

Complaint

95 F.T.C.

IN THE MATTER OF

SAN-MAR LABORATORIES, INC., ET AL.

CONSENT ORDER, ETC., IN REGARD TO ALLEGED VIOLATION OF
SECS. 5 AND 12 OF THE FEDERAL TRADE COMMISSION ACT*Docket C-3003. Complaint, Jan. 15, 1980—Decision, Jan. 15, 1980*

This consent order requires, among other things, two Elmsford, N.Y. firms and their corporate president, engaged in the manufacture and marketing of "Acne Lotion 22," the "Acne Masque," and the "Home Acne Kit," to cease disseminating advertisements which represent that their products can cure acne or eliminate bacteria-caused skin blemishes; or which misrepresent or make unsubstantiated claims regarding the superiority, efficacy, and performance of their products; the extent to which their products have been tested; and the results of the tests. Respondents are required to inform purchasers of their right to request and receive refunds; and honor refund requests in a timely manner. Additionally, respondents are required to maintain specified records for a period of three years.

*Appearances*For the Commission: *Mark A. Heller.*For the respondents: *Burt Bauman, New York City.*

COMPLAINT

Pursuant to the provisions of the Federal Trade Commission Act, and by virtue of the authority vested in it by said Act, the Federal Trade Commission having reason to believe that San-Mar Laboratories, Inc. (hereinafter "San-Mar") and Maison Drug Company, Inc. (hereinafter "Maison Drug"), corporations, and Marvin Berkrot, (hereinafter "Berkrot") as an individual and corporate officer, hereinafter at times referred to as respondents, having violated the provisions of said Act, and it appearing to the Commission that a proceeding by it in respect thereof would be in the public interest, hereby issues its complaint stating its charges in that respect as follows:

PARAGRAPH 1. "San-Mar" and "Maison Drug" are corporations organized, existing and doing business under and by virtue of the laws of the State of New York, with their offices and principal places of business located at 399 Executive Boulevard, Elmsford, New York. "San-Mar" and "Maison Drug" manufacture, market and advertise health-related products. "Maison Drug" is a wholly-owned subsidiary of "San-Mar."

PAR. 2. "Berkrot" is an individual and corporate president of "San-Mar" and "Maison Drug." He formulates, directs and controls the acts and practices of "San-Mar" and "Maison Drug," including the acts and practices described herein. "Berkrot's" business address is 399 Executive Boulevard, Elmsford, New York.

PAR. 3. Respondents have been and now are engaged in the business of marketing and advertising health-related products, including but not limited to products known as Acne Lotion 22 or Special Lotion 22 (hereafter "Acne Lotion 22"); and Special Acne Protein Menthol Therapy Masque or Protein Therapy Masque (hereafter "Acne Masque"). The aforesaid products were and are offered alone and as part of a program for the treatment of acne known as the Special Home Acne Treatment Kit (hereafter "the Home Acne Kit"). In connection with the manufacture and marketing of said products respondents "Berkrot" and "San-Mar," through "San-Mar's" subsidiary, respondent "Maison Drug," have disseminated, published and distributed, and now disseminate, publish and distribute advertisements and promotional material for the purpose of promoting the sale of said products for human use. These products, as advertised, are "drugs" within the meaning of Section 12 of the Federal Trade Commission Act.

PAR. 4. In the course and conduct of their said businesses, the respondents have disseminated and caused the dissemination of certain advertisements concerning "Acne Lotion 22," "Acne Masque," and "the Home Acne Kit" through the United States mails and by various means in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act, including, but not limited to, the insertion of advertisements in magazines and newspapers with national circulations, and advertisements in the form of a booklet, entitled "Acne Its Control and Treatment" which was, and is, sent through the United States mail, for the purpose of inducing and which was likely to induce, directly or indirectly, the purchase of the products "Acne Lotion 22," "Acne Masque," and "the Home Acne Kit," and have disseminated and caused the dissemination of advertisements concerning said products by various means, including but not limited to the aforesaid media, for the purpose of inducing and which are likely to induce, directly or indirectly the purchase of said products in commerce.

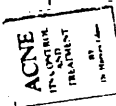
PAR. 5. Typical of the statements and representations in said advertisements disseminated as previously described, but not necessarily inclusive thereof, are the following:

Complaint

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These photographs of Dr. Glass's patient were taken approximately one month apart.



WHEN YOU ORDER RIGHT NOW, YOU WILL RECEIVE ABSOLUTELY FREE THIS VALUABLE \$3.00 BOOKLET, "ACNE, ITS CONTROL AND TREATMENT"

Mail Your Order Today To:

VANOWEN PRODUCTS, Dept. 192, 10635 Vanowen St., Burbank, CA 91505

Please rush me _____ 30 Day Supply of Special Home Acne Treatment Kit Consisting of Special Lotion 22, Pimple Therapy Masque and Acne Mask. Total cost for each 30 day supply ordered Enclosed is a check of \$3.00 for _____

Name _____
 Address _____
 City _____
 State _____ Zip _____
 Cash Resourses And Appropriate Sales Tax does not completely satisfy you.

AT LAST — NEW HOPE FOR ACNE SUFFERERS!
If You Have ACNE — NOW!
Doctor's Special Treatment
For Lasting Help!

