IN THE MATTER OF

MULTIPLE LISTING SERVICE OF THE
GREATER MICHIGAN CITY AREA, INC.
also d/b/a
MULTIPLE LISTING SERVICE OF LAPORTE COUNTY, INC.

CONSENT ORDER IN REGARD TO ALLEGED VIOLATION OF SEC. 5 OF THE
FEDERAL TRADE COMMISSION ACT

Docket C-3163. Complaint, Sept. 11, 1985—Decision, Sept. 11, 1985

This consent order requires an Indiana firm providing a multiple listing service to member real estate brokers doing business in LaPorte County, Ind., among other things, to cease fixing, establishing or maintaining commission rates for brokerage services; urging its members to charge the customary market rate of commission; taking adverse action against non-conforming brokers; or otherwise engage in conduct having the tendency to restrain competition in the real estate brokerage market. The company is also barred from interfering with any statement disseminated in an advertisement that truthfully refers or relates to another broker's business practices; restricting a broker from offering or accepting an exclusive agency listing, reserve clause listing or open listing; and restraining a broker's participation or involvement in a competitive organization or service. The firm is further required to publish exclusive agency listings or reserve clause listings in its multiple listing service; timely amend their by-laws, rules and regulations, and other materials to conform to the provisions of the order; and provide area real estate brokers with a prescribed statement setting forth those terms. Additionally, the order prohibits the firm from improperly denying a membership application; requires a written notice of denial together with the reasons for the denial to be provided to rejected applicants; and requires the firm to maintain records relating to membership applications for a specified period.

Appearances

For the Commission: Alan J. Friedman and Oscar M. Voss.

For the respondents: Thomas D. Sallwasser, Sallwasser & McClain, Laporte, Ind.

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 respondent Multiple Listing Service Of The Greater Michigan City Area, Inc., a corporation, also trading and doing business as Multiple Listing Service Of LaPorte County, Inc., has violated and is violating Section 5 of the Federal Trade Commission Act, 15 U.S.C. 45, and it appearing to the
Commission that a proceeding by it in respect thereof would be in the
public interest, hereby issues this complaint stating its charges as
follows:

1. As used in this complaint:

   a. Multiple listing service shall mean a clearinghouse through
      which member real estate brokerage firms regularly and systemati-
      cally exchange information on listings of real estate properties and
      share commissions with members who locate purchasers.

   b. Member or member firm shall mean any real estate brokerage
      firm that is entitled to participate in the multiple listing service
      offered by respondent Multiple Listing Service Of The Greater Michi-
      gan City Area, Inc.

   c. Applicant shall mean any owner or co-owner of a real estate
      brokerage firm who is duly licensed by the Indiana Real Estate Com-
      mission as a real estate broker within the State of Indiana and who
      has applied on behalf of his or her firm for membership in respond-
      ent's multiple listing service.

   d. Listing shall mean any agreement between a real estate broker
      and a property owner for the provision of real estate brokerage
      services.

   e. Exclusive right to sell listing shall mean any listing under which
      the property owner agrees to pay the broker a certain commission if
      the property is sold, regardless of who locates the purchaser.

   f. Reserve clause listing shall mean any exclusive right to sell listing
      that includes a provision reserving the property owner's right to sell
      the property to one or more persons individually named in the listing
      agreement without owing a commission to the broker.

   g. Exclusive agency listing shall mean any listing under which the
      property owner agrees to pay the broker a certain commission if the
      property is sold through any real estate broker, but, if the owner
      locates the purchaser independently of any real estate broker, the
      owner owes a reduced commission or no commission to the broker.

   h. Open listing shall mean any listing under which the property
      owner grants the broker a nonexclusive agency to locate a purchaser
      for the property, such that the owner is free to enter into other open
      listings with other real estate brokers and owes a commission only to
      the broker who locates the purchaser.

2. Respondent Multiple Listing Service Of The Greater Michigan
   City Area, Inc. ("MLS") is a corporation organized, existing and doing
   business under any by virtue of the laws of the State of Indiana. Respondent MLS's principal office and place of business is at 5450
   North Johnson Road, Michigan City, Indiana, in LaPorte County. The population of LaPorte County is approximately 105,000, and the popu
lation of Michigan City (the County's largest city) is approximately 40,000.

3. Respondent MLS is now and has been at all times relevant herein a corporation organized for its own profit and that of its members within the meaning of Section 4 of the Federal Trade Commission Act, 15 U.S.C. 44.

4. Respondent MLS is now and has been since 1970 providing a multiple listing service for member real estate brokerage firms doing business in LaPorte County. The member firms are owned and operated by real estate brokers who, for a commission, provide the service of bringing together buyers and sellers of residential real estate, as well as other related services designed to facilitate such sales. Each member firm agrees to submit all of its LaPorte County residential property listings (except for new residences in which the member has an ownership interest) for publication on the multiple listing service to the entire MLS membership and to share brokerage commissions with those member firms that successfully locate purchasers for properties it has listed. The MLS charges a fee to members for publishing listings on its multiple listing service only if the property is sold before the listing's expiration date; the fee is based on a percentage of the earned brokerage commission on the sale of the property. The MLS allows only exclusive right to sell listings to be published on its multiple listing service.

