

UNITED STATES OF AMERICA
BEFORE FEDERAL TRADE COMMISSION

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)	
In the Matter of)	
)	
ROBERT M. CURRIER.)	DOCKET NO. C-4067
_____)	

COMPLAINT

The Federal Trade Commission, having reason to believe that Robert M. Currier ("respondent"), has 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 Robert M. Currier is a resident of Michigan. He is a doctor of osteopathic medicine who specializes in eye surgery and diseases of the eye. His principal office and place of business is located at 127 Park Place, Alpena, Michigan 49707.
2. Respondent has appeared in television infomercials promoting SNORenz. These infomercials were aired on various broadcast and cable channels. SNORenz is a topical spray that purports to reduce or eliminate snoring or the sounds associated with snoring by lubricating the vibrating tissues in the throat with a combination of oils, vitamins, and trace ingredients. SNORenz is a "food," and/or "drug" within the meaning of Sections 12 and 15 of the Federal Trade Commission Act.
3. The acts and practices of respondent alleged in this complaint have been in or affecting commerce, as "commerce" is defined in Section 4 of the Federal Trade Commission Act.
4. Respondent has made statements as an expert endorser in advertisements for SNORenz, including but not necessarily limited to television infomercials that were aired on various broadcast and cable channels. These advertisements contained the following statements:

INFOMERCIAL: VP SNORenz 2- JD [Exhibit A]

ON SCREEN: Dr. Bob Currier, Physician and Surgeon

A. DR. BOB CURRIER: Well what snoring really is, Jon, is simply a relaxation of the tissues in the back of the throat. It's when we fall asleep, much of our muscles in our body as well as our throat relax. That's the time we sleep. We're supposed to get our rest. What happens with that, though, unfortunately is as the tissues relax, they occlude or actually narrow, and they cause a funnel effect for the air as it

goes through, flapping the tissue. This is in the back of the throat, hence creating the noise. It's very positional, it's very – also very dependent on habits, and then also it affects really how much we sleep and how much we rest we actually get throughout the night.

- B. DR. BOB CURRIER: Well, to take this just a little bit further, a dentist has studied this and has actually sprayed this in models, and he actually used a dye at the time so he could see where it was applied. In the soft tissues, in the back of the throat, the ones that we see that flap and flutter and that need the lubrication, what -- it is applied there, but where the technology goes even further and better through this liposome technology is to apply it evenly, and the very neat thing about this is it stays. It stays there all night. That's where others have failed. And that's also where a lot of the appliances, that's where also a lot of the applications of surgeries, pills, other things that have been attempted and tried have failed. This product here stays there. It's easy application.

INFOMERCIAL: VP SNORENZ 4 - JD [Exhibit B]

- C. DR. BOB CURRIER. Well, it is a problem, but the real problem is awareness. A lot of people are not aware, as you were, that you didn't snore, you don't snore, and people don't want to offend someone else that they may sleep with or someone in their family by telling them that they snore. And they've put up with it for years. The problem with that is all the things that go with it. Even on a personal level. Me personally, I snore and have snored, and I've used the product as well and it's worked great for me. Why do I know this? Because my energy level, I feel better. I get better sleep. The problems happen I think people go to sleep, they assume they're automatically going to wake up rested. They don't and then they wake up with a headache, less energy, they hurt, they're sore, they're irritable. The health problems are really insidious, but let's not even go that deep. Let's just talk about things that happen to us on an everyday basis. The energy level we have. We're not rested. That's the problem.
- D. DR. BOB CURRIER: Interestingly enough, it's not only the results of the studies we got, but the comments we received. Many people, again, they're aware of snoring, but they aren't aware of the problems that come with it. And actually it's like until it's resolved, the snoring itself, oh, my word, what a problem it was. And you can see the changes it's made. That was probably the most interesting part of doing that whole study was the comments that we got back, the little stories that people had through the week you know, of using the product. And that was the beauty of this. I loved doing the study, it was highly effective.
- E. DR. BOB CURRIER: With the effectiveness of its staying there, it's a winner. And that's how it works.

5. Through the means described in Paragraph 4, respondent has represented, expressly or by implication, that:

- A. SNORenz significantly reduces or eliminates snoring or the sound of snoring in users of the product.
- B. A single application of SNORenz significantly reduces or eliminates snoring or the sound of snoring for six to eight hours.
- C. SNORenz can eliminate, reduce or mitigate the symptoms of sleep apnea including daytime tiredness and frequent interruptions of deep restorative sleep.

6. Through the means described in Paragraph 4, respondent has represented, expressly or by implication, that he possessed and relied upon a reasonable basis that substantiated the representations set forth in Paragraph 5, at the time the representations were made.

7. In truth and in fact, respondent did not possess and rely upon a reasonable basis that substantiated the representations set forth in Paragraph 5, at the time the representations were made. Among other reasons, the single study that respondent relied upon that purported to use a double blind, controlled design contained basic flaws in design (such as failure to apply an appropriate measurement to assess sound reduction, failure to include a statistical analysis of the results, insufficient duration of the testing period, and failure to develop a baseline against which any improvement could be measured). Therefore, the representation set forth in Paragraph 6 was, and is, false or misleading.

8. Through the means described in Paragraph 4, respondent has represented, expressly or by implication, that clinical research proves that SNORenz significantly reduces or eliminates snoring or the sound of snoring.

9. In truth and in fact, clinical research does not prove that SNORenz significantly reduces or eliminates snoring or the sound of snoring. Among other things, critical components of the research were not done by an independent entity qualified to conduct studies or by Dr. Currier. Rather, officials from Med Gen, Inc., the manufacturer of SNORenz, composed the questionnaire used in the study and compiled the results from completed questionnaires submitted by study participants. Therefore, the representation set forth in Paragraph 8 was, and is, false or misleading.

10. In the advertising and sale of SNORenz, respondent has represented, expressly or by implication, that the product reduces or eliminates snoring or the sound of snoring. Respondent has failed to disclose or to disclose adequately that SNORenz is not intended to treat sleep apnea for which snoring is a primary symptom, that sleep apnea is a potential life-threatening condition, and that persons who have symptoms of sleep apnea should consult a physician. These facts

would be material to consumers in their purchase or use of the product. The failure to disclose adequately these facts, in light of the representation made, was, and is, a deceptive practice.

11. Through the use of the statements contained in the infomercials referred to in Paragraph 4, respondent has represented, directly or by implication, that, at the time he made the representations set forth in Paragraph 5, he possessed and relied upon a reasonable basis for such representations, consisting of an actual exercise of his represented expertise in the causes and treatments for snoring at least as extensive as an expert in that field would normally conduct in order to support the conclusions presented in the endorsement.

12. In truth and in fact, at the time he made the representations set forth in Paragraph 5, respondent did not possess and rely upon a reasonable basis for such representations. Therefore, respondent's representations set forth in paragraph 11 were false and misleading.

13. Through the statements contained in the infomercials referred to in Paragraph 4, respondent has represented, expressly or by implication, that he endorses SNORenz. Respondent has failed to disclose or failed to disclose adequately that he has a material connection with Med Gen, Inc., the manufacturer of SNORenz, in that he is an investor in the company and may have a financial interest in promoting the sale of SNORenz. This fact would be material to consumers in their purchase decision regarding SNORenz. The failure to disclose this fact, in light of the representations made, was and is a deceptive practice.

14. The acts and practices of respondent 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 on this thirteenth day of December, 2002, has issued this complaint against respondent.

By the Commission.

Donald Clark
Secretary

SEAL: