

SUPPLEMENTARY INFORMATION: On Tuesday, September 27, 1994, there was published in the **Federal Register**, 59 FR 49245, a proposed consent agreement with analysis in the Matter of Chemopharm Laboratory Inc., d/b/a CP Industries, for the purpose of soliciting public comment. Interested parties were given sixty (60) days in which to submit comments, suggestions or objections regarding the proposed form of the order.

No comments having been received, the Commission has ordered the issuance of the complaint in the form contemplated by the agreement, made its jurisdictional findings, and entered an order to cease and desist, as set forth in the proposed consent agreement, in disposition of this proceeding.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interprets or applies sec. 5, 38 Stat. 719, as amended; 15 U.S.C. 45)

Benjamin I. Berman,
Acting Secretary.

[FR Doc. 95-93 Filed 1-3-95; 8:45 am]

BILLING CODE 6750-01-M

[File No. 932 3356]

Louis Bass, Inc.; Proposed Consent Agreement With Analysis To Aid Public Comment

AGENCY: Federal Trade Commission.

ACTION: Proposed consent agreement.

SUMMARY: In settlement of alleged violations of federal law prohibiting unfair acts and practices and unfair methods of competition, this consent agreement, accepted subject to final Commission approval, would prohibit, among other things, a Wisconsin corporation, doing business as Crestwood Company, from making false or unsubstantiated performance claims about any communication aid it offers in the future, and from making representations concerning the efficacy of the communication devices in enabling individuals with disabilities to communicate through facilitated communication, unless the respondent has competent and reliable scientific evidence to substantiate the representation.

DATES: Comments must be received on or before March 6, 1995.

ADDRESSES: Comments should be directed to: FTC/Office of the Secretary, Room 159, 6th St. and Pa. Ave., N.W., Washington, D.C. 20580.

FOR FURTHER INFORMATION CONTACT: Jeffrey Klurfeld or Kerry O'Brien, San Francisco Regional Office, Federal Trade Commission, 901 Market St.,

Suite 570, San Francisco, CA. 94103. (415) 744-7920.

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 following 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 sixty (60) days. Public comment is invited. 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)).

Agreement Containing Consent Order To Cease and Desist

The Federal Trade Commission having initiated an investigation of certain acts and practices of Louis Bass, Inc. (d/b/a Crestwood Company), a corporation, and it now appearing that Louis Bass, Inc. (d/b/a Crestwood Company), a corporation, hereinafter sometimes referred to as proposed respondent, is willing to enter into an agreement containing an order to cease and desist from the use of the acts and practices being investigated.

It is hereby agreed by and between Louis Bass, Inc. (d/b/a Crestwood Company), by its duly authorized officer, and its attorney, and counsel for the Federal Trade Commission that:

1. Proposed respondent Louis Bass, Inc. is a corporation organized, existing and doing business under and by virtue of the laws of the State of Wisconsin, with its office and principal place of business located at 6625 North Sidney Place, in the City of Glendale, State of Wisconsin.

2. Proposed respondent admits all the jurisdictional facts set forth in the draft of complaint.

3. Proposed respondent waives:

- a. Any further procedural steps;
- b. The requirement that the Commission's decision contain a statement of findings of fact and conclusions of law; and
- c. All rights to seek judicial review or otherwise to challenge or contest the validity of the order entered pursuant to this agreement.

4. This agreement shall not become part of the public record of the proceeding unless and until it is accepted by the Commission. If this agreement is accepted by the Commission, it, together with the draft of complaint contemplated thereby, will

be placed on the public record for a period of sixty (60) days and information in respect thereto publicly released. The Commission thereafter may either withdraw its acceptance of this agreement and so notify the proposed respondent, in which event it will take such action as it may consider appropriate, or issue and serve its complaint (in such form as the circumstances may require) and decision, in disposition of the proceeding.

5. This agreement is for settlement purposes only and does not constitute an admission by proposed respondent of facts, other than jurisdictional facts, or of violations of law as alleged in the draft of complaint.

6. This agreement contemplates that, if it is accepted by the Commission, and if such acceptance is not subsequently withdrawn by the Commission pursuant to the provisions of Section 2.34 of the Commission's Rules, the Commission may, without further notice to proposed respondent, (a) issue its complaint corresponding in form and substance with the draft of complaint and its decision containing the following order to cease and desist in disposition of the proceeding and (b) make information public in respect thereto. When so entered, the order to cease and desist shall have the same force and effect and may be altered, modified or set aside in the same manner and within the same time provided by statute for other orders. The order shall become final upon service. Delivery by the U.S. Postal Service of the complaint and decision containing the agreed-to order to proposed respondent's address as stated in this agreement shall constitute service. Proposed respondent waives any right it may have to any other manner of service. The complaint may be used in construing the terms of the order, and no agreement, understanding, representation, or interpretation not contained in the order or the agreement may be used to vary or contradict the terms of the order.

