

Complaint

IN THE MATTER OF

SNORE FORMULA, INC., ET AL.CONSENT ORDER, ETC., IN REGARD TO ALLEGED VIOLATIONS OF
SEC. 5 AND SEC. 12 OF THE FEDERAL TRADE COMMISSION ACT

Docket C-4090; File No. 0223247
Complaint, July 24, 2003--Decision, July 24, 2003

This consent order, among other things, requires Respondent Snore Formula, Inc. – and its officers, Respondents Dennis H. Harris, M.D., Ronald General, and Gerald L. "Jerry" Harris, also doing business as KJ Enterprises – to possess and rely upon competent and reliable scientific evidence to substantiate representations that “Dr. Harris' Original Snore Formula” tablets – or any other food, drug, device, service, or dietary supplement – prevents sleep apnea in adult or child users who would otherwise develop sleep apnea; treats sleep apnea; or eliminates, prevents, or reduces snoring. The order also requires Respondent Harris to possess and rely upon competent and reliable scientific evidence – and an actual exercise of his represented expertise – to substantiate representations he makes as an expert endorser. In addition, the order requires the respondents to affirmatively disclose a warning about sleep apnea and the need for consultation with a physician or a specialist in sleep medicine whenever they represent that a product or service that has not been shown to be effective in the treatment of sleep apnea is effective in eliminating, preventing, or reducing snoring. The order also prohibits the respondents from providing to any person or entity “means and instrumentalities” that contain any claim about the benefits, performance, efficacy, or safety of any food, drug, device, service, or dietary supplement – unless such claim is true and substantiated by competent and reliable scientific evidence – and from making false claims about scientific support for any product or service.

Participants

For the Commission: *Jonathan Cowen, Jock Chung, J. Reilly Dolan, and Elaine D. Kolish.*

For the Respondents: *Claude Wild III and James Prochnow, Patton Boggs LLP.*

COMPLAINT

The Federal Trade Commission, having reason to believe that Snore Formula, Inc., a corporation; Dennis H. Harris, M.D.,

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individually and as an officer of Snore Formula, Inc.; Ronald E. General, individually and as an officer of Snore Formula, Inc.; and Gerald L. “Jerry” Harris, an individual, also doing business as KJ Enterprises (“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 Snore Formula, Inc., is an Arizona corporation with its principal office or place of business at 4015 N. 40th Place, Phoenix, AZ 85018.
2. Respondents Dennis H. Harris, M.D., and Ronald E. General are officers of Snore Formula, Inc. Individually or in concert with others, they formulate, direct, or control the policies, acts, or practices of the corporation. Their principal place of business is the same as that of Snore Formula, Inc.
3. Respondent Gerald L. Harris is an individual also doing business as KJ Enterprises. Gerald Harris’ principal office or place of business is 3321 Old Mallard Road, Enid, OK 73703.
4. Individually or in concert with others, respondents Snore Formula, Inc.; Dennis H. Harris, M.D.; and Ronald E. General have formulated, manufactured, labeled, advertised, offered for sale, sold, and distributed products to the public, including Dr. Harris' Original Snore Formula tablets (also called “caplets”). Dr. Harris' Original Snore Formula tablets are "foods" and/or "drugs" within the meaning of Sections 12 and 15 of the Federal Trade Commission Act.
5. Gerald L. Harris is a distributor of Dr. Harris’ Original Snore Formula tablets and is the owner and operator of the <www.snoreformula.com> Website. Individually or in concert with others, he has advertised, offered for sale, sold, and distributed products to the public, including Dr. Harris' Original Snore Formula tablets.
6. The acts and practices of respondents alleged in this complaint

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have been in or affecting commerce, as "commerce" is defined in Section 4 of the Federal Trade Commission Act.

7. To induce consumers and distributors to purchase Dr. Harris' Original Snore Formula Tablets, respondents Snore Formula, Inc.; Dennis H. Harris, M.D.; and Ronald E. General have disseminated or have caused to be disseminated promotional materials, including but not necessarily limited to the attached Exhibits A, B, and C. Distributors, including but not necessarily limited to respondent Gerald L. Harris, have further disseminated or caused to be disseminated these promotional materials. These promotional materials contain the following statements:
 - a. Exhibit A – promotional audio cassette (transcript attached as Exhibit A-1): "‘The True Facts About Snoring’ By Dennis H. Harris, MD"

MALE ANNOUNCER: Welcome to this week's edition of Medical Milestones, the show that brings you information vital to your good health. Our guest this week is Dr. Dennis Harris. Dr. Harris is an expert on snoring. He will be sharing some of the latest information on the causes and treatments for snoring. Exh. A-1 at 3.

DR. DENNIS HARRIS: [Twenty-five] percent of all pre-adolescent children in the United States are snorers.

CHRIS McKAY [HOST]: Twenty-five percent?

DR. DENNIS HARRIS: Yeah. And not only that, with kids it's even worse because they develop these huge tonsils and adenoids and they literally block off the airflow, and most of these kids actually have a condition called sleep apnea, which is a much more serious problem, and we'll talk about it in a little more detail as the show goes on. But it is a big problem and it really does need to be taken care of in kids. Exh. A-1 at 11.

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DR. DENNIS HARRIS: Yeah. So, you can see that more people will join that group of chronic snorers as they age and not only that, what those figures don't show is that very definitely the snoring progressively gets worse as time goes on. Exh. A-1 at 14.

DR. DENNIS HARRIS: Now, the incredible part of that is that, at that point, 20 percent of all those people that are chronic snorers will then go on to progress to a very serious problem called sleep apnea. Exh. A-1 at 15.

DR. DENNIS HARRIS: We used to think in medicine that people developed sleep apnea and that was a separate condition. But like I just pointed out, it is not a separate condition. It is the end result of somebody who first begins to snore progressing all the way through these different stages and ending up with sleep apnea. Exh. A-1 at 16.

CHRIS McKAY: Now, Doctor, we've spent some time here talking about the problem. You actually have come up with a solution, is that correct? Exh. A-1 at 16.

DR. DENNIS HARRIS: [W]e've had about 100,000 people that have used the product. I did -- I did a lot of testing for about two years prior to the time that we put it on the market. I tested it on about 220 patients and, you know, we wanted to see how effective it really was.

CHRIS McKAY: Sure. And the results are?

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DR. DENNIS HARRIS: The results were wonderful. We were hoping that it was maybe going to help 50 percent of the people or so.

CHRIS McKAY: Yeah.

DR. DENNIS HARRIS: In reality, 86 percent of the people that were taking this formula had really good to excellent results.

CHRIS McKAY: Oh, that's fantastic.

DR. DENNIS HARRIS: Yeah. And that's really kind of held up -- we run about 86 to 90 percent of the people that have good results that take it. Exh. A-1 at 20.

CHRIS McKAY: Now, Doctor, will your product help in those instances?

DR. DENNIS HARRIS: What we find is that in the early stages of sleep apnea, we do have a high rate of success. But once it reaches a moderate to severe level, I mean, that really is a structural problem that demands a physical solution to it.

CHRIS McKAY: So, what you're really saying is people have to understand that they need to take care of this early on.

DR. DENNIS HARRIS: That's the good news.

CHRIS McKAY: Okay.

DR. DENNIS HARRIS: That's the good news, exactly. You know, we didn't have good ways to handle snoring for a long period of time, and so, people did go through this progression. But the good news is that you can stop this. You can absolutely stop this progression. Exh. A-1 at 24-25.

DR. DENNIS HARRIS: Anyhow, what are some of the things that really occur? You know, they started gathering more statistics about snoring, and lo and behold, what they started to realize was that there are both short-term and long-term problems, medical problems associated with snoring. For example, the long-term medical problems are a 400 to 500

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percent increase in the level of risk of developing heart attacks, strokes and high blood pressure compared to non-snorers. Exh. A-1 at 26.

DR. DENNIS HARRIS: [T]he good news is we can stop that whole thing from getting to that point.

CHRIS McKAY: That's great. Dr. Harris, you've convinced me. I'm going to put your product to the test and try it myself. I'd encourage my listeners to do the same. What an easy solution. Exh. A-1 at 28.

DR. DENNIS HARRIS: One real parting thought. If you don't carry anything away, if you hear -- if you're a listener and you haven't carried anything away that we've talked about, remember one thing, we have the opportunity now of stopping this progression of snoring, and when you stop it, at that point, the healing power of your body takes over, and eventually, all of these -- all of this damage repairs itself and you get back to normal.

Don't wait. Pick up the phone today, try our product. It is absolutely without risk to you because we have a 100 percent money back guarantee. You have nothing to lose but your snoring.

CHRIS McKAY: You heard it here, first. Again, I encourage anyone who's experiencing snoring to pick up the phone and call Dr. Harris. Exh. A-1 at 28-9.

b. Exhibit B – Brochure: "Dr. Harris' Original Snore Formula"

Dr. Harris' Original Snore Formula

86% of those using this formulation had good to excellent

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results

DANGERS OF SNORING:

- Snorers have a markedly higher risk of developing heart attacks, high blood pressure, or strokes.
- Snoring often produces daytime sleepiness or daytime fatigue.
- Snorers have a much higher rate of automobile accidents than non-snorers.
- Snoring causes sleep disturbances that lead to increased anxiety, hyperirritability decreased memory, and poor concentration.

How Dr. Harris' Original Snore Formula™ Works:

The unique combination of natural enzymes metabolizes the secretions, allowing the body to absorb them. The herbs reduce the tissue swelling. The result is to open the airway, smooth out the airflow and eliminate the snoring.

About Dr. Harris' Original Snore Formula™:

This unique formulation was created by Dennis H. Harris, M.D., a recognized medical expert in the field of snoring. Dr. Harris tested this preparation on 220 subjects. Amazingly, 86% of those using this formulation had good to excellent results.

Snoring is a condition that is associated with serious and potentially life-threatening medical problems. Snorers have a much higher risk of heart attacks, high blood pressure, and strokes. Snoring also produces sleep disturbances in the person snoring and their mate.

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- c. Exhibit C – Brochure: "Dr. Harris' Original SNORE
FORMULA Product Information Booklet"

WHY SHOULD I WORRY ABOUT SNORING?

Although snoring has been the object of jokes and cartoons, medical science has determined that snoring is associated with serious medical conditions. Snorers are known to have a much higher rate of heart attacks, strokes and high blood pressure than non-snorers. The risk of developing these medical problems increases the longer that a person snores and the more severely they snore. Therefore, it is critical that snoring be brought under control and kept under control indefinitely.

CAN I GIVE DR. HARRIS' ORIGINAL SNORE
FORMULA® TO MY CHILD?

Since we no longer remove children's tonsils and adenoids routinely, it is estimated that 20-25% of all children are now chronic snorers. Many of these children also suffer from sleep apnea, a condition in which the person completely stops breathing for up to 30 seconds or more several times each hour. This is a serious medical condition!

Dr. Harris' Original Snore Formula® is being taken by hundreds of children across the country and appears to be quite safe.

HOW EFFECTIVE IS DR. HARRIS' ORIGINAL SNORE
FORMULA®?

Two years of clinical testing by Dennis Harris, MD on 200 chronic snorers produced good to excellent results in 86% of the test subjects taking this formulation.

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Good Housekeeping, in an independent study, demonstrated that the formulation used in Dr. Harris' Original Snore Formula® produced major improvement in the vast majority of test subjects.

8. Respondent Gerald L. Harris has disseminated additional promotional materials, including but not necessarily limited to the <www.snoreformula.com> Website, attached as Exhibit D, that contain statements based upon the promotional materials described in Paragraph 7. These additional promotional materials contain the following statements:

Exhibit D – Website <www.snoreformula.com>

SNORE FORMULA, INC.**KJ Enterprises**

A unique combination of all natural herbs and enzymes that work together to prevent snoring. Statistics have proven that over 40% of the population or 100 million people in the United States are chronic, regular snorers!

DANGERS OF SNORING:

- Snorers have a markedly higher risk of developing heart attacks, high blood pressure, or strokes.
- Snorers have a 300% higher risk of becoming involved in an automobile accident.
- Snorers have a 400% to 500% higher risk of daytime fatigue.
- Snoring causes sleep apnea, a serious medical condition, in 20% of all chronic snorers
- 25% of all preadolescent children are chronic snorers, and most of these have some form of sleep apnea, a serious medical condition.
- Snoring causes sleep disturbances that lead to increased

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anxiety, hyperirritability, decreased memory and poor concentration.

This unique formulation was created by Dennis H. Harris, MD, a recognized medical expert in the field of snoring. Dr. Harris tested this preparation on 220 subjects. Amazingly, 86% of those using this formulation had good to excellent results.

