experience of members of the public who use the product or program, unless the representation is true, and competent and reliable scientific evidence substantiates that claim, or respondents clearly and prominently disclose either: (1) What the generally expected results would be for users or the product or program; or (2) the limited applicability of the endorser's experience to what consumers may generally expect to achieve, that is, that consumers should not expect to experience similar results.

Paragraph VII of the proposed order provides that proposed respondents are not prohibited from making representations which are specifically permitted by regulations of the Food and Drug Administration pursuant to the Nutrition Labeling and Education Act of 1990. Paragraph VIII of the proposed order provides that proposed respondents are not prohibited from making representations for a drug that are permitted under tentative final or final standards issued by the Food and Drug Administration or under any new drug application approved by that agency.

Paragraph IX of the proposed order requires that proposed respondents: (1) Not disseminate to any distributor any material containing any representations prohibited by the order; (2) not authorize any distributor to make any representations prohibited by the order; (3) send a required notice to each distributor with whom proposed respondents have done business since January 1, 1996, requesting that the distributor cease using advertising or promotional materials containing unsubstantiated claims for CMO, requesting distributors not to make unsubstantiated oral representations, informing the distributor of this settlement, and not including any other documents in the mailing; (4) for a period of three (3) years following service of the order, send the required notice to each distributor who has not previously received the notice; the notices shall be sent with the first shipment of respondents' products to the distributor; (5) require distributors to submit to proposed respondents all advertising and promotional materials and claims for any products or programs covered by the order for review prior to their dissemination and publication, and not authorize distributors to disseminate materials and claims unless they comply with the order; alternatively, proposed respondents must furnish to distributors marketing materials that comply with the order and require the distributors to submit for review all advertising and promotional materials for a particular product covered by the order that contain representations that are not substantially similar to the representations for the same product or program contained in the marketing materials most recently provided to the distributors by proposed respondents; and (6) use reasonable efforts to monitor distributors' advertising and promotional activities, immediately terminate the right of any distributor who disseminates advertisements or marketing material or makes oral representations prohibited by the order, and immediately provide information to the Federal Trade Commission about any such distributor and the materials used. ''Distributor'' is defined in the proposed order to mean any person who purchased a product covered by the order from the respondents for resale or at a discounted or wholesale price unavailable to the general public at the time of the purchase, or who has purchased more than twelve bottles or packages of a covered product from respondents within a twelve-month period.

Paragraph X of the proposed order requires the proposed respondents to send a prescribed notice to each person, other than a distributor, who purchased respondents' CMO products and can be identified through a diligent search of respondents' records. The notice offers a refund of the purchase price and any shipping or handling charges to customers who purchased respondents' CMO product for personal use or the use of a family member and who make a request for a refund within ninety days of the date of the notice. Paragraph XI of the proposed order requires the proposed respondents to submit a report to the Federal Trade Commission specifying the actions they have taken to comply with the provisions of Paragraph X. Paragraph XII of the proposed order requires proposed respondents to retain for five years after the last correspondence to which they pertain and to make available to the Federal Trade Commission on request, copies of notification letters, communications with distributors, and other materials relating to the requirements of Paragraph IX and Paragraph X.

Paragraph XIII of the proposed order contains record keeping requirements for materials that substantiate, qualify, or contradict covered claims and requires proposed respondents to keep and maintain all advertisements and promotional materials containing any representation covered by the proposed order. In addition, Paragraph XIV requires distribution of a copy of the consent decree to current and future officers and agents. Further, Paragraph XV requires the filing of a compliance report. Paragraph XVI of the proposed order requires the respondents to notify the Federal Trade Commission in advance of any change in the corporation that may affect compliance obligations arising under the order.

Finally, Paragraph XVII of the proposed order provides for the termination of the order after twenty years under certain circumstances.

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

By direction of the Commission.

**Donald S. Clark,**

*Secretary.*

[FR Doc. 00–9074 Filed 4–11–00; 8:45 am]

**BILLING CODE 6750–01–M**

## FEDERAL TRADE COMMISSION

**[File No. 982 3181]**

## EHP Products, Inc., et al.; Analysis To Aid Public Comment

**AGENCY:** Federal Trade Commission.

**ACTION:** Proposed consent agreement.

**SUMMARY:** The consent agreement in this matter settles alleged violations of federal law prohibiting unfair or deceptive acts or practices or unfair methods of competition. The attached Analysis to Aid Public Comment describes both the allegations in the draft complaint that accompanies the consent agreement and the terms of the consent order—embodied in the consent agreement—that would settle these allegations.

