

Complaint

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IN THE MATTER OF

WORLD MEDIA T.V., INC.

CONSENT ORDER, ETC., IN REGARD TO ALLEGED VIOLATION OF
SECS. 5 AND 12 OF THE FEDERAL TRADE COMMISSION ACT*Docket C-3717. Complaint, Feb. 25, 1997--Decision, Feb. 25, 1997*

This consent order prohibits, among other things, the California-based advertising production and distribution corporation from making pain relief or pain elimination claims in infomercials for any device without possessing competent and reliable scientific evidence to support such claims and prohibits the respondent from representing that any endorsement or testimonial represents the typical experience with the product, unless the claim is substantiated or it is accompanied by a prominent disclaimer.

Appearances

For the Commission: *Lesley Anne Fair.*

For the respondent: *Edward Glynn, Venable, Baetjer, Howard & Civiletti, Washington, D.C.*

COMPLAINT

The Federal Trade Commission, having reason to believe that World Media T.V., Inc. ("respondent"), a corporation, has violated the provisions of the Federal Trade Commission Act, and it appearing to the Commission that a proceeding by it in respect thereof would be in the public interest, alleges:

PARAGRAPH 1. Respondent is a California corporation, with its principal office or place of business at 5205 Avenidas Encinas, Suite A, Carlsbad, CA. respondent engages in the creation, production, and media placement of advertising, including but not necessarily limited to infomercials.

PAR. 2. Respondent, at all times relevant to this complaint, was an advertising agency, production company, and media buyer for Natural Innovations, Inc. and has directed, participated in, and assisted others in the creation and dissemination to the public of advertisements that offer for sale the Stimulator, a "device" within the meaning of Sections 12 and 15 of the Federal Trade Commission Act. The Stimulator is a purported pain relief device that emits a weak electric spark when activated.

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

PAR. 4. Respondent has prepared and disseminated or has caused to be disseminated advertisements for the Stimulator, including but not necessarily limited to the attached Exhibit A, a transcription of the program-length television commercial, or "infomercial," entitled "Saying No To Pain." This advertisement contain the following statements:

A. LINDA ANTHONY (Consumer Endorser): [My husband] started telling me about [the Stimulator], you know, and I am like having one of the worst headaches because I have an osteoma right up here. That's a non-malignant tumor that's just going to be there forever unless I have it surgically removed. And I get pressure headaches from it. You just feel like your whole head is just going to explode. They get so bad that I can take Darvocets and it doesn't relieve it. You know, I can be taking them for days and it doesn't relieve it. He puts the Stimulator here and here, it's gone within seconds. (Exhibit A, p. 6)

B. RUTH MINARD (Consumer Endorser): I started out with a stomach ache and I had a stomach ache for, oh, a couple, maybe three, months. It was diagnosed through my internist that it was diverticulosis. And so I had heartburn and gas like you wouldn't believe -- 24 hours, all the time. I couldn't believe, after having pain that long, and I had tried everything that I knew to try over the counter, and [the Stimulator] did the trick. I mean, I got results immediately. It's still unbelievable what it did for me. Today I have no stomach ache. (Exhibit A, p. 5)

C. RON HARTLINE (Consumer Endorser): And the lower back, it's unreal how it worked down there. Because, like, my low back on the one side has always bothered me. And I zap it and it's like it relieves it, you know? It's like taking back ten years on my body. This is something that works on me. (Exhibit A, p. 4)

D. DR. GANDEE: I've been using the Stimulator on many people for different problems, like headaches. All they have to do, wherever the pain is, stimulate the head, right around the area of pain. (Exhibit A, p. 6)

E. UNIDENTIFIED WOMAN #5 (Consumer Endorser): That was the biggest surprise to me -- that a little thing like that Stimulator could help that sinus in that day. No hot and cold packs, no bend over and feel like your eyes are going to fall out. (Exhibit A, p. 3)

F. JAMES LARIMORE (Consumer Endorser): [The Stimulator] works for me in the area of the sinus problem. (Exhibit A, p. 3)

G. DR. GANDEE: Sinuses. The Stimulator works very well with sinuses. (Exhibit A, p. 6)

H. RON HARTLINE (Consumer Endorser): It's just aches and pains. Carpal tunnel in the wrist, which I didn't think anything but surgery could take care of that. But [the Stimulator] works real well. I mean it loosens -- it's like instantly -- it loosens up the wrist. (Exhibit A, p. 4)

I. BILL RAMSELL (Consumer Endorser): I had excruciating pain in my knees. And [the Stimulator] was fantastic. I couldn't believe what it did for me. You know, it just felt wonderful. As a matter of fact, I golfed 18 holes yesterday and walked quite a bit and it never bothered me at all. (Exhibit A, p. 5)

J. EVEL KNIEVEL: When I wake up in the morning, my wrist tends to hurt me very badly. When I put [the Stimulator] on and I click it, and use it, say, half a dozen or a dozen times on different parts of my wrist, my wrist begins to feel good. . . . [Friends] know that if I use it after all I've been through and all the things that I've tried to kill pain -- that if I use it and they don't see me taking any kind of a drug for pain -- everybody that knows me knows that I do not take drugs -- and they just absolutely know that if I've got a product and I'm using it to help me, then it must be working for me and you can keep things that do not belong in your system out of your system. (Exhibit A, pp. 7-8)

