

AND DOES NOT CONTRIBUTE TO WEIGHT LOSS OR LOSS OF BODY FAT.

The agreement also requires respondent to pay \$100,000 to the Federal Trade Commission.

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.

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FEDERAL TRADE COMMISSION

[File No. 972-3021]

Bodywell Inc., et al., Also d/b/a Bodywell U.S.A.; Analysis To Aid Public Comment

AGENCY: Federal Trade Commission.

ACTION: Proposed consent agreement.

SUMMARY: In settlement of alleged violations of federal law prohibiting unfair or deceptive acts or practices and unfair methods of competition, this consent agreement, accepted subject to final Commission approval, would, among other things, require the New York-based company and its principal to possess competent and reliable scientific evidence to support any claim that any product causes weight loss, with or without changes in diet or exercise, or provides any weight loss, fat loss, weight regulation, weight control or weight maintenance benefit; and would prohibit them from using the name "Slimming Soles" or any other name in a manner that represents that any product causes weight loss, unless the respondents possess competent and reliable scientific evidence that substantiates the representation. The consent agreement also would prohibit the respondent from making any misrepresentations of the existence, contents, validity, results, conclusions or interpretations of any test, study or research, and from violating the Mail or Telephone Order Merchandise Rule, which, among other things, requires that purchasers be notified if the products are not delivered in a timely fashion. In addition, the consent agreement would require the respondents to pay \$100,000 for consumer redress or disgorgement.

DATES: Comments must be received on or before June 6, 1997.

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

FOR FURTHER INFORMATION CONTACT: Richard Cleland, FTC/H-482, Washington, D.C. 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 sixty (60) 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 March 25, 1997), on the World Wide Web, at "http://www.ftc.gov/os/actions/htm." A paper copy can be obtained from the FTC Public Reference Room, Room H-130, Sixth Street and Pennsylvania Avenue, NW., Washington, D.C. 20580, either in person or by calling (202) 326-3627. 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)).

Analysis of Proposed Consent Order

The Federal Trade Commission has accepted an agreement to a proposed consent order from BodyWell, Inc. and BodyWell, Inc.'s officer, Gerard du Passage ("respondents").

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 or make final the agreement's proposed order.

The Commission's complaint in this matter charges respondents with deceptively advertising Slimming Soles, insoles worn in the shoes that purportedly cause weight loss through "reflexology," without changes in diet or exercise. According to advertisements for the product, the Slimming Soles purportedly cause weight loss by massaging certain "reflex points" on the bottom of the foot during the course of a normal day's walking, thereby stimulating the body's digestive system to burn stored fat and cause weight loss.

Advertisements for the product appeared in newspapers such as the *Denver Post* and in the *National Enquirer*, in newspaper inserts, in magazines such as *Cosmopolitan* and *Woman's Day* as well as in nationwide direct mailings.

The complaint alleges that, through the product name "Slimming Soles" and the advertisements, respondents made unsubstantiated representations that the Slimming Soles cause significant weight loss; that the weight loss occurs without changes in diet or exercise; and that consumers using the Slimming Soles will lose 13 to 16 pounds within six weeks, without changes in diet or exercise. According to the complaint, the ads also claimed, without adequate substantiation, that the consumer testimonials in the ads reflect the typical or ordinary experience of people who have used the product.

The complaint also alleges that respondents falsely represented that scientific studies demonstrate that the Slimming Soles cause significant weight loss, including 13 to 16 pounds within six weeks, without changes in diet or exercise. In addition, the complaint alleges that respondents falsely represented that the product would be delivered to purchasers within a reasonable period of time. In fact, the complaint alleges, in numerous instances the Soles sold to purchasers were not delivered to those purchasers within a reasonable period of time.

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

Part I of the order requires respondents to possess competent and reliable scientific evidence to support any claim that any product causes weight loss, with or without changes in diet or exercise, causes weight loss at any particular rate or speed, or within any time period, or provides any weight loss, fat loss, weight regulation, weight control or weight maintenance benefit. Part II prohibits respondents from using the name "Slimming Soles" or any other name in a manner that represents that any product causes weight loss, unless they possess competent and reliable scientific evidence that substantiates the representation.