Good Housekeeping magazine also performed an independent study that demonstrated a marked improvement in the vast majority of users. **Over 150,000 people have used the product over the past 36 months with good results.**

9. Through the means described in Paragraph 7, respondents have represented, expressly or by implication, that:
 - a. Dr. Harris' Original Snore Formula tablets prevent sleep apnea in adult and child users of the product who would otherwise develop sleep apnea;
 - b. Dr. Harris' Original Snore Formula tablets treat the "early stages" of sleep apnea; and
 - c. Dr. Harris' Original Snore Formula tablets eliminate, prevent, or significantly reduce snoring in users of the product.
10. Through the means described in Paragraph 7, respondents have represented, expressly or by implication, that they possessed and relied upon a reasonable basis that substantiated the representations set forth in Paragraph 9, at the time the representations were made.
11. In truth and in fact, respondents did not possess and rely upon a reasonable basis that substantiated the representations set forth in Paragraph 9, at the time the representations were made. Therefore, the representation set forth in Paragraph 10 was, and is, false or misleading.

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12. Through the means described in Paragraph 8, respondent Gerald L. Harris has, expressly or by implication, further made the representations set forth in Paragraph 9.
13. Through the means described in Paragraph 8, respondent Gerald L. Harris has further represented, expressly or by implication, that he possessed and relied upon a reasonable basis that substantiated the representations set forth in Paragraph 9, at the time the representations were made.
14. In truth and in fact, respondent Gerald L. Harris did not possess and rely upon a reasonable basis that substantiated the representations set forth in Paragraph 9, at the time the representations were made. Therefore, the representation set forth in Paragraph 13 was, and is, false or misleading.
15. In their advertising and sale of Dr. Harris' Original Snore Formula tablets, respondents have made the representations set forth in Paragraph 9 while failing to disclose or disclose adequately that persons who have symptoms of sleep apnea should consult a physician because sleep apnea is a potentially life-threatening condition. These facts would be material to consumers in their purchase or use of the product. The failure to disclose adequately these facts, in light of the representations made, was, and is, a deceptive practice.
16. Through the means described in Paragraph 7, respondents have represented, expressly or by implication, that scientific testing demonstrates that Dr. Harris' Original Snore Formula tablets eliminate, prevent, or significantly reduce snoring in 86% of users. Through the means described in Paragraph 8, respondent Gerald L. Harris has, expressly or by implication, further made this representation.
17. In truth and in fact, scientific testing does not demonstrate that Dr. Harris' Original Snore Formula tablets eliminate, prevent, or significantly reduce snoring in 86% of users.

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Therefore, the representation set forth in Paragraph 16 was, and is, false or misleading.

18. Through the means described in Paragraph 7, respondents Snore Formula, Inc., Dennis H. Harris, M.D., and Ronald E. General have provided means and instrumentalities to distributors of Dr. Harris' Original Snore Formula tablets, including but not necessarily limited to Gerald L. Harris, to engage in deceptive acts or practices, including the dissemination of the statements set forth in Paragraphs 7 and 8.
19. Respondent Dennis H. Harris, M.D., has made statements as an expert endorser for Dr. Harris' Original Snore Formula tablets, including but not necessarily limited to statements made in the promotional audio cassette attached as Exhibit A (transcribed as Exhibit A-1). These statements include those set forth in Paragraph 7.A.
20. Through the means described in Paragraph 19, respondent Dennis H. Harris, M.D., has represented, directly or by implication, that at the time he made the representations set forth in Paragraph 9, he possessed and relied upon a reasonable basis for such representations, consisting of the actual exercise of his represented expertise in snoring treatment, in the form of an examination or testing of Dr. Harris' Original Snore Formula tablets at least as extensive as an expert in the field would normally conduct in order to support the conclusions presented in the endorsement.
21. In truth and in fact, at the time he made the representations set forth in Paragraph 9, respondent Dennis H. Harris, M.D., did not possess and rely upon a reasonable basis for such representations. Therefore, the representation set forth in Paragraph 20 was, and is, false and misleading.
22. The acts and practices of respondents as alleged in this complaint constitute unfair or deceptive acts or practices,

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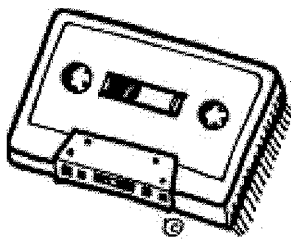
and the making of false advertisements, in or affecting commerce in violation of Sections 5(a) and 12 of the Federal Trade Commission Act.

THEREFORE, the Federal Trade Commission this twenty-fourth day of July, 2003, has issued this complaint against respondents.

By the Commission.

Exhibit A

Audiocassette Tape: "The True Facts About Snoring" by
Dennis H. Harris, M.D.



OFFICIAL TRANSCRIPT PROCEEDING

FEDERAL TRADE COMMISSION

MATTER NO. P014205

TITLE SNORING AIDS/SLEEPING APNEA

**DATE RECORDED: DATE UNKNOWN
TRANSCRIBED: FEBRUARY 11, 2002**

PAGES 1 THROUGH 30

**THE TRUE FACTS ABOUT SNORING
BY DENNIS H. HARRIS, M.D.
SNORE FORMULA, INC.
TO ORDER, CALL 1-800-442-7436**

**FOR THE RECORD, INC.
603 POST OFFICE ROAD, SUITE 309
WALDORF, MARYLAND 20602
(301)870-8025**

FEDERAL TRADE COMMISSION

I N D E XAUDIOTAPE:PAGE:

The True Facts About Snoring

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FEDERAL TRADE COMMISSION

In the Matter of:)
Snoring Aids/Sleeping Apnea) Matter No. P014205

)

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Date Unknown

The following transcript was produced from a
live tape provided to For The Record, Inc. on February 8,
2002.

For The Record, Inc.
Waldorf, Maryland
(301) 870-8025

P R O C E E D I N G S

THE TRUE FACTS ABOUT SNORING

(Music playing.)

MALE ANNOUNCER: Welcome to this week's edition of Medical Milestones, the show that brings you information vital to your good health. Our guest this week is Dr. Dennis Harris. Dr. Harris is an expert on snoring. He will be sharing some of the latest information on the causes and treatments for snoring.

And now, here's our host, Chris McKay.

CHRIS MCKAY: Welcome to the program. Did you toss and turn last night because your partner has that irritating habit? If so, you'll want to stay tuned. Whether you were the perpetrator or the victim, you should know that you're not alone.

Millions and millions of Americans are affected by snoring. That's why I asked Dr. Dennis Harris to join us today. Dr. Harris will tell us why we snore, and better yet, what we can do to stop it. Dr. Harris is a graduate of Ohio State University and performed a rotating internship at Grant Hospital in Columbus. He also established the Department of Physical Medicine and Rehabilitation at Scottsdale Memorial Hospital.

Dr. Harris, thanks for joining us today.

For The Record, Inc.
Waldorf, Maryland
(301) 870-8025

1 DR. DENNIS HARRIS: Well, good morning, Chris.
2 I'm delighted to be here.

3 CHRIS MCKAY: Doctor, why do people snore?

4 DR. DENNIS HARRIS: Well, snoring is really
5 kind of fun to describe because people can actually
6 visualize the process when I talk about it. If you get
7 this mental image of the column of air that we bring in
8 along the back of the nose and throat when we breathe, if
9 that goes down smoothly, then, of course, there's no
10 snoring and no problem.

11 On the other hand, if that column of air hits
12 any little partial obstruction along the way, then that
13 airflow becomes turbulent and that disturbed air begins
14 to vibrate those soft tissues that lie in the back of the
15 throat.

16 CHRIS MCKAY: Hmm.

17 DR. DENNIS HARRIS: And then you get (making
18 snoring sound).

19 CHRIS MCKAY: (Laughter).

20 DR. DENNIS HARRIS: Or the noise we not so
21 fondly know as snoring in some cases. You know, it's
22 only in the last few years that we really have started to
23 understand what causes that little partial obstruction.
24 And now we know that in about 90 percent of all of the
25 people who are chronic snorers, that partial obstruction

1 is caused by the nightly accumulation of a lot of
2 respiratory secretions that end up coming up from the
3 lungs and the bronchi and coming down from the sinus
4 cavity and the nasal cavity, and guess where they end up,
5 in the back of the throat.

6 CHRIS MCKAY: Hmm.

7 DR. DENNIS HARRIS: Not only does that cause
8 this mass of secretions that can, by itself, cause a
9 little partial obstruction to the airflow, but in
10 addition to that, what happens is that it irritates the
11 tissues, they become swollen and congested and that
12 narrows down the airway, and that makes the problem occur
13 a whole lot easier.

14 CHRIS MCKAY: You know, Doc, that makes a lot
15 of sense because I've noticed lately that if I fall
16 asleep on my back in the middle of the night, my wife
17 will nudge me and tell me I'm snoring, and I don't really
18 consider myself a snorer.

19 DR. DENNIS HARRIS: Gee, I've got to tell you,
20 you're a brave guy admitting that you snore on the radio.

21 CHRIS MCKAY: (Laughter). I know it, I know
22 it. My friends will never let it down now. (Laughter).

23 DR. DENNIS HARRIS: (Laughter). Well, you
24 know, I've got to tell you, you're not alone, Chris. We
25 keep revising our figures all the time and I have to tell

1 you that our new figures show that up to 40 percent of
2 the entire population are chronic regular snorers. I
3 mean, stop and think about that.

4 CHRIS McKAY: Wow.

5 DR. DENNIS HARRIS: Right, yeah. This is
6 absolutely incredible. That means that two out of every
7 five people that walk down the street are snorers or 100
8 million people in the United States alone.

9 CHRIS McKAY: That's unbelievable.

10 DR. DENNIS HARRIS: Absolutely incredible.

11 CHRIS McKAY: Wow. You know, the -- I know
12 you've done a ton of research in this area, Doctor. What
13 really got you involved, were you a snorer?

14 DR. DENNIS HARRIS: Well, no, I was never a
15 snorer fortunately, but I've got to tell you, not only is
16 my wife a snorer, but I have a daughter, who's now 12,
17 who has been an unbelievable snorer for years.

18 CHRIS McKAY: . (Laughter).

19 DR. DENNIS HARRIS: I mean, this kid, you can
20 hear her through the entire house, through the walls,
21 through the doors, nothing matters.

22 CHRIS McKAY: Wow, really sawing the wood, huh?

23 DR. DENNIS HARRIS: Oh, like you wouldn't
24 believe.

25 CHRIS McKAY: (Laughter). You know, we often

1 joke around about this stuff, but it really isn't a
2 joking matter, is it?

3 DR. DENNIS HARRIS: Oh, no, no. It's not a
4 joking matter at all. I mean, yes, you're right, it's
5 been the subject of a lot of cartoons. You know, through
6 all the years that I've been working with snoring, I
7 still have this little image in one corner of my mind of
8 Dagwood Bumstead lying on his side on the couch with the
9 Zs coming up.

10 CHRIS MCKAY: Right, right.

11 DR. DENNIS HARRIS: So, we always do think
12 about it from the funny side. But I've got to tell you,
13 it is really an absolutely incredible problem. And that
14 problem can be unbelievable in families.

15 CHRIS MCKAY: Oh, yeah, yeah.

16 DR. DENNIS HARRIS: Because this is a
17 significant social problem and much more than people ever
18 realized before. Stop and think about something. You
19 know, I literally talk to people every day about snoring
20 and I talk to families and couples from all over. I talk
21 to thousands of couples every year that have not been
22 able to stay together in the same room with their mate
23 for sometimes anywhere up to five years or even more than
24 that.

25 Well, what happens in relationships -- you

1 know, we live in such a tense time anyway.

2 CHRIS McKAY: Sure.

3 DR. DENNIS HARRIS: So, relationships are kind
4 of tough.

5 CHRIS McKAY: Right.

6 DR. DENNIS HARRIS: But, you know, when do we
7 really repair our relationships from all the stresses of
8 normal life is at night.

9 CHRIS McKAY: Absolutely.

10 DR. DENNIS HARRIS: And, you know, that's when
11 we hold our mate, that's when we touch, when we talk
12 about the little things that bring us closer. It's when
13 we make love. All these things are a little hard to do
14 when you're three doors down the hall.

15 CHRIS McKAY: (Laughter). Yeah, that's very
16 true. Very true.

17 DR. DENNIS HARRIS: You know, I've always known
18 it was a problem because of dealing with couples and with
19 people who snore. But something really focused this in.
20 About two months ago there was an article that appeared
21 in the popular press that talked about a survey that was
22 done of all the divorces in the country in 1995. You
23 know, we have about six million divorces in the country.

24 CHRIS McKAY: Yeah.

25 DR. DENNIS HARRIS: Every year. So, what they

1 did was to go through all the applications to find out
2 what the causes were. Amazingly enough, in 2 percent of
3 all the divorce applications, the main cause of the
4 divorce was listed as snoring.

5 CHRIS MCKAY: No.

6 DR. DENNIS HARRIS: Absolutely blew me away.

7 CHRIS MCKAY: Really?

8 DR. DENNIS HARRIS: Yeah, really. And, you
9 know, stop and think about this, this is unbelievable. I
10 mean, this is in one year, 120,000 divorces occur.
11 That's 120,000 marriages wiped out because of snoring in
12 one year. And if that was what was listed as the main
13 cause in all those, in how many others was it a
14 contributing cause or in how many others was it not
15 listed because it wasn't an acceptable reason for divorce
16 in that state?