This new treatment is the result of years of experience by Dr. Harvey Glass, M.D., dermatologist and Medical Director of Phase IV Acne Clinics

Let me first explain what acne is. It is a condition in which the skin's pores and the Sebaceous (oil) glands in which the cores of the skin are blocked by unwhipped blackheads, whiteheads, pimples and spots. Sebaceous glands produce a substance called Sebum. Sebum causes irritation and oily inflammation. It is a skin disease that is most prevalent in teenagers and young adults but can also occur at any age.

Discovered After Years of Treating Acne Patients

What I discovered in my Acne Clinics is that you can get rid of acne by opening the pores and unclogging them. The core openings must be cleaned, cleared and opened and the C-Acne Bacteria beneath the skin surface must be removed. After years of treating acne patients, I developed a special compress solution. Acne Lotion 22 contains among its ingredients, a mild surfactant that breaks the skin surface tension and allows for deep action by the ingredients. Included also is a Therapeutic Drying Mask with sublimed sulfur that dries and quiets the

Acne while the ingredients work to finish the job. With pores open and much of the C-Acne bacteria flushed away, the body's own defenses can then fight off the remaining bacteria. Pimples that are not fully developed are prevented from appearing. Redness and irritation is reduced and eliminated. Scar producing peeling is avoided along with the spreading of bacteria to other areas of the skin.

Why This Special Offer Through The Mail?

Because all the Acne sufferers in the U.S.A. can't possibly come to my clinics, I have developed this special mail order program. I believe it is the best program available for treatment in the home and will ultimately provide relief and help for almost all cases.

Dr. Harvey Glass
 DR. HARVEY GLASS, M.D.

Dr. Glass is a Dermatologist and Medical Director of the Phase IV Acne Clinics



ACNE LOTION 22
 A Full 30 Day Supply In Each Kit

THE 2 SIMPLE STEPS OF THE DOCTOR'S ACNE TREATMENT

1. Apply Lotion 22 to the entire face. Do not get it on the hair. Wash off with warm water. Dry the face with a clean towel. Apply the Acne Mask to the entire face. Leave on for 15 minutes. Wash off with warm water. Dry the face with a clean towel.
2. Apply Special Acne Pimple Therapy Masque with sublimed sulfur for 15 minutes. Wash off with warm water. Dry the face with a clean towel. Apply the Acne Mask to the entire face. Leave on for 15 minutes. Wash off with warm water. Dry the face with a clean towel.

ACNE THERAPY MASK

PAR. 6. Through the use of said advertisements and other advertisements referred to in Paragraphs Four and Five, respondents represented, and now represent, directly or by implication that:

a. Use of "Acne Lotion 22" and/or "Acne Masque," either alone or as part of "the Home Acne Kit," will cure acne regardless of the severity of the condition.

b. "Acne Lotion 22" and/or "Acne Masque," either alone or as part of "the Home Acne Kit," can penetrate the pores of the skin to eliminate the bacteria responsible for pimples, blackheads, whiteheads, and other acne blemishes.

c. Several minutes after use of "Acne Lotion 22" the bacteria responsible for acne are flushed out of the pores of the skin and can be easily eliminated from the skin surface.

d. "Acne Lotion 22" and "Acne Masque," either alone or as part of "the Home Acne Kit," have been medically and scientifically proven effective in the treatment of acne by clinical testing.

PAR. 7. In truth and in fact:

a. Use of "Acne Lotion 22" and/or "Acne Masque," either alone or as part of "the Home Acne Kit," will not cure acne.

b. "Acne Lotion 22" and/or "Acne Masque," either alone or as part of "the Home Acne Kit," cannot penetrate the pores of the skin to eliminate the bacteria contributively responsible for pimples, blackheads, whiteheads and other acne blemishes.

c. The bacteria contributively responsible for acne cannot be flushed out of the pores of the skin and easily eliminated from the skin surface.

d. "Acne Lotion 22" and "Acne Masque," either alone or as part of "the Home Acne Kit," are not medically or scientifically proven effective in the treatment of acne by clinical testing.

Therefore, the advertisements referred to in Paragraphs Four and Five were and are misleading in material respects and constituted, and now constitute, false advertisements, and the statements and representations set forth in Paragraph Six, were and are false, misleading or deceptive.

PAR. 8. Furthermore, through the use of the advertisements referred to in Paragraphs Four and Five, respondents represented, and now represent that:

a. Use of "Acne Lotion 22" and/or "Acne Masque," either alone or as part of "the Home Acne Kit," will result in skin free of pimples,

blackheads, whiteheads, other blemishes associated with acne and scarring, regardless of the severity of the disease.

b. "Acne Lotion 22" and/or "Acne Masque," either alone or as part of "the Home Acne Kit," are superior to all prescription and/or over-the-counter acne preparations in the treatment of acne.

c. "The Home Acne Kit" is superior in the treatment of acne to any other treatment, including but not limited to treatments offered by dermatologists other than Dr. Harvey Glass, whose endorsement of "the Home Acne Kit" appears in said advertisements.

PAR. 9. In truth and in fact, there existed at the time of the first dissemination of the representations in Paragraphs Six and Eight no reasonable basis for making them, in that respondents lacked competent and reliable scientific evidence to support each such representation. Therefore, the making and dissemination of said representations as alleged constituted, and now constitute, unfair or deceptive acts or practices in or affecting commerce.

PAR. 10. In the course and conduct of its aforesaid business, and at all times mentioned herein, the respondents have been, and now are, in substantial competition in or affecting commerce with corporations, firms and individuals representing or engaged in the over-the-counter and prescription drug industries.

