physical endurance and mental alertness.

The complaint also alleges that through the use of trade names, respondents falsely and misleadingly represented that (1) ''Sleeper's Diet'' promotes weight loss during sleep; (2) ''Memory Booster'' improves memory retention; (3) ''Dark Circle Eye Treatment'' removes dark circles from under the eyes; and (4) ''Super Fat Burners'' reduces body fat.

The consent agreement resolving these allegations requires respondents to cease and desist from misrepresenting the existence, contents, validity, results, conclusions, or interpretations of any test, study, research article, or any other scientific opinion or data. As to the products ''Sleeper's Diet,'' ''L-Arginine,'' or ''L-Ornithine,'' or any other substantially similar amino acid product, respondents are to cease and desist from representing that (1) any such product stimulates greater production or release of human growth hormone in a user than a non-user of such product; (2) any such product promotes muscular development; or (3) any such product burns fat or otherwise alters human metabolism to use up or burn stored fat, or promotes weight loss.

In connection with the products L-Cysteine, L-Methionine, or any other substantially similar hair care product, respondents are to cease and desist from representing that any such product will prevent or retard hair loss or promote hair growth where hair has already been lost. As to any hair care product or service, respondents are to cease and desist from representing that (1) the use of the product or service will prevent, cure, relieve, reverse, or reduce hair loss; or (2) the use of the product or service will promote the growth of hair where hair already has been lost, unless, at the time of making such representation, respondents possess and rely upon competent and reliable scientific evidence that substantiates the representation.

Respondents are also prohibited from manufacturing, advertising, labeling, packaging, promoting, offering for sale, selling, or distributing any product that is represented as promoting hair growth or preventing hair loss, unless the product is the subject of an approved new drug application for such purpose under the Federal Food, Drug, and Cosmetic Act.

Respondents also are required to possess and rely upon competent and reliable scientific evidence as substantiation for any representation that any product (1) cures, treats, prevents, or reduces the risk of developing any disease, disorder or condition in humans or relatives symptoms thereof (2) provides any weight loss or weight control benefit or otherwise provides an effective treatment of obesity; (3) suppresses appetite, reduces the body's absorption of calories, stimulates metabolism, or reduces serum cholesterol; (4) cures, treats, prevents or reduces the risk of benign prostatic hypertrophy; (5) promotes greater muscular development, endurance, strength, power, definition, or stamina, or shorter exercise recovery or recuperation time in a user than a non-user of such product; (6) removes or diminishes dark circles under the eyes; (7) improves mental clarity, mental concentration, mental comprehension, mental retention or mental alertness; (8) aids digestion or promotes increased absorption of nutrients from ingested foods; (9) relieves stress or promotes relaxation; or (10) prevents, relieves or treats fatigue or boosts energy. However, the agreement states that this substantiation requirement does not apply if respondents are merely selling another manufacturer's products, and, *inter alia,* the product representation is made only on a product label or insert, and is not otherwise advertised or promoted by respondents. The consent agreement also notes that this ''safe harbor'' provision is currently identical to the ''safe harbor'' proviso contained in Paragraph V. of the order in *General Nutrition, Inc.,* Docket No. 9175, that it is the intention of the parties to the instant order that the provisos shall remain identical, and that respondents agree to be bound by any subsequent modifications (including vacation) of the safe harbor proviso in Docket No. 9175, without any further formal modification of the instant order. Respondents retain their right to file a petition to modify or vacate the instant order.

Also under the order, respondents may not use the name ''Sleeper's Diet'' or any other brand name that represents that such product has the ability to promote weight loss during sleep; use the name ''Memory Booster'' or any other brand name that represents that such product improves memory retention; use the name ''Dark Circle Eye Treatment'' or any other brand name that represents that such product removes dark circles from under the eyes; or use the name ''Super Fat Burners'' or any other brand name that represents that such product reduces body fat, unless, at the time of making such representation, respondents possess and rely upon competent and reliable scientific evidence that substantiates the representation.

Under the terms of the order, respondents shall pay $250,000.00 to the Federal Trade Commission. The funds paid by respondents shall, in the discretion of the Federal Trade Commission, be used to provide direct redress to consumers allegedly injured by respondents. If redress to consumers is impracticable or unwarranted, any funds not used for redress shall be paid to the United States Treasury.

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 any of their terms.

Donald S. Clark,

Secretary.

Statement of Commissioner Mary L. Azcuenaga Concerning Nature's Bounty, Inc.

File No. 932 3224

I dissent from the Commission's decision to accept a proposed consent order with Nature's Bounty and its subsidiaries, Puritan's Pride, Inc., and Vitamin World, Inc., because the order leaves the respondents free to sell products they know, or should know, are deceptively labeled.

The proviso in Paragraph V of the consent order states that the respondents would not necessarily be liable for false or unsubstantiated claims appearing on the labels or in the packaging of the products sold at its stores, even it if were clear that the companies had actual knowledge that those claims were unsubstantiated or untrue. I believe that the other should hold the respondents liable if they know, or should know, that the labels or packaging of any such product contains false or unsubstantiated claims.