17 CHRIS MCKAY: Well, you raise a good point.

18 DR. DENNIS HARRIS: I mean, it's just
19 absolutely unreal.

20 CHRIS MCKAY: Wow. Wow. You know, the -- but
21 I'll tell you, I experienced firsthand exactly what
22 you're talking about. And I'll tell you, the first time
23 that, you know, I stayed with my wife in her parents'
24 home, I was amazed -- I was actually awakened in the
25 middle of the night by her younger brother. And, Doc, I

1 got to tell you, it was unbelievable. He was snoring so
2 loud, and he was two rooms down. And I can't even
3 imagine having to stay there every night and listen to
4 that.

5 DR. DENNIS HARRIS: Hey, I'll tell you what,
6 you know, you bring up a real good point, Chris, because
7 you were talking about her younger brother, and I have to
8 tell you, we think of people that snore as being older
9 and maybe overweight and, you know, having a six-pack of
10 beer every night --

11 CHRIS MCKAY: Right.

12 DR. DENNIS HARRIS: -- and all that type of
13 thing.

14 CHRIS MCKAY: Exactly.

15 DR. DENNIS HARRIS: But, you know, that is a
16 stereotype that is really not true. I mean, first of
17 all, younger people snore. Second of all, thin people
18 snore. We always think of this being a guy type of
19 thing. Well, that's not totally true. You know, we talk
20 about 100 million people in the United States being
21 snorers.

22 CHRIS MCKAY: Right.

23 DR. DENNIS HARRIS: Well, guess what, 60
24 percent of those are men, but 40 percent are women.

25 CHRIS MCKAY: Really? That many women?

1 DR. DENNIS HARRIS: Yeah. I mean, that's 40
2 million women that are snorers in the United States.

3 CHRIS McKAY: Now, see, I wouldn't have thought
4 that. I thought this was mostly a male thing.

5 DR. DENNIS HARRIS: Yeah, I think that most
6 people feel the way -- the way that you did. That's one
7 of the reasons I like to bring this out. The other point
8 that you brought out was a real good one, about kids,
9 because in the old days, we used to take out their
10 tonsils and adenoids all the time. Now, we don't do that
11 and because of that, 25 percent of all pre-adolescent
12 children in the United States are snorers.

13 CHRIS McKAY: Twenty-five percent?

14 DR. DENNIS HARRIS: Yeah. And not only that,
15 with kids it's even worse because they develop these huge
16 tonsils and adenoids and they literally block off the
17 airflow, and most of these kids actually have a condition
18 called sleep apnea, which is a much more serious problem,
19 and we'll talk about that in a little more detail as the
20 show goes on.

21 But it is a big problem and it really does need
22 to be taken care of in kids.

23 CHRIS McKAY: Wow. I didn't realize that
24 either.

25 DR. DENNIS HARRIS: Um-hum.

1 CHRIS MCKAY: (Laughter).

2 DR. DENNIS HARRIS: Hey, listen, we're going to
3 bring out all kinds of incredible things during this show
4 that your listeners have never been aware of before.

5 CHRIS MCKAY: Well, that's great. That's
6 exactly why we booked you for this show, Doctor.

7 DR. DENNIS HARRIS: (Laughter).

8 CHRIS MCKAY: We know that you have all kinds
9 of information that we may or may not want to hear.

10 DR. DENNIS HARRIS: Well, there are some bad
11 news things, but we've got some good news things, too

12 CHRIS MCKAY: Well, Doctor, I'm going to
13 interrupt you right there for just a minute. We're going
14 to have to take a break and we're going to come back with
15 some good news from Dr. Dennis Harris right after this
16 break.

17 (Brief pause.)

18 CHRIS MCKAY: And we're back. Before the
19 break, we talked a little bit about the difference
20 between men and women. Men do snore more than women, but
21 a lot of women snore, and it can be a problem for
22 youngsters, too. Most of the time, as we get older, it
23 becomes more of a problem.

24 Dr. Dennis Harris is with us today and we
25 talked about, and Dr. Harris has addressed, what causes

1 many of us to snore. And now, we're going to talk about
2 some good news out there that can help. Before the
3 break, again, we had mentioned a little bit about the
4 number of people that snore and the difference between
5 men and women.

6 Doctor, you touched on an interesting thought
7 in that I really thought it was only older people that
8 were affected.

9 DR. DENNIS HARRIS: You know, you bring up a
10 very good point. We do tend to snore more and more
11 people snore the older we get. Let me give you an
12 example, though. If you took a group of 100 people, 50
13 men and 50 women, that were age 20, 20 years old, and you
14 assessed all of them, what you would really find
15 typically is that 5 percent of women were chronic snorers
16 and 29 percent of the men were chronic snorers. So,
17 there's a big difference at that age.

18 CHRIS McKAY: So, there's definitely more men.

19 DR. DENNIS HARRIS: Right. By a long ways. As
20 you follow that group up to age 50, by that age, 40
21 percent of all of the women will now be chronic snorers
22 and 60 percent of all the men will be chronic snorers,
23 and by age 70, 70 percent of both sexes will be chronic
24 regular snorers.

25 CHRIS McKAY: Wow.

1 DR. DENNIS HARRIS: Yeah. So, you can see that
2 more people will join that group of chronic snorers as
3 they age and not only that, what those figures don't show
4 is that very definitely the snoring progressively gets
5 worse as time goes on.

6 CHRIS MCKAY: So, there is -- that's what I was
7 just going to ask you. There's a progression then to
8 snoring.

9 DR. DENNIS HARRIS: Oh, yeah, no question about
10 it. You know, we used to think -- that's a major point
11 that I want to bring out. We used to think that there
12 were a lot of different kinds of snorers. For example,
13 Chris, you talked earlier in the show about the fact that
14 you snore on and off, you know.

15 CHRIS MCKAY: Right.

16 DR. DENNIS HARRIS: And usually just on your
17 back.

18 CHRIS MCKAY: Right.

19 DR. DENNIS HARRIS: But let me tell you, you
20 are an amateur. (Laughter).

21 CHRIS MCKAY: (Laughter).

22 DR. DENNIS HARRIS: You're a beginning snorer.

23 CHRIS MCKAY: Okay. (Laughter).

24 DR. DENNIS HARRIS: And typically, that is the
25 way people start to snore. They typically snore only

1 occasionally, usually on their backs and usually with
2 their mouth open and the snoring is kind of mild to
3 moderate.

4 CHRIS MCKAY: Um-hum.

5 DR. DENNIS HARRIS: There are times when it
6 gets a little worse. But most of the time it's mild to
7 moderate. Well, snoring is kind of like playing the
8 violin, you know, the more you practice, the better you
9 get.

10 CHRIS MCKAY: (Laughter).

11 DR. DENNIS HARRIS: (Laughter). And sure
12 enough, as time goes on, that individual will begin to
13 snore more nights out of a week, the time during each
14 night that that person will snore will become longer. It
15 will become louder, and eventually, that person will be
16 able to snore in any position.

17 CHRIS MCKAY: (Laughter).

18 DR. DENNIS HARRIS: Yeah. I mean, even on
19 their stomach, no question. Now, the incredible part of
20 that is that, at that point, 20 percent of all those
21 people that are chronic snorers will then go on to
22 progress to a very serious problem called sleep apnea.

23 CHRIS MCKAY: Now, I've heard of this. As a
24 matter of fact, a friend of mine has this.

25 DR. DENNIS HARRIS: Oh, yeah, it's a very, very

1 serious medical problem, and it's been recognized in that
2 regard for many, many years. It is, for your listeners
3 who aren't familiar with it, it is the condition in which
4 the snorer actually stops breathing for periods of
5 anywhere from 10 or 15 seconds all the way up to even a
6 minute or more, and does it many times every hour.

7 CHRIS MCKAY: And this is very scary. This is
8 a serious, serious problem.

9 DR. DENNIS HARRIS: When you said scary, it's
10 not only scary for the person, but stop and think of the
11 person's mate. I mean, I have talked to men or women who
12 literally stay up almost the entire night because every
13 time their mate stops breathing, they are absolutely
14 scared to death that they won't start again.

15 We used to think in medicine that people
16 developed sleep apnea and that was a separate condition.
17 But like I just pointed out, it is not a separate
18 condition, it is the end result of somebody who first
19 begins to snore progressing all the way through these
20 different stages and ending up with sleep apnea.

21 CHRIS MCKAY: Yeah (inaudible).

22 DR. DENNIS HARRIS: Yeah.

23 CHRIS MCKAY: Now, Doctor, we've spent some
24 time here talking about the problem. You actually have
25 come up with a solution, is that correct? You've created

1 a product that can help with snoring?

2 DR. DENNIS HARRIS: I have, and it has this
3 very unique name. It's called Dr. Harris' Snore Formula.
4 (Laughter).

5 CHRIS MCKAY: (Laughter). Imagine that.

6 DR. DENNIS HARRIS: It took a whole crew to
7 figure this one out. (Laughter).

8 CHRIS MCKAY: (Laughter).

9 DR. DENNIS HARRIS: Anyway, it's really neat.
10 It -- not because I created the product, but because of a
11 number of other things. First of all, it is 100 percent
12 natural, and I want to bring this out. It is not a
13 medication. A medication -- you know, I've been a doctor
14 for 30 years. I've prescribed my share of medications
15 for sure.

16 CHRIS MCKAY: Sure.

17 DR. DENNIS HARRIS: But, you know, through the
18 years, we've always been aware of the fact that
19 medications have become stronger and stronger, they've
20 become more and more effective, but they also have become
21 more dangerous.

22 CHRIS MCKAY: Hmm.

23 DR. DENNIS HARRIS: What do I mean by that?
24 Well, there are more side effects. The side effects have
25 typically become more serious through the years, and

1 interestingly enough, people become more and more
2 allergic to medicines. So, even medicines that we use
3 for allergies, sometimes people become allergic to.

4 CHRIS MCKAY: Right, right. Many side effects
5 from what I understand.

6 DR. DENNIS HARRIS: Oh, yeah.

7 CHRIS MCKAY: Yeah.

8 DR. DENNIS HARRIS: And I -- I'm going to
9 interrupt and break my train of thought for one reason.

10 CHRIS MCKAY: Okay.

11 DR. DENNIS HARRIS: I have to tell you that
12 there was a recent publication -- in fact, it was
13 Newsweek, that had printed a special edition at the end
14 of the 1997, kind of summarizing the year and all that.

15 CHRIS MCKAY: Um-hum.

16 DR. DENNIS HARRIS: And they were talking
17 about, in one section, medicine. They brought out the
18 fact that in the United States, every year, approximately
19 21,000 people die of AIDS --

20 CHRIS MCKAY: Um-hum.

21 DR. DENNIS HARRIS: -- approximately 24,000
22 people die of homicide. 63,000 people die every year
23 from medications.

24 CHRIS MCKAY: From medications?

25 DR. DENNIS HARRIS: From medications that they

1 take.

2 CHRIS McKAY: Wow.

3 DR. DENNIS HARRIS: Unbelievable.

4 CHRIS McKAY: And these aren't overdoses?

5 DR. DENNIS HARRIS: No, no. These are people
6 who take it in the normal dosage.

7 CHRIS McKAY: Wow.

8 DR. DENNIS HARRIS: 63,000 people every year.
9 That's more people than die in automobile accidents, you
10 know. We only have 50,000 -- that's more people than
11 that died in the entire Vietnam War.

12 CHRIS McKAY: Oh, that puts it in perspective.

13 DR. DENNIS HARRIS: Yeah. And we do -- and
14 that's how many people die from taking their normal
15 medication every year. So, when I say this is a natural
16 product, that has a lot of implications, you know. We
17 don't get the kind of side effects and allergies with
18 natural products that we see with medications.

19 CHRIS McKAY: Yeah.

20 DR. DENNIS HARRIS: You know, for example, in
21 Dr. Harris' Snore Formula, we've had over 100,000 people
22 using the product. We have never yet had the first
23 report of any kind of side effects or allergies.

24 CHRIS McKAY: Oh, that's great. How long has
25 the product been out, Doc?

1 DR. DENNIS HARRIS: It's been out about two
2 years on the marketplace.

3 CHRIS MCKAY: Um-hum.

4 DR. DENNIS HARRIS: And as I said, we've had
5 about 100,000 people that have used the product. I
6 did -- I did a lot of testing for about two years prior
7 to the time that we put it on the market. I tested it on
8 about 220 patients and, you know, we wanted to see how
9 effective it really was.

10 CHRIS MCKAY: Sure. And the results are?

11 DR. DENNIS HARRIS: The results were wonderful.
12 We were hoping that it was maybe going to help 50 percent
13 of the people or so.