PAR. 11. The use by respondent of the aforesaid unfair or deceptive representations and the dissemination of the aforesaid false advertisements has had, and now has, the capacity and tendency to mislead members of the consuming public into the erroneous and mistaken belief that said representations were and are true.

PAR. 12. The aforesaid acts and practices of the respondents, as herein alleged, including the dissemination of the aforesaid false advertisements, were and are all to the prejudice and injury of the public and of respondents' competitors, and constituted and now constitute, unfair methods of competition in or affecting commerce, and unfair or deceptive acts or practices in or affecting commerce, in violation of Sections 5 and 12 of the Federal Trade Commission Act.

DECISION AND ORDER

The Federal Trade Commission having initiated an investigation of certain acts and practices of the respondents named in the caption hereof, and the respondents having been furnished thereafter with a copy of a draft of complaint which the bureau proposed to present to the Commission for its consideration and which, if issued by the Commission, would charge respondents with violations of the Federal Trade Commission Act; and

The respondents and counsel for the Commission having thereafter executed an agreement containing a consent order, an admission by the respondents of all the jurisdictional facts set forth in the aforesaid draft of complaint, a statement that the signing of such agreement is for settlement purposes only and does not constitute an admission by respondents that the law has been violated as alleged in such complaint, and waivers and other provisions as required by the Commission's Rules; and

The Commission having thereafter considered the matter and having determined that it had reason to believe that the respondents have violated the said Act, and that complaint should issue stating its charges in that respect, and having thereupon accepted the executed consent agreement and placed such agreement on the public record for a period of sixty (60) days, now in further conformity with the procedure prescribed in Section 2.34 of its Rules, the Commission hereby issues its complaint, makes the following jurisdictional findings, and enters the following order:

1. Respondents San-Mar Laboratories, Inc. and Maison Drug Company, Inc. are corporations organized, existing, and doing business under and by virtue of the laws of the State of New York, with their principal offices and places of business at 399 Executive Boulevard, Elmsford, New York.

2. Respondent Marvin Berkrot is an individual and corporate officer of San-Mar Laboratories, Inc., and Maison Drug Company, Inc., and maintains an office at 399 Executive Boulevard, Elmsford, New York.

3. The Federal Trade Commission has jurisdiction of the subject matter of this proceeding and of the respondents, and the proceeding is in the public interest.

ORDER

I

It is ordered, That respondents San-Mar Laboratories, Inc. and Maison Drug Company, Inc., corporations, and Marvin Berkrot, individually and as a corporate officer, their successors and assigns, either jointly or individually, and the corporate respondents' officers, agents, representatives, and employees, directly or through any corporation, division or other device, in connection with the advertising, offering for sale, sale or distribution of all products do forthwith cease and desist from:

A. Disseminating or causing the dissemination of any advertisements by means of the United States mail or by any means in or

affecting commerce, as "commerce" is defined in the Federal Trade Commission Act, which directly or indirectly:

1. Represents that use of "Acne Lotion 22" and/or "Acne Masque," either alone or as part of "the Home Acne Kit," or any other acne product or regimen will cure acne.

2. Represents that "Acne Lotion 22" and/or "Acne Masque," or any chemically similar formulations, either alone or as part of "the Home Acne Kit," can penetrate the pores of the skin to eliminate the bacteria contributively responsible for acne, pimples, blackheads, whiteheads, and other acne blemishes.

3. Represents that the bacteria contributively responsible for acne can be flushed out of the pores of the skin and/or easily eliminated from the skin surface.

4. Misrepresents, the efficacy, use or the mode of performance of any drug where the use or reasonably foreseeable misuse of the drug may affect the health or safety of the user.

5. Misrepresents the extent to which any product has been tested or the results of any such tests.

B. Disseminating or causing the dissemination of any advertisements by means of the United States mail or by any means in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act, which directly or indirectly:

1. Represents that use of "Acne Lotion 22" and/or "Acne Masque," either alone or as part of the "Home Acne Kit," or any other acne product or regimen, will result in skin free of pimples, blackheads, whiteheads, other blemishes associated with acne and scarring, regardless of the severity of the disease;

2. Represents that "Acne Lotion 22" and/or "Acne Masque," either alone or as part of "the Home Acne Kit," or any other acne product or regimen, are superior to all prescription and/or over-the-counter acne preparations in the treatment of acne;

3. Represents that "the Home Acne Kit," or any other acne product or regimen, is superior in the treatment of acne to any other treatment, including but not limited to treatments offered by dermatologists other than Dr. Harvey Glass;

4. Represents that "the Home Acne Kit," or any other acne product or regimen, is efficacious in any manner in the treatment of acne,

unless, at the time of each dissemination of such representation(s) respondents possess and rely upon competent and reliable scientific or medical evidence as a reasonable basis for such representation(s). "Competent and reliable scientific or medical evidence" shall be

defined as evidence in the form of at least two double-blind clinical studies which conform to accepted designs and protocols and are conducted by different persons, independently of each other. Such persons shall be dermatologists who are recognized as specialists in acne and its treatment and who are experienced in conducting such studies.

C. Disseminating or causing the dissemination of any advertisement by means of the United States mail or by any means in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act, which directly or indirectly makes representations referring or relating to the performance or efficacy of any product or refers or relates to any characteristic, property or result of the use of any product, unless, at the time of each dissemination of such representation(s) respondents possess and rely upon a reasonable basis for such representation(s).