7. Proposed respondent has read the proposed complaint and order contemplated hereby. Proposed respondent understands that once the order has been issued, it will be required to file one or more compliance reports showing that it has fully complied with the order. Proposed respondent further understands that it may be liable for civil penalties in the amount provided by law for each violation of the order after it becomes final.

Order

Definitions

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

A. The term "Communication aid" means any alphabet display chart, computer, typewriter or other device, which is created or marketed for use by persons with communication impairments, including the "Crestalk" and "Canon Communicator."

B. The term "Facilitated Communication" means any method or technique or process that entails an individual providing physical support to a person with a communication impairment, while that person types or points to a communication aid.

I.

It is ordered that respondent, Louis Bass, Inc. (d/b/a/ Crestwood Company), a corporation, its successors and assigns, and its officers, agents, representatives and employees, directly or through any corporation, subsidiary, division or other device, in connection with the manufacturing, labeling, advertising, promotion, offering for sale, sale, or distribution of any communication aid, in or affecting commerce, as "commerce" as defined in the Federal Trade Commission Act, do forthwith cease and desist from misrepresenting, in any manner, directly or by implication, that such product enables autistic individuals to communicate through facilitated communication.

II.

It is further ordered that respondent, Louis Bass, Inc. (d/b/a Crestwood Company), a corporation, its successors and assigns, and its officers, agents, representatives and employees, directly or through any corporation, subsidiary, division or other device, in connection with the manufacturing, labeling, advertising, promotion, offering for sale, sale, or distribution of any communication aid, in or affecting commerce, as "commerce" as defined in the Federal Trade Commission Act, do forthwith cease and desist from representing, in any manner, directly or by implication, that such product enables individuals with disabilities to communicate through facilitated communication, unless such representation is true and, at the time of making such representation, respondent possesses and relies upon competent and reliable scientific evidence that substantiates the representation. For purposes of this Order, "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.

III.

It is further ordered that respondent, Louis Bass, Inc. (d/b/a Crestwood Company), a corporation, its successors and assigns, and its officers, agents, representatives and employees, directly or through any corporation, subsidiary, division or other device, in connection with the manufacturing, labeling, advertising, promotion, offering for sale, sale, or distribution of any communication aid, in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from representing, in any manner, directly or by implication, the performance or attributes of any such product, unless, at the time of making such representation, respondent possesses and relies upon competent and reliable evidence, which when appropriate must be competent and reliable scientific evidence, that substantiates such representation.

It is further ordered that for five (5) years after the last date of dissemination of any representation covered by this Order, respondent, or its successors and assigns, shall maintain and upon request make available to the Federal Trade Commission for inspection and copying:

A. All materials that were relied upon in disseminating such representation; and

B. All tests, reports, studies, surveys, demonstrations or other evidence in its possession or control that contradict, qualify, or call into question such representation, or the basis relied upon for such representation, including complaints from consumers.

V.

It is further ordered that respondent shall notify the Commission at least thirty (30) days prior to the effective date of any proposed change in the respondent that may affect compliance obligations under this Order such as dissolution, assignment, or sale resulting in the emergency of a successor corporation(s), the creation or dissolution of subsidiaries, or any other change in the corporation(s).

VI.

It is further ordered that the corporate respondent shall, within sixty (60) days from the date of service of this Order upon it, distribute a copy of this Order

to each of its officers, agents, representatives, licensees, independent contractors, and employees involved in the preparation and placement of advertisements or promotional materials, or is in communication with customers or prospective customers, or who has any responsibilities with respect to the subject matter of this Order; and for a period of three (3) years, from the date of issuance of this Order, distribute a copy of this Order to all of respondent's future such officers, agents, representatives, licensees, independent contractors, and employees.

VII.

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

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 respondent Louis Bass, Inc., d/b/a Crestwood Company, a Wisconsin corporation.

The proposed consent order has been placed on the public record for sixty (60) days for reception of comments by interested persons. Comments received during this period will become part of the public record. After sixty (60) 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.

This matter concerns the advertising of the "Crestalk" and the "Canon Communicator," communication aids for individuals with disabilities. The Commission's complaint charges that respondent's advertising contained false and unsubstantiated representations concerning the efficacy of these communication aids in enabling autistic individuals to communicate through facilitated communication. Facilitated communication is a technique that, among other things, entails an individual providing physical support to a person with a communication impairment, while that person types or points to a communication aid, such as the Crestalk or the Canon Communicator.

Specifically, the complaint alleges that respondent falsely represented that the Crestalk and the Canon

Communicator enable autistic individuals to communicate through facilitated communication. The complaint also alleges that respondent lacked substantiation for these claims.

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

Part I of the proposed order prohibits respondent from misrepresenting that any communication aid enable autistic individuals to communicate through facilitated communication.