K. DR. GANDEE: But I'll tell you, when I first saw the Stimulator, I personally needed something in my office to help me. And the reason is the knuckle on the forefinger of my hand hurt so bad for the last two years I thought I was going to have to quit chiropractic. I could not work on my patients the way I wanted to. I had to change techniques. I think, seriously, if I hadn't had the Stimulator, I wouldn't be in chiropractic right now. Or I would've had to cut back dramatically on the patients I was seeing. (Exhibit A, p. 3)

L. KEVIN CULVER (Consumer Endorser): I'm up at the club there and I'm bragging about this thing and that's how I ended up here. I said, "That thing worked." You know, I haven't had any pain since. (Exhibit A, p. 8))

M. RUTH MINARD (Consumer Endorser): I got up this morning and I wasn't feeling very well. My feet were hurting me so bad. And I came to sit down to eat my breakfast and Nan got the zapper and she come and zapped me good. Before I could eat my breakfast, my feet were better. It doesn't take me too long to eat either. (Exhibit A, p. 11)

N. BILL WALTON: I had approximately 30 operations on my feet. I was in physical therapy on a constant basis. I worked with people who practiced all sorts of medicine. Orthopedists at the top. Massage therapist, chiropractors, acupuncture, acupressure, reflexology, tremendous amounts of yoga. You name it, I did it. If you have a life where you sit around and are in pain, you're going to be thinking all day long about the things that cause those pains. One of the things I try to do with my life is help people who are also in that chronic pain. That's why I recommend the Stimulator. So that they can move on and have a productive and happy life. And that smile will return to their face, the way it has to mine. (Exhibit A, p. 9)

O. JAMES LARIMORE (Consumer Endorser): Consequently, I get cramps in the hands, cramps in the arms, shoulders, across the top of the neck, back, lower back. And from crawling in and out, I get it in the knees. It's just, it just goes along with the job. Now I don't have to tolerate it anymore. If I have a cramp in my hand or something like that, I can relieve the cramp within 30 seconds. I use it in the evenings when I'm home after work. I use it on the balls of my feet, around my ankles, knees. (Exhibit A, p. 6)

P. RON HARTLINE (Consumer Endorser): When you do as much lifting like I do -- like a weight lifter -- and your wrists get swelled, your hands get swelled. The swelling in my hands is actually going down. I can't explain that but the swelling in my hands has actually gone down. My watch actually slides now whereas it's always been tight. (Exhibit A, p. 4)

Q. DR. GANDEE: Allergies, the runny eyes, the runny nose. [The Stimulator] really seems like it gives a lot of relief for that. (Exhibit A, p. 6)

R. BILL WALTON: If I had the Stimulator available to me my entire career, I would've had a better career. The short term and long term pain relief that the

Stimulator provides would have helped me -- would have helped me work harder -- would've helped me play better. (Exhibit A, p. 4)

S. DR. GANDEE: You can do it wherever you have pain. The knuckle, your elbow, your shoulder, your knees, your feet, your ankles, your wrist, the calves. It does not matter. And what it does is allows the body to help itself. The Creator put us here with a body that was supposed to be healthy. I believe that and most people believe that. And this Stimulator helps the body help itself. (Exhibit A, p. 4)

T. DR. GANDEE: The Stimulator may sound too good to be true. But it is true. The Stimulator works. It helps your body help itself naturally. What you've seen here are exactly the results that people have gotten. As a matter of fact, if anything, we've understated the relief people get. (Exhibit A, p. 10)

U. UNIDENTIFIED WOMAN #6 (Consumer Endorser): Oh, I think it works much faster than any medication. (Exhibit A, p. 3)

V. LINDA ANTHONY (Consumer Endorser): He puts the Stimulator here and here, it's gone within seconds. The pain is so excruciating and the relief is so wonderful. I mean, it's like no aspirin, no pain medication, no nothing can take that -- give you that instant relief. I mean I'm talking instant. (Exhibit A, p. 6)

W. UNIDENTIFIED MAN #2 (Consumer Endorser): It's always there. It's handy. You don't have to go make a call or set an appointment. It just helps relieve the pain instantly. (Exhibit A, p. 10)

X. JOHN TRIPPE (Consumer Endorser): I've been on Darvocets and other pain killers all this time. Darvocets and Darvons and codeines, Tylenol with codeine. And since I've been introduced to this I haven't used any of it. (Exhibit A, p. 3)

Y. UNIDENTIFIED WOMAN #4 (Consumer Endorser): Some things are addictive. You don't want to -- you end up relying on something that it causes other health problems. And I look for a natural way to deal with any health problems that I have. (Exhibit A, p. 3)

Z. GLEN MATZ (Consumer Endorser): Some of us can't just take aspirin. Some of us just can't take certain medications or anti-inflammatory drugs because they upset our stomach. This, I can relieve that pain and I don't have to swallow anything. (Exhibit A, p. 3)

PAR. 5. Through the use of the statements contained in the advertisements referred to in paragraph four, including but not necessarily limited to the advertisement attached as Exhibit A, respondent has represented, directly or by implication, that:

A. Use of the Stimulator will significantly reduce, relieve, or eliminate musculoskeletal pain, including pain in the back, feet, knees, wrists, knuckles, elbows, shoulders, ankles, joints, and calves; carpal tunnel syndrome; muscle spasms and strains; and sciatica.

B. Use of the Stimulator will significantly reduce, relieve, or eliminate abdominal pain and pain and discomfort caused by allergies, sinus conditions, diverticulosis, cramps, and menstrual cramps.

C. Use of the Stimulator will significantly reduce, relieve, or eliminate the pain caused by severe headaches, including but not limited to occipital, frontal, migraine, cluster, and stress headaches, and headaches caused by benign tumors.