II

It is further ordered, That respondents shall:

A. Within thirty (30) days after entry of this order notify each purchaser of one or more orders of the Special Home Acne Kit, who has not received nor is in the process of receiving a full refund on their purchase prior to that time, of the purchaser's right to a refund in the amount of the full purchase price excluding the cost of mailing. Said notice shall be in the form of a letter identical in form, language and content to that annexed hereto as Attachment A (hereinafter "the notice"). The notice shall be sent to said purchasers by first class mail, and shall not include any other written matter which would obscure its clear meaning, nor any solicitation for respondents' products.

B. Refund the full purchase price of the Special Home Acne Kit, excluding the cost of mailing, by check, to any purchaser who responds to the notice within ten (10) weeks of its mailing. Such refunds shall be mailed to purchasers who request refunds no later than fourteen (14) weeks after the notice is sent to said purchasers.

C. Proof of compliance with this section shall be sent to the Commission by registered mail upon completion of the processing of all refund requests made pursuant to the notice. Said proof shall include all refund requests by purchasers made pursuant to the notice, and such records as will show full payment to these purchasers.

III

It is further ordered, That respondents shall forthwith distribute a copy of this order to each of their operating divisions.

It is further ordered, That each respondent notify the Commission at least thirty (30) days prior to any proposed change in the corporate respondent such as dissolution, assignment or sale resulting in the emergence of a successor corporation, the creation or dissolution of subsidiaries, or any other change in the corporation which may affect compliance obligations arising out of this order.

It is further ordered, That each respondent shall, within sixty (60) days after this order becomes final, and one (1) year thereafter, file with the Commission a report in writing, signed by respondent, setting forth in detail the manner and form of its compliance with this order.

It is further ordered, That each respondent shall maintain files and records of all substantiation related to the requirements of Parts IB and IC of this order for a period of three (3) years after the dissemination of any advertisement which relates to that portion of the order. Additionally such materials shall be made available to the Federal Trade Commission or its staff within fifteen (15) days of a written request for such materials.

ATTACHMENT A

(Maison Drug Company Letterhead)

Dear Customer:

According to our records, you have purchased our Special Home Acne Treatment Kit, consisting of Special Lotion 22, Protein Therapy Masque, and a booklet on acne.

The Federal Trade Commission has recently brought to our attention certain questions about advertising claims we made for the Special Home Acne Treatment Kit.

We have agreed with the Commission to make sure that all our customers who purchased the Special Home Acne Kit are satisfied that it performed as they expected it would, and to refund the full purchase price to customers who may have not been satisfied.

If you choose to request a refund because of dissatisfaction with the product, submit proof of purchase (check or money order will do) and we will remit payment. You must complete the form below and return it no later than . Please allow fourteen (14) weeks from receipt for processing of your refund request.

Sincerely,

MARVIN BERKROT, President
MAISON DRUG COMPANY

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Decision and Order

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(cut along dotted line)

Dear Mr. Berkrot:

I was not satisfied that the Special Home Acne Kit performed as I expected it would. I purchased _____ (insert number of Kits you bought) Kits. I enclose herewith proof of purchase.

My full name and address is:

NAME: _____

ADDRESS: _____

Street Apt. No.

City State Zip

SIGNATURE: _____

AFTER YOU HAVE COMPLETED THIS FORM, SEND IT TO:

Marvin Berkrot, President
Maison Drug Company
399 Executive Boulevard
Elmsford, New York 10523

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IN THE MATTER OF
HARVEY GLASS, M.D.

CONSENT ORDER, ETC., IN REGARD TO ALLEGED VIOLATION OF
SECS. 5 AND 12 OF THE FEDERAL TRADE COMMISSION ACT

Docket C-3004. Complaint, Jan. 15, 1980—Decision, Jan. 15, 1980

This consent order requires, among other things, a Cherry Hill, N.J. dermatologist to cease, in connection with the endorsing, advertising or sale of products, representing that the use of "Acne Lotion 22," "Acne Masque," or any other acne product or regimen will cure acne; eliminate bacteria-caused skin blemishes and result in a blemish-free skin. The respondent is also prohibited from disseminating advertisements and/or permitting his endorsement to appear in advertisements which misrepresent or make unsubstantiated claims regarding a product's efficacy, use or performance; the extent to which a product has been tested and the results of such tests.

Appearances

For the Commission: *Mark A. Heller.*

For the respondent: *Barry Greenberger, Bricktown, N.J.*

COMPLAINT

Pursuant to the provisions of the Federal Trade Commission Act, and by virtue of the authority vested in it by said Act, the Federal Trade Commission having reason to believe that Harvey Glass, M.D., an individual (hereafter "Glass"), at times referred to as respondent, having violated the provisions of said Act, and it appearing to the Commission that a proceeding by it in respect thereof would be in the public interest, hereby issues its complaint stating its charges in that respect as follows:

PARAGRAPH 1. "Glass" is a medical doctor, licensed to practice by the State of New Jersey, with a specialty in dermatology. "Glass's" business address is Old Orchard Professional Building, 1999 East Marlton Pike (Route 70), Cherry Hill, New Jersey.

