

activities, pursuant to §§ 225.28(b)(3) and (b)(1) of the Board's Regulation Y.

Board of Governors of the Federal Reserve System, October 2, 1997.

**William W. Wiles,**

*Secretary of the Board.*

[FR Doc. 97-26547 Filed 10-6-97; 8:45 am]

BILLING CODE 6210-01-F

## FEDERAL RESERVE SYSTEM

### Sunshine Act Meeting

**TIME AND DATE:** 11:00 a.m., Tuesday, October 14, 1997.

**PLACE:** Marriner S. Eccles Federal Reserve Board Building, C Street entrance between 20th and 21st Streets, NW., Washington, DC 20551.

**STATUS:** Closed.

#### MATTERS TO BE CONSIDERED:

1. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.

2. Any items carried forward from a previously announced meeting.

#### CONTACT PERSON FOR MORE INFORMATION:

Mr. Joseph R. Coyne, Assistant to the Board; (202) 452-3204. You may call (202) 452-3207, beginning at approximately 5 p.m. two business days before this meeting, for a recorded announcement of bank and bank holding company applications scheduled for the meeting.

Dated: October 3, 1997.

**William W. Wiles,**

*Secretary of the Board.*

[FR Doc. 97-26721 Filed 10-3-97; 3:49 pm]

BILLING CODE 6210-01-P

## FEDERAL TRADE COMMISSION

[Docket No. 9261]

### Weight Watchers International, Inc., 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 complaint issued earlier 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 December 8, 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 Kelly, Federal Trade Commission, H-200, 6th & Pennsylvania Ave., NW, Washington, DC 20580. (202) 326-3304. Ronald Waldman, Federal Trade Commission, New York Regional Office, 150 William Street, Suite 1300, New York, NY 10038. (212) 264-1207.

**SUPPLEMENTARY INFORMATION:** Pursuant to Section 6(f) of the Federal Trade Commission Act, 38 Stat. 721, 15 U.S.C. 46, and Section 3.25 of the Commission's Rules of Practice (16 CFR 3.25), 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 accompanying complaint. An electronic copy of the full text of the consent agreement package can be obtained from the Commission Actions section of the FTC Home Page (for September 30, 1997), on the World Wide Web, at "<http://www.ftc.gov/os/actions97.htm>." A paper copy can be obtained from the FTC Public Reference Room, Room H-130, Sixth and Pennsylvania Avenue, N.W., Washington, DC 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 to Aid Public Comment

The Federal Trade Commission has accepted an agreement, subject to final approval, to a proposed consent order from Weight Watchers International, Inc. (hereinafter "Weight Watchers" or "respondent"), marketers of the Weight Watchers Weight Loss Program. The Weight Watchers Weight Loss Program is offered to the public nationwide through company-owned and franchised weight loss centers.

The proposed consent order has been placed on the public record for sixty (60) days for the 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 any 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 alleged that the respondent made numerous unsubstantiated representations through consumer testimonials and other advertisements that:

(1) Its customers are typically successful in reaching their weight loss goals and maintaining their weight loss under respondent's diet program;

(2) Overweight or obese customers typically are successful in reaching their weight loss goals and maintaining their weight loss either long-term or permanently; and

(3) Its weight loss programs are superior to other weight loss programs in enabling participants to achieve and maintain weight loss.

The complaint further charges that Weight Watchers made false and unsubstantiated claims that consumers using its "Quick Success" program would lose weight at a faster rate when compared to its earlier programs.

The proposed consent order seeks to address the alleged success misrepresentations cited in the accompanying complaint in several ways. First, the proposed order, in Part I.A., requires the company to possess a reasonable basis consisting of competent and reliable scientific evidence when appropriate substantiating any claim about the success of participants on any diet program in achieving or maintaining weight loss. To ensure compliance, the proposed order further specifies what this level of evidence shall consist of when certain types of success claims are made:

(1) In the case of claims that weight loss is typical or representative of all participants using the program or any subset of those participants, that evidence shall be based on a representative sample of: (a) All participants who have entered the programs where the representation relates to such persons; or (b) all participants who have completed a particular phase of the program or the entire program, where the representation only relates to such persons.

(2) In the case of claims that any weight loss is maintained long-term, that evidence shall be based upon the experience of participants who were followed for a period of at least two years after their completion of the respondents' program, including any

periods of participation in respondent's maintenance program.

(3) In the case of claims that weight loss is maintained permanently, that evidence shall be based upon the experience of participants who were followed for a period of time after completing the program that is either: (a) Generally recognized by experts in the field of treating obesity as being of sufficient length to constitute a reasonable basis for predicting that weight loss will be permanent; or (b) demonstrated by competent and reliable survey evidence as being of sufficient duration to permit such a prediction.