5. Membership in respondent MLS provides valuable competitive advantages in the brokering of residential real estate in LaPorte County. MLS membership significantly increases the opportunities of brokerage firms to enter into listings with residential property owners, as owners generally consider MLS publication of listings to be the fastest and most effective and convenient means of obtaining the broadest market exposure for residential property in LaPorte County. MLS membership also significantly reduces the costs of obtaining up-to-date and comprehensive information on listings and sales that is important for brokerage firms to compete effectively in the market. Respondent MLS provides the only real estate multiple listing service serving LaPorte County. About 65 percent of the active, full time residential real estate brokerage firms doing business in LaPorte County have been and are now members of the MLS. Only two of the eight largest residential real estate brokerage firms in terms of dollar sales are not currently members of the MLS. For 1982, about 65 percent of the total dollar volume of residential real estate sales in LaPorte County through brokerage firms involved listings published on the MLS's multiple listing service by current MLS members. Also for 1982, approximately 80 percent of the total dollar volume of residential real estate sales in Michigan City through brokerage firms
involved listings published on the MLS's multiple listing service by current MLS members.


7. Approximately thirty firms are members of the MLS's multiple listing service. Each member owns one share of MLS stock, entitling each firm to one vote in the operation of the multiple listing service. Only members may own MLS stock and participate in the MLS's multiple listing service.

8. The MLS requires each member to pledge adherence to MLS regulations and other MLS policies. Members found to be in violation of any MLS regulation or other MLS policy are subject to fine or to suspension or termination of membership.

9. Real estate brokers doing business in the State of Indiana must be licensed by the Indiana Real Estate Commission pursuant to state law. The state law licensing requirements include:

a. completion of prescribed courses of study;
b. one year experience as a licensed salesperson for a licensed real estate broker or equivalent experience; and
c. passing a written examination.

10. Except to the extent that competition has been restrained as described in Paragraphs 12 through 22 below, the MLS members are now and have been in competition among themselves and with other firms in the provision of residential real estate brokerage services.

11. In adopting the policies and engaging in the acts and practices described in Paragraphs 12 through 22 below, the MLS has been and is now acting as a combination of its members, or in conspiracy with some of its members or others, to restrain trade in the provision of residential real estate brokerage services.

12. Upon the formation of the MLS in 1970, the MLS adopted regulations requiring that members charge for brokerage services "only such fees as are... in accordance with local practice in similar transactions" and that "any listing filed with [the MLS] shall provide for payment of a commission in accordance with the customary practices within [LaPorte County]." These regulations are still in effect. Almost all of the LaPorte County brokerage firms, including almost all of the current MLS members, have been and are now customarily charging commission rates of six or seven percent of the gross sales price of residential property.
Complaint

and elsewhere, most or all of the brokerage firms serving Michigan City, including most or all of the member firms of the MLS at that time, jointly determined to raise the customary commission rate for brokering residential property in Michigan City from six percent to seven percent of the gross sales price of the property. Within about six months after this joint determination was made, the predominant commission rate on the sale of residential property in Michigan City increased from six to seven percent, and seven percent continues to be the predominant rate charged by Michigan City brokerage firms.

14. The MLS, in conspiracy with some MLS members, has obstructed truthful comparative advertising, including truthful advertising of low commission rates. An MLS code of ethics requirement in effect since the MLS’s formation in 1970 states that a member “shall never publicly criticize a competitor . . . .” During July to September 1978 or thereabouts, an MLS member became the first LaPorte County brokerage firm since at least 1970 to advertise a commission rate below six percent and to refer in advertising to its costs and services in comparison with other area firms. Despite the truthfulness of this advertising, the president of the MLS and other MLS members charged that this firm’s advertising constituted improper public criticism of a competitor and, through the MLS, jointly coerced the advertising member to stop this conduct. Since this incident, no MLS member has attempted to advertise in a similar fashion.

15. Since at least 1978, and in order to deter the entry of new competitors and to impede price competition, respondent MLS has been and is now requiring any duly licensed real estate broker seeking MLS membership on behalf of his or her firm to have owned and operated a real estate brokerage business in LaPorte County for one year immediately preceding the date of application. In addition, the MLS has been requiring that the applicant, for this one year period (and that each member to retain membership):

   a. derive the major or principal portion of earned income from full time practice of real estate brokerage; and
   b. operate from an established place of business in LaPorte County at a nonresidential location.

In one instance, in 1980, the MLS denied membership to a brokerage firm that had been regularly charging a four percent commission rate. Even though this firm had operated in LaPorte County under the same ownership since at least 1975, it was denied membership on the ground that it did not have a business office located in a nonresidential location in LaPorte County for the requisite one year period.

16. In addition, the MLS has required some brokerage firms that
met the one year waiting periods described in Paragraph 15 above to wait for membership substantial additional periods of time. In 1980, the MLS notified one applicant that met the MLS's one year waiting period to reapply in about three months as no applications would be considered until that time. In 1978, before the above-described one year waiting periods were required, the MLS refused to process a membership application of a brokerage firm that had been operating full time in LaPorte County from a non-residential location for a number of years. About three or four months after receipt of this application, and only upon inquiry by the applicant, the MLS told the applicant that no new members were being accepted at that time and that no information could be provided on when new membership would be available.

17. Through the policies, acts, or practices described in Paragraphs 15 and 16 above, and since 1978, the MLS has unreasonably prevented or delayed the membership of at least eight firms by denying membership, failing to act upon applications, or deterring the submission of applications. At least six of these firms were new entrants and at least three of the eight, as of their dates of application or during their first year of operation, had regularly or frequently charged commission rates below six percent.

18. The MLS has been and is now prohibiting any member from entering into any exclusive agency listing, and the MLS has been and is now refusing to publish any exclusive agency listing on its multiple listing service.

19. The MLS has been and is now prohibiting any member from entering into any reserve clause listing with an individual residential property owner, and the MLS has been and is now refusing to publish any such listing on its multiple listing service.

20. The MLS has been and is now prohibiting any member from entering into any open listing with a residential property owner.

21. Respondent MLS has been and is now prohibiting any member from participating, without the approval of the MLS, in any organization that competes with the MLS's multiple listing service.