14 CHRIS MCKAY: Yeah.

15 DR. DENNIS HARRIS: In reality, 86 percent of
16 the people that were taking this formula had really good
17 to excellent results.

18 CHRIS MCKAY: Oh, that's fantastic.

19 DR. DENNIS HARRIS: Yeah. And that's really
20 kind of held up -- we run about 86 to 90 percent of the
21 people that have good results that take it.

22 CHRIS MCKAY: So, these are capsules that you
23 take?

24 DR. DENNIS HARRIS: Well, they're actually a
25 little tablet.

1 CHRIS McKAY: Okay.

2 DR. DENNIS HARRIS: It's taken by weight. It's
3 really a convenient way, an easy way to solve the
4 problem. You just take them about 30 minutes before you
5 go to bed so that they can be absorbed and be ready to
6 work when you go to sleep. And the way it works is
7 absolutely neat. It is composed of four natural
8 digestive enzymes and a variety of herbs. The enzymes
9 begin to do their job. They literally start to digest or
10 breakdown all of these respiratory secretions that are in
11 the back of the throat and they allow the body to absorb
12 them and remove them, and the herbs reduce the tissue
13 swelling.

14 So, between the two things, what we've been
15 able to do is to open up the airway and smooth out the
16 airflow and then the snoring goes away.

17 CHRIS McKAY: Interesting. We're going to take
18 a break right here and come back with more from Dr.
19 Harris right after this break.

20 **(Brief pause.)**

21 CHRIS McKAY: We're back with Dr. Dennis
22 Harris, who has introduced help for millions and millions
23 of Americans who have a problem or the husband or wife or
24 somebody they live with has a problem with snoring.

25 Doctor, I'd like to go back and touch on

1 something that we had talked about just a bit earlier,
2 and that was about really the -- you had talked briefly
3 about the progression of snoring. And I got to tell you,
4 I had mentioned earlier, has sleep apnea. And he
5 actually wears a breathing apparatus to -- as I
6 understand, to keep the airway open.

7 DR. DENNIS HARRIS: That's called a CPAP
8 machine and that stands for continuous positive airway
9 pressure. Let me -- let's talk -- let's go back and talk
10 for a moment about this progression again.

11 CHRIS MCKAY: Um-hum.

12 DR. DENNIS HARRIS: And what happens
13 mechanically to people when they snore.

14 CHRIS MCKAY: Because that can be the result at
15 the end, right?

16 DR. DENNIS HARRIS: Yeah.

17 CHRIS MCKAY: Having to wear something like
18 that?

19 DR. DENNIS HARRIS: Yeah, it really is. And
20 let me tell you, we talked about what's -- you know, how
21 snoring -- what causes snoring and all that and then
22 about the partial obstruction.

23 Well, what really happens is that -- and you
24 can imagine this if you've ever heard somebody snore.
25 When that air hits that little partial obstruction,

1 you're really straining to try and get air past that.
2 And when you're doing that, you cause a little bit of a
3 vacuum at that point of obstruction. And since that
4 point of obstruction is the same almost every time you
5 snore, that strain -- that mechanical strain that's
6 caused by the vacuum is put on the airway at the same
7 place every time you snore.

8 CHRIS MCKAY: So, the result is it starts to
9 collapse?

10 DR. DENNIS HARRIS: Yes, that's exactly right.

11 CHRIS MCKAY: Wow.

12 DR. DENNIS HARRIS: Over the years, you start
13 to get structural weakness in the airway and it begins to
14 literally start to collapse and that's why it progresses
15 to sleep apnea, because when it gets to the point where
16 it is so weak it literally collapses down and absolutely
17 blocks the airflow.

18 CHRIS MCKAY: . Wow.

19 DR. DENNIS HARRIS: Yeah. It's absolutely
20 unreal. And, you know, when I describe it like this, it
21 becomes very logical to people and it's amazing to me
22 that medically we never saw this for so many years. But
23 that is exactly what occurs.

24 And when you get to that point where the sleep
25 apnea is due to this kind of a structural weakness, which

1 then gets worse and worse --

2 CHRIS MCKAY: Um-hum.

3 DR. DENNIS HARRIS: -- then, you know, it's not
4 a matter of taking anything for it, it's a matter of
5 doing something about it. And the one thing that is the
6 most common remedy is the CPAP machine.

7 CHRIS MCKAY: Hmm.

8 DR. DENNIS HARRIS: And you put that in -- it's
9 a mask that is worn over the face. Air is forced under
10 pressure continuously all the way down through the
11 airway, and what you're doing is forcing air down with
12 enough pressure that it pushes the airway open and keeps
13 it that way.

14 Well, as you can imagine, that's not exactly
15 the most wonderful thing to have to do every night all
16 night.

17 CHRIS MCKAY: I can't imagine having to sleep
18 with that. Now, Doctor, will your product help in those
19 instances?

20 DR. DENNIS HARRIS: What we find is that in the
21 early stages of sleep apnea, we do have a high rate of
22 success. But once it reaches a moderate to severe level,
23 I mean, that really is a structural problem that demands
24 a physical solution to it.

25 CHRIS MCKAY: So, what you're really saying is

1 people have to understand that they need to take care of
2 this early on.

3 DR. DENNIS HARRIS: That's the good news.

4 CHRIS MCKAY: Okay.

5 DR. DENNIS HARRIS: That's the good news,
6 exactly. You know, we didn't have good ways to handle
7 snoring for a long period of time, and so, people did go
8 through this progression. But the good news is that you
9 can stop this. You can absolutely stop this progression.
10 If you go ahead and -- well, let's talk about some of the
11 medical things that go on with snoring. Can we do that
12 for a moment?

13 CHRIS MCKAY: Sure, sure.

14 DR. DENNIS HARRIS: Okay. We didn't realize
15 for many years that snoring was a real medical problem.
16 All we thought about was what happened to people once
17 they had developed sleep apnea and we didn't think any of
18 these other problems occurred in just the snorer.

19 Now, for the first time last year, medical
20 organized medicine actually came out and said, snoring is
21 a true medical problem.

22 CHRIS MCKAY: So --

23 DR. DENNIS HARRIS: Because they're finally
24 beginning to understand the progression.

25 CHRIS MCKAY: So, it's taken this long?

1 DR. DENNIS HARRIS: Yeah. Only about 4,000
2 years, but that's all right. (Laughter).

3 CHRIS MCKAY: (Laughter).

4 DR. DENNIS HARRIS: We're a little slow in
5 organized medicine. (Laughter).

6 CHRIS MCKAY: (Laughter).

7 DR. DENNIS HARRIS: Anyhow, what are some of
8 the things that really occur? You know, they started
9 gathering more statistics about snoring, and lo and
10 behold, what they started to realize was that there are
11 both short-term and long-term problems, medical problems
12 associated with snoring. For example, the long-term
13 medical problems are a 400 to 500 percent increase in the
14 level of risk of developing heart attacks, strokes and
15 high blood pressure compared to non-snorers.

16 CHRIS MCKAY: Wow.

17 DR. DENNIS HARRIS: I mean, this is a huge risk
18 factor. That's almost at a rate equivalent to smoking a
19 couple of packs of cigarettes a day or something like
20 that, okay? So, this is a big risk factor.

21 CHRIS MCKAY: Yeah.

22 DR. DENNIS HARRIS: Well, they started coming
23 out with these statistics and they said, holy cow, why is
24 this happening. Well, what they began to do is to
25 measure and investigate various aspects of the problem

1 and they found that when people snore, the level of
2 oxygen in the blood stream drops down significantly in a
3 vast majority of these snorers. And so, what's
4 happening, all of the blood goes to all the vital organs,
5 the brain, the heart, the liver, the kidneys and so
6 forth, and guess what, there's a lower than normal level
7 of oxygen that occurs.

8 Well, that means that those organs are being
9 oxygen-deprived and oxygen, of course, is our critical
10 element for -- to keep the cells functioning normally and
11 alive.

12 CHRIS MCKAY: Right.

13 DR. DENNIS HARRIS: So, over a period of time,
14 little bits of damage begin to occur and as they
15 accumulate more and more, then eventually the person
16 becomes symptomatic and develops either heart attacks or
17 a stroke or high blood pressure.

18 CHRIS MCKAY: Wow.

19 DR. DENNIS HARRIS: Yeah, it's a big thing.
20 They just did a big study that was published in a medical
21 journal called Sleep, which is where all the sleep
22 disorder reports come out, and this study demonstrated
23 that chronic snorers have a 300 percent higher risk of
24 being involved in an automobile accident in a five-year
25 period compared to non-snorers, and a 700 percent higher

1 risk of being involved in multiple automobile accidents
2 over a five-year period.

3 CHRIS MCKAY: Well, great. (Laughter).

4 DR. DENNIS HARRIS: I mean, yeah, you know,
5 that's not the good news. That's the bad news.
6 (Laughter).

7 CHRIS MCKAY: (Laughter). Well --

8 DR. DENNIS HARRIS: (Laughter). But again, you
9 know, the good news is we can stop that whole thing from
10 getting to that point.

11 CHRIS MCKAY: That's great. Dr. Harris, you've
12 convinced me. I'm going to put your product to the test
13 and try it myself. I'd encourage my listeners to do the
14 same. What an easy solution. No surgery and the result
15 is a peaceful night's sleep and it sounds like you're
16 going to continue living after that as well.

17 We're out of time. Doctor, any parting
18 thoughts?

19 DR. DENNIS HARRIS: One real parting thought.
20 If you don't carry anything away, if you hear -- if
21 you're a listener and you haven't carried anything away
22 that we've talked about, remember one thing, we have the
23 opportunity now of stopping this progression of snoring,
24 and when you stop it, at that point, the healing power of
25 your body takes over, and eventually, all of these -- all

1 of this damage repairs itself and you get back to normal.

2 Don't wait. Pick up the phone today, try our
3 product. It is absolutely without risk to you because we
4 have a 100 percent money back guarantee. You have
5 nothing to lose but your snoring.

6 CHRIS McKAY: You heard it here, first. Again,
7 I encourage anyone who's experiencing snoring to pick up
8 the phone and call Dr. Harris. Doc, we're going to have
9 you back again. We covered a lot of material, I know
10 there's a lot more. Have a great day and take care.

11 And that's it for this week's show. We'll be
12 back next week.

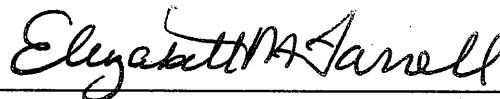
13 (Music playing.)

14 (Both sides of the audiotape contain the same
15 recording.)

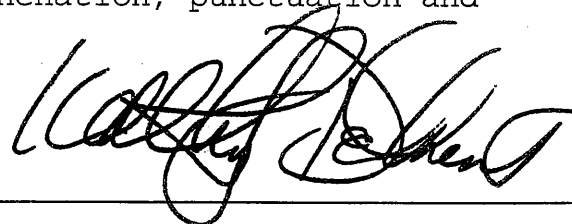
16 (The taping was concluded.)
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1 C E R T I F I C A T I O N O F T Y P I S T
23 MATTER NUMBER: P0142054 CASE TITLE: SNORING AIDS/SLEEPING APNEA5 TAPING DATE: DATE UNKNOWN6 TRANSCRIPTION DATE: FEBRUARY 11, 2002
7

8 I HEREBY CERTIFY that the transcript contained
9 herein is a full and accurate transcript of the tapes
10 transcribed by me on the above cause before the FEDERAL
11 TRADE COMMISSION to the best of my knowledge and belief.

12
13 DATED: FEBRUARY 11, 200214 
1516 ELIZABETH M. FARRELL
1718 C E R T I F I C A T I O N O F P R O O F R E A D E R
19

20 I HEREBY CERTIFY that I proofread the transcript for
21 accuracy in spelling, hyphenation, punctuation and
22 format.

23 
24

25 KATHY J. DE MENT

Snoring is a condition that is associated with serious and potentially life-threatening medical problems. Snorers have a much higher risk of heart attacks, high blood pressure, and strokes. Snoring also produces sleep disturbances in the person snoring and their mate. Snoring also leads to serious social problems and broken relationships.

DIRECTIONS:

Take 30-45 minutes before bedtime.

Take by weight as follows:

125 lbs or less, take one tablet.

125-220 lbs, take two tablets.

Over 220 lbs, take three tablets.

Fast Results:

Take double the usual dose for the first 3 weeks. When maximum results are obtained, lower the nightly dosage by ½ caplet each week to achieve the lowest dose that controls snoring. Keep out of reach of children. If pregnant, check with your physician before use.

INGREDIENTS:

Acerola, Amylase, Cayenne Pepper, Cellulase, Echinacea, Elderberry, Eucalyptus, Fenugreek, Lipase, Protease, Red Clover, Rose Hips, Slippery Elm, Yarrow.

Snore Formula, Inc.

4015 North 40th Place
Phoenix, AZ 85018

(800) 442-7436 * Fax (602) 955-3504

MADE IN USA * Patent # 5,618,543

Snore Formula, Inc.