PAR. 2. "Glass," in conjunction with San-Mar Laboratories, Inc., Maison Drug Company, Inc., and Marvin Berkrot, chief executive officer of both corporations, has been and now is engaged in the business of marketing and advertising health-related products, including but not limited to products known as Acne Lotion 22, or Special Lotion 22 (hereafter "Acne Lotion 22"); and Special Acne Protein Menthol Therapy Masque, or Protein Therapy Masque (hereafter "Acne Masque"). The aforesaid products were and are offered alone

and as part of a program for the treatment of acne known as the Special Home Acne Treatment Kit (hereafter "the Home Acne Kit"). In connection with the manufacture and marketing of said products, San-Mar Laboratories, Maison Drug Company, and Marvin Berkrot have disseminated, published, and distributed, and now disseminate, publish and distribute, advertisements and promotional material, which contain the respondent's endorsement, for the purpose of promoting the sale of said products for human use. These products, as advertised, are "drugs" within the meaning of Section 12 of the Federal Trade Commission Act.

PAR. 3. "Glass" for his part aided in the promotion of the aforementioned products by providing an endorsement as a medical expert which directly related to the efficacy and medical evaluation of the products. This endorsement appeared in every disseminated advertisement for "Acne Lotion 22," "Acne Masque" and "the Home Acne Kit." Respondent caused his endorsement to appear in advertisements concerning said products for the purpose of inducing, and which was and is likely to induce, directly or indirectly, the purchase of said products in commerce, as "commerce" is defined in the Federal Trade Commission Act.

PAR. 4. Advertisements containing respondent's aforementioned endorsement have been and are disseminated through the United States mail and by various means in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act, including but not limited to the insertion of advertisements for "Acne Lotion 22," "Acne Masque," and "the Home Acne Kit" in magazines and newspapers with national circulations, and advertisements in the form of a booklet authored by respondent and entitled "Acne: Its Control and Treatment," which was, and is, sent through the United States mail, for the purpose of inducing and which was likely to induce, directly or indirectly, the purchase of the products "Acne Lotion 22," "Acne Masque," and "the Home Acne Kit" in commerce.

PAR. 5. Typical of the statements and representations in said advertisements, disseminated as previously described, but not necessarily inclusive, are the following:

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AT LAST—NEW HOPE FOR ACNE SUFFERERS!
If You Have ACNE—Now!
Doctor's Special Treatment
For Lasting Help!

This new treatment is the result of years of experience by Dr. Harvey Glass, M.D., dermatologist and Medical Director of Phase IV Acne Clinics

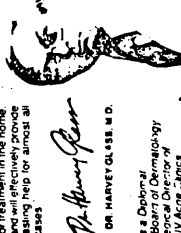
Acne, which is responsible for so much of the skin with pores open and much of the C-Acne bacteria hidden away, the body's own defenses can then fight off the remaining bacteria. Impurities that are no longer in the pores and impurities start to heal and Scar producing picking is avoided along with the spreading of bacteria to other areas of the skin.

Why This Special Offer Through The Mail?
 Because all the Acne sufferers in the U.S.A. can possibly come to my clinics, I have developed this special treatment and the C-Acne Bacteria treatment that can reach them wherever they are. The program that can and will effectively provide lasting help for almost all cases.

Discovered After Years of Treating Acne Patients
 What I discovered in my Acne Clinics is that you can't get rid of Acne unless you clean out the pores and open up the C-Acne Bacteria beneath the skin surface must be removed.

Dr. Harvey Glass has developed a special regimen for a home treatment. It includes a very special compress solution, Acne Lotion 22, containing among its ingredients, a mild surfactant that cleans the pores and allows for deep action by the ingredients included also is a Therapeutic Drawing Agent with sublimed sulfur that dries and quiets the

heads which softens with sublimed sulfur for 15 minutes helping drying and softening of the pores and unclogging glands. Continue to flush out C-Acne Bacteria. Continue treatment twice daily until the skin is clear and bacteria are wiped away. Treatment 1-3 times a week.



Dr. Harvey Glass
 DR. HARVEY GLASS, M.D.

Dr. Glass is a **Optional** American Society of Dermatology Member and Director of the Phase IV Acne Clinics

ACNE LOTION 22
 "A Full 30 Day Supply in Each Kit"

THE 2 SIMPLE STEPS OF THE DOCTOR'S ACNE TREATMENT

1. Apply Lotion 22 to clean, dry skin. It dries and quiets the heads which softens with sublimed sulfur for 15 minutes helping drying and softening of the pores and unclogging glands. Continue to flush out C-Acne Bacteria. Continue treatment twice daily until the skin is clear and bacteria are wiped away. Treatment 1-3 times a week.
2. Apply Special Acne Therapy Masque with sublimed sulfur for 15 minutes helping drying and softening of the pores and unclogging glands. Continue treatment twice daily until the skin is clear and bacteria are wiped away. Treatment 1-3 times a week.



These photographs of Dr. Glass's patient were taken approximately one month apart

ACNE
 IT'S THE DOCTOR'S TREATMENT
 30 Days Supply in Each Kit

WHEN YOU ORDER RIGHT NOW, YOU WILL RECEIVE ABSOLUTELY FREE THIS VALUABLE \$3.00 BOOKLET, "ACNE, ITS CONTROL AND TREATMENT"

Mail Your Order Today To:
VANOWEN PRODUCTS, Dept. 192, 10635 Vanowen St., Burbank, CA 91505

Please rush me 30 Day Supply of Special Home Acne Treatment Kit consisting of Special Lotion 22 Protein Therapy Masque with Sulfur and FREE Acne Booklet. I enclose \$3.00 for shipping and handling charges. My money order enclosed is a check of \$3.00 for _____ \$_____
 Name _____
 Address _____
 City _____ State _____ Zip _____
 Cash Payment Accepted. Send No Money Back Guarantee if help you get does not completely satisfy you. Cash Payment Accepted. Send No Money Back Guarantee if help you get does not completely satisfy you.