D. The pain relief or pain elimination provided by the Stimulator is immediate.

E. Use of the Stimulator provides long-term pain relief.

F. For the treatment of pain, the Stimulator is as effective as, or more effective than, prescription and over-the-counter medications, including aspirin, acetaminophen, Darvon, Darvocet, and codeine.

G. For the treatment of pain, the Stimulator is as effective as, or more effective than, physical therapy, massage therapy, chiropractic treatment, acupuncture, acupressure, and reflexology.

H. Testimonials from consumers appearing in the advertisements for the Stimulator reflect the typical or ordinary experience of members of the public who have used the product.

PAR. 6. Through the use of the statements contained in the advertisements referred to in paragraph four, including but not necessarily limited to the advertisement attached as Exhibit A, respondent has represented, directly or by implication, that at the time they made the representations set forth in paragraph five, respondent possessed and relied upon a reasonable basis that substantiated such representations.

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

PAR. 8. Respondent knew or should have known that the misrepresentation set forth in paragraph six was, and is, false and misleading.

PAR. 9. The acts and practices of respondent as alleged in this complaint constitute unfair or deceptive acts or practices and the making of false advertisements in or affecting commerce in violation of Sections 5(a) and 12 of the Federal Trade Commission Act.

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EXHIBIT A

**Transcript of Stimulator Infomercial
"Saying No To Pain"**

Super: "The following program is a paid presentation from Natural Innovations, Inc."

Voice-over: The following program is a paid presentation from Natural Innovations.

Voice-over: There are many stringent government regulations involved in selling a pain relief product on television, because some products sold in the past may have been ineffective, built false hope, and in some cases, could have been harmful. This product has not undergone the extensive testing that would allow us to satisfy all of the federal regulations. However, similar products have been in use for years with no record of ill effects; in fact, this concept has been used for centuries for pain relief. We make no medical claim that the Stimulator cures any disease, or does anything other than relieve pain for the people seen on this program. We simply believe that each of you has the right to try a product for yourself, and the opportunity to make your own decision to take active control of your own healthcare choices, including what gives you relief from your pain.

Super: Simultaneous visual scrolling of voice-over.

Depiction: A man jogging with a red highlight pointing to his right ankle. A woman on a telephone in a kitchen rubbing her neck with her left hand.

Bill Walton: Unfortunately I know far too much about pain.

Depiction: A boy throwing a baseball and rubbing his right elbow.

Evel Knievel: You know, you're not talking to someone who fell off of a bar stool.

Depiction: A man rubbing his hands.

I fell off of a motorcycle on pavement going 100 miles per hour.

Depiction: A woman grabbing her lower back in pain.

Unidentified Woman #1: The pain is there.

Depiction: A man playing tennis and grabbing his left elbow after hitting the ball.

And it's going to scream at you. "Don't do that to me."

Lee Meriwether: Pain, pain go away. Stay tuned because you're about to meet a very special doctor who has brought us a key to unlock the grip of pain. And if you know someone who's living with pain, please, I'd like you to take a moment and call them right now. Ask them to join us as we hear some amazing stories from people who have been set free -- free to get on with the business of enjoying life and feeling good. Today, on "Say No to Pain."

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Joe Anthony: If they said that they were never going to be available again and somebody wanted to buy mine, and I couldn't replace it, I wouldn't sell it for \$5,000.

Evel Knievel: I think that this is a better product to use, and you can keep things that do not belong in your system out of your system.

Bill Walton: It's very effective in terms of enabling me to have a better life.

Depiction: Still shots of the people depicted earlier.

Voice-over: Back pains, headaches, joint pain, foot pain. Join Lee Meriwether as she talks with health practitioner Dr. Steven Gandee, NBA all-star player and announcer Bill Walton, special guest star Evel Knievel, and people just like you, whose only special quality is that they're living without pain. Today, on "Say No to Pain."

Depiction: Still shots of Lee Meriwether, Dr. Gandee, Bill Walton, Evel Knievel, and consumer endorsers.

Super: The word "Pain" superimposed on the still shots, followed by the word "No" in large red letters.

Lee Meriwether: Hi, I'm Lee Meriwether. And no matter who you are, what you do, you, me and the rest of world all have something in common. We hurt sometimes. Many of us ignore it, hope it goes away. Or we reach into the medicine cabinet for drugs. Generally, we do whatever we can to live around the pain. But what happens to your life in the meantime? You make sacrifices, don't you? Pain can literally take away our lives.

Unidentified Woman #2: Even like when I pick my child up, and she's ten months old now, when I first had her, it would sometimes cramp a lot. If I'd hold her for a long period of time, like in my elbow area.

Bill Walton: My goal was to get pain free. My goal was to have a life. I had no life.

Unidentified Woman #3: That wasn't me. I was very unhappy because I couldn't function the way I was used to functioning. I just couldn't do the things I was used to doing.

Lee Meriwether: I'd like to introduce a man who has been doing something about pain for almost 20 years.

Depiction: Dr. Gandee examining a patient and presenting a speech.

Dr. Steve Gandee has the largest single doctor practice in Ohio. Over 40,000 office visits a year. Now that puts him in the top one percent in the country. He's the Ohio state representative to the International Chiropractic Association. He's been featured in numerous medical publications as well as his own television series on chiropractic care. His mission has been to help people find a way to say no to pain. Now Dr. Gandee, I know most people seem to do one of two things when they're in pain. They either try to ignore it hoping it will go away. Or, well, unfortunately, they reach into the medicine cabinet.