[FR Doc. 95–11554 Filed 5–10–95; 8:45 am]
BILLING CODE 6750–01–M

[Dkt. C–3566]

Ninzu, Inc., et al.; Prohibited Trade Practices, and Affirmative Corrective 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, the Maryland-based marketers to possess and rely upon competent and reliable scientific substantiating evidence to

support any performance, benefits, efficacy, or safety claims they make for any weight loss or weight control product or program or any acupressure device they market in the future.

DATES: Complaint and Order issued April 7, 1995.[1]

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

SUPPLEMENTARY INFORMATION: On Tuesday, January 31, 1995, there was published in the **Federal Register**, 60 FR 5932, a proposed consent agreement with analysis In the Matter of Ninzu, Inc., et al., 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, 52)

Donald S. Clark,

Secretary.

[FR Doc. 95–11550 Filed 5–10–95; 8:45 am]

BILLING CODE 6750–01–M

[File No. 931–0083]

Physicians Group, Inc., et al.; 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, the respondent, a Danville physicians' group, and its seven board members from attempting to engage in an agreement or agreeing with other physicians to negotiate or refuse to negotiate with a third party payor. In addition, it would require dissolution of the respondent within 120 days.

DATES: Comments must be received on or before July 10, 1995.

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

FOR FURTHER INFORMATION CONTACT: Mark Horoschak or Rendell Davis, FTC/S–3115, Washington, DC 20580. (202) 326–2756 or (202) 326–2894.

SUPPLEMENTARY INFORMATION: Pursuant to section 6(f) of the Federal Trade Commission Act, 38 Stat. 721, 15 U.S.C. 46 and § 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 § 4.9(b)(6)(ii) of the Commission's rules of practice (16 CFR 4.9(b)(6)(ii)).

Before Federal Trade Commission

In the matter of Physicians Group, Inc., a corporation, Edwin J. Harvie, Jr., M.D., Eric N. Davidson, M.D., Milton Greenberg, M.D., Noah F. Gibson, IV, M.D., William W. Henderson, IV, M.D., Douglas W. Shiflett, M.D., and Lawrence G. Fehrenbaker, M.D., individually. File No. 931 0083.

Agreement Containing Consent Order To Cease and Desist

The Federal Trade Commission having initiated an investigation of certain acts and practices of the respondents named in the caption hereof, hereinafter sometimes referred to as proposed respondents, and it now appearing that the proposed respondents are 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 the proposed respondents and counsel for respondent Physicians Group, Inc., and counsel for the Federal Trade Commission that:

1. Proposed Respondent Physicians Group, Inc. is a nonstock corporation organized, existing, and doing business under and by virtue of the laws of the Commonwealth of Virginia, with its principal place of business in Danville, Virginia. For purposes of this agreement and order, its address is Physicians Group, Inc., c/o Dr. Edwin J. Harvie, Jr., 101 Holbrook Street, Danville, Virginia 24541.

2. The individual respondents named in the caption above are the members of the board of directors of proposed respondent Physicians Group, Inc., are physicians licensed to practice medicine in the Commonwealth of Virginia, and are engaged in the business of providing physician services to patients for a fee in Pittsylvania County and Danville, Virginia. Their respective business addresses are as follows:

Edwin J. Harvie, Jr., M.D., Internal Medicine Associates, Ltd., 101 Holbrook Street, Danville, Virginia 24541;

Eric N. Davidson, M.D., Piedmont Internal Medicine, Inc., 125 Executive Drive, Suite H, Danville, Virginia 24541;

Milton Greenberg, M.D., 171 South Main Street, Danville, Virginia 24541;

Noah F. Gibson, IV, M.D., 181 North Main Street, Danville, Virginia 24541;

William W. Henderson, IV, M.D., Danville Pulmonary Clinic, Inc., 110 Exchange Street, Suite G, Danville, Virginia 24541;

Douglas W. Shiflett, M.D., Internal Medicine Associates, Ltd., 101 Holbrook Street, Danville, Virginia 24541; and

Lawrence G. Fehrenbaker, M.D., Danville Urologic Clinic, P.O. Box 1360, Danville, Virginia 24543.

3. Proposed respondents admit all the jurisdictional facts set forth in the draft of complaint.

4. Proposed respondents waive:

(a) Any further procedural steps;

(b) The requirement that the Commission's decision contain a statement of findings of fact and conclusions of law;

(c) All rights to seek judicial review or otherwise to challenge or contest the validity of the order entered pursuant to this agreement; and

(d) Any claim under the Equal Access to Justice Act.

5. 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 with respect thereto will be publicly released. The Commission thereafter may either withdraw its acceptance of this agreement and so notify the proposed respondents, 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.

6. This agreement is for settlement purposes only and does not constitute

[1] Copies of the Complaint and Decision and Order are available from the Commission's Public Reference Branch, H–130, 6th Street & Pennsylvania Avenue, NW., Washington, DC. 20580.