

UNITED STATES OF AMERICA
BEFORE FEDERAL TRADE COMMISSION

In the Matter of)	
)	
CALIFORNIA SUNCARE, INC.,)	
a corporation, and)	DOCKET NO. C-3715
)	
DONALD J. CHRISTAL,)	
individually and as an)	
officer of said corporation.)	
)	
)	

COMPLAINT

The Federal Trade Commission, having reason to believe that California SunCare, Inc., a corporation, and Donald J. Christal, individually and as an officer of said corporation ("respondents"), have violated the provisions of the Federal Trade Commission Act, and it appearing to the Commission that a proceeding by it in respect thereof would be in the public interest, alleges:

PARAGRAPH ONE: Respondent California SunCare, Inc., is a California corporation, with its principal office or place of business at 1100 Glendon Avenue, Suite 1250, Los Angeles, California 90024.

products"). California Tan Heliotherapy products are "drugs" or "cosmetics" within the meaning of Sections 12 and 15 of the Federal Trade Commission Act.

PARAGRAPH THREE: The acts and practices of respondents alleged in this complaint have been in or affecting commerce, as "commerce" is defined in Section 4 of the Federal Trade Commission Act.

PARAGRAPH FOUR: Respondents have disseminated or have caused to be disseminated advertisements and promotional materials for California Tan Heliotherapy products, including but not necessarily limited to the attached Exhibits A-J. These advertisements and promotional materials contain the following statements and depictions:

- A. "I love the sun, but how can I feel good about tanning?"

Heliotherapy™ . . .
The Positive Effects of The Sun™

While overexposure to the sun and burning are bad for you, medical studies demonstrate that, in moderation, exposure to sunlight is crucial for the maintenance of good physical and psychological health. Besides making you feel good about how you look, numerous studies indicate that little to no exposure to

REMEMBER! The key to maximizing the positive effects of the sun is to achieve the perfect balance. Take care to get just the right amount of sun to maintain your health, but don't ever allow yourself to burn. **REPEATED OVEREXPOSURE TO THE SUN CAN LEAD TO PREMATURE AGING, WRINKLING AND SKIN CANCER.** Moderate exposure, however, in combination with the use of California Tan's exclusive **Heliotherapy™** formulas can help you to optimize a proven positive effect of the sun - your tan.

CAUTION: California Tan® products are intended to be used for tanning and moisturization only. They ARE NOT intended to produce any of the reported physiological and psychological benefits of the sun that are described above.

*Studies provided by California Tan's Scientific Research Center
(Exhibit A, brochure)*

B. **VITATAN™**
The Tanning Technology of the Future

. . . .

• **VITATAN™** delivers an additional molecule of oxygen to the surface of the skin which significantly enhances the oxidation of melanin for faster tanning results. When compared to Unipertan, products containing 2% **VITATAN™** help improve your natural develop a golden brown base tan by up to 67%.

Heliotherapy™ Maximizer - VT™

. . . .

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Heliotherapy™ . . .
The Positive Effects of The Sun™

California Tan's Scientific Research Center, a panel of renowned scientists and researchers, reviews thousands of studies on the effects of sunlight. Inspired by **Heliotherapy™ . . . The Positive Effects of the Sun™**, California Tan® created the complete **Heliotherapy™** three step system to help you maximize a proven positive effect of the sun - your tan.

CONDITION

MEDICAL EFFECT

AIDS
AIDS is a fatal and incurable epidemic.

Preliminary studies indicate that phototherapy may be beneficial in treating patients with AIDS-related complex.

Fitness
Fitness increases energy and reduces risk of heart disease.

Exposure to sunlight may have similar effects to exercise: decreased blood pressure, lower resting heart rate and a 39% increase in the output of blood.

[each "MEDICAL EFFECT" accompanied by citation]

Studies provided by California Tan's Scientific Research Center

While these studies indicate a wealth of benefits may result from sun exposure, no single study or studies may prove scientific fact. As research continues, science will reveal more about the effects of the sun. These studies emphasize that the sun may have positive as well as negative effects.

Remember!

To maximize the benefits of sun exposure you must achieve balance. . . .

