMENT A

BY CERTIFIED MAIL, RETURN RECEIPT REQUESTED
[To be printed on California SunCare, Inc., letterhead]

[date]

Dear [purchaser for resale]:

This letter is to inform you that California SunCare, Inc. ("California Tan"), recently settled a civil dispute with the Federal Trade Commission ("FTC") regarding certain alleged claims for our Heliotherapy[™] line of skin care products. As part of that settlement, we are required to notify our distributors and others who sell our products to consumers to stop using or distributing any advertisements or promotional materials containing any such claims.

Allegations of the FTC complaint.

The FTC alleged that certain advertisements and promotional materials for California Tan Heliotherapy products made false and/or unsubstantiated claims, expressly or by implication, that tanning as a result of exposure to sunlight or indoor UV radiation:

- * reduces the risk of certain cancers;
- * has cardiovascular benefits, such as lowering blood pressure and serum cholesterol or providing the benefits of exercise;
- * is an effective treatment for Seasonal Affective Disorder and AIDS;
- * enhances the immune system; and
- * reduces the risk of bone disorders for members of the general population.

In addition, according to the FTC's complaint, the advertising and promotional materials made false and/or unsubstantiated claims, expressly or by implication, that:

- * the negative effects of exposure to sunlight or indoor UV radiation, including skin cancer and premature skin aging, are caused only by burning and overexposure and not moderate exposure and tanning;
- * tanning as a result of exposure to sunlight or indoor UV radiation is not harmful to the skin;
- * use of the products prevents or minimizes the negative effects of exposure to sunlight and UV radiation, including skin cancer and premature skin aging;
- * the MAXIMIZER products help users achieve up to 42% better tanning results; and
- * the products that contain VITATAN improve users' ability to tan by up to 67%.

Finally, the complaint charges that advertising and promotional materials falsely represented, expressly or by implication, that scientific studies demonstrate that exposure to sunlight or indoor UV radiation provides the health benefits stated above and that the American Medical Association endorses exposure to sunlight or indoor UV as a medical treatment.

Our settlement with the FTC.

Our settlement with the FTC prohibits us from making the above listed claims for California Tan Heliotherapy products or any other product for use in connection with tanning, unless the claims are supported by competent and reliable evidence. The settlement also requires us to substantiate any claims about the health benefits of exposure to sunlight or indoor UV radiation and the performance and safety of our skin care products for use in connection with tanning. The settlement also precludes us from making misrepresentations about scientific studies or endorsements.

Under the terms of our settlement with the FTC, all of our advertising for tanning products, with the exception of billboards, television advertising, and advertisements in magazines for salon professionals, for a period of time, must contain a disclosure to the effect that tanning without burning, either with tanning lamps or in sunlight, can cause skin injury. Even after that period ends, if in the future we make any claim about the safety or health benefits of exposure to sunlight or indoor UV radiation in our advertising, labeling or packaging, we must disclose that tanning is associated with skin damage.

We deny the FTC's allegations, but in order to avoid protracted litigation we have entered into a settlement agreement with the FTC. As part of that settlement, we have agreed to send this letter. We request your assistance by asking you to discontinue using, relying on or distributing any California Tan advertising or promotional material currently in your possession that makes any of the claims the FTC challenged as listed above. More specifically, we are asking you not to display any California Tan posters, cash register notices, or other materials that contain any of the claims challenged by the FTC and to remove magazines that contain California Tan advertisements that make the challenged claims from places where they may be seen by any of your customers. We are also asking our distributors to notify their retail or wholesale customers who have any California Tan materials that contain any of the challenged claims to discontinue using them as described above. If you continue to use materials that contain any of the challenged claims, we are required by the FTC settlement to stop doing business with you.

Thank you for your assistance. If you have any questions about this letter, please call 1 800 ____.

Sincerely,

Donald J. Christal
President
California SunCare, Inc.