22. The MLS has been and is now unreasonably restricting the ability of members and property owners to cancel residential listings before the listing's expiration date. The MLS, through a regulation in effect since the MLS's formation in 1970, prohibits any member from entering into any agreement with a property owner to cancel a residential listing before the listing's expiration date without prior approval of the MLS. Although the MLS has approved a number of cancellations that release the member from further obligation to provide brokerage services under the listing (such as when the owner is
prohibiting any cancellation that would partially or fully release the owner from further obligation to pay a commission should the property be sold before the listing's original expiration date. The MLS also has been and is now prohibiting any cancellation that would provide for the transfer of the listing from a member to one of the member's former associates who has recently started his or her own firm.

23. The purposes or effects, and the tendency and capacity, of the policies, acts, or practices of the MLS and its members as described in Paragraphs 12 through 22 above have been and are to unreasonably restrain competition in one or more of the following ways, among others:

a. stabilize, fix, maintain, or interfere with prices of real estate brokerage services;
b. restrain price competition among brokerage firms;
c. unreasonably restrain the entry of new brokerage firms and of new joint ventures or shared brokerage or multiple listing services in competition with the MLS's multiple listing service;
d. restrain competition among brokerage firms based on willingness to accept different contract terms that may be attractive and beneficial to consumers, such as terms that allow the property owner to pay a reduced commission or no commission if the owner sells the property through alternative means;
e. substantially limit the ability of consumers to negotiate lower prices for brokerage services and brokerage contract terms that may be more advantageous than an exclusive right to sell listing;
f. substantially limit the ability of residential property sellers to compete with real estate brokers in locating purchasers;
g. substantially limit consumers' ability to choose among a variety of brokerage firms competing on the basis of price, contract terms, and services; and
h. deprive consumers of information pertinent to selecting a brokerage firm, and of the benefits of competition.

24. In the conduct of their businesses and through the policies, acts, and practices described in Paragraphs 12 through 22 above, the MLS and its members involve or affect:

a. a substantial interstate flow of funds used in the financing of LaPorte County real estate;
b. a substantial amount of LaPorte County real estate financing guaranteed or insured under federal government programs;
c. the sale of a substantial amount of title and homeowners' insurance by interstate insurers to LaPorte County property owners;
d. the franchise operations of those interstate chains of real estate
brokerage firms that include one or more members of respondent MLS; and

e. the interstate sale of computer services to respondent MLS.

As a result of these and other events and effects, the policies, acts, and practices of the MLS and its members as described in Paragraphs 12 through 22 above are in or affect commerce within the meaning of Section 5 of the Federal Trade Commission Act, 15 U.S.C. 45.

25. The policies, acts, practices, and combinations or conspiracies described in Paragraphs 12 through 22 above constitute unfair methods of competition or unfair acts or practices in violation of Section 5 of the Federal Trade Commission Act, 15 U.S.C. 45. The alleged conduct is continuing in nature and will continue in the absence of the relief requested.

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 of Competition proposed to present to the Commission for its consideration and which, if issued by the Commission, would charge respondent with violation of the Federal Trade Commission Act; and

The respondent, its attorney, and counsel for the Commission having thereafter executed an agreement containing a consent order; 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, having duly considered the comments filed thereafter by interested persons pursuant to Section 2.34(b) of its Rules and the recommendations of its staff; and

The respondent having been furnished with a copy of a revised draft of complaint which the Bureau of Competition proposed to present to the Commission for its consideration, and the respondent, its attorney, and counsel for the Commission having thereafter executed a revised agreement containing consent order dated August 28, 1984; and

The Commission having thereafter reconsidered the matter and having determined that it had reason to believe that the respondent has violated the said Act as stated in the revised complaint, and that
spect, and having thereupon withdrawn its acceptance of the original agreement and accepted the revised agreement and placed such revised agreement on the public record for a period of sixty (60) days, and having duly considered the comments filed thereafter by interested persons pursuant to Section 2.34(b) of its Rules and the recommendations of its staff; and

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

Now in 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 is a corporation organized, existing and doing business under and by virtue of the laws of the State of Indiana, with its office and principal place of business located at 5450 North Johnson Road, in the City of Michigan City, State of Indiana.

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

Definitions

For the purposes of this order, the following definitions shall apply:

1. **Multiple listing service** shall mean a clearinghouse through which member real estate brokerage firms regularly and systematically exchange information on listings of real estate properties and share commissions with members who locate purchasers.

2. **Member** shall mean any real estate brokerage firm that is entitled to participate in the multiple listing service offered by respondent Multiple Listing Service Of The Greater Michigan City Area, Inc.

3. **Applicant** shall mean any owner or co-owner of a real estate brokerage firm who is duly licensed by the Indiana Real Estate Commission as a real estate broker within the State of Indiana and who has applied on behalf of his or her firm for membership in respondent's multiple listing service.

4. **Market** shall mean the provision of real estate brokerage services for residential properties located in LaPorte County, Indiana.
5. **Listing** shall mean any agreement between a real estate broker and a property owner for the provision of real estate brokerage services.

6. **Exclusive right to sell listing** shall mean any listing under which the property owner agrees to pay the broker a certain commission if the property is sold, regardless of who locates the purchaser.

7. **Reserve clause listing** shall mean any exclusive right to sell listing that includes a provision reserving the property owner's right to sell the property to one or more persons individually named in the listing agreement without owing a commission to the broker.

8. **Exclusive agency listing** shall mean any listing under which the property owner agrees to pay the broker a certain commission if the property is sold through any real estate broker, but, if the owner locates the purchaser independently of any real estate broker, the owner owes a reduced commission or no commission to the broker.