**DATES:** Comments must be received on or before May 5, 2000.

**ADDRESSES:** Comments should be directed to: FTC/Office of the Secretary, Room 159, 600 Pennsylvania Ave., NW., Washington, D.C. 20580.

**FOR FURTHER INFORMATION CONTACT:** Tom Carter, Federal Trade Commission, Southwest Region, 1999 Bryan St., Suite 2150, Dallas, TX. 75201–6803. (214) 979–9372.

**SUPPLEMENTARY INFORMATION:** Pursuant to Section 6(f) of the Federal Trade Commission Act, 38 Stat. 721, 15 U.S.C. 46 and Section 2.34 of the Commission's Rules of Practice (16 CFR 2.34), notice is hereby given that the above-captioned consent agreement containing a consent order to cease and desist, having been filed with and accepted, subject to final

approved, by the Commission, has been placed on the public record for a period of thirty (30) days. The following Analysis to Aid Public Comment describes the terms of the consent agreement, and the allegations in the complaint. An electronic copy of the full text of the consent agreement package can be obtained from the FTC Home Page (for April 5, 2000), on the World Wide Web, at ''http://www.ftc.gov/ftc/formal.htm.'' A paper copy can be obtained from the FTC Public Reference Room, Room H–130, 600 Pennsylvania Avenue, NW, Washington, D.C. 20580, either in person or by calling (202) 326–3627.

Public comment is invited. Comments should be directed to: FTC/Office of the Secretary, Room 159, 600 Pennsylvania. Ave., NW, Washington, D.C. 20580. Two paper copies of each comment should be filed, and should be accompanied, if possible, by a 3½ inch diskette containing an electronic copy of the comment. Such comments or views will be considered by the Commission and will be available for inspection and copying at its principal office in accordance with Section 4.9(b)(6)(ii) of the Commission's Rules of Practice (16 CFR 4.9(b)(6)(ii)).

**Analysis of Proposed Consent Order To Aid Public Comment**

The Federal Trade Commission has accepted, subject to final approval, an agreement to a proposed Consent Order (''proposed order'') from EHP Products, Inc., and Elaine H. Parrish, individually and as an officer of EHP Products, Inc.

The proposed consent order has been placed on the public record for thirty (30) days for the 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 will decide whether it should withdraw from the agreement or make final the agreement's proposed order.

This matter concerns advertisements on the Internet and print advertisements provided to consumers and prospective distributors, for a product called cetyl myristoleate (''CMO''), purportedly useful in the treatment, prevention, or cure of arthritis and other diseases. Purportedly, the substance, in one or two courses of treatment, each lasting four weeks or less, provides long term relief from the symptoms of osteoarthritis and rheumatoid arthritis. CMO is also claimed to be useful for the treatment, mitigation, prevention, and cure of most forms of arthritis and a number of other diseases.

The Commission's complaint charges that the proposed respondents engaged in deceptive advertising in violation of Sections 5 and 12 of the FTC Act by making unsubstantiated claims that their CMO products: (1) Are safe and effective in the mitigation, treatment, prevention, and cure of most forms of arthritic conditions, including rheumatoid arthritis and osteoarthritis; (2) significantly relieve pain, swelling, and tenderness caused by arthritis; (3) are effective in the mitigation, treatment, and cure of hepatitis C, emphysema, obstructive lung disease, spinal stenosis, eczema, psoriasis, aches and pains of the back and extremities, fibromyalgia, tendonitis, systemic lupus erythematosus, scleroderma, bursitis, temperomandibular joint disease, gout, arthropathy, osteitis, osteochondritis, osteomalacia, osteomyelitis; (4) are effective in the prevention of fever blisters, colds, flu, and allergy symptoms; and (5) effectively lower cholesterol, blood pressure, and blood sugar levels.