PAR. 6. Through his endorsement as contained in said advertisements and other advertisements referred to in Paragraphs Four and Five, respondent represented, and now represents, directly or by implication that:

a. Use of "Acne Lotion 22" and/or "Acne Masque," either alone or as part of the "Home Acne Kit," will cure acne regardless of the severity of the condition.

b. "Acne Lotion 22" and/or "Acne Masque," either alone or as part of the "Home Acne Kit," can penetrate the pores of the skin to eliminate the bacteria responsible for pimples, blackheads, whiteheads, and other acne blemishes.

c. Several minutes after use of "Acne Lotion 22" the bacteria responsible for acne are flushed out of the pores of the skin and can be easily eliminated from the skin surface.

d. "Acne Lotion 22" and "Acne Masque," either alone or as part of the "Home Acne Kit," have been medically and scientifically proven effective in the treatment of acne by clinical testing.

PAR. 7. In truth and in fact:

a. Use of "Acne Lotion 22" and/or "Acne Masque," either alone or as part of the "Home Acne Kit," will not cure acne.

b. "Acne Lotion 22" and/or "Acne Masque," either alone or as part of the "Home Acne Kit," cannot penetrate the pores of the skin to eliminate the bacteria contributively responsible for pimples, blackheads, whiteheads and other acne blemishes.

c. The bacteria contributively responsible for acne cannot be flushed out of the pores of the skin and easily eliminated from the skin surface.

d. "Acne Lotion 22" and "Acne Masque," either alone or as part of the "Home Acne Kit," are not medically or scientifically proven effective in the treatment of acne by clinical testing.

Therefore, the advertisements referred to in Paragraphs Four and Five were and are misleading in material respects and constituted, and now constitute, false advertisements, and respondent knew or should have known that the statements and representations set forth in Paragraph Six were and are false, misleading or deceptive.

PAR. 8. Furthermore, through his endorsement contained in the advertisements referred to in Paragraphs Four and Five, respondent represented, and now represents that:

a. Use of "Acne Lotion 22" and/or "Acne Masque," either alone or as part of the "Home Acne Kit," will result in skin free of pimples, blackheads, whiteheads, other blemishes associated with acne and scarring, regardless of the severity of the disease.

b. "Acne Lotion 22" and/or "Acne Masque," either alone or as part

of the "Home Acne Kit," are superior to all prescription and/or over-the-counter preparations in the treatment of acne.

c. "The Home Acne Kit" is superior in the treatment of acne to any other treatment, including but not limited to treatments offered by dermatologists other than the respondent.

PAR. 9. In truth and in fact, there existed at the time of the first dissemination of the representations in Paragraphs Six and Eight no reasonable basis for making them in that respondent lacked competent and reliable scientific evidence to support each such representation. Therefore, the making and dissemination of said representations as alleged constituted, and now constitute, unfair or deceptive acts or practices in or affecting commerce.

PAR. 10. In the course and conduct of his aforesaid business, and at all times mentioned herein, the respondent has been, and now is, in substantial competition in or affecting commerce with corporations, firms and individuals representing or engaged in the over-the-counter and prescription drug industries.

In addition to the above, respondent is in substantial competition with other corporations, firms and individuals in the business of providing endorsements for consumer products or services.

PAR. 11. The use by respondent of the aforesaid unfair or deceptive representations and the dissemination of the aforesaid false advertisements has had, and now has, the capacity and tendency to mislead members of the consuming public into the erroneous and mistaken belief that said representations were and are true.

PAR. 12. The aforesaid acts and practices of respondent, as herein alleged, including his endorsement as contained and disseminated in the aforesaid false advertisements, were and are all to the prejudice and injury of the public and of respondent's competitors, and constituted and now constitute, unfair methods of competition in or affecting commerce, and unfair or deceptive acts or practices in or affecting commerce, in violation of Sections 5 and 12 of the Federal Trade Commission Act.

DECISION AND ORDER

The Federal Trade Commission having initiated an investigation of certain acts and practices of the respondent named in the caption hereof, and the respondent having been furnished thereafter with a copy of a draft of complaint which the bureau proposed to present to the Commission for its consideration and which, if issued by the Commission, would charge respondent with violations of the Federal Trade Commission Act; and

The respondent and counsel for the Commission having thereafter executed an agreement containing a consent order, an admission by the respondent of all the jurisdictional facts set forth in the aforesaid draft of complaint, a statement that the signing of such agreement is for settlement purposes only and does not constitute an admission by respondent that the law has been violated as alleged in such complaint, and waivers and other provisions as required by the Commission's Rules; and

The Commission having thereafter considered the matter and having determined that it had reason to believe that the respondent has violated the said Act, and that complaint should issue stating its charges in that respect, and having thereupon accepted the executed consent agreement and placed such agreement on the public record for a period of sixty (60) days, now in further conformity with the procedure prescribed in Section 2.34 of its Rules, the Commission hereby issues its complaint, makes the following jurisdictional findings, and enters the following order:

1. Respondent Harvey Glass, M.D. is a medical doctor, licensed to practice by the State of New Jersey, with a specialty in dermatology. His business address is Old Orchard Professional Building, 1999 East Marlton Pike (Route 70), Cherry Hill, New Jersey.