Dr. Harris' Original Snore Formula

2

A UNIQUE COMBINATION OF ALL
NATURAL HERBS AND ENZYMES
THAT GENTLY WORK TOGETHER TO
PREVENT SNORING

100% Natural

Easy to take tablet

**No side effects
or allergies**

**Doctor Formulated
and tested**

**86% of those using
this formulation had
good to excellent
results**

Exhibit B

**A REPORT FROM:
DENNIS H. HARRIS, M.D.**

OCCURRENCE:

Statistics have proven that over 40% of the adult population are chronic, regular snorers!

DANGERS OF SNORING:

- Snorers have a markedly higher risk of developing heart attacks, high blood pressure, or strokes.
- Snoring often produces daytime sleepiness or daytime fatigue.
- Snorers have a much higher rate of automobile accidents than non-snorers.
- Snoring causes sleep disturbances that lead to increased anxiety, hyper-irritability, decreased memory, and poor concentration.

**SOCIAL IMPACT OF
SNORING:**

- Snoring often causes resentment between partners, leading to a loss of intimacy and deterioration of relationships.
- Increased irritability leads to failing relationships at home and among co-workers.
- Poor memory and concentration produce decreased work performance.

CAUSE OF SNORING:

Most cases of snoring are due to the nightly accumulation of secretions in the back of the throat and the associated tissue swelling. These factors produce a partial airflow obstruction and narrowed airway, allowing vibration of the soft tissues in the throat.

**How Dr. Harris' Original
Snore Formula™ Works:**

The unique combination of natural enzymes metabolizes the secretions, allowing the body to absorb them. The herbs reduce the tissue swelling. The result is to open the airway, smooth out the airflow and eliminate the snoring.

**About Dr. Harris' Original
Snore Formula™:**

This unique formulation was created by Dennis H. Harris, M.D., a recognized medical expert in the field of snoring. Dr. Harris tested this preparation on 220 subjects. Amazingly, 86% of those using this formulation had good to excellent results. Good Housekeeping magazine also performed an independent study that demonstrated a marked improvement in the vast majority of users. Over 40,000 people have used the product over the past 12 months with good results.

Dr. Harris' Original

SNORE FORMULA

Product Information Booklet

WHY SHOULD I WORRY ABOUT SNORING?

Although snoring has been the object of jokes and cartoons, medical science has determined that snoring is associated with serious medical conditions. Snorers are known to have a much higher rate of heart attacks, strokes and high blood pressure than non-snorers. The risk of developing these medical problems increases the longer that a person snores and the more severely they snore. Therefore, it is critical that snoring be brought under control and kept under control indefinitely. By keeping the snoring under control, the risk factors for all of these serious medical conditions gradually decrease toward normal over a period of years.

In addition, studies done at Stanford University and other institutions have shown that snorers have a higher rate of automobile accidents than non-snorers! Why would this happen? Snoring is known to cause reduced oxygen flow to the brain and other organs, resulting in daytime fatigue or sleepiness, slower reflexes and reduced attention span. These factors cause impairment of our ability to concentrate on road and traffic conditions.

WHAT ARE SOME OF THE OTHER EFFECTS OF SNORING?

Snoring is often a significant factor in relationships, causing disturbed sleep patterns, daytime fatigue and hyper-irritability in the non-snoring partner. In more extreme cases, the partners have to sleep in separate bedrooms. This produces increasing resentment, loss of intimacy and, eventually, deterioration of the relationship.

These factors also cause anxiety and depression, often leading to failing relationship with friends and co-workers, as well as reduced work performance.

WHO SNORES?

Medical authorities have estimated that up to 40% of the entire population are chronic, regular snorers.

Snoring increases in severity and prevalence with increasing age. For example, an average 20 year old group would include 5% of females and 29% of males that are chronic snorers; an average 50 year old group would include 40% of females and 60% of males that are chronic snorers; and an average 70 year old group would include 70% of all males and females that are chronic snorers.

WHAT CAUSES SNORING?

Our respiratory system constantly produces secretions in the nasal cavity, sinuses, bronchi and lungs. Although we easily dispose of these secretions during the day, the secretions begin to accumulate in the back of the throat at night when we lie down in the horizontal position. These secretions begin to irritate the surrounding tissues, producing congestion and swelling. These factors produce a partial obstruction to the airflow, resulting in airflow turbulence which vibrates the soft tissues in the back of the throat and produces the sound of snoring. The narrowing of the airway due to the tissue swelling causes further relaxation of the soft tissues, allowing snoring to occur easier. More than 85% of the cases of snoring are due to these factors!

The remaining cases of snoring are due to other conditions such as deviation of the nasal septum, nasal polyps, malformations of the mandible (lower jaw), excessively long uvula or excessively long tongue.

WHAT MAKES SNORING WORSE?

There are many factors that have been identified which may increase the frequency and/or severity of snoring. These include the following:

1. Obesity. Excess weight gain results in the deposition of fat in all tissues, including those around the mouth and throat. This produces narrowing of the airway, loosening of the soft tissues and allows snoring to occur easier.
2. Alcohol Consumption at Night. Consuming the equivalent of more than 2 drinks through the evening results in excess relaxation of the soft tissues in the back of the throat. These tissues then vibrate easier, producing more frequent and more severe snoring.
3. Increased Respiratory Secretions. This condition may arise because of many factors, including cigarette smoking, chronic bronchitis, allergies, chronic sinusitis, chronic rhinitis (nasal congestion) and mucous-producing foods eaten in the evening, such as dairy products.

HOW DOES DR. HARRIS' ORIGINAL SNORE FORMULA® WORK?

This unique formulation includes a secret combination of 100% natural enzymes and herbs. These compounds are all extracted from plants and are repeatedly tested to insure the highest quality and potency.

The enzymes act to digest the secretions, allowing the body to metabolize and absorb them. The herbs reduce the tissue swelling and congestion. The result is that the airway is opened, the airflow is smoothed out and the snoring is markedly decreased or eliminated.

HOW SHOULD I TAKE DR. HARRIS' ORIGINAL SNORE FORMULA®?

If you are to derive the maximum benefits from the product, it must be taken correctly.

The dosage is initially determined by weight. If you weigh 125# or less, take 1 caplet, 125#-220# takes 2 caplets, and over 220# take 3 caplets.

We have found that each individual is unique, and therefore the dosage will vary considerably. To obtain the fastest and best results, we highly recommend that you take double the usual starting dosage for the first three weeks. After the maximum benefit is obtained, lower the dosage by one half caplet each week until you achieve the lowest dose at which satisfactory results are still maintained. Continue using that lower dosage as your maintenance dosage indefinitely.

Higher dosages may produce some dryness in the nose and throat. This only indicates that Dr. Harris' Original Snore Formula® is working well for you! A humidifier will relieve the dryness if it is a concern.

There are many things that you can do to increase the effectiveness of the product, including the following:

1. Take Dr. Harris' Original Snore Formula® 30-45 minutes before bedtime.
2. Be sure to take Dr. Harris' Original Snore Formula® on an empty stomach. Do not eat for two hours before taking the product.
3. Avoid dairy products, such as milk, butter, cheese, etc. for four hours before bedtime, as they may increase the production of respiratory secretions.
4. Severe allergies, smoking or evening alcohol consumption tend to make snoring worse. These conditions may require you to increase the recommended dose of Dr. Harris' Original Snore Formula® by one half to one caplet in order to obtain satisfactory results.

Life style changes, including weight loss, stopping cigarette smoking and reducing evening alcohol consumption, will not only improve snoring control but also lead to better health!

HOW SAFE IS DR. HARRIS' ORIGINAL SNORE FORMULA® ?

Since Dr. Harris' Original Snore Formula® is a 100% natural formulation, we have experienced none of the all too frequently seen side effects and allergic reactions commonly associated with over the counter and prescription medications. In fact, after two years of clinical studies and tens of thousands of satisfied users, we have no reports of side effects, allergies or intolerance of the product.

Furthermore, thousands of people now using the product are taking other medications as well. To date, we have received no reports of cross-reactions with any other medication. However, if this is a concern, please check with your physician.

Although the product is extremely safe, you should check with your physician prior to taking the product if you are pregnant or a nursing mother.

CAN I GIVE DR. HARRIS' ORIGINAL SNORE FORMULA® TO MY CHILD?

Since we no longer remove children's tonsils and adenoids routinely, it is estimated that 20-25% of all children are now chronic snorers. Many of these children also suffer from sleep apnea, a condition in which the person completely stops breathing for up to 30 seconds or more several times each hour. This is a serious medical condition!

Dr. Harris' Original Snore Formula® is being taken by hundreds of children across the country and appears to be quite safe.

The recommended dosage for children weighing 65-100# is one caplet and for those weighing less than 65#, one half caplet.

We advise you to check with your physician before giving Dr. Harris' Original Snore Formula® to children younger than six years of age.

HOW EFFECTIVE IS DR. HARRIS' ORIGINAL SNORE FORMULA®?

Two years of clinical testing by Dennis Harris, MD on 200 chronic snorers produced good to excellent results in 86% of the test subjects taking this formulation.

Good Housekeeping, in an independent study, demonstrated that the formulation used in Dr. Harris' Original Snore Formula® produced major improvement in the vast majority of test subjects.

Reports from those using the product indicate a similar level of satisfaction.

WILL I HAVE TO TAKE DR. HARRIS' ORIGINAL SNORE FORMULA® FOREVER?

Like many medical problems, such as heart disease, hypertension and diabetes, snoring is a condition that can be controlled but not cured. Therefore, once you have determined your maintenance dosage level, you must take that dosage regularly and indefinitely.

We have found that many users of Dr. Harris' Original Snore Formula®, after maintaining good results for 5-6 months, are able to either gradually reduce their dosage even further, take Dr. Harris' Original Snore Formula® every other night, or both.

It is vitally important that you keep your snoring under control indefinitely. The longer your snoring is controlled, the lower your risk factors for heart attacks, strokes and high blood pressure.

ARE THERE ANY OTHER BENEFITS OF DR. HARRIS' ORIGINAL SNORE FORMULA® ?

The top quality variety of herbs and enzymes used in Dr. Harris' Original Snore Formula® have many other significant benefits.

Recent studies suggest that protease may actually help remove cholesterol from partially clogged arteries, thereby restoring circulation.

Protease, lipase and amylase work together to help relieve heartburn and gastric irritation, improving digestion.

The herbs are known to produce the following benefits:

1. Acerola. This South American cherry contains the highest concentration of natural Vitamin C known. It is helpful in reducing inflammation, preventing and treating upper respiratory infections, acts as a stimulant to the immune system and is a powerful anti-oxidant.
2. Eucalyptus. Studies have shown that this herb is effective in killing the flu virus and many types of bacteria. It is also widely used in the treatment of respiratory conditions.
3. Elderberry. This herb is widely used to reduce fever, reduce inflammation, induce pain relief, treat colds, bronchitis and asthma, and decrease allergic symptoms.
4. Yarrow. This herb is known to help cleanse the blood of impurities, including uric acid. It is useful in the in the treatment and prevention of

- gout, digestive problems, nausea, and fever. It is a powerful virus inhibitor, and it is used in the treatment of colds and flu.
5. Slippery Elm. This herb is used to promote digestion, treat intestinal ulcers, neutralize excess stomach acidity and absorb foul gases. It is also used in the treatment of bronchitis and cough.
 6. Echinacea. This marvelous herb is a natural antibiotic, anti-viral and anti-inflammatory compound. It is also a potent blood cleanser and rebuilder, as well as a powerful immune system stimulant.
 7. Red Clover. This herb has been used by some physicians in the treatment of cancer. It is an excellent blood purifier and is widely used in the treatment of liver congestion. -
 8. Rose Hips. This herb contains high levels of Vitamin C and bioflavonoids. It is an excellent natural anti-oxidant, builds and strengthens body tissues and is useful in building and maintaining a good blood vascular system.
 9. Cayenne. This herb has many beneficial effects. It aids in lowering serum cholesterol and serum triglycerides, also decreasing LDL cholesterol and therefore decreasing the risk of heart attacks and strokes. It speeds fat metabolism, burning off excess fat more rapidly. It increases heart action without increasing blood pressure, thereby improving circulation and acting as a general body stimulant. It has high Vitamin A content, promoting normal vision and healthy immunity. It increases the effectiveness of all other herbs by aiding in the more complete and rapid absorption of those herbs. It aids in the removal and cleaning of stomach tissue, and is helpful in healing stomach and intestinal ulcers.

WHAT OTHER TREATMENTS ARE AVAILABLE FOR SNORING?

Many attempts to treat snoring have been made through the years without much success. From the standpoint of medications, antihistamines, sedatives, anti-inflammatories, anti-depressives and anti-anxiety preparations have been notably unsuccessful in controlling the problem.

Various types and shapes of pillows have been tried with little success.

Homeopathic medications have a very poor record of success.

Dental appliances that shift the lower jaw forward or pull and hold the tongue forward have only met with limited success.