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- Dr. Gandee: Lee, that's true and that's a shame. People nowadays search and reach for drugs first, instead of trying something different. But fortunately with the Stimulator people can take control of their life, of their pain, of their suffering themselves. People like that. I wish you could follow me around my office one day, just one day, and watch people's attitudes when they can start themselves, like you and I can take control of what we feel, what we want to do, and not go to the drug cabinet. It's great. It's a great feeling, great.
- John Trippe: I've been on Darvocets and other pain killers all this time. Darvocets and Darvons and codeines, Tylenol with codeine. And since I've been introduced to this, I haven't used any of it.
- Unidentified Woman #4: Some things are addictive. You don't want to -- you end up relying on something that it causes other health problems. And I look for a natural way to deal with any health problems that I have.
- Glen Matz: Some of us can't just take aspirin. Some of us just can't take certain medications or anti-inflammatory drugs because they upset our stomach. This, I can relieve the pain and I don't have to swallow anything.
- Lee Meriwether: What these people are talking about is this simple pain-relief device. It's called the Stimulator and it changes the lives of those who use it. You know, Doctor, when I first saw this product, well, and I heard the phenomenal effects it had on people, I thought, how in the world can something so small have such a phenomenal effect on the body?
- Dr. Gandee: I thought the same way. It is small, isn't it? But I'll tell you, when I first saw the Stimulator, I personally needed something in my office to help me. And the reason is the knuckle on the forefinger of my hand hurt so bad for the last two years I thought I was going to have to quit chiropractic. I could not work on my patients the way I wanted to. I had to change techniques. I think, seriously, if I hadn't had the Stimulator, I wouldn't be in chiropractic right now. Or I would've had to cut back dramatically on the patients I was seeing.
- Lee Meriwether: So you used it on yourself?
- Dr. Gandee: I certainly did. About three or four times a day over a period of a week, I have no more pain. And you know what I did? At that point in time, I made a conscious effort that I was going to get this product to society, to America. Not only America, the world.
- Unidentified Woman #5: That was the biggest surprise to me -- that a little thing like that Stimulator could help that sinus in that day. No hot and cold packs, no bend over and feel like your eyes are going to fall out.
- James Larimore: It works for me in the area of the sinus problem. It works for me in the area of the muscle problem.
- Unidentified Woman #6: Oh, I think it works much faster than any medication.

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Linda Anthony: The pain is so excruciating and the relief is so wonderful. I mean, it's like no aspirin, no pain medication, no nothing can take that gives you that instant relief. I mean I'm talking instant.

Bill Ramsell: My wife could tell you, I came home and I felt wonderful. I told her, "I just don't believe it. That little thing there could work a miracle [inaudible]. And it was.

Bill Walton: If I had the Stimulator available to me my entire career, I would've had a better career. The short term and long term pain relief that the Stimulator provides would have helped me -- would have helped me work harder -- would've helped me play better.

Lee Meriwether: Doctor, how does the Stimulator actually create such amazing results?

Dr. Gandee: Very simple. You put the Stimulator up to wherever you hurt, wherever it is. You press in the plunger and a little spark comes out. Feel that?

Lee Meriwether: Oh, yes.

Dr. Gandee: You can do it wherever you have pain. The knuckle, your elbow, your shoulder, your knees, your feet, your ankles, your wrist, the calves. It does not matter. And what it does is allows the body to help itself. The Creator put us here with a body that was supposed to be healthy. I believe that and most people believe that. And this Stimulator helps the body help itself.

Pat Wayne: I just had sacroiliac pain for years and years. And, like I said, I worked for fifteen to 20 years at Goodyear and I had problems with my legs when I worked there and I have never been so relieved since I got this Stimulator.

Glen Matz: At first, I was a little skeptical. Who wasn't? Who wouldn't be? Something clicks and throws a spark, you know, but the darn-- it takes care of pain. Say what you want to. It alleviates pain.

Ron Hartline: My truck driving and my football injuries and whiplash and all the things over years that I've accumulated. It's just aches and pains. Carpal tunnel in the wrist, which I didn't think anything but surgery could take care of that. But this works real well. I mean it loosens -- it's like instantly -- it loosens up the wrist. When you do as much lifting like I do -- like a weight lifter -- and your wrists get swelled, your hands get swelled. The swelling in my hands is actually going down. I can't explain that but the swelling in my hands has actually gone down. My warch actually slides now whereas it's always been tight. In the mornings I'd use it on my knees, like from carrying the concrete, carrying the bricks and standing on a concrete floor all day. It just -- it just seems like it relieves it. And the lower back, it's unreal how it worked down there. Because, like, my low back on the one side has always bothered me. And I zap it and it's like it relieves it, you know? It's like taking back ten years on my body. This is something that works on me. You know, you start getting older and you do the work I'm doing and you get so sore. And pretty soon you're just kind of thinking, "God, how long am I going to be able to do this?" But this is my future. This is my job. This is my money, you know. So, for some silly little thing like this to work this well, I'm hanging on to it. And if it lasts for life I'm in good shape.

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EXHIBIT A

Lee Meriwether: It's obvious the Stimulator works for the people we've seen so far in this program. But I want you to stay tuned because we have a couple of special guests that I'm sure you're going to recognize who really know the meaning of the word pain.

[Break to ordering spot.]

Evel Knievel: You know, you're not talking to someone who fell off of a bar stool. I fell off of a motorcycle on pavement going 100 miles per hour.

Bill Ramsell: I had excruciating pain in my knees. And it was fantastic. I couldn't believe what it did for me. You know, it just felt wonderful. As a matter of fact, I golfed 18 holes yesterday and walked quite a bit and it never bothered me at all.