REPEATED OVEREXPOSURE TO THE SUN CAN LEAD TO PRE-MATURE AGING, WRINKLING AND SKIN CANCER.

However, moderate exposure in combination with California Tan's exclusive **Heliotherapy™** formulas can help you optimize the beneficial aspects of having a spectacular, golden brown tan while minimizing the negative effects of skin dehydration.

Caution:

California Tan® products are intended to be used for tanning and moisturization only. They ARE NOT intended to produce any of the reported possible physiological and psychological benefits of the sun that are described above and California Tan® does not represent that such benefits result from the use of its products.

HELIO THERAPY

(Exhibit B, brochure)(sources for each medical effect omitted)

c. **Heliotherapy™. . . The Positive Effects of The Sun™**

2 • What is Heliotherapy?

*he-li-o-ther-a-py . . . [HELIO- + THERAPY]
the treatment of disease by exposing the body to sunlight*

Heliotherapy is a science, documented by thousands of scientific studies which have been conducted on the benefits of sun exposure. Acknowledged and practiced by the American Medical Association, heliotherapy is the treatment of disease by means of the sun's electromagnetic waves. Red, orange, yellow, green, blue, indigo, violet, and mid and near ultraviolet waves are used whether collectively or independently to treat and cure everything from acne to jaundice.

Did you know that?

. . . .

•Heliotherapy is the only known cure for Seasonal Effective [sic] Disorder, a cyclic mood disorder caused by sunlight deprivation during fall and winter months.

•Currently, AIDS research clinics use heliotherapy as an effective tool for boosting the body's immune system.

. . . .

•Scientists at the Baylor University Medical Center have successfully used heliotherapy to destroy the AIDS virus and other infectious diseases and are developing heliotherapy to decontaminate blood for transfusions.

. . . .

While fully recognizing that long term overexposure to the sun and burning can result in skin cancer, premature aging and wrinkling in some cases, the science of heliotherapy supports that the sun also offers many benefits. In the months to come, California Tan's Scientific Research Center will uncover theFACTS about **Heliotherapy™** ...The Positive Effects of The Sun™.

Studies provided by California Tan's Scientific Research Center

. . . .

1•800•SUN•CARE
CALIFORNIA
TAN®

The science of heliotherapy has inspired the California Tan® **Heliotherapy™**line of products. These products are intended to be used for tanning and moisturization only and **not** for any of the psychological or physiological benefits described in this advertisement.

SOLD IN SALONS

(Exhibit C, magazine ad)

D. **Is Sunlight the Answer
for cancer prevention?**

New studies from the University of California, San Diego indicate that exposure to sunlight may prevent certain types of cancer. While long-term overexposure to the sun and burning can cause skin cancer, the sun may have many properties that help prevent breast, colon and ovarian cancer.

As a leader in the study of Heliotherapy, California Tan's Scientific Research Center has uncovered many benefits of UV-exposure.

Studies by Dr. Edward Gorham at the University of California, San Diego, show that the incidence of breast cancer is lowest in countries nearest the equator where the opportunity for sunlight exposure is highest. Vitamin D produced by exposure to sunlight is associated with a lower rate of fatal breast cancer.

Vitamin D produced by exposure to sunlight is associated with a lower risk of fatal breast cancer. [banner]

It's not surprising that within the U.S., colon and breast cancer rates are three times higher in northern states like New Hampshire and Vermont compared to sunny states like New Mexico and Arizona, according to research conducted by Dr. Frank Garland at the University of California, San Diego.

In addition, the Melanoma Clinic at the University of Sydney, Australia released new research showing that the lowest incidence of skin cancer occurs in those people whose main occupation is outdoors.

While the jury is still out on the true effects of sun exposure, the science of Heliotherapy indicates that the sun is necessary for our health and well being. Experts agree that overexposure and burning can lead to skin cancer in some cases. However, with moderation, exposure to sunlight may bring us many benefits.

. . . .

CALIFORNIA TAN® Heliotherapy™ . . . The Positive Effect of The Sun™
(Exhibit D, magazine ad)

E. From high blood pressure to AIDS . . .

Is Sunlight the Cure of the '90's?