The complaint further alleges that the proposed respondents made false claims that (1) the issuance of two patents proves that the respondents' products are effective in treating and alleviating the symptoms of rheumatoid arthritis and osteoarthritis; and that (2) laboratory tests prove that respondents' CMO products promote resistance to pain, swelling, and tenderness caused by arthritis.

The proposed order contains provisions designed to remedy the violations charged and to prevent proposed respondents from engaging in similar acts in the future.

Paragraph I of the proposed order prohibits proposed respondents from making any representation that CMO or any similar product: (1) Is safe or effective in the mitigation, treatment, prevention, or cure of arthritic conditions, including rheumatoid arthritis and osteoarthritis; (2) significantly relieves pain, swelling, or tenderness caused by arthritis; (3) is effective in the mitigation, treatment, or cure of hepatitis C, emphysema, obstructive lung disease, spinal stenosis, eczema, psoriasis, aches and pains of the back and extremities, fibromyalgia, tendonitis, systemic lupus erythematosus, scleroderma, bursitis, temperomandibular joint disease, gout, arthropathy, rheumatism, osteitis, osteochondritis, osteomalacia, or osteomyelitis; (4) is effective in the prevention of fever blisters, colds, flu, or allergy symptoms; or (5) effectively lowers cholesterol, blood pressure, or blood sugar levels, unless, at the time the representation is made, respondents possess and rely upon competent and reliable scientific evidence that substantiates the representation.

Paragraph II of the proposed order prohibits proposed respondents from making any representations about the performance, safety, efficacy, or health benefits of CMO or any other food, drug, dietary supplement, or program, unless the claims are substantiated by competent and reliable scientific evidence.

Paragraph III of the proposed order prohibits proposed respondents from misrepresenting that the issuance of a patent proves the safety or efficacy of any product or program. Additionally, Paragraph IV of the proposed order prohibits proposed respondents from misrepresenting the existence, contents, validity, results, conclusions, or interpretations of any test, study, or research.

Paragraph V of the proposed order prohibits proposed respondents from representing that the experience represented by any user testimonial or endorsement of any product or program represents the typical or ordinary experience of members of the public who use the product or program, unless the representation is true, and competent and reliable scientific evidence substantiates that claim, or respondents clearly and prominently disclose either: (1) What the generally expected results would be for users or the product or program; or (2) the limited applicability of the endorser's experience to what consumers may generally expect to achieve, that is, that consumers should not expect to experience similar results.

Paragraph VI of the proposed order provides that proposed respondents are not prohibited from making representations which are specifically permitted by regulations of the Food and Drug Administration pursuant to the Nutrition Labeling and Education Act of 1990. Paragraph VII of the proposed order provides that proposed respondents are not prohibited from making representations for a drug that are permitted under tentative final or final standards issued by the Food and Drug Administration or under any new drug application approved by that agency.

Paragraph VIII of the proposed order requires that proposed respondents: (1) Not disseminate to any distributor any material containing any representations prohibited by the order; (2) not authorize any distributor to make any representations prohibited by the order; (3) send a required notice to each distributor with whom proposed respondents have done business since

January 1, 1996, requesting that the distributor cease using any advertising or promotional materials containing unsubstantiated claims for CMO, requesting distributors not to make unsubstantiated oral representations, informing the distributor of this settlement, and not including any other documents in the mailing; (4) for a period of three (3) years following service of the order, send the required notice to each distributor who has not previously received the notice; the notices shall be sent with the first shipment of respondents' products to the distributor; (5) require distributors to submit to proposed respondents all advertising and promotional materials and claims for any products or programs covered by the order for review prior to their dissemination and publication, and not authorize distributors to disseminate materials and claims unless they comply with the order; alternatively, proposed respondents must furnish to distributors marketing materials that comply with the order and require the distributors to submit for review all advertising and promotional materials for a particular product covered by the order that contain representations that are not substantially similar to the representations for the same product or program contained in the marketing materials most recently provided to the distributors by proposed respondents; and (6) use reasonable efforts to monitor distributors' advertising and promotional activities, immediately terminate the right of any distributor who disseminates advertisements or making material or makes oral representations prohibited by the order, and immediately provide information to the Federal Trade Commission about any such distributor and the materials used. ''Distributor'' is defined in the proposed order to mean any person who purchased a product covered by the order from proposed respondents for resale or at a discounted or wholesale price unavailable to the general public as the time of the purchase, or who has purchased more than twelve bottles or packages of a covered product from respondents within a twelve-month period.