Super: "Sold nationally \$150.00" with a red "X" through it.

Dr. Gandee: The Stimulator may sound to good to be true, but it is true. The Stimulator works. It helps your body help itself naturally. What you've seen here are exactly the results that people have gotten. As a matter of fact, if anything, we've understated the relief people get. People ask, "Dr. Gandee, if the Stimulator works so well, why doesn't it cost more?" The reason is I want to help as many people as possible get pain relief. This isn't about money. This about helping you feel better. It's that simple. That's how my office works. I'd rather help a lot of people rather than just a few. The Stimulator is self-powered, uses no batteries, is American-made, and comes with a one-year guarantee. And I give you my personal guarantee that if you're not completely satisfied with your Stimulator, you can return it within 30 days for a full refund. You're going to love it.

Voice-over: Order now and receive an instructional video, instruction booklet, carrying pouch, and a copy of Dr. Gandee's newsletter, "Secrets of Health." Credit card orders just four easy payments of \$19.95. Call 1-800-982-2600. Or send check or money order for \$79.80, plus \$8.50 shipping and handling, to the Stimulator, Box 36700, Canton, Ohio 44735.

Depiction: Still shot of the Stimulator, newsletter, carrying pouch, and videotape.

Super: Visual of ordering telephone number and address.

Ruth Minard: I started out with a stomach ache and I had a stomach ache for, oh, a couple, maybe three months. It was diagnosed through my internist that it was diverticulosis. And so I had heartburn and gas like you wouldn't believe - 24 hours, all the time. I couldn't believe, after having pain that long, and I had tried everything that I knew to try over the counter, and it did the trick. I mean, I got results immediately. It's still unbelievable what it did for me. Today I have no stomach ache.

[End of ordering spot.]

Lee Meriwether: Welcome back. If you just joined us, we've been talking about this amazing little device. It's called the Stimulator. And I'm here with Dr. Steven Gandee who's been using the Stimulator to treat his own patients. Now Doctor, has anyone used the Stimulator and not experienced relief from their pain?

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- Dr. Gandee: Nothing works 100% of the time on 100% of the people, unfortunately. But I'll tell you what. I've been using the Stimulator on many people for different problems, like headaches. All they have to do, wherever the pain is, stimulate the head, right around the area of pain. Sinuses. The Stimulator works very well with sinuses. Allergies, the runny eyes, the runny nose. It really seems like it gives a lot of relief for that. Sore, stress areas, from the neck down into the shoulders, knees, elbows. All joint pains. It's amazing.
- James Larimore: I've been a teamster for almost 30 years. And I've been driving antiquated equipment for an awful long time. No power steering, no power brakes. Consequently, I get cramps in the hands, cramps in the arms, shoulders, across the top of the neck, back, lower back. And from crawling in and out, I get it in the knees. It's just, it just goes along with the job. Now I don't have to tolerate it anymore. If I have a cramp in my hand or something like that, I can relieve the cramp within 30 seconds. I use it in the evenings when I'm home after work. I use it on the balls of my feet, around my ankles, knees. And when I go to bed, I hit the lower back and I sleep like a baby. It serves as a pain relief without [inaudible]. And to me that's a plus. If you're the type of person I am, if it works for you, you'll talk about it. I don't see how it works. I don't understand how it works. I don't care how it works -- as long as it works. And if I could have had one of these 20 years ago, I'd have been in a lot less pain for a long time.
- Lee Meriwether: I hadn't really no idea that electricity could be useful in pain prevention.
- Dr. Gandee: Well, it's true. Even the ancient Greeks. Picture this in your mind. The ancient Greeks realized that the body is an electrical system. You know what they did?
- Lee Meriwether: No.
- Dr. Gandee: They put a person in a tub of water and they put eels in the tub of water with them, so they could send electrical current and help the body. That's what they did.
- Glen Matz: I had gone through knee surgery and went through the therapy -- the physical therapy -- and they use elec-- I don't know what words I want to use. What is it, is it electrolysis? Or whatever. But they hooked the wires up to me and I got the same shocking effect. So I really couldn't scoff at the idea because if they use it, why couldn't I use it?
- Linda Anthony: He started telling me about this, you know, and I am like having one of the worst headaches because I have an osteoma right up here. That's a non-malignant tumor that's just going to be there forever unless I have it surgically removed. And I get pressure headaches from it. You just feel like your whole head is just going to explode. They get so bad that I can take Darvocets and it doesn't relieve it. You know, I can be taking them for days and it doesn't relieve it. He puts the Stimulator here and here, it's gone within seconds. The pain is so excruciating and the relief is so wonderful. I mean, it's like no aspirin, no pain medication, no nothing can take that -- give you that instant relief. I mean I'm talking instant. Within minutes, I'm back to working and doing whatever I was doing before. And I don't even realize it. All at once I have to say, "Oh my God, that pain is gone."
- Lee Meriwether: Listening to all these people and their incredible, incredible stories, it seems to be that one would be hard pressed to get the Stimulator away from them.

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Dr. Gandee: When I first started working with the Stimulator, what I actually did is I tried to buy the Stimulator back from a patient.

Lee Meriwether: Really?

Dr. Gandee: And they said, "Well, where I can get another one?" And I said, "Well, you can't. I have to have it back." And they said, "Well, you're not getting it back." Once you have this, and you can use it on yourself, you can take control of your own health to some degree. You can't get it back.