9. **Open listing** shall mean any listing under which the property owner grants the broker a nonexclusive agency to locate a purchaser for the property, such that the owner is free to enter into other open listings with other real estate brokers and owes a commission only to the broker who locates the purchaser.

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**I.**

*It is ordered,* That respondent Multiple Listing Service Of The Greater Michigan City Area, Inc., and its directors, officers, committees, representatives, agents, employees, subsidiaries, successors, and assigns, directly or indirectly or through any device, in or in connection with respondent's operation of a multiple listing service in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act, shall cease and desist from:

A. Fixing, establishing, or maintaining any rate, range or amount of commission for real estate brokerage services, or otherwise restraining price competition among real estate brokers, including but not limited to:

1. requiring, urging, recommending, or suggesting that any broker charge for brokerage services only such commissions or commission rates as are in accordance with local practice in similar transactions;

2. requiring, urging, recommending, or suggesting that any listing filed with respondent's multiple listing service provide for payment of a commission in accordance with the customary practices within the market;

3. requiring, urging, recommending, or suggesting that any broker refrain from charging or advertising any commission or commission
rate below what is customarily charged or prevailing in the market; or

4. taking or threatening any action that has the purpose or effect of penalizing, discriminating against, or interfering with any broker's charging or advertising any commission or commission rate below what is customarily charged or prevailing in the market.

B. Declaring to be unethical or otherwise restricting or interfering with any statement in a generally disseminated advertisement by a broker that truthfully refers or relates to the business practice of any other real estate broker, such as truthful comparisons of commissions, commission rates, operating costs, services, methods of operation, or brokerage terms or conditions. Generally disseminated advertisements shall include any advertisement through the media, through printed distributions covering a particular geographic area or a particular association of persons, or through other general means.

C. Adopting any policy or taking any other action that has the purpose or effect of:

1. requiring that any applicant or prospective applicant must have been engaged to any degree or in any manner or capacity in real estate brokerage for any period of time before becoming eligible for membership in respondent's multiple listing service;

2. requiring that any prospective applicant, applicant, or member must:
   a. engage in real estate brokerage full time;
   b. derive any particular amount or portion of income from real estate brokerage; or
   c. operate from an established place of business at a nonresidential location;

3. restricting the acceptance of any membership application for processing to unreasonably infrequent or limited periods of time during the year;

4. unreasonably delaying action on any membership application or the induction of any new member; or

5. discriminating against any prospective applicant, applicant, or member that is a new entrant in the market or new to respondent's multiple listing service;

provided, however, that nothing contained in this subpart shall prohibit respondent from adopting or enforcing any reasonable and nondiscriminatory policy to assure that its members are actively engaged in real estate brokerage and that listings published on respondent's multiple listing service are adequately serviced.

D. Restricting or interfering with:
1. any broker's offering or acceptance of any exclusive agency listing or reserve clause listing; or
2. the publishing on respondent's multiple listing service of any exclusive agency listing or reserve clause listing of a member.

E. Publishing on respondent's multiple listing service any exclusive agency listing or reserve clause listing:

1. in any manner different from the publishing of any exclusive right to sell listing; or
2. in any category separate from exclusive right to sell listings;

provided, however, that nothing contained in subparts I.D. or I.E. shall prohibit respondent from: (a) including a simple designation that a published listing is an exclusive agency listing or reserve clause listing rather than an exclusive right to sell listing; (b) charging a reasonable and nondiscriminatory fee based on costs for any service it provides; and (c) applying reasonable terms and conditions equally applicable to, and not discriminatory in their impact upon, the publication of any listing, whether exclusive agency, reserve clause, or exclusive right to sell.

F. Prohibiting any broker from entering into any open listing.
G. Restricting or interfering with any broker's development of, or participation or involvement in, any organization, service, or venture that competes in any way with respondent's multiple listing service.
H. Restricting or interfering with any member and property owner cancelling a listing before the listing's expiration date; provided, however, that nothing contained in this subpart shall prohibit respondent from: (1) requiring three days advance notice of the cancellation, including a copy of the cancellation agreement; (2) charging a reasonable and nondiscriminatory fee for any service it provides if the property subject to the cancelled listing is sold before the original expiration date of the listing and said fee is not otherwise owed to respondent by another member; and (3) charging a reasonable and nondiscriminatory fee based on costs for any service it provides.

II.

It is further ordered, That respondent Multiple Listing Service Of The Greater Michigan City Area, Inc., shall:

A. Within sixty (60) days after this order becomes final, amend its by-laws, code of ethics, and rules and regulations and any other of its materials to conform to the provisions of this order.
B. Within thirty (30) days after this order becomes final, make its best efforts to distribute an announcement in the form shown in
Appendix A to the principal(s) of each real estate brokerage firm doing business in LaPorte County, Indiana (including each member and including any other brokerage firm listed in the most current telephone yellow page directories for Michigan City and the city of LaPorte), including a sufficient number of copies to permit each real estate broker and salesperson associated with any such firm to receive the announcement.

C. For a period of five (5) years after this order becomes final, furnish promptly a copy of this order to:

1. any person who inquires in writing about, or who submits an application for, membership in respondent's multiple listing service; and
2. any other person who requests a copy.

III.

It is further ordered, That respondent Multiple Listing Service Of The Greater Michigan City Area, Inc., shall:

A. Within sixty (60) days after this order becomes final, submit a written report to the Federal Trade Commission setting forth in detail the manner and form in which respondent has complied and is complying with this order.

B. For a period of ten (10) years after this order becomes final:

1. provide to any applicant who has been denied membership prompt and clear written notice of the denial, specifying the membership requirements not met and explaining in what manner the requirements are not met; and
2. keep all documents that discuss, refer, or relate to any denied or approved application for a period of five (5) years from the final decision on such application, maintaining all such documents in one separate file segregated by the names of the applicants.

