

UNITED STATES OF AMERICA
FEDERAL TRADE COMMISSION

In the Matter of)
)
)
BODYWELL, INC., also doing)
business as BODYWELL U.S.A.,) DOCKET NO. C-3754
)
a corporation, and)
)
GERARD DU PASSAGE,)
individually and as an officer)
of the corporation.)
)
)

COMPLAINT

The Federal Trade Commission, having reason to believe that BodyWell, Inc., a corporation, and Gerard du Passage, individually and as an officer of the corporation ("respondents") have violated the provisions of the Federal Trade Commission Act, and it appearing to the Commission that this proceeding is in the public interest, alleges:

1. Respondent BodyWell, Inc. is a New York corporation with its principal office or place of business at 27 West 20th Street, Suite 1001, New York, New York 10011.

2. Respondent Gerard du Passage is an officer of the corporate respondent. Individually or in concert with others, he formulates, directs, controls or participates in the policies, acts or practices of the corporation, including the acts or

practices alleged in this complaint. His principal office or place of business is the same as that of BodyWell, Inc.

3. Respondents have advertised, offered for sale, sold and distributed products to the public, including Slimming Soles, shoe insoles purported to cause weight loss by stimulating certain areas of the feet. Slimming Soles are "devices," within the meaning of Sections 12 and 15 of the Federal Trade Commission Act. Advertisements for these products have appeared in the following publications: *Cosmopolitan, Redbook, McCall's, Family Circle, The Denver Post, The National Enquirer, The Globe/National Examiner, The Star, Woman's Day, Woman's Own, Diets & Exercise, Grit, Woman's World, Soap Opera Weekly, Capper's, Soap Dish, Soap Opera Digest, True Story, Weekly World News, The Sun, First For Women, Craft Works, Senior Citizens, Flower & Garden, TV Host, Soap Opera Magazine, Popular Magazine Group, Family, Woman's Day Low Fat Meals, USAir, American Legion, Walking Magazine, Good Cooks' Companion, Northwest, Retired Military Family, TV Blue Print, Almanac for Farmers, Farmers Almanac and Blum's Almanac*, and have been distributed as free standing inserts through Valassis FSI and News America.

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

5. Respondents have disseminated or have caused to be disseminated advertisements for Slimming Soles, including but not necessarily limited to the attached Exhibits A through C. These advertisements contain the following statements:

A. **"The discovery of a German Doctor has revolutionized the field of weight loss!...**

LOSE WEIGHT FAST AS YOU WALK!

SEE HOW DOCTOR METZ' SLIMMING SOLES CAN MAKE YOU LOSE OVER 15 LBS WITHOUT THE SLIGHTEST EFFORT!

...and without dieting!

You walk all the time... When you go shopping, at home, at work... Well did you know that just by walking, you can lose over 15 lbs without any diet or without doing any extra exercise? And that's what Dr. Robert Metz, a German weight loss expert and inventor of the first Slimming Soles, has discovered!

Guarantee

In asking to use Dr. Metz' Slimming Soles on a trial basis, you are not taking any risk except to see your body, day after day, becoming healthier and rejuvenated, (excess weight is dangerous to your health). However, if for any reason whatsoever, you were not 100% satisfied with the results obtained, all you have to do is to return your pair of Slimming Soles in its original box, and you will be immediately reimburse [sic], no questions asked. This is a full Guarantee.

A revolutionary discovery...

You certainly know the basic principles of Reflexology. It's that Chinese technique that consists of stimulating specific points on the sole of the feet, which correspond to a specific organ of the body.

A wide variety of disorders can be treated in this way: headaches, back pain and many other symptoms.

But what you don't know, it's what Dr. Robert Metz, a weight loss expert, has discovered.

This doctor has discovered that under your feet existed certain points that make you lose weight automatically if you stimulate them!

- * These points "force" your body to get rid of its surplus fat.
- * These points can make you lose over 15 lbs in just 6 weeks without dieting or doing any extra exercise!

