

Competition, Office of Policy and Evaluation, (202) 326-2879.

(Authority: 15 U.S.C. 19(a)(5)).

By direction of the Commission.

Donald S. Clark,

Secretary.

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[File No. 922-3308]

Cancer Treatment Centers of America, Inc.; Midwestern Regional Medical Center, Inc.; Memorial Medical Center and Cancer Institute, Inc.; Consent Agreement With Analysis To Aid Public Comment

AGENCY: Federal Trade Commission.

ACTION: 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 require the Arlington, Illinois-based company and two affiliated hospitals to substantiate future claims regarding the success or efficacy of their cancer treatments and to ensure that testimonials they use do not misrepresent the typical experience of their patients. The consent agreement settles allegations that the company and the hospitals made false and unsubstantiated claims in advertising and promoting their cancer treatments.

DATES: Comments must be received on or before May 28, 1996.

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 F. Kelly, Federal Trade Commission, H-200, 6th and Pennsylvania Ave, NW, Washington, DC 20580. 202-326-3304. Walter C. Gross, III, Federal Trade Commission, H-200, 6th and Pennsylvania Ave, NW, Washington, DC 20580. 202-326-3319.

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)).

Before Federal Trade Commission

In the Matter of Cancer Treatment Centers of America, Inc., a corporation, Midwestern Regional Medical Center, Inc., a corporation, and Memorial Medical Center and Cancer Institute, Inc., a corporation; Agreement Containing Consent Order to Cease and Desist.

The Federal Trade Commission having initiated an investigation of certain acts and practices of Cancer Treatment Centers of America, Inc., a corporation, Midwestern Regional Medical Center, Inc., a corporation, and Memorial Medical Center and Cancer Institute, Inc., a corporation (hereinafter sometimes referred to as "proposed respondents" or "respondents"), and it now appearing that 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 Cancer Treatment Centers of America, Inc., a corporation, Midwestern Regional Medical Center, Inc., a corporation, and Memorial Medical Center and Cancer Institute, Inc., a corporation, and their attorneys, and counsel for the Federal Trade Commission that:

1. Proposed respondent Cancer Treatment Centers of America, Inc., is an Illinois corporation, with its principal office or place of business at 3455 Salt Creek Lane, Suite 200, Arlington, Illinois 60005-1090.

Proposed respondent Midwestern Regional Medical Center, Inc., is an Illinois corporation, with its principal office or place of business at Shiloh Boulevard and Emmaus Avenue, Zion, Illinois 60099.

Proposed respondent Memorial Medical Center and Cancer Institute, Inc., is an Oklahoma corporation, with its principal office or place of business at 8181 South Lewis Avenue, Tulsa, Oklahoma 74137.

2. Proposed respondents admit all the jurisdictional facts set forth in the attached draft complaint.

3. 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 U.S.C. 504.

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 attached draft complaint, 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 respondents, in which event it will take such action as it may consider appropriate, or issue and service 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 respondents of facts, other than jurisdictional facts, or of violations of law as alleged in the draft of complaint here attached.

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 § 2.34 of the Commission's Rules, the Commission may, without further notice to proposed respondents: (a) Issue its complaint corresponding in form and substance with the attached draft 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 respondents' address as stated in this agreement shall constitute service. Proposed respondents waive any right they 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 respondents have read the attached draft complaint and the following Order. Proposed respondents understand that once the Order has been issued, they will be required to file one or more compliance reports showing

that they have fully complied with the Order. Proposed respondents further understand 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. "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 have 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.

B. "Cancer" shall mean any of various malignant neoplasms characterized by the proliferation of anaplastic cells that tend to invade surrounding tissue and may metastasize to new body sites or the pathological condition characterized by such growths.

C. "Independent organization or facility" means any organization, association, or entity, whether or not for profit, which is not owned or controlled, directly or indirectly, by respondents, individually or collectively.