Lee Meriwether: Well, there's at least one man I know that will never give up his Stimulator and he's someone that needs no introduction. A death-defying daredevil who's put millions of us on the edge of our seats. Evel Knievel.

Depiction: Evel Knievel jumping a motorcycle off a ramp.

Evel, it scares me just watching you on tape in all your jumps. Now what has happened to your poor body?

Depiction: Evel Knievel crashing, flying off a motorcycle.

Evel Knievel: I've had fourteen major open reduction operations. That's where they open you up and put a plate in a bone and attach it to another bone so that you can heal. It's an inner cast.

Lee Meriwether: How many bones have you broken?

Evel Knievel: I've broken about 34 or 35. Everybody kids me about how I've broken every bone in my body, but I used to tell them that I've broken every one except my little finger. But the truth is I've only broken about 34 or 35. When you talk about an injury on the football field or when you talk about a person being hurt playing tennis, or baseball, or a rodeo rider falling off a horse into deep soft dirt or cow manure or whatever it is — I'll tell you what pain really is. You get on the hood of a car and when your driver gets to 80 miles per hour, have him blow the horn, you bail off out here on the freeway, you're going to find out what pain is.

Depiction: Evel Knievel crashing.

Dr. Gandee: That's what you did.

Lee Meriwether: Oh, oh, oh.

Evel Knievel: And I have been there. When I wake up in the morning, my wrist tends to hurt me very badly. When I put it on and I click it, and use it, say, half a dozen or a dozen times on different parts of my wrist, my wrist begins to feel good. I also use it on my knees. It does help me feel a lot better and I use it on my ankles. I've broken both of my ankles. It's such a simple thing to use. You don't have to rub it on you. If you have something bothering you and you're out playing golf or no matter what you're doing, if you got it in your pocket, you can pull it out and snap yourself with it three or four times. In fact, I like to use it on the guys when I hit a good shot on the golf course. I pull it out and go

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Depiction: Evel Knievel using the Stimulator several times.

and they say, "What's he got? What is that?" They know that if I use it after all I've been through and all the things that I've tried to kill pain -- that if I use it and they don't see me taking any kind of a drug for pain -- everybody that knows me knows that I do not take drugs -- and they just absolutely know that if I've got a product and I'm using it to help me, then it must be working for me and you can keep things that do not belong in your system out of your system. If you use this product, it will work for you. If you have nothing to lose by trying something and everything to gain if you're successful, then by all means, try it. I hope that people will try it and I hope that I will meet people years from now who say I saw you on TV and thank you for telling me about the Stimulator.

Lee Meriwether: Well, we thank you. Now coming up next, we'll visit with basketball great Bill Walton and more people just like you saying no to pain.

[Break to ordering spot.]

Kevin Culver: Well, being a police officer, I'm extremely skeptical. You can't just walk up to me and say, "Hey, this is going to work" without me having a little knowledge of it. It's gotta work. You've gotta show me it's going to work. And fortunately it did. It saved me a trip to the podiatrist, I know that. I'm up at the club there and I'm bragging about this thing and that's how I ended up here. I said, "That thing worked." You know, I haven't had any pain since.

Depiction: Still shot of the Stimulator, newsletter, carrying pouch, and videotape.

Voice-over: Write down this important number to take advantage of this revolutionary pain relief secret.

Super: "1-800-982-2600"

Order the Stimulator now and receive free Dr. Gandee's instruction booklet and exciting video "Pain Free Today." They give every technique you need to start saying no to pain immediately with the Stimulator. Also receive absolutely free a plush carrying pouch and plus your free issue of Dr. Gandee's exciting newsletter, "Secrets of Health," packed with dynamic ideas and techniques to help you get healthy and stay that way. The Stimulator is sold nationally for over \$150.00. But everyone with pain should be able to afford relief. So for a limited time, we're offering the Stimulator to you for just four easy payments of \$19.95. Take advantage of this special offer and call now.

To order the Stimulator for just four easy payments of \$19.95, have your credit card ready and call 1-800-982-2600. That's 1-800-982-2600. Or send check or money order for \$79.80 plus \$8.50 shipping and handling to The Stimulator, Box 36700, Canton, Ohio 44735. This exclusive TV offer comes with a 30-day money back guarantee. So call 1-800-982-2600. Call now.

Super: Visual of ordering telephone number and address.

[End of ordering spot.]