C. For a period of ten (10) years after this order becomes final, make available to the Federal Trade Commission staff for inspection and copying, upon reasonable notice, all documents that relate to determining whether respondent has been and is complying with this order, including but not limited to the documents required to be kept by subpart III. B. of this order.

D. Notify the Federal Trade Commission at least thirty (30) days prior to any proposed change in 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.

E. Require as a condition of sale or transfer of all, or a substantial part, of respondent's business or assets to any other person seeking to perform essentially the same services as respondent in LaPorte County, Indiana that such successor or transferee file promptly with the Federal Trade Commission a written agreement to be bound by the terms of this order; provided, however, that if respondent wishes to present to the Commission any reasons why this order should not apply in its present form to said successor or transferee, it shall submit to the Commission a written statement setting forth such reasons prior to the consummation of the succession or transfer.

IV.

It is further ordered, That nothing in this order shall be construed to exempt respondent from compliance with the antitrust laws or the Federal Trade Commission Act, and the fact that any activity is not prohibited by this order shall not bar a challenge to it under such laws and statute.

APPENDIX A

[Date]

[Respondent's Regular Letterhead]

ANNOUNCEMENT

As you may be aware, the Multiple Listing Service Of The Greater Michigan City Area, Inc. has entered into a consent agreement with the Federal Trade Commission that has now become final. The following is a brief summary of the provisions of the order issued pursuant to the consent agreement:

1. Commission rates and advertising: The MLS will not maintain any rate or amount of commission or fee for real estate brokerage services or restrain competition among member firms in any manner. Any member will be free to charge any commission rate and to engage in general truthful advertising of any type, including comparative advertising of rates or of other terms and services.

2. Eligibility for membership: The MLS will not require as a prerequisite for membership that a broker have owned and operated a business for a one year period or any other time period. In addition, the MLS will not require any applicant or member to be engaged full time in real estate brokerage, to operate from an office outside of the home, or to avoid participating in any other organization that competes with the MLS. Applications will be accepted and acted upon without unreasonable delay. If any membership application is denied, the MLS will promptly provide to the applicant a written explanation of the specific reasons for the denial.

3. Property listings that limit or differ from an exclusive right to sell arrangement:
Members will be free to enter into any exclusive agency listing* or reserve clause listing.** The MLS will publish all listings of these types with notice that the listing is an exclusive agency listing or reserve clause listing rather than a standard exclusive right to sell listing.*** Members also will be free to enter into any open listing. Under the order, the MLS will be free to allow or to disallow publication of open listings.

4. Cancellation of listings: The MLS will not prohibit the cancellation of a listing before its expiration date. However, the MLS may require three days advance notice of the cancellation. In addition, the MLS may still charge the member a regular service fee if the property subject to a cancelled listing is sold before the original expiration date of the listing, so long as that fee is not otherwise owed to the MLS by another member. In lieu of levying any such charge, the MLS may simply charge each member cancelling a listing a fee to cover the cost of publishing that listing.

The FTC is not endorsing any practice of the MLS that has not been challenged. For more specific information, you should refer to the FTC order itself. A copy of the order will be furnished to any person upon request.

President
Multiple Listing Service Of The
Greater Michigan City Area, Inc.

* Under an exclusive agency listing, the owner owes a reduced commission or no commission to the broker if the owner locates the purchaser independently of any real estate broker.

** According to the order, a reserve clause listing is any exclusive right to sell listing that includes a provision reserving the owner's right to sell to designated persons without owing a commission to the broker.

*** The MLS may charge the listing member a fee to cover the cost of publishing the listing upon a sale where no brokerage commission is due.
IN THE MATTER OF

NATIONAL CUSTOMS BROKERS & FORWARDERS
ASSOCIATION OF AMERICA, INC.

CONSENT ORDER IN REGARD TO ALLEGED VIOLATION OF SEC. 5 OF THE
FEDERAL TRADE COMMISSION ACT

Docket C-3164. Complaint, Sept. 18, 1985—Decision, Sept. 18, 1985

This consent order requires a national association whose members provide services to
clients in connection with the importation of merchandise into the United States,
among other things, to cease adopting, maintaining, or enforcing any by-law, code
of ethics, provision, rule or regulation that restricts or attempts to restrict the
ability of a member to offer price discounts or reach independent pricing decisions
relating to custom brokerage services. The Association is also barred from commencing or continuing any affiliation or formal relationship with an organization
that engages in the prohibited conduct. Further, the order requires that the As-
sociation timely send a copy of the complaint and order, to each of its current
members, together with the attached explanatory letter; publish the order in its
"Bulletin" or newsletter; and provide a copy of the order to all new members and
affiliates for a period of three years.

Appearances

For the Commission: Dennis McFeeley and Barbara Wright.
For the respondents: Gerald H. Ullman, 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 the National Cus-
toms Brokers & Forwarders Association of America, Inc., a corpora-
tion, has 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. Respondent the National Customs Brokers & For-
warders Association of America, Inc. (hereafter "Association"), is a
non-profit corporation organized, existing and doing business under
and by virtue of the laws of the State of New York. Its headquarters
is at One World Trade Center, Suite 1109, New York, New York.
PAR. 2. The Association is a trade association with approximately
14,000 members.
States. The Association operates in substantial part for the economic benefit of its members and is a corporation within the meaning of Section 4 of the Federal Trade Commission Act, as amended.

PAR. 3. Members of the Association provide services to clients in connection with the importation of merchandise into the United States. These services include determining the correct duty to be paid to the United States Customs Service, filing of the appropriate papers with the Customs Service, and performing other services for which members charge fees to their clients.

Members of the Association compete with each other in the sale of customs brokerage services.