D. "Endorsement" means any advertising message (including verbal statements, demonstrations or depictions of the name, signature, likeness or other personal identifying characteristics of any individual or the name or seal of an organization) which message consumers are likely to believe reflects the opinions, beliefs, findings, or experience of a party other than the sponsoring advertiser.

I

It is ordered that respondents Cancer Treatment Centers of America, Inc., a corporation, Midwestern Regional Medical Center, Inc., a corporation, and Memorial Medical Center and Cancer Institute, Inc., a corporation, their successors or assigns, (hereinafter sometimes referred to as "respondents"), and respondents' officers, representatives, agents, and employees, directly or through any corporation, subsidiary, division, or other advice, including franchisees or licensees, in connection with the advertising, promotion, offering for sale, or sale of products or services purporting to treat or cure disease, in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

A. Making any representation, directly or by implication, about either:

(1) The existence or content of statistical data that purports to document survivorship rates or cure rates for cancer patients in respondents' treatment facilities, or

(2) Cure rates or survivorship rates either for any of respondents' treatment facilities or for any treatment modality or modalities offered by respondents, unless, at the time of making any such representation, respondents possess and rely upon competent and reliable scientific evidence, which when appropriate must be competent and reliable scientific evidence, substantiating the representation.

B. Representing, directly or by implication, that any modality for the treatment or mitigation of cancer or its attendant symptoms is approved, endorsed or accepted by any independent organization or facility unless, at the time of making any such representation, respondents possess and rely upon competent and reliable scientific evidence, which when appropriate must be competent and reliable scientific evidence, substantiating the representation.

C. Making any representation, directly or by implication, about the efficacy of any modality that purports to treat or mitigate cancer or its attendant symptoms, unless, at the time of making any such representation, respondents possess and rely upon competent and reliable scientific evidence substantiating the representation.

D. Representing, directly or by implication, that any endorsement of any of respondents' treatment programs that purport to mitigate or cure cancer represents the typical or ordinary experience of members of the public who use the program, unless:

(1) At the time of making such representation, respondents possess and rely upon competent and reliable scientific evidence, that substantiates such representation, or

(2) Respondents disclose clearly, prominently and in close proximity to the endorsement or testimonial either:

(a) What the generally expected results would be for users of such program, or

(b) The limited applicability of the endorser's experience to what consumers may generally expect to achieve, that is, that consumers should not expect to experience similar results.

E. Making any representation, directly or by implication, about the performance, safety or benefits of any modality that purports to treat or mitigate cancer, its attendant symptoms

or attendant diseases, unless, at the time of making any such representation, respondents possess and rely upon competent and reliable scientific evidence substantiating the representation.

II

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

III

It is further ordered that for three (3) years after the last date of dissemination of any representation covered by this Order, respondents, or their 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 their possession or control that contradict, qualify, or call into question such representation, or the basis relied upon for such representation, including complaints from consumers.

IV

It is further ordered that within ten (10) days from the date of service of this order, respondents shall distribute a copy of this Order to each of its officers, agents, representatives, independent contractors and employees who are involved in the preparation and placement of advertisements or promotional materials or who have any responsibilities with respect to the subject matter of this Order; and, shall secure from each such person a signed statement acknowledging receipt of this order.

V

It is further ordered that respondents shall, within sixty (60) days after the date of service of this Order, file with the Commission a report, in writing, setting forth in detail the manner and form in which they have complied with this Order.

Analysis of Proposed Consent Order To Aid Public Comment

The Federal Trade Commission has accepted an agreement to a proposed

consent order from three corporations who operate under the trade name Cancer Treatment Centers of America and offer cancer treatment services to the public. The three corporations are: Cancer Treatment Centers of America, Inc., Midwestern Regional Medical Centers, Inc., and Memorial Medical Center and Cancer Institute, Inc.

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 will decide whether it should withdraw from the agreement or make final the agreement's proposed order.

The Commission has alleged that proposed respondents failed to possess a reasonable basis for claiming that their five year survivorship rates for cancer patients that they treated was "among the highest recorded." The Commission further alleges that representations proposed respondents made about the ability of treatments known as "whole body hyperthermia" and "brachytherapy" to successfully treat some cancers and/or improve survivorship rates were also unsubstantiated.