As fencing-in relief, Part II of the proposed order provides that, if the respondent represents that a communication aid enables individuals with disabilities to communicate through facilitated communication, the representation must be true and respondent must possess competent and reliable scientific evidence that substantiates the representation. In addition, Part II of the proposed order prohibits respondent from representing the performance or attributes of a communication aid unless it possesses and relies upon competent and reliable evidence, which when appropriate must be competent and reliable scientific evidence, to substantiate the representation.

The proposed order also requires respondent to maintain materials relied upon to substantiate claims covered by the order; to provide a copy of the consent agreement to its employees involved in the preparation and placement of respondent's advertisements, or in communication with respondent's customers or prospective customers; to notify the Commission of any change in the corporate structure that might affect compliance with the order; and to file one or more reports detailing compliance with the order.

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

Benjamin I. Berman,

Acting Secretary.

[FR Doc. 95-94 Filed 1-3-95; 8:45 am]

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[Dkt. C-3546]

Rite Aid Corporation; Prohibited Trade Practices, and Affirmative Correction Actions

AGENCY: Federal Trade Commission.

ACTION: Consent order.

SUMMARY: In settlement of alleged violations of federal law prohibiting unfair acts and practices and unfair methods of competition, this consent order requires, among other things, Rite Aid, in conjunction with its acquisition of LaVerdiere's Enterprises, Inc., to divest the pharmacy assets either in its own Rite Aid stores, or in the LaVerdiere's stores it will acquire, in three specified cities, to a Commission-approved entity within 12 months of the order. If the divestitures are not accomplished within the time-frame, the Commission can appoint a trustee to accomplish them. In addition, the consent order requires the respondent, for a period of ten years, to obtain Commission approval before acquiring any assets or stocks in any entity engaged in the business of selling prescription drugs at retail outlets in the three designated cities.

DATES: Complaint and Order issued December 15, 1994.¹

FOR FURTHER INFORMATION CONTACT: Ann Malester or Catharine Moscatelli, FTC/S-2224, Washington, D.C. 20580. (202) 326-2682 or 326-2749.

SUPPLEMENTARY INFORMATION: On Monday, September 12, 1994, there was published in the **Federal Register**, 59 FR 46843, a proposed consent agreement with analysis In the Matter of Rite Aid Corporation, for the purpose of soliciting public comment. Interested parties were given sixty (60) days in which to submit comments, suggestions or objections regarding the proposed form of the order.

Comments were filed and considered by the Commission. The Commission has ordered the issuance of the complaint in the form contemplated by the agreement, made its jurisdictional findings and entered an order to divest, as set forth in the proposed consent agreement, in disposition of this proceeding.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interpret or apply sec. 5, 38 Stat. 719, as amended; sec. 7, 38 Stat. 731, as amended; 15 U.S.C. 45, 18)

Benjamin I. Berman,

Acting Secretary.

[FR Doc. 95-95 Filed 1-3-95; 8:45 am]

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¹ Copies of the Complaint and the Decision and Order are available from the Commission's Public Reference Branch, H-130, 6th Street & Pennsylvania Avenue, N.W., Washington, D.C. 20580.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Government-Owned Invention; Availability for Licensing

AGENCY: National Institutes of Health, HHS.

ACTION: Notice.

SUMMARY: The invention listed below is owned by an agency of the U.S. Government and is available for licensing in the U.S. (and in foreign markets) in accordance with 35 U.S.C. 207 to achieve expeditious commercialization of results of federally funded research and development.

A "Method And System For Measuring The Diffusion Tensor And For Diffusion Tensor Imaging" was developed by P.J. Basser and J.H. Mattiello of the National Center for Research Resources and D. LeBinah of the Warren Grant Magnuson Clinical Center. The National Institutes of Health is the assignee of patent rights to this technology, which are covered under U.S. Patent Application Number 08/103,009, filed August 6, 1993.

This application describes a new modality of nuclear magnetic resonance imaging. Specifically, this is a method and system for measuring the diffusion tensor and for generating images related to the diffusion tensor. Several advantages can be achieved with this method and system for measuring the effective diffusion tensor for spin-labeled nuclei. The diffusion tensor may be used for generating a diffusion ellipsoid for the measured region. Such techniques may be used for imaging fiber orientation in tissue. Measurements in diffusion tensor may also be used for aligning and calibrating the magnetic field gradients of the NMR apparatus itself.

ADDRESSES: Licensing information and copies of the U.S. patent application may be obtained by writing to J.E. Fahner-Vihtelic at the Office of Technology Transfer, National Institutes of Health, 6011 Executive Boulevard, Suite 325, Rockville, Maryland 20852-3804 (telephone 301/496-7735 ext. 285; fax 301/402-0220). A signed Confidential Disclosure Agreement will be required to receive copies of the patent application.

Dated: December 20, 1994.

Barbara M. McGarey,

Deputy Director, Office of Technology Transfer.

[FR Doc. 95-46 Filed 1-3-95; 8:45 am]

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