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- Lee Meriwether: Hello again. During his basketball career, Bill Walton was a dominating center. He's one of the few players to ever win national championships both in college and the pros, and he's also a member of the pro basketball Hall of Fame. But in the world of sports, pain is common. And sometimes greatness comes at a great expense.
- Bill Walton: I was the type of player that by midway through my career, I realized that I was going to leave my game and my health on the basketball court. I had approximately 30 operations on my feet. I was in physical therapy on a constant basis. I worked with people who practiced all sorts of medicine. Orthopedists at the top. Massage therapist, chiropractors, acupuncture, acupressure, reflexology, tremendous amounts of yoga. You name it, I did it. If you have a life where you sit around and are in pain, you're going to be thinking all day long about the things that cause those pains. One of the things that I try to do with my life is help people who are also in that chronic pain. That's why I recommend the Stimulator. So that they can move on and have a productive and happy life. And that smile will return to their face, the way it has to mine.
- Lee Meriwether: Well, there's certainly no question about that. He's definitely a believer. And the Stimulator is making believers out of more people every day.
- Dr. Gandee: Because it's safe, effective, and it works.
- Lee Meriwether: I have to tell you something about the Stimulator that I really think is fantastic. Now I know that I have something that will help alleviate pain with the people that I love.
- Dr. Gandee: I know the feeling of helplessness because I have two children and many times they've awakened me in the middle of the night, crying with pain or hurting or sickness. Now I'm not saying that we should stay away from medical care, of course. But what I am saying is that this feeling of helplessness will no longer be there because you at least have an opportunity to try something yourself to help the family or friends or neighbors.
- Lee Meriwether: Dr. Gandee, I know we only have a few moments left, but is there anything that you'd like to say to our viewers?
- Dr. Gandee: No matter what we've done today, some people are still going to be skeptical. That's just the way human nature is. I can sit here and I can say, well, you should've watched Evel before he even came out here doing himself on his knuckles and his wrist. Remember? Or his knees. And we talked to Bill Walton. And Bill Walton was in pain. And because of [inaudible] surgery [inaudible] had done to his ankles, he couldn't even walk without limping. People can't see that though. All they can see is us up here talking. No matter how skeptical a person is, no matter what they think or what they feel, the only way they're truly going to find out if they can get help and if they can help their family or friends or loved ones to keep from suffering, no matter how much pain they're in, the only thing they can do is try it.
- Lee Meriwether: What we've seen here today is really nothing short of miraculous for those who have used this amazing little power house. People who have literally pushed pain away and started enjoying life once again. Now if you could experience results, powerful results, like you've seen here today, wouldn't it be worth almost anything? Do something now to say no to pain, for yourself or for someone you love.

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Bill Walton: There is no way that I could talk about the positive benefits of this Stimulator if it didn't work for me. I'm into things that work. I'm into winning.

Joe Anthony: It's a minimum investment with maximum results.

Glen Matz: Try it and you'll find out. It's that simple. It does work. And if you don't believe me, do it yourself. Give it a try.

Ruth Minard: Every home needs one.

Unidentified Woman #7: Even that time of month when you get back cramps.

Unidentified Man #1: I think everybody should have one.

Evel Knievel: By all means, try it.

Unidentified Man #2: It's always there. It's handy. You don't have to go make a call or set an appointment. It just helps relieve the pain instantly.

Linda Anthony: No one could take it away from me.

James Larimore: If I could have had one of these 20 years ago, I would've been in a lot less pain for a long time.

Unidentified Man #3: It does work. There's no doubt in mind whatsoever.

Unidentified Woman #7: It always -- every time I use it helps me. Every single time I've used it.

Unidentified Woman #8: I've lived my whole life in pain and it's not worth it. If you have something that will help you, then I'd say go for it.

Bill Walton: Thank God, thank God for the Stimulator.

Dr. Gandee: The Stimulator may sound too good to be true. But it is true. The Stimulator works. It helps your body help itself naturally. What you've seen here are exactly the results that people have gotten. As a matter of fact, if anything, we've understated the relief people get. People ask, "Dr. Gandee, if the Stimulator works so well, why doesn't it cost more?" The reason is I want to help as many people as possible get pain relief. This isn't about money. This is about helping you feel better. It's that simple. That's how my office works. I'd rather help a lot of people than just a few. The Stimulator is self-powered, uses no batteries, is American-made, and comes with a one-year guarantee. And I give you my personal guarantee that if you're not completely satisfied with your Stimulator, you can return it within 30 days for a full refund. You're going to love it.

Depiction: Still shot of the Stimulator, newsletter, carrying pouch, and videotape.

Super: Visual of ordering telephone number and address.

Voice-over: Order now and receive an instructional video, instruction book, carrying pouch, and a copy of Dr. Gandee's newsletter, "Secrets of Health." Credit card orders just four

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easy payments of \$19.95. Call 1-800-982-2600. Or send check or money order for \$79.80, plus \$8.50 shipping and handling, to the Stimulator, Box 36700, Canton, Ohio 44735.

Ruth Minard: I got up this morning and I wasn't feeling very well. My feet were hurting me so bad. And I came to sit down to eat my breakfast and Nan got the zapper and she come and zapped me good. Before I could eat my breakfast, my feet were better. It doesn't take me too long to eat either.

Pat Wayne: If anyone is skeptical of my activator -- I [inaudible] to say Stimulator, but it's my activator -- you can call me.

Voice-over: The preceding program was a paid presentation from Natural Innovations.

Super: "The preceding program was a paid presentation from Natural Innovations, Inc."

DECISION AND ORDER

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

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

The Commission having thereafter considered the matter and having determined that it had reason to believe that the respondent has violated the said Act, and that a complaint should issue stating its charges in that respect, and having thereupon accepted the executed consent agreement and placed such agreement on the public record for a period of sixty (60) days, and having duly considered the comments received, 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 World Media T.V., 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 at 5205 Avenidas Encinas, Suite A, Carlsbad, California.

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

ORDER

I.

It is ordered, That respondent, World Media T.V., Inc., its successors and assigns, and its officers, agents, representatives and employees, directly or through any corporation, subsidiary, division or other device, in connection with the advertising, promotion, offering for sale, sale, or distribution of any device, as "device" is defined in Section 15 of the Federal Trade Commission Act, 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 use of the device will significantly reduce, relieve, or eliminate musculoskeletal pain, including but not limited to pain in the back, feet, knees, wrists, knuckles, elbows, shoulders, ankles, joints, or calves; carpal tunnel syndrome; muscle spasms or strains; or sciatica;

B. That use of the device will significantly reduce, relieve, or eliminate abdominal pain or pain or discomfort caused by allergies, sinus conditions, diverticulosis, cramps, or menstrual cramps;