Finally, the newer surgical procedures using conventional or laser surgery that remove large amounts of tissue from the back of the mouth have proven far less than ideal. They cause pain which may linger for up to 3 months following surgery. Several deaths have now been reported as directly resulting from the procedure. Many complications have also been reported, including the development of nasal speech, difficulty in swallowing, change in taste sensation and nasal regurgitation, due to the removal of large amounts of tissue, occurs when food or liquid that you intend to swallow goes up instead of down, exiting through the nose. The worst problem, however, is that not only does surgery almost never completely eliminate snoring, but when patients having had these surgical procedures were evaluated 13 months after surgery, only 46% even obtained a moderate decrease in snoring!



Snore Formula Eliminates Snoring Naturally.

As heard on radio in the U.S. and Canada with Dennis H. Harris, M.D.

Snore Formula from Snore Formula, Inc., combines both digestive enzymes and natural herbs to relieve annoying snoring symptoms. This highly unique and effective remedy has had over \$12,000,000 in sales over the last three years to satisfied and repeat customers. We offer a 100% satisfaction guarantee or your money back. Click on the link below for complete information.

Eliminate Snoring with Snore Formula!

"Click on one of the links below for product information, prices & ordering"

[*Snore Formula, Inc.](#)

[*Purchase Snore Formula Online](#)

[*Purchase Snore Formula by Mail](#)

[*Natures Formulas Herbal Remedies](#)

[*Our Guarantee](#)

*** Notice of Price Change**

Exhibit D

All orders are shipped by the U.S. Postal System. Orders are usually shipped within 48 hours of confirmation and delivery within the U.S. is normally 5 to 7 working days, excluding weekends.

kj@snoreformula.com

KJ Enterprises

3321 Old Mallard Road,
Enid, Oklahoma 73703-1428

ƒ K E E

NATURAL

ALTERNATIVE

WELLNESS

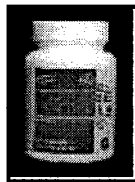
FITNESS

NUTRITION

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Snore Formula, Inc.

www.snoreformula.com



As heard on radio in the U.S. and Canada with Dennis H. Harris, M.D.

Snore Formula is a unique one of a kind patented remedy with a combination of all natural herbs and digestive enzymes that gently work together to eliminate snoring symptoms and problems.

100% Guaranteed or your money refunded!

Advertised on the radio in the US and Canada featuring Dr. Harris as an authority and guest speaker.

Scott writes...

Let me take this opportunity to thank you for your wonderful product and tell you how much my wife, Diane, and I appreciate the quiet nights we have enjoyed since discovering it. It's very rare when a product actually delivers what it promises but Snore Formula truly does. We have tried most of the other advertised remedies without any satisfaction and I am very pleased to be able to write and say that this product is as close as you can get to an absolute "Miracle".

Beverly writes...

I can't believe how great your product is. I have been using Snore Formula for over 6 months and it has made a world of difference since I have stopped snoring and I really feel better when I wake up. It is well worth the price that you offer. I almost didn't buy it, now I'm glad I did. Thank you Dr Harris!

Complete information on *Snore Formula* follows below:

A 100% natural product which can markedly reduce or eliminate snoring. This unique combination of digestive enzymes and natural herbs metabolizes excess drainage and shrinks nasal and respiratory membranes, thereby opening air passages to eliminate snoring.

Select and click on a link for information

• Snore Formula Bibliography

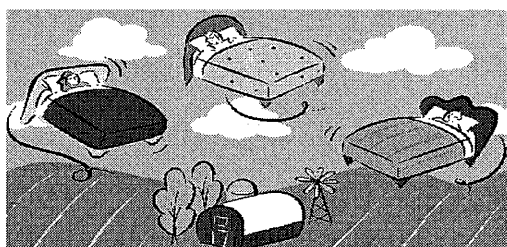
• <u>Dangers of Snoring</u>	• <u>Cause of Snoring</u>
• <u>Social Impact of Snoring</u>	• <u>How Snore Formula Works</u>
• <u>Directions</u>	• <u>Ingredients</u>
• <u>Testimonials</u>	• <u>Click and Place your Secure Order here</u>

This unique formulation was created by Dennis H. Harris, MD, a recognized medical expert in the field of snoring. Dr. Harris tested this preparation on 220 subjects. Amazingly, 86% of those using this formulation had good to excellent results. *Good Housekeeping* magazine also performed an independent study that demonstrated a marked improvement in the vast majority of users.

Over 160,000 people have used the product over the past 36 months with good to excellent results.

Over 350,000 bottles sold to radio listeners over the last 3 years!

Note: *This formulation is safe for children as long as they can take the tablet. Children age 6 or under, may have difficulty in swallowing the tablet. For children who weigh under 65 pounds it is recommended to give them 1/2 of a tablet.



Sleep quite, peaceful and wake up feeling better!

This is a very unique and effective patented formula that will give you complete satisfaction: Guaranteed!

100% Satisfaction Guarantee or your Money Back
[Click Here to Read](#)

Pricing

Excellent Quality - Fast Service

Buy Now! Try it tonight!

* Notice of Price Change

The company has received notification from our manufacturer that the prices for raw material and labor has gone up. Due to this increase in labor and material costs we regret that we have to raise our prices on our products. This price increase will be effective on March 1, 2001.

New Prices Effective March 1, 2001

1 60 tablet bottle \$39.95

Buy 2, Get 1 Free! \$79.90

5 bottles = \$99.00 (Internet Special)

12 bottles = \$199.00

With your purchase:

- A 7 page product information brochure and audio cassette tape on Snore Formula is sent with each order
 - In addition, free samples and a 11 page product information brochure on Allergy Formula is sent to you.
-

***Buy 2... Get 1 FREE!**

*We offer Secure Credit Card Online Service. You may also send a Check/Money Order for your purchase by mail.

• Secure Credit Card Order Form



• For Mail Order: Go Here Then Print Out The Form: Mail Order Form

Try these outstanding, effective products and see for yourself why thousands of satisfied customers keep coming back for more.

Try it tonight!



Place your secure order here now

All orders are shipped by the U.S. Postal System. Orders are usually shipped within 48 hours of confirmation and delivery within the U.S. is normally 5 to 7 working days, excluding weekends.

KJ Enterprises

3321 Old Mallard Road,
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If you have questions or suggestions, please e-mail me at:
kj@snoreformula.com

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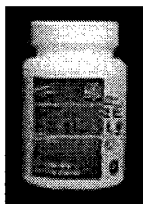


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SNORE FORMULA, INC.

KJ Enterprises

A unique combination of all natural herbs and enzymes that gently work together to prevent snoring. Statistics have proven that over 40% of the population or 100 million people in the United States are chronic, regular snorers!



DANGERS OF SNORING:

- Snorers have a markedly higher risk of developing heart attacks, high blood pressure, or strokes.
- Snorers have a 300% higher risk of becoming involved in an automobile accident.
- Snorers have a 400% to 500% higher risk of daytime fatigue.
- Snoring causes sleep apnea, a serious medical condition, in 20% of all chronic snorers
- 25% of all preadolescent children are chronic snorers, and most of these have some form of sleep apnea, a serious medical condition.
- Snoring causes sleep disturbances that lead to increased anxiety, hyperirritability, decreased memory and poor concentration.

This unique formulation was created by Dennis H. Harris, MD, a recognized medical expert in the field of snoring. Dr. Harris tested this preparation on 220 subjects. Amazingly, 86% of those using this formulation had good to excellent results. ***Good Housekeeping*** magazine also performed an independent study that demonstrated a marked improvement in the vast majority of users. **Over 150,000 people have used the product over the past 36 months with good results.**

♦ Snore Formula, Inc.	♦ Causes of Snoring
♦ Social Impact of Snoring	♦ How Snore Formula Works
♦ Directions	♦ Ingredients
♦ Testimonials	♦ SECURE ORDER FORM

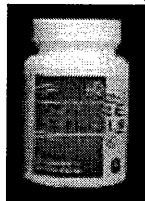


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SOCIAL IMPACT OF SNORING:

- Snoring often causes resentment between partners, leading to a loss of intimacy and deterioration of relationships.
- Increased irritability leads to failing relationships at home and among co-workers.
- Poor memory and concentration produce decreased work performance.

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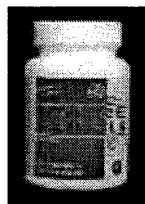


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DIRECTIONS:

- Take 30 to 40 minutes before bedtime.
- Take by weight as follows:
 - 125 lbs or less, take one tablet.
 - 125-220 lbs, take two tablets.
 - Over 220 lbs, take three tablets.

FAST RESULTS:

Take double the usual dose for the first 3 weeks. When maximum results are obtained, lower the nightly dosage by 1/2 caplet each week to achieve the lowest dose that controls snoring.

This unique formulation was created by Dennis H. Harris, MD, a recognized medical expert in the field of snoring. Dr. Harris tested this preparation on 220 subjects. Amazingly, 86% of those using this formulation had good to excellent results. *Good Housekeeping* magazine also performed an independent study that demonstrated a marked improvement in the vast majority of users. **Over 150,000 people have used the product over the past 36 months with good results.**

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Snore Formula Testimonials

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Snore Formula Testimonials

Product History...

In 1993, Dr. Harris created and began clinically testing a natural oral remedy to eliminate snoring. With more than 86 % good to excellent test results, commercial sales of the product, initially named Snore No More, began in 1995. Sales were undertaken nationally and internationally via direct response radio only. To date, over \$12,000,000 in sales have occurred with more than 300,000 bottles sold. The product was recently renamed Dr. Harris' Original Snore Formula, and is presently marketed nationally through radio direct sales via live shows, 30 and 60 second commercials and 30 minute radio infomercial.

Michael writes...

I am having a good nights sleep finally. I used to wake myself up during the night which was a real bummer as I would not always go back to sleep. Sleeping through the night is great. Thanks a lot.

PS: My girlfriend loves it as much or more than I do.

Ann writes...

My husband uses it for another reason. He has a problem with blocked nasal passages. While he's asleep the passages close, he stops breathing and he wakes up gasping. When he takes Snore Formula his nose stays clearer and he's able to sleep more restfully.

Thank you for a product that helps!

Lonny writes...

The main thing I have noticed is I sleep better. No more multiple wake-ups due to breathing difficulty.

Lee writes...

For years the snoring on the other side of the bed had gotten louder and more often. It had become almost unbearable. With the use of Snore Formula there has been an enormous improvement. What snoring has continued is much, much lighter and much, much softer. There are many, many periods of no snoring at all.

Shirley writes...

I used to snore and snort so loud I would wake myself up. I haven't done that lately. I think one of the best things about taking Snore Formula is the lack of sinus drainage in the morning. I used to hack and spit for the first hour of each day. As my granddaughter, Brittany, tells me it was "gross and disgusting"! She's seven.

Whatever Snore Formula does or however it works, I am grateful that I have discovered it exists. My son-in-law told me about it.

Gregory writes...

In February 1995, I was diagnosed with severe sleep apnea. A CPAP was the suggested treatment for my affliction, but it did not help my condition. I heard your advertisement and ordered a bottle of Snore Formula and my sleep improved immediately. I continue to use it and my sleep has been better than it had been in years. Thanks.

Chloe writes...

The reason I looked into Snore Formula is because my husband used to keep me up at nights with his snoring. So I said I would give it a try and it works! I was so happy. If Snore Formula could work for him it could work for anyone. Thank you very much.

Scott writes...

Let me take this opportunity to thank you for your wonderful product and tell you how much my wife, Diane, and I appreciate the quiet nights we have enjoyed since discovering it. It's very rare when a product actually delivers what it promises but Snore Formula truly does. We have tried most of the other advertised remedies without any satisfaction and I am very pleased to be able to write and say that this product is as close as you can get to an absolute "Miracle".

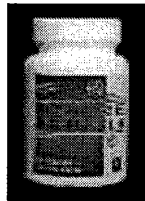


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SNORE FORMULA, INC.

KJ Enterprises

A unique combination of all natural herbs and enzymes that gently work together to prevent snoring. Statistics have proven that over 40% of the adult population are chronic, regular snorers!



CAUSE OF SNORING:

Most cases of snoring are due to the nightly accumulation of secretions in the back of the throat and the associated tissue swelling. These factors produce a partial airflow obstruction and narrowed airway, allowing vibration of the soft tissues in the throat.

This unique formulation was created by Dennis H. Harris, MD, a recognized medical expert in the field of snoring. Dr. Harris tested this preparation on 220 subjects. Amazingly, 86% of those using this formulation had good to excellent results. *Good Housekeeping* magazine also performed an independent study that demonstrated a marked improvement in the vast majority of users. **Over 150,000 people have used the product over the past 36 months with good results.**

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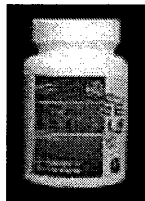


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HOW SNORE FORMULA WORKS:

The unique combination of natural enzymes metabolizes the secretions, allowing the body to absorb them. The herbs reduce the tissue swelling. The result is to open the airway, smooth out the airflow and eliminate the snoring.

