

IN THE MATTER OF

TRENDMARK, INC., ET AL.

CONSENT ORDER, ETC., IN REGARD TO ALLEGED VIOLATION OF
SECS. 5 AND 12 OF THE FEDERAL TRADE COMMISSION ACT*Docket C-3829. Complaint, Sept. 23, 1998--Decision, Sept. 23, 1998*

This consent order prohibits, among other things, the Tennessee-based corporation and its owners from making claims about the health benefits, performance or efficacy of its weight-loss products, called Neuro-Thin and Lipo-Thin, or any food, drug or device without competent and reliable scientific substantiation. The consent order also prohibits the respondents from misrepresenting the existence, result, or interpretation of any test, study, or research, and requires a disclosure concerning the testimonials and endorsements for the products.

Participants

For the Commission: *Ronald Waldman and Michael Bloom.*

For the respondents: *Regina Morrison, Hodges & Hodges,*
Memphis, TN.

COMPLAINT

The Federal Trade Commission, having reason to believe that TrendMark Inc., a corporation, William McCormack, and E. Robert Gates, individually and as officers of the corporation ("respondents"), have violated the provisions of the Federal Trade Commission Act, and it appearing to the Commission that this proceeding is in the public interest, alleges:

1. Respondent TrendMark Inc. ("TrendMark") is a Tennessee corporation with its principal office or place of business at 3665 South Perkins, Suite 8, Memphis, TN.

2. Respondent William McCormack is an owner and officer of respondent TrendMark. Individually or in concert with others, he formulates, directs, or controls the policies, acts, or practices of TrendMark, including the acts or practices alleged in this complaint. His principal office or place of business is the same as that of TrendMark.

3. Respondent E. Robert Gates is an owner and officer of respondent TrendMark. Individually or in concert with others, he

formulates, directs, or controls the policies, acts, or practices of TrendMark, including the acts or practices alleged in this complaint. His principal office or place of business is the same as that of TrendMark.

4. Respondents have manufactured, advertised, labeled, offered for sale, sold, and distributed over-the-counter weight-loss products to the public called "Neuro-Thin™" and "Lipo-Thin™." Neuro-Thin™ and Lipo-Thin™ are "foods" or "drugs," within the meaning of Sections 12 and 15 of the Federal Trade Commission Act.

5. 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.

6. Respondents have disseminated or have caused to be disseminated advertisements, including but not necessarily limited to Exhibit A -- a copy of a bulk e-mail sent to users of America Online-- which, among other things, directs the recipient to click on a hyperlink which takes the recipient directly to TrendMark's website (excerpts from a printout of the website are attached as Exhibit B). These advertisements contain the following statements:

A. **"NEW ALL-NATURAL WEIGHT LOSS PRODUCT, NOW ON THE MARKET!!!"**

If you've heard about the new 'Phen/Fen' Diet, and thought about trying it..... **DON'T!!!**

With the ALL NATURAL 'Thin-Thin Diet', you can achieve the same results, without the dangerous side-effect of Drugs! Eat the foods you want, and **STILL** lose 10-12 pounds per month! Patent Pending Thin-Thin Diet works for you to lose weight and **KEEP IT OFF**.

...

The Thin-Thin Diet Program is a Nutritional Breakthrough Program with a **NO DIET, NO WILL POWER**, easy way to **LOSE UP TO 20 POUNDS PER MONTH** and **KEEP IT OFF!!**"

(Exhibit A)

B. **"Read what a few of the THIN-THIN DIET™ users are saying:**

... 'Because of the THIN-THIN Diet™, I have reached my weight-loss goal and my diabetes is much less of a problem!'

Toni H., Ohio

'After my husband died, I suffered from depression and gained 50 pounds. I tried several diets, but just couldn't lose any of the weight. I've lost 14 pounds already on the THIN-THIN DIET™ and feel great!'

Kay M., Tennessee

NEURO-THIN™ turns your 'hunger switch' off.

...

NEURO-THIN™ help[s] balance the levels of serotonin and dopamine in your brain. The result? Food cravings and hunger pangs are eliminated . . . and . . . you'll be on the way to achieving your goal!

LIPO-THIN™ Features:

- *Absorbs and binds fat.
- *Inhibits LDL cholesterol and boosts HDL cholesterol.
- *Promotes healing of ulcers and lesions.

...

- *Helps prevent irritable bowel syndrome.
- *Reduces levels of uric acid in the blood.