PAR. 4. Members of the Association are integrally involved in the process of importing merchandise into the United States. Merchandise imported through the facilities and services of Association members is sold throughout the United States. Therefore, the acts and practices of the Association and its members affect commerce within the meaning of Section 5 of the Federal Trade Commission Act, as amended.

PAR. 5. Acting as a combination of, and in conspiracy with, its members, the Association has restrained price competition among its members. In furtherance of this combination and conspiracy, the Association adopted a by-law requiring that its members charge fees that would assure a fair return for services rendered.

PAR. 6. The purposes and effects of the combination or conspiracy alleged in Paragraph Five have been as follows:

a) The Association's members have been restricted in their ability to reach independent pricing decisions and to offer price discounts;

b) Customers who import goods and use the services of the Association's members have been restricted in their ability to receive discounts and to obtain the benefit of open price competition among the Association's members.

PAR. 7. The combination or conspiracy and the acts and practices described in Paragraph Five are unfair methods of competition in violation of Section 5 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 Seattle Regional Office proposed to present to the Commission for its consideration and
which, if issued by the Commission, would charge respondents with violation of the Federal Trade Commission Act; and

The respondent, its attorney, 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 said 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 National Customs Brokers and Forwarders Association of America, Inc., is a non-profit corporation organized, existing and doing business under and by virtue of the laws of the State of New York, with its office and principal place of business located at One World Trade Center, Suite 1109, New York, New York.

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.

For purposes of this order, the following definitions shall apply:

A. The term Association means the National Customs Brokers & Forwarders Association of America, Inc., its successors or assigns, and its officers, board members, directors, committees, members, agents, representatives or employees.

B. The term customs broker shall mean any entity licensed as a customs broker by the United States Customs Service.
II.

It is ordered, That the Association, directly or indirectly, or through any corporate or other device, shall cease and desist from:

A. Adopting, participating in, maintaining or enforcing any by-law, code of ethics provision, rule, regulation, agreement, understanding, plan or program, either directly or indirectly, that restricts or attempts to restrict any member's ability to offer price discounts, or otherwise restricts or attempts to restrict the ability of any member to reach independent decisions concerning prices for the sale of customs brokerage services.

B. Affiliating or establishing a formal relationship, as set forth in the by-laws of the Association, or continuing an affiliation or formal relationship with any organization that has customs brokers in its membership that violates Section II.A of this order.

III.

It is further ordered, That the Association shall:

A. Within thirty (30) days after the date of service of this order send to each of its members a copy of the complaint and decision and order in this matter, with the letter attached to this order.

B. Publish this order within 30 days after the date of service on respondent in 10-point boldface (or larger) type under the heading “Federal Trade Commission Order” in the Association's “Bulletin” or similar newsletter read by the Association's general membership.

C. Provide written notice of the name and address of any association of customs brokers that is disaffiliated or is refused affiliation pursuant to Section II.B of this order. The notice shall reference this matter by name of case and docket number and shall be sent to the Assistant Director for Compliance, Bureau of Competition, Federal Trade Commission and the Regional Director, Seattle Regional Office, Federal Trade Commission.

D. For three (3) years from the date of service of this order, provide to each new Association member or affiliate a copy of the complaint and decision and order in this matter. The complaint and decision and order shall be provided not later than thirty (30) days after the new member is accepted into membership or the organization is accepted as an affiliate.
IV.

It is further ordered, That the Association shall, within sixty (60) days after service of this order, file with the Commission a report in writing, setting forth in detail the manner and form in which it has complied with this order.

V.

It is further ordered, That the Association shall notify the Commission at least thirty (30) days prior to any proposed change in the Association, including, but not limited to, disbanding, dissolution, assignment, the formation of a successor or substitute entity, or any other change in the Association that may affect compliance obligations arising out of this order.

ATTACHMENT

Dear Member:

This letter is to notify you that, without admitting liability for any wrongdoing, we have voluntarily entered into an agreement with the Federal Trade Commission that resulted in the entry of a consent order on [enter date of order]. The order requires that this association not engage in certain practices. Copies of the complaint and order are included.

In accordance with the terms of the order, you are hereby notified that, among other requirements of the order, the National Customs Brokers & Forwarders Association of America, Inc. may not adopt or maintain any provision in its bylaws, codes of ethics or elsewhere, or enter into any agreement or understanding, that discourages the discounting of prices or that has the purpose or effect of stabilizing or fixing prices or other terms or conditions for the sale of customs brokerage services.

Moreover, violations of the order by affiliate associations of the National Customs Brokers & Forwarders Association of America, Inc. will result in the Association's disaffiliation of those local associations.

As you may be aware, the code of ethics provisions in the by-laws of this association recently have been altered. The change deletes the requirement in the code of ethics that fees charged by members shall assure a fair return for the services rendered. All of the criteria to be considered in setting fees were also deleted from the code. You are not required to consider these code provisions in setting fees. Any fees you have set that are based in whole or in part upon the deleted code of ethics provisions should be re-determined by you independently of the former code of ethics provisions.

This letter summarizes the important parts of the order, but you should read it carefully in its entirety.

Sincerely,

John Hammon
Executive Vice President
IN THE MATTER OF

DR. BARRY BRICKLIN

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

Docket 9194. Complaint, June 24, 1985—Decision, Sept. 20, 1985

This consent order requires Dr. Barry Bricklin, among other things, to cease representing that he used his expertise as a psychologist and expert in the psychological aspects of dieting to test and evaluate weight control programs and products in the same way similarly qualified experts normally would. Also, respondent is prohibited from representing that consumers can eat as much food as they want and still lose weight without also giving specified disclosures about weight reduction; and from making claims about "usual" or "average" weight loss, or the efficacy or performance of weight reduction or weight control products or programs without competent and reliable surveys or other scientific evidence that substantiates the representation. Further, respondent is required to maintain records of substantiation for three years; file compliance reports with the Commission at specified times; and notify the Commission of the discontinuance of his present employment and any future employment in similar areas.

Appearances

For the Commission: Michael Dershowitz and Sandra N. Hammer.

For the respondents: Pro se.

COMPLAINT*

The Federal Trade Commission, having reason to believe that Buckingham Productions, Inc., trading and doing business as Rotation Diet Center; Furlong-Elliot Corp.; Freedom Center, Inc.; Plaza Business Services, Inc.; N.F. Rotation, Inc.; Rotation-Freedom Diet, Inc., corporations; Howard Elliot; Judy Ruthrauff; Dorothy Woolslager; and Benito Ventresca, individually and as officers of said corporations; Gail Elliot, individually ("respondents"); and Dr. Barry Bricklin, individually, ("expert respondent") have violated the provisions of the Federal Trade Commission Act, and it appearing to the Commission that a proceeding by it in respect thereof would be in the public interest, alleges:

PARAGRAPH 1.

(a) Buckingham Productions, Inc., trading and doing business as

* The Decision and Order following this Complaint applies to respondent Dr. Barry Bricklin only. The Complaint against the other named respondents remains in litigation.
Rotation Diet Center, 4131 Swamp Road, Doylestown, Pennsylvania; Furlong-Elliot Corp., 73 Valley Drive, Furlong, Pennsylvania; Freedom Center, Inc., Rotation Plaza, Furlong, Pennsylvania; Plaza Business Services, Inc., Edison-Furlong Road and Route 263, Plaza Building, Furlong, Pennsylvania; N.F. Rotation, Inc., Furlong, Pennsylvania; and Rotation-Freedom Diet, Inc., Box 315, Health Plaza, Furlong, Pennsylvania, are Pennsylvania corporations.

(b) Furlong-Elliot Corp. dominates and controls the acts and practices of its wholly-owned subsidiaries, Buckingham Productions, Inc.; Freedom Center, Inc.; Plaza Business Services, Inc.; N.F. Rotation, Inc.; and Rotation-Freedom Diet, Inc.

(c) Howard Elliot is an officer of Furlong-Elliot Corp. Howard Elliot and Gail Elliot formulate, direct and control the acts and practices of the corporate respondents, including the acts and practices alleged in this complaint. Their address is 73 Valley Drive, Furlong, Pennsylvania.

(d) Judy Ruthrauff is an officer of Buckingham Productions Inc.; Freedom Center, Inc.; Plaza Business Services, Inc.; N.F. Rotation, Inc.; and Rotation-Freedom Diet, Inc. Ruthrauff formulates, directs and controls the acts and practices of said corporate respondents, including the acts and practices alleged in this complaint. Her address is R.D. 1, Box 252A, Riegelsville, Pennsylvania.

(e) Dorothy Woolslager is an officer of Buckingham Productions, Inc.; Freedom Center, Inc.; Plaza Business Services, Inc.; N.F. Rotation, Inc.; and Rotation-Freedom Diet, Inc. Woolslager formulates, directs and controls the acts and practices of said corporate respondents, including the acts and practices hereinafter set forth. Her address is R.D. 1, Box 24, Carversville-Wismer Road, Pipersville, Pennsylvania.

(f) Benito Ventresca is an officer of Buckingham Productions, Inc.; Freedom Center, Inc.; Plaza Business Services, Inc.; N.F. Rotation, Inc.; and Rotation-Freedom Diet, Inc. Ventresca formulates, directs and controls the acts and practices of said corporate respondents, including the acts and practices hereinafter set forth. His address is 4716 Woodfield Circle, R.D. 4, Doylestown, Pennsylvania.

(g) Dr. Barry Bricklin is a clinical psychologist, with a doctor of philosophy degree in psychology, and a license to practice psychology in Pennsylvania. He is now and at all material times has been an associate professor of clinical psychology at Hahnemann University. His address is 470 General Washington Road, Wayne, Pennsylvania. Expert respondent Bricklin possesses an expertise in psychology, and in the physiological and psychological aspects of dieting, superior to that generally acquired by ordinary individuals.
reduction and/or weight control programs and products. Expert respondent Dr. Barry Bricklin, for his part, developed some of the basic principles upon which the weight reduction and/or weight control programs offered for sale through the corporate respondents are based. Expert respondent Bricklin has had a continuing role in the marketing of these programs by serving as the Director of the programs' Professional Advisory Board, and by providing advice concerning the products and programs to Howard Elliot, to other respondents, and/or to employees of the respondents as requested. In addition, expert respondent Bricklin has aided in the promotion and sale of these weight reduction and/or weight control programs and products by providing as an expert in the field endorsements of the efficacy of the programs and products that appear in advertisements. The advertisements in which expert respondent Bricklin's endorsements appear depict him as possessing an expertise in psychology, and in the physiological and psychological aspects of dieting, superior to that generally acquired by ordinary individuals.

PAR. 3. Respondents have disseminated or caused to be disseminated, advertisements for weight reduction and/or weight control programs and products that include a "food" and/or a "drug" within the meaning of these terms in Section 12 of the Federal Trade Commission Act. These advertisements, some of which contain expert respondent Dr. Barry Bricklin's endorsement, have been disseminated (a) by United States mail, or in or having an effect upon commerce by any means for the purpose of inducing, or which have been likely to induce, directly or indirectly, the purchase of food and/or drugs, or (b) by any means, for the purpose of inducing, or which is likely to induce, directly or indirectly, the purchase in or having an effect upon commerce of food and/or drugs.