2. The Federal Trade Commission has jurisdiction of the subject matter of this proceeding and of the respondent, and the proceeding is in the public interest.

ORDER

I

It is ordered, That respondent Harvey Glass, M.D., individually and through any corporate entity over which he now or hereafter exercises control, and his corporate successors and assigns, in connection with the endorsing, advertising, offering for sale, sale, or distribution of all products, forthwith cease and desist from:

A. Representing, directly or indirectly, through advertisements in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act, that:

1. Use of "Acne Lotion 22" and/or "Acne Masque," either alone or as part of the "Home Acne Kit," or any other acne product or regimen, will cure acne or any skin condition associated with acne;

2. "Acne Lotion 22" and/or "Acne Masque," or any chemically similar formulations, either alone or as part of the "Home Acne Kit," can penetrate the pores of the skin to eliminate the bacteria

contributively responsible for acne, pimples, blackheads, whiteheads, and other acne blemishes;

3. The bacteria contributively responsible for acne can be flushed out of the pores of the skin and/or easily eliminated from the skin surface.

B. Representing directly or indirectly through advertisements in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act, that:

1. Use of "Acne Lotion 22" and/or "Acne Masque," either alone or as part of the "Home Acne Kit," or any other acne product or regimen, will result in skin free of pimples, blackheads, whiteheads, other blemishes associated with acne and scarring, regardless of the severity of the disease;

2. "Acne Lotion 22" and/or "Acne Masque," either alone or as part of the "Home Acne Kit," or any other acne product or regimen are superior to all prescription and/or over-the-counter acne preparations in the treatment of acne;

3. The "Home Acne Kit" or any other acne product or regimen is superior in the treatment of acne to any other treatment, including but not limited to treatments offered by dermatologists other than the respondent;

4. "The Home Acne Kit" or any other acne product or regimen is efficacious in any manner in the treatment of acne,

Unless, at the time of each dissemination of such representation(s) respondent possesses and relies upon competent and reliable scientific or medical evidence as a reasonable basis for such representation(s). "Competent and reliable scientific or medical evidence" shall be defined as evidence in the form of at least two double-blind clinical studies which conform to accepted designs and protocols and are conducted by different persons, independently of each other. Such persons shall be dermatologists who are recognized as specialists in acne and its treatment and who are experienced in conducting such studies.

C. Disseminating or causing the dissemination of any advertisement by means of the United States mail or by any means in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act, and/or permitting or otherwise causing his endorsement to appear in any such advertisement which directly or indirectly:

1. Misrepresents the efficacy, use or the mode of performance of any "drug," "cosmetic," "device," or "food," (as these terms are defined by Section 15 of the Federal Trade Commission Act, 15 U.S.C.

55) where the use or reasonably foreseeable misuse of the product may adversely affect the health or safety of the user.

2. Misrepresents the extent to which any product has been tested or the results of any such tests.

Provided, however, that respondent shall have an affirmative defense to a compliance suit for violation of this order paragraph where respondent acted only as an endorser and neither knew nor should have known that the advertisement(s) violated the order paragraph.

D. Disseminating or causing the dissemination of any advertisement by means of the United States mail or by any means in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act, and/or permitting or causing his endorsement to appear in any such advertisement, which directly or indirectly makes representations referring or relating to the performance or efficacy of any health-related product or refers or relates to any characteristic, property or result of the use of any such product, unless, at the time of each dissemination of such representation(s) respondent possesses and relies upon a reasonable basis for such representation(s).

II

It is further ordered, That respondent notify the Commission at least thirty (30) days prior to any proposed change in his business status, such as incorporation, or any other change which may affect compliance obligations arising out of this order.

It is further ordered, That respondent shall, within sixty (60) days after this order becomes final, and annually thereafter for three (3) years, file with the Commission a report, in writing, signed by respondent, setting forth in detail the manner and form of his compliance with this order.

It is further ordered, That respondent shall maintain files and records of all substantiation related to the requirements of Parts IB and ID of this order for a period of three (3) years after the dissemination of any advertisement which relates to that portion of the order. Additionally, such materials shall be made available to the Federal Trade Commission or its staff within fifteen (15) days of a written request for such materials.

FEDERAL TRADE COMMISSION DECISIONS

95 F.T.C.

Complaint

IN THE MATTER OF

BAYER AG, ET AL.

CONSENT ORDER, ETC., IN REGARD TO ALLEGED VIOLATIONS OF
SEC. 7 OF THE CLAYTON ACT AND SEC. 5 OF THE FEDERAL TRADE
COMMISSION ACT

Docket C-3007. Complaint, Jan. 15, 1980—Decision, Jan. 15, 1980

This consent order requires, among other things, a diversified chemical company, located in Leverkusen, Germany, and its two American subsidiaries to divest, within one year to a Commission-approved buyer, all United States assets gained through their acquisition or sale in the United States of allergenic extracts. Additionally, for specified time periods, the firms would be barred from acquiring, without prior Commission approval, any concern engaged in the manufacture, distribution or sale in the United States of allergenic extracts or chemically treated diagnostic reagent strips used for *in vitro* quantitative urinalysis.

Appearances

For the Commission: Geoffrey Walker, Richard Collier and Michelle Crown.