...

- *Correlates with improved cardiovascular health.

LIPO-THIN™ eliminates fat before your body can absorb it.

Forbidden foods that you craved before beginning your **THIN-THIN DIET™** can still be eaten in moderation because the fat they contain is blocked by the chitin fiber found in **LIPO-THIN™**. This remarkable, naturally occurring ingredient acts like a 'fat magnet' or a 'fat sponge' in your digestive tract. It forms a non-digestible gel that binds with fat molecules and prevents their absorption into your body.

...

This program works. The **THIN-THIN DIET™** is based on the latest scientific studies. It stops cravings and blocks fat absorption."

(Exhibit B)

7. Through the means described in paragraph six, respondents have represented, expressly or by implication, that:

- A. Neuro-Thin™ controls appetite.
- B. Taking Neuro-Thin™ and Lipo-Thin™ in combination causes significant weight loss without a change in diet.
- C. Taking Neuro-Thin™ and Lipo-Thin™ in combination causes long-term or permanent weight loss.
- D. Lipo-Thin™ helps prevent the absorption of ingested fat.
Lipo-Thin™ lowers LDL cholesterol and boosts HDL cholesterol.
- F. Lipo-Thin™ promotes healing of ulcers and lesions.
- G. Lipo-Thin™ helps prevent irritable bowel syndrome.
- H. Lipo-Thin™ reduces levels of uric acid in the blood.
- I. Lipo-Thin™ helps improve cardiovascular health.
- J. Testimonials from consumers appearing in advertisements for the Thin-Thin Diet reflect the typical or ordinary experience of members of the public who use Neuro-Thin™ and Lipo-Thin™.

8. Through the means described in paragraph six, respondents have represented, expressly or by implication, that they possessed and relied upon a reasonable basis that substantiated the representations set forth in paragraph seven, at the time the representations were made.

9. In truth and in fact, respondents did not possess and rely upon a reasonable basis that substantiated the representations set forth in paragraph seven, at the time the representations were made. Among other reasons, the purported support which proposed respondents did rely upon for the above claims--studies on individual components of Neuro-Thin™ or Lipo-Thin™-- did not relate adequately to their advertising claims. For example, most of the studies that were submitted by the proposed respondents as support were test tube studies and studies of rats. These studies cannot be used as adequate support for the therapeutic effects of Neuro-Thin™ and Lipo-Thin™ in human beings. Therefore, the representation set forth in paragraph eight was, and is, false or misleading.

10. Through the means described in paragraph six, respondents have represented, expressly or by implication, that scientific studies prove that Neuro-Thin™ and Lipo-Thin™ cause significant weight loss.

11. In truth and in fact, scientific studies do not prove that Neuro-Thin™ and Lipo-Thin™ cause significant weight loss. Therefore, the representation set forth in paragraph ten was, and is, false or misleading.

12. Through the means described in paragraph six, respondents have represented that the statements of Toni Holcomb, John Vaught, and Kay Morton appearing in website advertisements are endorsements of Neuro-Thin™ and Lipo-Thin™. Respondents have failed to disclose adequately that these endorsers have a material connection with individuals and entities marketing and profiting from the sales of Neuro-Thin™ and Lipo-Thin™. At the time of providing their endorsements, Toni Holcomb and John Vaught were the spouses of independent distributors of Neuro-Thin™ and Lipo-Thin™. At the time of providing her endorsement, Kay Morton was an independent distributor of Neuro-Thin™ and Lipo-Thin™. These facts would be material to consumers in their purchase or use decisions regarding Neuro-Thin™ and Lipo-Thin™. The failure to disclose adequately this fact, in light of the representation made, was, and is, a deceptive practice.

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Complaint

13. 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.

Complaint

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EXHIBIT A

Subj: Fwd: New Product Intro / FREE Registration for Dream Vacation
 Date: 97-08-11 14:39:45 EDT
 From: CyberPro36
 To: TrendMk

Rich,

Here's the latest. Doing better????

Dave
 913 321 3508

Forwarded Message:
 Subj: New Product Intro / FREE Registration for Dream Vacation
 Date: 97-08-11 13:57:50 EDT
 From: cyberpro36temp@usa.net (Trend Mark International)
 Reply-to: Hyperlink@below.com
 To: cyberpro36temp@usa.net

**NEW ALL-NATURAL WEIGHT LOSS PRODUCT,
 NOW ON THE MARKET !!!**

If you've heard about the new "Phen/Fen" Diet,
 and thought about trying it..... DON'T!!!