This unique formulation was created by Dennis H. Harris, MD, a recognized medical expert in the field of snoring. Dr. Harris tested this preparation on 220 subjects. Amazingly, 86% of those using this formulation had good to excellent results. *Good Housekeeping* magazine also performed an independent study that demonstrated a marked improvement in the vast majority of users. **Over 150,000 people have used the product over the past 36 months with good results.**

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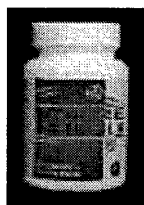


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SNORE FORMULA, INC.

KJ Enterprises

A unique combination of all natural herbs and enzymes that gently work together to prevent snoring. Statistics have proven that over 40% of the population or 100 million people in the United States are chronic, regular snorers!



INGREDIENTS:

Acerola, Amylase, Cayenne Pepper, Cellulase, Echinacea, Elderberry, Eucalyptus, Fenugreek, Lipase, Protease, Red Clover, Rose Hips, Slippery Elm, Yarrow

HOW SNORE FORMULA WORKS:

The unique combination of natural enzymes metabolizes the secretions, allowing the body to absorb them. The herbs reduce the tissue swelling. The result is to open the airway, smooth out the airflow and eliminate the snoring.

This unique formulation was created by Dennis H. Harris, MD, a recognized medical expert in the field of snoring. Dr. Harris tested this preparation on 220 subjects. Amazingly, 86% of those using this formulation had good to excellent results. *Good Housekeeping* magazine also performed an independent study that demonstrated a marked improvement in the vast majority of users. **Over 150,000 people have used the product over the past 36 months with good results.**

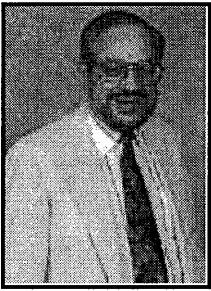
• Dangers of Snoring	• Causes of Snoring
• Social Impact of Snoring	• How Snore Formula Works
• Directions	• Snore Formula, Inc.
• Testimonials	• SECURE ORDER FORM



[Snore Formula Home Page](#)

Dennis H. Harris, M.D.

Biography



Dr. Harris graduated from Ohio State University Medical School in 1963 and completed his internship at Grant Hospital, a University affiliated hospital in Columbus, Ohio in 1964. He then entered a residency training program, specializing in Physical Medicine and Rehabilitation at Ohio State University. Upon completion, he moved to Dallas, Texas in 1966 to become chief resident in a Physical Medicine residency program at Parkland Hospital, Southwestern Medical School, University of Texas. He completed the last year of his residency in 1967 and moved to Scottsdale, Arizona to begin private practice.

In 1968, Dr. Harris established the Department of Physical Medicine and Rehabilitation at Scottsdale Memorial Hospital in Scottsdale, Arizona and was appointed Director of that department which he operated until 1984. Dr. Harris then established the Southwest Pain Control Program and directed that program through 1974. This program was the first chronic pain control program in the Southwest, the eighth program in the country, and the first program to be performed on only an outpatient basis. After the efficacy of the program was well established, the entire program was moved to Mesa Lutheran Hospital in 1974 at the hospital's request. The hospital appointed Dr. Harris as Director of that program, and he maintained this position through 1983.

Dr. Harris subsequently maintained a practice devoted primarily to the non surgical diagnosis and treatment of all conditions of pain. Due to the nature of that practice, many of Dr. Harris's patients were medico legal in nature, having been involved in automobile accidents or work-related accidents. This has enabled Dr. Harris to testify in hundreds of depositions and make countless court appearances as an expert medical witness.

Professionally, Dr. Harris has been continually involved in lecturing and teaching, often lecturing groups of hundreds of physicians or physical therapists. He has presented several papers at national meetings and appeared before large medical audiences during that time.

While in residency at Ohio State University, Dr. Harris became the co-inventor of a gel pad to prevent bed sores, negotiated a licensing agreement with The Stryker Corporation, and subsequently traveled the country, presenting the product at hospital meetings and medical gatherings. During that time, he designed the national sales and marketing program for The Stryker Corporation with regard to that product, and he then trained the national and international sales staff of The Stryker Corporation prior to the introduction of the product.

During the course of his practice, Dr. Harris recognized the benefits of alternative medicine. HarGen Distributing, Inc. was formed to manufacture and distribute natural crystal deodorant products worldwide. Dr. Harris designed, trademarked and patented multiple improvements and new products within the industry.

In 1993, Dr. Harris created and began clinically testing a natural oral remedy to eliminate snoring. With more than 86 % good to excellent test results, commercial sales of the product, initially named Snore No More, began in 1995. Sales were undertaken nationally and internationally via direct response radio only. To date, over \$12,000,000 in sales have occurred with more than 150,000 regular users and over 300,000 bottles sold. The product was recently renamed Dr. Harris' Original Snore Formula, and is presently marketed nationally through radio direct sales via live shows, 30 and 60 second commercials and 30 minute radio informercials.

In 1994, after clarifying the link between snoring, allergies, sinusitis and asthmatic bronchitis, Dr. Harris created and began testing a natural formulation for relief for allergy and sinus symptoms. 83% good to excellent test

results have been obtained. Marketing of this product under the name Dr. Harris' Original Allergy Formula began nationally during the 1st quarter of 1998. Presently, Dr. Harris continues an active research and development program designed to improve the existing products and create new products to effectively help and extend our lives. Dr. Harris has appeared on over 1,500 local and network radio shows and continues to be one of the most popular and sought-after radio guests.



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Decision and Order

DECISION AND ORDER

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

The respondents, their attorneys, and counsel for Federal Trade 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 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 thirty (30) days for the receipt and consideration of public comments, and having duly considered the comment received from an interested person pursuant to § 2.34 of its Rules, now in further conformity with the procedure prescribed in § 2.34 of its Rules, the Commission hereby issues its complaint, makes the following jurisdictional findings and enters the following order:

1.a. Respondent Snore Formula, Inc., is an Arizona corporation with its principal office or place of business at 4105 N. 40th Place, Phoenix, AZ 85018.

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1.b. Respondent Dennis H. Harris, M.D., is an officer of the corporate respondent. Individually or in concert with others, he formulates, directs, controls, or participates in the policies, acts, or practices of the corporation. His principal office or place of business is the same as that of Snore Formula, Inc.

1.c. Respondent Ronald General is an officer of the corporate respondent. Individually or in concert with others, he formulates, directs, controls, or participates in the policies, acts, or practices of the corporation. His principal office or place of business is the same as that of Snore Formula, Inc.

1.d. Respondent Gerald L. "Jerry" Harris is an individual also doing business as KJ Enterprises. His principal office or place of business is 3321 Old Mallard Road, Enid, OK 73703.

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. Unless otherwise specified, "respondents" shall mean Snore Formula, Inc., a corporation, its successors and assigns and its officers; Dennis H. Harris, M.D., individually and as an officer of the corporation; Ronald E. General, individually and as an officer of the corporation; Gerald L. "Jerry" Harris, also doing business as KJ Enterprises, and each of the above's agents, representatives, and employees.

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

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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 visual portions of the advertisement. *Provided, however,* that in any advertisement presented solely through visual 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 visual 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 understandable language and syntax. Nothing contrary to, inconsistent with, or in mitigation of the disclosure shall be used in any advertisement or on any label.

3. In the case of advertisements disseminated by means of an interactive electronic medium such as the Internet or other online services, "in close proximity" shall mean on the same Web page and proximate to the triggering representation, and not on other portions of the Web site, accessed or displayed through hyperlinks or other means.

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4. "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.
5. "Distributor" shall mean any purchaser or other transferee of any product or service covered by this order who acquires such product or service from one or more respondent, with or without valuable consideration, and who sells, or who has sold, such product or service to other sellers or to consumers, including but not limited to individuals, retail stores, or catalog sellers.
6. "Food," "drug," and "device," shall mean as "food," "drug," and "device" are defined in Section 15 of the Federal Trade Commission Act, 15 U.S.C. § 55.
7. "Commerce" shall mean as defined in Section 4 of the Federal Trade Commission Act, 15 U.S.C. § 44.
8. "Endorsement" shall mean as defined in 16 C.F.R. 255.0(b).

I.

IT IS ORDERED that respondents, directly or through any corporation, subsidiary, division, or other device, including franchisees, licensees, or distributors, in connection with the manufacturing, labeling, advertising, promotion, offering for sale, sale, or distribution of Dr. Harris' Original Snore Formula tablets or any other food, drug, device, service, or dietary supplement, in or affecting commerce, shall not make any representation, in any manner, expressly or by implication, that:

- A. Such product or service prevents sleep apnea in adult or child users who would otherwise develop sleep apnea;
- B. Such product or service treats sleep apnea; or

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C. Such product or service eliminates, prevents, or reduces snoring in users of the product or service,

unless at the time the representation is made, respondents possess and rely upon competent and reliable scientific evidence that substantiates the representation. *Provided that*, for any representation made by respondent Dennis H. Harris, M.D. as an expert endorser, respondent Dennis H. Harris, M.D. must possess and rely upon competent and reliable scientific evidence, and an actual exercise of his represented expertise in the form of an examination or testing of the product at least as extensive as an expert in that field would normally conduct in order to support the conclusions presented in the representation.

II.

IT IS FURTHER ORDERED that respondents, directly or through any corporation, subsidiary, division, or other device, including franchisees, licensees, or distributors, in connection with the manufacturing, labeling, advertising, promotion, offering for sale, sale, or distribution of any product or service that has not been shown by competent and reliable scientific evidence to be effective in the treatment of sleep apnea, in or affecting commerce, shall not represent, in any manner, expressly or by implication, that the product or service is effective in eliminating, preventing, or reducing snoring, unless they disclose, clearly and prominently, and in close proximity to the representation, that such product or service is not intended to treat sleep apnea; that the symptoms of sleep apnea include loud snoring, frequent episodes of totally obstructed breathing during sleep, and excessive daytime sleepiness; that sleep apnea is a potentially life-threatening condition; and that persons who have symptoms of sleep apnea should consult their physician or a specialist in sleep medicine. *Provided, however*, that for any television commercial or other video advertisement fifteen (15) minutes in length or longer or intended to fill a broadcasting or cablecasting time slot fifteen (15) minutes in length or longer, the disclosure shall be

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made within the first thirty (30) seconds of the advertisement and immediately before each presentation of ordering instructions for the product or service. *Provided further*, that, for the purposes of this provision, the presentation of a telephone number, e-mail address, or mailing address for listeners to contact for further information or to place an order for the product or service shall be deemed a presentation of ordering instructions so as to require the announcement of the disclosure provided herein.

III.

IT IS FURTHER ORDERED that respondents, directly or through any corporation, subsidiary, division, or other device, including franchisees, licensees, or distributors, in connection with the manufacturing, labeling, advertising, promotion, offering for sale, sale, or distribution of Dr. Harris' Original Snore Formula tablets or any other food, drug, device, service, or dietary supplement in or affecting commerce, shall not make any representation, in any manner, expressly or by implication, about the effect of such food, drug, device, service, or dietary supplement on any disease, or about the effect of such food, drug, device, service, or dietary supplement on the structure or function of the human body, or about any other health benefit, or the safety, of such product or service, unless, at the time the representations are made, respondents possess and rely upon competent and reliable scientific evidence, that substantiates the representation. *Provided that*, for any representation made by respondent Dennis H. Harris, M.D. as an expert endorser, respondent Dennis H. Harris, M.D. must possess and rely upon competent and reliable scientific evidence, and an actual exercise of his represented expertise in the form of an examination or testing of the product or service at least as extensive as an expert in that field would normally conduct in order to support the conclusions presented in the representation.

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IV.

IT IS FURTHER ORDERED that respondents Snore Formula, Inc., a corporation, its successors and assigns and its officers; Dennis H. Harris, M.D., individually and as an officer of the corporation; Ronald E. General, individually and as an officer of the corporation, and each of the above's agents, representatives, and employees, directly or through any corporation, subsidiary, division, or other device, including franchisees, licensees, or distributors, shall not provide to any person or entity means and instrumentalities that contain any claim about the benefits, performance, efficacy, or safety of any food, drug, device, service, or dietary supplement, unless such claim is true, and substantiated by competent and reliable scientific evidence. For purposes of this Part, "means and instrumentalities" shall mean any information, including but not necessarily limited to any advertising, labeling, or promotional materials, for use by distributors in their marketing or sale of Dr. Harris' Original Snore Formula tablets or any other food, drug, device, service, or dietary supplement covered under this order, in or affecting commerce.

V.

IT IS FURTHER ORDERED that respondents, directly or through any corporation, subsidiary, division, or other device, including franchisees, licensees, or distributors, in connection with the manufacturing, labeling, advertising, promotion, offering for sale, sale, or distribution of any product or service in or affecting commerce, shall not misrepresent, in any manner (including but not limited to use of endorsements), expressly or by implication, the existence, contents, validity, results, conclusions, or interpretations of any test, study, or research.