Second, Part I.B. of the proposed order requires the respondent, when making any claim that participants of any diet program have successfully maintained weight loss, to disclose the fact that "For many dieters, weight loss is temporary." In addition, Part I.C. requires respondent to disclose the following information relating to that claim:

(1) The average percentage of weight loss maintained by those participants (e.g., "60% of achieved weight loss was maintained"),

(2) The duration over which the weight loss was maintained, measured from the date that participants ended the active weight loss phase of the program, and the fact that all or a portion of the time period covered includes participation in respondent's maintenance program(s) that follows active weight loss, if that is the case (e.g., "Participants maintain an average of 60% of weight loss 22 months after active weight loss (includes 18 months on a maintenance program)," and

(3) The proportion of the total participant population that those participants represent, if the participant population referred to is not representative of the general participant population for that program (e.g., "Participants on maintenance—30% of our clients—kept off an average of 66% of the weight for one year (includes time on maintenance program).") (In lieu of that factual disclosure, respondent may state: "Weight Watchers makes no claim that this result is representative of all participants in the Weight Watchers program.")

However, if Weight Watchers makes a representation about weight loss maintenance that does not use a number or percentage, or descriptive terms that convey a quantitative measure such as "We have a successful weight management program," then in lieu of the above disclosures it may make in connection with such representation the statement "Check at our centers for details about our maintenance record"

Weight Watchers would then be required to make the required maintenance information disclosures, in a printed document that is distributed to consumers at weight loss centers in accordance with the procedures set forth in Appendix A of the proposed order. The proposed order specifies that consumers must acknowledge receipt of this document and that it must be signed by the client and retained in the customers record of service for three years.

Third, Part I.D. of the proposed order addresses advertisements containing an endorsement or testimonial about weight loss success or weight loss maintenance when those claims are not representative or "typical" of what Weight Watchers participants generally achieve. Part I.D. requires Weight Watchers, when employing such "atypical" weight loss success or weight loss maintenance testimonials, to disclose either (1) what the generally expected success would be for Weight Watchers customers; or (2) the limited applicability of the endorser's experience to what consumers may generally expect to achieve.

Part I.D. of the proposed order addresses advertisements containing an endorsement or testimonial about weight loss success or weight loss maintenance when those claims are not representative or "typical" of what Weight Watchers participants generally achieve. In accordance with the principles set out in the Endorsement Guides, Part I.D. would require Weight Watchers, when employing such "atypical" weight loss success or weight loss maintenance testimonials, to disclose either (1) what the generally expected success would be for Weight Watchers customers (Part I.D.(1)); or (2) the limited applicability of the endorser's experience to what consumers may generally expected to achieve (Part I.D.(2)). For weight loss testimonials Part I.D. of the proposed order permits Weight Watchers to accurately make the "generally expected success" disclosure in one of two ways. First, the company may state, in the relevant advertisement, "Weight loss averages (number) lbs. over \_\_\_ weeks." Alternatively, Part I.D. of the proposed order permits Weight Watchers to disclose in the relevant advertisement "Average weight loss (number) lbs. More details at centers."

Required disclosures that are made at centers—which are described in Appendix B of the proposed order—may be made either in the introductory brochure or in a separate document entitled "Weight Loss Information."

The proposed order makes clear that the alternative disclosures requirement contained in Parts I.C. and D. do not relieve Weight Watchers of the obligation to substantiate any maintenance success claim in accordance with Part I.A. of the proposed order.

#### Other Proposed Order Relief

Part I.E. of the proposed order prohibits unsubstantiated comparative efficacy claims. It would require Weight Watchers not make comparisons between the efficacy or success of one or more of its weight loss programs and the efficacy or success of any other weight loss program(s) unless it possesses and reliefs upon competent and reliable evidence, which when appropriate must be competent and reliable scientific evidence, that substantiates the representation.

Part I.F. of the proposed order covers rate of weight loss claims. It requires Weight Watchers to cease and desist from making any representation, directly or by implication, about the rate or speed at which any participant in any weight loss program has experienced or will experience weight loss, unless true.

Part I.G. of the proposed order would require Weight Watchers to cease and desist from making any representation, directly or by implication, about the existence, contents, validity, results, conclusions, or interpretations of any test, study, or survey, unless true.

Part I.H. of the proposed order is fencing-in relief which would require Weight Watchers to cease and desist from making any representation, directly or by implication, about the performance or efficacy of any weight loss program, unless true.

Part II. of the proposed order would require Weight Watchers to notify the Commission of certain changes in the corporate respondent.

Part III. of the proposed order would require Weight Watchers, for a period of three years after date of last dissemination of any representation covered by the order, to maintain and make available to the FTC materials relied upon in disseminating such representation and any evidence that contradicts or qualifies such representation.

Part IV. of the proposed order covers the distribution of the order to designated current and future persons. The order must be distributed to regional managers and those having point-of-sale responsibilities under the order as well as key individuals involved in the placement of advertisements.

Part V. of the proposed order covers the efforts Weight Watchers shall use to obtain its weight loss program franchisees' and licensees' ("franchisees") compliance with the order.