With the ALL NATURAL "Thin-Thin Diet", you can achieve the
 same results, without the dangerous side-effects of Drugs! Eat
 the foods you want, and STILL lose 10-12 pounds per month!
 Patent Pending Thin-Thin Diet works for you to lose weight and
 KEEP IT OFF.

Find out the SECRET to losing weight and keeping it off with the
 Thin-Thin Diet Program! This Weight loss Program is based on
 cutting edge research, revealing how Serotonin and Dopamine
 can help you stop craving and bingeing. Helps you lose weight,
 eliminate fatigue and START FEELING GREAT!

The Thin-Thin Diet Program is a Nutritional Breakthrough
 Program with a NO DIET, NO WILL POWER, easy way to LOSE
 UP TO 20 POUNDS PER MONTH and KEEP IT OFF!!

Works 24 hours a day!!!

 YOU CAN GO DIRECTLY TO OUR WEB SITE BY

CLICKING HERE

AND LEARN ALL ABOUT THE THIN-THIN DIET PROGRAM!!

We diligently remove all who do not wish to receive unsolicited emails.

Monday August 25, 1997 America Online: TrendMk Page: 1

EXHIBIT A

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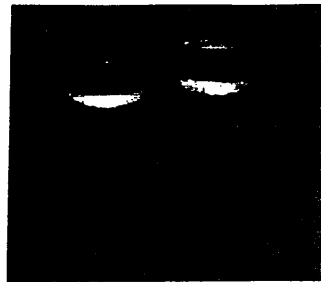
Complaint

EXHIBIT B

Home Page

Page 1 of 4

Thin-Thin Diet™



Congratulations ! You've taken the first step toward losing weight and that's always the hardest. Let me introduce myself. My name is Cort McLeod and I'm the Director of Nutrition for TrendMark International. After 34 years of research, I have finally solved the weight-loss puzzle. Now, a 100-percent safe, non-addictive, weight-loss program is available for you at an affordable price.

Read what a few of the THIN-THIN DIET™ users are saying:

"My diabetes caused my weight to become uncontrollable and I had almost given up hope of ever being able to lose those extra pounds. Because of the THIN-THIN DIET™, I have reached my weight-loss goal and my diabetes is much less of a problem!"

Toni H., Ohio

"I tried a drug diet program but had to quit because of its side effects. Thanks to the Internet, I discovered the THIN-THIN DIET™ and today I'm losing weight and feeling good!"

Bob L., Florida

"Through the years, I've spent a lot of money on various diets. Unfortunately, I never lost the weight. Since using the THIN-THIN DIET™, however, I've lost more than 100 pounds in less

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EXHIBIT B

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EXHIBIT B

Home Page

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than eight months and I feel great!"

Virginia L., Tennessee

"I've always been a big eater. The THIN-THIN DIET™ curbed my appetite almost immediately. If it worked for me, it can work for anybody!"

John V., Texas

"After my husband died, I suffered from depression and gained 50 pounds. I tried several diets, but just couldn't lose any of the weight. I've lost 14 pounds already on the THIN-THIN DIET™ and feel great!"

Kay M., Tennessee

Order

Order now and get **TRIPLE** entries into our **FREE VACATION DRAWING!!**

PRODUCTS

NEURO-THIN™ Features

- *All-natural amino acid and vitamin and mineral formula that restores proper brain chemistry.
- *Unique, 100-percent safe formulation of commonly used ingredients – all pharmaceutical grade, for your peace of mind.
- *Non-addictive – no withdrawal symptoms.
- *Convenient, easy-to-take capsules.
- *Hypoallergenic and contains no sugars, starches, yeast, salt, milk or preservatives.

NEURO-THIN™ turns your "hunger switch" off.

Food cravings originate in your brain when the levels of serotonin and dopamine are out of balance. These chemical neurotransmitters affect your body temperature, metabolic rate and mental state of being. The natural ingredients found in **NEURO-THIN™** help balance the levels of serotonin and dopamine in your brain. The result? Food cravings and hunger pangs are eliminated – without the use of drugs. If you're not hungry, and you don't crave food, you'll be on the way to achieving your goal!



Click on the bottle for the ingredients.

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Complaint

EXHIBIT B

*Louise Dele***LIPO-THIN™ Features**

- *Absorbs and binds fat.
- *Inhibits LDL cholesterol and boosts HDL cholesterol.
- *Promotes healing of ulcers and lesions.
- *Antibacterial.
- *Antacid properties.
- *Helps prevent irritable bowel syndrome.
- *Reduces levels of uric acid in the blood.
- *Functions as non-digestible dietary fiber.
- *Correlates with improved cardiovascular health.

LIPO-THIN™ eliminates fat before your body can absorb it.

Forbidden foods that you craved before beginning your **THIN-THIN DIET™** can still be eaten in moderation because the fat they contain is blocked by the chitin fiber found in **LIPO-THIN™**. This remarkable, naturally occurring ingredient acts like a "fat magnet" or a "fat sponge" in your digestive tract. It forms a non-digestible gel that binds with fat molecules and prevents their absorption into your body.



Click on the bottle for the ingredients.

Vacation Giveaway

Fill out the appropriate surveys below and/or order the **THIN-THIN DIET™** and be entered into our weekly and monthly vacation drawings*.

THIS WEEKS WINNER: To be announced 8/25/97

THIS MONTHS WINNER: To be announced 8/25/97

Weekly prizes consist of 2for1 cruises (\$800 Value)

Monthly prizes consist of 40 Land/Air/Sea Packages (\$10,000 Value)

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EXHIBIT B

Home Page

Page 1 of 1

Order now and get *TRIPLE* entries into our FREE VACATION DRAWING!!

***All winners must be at least 21 years of age at the time the survey/order is submitted.
Verification of age will be required prior to awarding of prize.**

To lose 5-20 pounds click on the target below.



To lose 20 pounds or more click on the target above.

Order

Order now and get *TRIPLE* entries into our FREE VACATION DRAWING!!

This Website designed by: Richard Carnegie

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Complaint

EXHIBIT B

Form One

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☐ Yes ☐

8. I'm afraid of any diet that isn't natural and uses stimulants.

☐ Yes ☐

9. I don't want to lose weight only to gain it back.

☐ Yes ☐

10. If I lost weight and could keep it off, I would tell everyone.

☐ Yes ☐

11. Please let us know how you found out about this website. If one of our representatives sent you here please put the name and/or rep number of that person below:

12. When is the best time for a Weight Management Consultant to contact you?

Did you fill out the form **completely?**Order now and get **TRIPLE** entries into our **FREE VACATION DRAWING!!**

You've seen the power of **NEURO-THIN™** and **LIPO-THIN™**. Now let me tell you six reasons why this is the best weight-loss program available today.

1. **This program works.** The **THIN-THIN DIET™** is based on the latest scientific studies. It stops cravings and blocks fat absorption.

2. **The products are all natural.** This is safe, simple, non-addictive nutrition that uses only the highest quality pharmaceutical-grade ingredients.

3. **We assign you a coach.** We provide the support, **at no cost to you.**

4. **National Support Line.** Another free service to answer questions and provide support.

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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 New York Regional Office 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 attorney, and counsel for the Commission having thereafter executed an agreement containing a consent order, an admission by the respondents of all the jurisdictional facts set forth in the aforesaid draft of 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.a. Respondent TrendMark Inc. ("TrendMark") is a Tennessee corporation with its principal office or place of business at 3665 South Perkins, Suite 8, Memphis, TN.

1.b. Respondent William McCormack is an owner and officer of respondent TrendMark. Individually or in concert with others, he formulates, directs, or controls the policies, acts, or practices of TrendMark, including the acts or practices alleged in this complaint. His principal office or place of business is the same as that of TrendMark.

1.c. Respondent E. Robert Gates is an owner and officer of respondent TrendMark. Individually or in concert with others, he formulates, directs, or controls the policies, acts, or practices of

TrendMark, including the acts or practices alleged in this complaint. His principal office or place of business is the same as that of TrendMark.

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

ORDER

DEFINITIONS

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

1. "*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.

2. "*Clearly and prominently*" shall mean as follows:

A. In an advertisement communicated through an electronic medium (such as television, video, radio, and interactive media such as the Internet and online services), the disclosure shall be presented simultaneously in both the audio and video portions of the advertisement. Provided, however, that in any advertisement presented solely through video or audio means, the disclosure may be made through the same means in which the ad is presented. 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. In addition to the foregoing, in interactive media the disclosure shall also be unavoidable and shall be presented prior to the consumer incurring any financial obligation.

B. In a print advertisement, promotional material, or instructional manual, the disclosure shall be in a type size and location sufficiently noticeable for an ordinary consumer to read and comprehend it, in print that contrasts with the background against which it appears. In multipage documents, the disclosure shall appear on the cover or first page.

C. On a product label, the disclosure shall be in a type size and location on the principal display panel sufficiently noticeable for an ordinary consumer to read and comprehend it, in print that contrasts with the background against which it appears.

The disclosure shall be in all of the languages that are present in the advertisement. Nothing contrary to, inconsistent with, or in mitigation of the disclosure shall be used in any advertisement or on any label.

3. Unless otherwise specified, "*respondents*" shall mean TrendMark Inc., its successors and assigns, and its officers William McCormack and E. Robert Gates, individually and as an officers of TrendMark Corp., and each of the above's agents, representatives, and employees.

4. "*Commerce*" shall mean as defined in Section 4 of the Federal Trade Commission Act, 15 U.S.C. 44.

5. "*Drug*" shall mean as defined in Section 15 of the Federal Trade Commission Act, 15 U.S.C. 55.

6. "*Food*" shall mean as defined in Section 15 of the Federal Trade Commission Act, 15 U.S.C. 55.

I.

It is ordered, That respondents, 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 Neuro-Thin™ and Lipo-Thin™, or any other product or program in or affecting commerce, shall not make any representation, in any manner, expressly or by implication, that:

- A. Such product or program controls appetite;
- B. Such product or program causes significant weight loss without a change in diet;
- C. Such product or program causes long-term or permanent weight loss;
- D. Such product or program prevents or helps prevent the absorption of ingested fat;
- E. Such product or program lowers LDL cholesterol or boosts HDL cholesterol;
- F. Such product or program promotes healing of ulcers or lesions;
- G. Such product or program helps prevent irritable bowel syndrome;

H. Such product or program reduces levels of uric acid in the blood; or

I. Such product or program helps improve cardiovascular health, unless at the time it is made, respondents possess and rely upon competent and reliable scientific evidence that substantiates the representation.

II.

It is further ordered, That respondents, 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 program in or affecting commerce, shall not represent, in any manner, expressly or by implication, that the experience represented by any user testimonial or endorsement of the product represents the typical or ordinary experience of members of the public who use the product, unless:

A. At the time it is made, respondents possess and rely upon competent and reliable scientific evidence that substantiates the representation; or

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

1. What the generally expected results would be for users of the 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 Part, "endorsement" shall mean as defined in 16 CFR 255.0(b).

III.

It is further ordered, That respondents, directly or through any corporation, partnership, subsidiary, division, or other device, in connection with the manufacturing, labeling, advertising, promotion, offering for sale, sale, or distribution of Neuro-Thin™ or Lipo-Thin™, or any other food, dietary supplement, drug, or device, as "food," "drug," and "device" are defined in Section 15 of the Federal Trade Commission Act, in or affecting commerce, shall not make any

representation, in any manner, expressly or by implication, about the health benefits, performance, or efficacy of such product, unless, at the time the representation is made, respondents possess and rely upon competent and reliable scientific evidence that substantiates the representation.

IV.

It is further ordered, That respondents, directly or through any corporation, subsidiary, division, or other device, in connection with the labeling, advertising, promotion, offering for sale, sale, or distribution of any product or program, in or affecting commerce, shall not misrepresent, in any manner, expressly or by implication, the existence, contents, validity, results, conclusions or interpretations of any test, study, or research.

V.

It is further ordered, That respondents, directly or through any corporation, subsidiary, division, or other device, in connection with the labeling, advertising, promotion, offering for sale, sale, or distribution of any product or program, in or affecting commerce, shall disclose, clearly and prominently, a material connection, when one exists, between a person providing an endorsement for any product or program, as "endorsement" is defined in 16 CFR 255.0(b), and any respondent, or any individual or entity labeling, advertising, promoting, offering for sale, selling, or distributing such product or program. For purposes of this Part, "material connection" shall mean any relationship that might materially affect the weight or credibility of the endorsement and would not reasonably be expected by consumers.

VI.

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

VII.

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

VIII.