Although the experts warn against long-term overexposure to the sun and burning, new research points to the healing powers of the sun

Today, people are looking for more natural cures for everything from common ailments to serious diseases. As a major contributor to the science of Heliotherapy™, California Tan's Research Center has uncovered hundreds of studies demonstrating the positive effects of sun exposure.

- In a recent study by Dr. Zane Kime, patients with high blood pressure experienced a dramatic decrease in blood pressure lasting five to six days after just one treatment of UV- light.

. . . .

- According to studies conducted by Dr. Norman Rosenthal at the National Institute of Mental Health, light treatment is the most effective cure for Seasonal Affective Disorder (SAD), or the winter blues.

- UV-light treatment is on the forefront of the search for an AIDS cure. Scientists at Baylor University Medical Center have used light to destroy the AIDS virus and other infectious diseases.

Even though the jury is still out on the true effects of sun exposure, we are now discovering that the sun plays an important role in the maintenance of good health. Through the science of Heliotherapy™, we are learning that balance is most important. Overexposure and burning can lead to skin cancer in some cases. However, in the right amounts, we can benefit from the sun's healing powers.

. . . .

CALIFORNIA TAN®

Heliotherapy™ . . . The Positive Effects of The Sun™
(Exhibit E, magazine ad)

F. **Heliotherapy™**
The Positive Effects of The Sun™

CALIFORNIA TAN®

California Tan's Scientific Research Center, a panel of renowned doctors, researchers and dermatologists, reviews thousands of studies each year about the positive and negative effects of UV-light. Overexposure and burning are bad for you and may lead to premature aging and skin cancer. However, medical evidence shows that sunlight is connected to everything from osteoporosis prevention to vitamin D synthesis.

[picture of California Tan Heliotherapy products]

Inspired by the science of Heliotherapy, California Tan® has created scientifically proven formulae that maximize the proven positive effect of the sun - your tan. [caption]

CANCER PREVENTION: Research from Dr. Cedric Garland at the University of California, San Diego suggests that sunlight may prevent certain types of cancer: colon and breast cancer rates are three times higher in northern states compared to sunny southern states. **OSTEOPOROSIS:** A new study by Dr. J. Rosen demonstrates that reduced winter sunlight can lead to osteoporosis and the vitamin D deficient bone disease osteomalacia (adult rickets). **SEASONAL AFFECTIVE DISORDER (SAD):** A 1993 study by Dr. A. Wirz-Justice shows that 70% of SAD patients show improvement after light treatment, the only known cure for the "winter blues." **SKIN CANCER:** Skin cancer has been linked to non-UV causes: diet, genetics, and alcohol, according to a 1992 study by Dr. L. Marchand. **VITAMIN D:** A 1990 study by Dr. Matsuoka shows that vitamin D, which regulates calcium and phosphorus absorption and is needed to maintain a healthy skeleton, is produced during the tanning process.

California Tan products are intended to be used for tanning and moisturization only. They are not a substitute for the physiological and psychological benefits of the sun that are described above. (Exhibit F, magazine ad)

G.

CALIFORNIA TAN®
TROPICAL FURY™
Heliotherapy™ MAXIMIZER™
Maximize The Positive Effects of the Sun™

. . . .

•A unique, scientifically proven blend of California Tan's Heliotherapy™ MAXIMIZER Complete moisturization to help you achieve up to 42% better tanning results and counteract the drying effects of a golden brown tan.

. . . .

CALIFORNIA TAN®
Heliotherapy™ . . .

The Positive Effects of The Sun™

California Tan's exclusive Heliotherapy™ formulas are a precise, scientifically proven combination of state-of-the-art skin care and tanning ingredients that help you maximize a proven positive effect of the sun - your tan!

While it's true that over exposure to the sun and burning are bad for you, medical science has also discovered that, in moderation, exposure to the sun is crucial to the maintenance of good physical and psychological health.

In addition to the fact that a tan makes you feel good about how you look, a number of studies have noted that little to no sun exposure may be equally as bad, if not worse, to your overall health as too much sun.

DID YOU KNOW THAT?