Weight Watchers is required under Part V., among other things, to:

(1) distribute a copy of this order to each of its weight loss program franchisees or licensees within forty-five days after service of the order;

(2) review advertising and promotional materials submitted to it from its franchisees or licensees prior to dissemination and publication to determine compliance with the requirements of the order;

(3) notify any franchisee or licensee in writing if any advertising or promotional material does not comply with the requirements of the order and that it should not be disseminated or published;

(4) monitor franchisee and licensee advertising and where it finds advertising that has not been submitted to it and which it believes is not in compliance with the requirements of the order, to notify such franchisee or licensee in writing of its findings and that such advertising should be withdrawn;

(5) maintain separate files for each franchisee or licensee containing copy of the signed receipt and copies of any correspondence relating to any advertising and promotional materials with respect to the issues raised by the order for a period of three (3) years;

(6) make these files available to the Commission staff for inspection and copying; and

(7) where the order provides for the distribution of documents containing certain information to participants, to include such information in "Program" materials which its franchisees or licensees are required to supply to each participant.

In addition, subparagraph B. of Part V. requires Weight Watchers to include in all future weight loss program agreements with new franchisees or licensees a requirement that the franchisee or licensee operate its business in full compliance with the prohibitions and affirmative requirements imposed on respondent pursuant to Part I. of the Commission's order. This part of the order defines "new franchisees or licensees" to mean those who are not franchised or licensed to conduct any weight loss program, or those who do not own or control such franchisees or licensees, at the time the order becomes final.

Part VI. of the proposed order would require Weight Watchers to file a

compliance report with the Commission within sixty days after the date of service of this order.

Part VII. of the proposed order is a sunset provision that indicates, in part, that this order will terminate twenty years from the date of its issuance.

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. 97-26525 Filed 10-6-97; 8:45 am]

BILLING CODE 6750-01-M

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## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Office of the Secretary

#### Findings of Scientific Misconduct

**AGENCY:** Office of the Secretary, HHS.

**ACTION:** Notice.

**SUMMARY:** Notice is hereby given that the Office of Research Integrity (ORI) has made a final finding of scientific misconduct in the following case:

*Xiaomin Shang, Ph.D., University of Texas Southwestern Medical Center:* Based upon a report from the University of Texas Southwestern Medical Center, information obtained by the Office of Research Integrity (ORI) during its oversight review, and Dr. Shang's own admission, ORI found that Dr. Shang, a former postdoctoral fellow student in the Department of Obstetrics and Gynecology, University of Texas Southwestern Medical Center, engaged in scientific misconduct arising out of certain biomedical research supported by a training grant from the National Institute of Child Health and Human Development (NICHD), National Institutes of Health (NIH).

Specifically, Dr. Shang fabricated a chemiluminescent film of a Western blot by using a physical mask to alter the prior results showing lack of antibody specificity to a human steroid metabolizing isozyme, rather than replicating an experiment as requested by his mentor. The fabricated data were not published.

Dr. Shang has accepted the ORI finding and has entered into a Voluntary Exclusion Agreement with ORI in which he has voluntarily agreed, for the three (3) year period beginning September 29, 1997:

(1) To exclude himself from serving in any advisory capacity to the Public Health Service (PHS), including but not

limited to service on any PHS advisory committee, board, and/or peer review committee, or as a consultant; and

(2) That any institution that submits an application for PHS support for a research project on which Dr. Shang's participation is proposed or which uses him in any capacity on PHS supported research or that submits a report of PHS-funded research in which he is involved must concurrently submit a plan for supervision of his duties to the funding agency for approval. The supervisory plan must be designed to ensure the scientific integrity of Dr. Shang's research contribution. The institution also must submit a copy of the supervisory plan to ORI.

No scientific publications were required to be corrected as part of this Agreement.

**FOR FURTHER INFORMATION CONTACT:** Acting Director, Division of Research Investigations, Office of Research Integrity, 5515 Security Lane, Suite 700, Rockville, MD 20852, (301) 443-5330.

**Chris B. Pascal,**

*Acting Director, Office of Research Integrity.*

[FR Doc. 97-26499 Filed 10-6-97; 8:45 am]

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## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Agency for Toxic Substances and Disease Registry

Public Meeting of the Inter-tribal Council on Hanford Health Projects (ICHHP), in association with the meeting of the Citizens Advisory Committee on Public Health Service (PHS) Activities and Research at Department of Energy (DOE) Sites: Hanford Health Effects Subcommittee (HHES): Cancellation of meeting.

This notice announces the cancellation of a previously announced meeting.

*Federal Notice Citation of Previous Announcement:* 62 FR 6973, February 14, 1997.

*Previously Announced Time and Date:* 9 a.m.-5 p.m., December 10, 1997.

*Change in the Meeting:* This meeting has been cancelled.

*Contact Person for More Information:* James K. Carpenter, Executive Secretary, Citizens Advisory Committee on PHS Activities and Research at DOE Sites: HHES, ATSDR, 1600 Clifton Road, NE, M/S E-32, Atlanta, Georgia 30333, telephone 404/639-6027.