Paragraph IX of the proposed order requires proposed respondents to send a prescribed notice to each person, other than a distributor, who purchased respondents' CMO products and can be identified through a diligent search of respondents' records. The notice offers a refund of the purchase price of the CMO products and an allowance for shipping and handing charges to customers who purchased respondents' CMO product for personal use or the use of a family member and who make an initial request for a refund within ninety days of the date of this notice. The notice further provides that, if any refund request from a single purchaser is for greater than three bottles of a product covered by the order, the purchaser may be required to return all unopened bottles of the product, at the expense of respondents, to receive a refund. Paragraph X of the proposed order requires proposed respondents to submit a report to the Federal Trade Commission specifying the actions they have taken to comply with the provisions of Paragraph IX. Paragraph XI of the proposed order requires proposed respondents to retain for five years after the last correspondence to which they pertain and to make available to the Federal Trade Commission on request, copies of notification letters, communications with distributors, and other materials relating to the requirements of Paragraph VIII and Paragraph IX.

Paragraph XII of the proposed order contains record keeping requirements for materials that substantiate, qualify, or contradict covered claims and requires proposed respondents to keep and maintain all advertisements and promotional materials containing any representation covered by the proposed order. In addition, Paragraph XIII requires distribution of a copy of the consent decree to current and future officers and agents. Paragraph XIV of the proposed order requires the respondents to notify the Federal Trade Commission in advance of any change in the corporation that may affect compliance obligations arising under the order. Further, Paragraph XV requires the filing of a compliance report.

Finally, Paragraph XVI of the proposed order provides for the termination of the order after twenty years under certain circumstances.

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

By direction of the Commission,

**Donald S. Clark,**

*Secretary.*

[FR Doc. 00–9075 Filed 4–11–00; 8:45 am]

**BILLING CODE 6750–01–M**

## FEDERAL TRADE COMMISSION

**[File No. 992 3225]**

## Michael D. Miller; Analysis To Aid Public Comment

**AGENCY:** Federal Trade Commission.

**ACTION:** Proposed Consent Agreement.

**SUMMARY:** The consent agreement in this matter settles alleged violations of federal law prohibiting unfair or deceptive acts or practices or unfair methods of competition. The attached Analysis to Aid Public Comment describes both the allegations in the draft complaint that accompanies the consent agreement and the terms of the consent order—embodied in the consent agreement—that would settle these allegations.

**DATES:** Comments must be received on or before May 5, 2000.

**ADDRESSES:** Comments should be directed to: FTC/Office of the Secretary, Room 159, 600 Pennsylvania Ave., NW, Washington, DC 20580.

**FOR FURTHER INFORMATION CONTACT:** Richard Cleland, FTC/S–4002, 600 Pennsylvania Ave., NW, Washington, DC 20580. (202) 326–3088.

**SUPPLEMENTARY INFORMATION:** Pursuant to Section 6(f) of the Federal Trade Commission Act, 38 Stat. 721, 15 U.S.C. 46 and Section 2.34 of the Commission's Rules of Practice (16 CFR 2.34), notice is hereby given that the above-captioned consent agreement containing a consent order to cease and desist, having been filed with and accepted, subject to final approval, by the Commission, has been placed on the public record for a period of thirty (30) days. The following Analysis to Aid Public Comment describes the terms of the consent agreement, and the allegations in the complaint. An electronic copy of the full text of the consent agreement package can be obtained from the FTC Home Page (for April 5, 2000), on the World Wide Web, at ''http://www.ftc.gov/ftc/formal.htm.'' A paper copy can be obtained from the FTC Public Reference Room, Room H–130, 600 Pennsylvania Avenue, NW, Washington, DC 20580, either in person or by calling (202) 326–3627.

Public comment is invited. Comments should be directed to: FTC/Office of the Secretary, Room 159, 600 Pennsylvania Ave., NW, Washington, DC 20580. Two paper copies of each comment should be filed, and should be accompanied, if possible, by a 3½ inch diskette containing an electronic copy of the comment. Such comments or views will be considered by the Commission and will be available for inspection and