For the respondents: John Henry Davis, Cravath, Swaine & Moore, New York City.

COMPLAINT

The Federal Trade Commission, having reason to believe that the above-named respondents, each subject to the jurisdiction of the Commission, have acquired Miles Laboratories, Inc., a corporation, in violation of Section 7 of the Clayton Act, as amended, (15 U.S.C. 18), and Section 5 of the Federal Trade Commission Act, as amended, (15 U.S.C. 45), and having found that a proceeding in respect thereof would be in the public interest, hereby issues its complaint, pursuant to Section 11 of the Clayton Act, (15 U.S.C. 21), and Section 5(b) of the Federal Trade Commission Act, (15 U.S.C. 45(b)), stating its charges as follows:

I. DEFINITION

1. For purposes of this complaint, the following definition shall apply:

"Allergenic extracts" are biological products that are administered to man for the diagnosis or treatment of allergies.

II. RESPONDENTS

2. Bayer AG (Bayer) is a corporation organized, existing and doing business under and by virtue of the laws of the Federal Republic of Germany with its principal office and place of business located in Leverkusen, Federal Republic of Germany.

3. In 1976, Bayer, including its German and non-German subsidiaries (Bayer World), had consolidated revenues of approximately \$9 billion and consolidated assets of approximately \$8.6 billion.

4. Bayer is a diversified chemical company whose principal business, conducted directly and through subsidiaries and affiliates throughout the world, consists of the manufacture and sale of dyestuffs, organic and inorganic chemicals, plastics and surface coatings, agricultural chemicals, pharmaceuticals, polyurethanes, rubber and man-made fibers. In 1976, pharmaceuticals accounted for 13% of Bayer's worldwide sales.

5. Bayer has been engaged in the manufacture and sale of pharmaceuticals and chemicals in the United States since 1895 through a combination of de novo operations, joint ventures and acquisitions. Since 1973, Bayer has acquired, directly or indirectly, the following assets or companies in the United States: Cutter Laboratories, Inc. (1974); the remaining 50% of Helena Chemical Co. from Vertac, Inc. (1977); the Harman Colors business of Allied Chemical Corporation (1977); and Miles Laboratories, Inc. (1978). Total consolidated sales of Bayer in the United States in 1976 amounted to \$1.1 billion.

6. Rhinechem Corporation (Rhinechem) is a corporation organized, existing and doing business under and by virtue of the laws of the State of Delaware, with its principal office and place of business located at 425 Park Ave., New York, New York. Rhinechem is a wholly-owned subsidiary of Bayer International Finance N.V. which in turn is a wholly-owned subsidiary of respondent Bayer.

7. Through Rhinechem, Bayer conducts its principal operations in the United States through two subsidiaries, Mobay Chemical Corporation and Cutter Laboratories, Inc. Mobay Chemical Corporation is a manufacturer of chemical products with sales in 1976 of \$544 million. Cutter Laboratories, Inc. is a manufacturer of biological products, hospital and pharmaceutical supplies with sales in 1976 of \$175 million. In 1976, Bayer, through Cutter Laboratories, Inc. was the second largest manufacturer of biological products in the United States with sales of \$65 million.

FEDERAL TRADE COMMISSION DECISIONS

Complaint

95 F.T.C.

8. Cutter Laboratories, Inc. (Cutter), through its Hollister-Stier Laboratories division, is the largest manufacturer of allergenic extracts in the United States, with 1976 sales in the United States of approximately \$7 million.

9. Since 1960, Cutter has grown in the allergenic extracts market through internal expansion and acquisitions, including the acquisitions of Hollister-Stier Co.; Arlington, Inc.; assets of Abbott Laboratories, Inc.; assets of the Lederle Laboratories division of American Cyanamid Co.; and assets of Endo Laboratories, Inc., a subsidiary of E.I. duPont de Nemours & Co.

10. Miles Laboratories, Inc. (Miles Labs) is a corporation existing under and by virtue of the laws of the State of Delaware, with its principal office and place of business located at 1127 Myrtle St., Elkhart, Indiana. Miles Labs was organized originally under the name of Rhinechem Laboratories, Inc. for the purpose of acquiring Miles Laboratories, Inc. On February 8, 1979, the acquired company, Miles Laboratories, Inc., merged into its nominal acquirer Rhinechem Laboratories, Inc., and the successor corporation has been named Miles Laboratories, Inc. Miles Labs is a wholly owned subsidiary corporation of respondent Rhinechem.

11. At all times relevant herein, respondents have been and are engaged in commerce within the meaning of the Clayton Act, as amended, and engaged in or affecting commerce within the meaning of the Federal Trade Commission Act, as amended.

III. ACQUISITION

12. As of January 5, 1978, respondents acquired over 90% of the outstanding common shares of Miles Laboratories, Inc. for consideration of approximately \$250 million.

IV. ACQUIRED CORPORATION

13. Miles Laboratories, Inc. (Miles) was a corporation organized, existing and doing business under and by virtue of the laws of the State of Indiana, with its principal office and place of business located at 1127 Myrtle St., Elkhart, Indiana.

14. At the time of the aforesaid acquisition, Miles was engaged principally in the manufacture and sale of pharmaceutical preparations, biological products, diagnostic chemical reagent and microbiological test systems, surgical and medical instruments, abrasive products, chemical products and specialty foods.

15. In 1976, Miles had consolidated worldwide revenues of approximately \$450 million and assets of approximately \$382 million.

