

Analysis of Proposed Consent Order to Aid Public Comment
In the Matter of Holly A. Bacon, doing business as Cleansing Time Pro,
File No. 082-3119

The Federal Trade Commission has accepted, subject to final approval, an agreement containing a consent order from Holly A. Bacon, doing business as Cleansing Time Pro ("respondent").

The proposed consent order has been placed on the public record for thirty (30) days for reception of comments by interested persons. Comments received during this period will become part of the public record. After thirty (30) 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 concerns the advertising and promotion of products known as Cleansing Time Pro Black Salve & Tablets. According to their labels, these products contain "blood root, galangal & zinc chloride in a base of blended synergistic herbs (+ calcium in the tablets)." Cleansing Time Pro Black Salve is an ointment that respondent recommends for external use. Alternatively, respondent recommends that consumers take the product internally by purchasing Black Salve Tablets or by placing an amount of the Black Salve ointment into a gelatin capsule.

The Commission's complaint charges that respondent claimed that Cleansing Time Pro Black Salve & Tablets were effective to treat, prevent, or cure numerous forms of cancer and various viral infections, including hepatitis, HIV, SARS, West Nile Virus, and Avian Bird Flu. The complaint alleges that respondent did not have a reasonable basis for these claims. The Commission's complaint also challenges respondent's testimonial advertising. The complaint alleges that respondent failed to disclose adequately that one of the endorsers was respondent Holly A. Bacon herself. The complaint alleges that this was a deceptive act or practice, because the fact that one of the endorsers had a material connection with Cleansing Time Pro would materially affect the weight and credibility given by consumers to the endorsement and would be material to consumers in their purchase or use of the products.

The proposed consent order contains provisions designed to prevent respondent from engaging in similar acts and practices in the future. Part I requires respondent to have competent and reliable scientific evidence substantiating any claim that Cleansing Time Pro Black Salve & Tablets, or any other covered product or service, is effective in the prevention, treatment or cure of cancer, cancer, hepatitis, HIV, SARS, West Nile Virus, or Avian Bird Flu. A "covered product or service" is defined as any food, dietary supplement, or drug, including, but not limited to, Cleansing Time Pro Black Salve & Tablets, or any other health-related product, service, or program. Part II requires that any future claim about the absolute or comparative benefits, performance,

efficacy, safety or side effects of any covered product or service be truthful and supported by competent and reliable scientific evidence.

Part III of the proposed order addresses the deceptive endorsement claim by requiring that respondent disclose any material connection between an endorser and respondent, if such a connection exists. "Material connection" is defined as any relationship that materially affects the weight or credibility of the user testimonial or endorsement and that would not reasonably be expected by consumers.

Part IV of the proposed order provides that the order does not prohibit respondent from making representations for any drug that are permitted in labeling for the drug under any tentative or final Food and Drug Administration ("FDA") standard or under any new drug application approved by the FDA; and 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.

Part V of the proposed order requires respondent to compile a list of all consumers who purchased Cleansing Time Pro Black Salve & Tablets from respondent since July 1, 2005, and to mail a letter (Attached to the proposed order as Attachment A) to each purchaser describing the scientific evidence related to these products. Part VI prohibits respondent from providing any identifying information about her purchasers to anyone other than the Commission, another law enforcement agency, or as required by law.

Parts VII through X of the proposed order require respondent to keep copies of relevant advertisements and materials that substantiate claims made in the advertisements; to provide copies of the order to certain of her employees; to notify the Commission of her affiliation with any new health-related business or employment; and to file compliance reports with the Commission. Part XI of the proposed order is a "sunset" provision, dictating that the order will terminate twenty years from the date it is issued or twenty years after a complaint is filed in federal court, by either the United States or the FTC, alleging any violation of the order.

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