•According to a study conducted by the University of Sydney and Melanoma Clinic in 1982, the people with the lowest risk of skin cancer were those whose main outdoor activity was sunbathing.(see note 1)

•The same study also found that the highest incidence of skin cancer occurred in those who spent most of their time indoors under fluorescent lighting which is deficient of the ultraviolet portion of the sun spectrum.(see note 2)

. . . .

•In a 1980 study, it was concluded that exposure to sunlight produces the same benefits as exercise: increases in strength, energy, endurance, tolerance to stress, and the ability of the blood to absorb and carry oxygen; and decreasing the resting heart rate, blood pressure, respiratory rate, blood sugar and lactic acid.(see note 6)

. . . .

•Researchers also found that the dietary vitamin D found in milk and vitamin supplements is not a sufficient replacement to the vitamin D that is produced by exposure to the sun for the maintenance of healthy bones and teeth and at high levels, dietary vitamin D has been found to be very toxic.(see note 8)

•Studies indicate that exposure to ultra-violet light is an effective tool for lowering elevated blood pressure.(see note 9)

•According to a recent study conducted at the Tulane University, the heart became stronger and pumped more blood when the subjects were exposed to ultra-violet light.(see note 10)

. . . .

•Sunlight has been scientifically proven in numerous studies to reduce serum cholesterol levels.(see note 12)

•In a study conducted by The American Society for the Study of Arteriosclerosis, 97% of the subjects had a 13% decrease in the level of cholesterol within two hours after the first exposure.(see note 13)

. . . .

•In 1987, the Wall Street Journal reported that chickens raised under full-spectrum lighting, the closest match to natural sunlight, lived twice as long, laid more eggs, were less aggressive, and laid eggs that were 25% lower in cholesterol than chickens raised under fluorescent lighting.(see note 15)

. . . .

Of course, no single study or studies may prove scientific fact. And as further studies are done, science will tell us more about

CALIFORNIA TAN

•Significant seasonal bone loss, as a result of inadequate vitamin D formation, occurs in people who live in areas with reduced winter sunlight. Bone loss can lead to Osteoporosis and Osteomalacia, a softening of the bones. (University of Maine, 1993)

•Colon and breast cancer deaths are three times higher in northern states like New Hampshire and Vermont compared to sunny states like New Mexico and Arizona. (University of California, San Diego, 1986)²

. . . .

Of course, no single study or studies may prove scientific fact. As further studies are done, science will tell us more about the effects of sun exposure. However, as these studies emphasize, the sun may have positive effects as well as negative effects.

Remember!!

The key to maximizing the positive effects of the sun is to achieve the perfect balance. Take care to get just the right amount of sun to maintain your health, but don't ever allow yourself to burn. REPEATED OVEREXPOSURE TO THE SUN CAN LEAD TO PRE-MATURE AGING, WRINKLING AND SKIN CANCER. However, moderate exposure in combination with the use of California Tan's exclusive **Heliotherapy**

Fitness

Fitness increases energy and reduces risk of heart disease.

Exposure to sunlight may have similar effects as exercise: decreased blood pressure, lower resting heart rate, a 39% increase in the output of blood.

• • • •

Osteoporosis

Osteoporosis is a growing epidemic of weak bones in the U.S.

Significant seasonal bone loss due to lack of sunlight produced vitamin D is prominent in areas with reduced winter sunlight and can lead to Osteoporosis.

J. MORE ABOUT HELIOTHERAPY™

Promoting Heliotherapy™
CAN INCREASE YOUR LOTION SALES

Let your customers know that.... FAST FACTS ON HELIOTHERAPY™

- Let your clients know that lotions can help them reap the positive effects of the sun and UV-light (a tan, increased immunity, lower cholesterol, etc.) while protecting themselves from and/or preventing the negative effects. Did you know that the sun produces many of the same benefits as exercise? Such as:
- Say to clients when they're signing in -- "Did you know that the sun has some

- C. Use of California Tan Heliotherapy products prevents or minimizes the negative effects of exposure to sunlight or indoor UV radiation, including skin cancer and premature skin aging.
- D. Exposure to sunlight or indoor UV radiation reduces the risk of skin cancer.