From these observations, Dr. Metz invented and designed the first pair of Slimming Soles based on the technique of Reflexology. These sole [sic] will make you lose weight with every step you take!

Amazing results, scientifically proven!

A recent medical test has been conducted with 478 people who had all failed to lose weight using any known method. After 6 weeks, 58% of these people had lost 15 lbs or more, 27% had lost between 13 and 15 lbs., and 15% had lost 13 lbs.

None of these people altered their eating habits, they didn't do any exhausting exercises or any particular form of gymnastics; all they did was slip Dr. Metz' Slimming Soles into their shoes!

And now put your body in a constant weight loss mode without any effort and without any diet, by Dr. Metz.

Now, you too can lose weight rapidly, without going on a special diet and without having to do any extra exercise. All you have to do is slip Dr. Metz' Slimming Soles into your everyday shoes and live normally.

Every time you walk, whether you're going shopping or you're simply around the house or at work, you'll be losing weight!

You don't have to change a thing in your eating habits, all you have to do is walk as you normally do, (without excess).

6 weeks to lose 16 lbs.

After 6 weeks, you should have already lost between 13 and 16 pounds (as proven by the tests!). And no one will know your secret since you were not on a diet!

...

By simply slipping the new Dr. Metz' Slimming Soles into your shoes, you should quickly lose between 13 to 16 lbs. If it's not the case and you lost only between 6 and 8 lbs instead of the 16 lbs you were looking for, all you have to do is to return your Dr. Metz' Slimming Soles in their original box and we will reimburse you immediately, no questions asked. It means that the trial won't have cost you a penny. But believe me with the Dr. Metz' Slimming Soles you will [sic] thrilled about the weight you have lost."

[In red type:] **COUPON TO LOSE 16 LBS
NO EFFORT!"**

(Exhibit A - Print Advertisement)

- B. [Large script:] "Lose 13 to 15 lbs.!
With no Effort!"

**IT IS FINALLY POSSIBLE, THANKS TO DR. METZ' ASTONISHING
SLIMMING SOLES, WHICH CAN MAKE YOU LOSE 13 TO 15 LBS.
WITHOUT THE LEAST EFFORT!**

(script) and without dieting!

...

[A]re you aware that the simple fact of walking can make you to lose up to 15 lbs., without dieting or working out?

Yes, 15 lbs. can simply vanish by just walking the same number of steps that you normally do, no more, no less.

...

What Dr. Metz has discovered is that under your feet there are certain particular points which, when stimulated, automatically make you lose weight!

* Points which "compel" your body to get rid of excess fat.

* Points which can make you to lose 15 pounds in 6 weeks, without dieting and without exercising!

In light of these observations, Dr. Metz developed and refined the first Slimming Soles based on the technique of Reflexology; they will make you lose weight every time you take a step!

ASTONISHING RESULTS, SCIENTIFICALLY PROVEN!

Listen carefully to this:

A recent medical test was conducted with 478 people who had been unable to lose weight, regardless of what techniques they tried.

These 478 people were each given a pair of Slimming Soles, with these 2 recommendations:

1. Don't walk more than usual
2. Don't make any changes in your eating habits.

After 6 weeks of tests, 58% of these people had lost 15 lbs. or more, 27% had lost between 11 and 15 lbs., and 15% had lost 11 lbs. These people made no changes in their eating

habits and didn't do any strenuous exercise or workout regimen. All they did was slip a pair of Dr. Metz' Slimming Soles into their regular shoes!

...

'I lost 9 pounds in six weeks. You are telling the truth when you write...that you can have the body you've always dreamed of the natural way!' Mr. Peter Wintherthur

...

'I have had your insoles now for 7 days. I have lost 5 lbs.' BFB, Norristown, PA

**AND NOW PUT YOUR BODY IN A CONSTANT WEIGHT LOSS MODE,
WITHOUT EFFORT, AND WITHOUT DIETING!**

Now you too can lose weight - quickly, easily, without a special diet and without any extra exercise. All you have to do is slip a pair of Dr. Metz' Slimming Soles inside your regular shoes, and go on about your normal life.