VI.

IT IS FURTHER ORDERED that respondents Snore Formula, Inc., a corporation, its successors and assigns and its officers; Dennis H. Harris, M.D., individually and as an officer of the

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corporation; and Ronald E. General, individually and as an officer of the corporation, shall:

- A. Within seven (7) days after service of this order upon respondents, deliver to the Commission a list, in the form of a sworn affidavit, of all distributors who purchased Dr. Harris' Original Snore Formula tablets from respondents or from one of respondents' other distributors on or after January 1, 2001. Such list shall include each distributor's name and address, and, if available, the telephone number and email address of each distributor.
- B. Within thirty (30) days after service of this order upon respondents, send by first class mail, with postage prepaid, an exact copy of the notice attached hereto as Attachment A, showing the date of mailing, to each distributor who purchased Dr. Harris' Original Snore Formula tablets from respondents or from one of respondents' other distributors between January 1, 2001, and the date of service of this order. This mailing shall not include any other document.

VII.

IT IS FURTHER ORDERED that respondents Snore Formula, Inc., a corporation, its successors and assigns and its officers; Dennis H. Harris, M.D., individually and as an officer of the corporation; and Ronald E. General, individually and as an officer of the corporation, shall:

- A. For a period of three (3) years following entry of this order, send a copy of the notice attached hereto (Attachment A) by first class mail, with postage prepaid, to any distributor of Dr. Harris' Original Snore Formula tablets, or any other product or service; *provided, however*, that the requirement of this subpart shall not apply to any distributor who received a copy of the notice attached hereto (Attachment A) pursuant to the requirements of

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subpart VI.B of this order. Such notice shall be sent within one (1) week from the first shipment of respondent's products or programs to said distributor. The mailing shall not include any other documents.

- B. Institute a reasonable program of surveillance adequate to reveal whether any of respondents' distributors are disseminating advertisements or promotional materials that contain any representation about Dr. Harris' Original Snore Formula tablets, or any other product or service manufactured by or purchased from respondent, that is prohibited by Parts I through V of this order.
- C. Terminate all sales of Dr. Harris' Original Snore Formula tablets, or any other food, drug, device, service, or dietary supplement to any distributor who is engaged in disseminating advertisements or promotional materials that contain any representation about Dr. Harris' Original Snore Formula tablets, or any other product or service manufactured by or purchased from one or more respondent, that is prohibited by Parts I through V of this order once respondent knows or should know that the distributor is or has been engaged in such conduct.

VIII.

Nothing in this order shall prohibit respondents from making any representation for any drug that is permitted in labeling for such drug under any tentative final or final standard promulgated by the Food and Drug Administration, or under any new medical device application approved by the Food and Drug Administration. Nor shall it 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.

Decision and Order

IX.

IT IS FURTHER ORDERED that respondents 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.

X.

IT IS FURTHER ORDERED that respondents 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.

XI.

IT IS FURTHER ORDERED that respondent Snore Formula, Inc., and its successors and assigns shall notify the Commission at least thirty (30) days prior to any change in the corporation that

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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 respondent learns less than thirty (30) days prior to the date such action is to take place, respondent 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, 600 Pennsylvania Avenue, N.W., Washington, D.C. 20580.

XII.

IT IS FURTHER ORDERED that respondents Dennis H. Harris, M.D.; Ronald E. General; and Gerald H. Harris, for a period of ten (10) years after the date of issuance of this order, notify the Commission of the discontinuance of their current business or employment, or of their 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, 600 Pennsylvania Avenue, N.W., Washington, D.C. 20580.

XIII.

IT IS FURTHER ORDERED that respondents shall, within sixty (60) days after 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.

Decision and Order

XIV.

This order will terminate on July 24, 2023, 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 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 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.

By the Commission.

Decision and Order

ATTACHMENT A

LETTER SENT TO DISTRIBUTORS WITH WHOM
RESPONDENT HAS DONE BUSINESS BETWEEN
JANUARY 1, 2001,
AND THE DATE OF SERVICE OF THIS ORDER

[To Be Printed on Snore Formula, Inc. letterhead]

[NAME AND ADDRESS OF RECIPIENT]

[DATE]

Dear [DISTRIBUTOR'S NAME]:

This letter is to inform you that Snore Formula, Inc., recently settled a civil dispute with the Federal Trade Commission regarding its advertising for *Dr. Harris' Original Snore Formula* tablets. Among other things, we have agreed to notify distributors of the settlement.

As a result of its agreement with the FTC, Snore Formula, Inc., has consented to desist from, among other practices, making any claims about the effect of any food, drug, device, service, or dietary supplement on any disease, or about the effect of such food, drug, device, service, or dietary supplement on the structure or function of the human body, or about any other health benefit, or the safety, of such product or service, that is not supported by competent and reliable scientific evidence. Competent and reliable scientific evidence is defined as 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. Anecdotal evidence and consumer testimonials are not considered competent and reliable scientific evidence.

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According to the FTC complaint, we did not have a reasonable basis to claim that *Dr. Harris' Original Snore Formula* tablets can prevent sleep apnea in adult and child users of the product who would otherwise develop sleep apnea; can treat the early stages of sleep apnea; or can eliminate, prevent, or significantly reduce snoring; or that scientific testing demonstrates that *Dr. Harris' Original Snore Formula* tablets reduce or eliminate snoring or the sound of snoring for 86% of users.

As always, your responsibility as a distributor is to utilize only claims made directly from corporate communications or to have your advertising approved by the corporation before transmitting it. Failure to comply with these requirements can result in termination.

This letter has been provided for your files. If you have any questions or if you want a copy of the FTC order, please contact [insert name and telephone number of respondents' contact].

Snore Formula, Inc.

Analysis

Analysis of Proposed Consent Order to Aid Public Comment

The Federal Trade Commission has accepted an agreement, subject to final approval, to a proposed consent order from Snore Formula, Inc., its officers Dennis H. Harris, M.D., and Ronald General, and Gerald L. "Jerry" Harris, also doing business as KJ Enterprises ("proposed respondents"). Proposed respondents market "Dr. Harris' Original Snore Formula" tablets, which are advertised to be taken by persons who snore.

The proposed consent order has been placed on the public record for thirty (30) days for reception of comments by interested persons. Comments received during this period will become part of the public record. After thirty (30) days, the Commission will again review the agreement and the comments received and will decide whether it should withdraw from the agreement and take other appropriate action or make final the agreement's proposed order.

The Commission's complaint charges that proposed respondents failed to have a reasonable basis for claims they made about Dr. Harris' Original Snore Formula tablets' efficacy in (1) preventing sleep apnea in adult and child users of the product who would otherwise develop sleep apnea, (2) treating the "early stages" of sleep apnea, and (3) eliminating, preventing, or significantly reducing snoring. Proposed respondents are also charged with failing to disclose or failing to disclose adequately that persons who have symptoms of sleep apnea should consult a physician because sleep apnea is a potentially life-threatening condition. Proposed respondents are further charged with making false claims that scientific testing establishes that the product can eliminate, prevent, or significantly reduce snoring in 86% of users. The complaint also alleges that Snore Formula, Inc., and its named officers provided the means and instrumentalities to others to disseminate false or deceptive claims about the product. Finally, the complaint alleges that Dr. Dennis H. Harris, M.D., misrepresented, by acting as an expert endorser for the product, that he had exercised his represented expertise in snoring

Analysis

treatment, in the form of an examination or testing of the product at least as extensive as an expert in the field would normally conduct.

Part I of the consent order requires that proposed respondents possess competent and reliable scientific evidence to substantiate representations that Dr. Harris' Original Snore Formula tablets or any other food, drug, device, service, or dietary supplement prevents sleep apnea in adult or child users who would otherwise develop sleep apnea; treats sleep apnea; or eliminates, prevents, or reduces snoring. It further requires that Dennis H. Harris, M.D., possess and rely upon competent and reliable scientific evidence and an actual exercise of his represented expertise to substantiate representations he makes as an expert endorser.

Part II of the order requires that, for any product or service that has not been shown to be effective in the treatment of sleep apnea, proposed respondents must affirmatively disclose, whenever they represent that a product is effective in eliminating, preventing, or reducing snoring, a warning statement about sleep apnea and the need for consultation with a physician or a specialist in sleep medicine.

Part III of the order requires scientific substantiation for any future claim about the effect of any food, drug, device, service, or dietary supplement on any disease, or about the effect of any food, drug, device, service, or dietary supplement on the structure or function of the human body, or about any other health benefit, or the safety, of any covered product or service. It further requires that Dennis H. Harris, M.D., possess and rely upon competent and reliable scientific evidence and an actual exercise of his represented expertise to substantiate representations he makes as an expert endorser.

Part IV prohibits Snore Formula, Inc., and its named officers from providing to any person or entity "means and instrumentalities" that contain any claim about the benefits, performance, efficacy, or safety of any food, drug, device, service,

Analysis

or dietary supplement, unless such claim is true and substantiated by competent and reliable scientific evidence. "Means and instrumentalities" is defined as any information, including but not necessarily limited to any advertising, labeling, or promotional materials, for use by distributors in their marketing or sale of Dr. Harris' Original Snore Formula or any other food, drug, device, service, or dietary supplement covered under the order.

Part V prohibits false claims about scientific support for any product or service.

Part VI requires Snore Formula, Inc., and its named officers to disseminate a notice ("Attachment A") about the order to distributors who have purchased Dr. Harris' Original Snore Formula tablets from respondents or from one of respondents' other distributors on or after January 1, 2001. This notice indicates that Snore Formula, Inc., has agreed to cease making challenged representations, and warns distributors that they may be terminated if they do not conform their representations to the requirements placed on Snore Formula, Inc. Part VII of the order requires dissemination of Attachment A to future distributors, and that Snore Formula, Inc., monitor their distributors, and terminate sales to distributors who make representations prohibited by the order.

The remainder of the proposed order contains standard requirements that proposed respondents maintain advertising and any materials relied upon as substantiation for any representation covered by substantiation requirements of the order; distribute copies of the order to certain company officials and employees; notify the Commission of any change in the corporation that may affect compliance under the order; notify the Commission of any change in employment by the individual proposed respondents, and file one or more reports detailing their compliance with the order. Part XIV of the proposed order is a provision whereby the order, absent certain circumstances, terminates twenty years from the date of issuance.

Analysis

This proposed order, if issued in final form, will resolve the claims alleged in the complaint against the named respondents. It is not the Commission's intent that acceptance of this consent agreement and issuance of a final decision and order will release any claims against any unnamed persons or entities associated with the conduct described in the complaint.

The purpose of this analysis is to facilitate public comment on the proposed order, and is not intended to constitute an official interpretation of the agreement and proposed order or to modify in any way their terms.

Commission Opinion

IN THE MATTER OF

POLYGRAM HOLDING, INC., ET AL.OPINION OF THE COMMISSION AND FINAL ORDER IN REGARD TO
ALLEGED VIOLATIONS OF SEC. 5 OF THE
FEDERAL TRADE COMMISSION ACT*Docket 9298; File No. 0010231**Complaint, July 30, 2001--Opinion and Final Order, July 24, 2003*

In a unanimous Opinion, the Commission addressed actions taken by Respondent PolyGram Holding, Inc. (a predecessor to Vivendi Universal, S.A.) and Warner Communications Inc. – two of the world’s largest music companies – in connection with a joint venture formed in 1997 to distribute audio and video recordings of the 1998 World Cup concert featuring “The Three Tenors,” Jose Carreras, Placido Domingo, and Luciano Pavarotti. The Commission determined that PolyGram and Warner agreed to restrict price discounting and advertising for recordings of the 1990 and 1994 concerts -- before and after the public release of recordings of the 1998 concert -- in violation of Section 5 of the Federal Trade Commission Act. The Final Order, among other things, prohibits the respondents from soliciting, participating in, entering into, attempting to enter into, implementing, attempting to implement, continuing, attempting to continue, or otherwise facilitating or attempting to facilitate any combination, conspiracy, or agreement, either express or implied, with any Seller (as defined by the Order) (A) to fix, raise, or stabilize prices or price levels in connection with the sale in or into the United States of any prerecorded music in any physical, electronic, or other form or format (“Audio Product”) or of any prerecorded visual or audiovisual product in any physical, electronic, or other form or format (“Video Product”), or (B) to prohibit, restrict, regulate, or otherwise place any limitation on any truthful, nondeceptive advertising or promotion in the United States for any Audio Product or any Video Product.

Participants

For the Commission: *Geoffrey M. Green, John Roberti, Cary Zuk, Melissa Westman-Cherry, Geoffrey D. Oliver, and Richard B. Dagen.*

For the Respondents: *Bradley S. Phillips, Glenn D. Pomerantz, and Stephen E. Morrissey, Munger, Tolles & Olsen.*