Additionally, the Commission has alleged that proposed respondents claimed that whole body hyperthermia was "an approved medical procedure," implying that the procedure had been approved by an independent agency or medical body when, in fact, it had not. Finally, the Commission has alleged that proposed respondents failed to substantiate advertisements that featured the treatment experiences of former patients and represented, expressly or by implication, that such experiences represented the typical and ordinary experience of consumers of proposed respondents' treatment services.

The proposed consent order addresses the alleged misrepresentations cited in the accompanying complaint by requiring, among other things, that proposed respondents possess a reasonable basis consisting of competent and reliable evidence for any future claims regarding survivorship or cure rates. When appropriate the order would require that such evidence be competent and reliable scientific evidence. Additionally, under the order, any efficacy claims for any modality that purports to treat or mitigate cancer or its attendant symptoms must also be substantiated with competent and reliable scientific evidence.

The order further prohibits proposed respondents from misrepresenting that any independent organization has approved any treatment regimen for cancer. The order also requires that any future claims containing consumer endorsements or testimonials either represent the typical and ordinary experience of consumers of proposed respondents' services or contain a clear and prominent statement referring to the limited applicability of the endorser's experience. Finally, the order requires competent and reliable scientific evidence for any representation about the performance, safety, or benefits of any modality that purports to treat or mitigate cancer, its attendant symptoms or attendant diseases.

The purpose of this analysis is to facilitate public comment on the proposed order, and 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. 96-7293 Filed 3-25-96; 8:45 am]

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[File No. 952-3478]

Johnson & Collins Research, Inc. and Gregor A. Von Ehrenfels; Consent Agreement with Analysis To Aid Public Comment

AGENCY: Federal Trade Commission.

ACTION: Consent agreement.

SUMMARY: In settlement of alleged violations of federal laws prohibiting unfair acts and practices and unfair methods of competition, this consent agreement, accepted subject to final Commission approval, would prohibit the Minneapolis-based company from making false or unsubstantiated representations in future advertisements for weight-loss booklets or for other weight-loss products or programs. The consent agreement settles allegations that Johnson & Collins's advertisements for the Total Body Reshaping System and the Super Total Body Shaping System ("TBR System"), which appeared in magazines directed at teenage girls, failed to disclose that the TBR System consisted primarily of booklets containing advice on dieting and exercising.

DATES: Comments must be received on or before May 28, 1996.

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:

Joel Winston, Federal Trade Commission, S-4002, 6th and Pennsylvania Ave., NW., Washington, DC, 202-326-3153.

Richard L. Cleland, Federal Trade Commission, S-4002, 6th and Pennsylvania Ave., NW., Washington, DC, 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 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)).

Before Federal Trade Commission

[File No. 952-3478]

In the Matter of *Johnson & Collins Research, Inc.*, a corporation, and *Gregor A. Von Ehrenfels*, individually and as an officer of said corporation; Agreement Containing Consent Order to Cease and Desist.

The Federal Trade Commission, having initiated an investigation of certain acts and practices of Johnson & Collins Research, Inc., a corporation, and Gregor A. Von Ehrenfels, individually and as an officer of said corporation, hereinafter sometimes referred to as proposed respondents, and it now appearing that 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 Johnson & Collins Research, Inc., by its authorized officer, and Gregor A. Von Ehrenfels, individually and as an officer of said corporation, and their attorney, and counsel for the Federal Trade Commission that:

1. Proposed respondent Johnson & Collins Research, Inc. is a corporation organized, existing, and doing business under and by virtue of the laws of the State of Minnesota, with its office and principal place of business located at 5115 Excelsior Blvd., in the City of Minneapolis, State of Minnesota 55416.

Proposed respondent Gregor A. Von Ehrenfels is an officer of said corporation. Individually or in concert with others, he participates in and/or