It is further ordered, That respondent TrendMark, and its successors and assigns, and respondents William McCormack and E. Robert Gates shall, for five (5) years after the last date of dissemination of any representation covered by this order, maintain and upon request make available to the Federal Trade Commission for inspection and copying:

A. All advertisements and promotional materials containing the representation;

B. All materials that were relied upon in disseminating the representation; and

C. All tests, reports, studies, surveys, demonstrations, or other evidence in their possession or control that contradict, qualify, or call into question the representation, or the basis relied upon for the representation, including complaints and other communications with consumers or with governmental or consumer protection organizations.

IX.

It is further ordered, That, for a period of ten (10) years after the date of issuance of this order, respondent TrendMark, and its successors and assigns, and respondents William McCormack and E. Robert Gates shall deliver a copy of this order to all current and future principals, officers, directors, and managers, and to all current and future employees, agents, and representatives having responsibilities with respect to the subject matter of this order, and shall secure from each such person a signed and dated statement acknowledging receipt of the order. Respondents shall deliver this order to current personnel within thirty (30) days after the date of service of this order, and to future personnel within thirty (30) days after the person assumes such position or responsibilities.

X.

It is further ordered, That respondent TrendMark, and its successors and assigns shall notify the Commission at least thirty (30) days prior to any change in the corporation(s) that may affect compliance obligations arising under this order, including but not limited to a dissolution, assignment, sale, merger, or other action that would result in the emergence of a successor corporation; the creation or dissolution of a subsidiary, parent, or affiliate that engages in any acts or practices subject to this order; the proposed filing of a bankruptcy petition; or a change in the corporate name or address. Provided, however, that, with respect to any proposed change in the corporation about which respondents learn less than thirty (30) days prior to the date such action is to take place, respondents shall notify the Commission as soon as is practicable after obtaining such knowledge. All notices required by this Part shall be sent by certified mail to the Associate Director, Division of Enforcement, Bureau of Consumer Protection, Federal Trade Commission, Washington, D.C.

XI.

It is further ordered, That each of respondents William McCormack and E. Robert Gates, for a period of five (5) years after the date of issuance of this order, shall notify the Commission of the discontinuance of his current business or employment, or of his affiliation with any new business or employment. The notice shall include respondent's new business address and telephone number and a description of the nature of the business or employment and his duties and responsibilities. All notices required by this Part shall be sent by certified mail to the Associate Director, Division of Enforcement, Bureau of Consumer Protection, Federal Trade Commission, Washington, D.C.

XII.

It is further ordered, That respondent TrendMark, and its successors and assigns, and respondents William McCormack and E. Robert Gates shall, within sixty (60) days after the date of service of this order, and at such other times as the Federal Trade Commission may require, file with the Commission a report, in writing, setting forth in detail the manner and form in which they have complied with this order.

XIII.

This order will terminate on September 23, 2018, 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 Part 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 Part.

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 Part as though the complaint had never been 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.

Complaint

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IN THE MATTER OF

SOUTH LAKE TAHOE LODGING ASSOCIATION

CONSENT ORDER, ETC., IN REGARD TO ALLEGED VIOLATION OF
SEC. 5 OF THE FEDERAL TRADE COMMISSION ACT*Docket C-3830. Complaint, Oct. 7, 1998--Decision, Oct. 7, 1998*

This consent order prohibits, among other things, the California-based trade association, representing the interest of motel and hotel operators, from participating in, suggesting, or assisting any agreement, combination or conspiracy with its members to restrict the posting of signs advertising the prices at which its individual members offer lodging. The consent order requires the respondent to amend its by-laws to incorporate the provisions of this order and requires the respondent to distribute copies of the amended by-laws to each of its members.

Participants

For the Commission: *David Newman, Jeffrey Klurfeld, Willard Tom, William Baer, Oliver Grawe, and Jonathan Baker.*

For the respondent: *J. Dennis Crabb, Rollston, Henderson, Rasmussen & Crabb, South Lake Tahoe, CA.*

COMPLAINT

Pursuant to the provisions of the Federal Trade Commission Act, as amended, (15 U.S.C. 41, *et seq.*) and by virtue of the authority vested in it by said Act, the Federal Trade Commission, having reason to believe that South Lake Tahoe Lodging Association (hereinafter "respondent") has violated the provisions of Section 5 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, hereby issues this complaint stating its charges as follows:

PARAGRAPH 1. Respondent South Lake Tahoe Lodging Association is a corporation organized, existing and doing business under and by virtue of the laws of the State of California, with its principal place of business located at P.O. Box 5746, South Lake Tahoe, California.

PAR. 2. Respondent is a trade association representing the interests of motel and hotel operators and other operators of lodging