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ANALYSIS OF PROPOSED CONSENT ORDER TO AID PUBLIC COMMENT

The Federal Trade Commission has accepted an agreement to a proposed consent order from Western Direct Marketing Group ("WDMG") and Western International Media Corporation ("WIMC").

The proposed consent order has been placed on the public record for sixty (60) days for receipt of comments by interested persons. Comments received during this period will become part of the public record. After sixty (60) days, the Commission will again review the agreement and the comments received, and will decide whether it should withdraw from the agreement or make final the agreement's proposed order.

This matter involves alleged deceptive representations for Cholestaway, a dietary supplement marketed by Bogdana Corporation, purported to lower serum cholesterol. Advertisements for the product included 30-minute television infomercials.

WDMG is the successor corporation to Television Marketing Group, the advertising agency for the Cholestaway television infomercials. WIMC is WDMG's corporate parent.

According to the FTC complaint, through the infomercials, the respondents made claims that Cholestaway: significantly lowers serum cholesterol levels; significantly lowers serum cholesterol levels without changes in diet; significantly lowers serum cholesterol levels and causes significant weight loss even if users eat foods high in fat, including fried chicken and pizza; substantially reduces or eliminates the body's absorption of dietary fat; lowers low density lipoprotein cholesterol and improves the high density lipoprotein cholesterol to low density lipoprotein cholesterol ratio; is effective in the treatment of hardening of the arteries and heart disease; causes significant weight loss; causes significant weight loss without changes in diet; significantly reduces blood triglyceride levels; significantly reduces elevated blood pressure; and is scientifically proven to lower serum cholesterol levels and reduce elevated blood pressure significantly; and that testimonials from consumers appearing in the advertisements for Cholestaway reflect the typical or ordinary experience of members of the public who use the product. The complaint alleges that the respondents did not have a reasonable basis for any of these representations at the time they were made.

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

Part I of the order prohibits the respondents from making the representations challenged in the complaint, unless they possess and rely upon competent and reliable scientific evidence that substantiates the representation.

Part II prohibits respondents from making any representation about the efficacy, performance, safety or benefits of any food, dietary supplement or drug unless they possess and rely upon competent and reliable scientific evidence that substantiates the representation.

Part III prohibits the respondents from misrepresenting the existence, contents, validity, results, conclusions or interpretations of any test, study, or research.

Part IV prohibits the respondents from representing that the experience represented by a user testimonial or endorsement of the product is the typical or ordinary experience of users of the product unless the representation is substantiated or they disclose what the generally expected results would be or that consumers should not expect the same results.

Part V allows the respondents to make representations for any drug that are permitted in labeling for that drug under any tentative final or final Food and Drug Administration ("FDA") standard or under any new drug application approved by the FDA.

Part VI allows the respondents to make representations for any product that are specifically permitted in labeling for that product by regulations issued by the FDA under the Nutrition Labeling and Education Act of 1990.

Parts VII through X require the respondents to keep copies of advertisements making representations covered by the order; to keep records concerning those representations, including materials that they relied upon when making the representations; to provide copies of the order to certain of the respondents' personnel; to notify the Commission of changes in corporate structure; and to file compliance reports with the Commission. Part XI provides that the order will terminate after twenty (20) years under certain circumstances.

The purpose of this analysis is to facilitate public comment on the proposed order, and it is not intended to constitute an official interpretation of the agreement and proposed order or to modify in any way their terms.