STATEMENT OF COMMISSIONER ROSCOE B. STAREK, III,
CONCURRING IN PART AND DISSENTING IN PART

I have voted to issue the complaint and final consent order against California Suncare, Inc. (CSI) because, for the most part, it provides appropriate relief for the extremely serious misrepresentations alleged in the complaint about the health and safety effects of ultraviolet radiation (UVR) exposure and the benefits and efficacy of the company's tanning products. However, I do not support including the "untriggered" disclosure in Part V.A of the consent order.¹ In my

¹ Part V.A requires CSI to include the following statement in any advertising and promotional materials disseminated directly to consumers or through purchasers for resale (except television advertising, billboards and advertising in magazines sold only by subscription for which half or more of the readership is comprised of tanning or beauty salon professionals): "CAUTION: Tanning in sunlight or under tanning lamps can cause skin cancer and premature aging -- even if you don't burn." This disclosure is applicable to all of respondent's products that contain a sunscreen ingredient providing a sun protection factor (SPF) of less than 2 and must be made until CSI spends \$1.5 million on dissemination. If CSI does not expend this amount within 2½ years after the service of the order, the untriggered disclosure then becomes applicable to all forms of advertising until the required amount is spent.

view this remedy constitutes corrective advertising, and I am not convinced that the evidence here meets the standard for imposing corrective advertising set forth in *Warner-Lambert Co. v. FTC*, 562 F.2d 749, 762 (D.C. Cir. 1977), *cert. denied*, 435 U.S. 950 (1978).

Both the characteristics and the scope of the untriggered disclosure lead me to conclude that it is actually corrective advertising in disguise. The disclosure requirement has certain characteristics usually associated with corrective advertising: it runs until a specific time period expires and a specific sum of money is exhausted, and it must be made regardless of the representations CSI makes about its products. *See, e.g., American Home Products Corp. v. FTC*, 695 F.2d 681, 700 (3d Cir. 1982) ("[A] genuine corrective advertising requirement . . . demand[s] disclosure in future advertisements regardless of the content of those advertisements."). Most significant, however, the scope of the untriggered disclosure far exceeds its rationale. The disclosure must appear in CSI's general advertising as well as in all promotional materials distributed directly to consumers for any tanning product that does not contain a sunscreen with a minimum SPF of 2. Yet the rationale advanced for this untriggered disclosure is that it is necessary to protect prospective purchasers from being misled by future misrepresentations about the effects of UVR exposure, particularly misrepresentations that might occur at "the point of sale" -- the tanning salons where consumers purchase CSI products. I see no reason for the untriggered disclosure to appear in general advertising if the disclosure's true intent is to prevent possible future deception of consumers at the point of sale.

The disparity between the scope of the disclosure and its rationale suggests that its primary purpose is more consistent with corrective advertising than with an affirmative disclosure. The purpose of corrective advertising is to dispel false beliefs in the public mind created or reinforced by a challenged ad that are likely to endure (and thus to influence purchase decisions) even after the ad stops running. In contrast, the purpose of an affirmative disclosure remedy is to prevent deception from future claims like or related to those challenged.² I recognize that the untriggered disclosure might have some impact on potential future deceptive claims about UVR exposure at the point of sale, but it is overbroad for this particular

² It is difficult to draw bright lines between these possible forms of fencing-in relief, and I am not suggesting that the Commission forgo ordering affirmative disclosures in all circumstances in which the disclosures, while targeted primarily at the prevention of deception from future claims, may also incidentally affect a possible lingering public misimpression created by past advertising. This situation is not the case presented here.

purpose, and the need for it seems minimal in light of the extensive other relief provided by the final order.³ Thus, the main purpose of this untriggered disclosure seems to be to ameliorate lingering false beliefs that may have been created or reinforced by CSI's past claims that UVR exposure not only is not harmful but is positively beneficial.

Although both corrective advertising and affirmative disclosures are forms of fencing-in relief that are well within the Commission's remedial authority, the standard for imposing corrective advertising is significantly more stringent than that for an affirmative disclosure. In imposing corrective advertising, the Commission normally relies on extrinsic evidence of the existence of lingering false beliefs created by past advertising. In certain cases, however, it may be possible to presume the existence of such false beliefs based on the nature and extent of the advertising campaign. *Warner-Lambert*, 562 F.2d at 762-63.⁴ An affirmative disclosure remedy, on the other hand, requires only that the disclosure be "reasonably related" to the alleged violations. In my view, it is important to distinguish between corrective advertising and affirmative disclosures because the Commission should not evade the more demanding standard for corrective advertising where it is clearly applicable.