C. That use of the device will eliminate the pain caused by severe headaches, including but not limited to occipital, frontal, migraine, cluster, or stress headaches, or headaches caused by benign tumors;

D. That the pain relief or pain elimination provided by the device is immediate;

E. That use of the device provides long-term pain relief;

F. That, for the treatment of pain, the device is as effective as, or more effective than, prescription or over-the-counter medications, including but not limited to aspirin, acetaminophen, Darvon, Darvocet, or codeine;

G. That, for the treatment of pain, the device is as effective as, or more effective than, physical therapy, massage therapy, chiropractic treatment, acupuncture, acupressure, or reflexology; or

H. About the efficacy or relative efficacy of the product in reducing, relieving, or eliminating pain from any source;

unless, at the time of making such representation, respondent possesses and relies upon competent and reliable scientific evidence that substantiates the representation. For purposes of this provision, "competent and reliable scientific evidence" shall mean adequate and

well-controlled clinical testing conforming to acceptable designs and protocols and conducted by a person or persons qualified by training and experience to conduct such testing.

Provided that, for any representation that any device is effective for:

- (1) The temporary relief of minor aches and pains due to fatigue and overexertion, or
- (2) Easing and relaxing of tired muscles, or
- (3) The temporary increase of local blood circulation in the area where applied,

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

II.

It is further ordered, That respondent, World Media T.V., Inc, its successors and assigns, and its officers, agents, representatives and employees, directly or through any corporation, subsidiary, division or other device, in connection with the advertising, promotion, offering for sale, sale, or distribution of any product 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, about the health or medical benefits of any such product unless, at the time of making such representation, respondent possesses and relies upon competent and reliable scientific evidence that substantiates the representation. For purposes of this provision, "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 have been conducted and evaluated in an objective manner by persons qualified to do so, using procedures generally accepted in the profession to yield accurate and reliable results.

III.

It is further ordered, That respondent, World Media T.V., Inc., its successors and assigns, and its officers, agents, representatives and employees, directly or through any corporation, subsidiary, division or other device, in connection with the advertising, promotion, offering for sale, sale, or distribution of any product in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from representing, directly or by implication, that any endorsement (as "endorsement" is defined in 16 CFR 255.0(b)) of the product represents the typical or ordinary experience of members of the public who use the product, unless:

A. At the time of making such representation, respondent possesses and relies upon competent and reliable scientific evidence that substantiates such representation, or

B. Respondent discloses, clearly and prominently, and in close proximity to the endorsement or testimonial, either:

(1) What the generally expected results would be for users of such product, or

(2) The limited applicability of the endorser's experience to what consumers may generally expect to achieve, that is, that consumers should not expect to experience similar results.

For purposes of this provision, "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 have been conducted and evaluated in an objective manner by persons qualified to do so, using procedures generally accepted in the profession to yield accurate and reliable results.

IV.

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

V.

It is further ordered, That for five (5) years after the last date of dissemination of any representation covered by this order, respondent, or its successors and assigns, shall maintain and upon request make available to the Federal Trade Commission or its staff 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 for such representation, including but not limited to complaints from consumers and complaints or inquiries from governmental organizations.

VI.

It is further ordered, That respondent shall notify the Commission at least thirty (30) days prior to any proposed change in its corporate structure, including but not limited to dissolution, assignment, or sale resulting in the emergence of a successor corporation, the creation or dissolution of subsidiaries or affiliates, the planned filing of a bankruptcy petition, or any other change in the corporation that may affect compliance obligations arising out of this order.

VII.

It is further ordered, That respondent shall:

A. Within thirty (30) days after service of this order, distribute a copy of this order to each of its operating divisions and to each of its officers, agents, representatives, or employees engaged in the preparation or placement of advertisements or other materials covered by this order.

B. For a period of five (5) years from the date of entry of this order, provide a copy of this order to each of its 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 who are associated with it or any subsidiary, successor, or assign, within ten (10) days after the person assumes his or her position.

VIII.

It is further ordered, That this order will terminate on February 25, 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 in this order that terminates in less than twenty (20) years;

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

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

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

IX.

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

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IN THE MATTER OF

NATURAL INNOVATIONS, INC., ET AL.

CONSENT ORDER, ETC., IN REGARD TO ALLEGED VIOLATION OF
SECS. 5 AND 12 OF THE FEDERAL TRADE COMMISSION ACT*Docket C-3718. Complaint, Feb. 25, 1997--Decision, Feb. 25, 1997*

This consent order prohibits, among other things, the Ohio-based manufacturer and its president from making pain relief or pain elimination claims for their device without possessing competent and reliable scientific evidence to support such claims and prohibits them from representing that any endorsement or testimonial represents the typical experience with their product, unless the claim is substantiated or it is accompanied by a prominent disclaimer.

Appearances

For the Commission: *Lesley Anne Fair*.

For the respondents: *Barry Cutler* and *Julia Oas, McCutchen, Doyle, Brown & Enersen*, Washington, D.C.

COMPLAINT

The Federal Trade Commission, having reason to believe that Natural Innovations, Inc., a corporation, and William S. Gandee, individually and as an officer and director 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 Natural Innovations, Inc. is an Ohio corporation, with its principal office or place of business at 2717 South Arlington Road, Akron, Ohio.

Respondent William S. Gandee is an officer, director, and sole shareholder of Natural Innovations, Inc. Individually or in concert with others, he formulates, directs, and controls the acts and practices of Natural Innovations, Inc., including the acts and practices alleged in this complaint. His principal office or 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 the Stimulator, a "device" within the meaning of Sections 12 and 15 of the Federal Trade Commission