PARAGRAPH SIX: In truth and in fact:

- A. The negative effects of exposure to sunlight or indoor UV radiation, including skin cancer and premature skin aging, are not caused only by overexposure or burning, but also can be caused by cumulative moderate exposure, over a period of years, including exposure sufficient to cause tanning.
- B. Tanning as a result of exposure to sunlight or indoor UV radiation is harmful to the skin.
- C. Use of most California Tan Heliotherapy products in conjunction with exposure to sunlight or indoor UV radiation does not reduce the risk of skin cancer or premature skin aging, because most California Tan Heliotherapy products do not contain sunscreen.
- D. Exposure to sunlight or indoor UV radiation does not reduce the risk of skin cancer.

Therefore, the representations set forth in PARAGRAPH FIVE were, and are, false and misleading.

PARAGRAPH SEVEN: Through the use of the statements and depictions contained in the advertisements and promotional materials referred to in PARAGRAPH FOUR, including but not necessarily limited to the advertisements and promotional materials attached as Exhibits A-J, respondents have represented, directly or by implication, that:

- A. Exposure to sunlight or indoor UV radiation prevents or reduces the risk of colon and breast cancer.
- B. Exposure to sunlight or indoor UV radiation lowers elevated blood pressure.
- C. Exposure to sunlight or indoor UV radiation has benefits similar to those of exercise, including decreased blood pressure and lower heart rate.
- D. Exposure to sunlight or indoor UV radiation significantly reduces serum cholesterol.

- E. Exposure to indoor UV radiation is an effective treatment for Seasonal Affective Disorder.
- F. Exposure to sunlight or indoor UV radiation is an effective treatment for AIDS.
- G. Exposure to sunlight or indoor UV radiation enhances the immune system.
- H. For the general population, reduced winter sunlight can lead to bone disorders such as osteoporosis and osteomalacia, and increased exposure to sunlight or indoor UV radiation is necessary to reduce the risk of such disorders.
- I. California Tan Heliotherapy MAXIMIZERS help users achieve up to 42% better tanning results.
- J. California Tan Heliotherapy products that contain 2% VITATAN improve users' ability to tan by up to 67%.

PARAGRAPH EIGHT: Through the use of the statements and depictions contained in the advertisements and promotional materials referred to in PARAGRAPH FOUR, including but not necessarily limited to the advertisements and promotional materials attached as Exhibits A-J, respondents have represented, directly or by implication, that at the time they made the representations set forth in PARAGRAPHS FIVE and SEVEN, respondents possessed and relied upon a reasonable basis that substantiated such representations.

PARAGRAPH NINE: In truth and in fact, at the time they made the representations set forth in PARAGRAPHS FIVE and SEVEN, respondents did not possess and rely upon a reasonable basis that substantiated such representations. Therefore, the representation set forth in PARAGRAPH EIGHT was, and is, false and misleading.

PARAGRAPH TEN: Through the use of the statements and depictions contained in the advertisements and promotional materials referred to in PARAGRAPH FOUR, including but not necessarily limited to the advertisements and promotional materials attached as Exhibits A-J, respondents have represented, directly or by implication, that:

- A. Scientific studies demonstrate that exposure to sunlight or indoor UV radiation provides the health benefits set forth in PARAGRAPHS FIVE and SEVEN.
- B. The American Medical Association has endorsed exposure to sunlight or indoor UV radiation as an effective medical treatment.

PARAGRAPH ELEVEN: In truth and in fact,

- A. Scientific studies do not demonstrate that exposure to sunlight or indoor UV radiation provides the health benefits set forth in PARAGRAPHS FIVE and SEVEN.
- B. The American Medical Association has not endorsed exposure to sunlight or indoor UV radiation as an effective medical treatment.

Therefore, the representations set forth in PARAGRAPH TEN were, and are, false and misleading.

PARAGRAPH TWELVE: The acts and practices of respondents as alleged in this complaint constitute unfair or deceptive acts or practices and the making of false advertisements in or affecting commerce in violation of Sections 5(a) and 12 of the Federal Trade Commission Act.

THEREFORE, the Federal Trade Commission this eleventh day of February, 1997, has issued this complaint against respondents.

By the Commission.

Donald S. Clark
Secretary

SEAL:

[Exhibits A-J attached to paper copies of complaint, but not available in electronic form.]