There appears to be little basis for Part V.A of the order when it is viewed as corrective advertising. There is no direct evidence that CSI's ads and sales materials created or contributed to a lingering false impression that UVR exposure through sunlight and tanning has the health and safety benefits represented by the company. Moreover, I am not persuaded that it would be appropriate to presume that the company's message -- that UVR exposure is beneficial -- would endure in light of pervasive messages to the contrary.

³ In addition to prohibiting misrepresentations about the effects of UVR exposure and tanning and unsubstantiated claims about the performance, safety, benefits, or efficacy of products or services used in connection with tanning, the consent order requires two additional affirmative disclosures (Parts V.B and V.C) that are triggered by claims about the safety or health benefits of exposure to sunlight or indoor UVR. The language of these triggered disclosures is similar to that of the untriggered disclosure. The triggered disclosures apply to labeling and packaging --forms of advertising exempted from the untriggered disclosure -- and, after the untriggered disclosure requirement runs out, to all other advertising and promotional material. The order (Part VI) also requires CSI to send a letter to distributors and retailers of the company's tanning products that describes the Commission's enforcement action and advises them to stop using ads and promotional materials that contain any of the representations prohibited by the order or face losing CSI's business.

⁴ See, e.g., *Eggland's Best, Inc.*, Docket No. C-3520 (Aug. 15, 1994) (Statement of Roscoe B. Starek, III).

Statement

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By issuing this consent order against CSI, the Commission comes perilously close to lowering its standard for imposing corrective advertising by erasing the already blurred dividing line between that form of fencing-in relief and affirmative disclosures. Such a change is one that I cannot endorse.

IN THE MATTER OF

TRANS UNION CORPORATION

Docket 9255. Interlocutory Order, Feb. 11, 1997

ORDER DIRECTING GENERAL COUNSEL
TO ENFORCE THIRD-PARTY SUBPOENA

On February 5, 1997, pursuant to Section 3.38(c) of the Commission's Rules of Practice, 16 CFR 3.38(c) (1996), Administrative Law Judge Lewis F. Parker certified to the Commission a motion by Trans Union Corporation ("Trans Union") for enforcement of a third-party subpoena to First National Bank of Omaha ("FNBO"). Judge Parker's certification included a recommendation that the Commission grant the motion. Also before the Commission were the subpoena, the motion to quash, Trans Union's response thereto and the Judge's order denying the motion to quash.

On October 29, 1996, the respondent Trans Union served on FNBO a *subpoena duces tecum* seeking deposition testimony of "a person or persons with knowledge to respond to questions regarding . . . (1) the factors that influence [the bank's] decisions regarding a consumer's eligibility for credit;" and "(2) if and how [the bank] use[s] credit scorer data in [its] decisions regarding credit eligibility." The subpoena directed that documents pertaining to those topics be made available at the deposition.¹

On December 16, 1996, FNBO filed a motion to quash the subpoena, stating that Trans Union "is attempting to use the Subpoena as a means for gaining an advantage in an unrelated multi-million dollar litigation brought by FNBO against Trans Union in the State of Nebraska ('Nebraska Litigation')." Motion at 1. The bank also argued that the subpoena should be quashed because "the discovery sought is obtainable from other sources that are less burdensome and is otherwise overly broad." *Id.* at 5. FNBO contended further that "the information sought by Trans Union is oppressive to FNBO in that it will permit Trans Union to evade a discovery order in the Nebraska Litigation" (*Id.* at 7) and that the subpoena "unnecessarily commands disclosure of confidential information at the heart of FNBO's

¹ Trans Union also served subpoenas seeking similar or identical information from nine other banks. Order Denying Motin To Quash at 1.