...

You do not have to change any of your eating habits, or your lifestyle - all you have to do is walk normally (without excess).

...

Say goodbye to austere diets, say goodbye to strenuous and often ineffective workout sessions. With your "Erina Solum" Slimming soles, all you have to do is walk, just walk normally.

...

After 6 weeks , you should already have lost between 13 and 15 pounds (The tests prove it). You should find a new zest for life and a new energy.

...

RESULTS ARE GUARANTEED!

In slipping these new Slimming Soles into your shoes, you should quickly lose between 13 and 15 pounds. If, for

whatever reason that does not happen, even if you lose only 7 or 8 pounds instead of 15, all you have to do is return your Slimming Soles, with their original packaging, and we will refund your money immediately, no questions asked. Your experiment will not have cost you a penny. But believe me, with the Dr. Metz' Slimming Soles you will be thrilled about the weight you have lost.

...

Our Guarantee for a 90 Day Risk Free-Trial

In asking to try out the Dr. Metz' Slimming Soles, you risk nothing except seeing your body being transformed daily, each day becoming more gracious and healthier (Excess weight is dangerous to your health). However, if after 90 days, for whatever reason, you are not 100% delighted with the results, all you have to do is return your pair of Slimming Soles in its original packaging, and you will be immediately given a full refund, no questions asked.

This is our written pledge." (Exhibit B - Direct Mail Advertisement).

C. "COUPON TO LOSE 15 LBS. WITH NO EFFORT!"

Yes, I want to lose 13 to 15 lbs. With no effort, just by slipping Dr Metz' Slimming Soles into my shoes.

I understand that I don't have to do anything else - no diet, no workout.

....

Allow 2-3 weeks for delivery."

(Exhibit C - Direct Mail Advertisement).

6. Through the trade name "Slimming Soles," and the means described in Paragraph 5, respondents have represented, expressly or by implication, that:

- A. Slimming Soles cause significant weight loss.
- B. Slimming Soles cause significant weight loss without changes in diet or exercise.

- C. Consumers using Slimming Soles will lose 13 to 16 pounds within six weeks, and will do so without changes in diet or exercise.
- D. Testimonials from consumers appearing in the advertisements for Slimming Soles reflect the typical or ordinary experience of members of the public who have used the product.

7. Through the trade name "Slimming Soles," and the means described in Paragraph 5, respondents have represented, expressly or by implication, that they possessed and relied upon a reasonable basis that substantiated the representations set forth in Paragraph 6, at the time the representations were made.

8. In truth and in fact, respondents did not possess and rely upon a reasonable basis that substantiated the representations set forth in Paragraph 6, at the time the representations were made. Therefore, the representation set forth in Paragraph 7 was, and is, false or misleading.

9. Through the means described in Paragraph 5, respondents have represented, expressly or by implication, that scientific studies demonstrate that Slimming Soles cause significant weight loss, including 13 to 16 pounds within six weeks, without changes in diet or exercise.

10. In truth and in fact, scientific studies do not demonstrate that Slimming Soles cause significant weight loss, including 13 to 16 pounds within six weeks, without changes in diet or exercise. Therefore, the representation set forth in Paragraph 9 was, and is, false or misleading.

11. In connection with the sale of Slimming Soles to consumers, respondents have represented, expressly or by implication, that Slimming Soles would be delivered to purchasers within a reasonable period of time.

12. In truth and in fact, in numerous instances, the Slimming Soles that were sold to purchasers have not been delivered to such purchasers within a reasonable period of time. Further, in numerous instances, respondents have failed to provide refunds of

money paid by such purchasers within a reasonable period of time. Therefore, the representation set forth in Paragraph 11 was, and is, false or misleading.

13. 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 sixteenth day of June, 1997, has issued this complaint against respondent.

By the Commission.

Donald S. Clark
Secretary

SEAL:

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