Part III prohibits respondents from claiming that the experience represented in any user-testimonial or endorsement of any food, dietary supplement, drug, device, or weight loss product or program represents the typical or ordinary experience of members of the public who use the

product or program, unless, at the time, they possess and rely upon competent and reliable scientific evidence substantiating the representation or they disclose, clearly and prominently, and in close proximity to the testimonial or endorsement, what the generally expected results would be or that consumers should not expect to experience similar results.

Part IV prohibits respondents from misrepresenting the existence, contents, validity, results, conclusions or interpretations of any test, study or research in connection with the sale of any food, dietary supplement, drug, device, or weight loss product or program. Part V prohibits respondents from violating the Mail or Telephone Order Merchandise Rule, which, among other things, requires that purchasers be notified if the products are not delivered in a timely fashion.

Part VI requires respondents to deposit \$100,000 into an escrow account, which will be used by the Commission to provide either direct redress to purchasers of the Slimming Soles or will be paid to the United States Treasury, if the Commission determines that direct redress to consumers is wholly or partially impracticable.

Parts VII through IX relate to respondents' obligations to maintain and make available to the Commission certain records; to provide copies of the order to respondents' personnel; and to notify the Commission of structural changes in the corporation. Part X requires Gerard du Passage to notify the Commission if he leaves his current employment or he affiliates with any new business or employment whose activities relate to the manufacturing, labeling, advertising, promotion, offering for sale, sale or distribution of any dietary supplement, drug, device, or weight loss product or program for which any health or weight loss claim is made. Part XI requires respondents to file compliance reports with the Commission. Part XII provides that the order will terminate 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.

Donald S. Clark,

Secretary.

[FR Doc. 97-8798 Filed 4-4-97; 8:45am]

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FEDERAL TRADE COMMISSION

[File No. 962-3137]

Guildwood Direct Limited, Also d/b/a Intermed Laboratories; Analysis To Aid Public Comment

AGENCY: Federal Trade Commission.

ACTION: Proposed consent agreement.

SUMMARY: In settlement of alleged violations of federal law prohibiting unfair or deceptive acts or practices and unfair methods of competition, this consent agreement, accepted subject to final Commission approval, would prohibit, among other things, the New York-based company from representing that any product causes weight loss, with or without changes in diet or exercise, or provides any weight loss, fat loss, weight regulation, weight control or weight maintenance benefit, and from using the name "Slimming Insoles" or any other name in a manner that represents that any product causes weight loss unless the respondent possesses competent and reliable scientific evidence that substantiates the representation. The consent agreement also would prohibit the respondent from representing that Advance Bio/Natural Research Labs in a bona fide, independent research organization or from making any misrepresentations of the existence, contents, validity, results, conclusions or interpretations of any test, study or research or the existence, nature, purpose or activities of any organization. In addition, the consent agreement would require the respondent to pay, to purchasers of the Slimming Insoles, \$40,000 for consumer redress or disgorgement, with that liability being suspended upon payment of \$7,500 once the order becomes final.

DATES: Comments must be received on or before June 6, 1997.

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: Richard Cleland, FTC/H-482, Washington, D.C. 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 sixty (60) 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 March 25, 1997), on the World Wide Web, at "http://www.ftc.gov/os/actions/htm." A paper copy can be obtained from the FTC Public Reference Room, Room H-130, Sixth Street and Pennsylvania Avenue, N.W., Washington, D.C. 20580, either in person or by calling (202) 326-3627. 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)).

Analysis of Proposed Consent Order

The Federal Trade Commission has accepted an agreement to a proposed consent order from Guildwood Direct Limited ("respondent").

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 or make final the agreement's proposed order.

The Commission's complaint in this matter charges respondent with deceptively advertising Slimming Insoles, insoles worn in the shoes that purportedly cause weight loss through "reflexology," without changes in diet or exercise. According to advertisements for the product, the Slimming Insoles purportedly cause weight loss by massaging certain "reflex points" on the bottom of the foot during the course of a normal day's walking, thereby stimulating the body's digestive system to burn stored fat and cause weight loss. Advertisements for the product appeared in newspapers such as the *Washington Post*, *New York Post*, *Denver Post* and *St. Louis Post*, in newspaper inserts, in magazines such as *American Women*, *Soap Opera Update* and *Woman's Own* as well as in nationwide direct mailings.

The complaint alleges that, through the product name "Slimming Insoles" and the advertisements, respondent made unsubstantiated representations that the Slimming Insoles cause significant weight loss and that the weight loss occurs without changes in diet or exercise. According to the complaint, the ads also claim, without