PAR. 4. The acts and practices of respondents and expert respondent Dr. Barry Bricklin alleged in this complaint have been in or affecting commerce.

PAR. 5. Typical of respondents' advertisements, but not necessarily inclusive thereof, are the advertisements attached hereto as Exhibits A through L. Specifically, the aforesaid advertisements contain the following statements:

(a) Women usually lose 8 to 20 pounds a month, men 12 to 25 pounds [on the Rotation Diet].

(b) [. . . The] "No Frills" Rotation Diet Plan . . . works just like the original Plan. It's just as safe, just as effective. . . .

(c) Now you can truly eat whatever you want, as much as you want without feeling guilty and you'll still lose weight.

(d) The all natural diet—no drugs or medicine! The Rotation Diet is really SANE and PROVEN SAFE!
(e) My total loss so far has been 62 pounds... There are thousands of Rotation Diet Center Members who've lost as much weight as I have. Even more!

(f) Reach your goal then keep it off with the Rotation Diet Maintenance Plan.

(g) Real breakthrough [of the Rotation Diet] is the unique way it allows a person to find his or her right weight and then stay there.

(h) Once you reach your weight goal, you only diet two days each week. Then as your body adjusts to its new weight, you diet just one day a week. You'll be able to stay slim all your life... comfortably and easily.

(i) Q. What do the [Rotation] tablets do?

   A. They stop all hunger and increase your energy level.

(j) Rotation Wafers makes (sic) the diet work. They're critical to the success of the diet because they: STOP HUNGER (yet they're not a medicine, drug, or shot, so they're perfectly safe) ... ELIMINATE FATIGUE ...

(k) Take-A-Break Tablets are specially formulated to work with the Rotation Diet and help to keep food from turning to fat. This means that for one day, two days, any number up to 15 days, you can enjoy taking a break from your Rotation Diet. Soon as you... get back on the Rotation Diet... in one week or less you'll be back at your "Pre-Break" weight.

(l) It saves you more than it costs... You'll save more than you spend on this diet! Most people cut about 40% off their food bill because they’ve cut down on expensive foods during their three Balance Days a week.

(m) Q. How much weight can I really lose on the FREEDOM DIET?

   A. ... As a rule, women usually lose anywhere from 8 to 20 pounds the first month; men up to 25 pounds.

(n) The Freedom Chewable Tablets are the key to your weight-loss success. They contain no medicine or drugs, yet they stop hunger and help you to feel good on your diet day.

(o) Q. Can the FREEDOM DIET harm me in any way?

   A. No. Our experience is that the diet when followed accurately, takes off weight safely and naturally.

(p) After You Reach Your Goal, It's Easy to Maintain. Once you've lost all the weight you want, it's easy to keep it off because FREEDOM DIET has a special Maintenance Program. You'll reduce your Diet Days to 2 per week... then as your system adjusts to your new weight, you'll cut back to just 1 diet day per week and you'll be able to stay slim for the rest of your life!

(q) Here's how the FREEDOM DIET works: This amazing diet actually let you eat and drink what and whenever you want on TUESDAYS, THURSDAYS, SATURDAYS, AND SUNDAYS. You can have foods like spaghetti, ravioli, fettuccini, and pizza. Bread and potatoes too. And desserts like chocolate layer cake, ice cream, banana splits, sundaes, pecan pie with whipped cream—whatever your favorites might be! You can even have double helpings of everything because that's the whole idea of the FREEDOM DIET. You're FREE to eat anything you want, as much as you want 4 days every week.

(r) Our "Make-A-Break" Plan will help you maintain your weight for up to 15 days when you have to take a break from FREEDOM DIET.

(s) The majority of women [on the Rotation-Freedom Diet] fit within range of 8 to 20 pounds loss during the first month, men usually lose more.

(t) Take-A-Break Tablets [in the Rotation-Freedom Diet] let you go off your diet for 9 days without regaining.

PAR. 6. Typical of the statements in endorsements authorized by
advertisements, and are attached hereto as Exhibits A and I, are the following:

Q. Does the Rotation Diet really work? Do people lose weight on it?
A. It works extremely well. But as any doctor with years of experience in weight control knows, designing a way to lose weight is only a small part of the challenge. My years of observation of this diet convince me that its real breakthrough is the unique way it allows a person to find his or her right weight and then stay there. . . .

Q. How much weight can I lose?
A. Women usually lose 8 to 20 pounds a month, men 12 to 25 pounds. The amount depends on many personal variables, including the total amount of weight you have to lose. . . .

PAR. 7. Respondents' advertisements also contain the following statements, which purport to be actual and genuine testimonials from customers of the Rotation Diet Center:

(a) "The Rotation Tablets taste like Necco Wafers. They really stop my hunger and increase my energy level. I feel good on my 3 diet days!" E.R., Boston, Massachusetts
(b) "I really pig-out on my free days—pizza, cheesecake, beer, potato chips. I eat to my 'heart's content' and have still lost 57 pounds!" N.M., Princeton, New Jersey
(c) "I save enough on my 3 diet days to more then pay for the whole week. The diet actually costs me nothing!" J.A., Stowe, Ohio
(d) "The all natural diet—no drugs or medicine! The Rotation Diet is really SANE and PROVEN SAFE!" C.D., Wilmington, DE
(e) "I just used your switching process to make Wednesday a FREE DAY—it worked great!" A.Z., Hartford, CT
(f) "I've been on maintenance for 6 months and it's working great! I now have only ONE diet day each week." S.R., Los Angeles, CA
(g) "I've lost over 70 pounds while eating all of the ice cream that I want 4 days every week. THIS IS THE MOST SUCCESSFUL DIET EVER!" P.A., Philadelphia, PA
(h) "I've lost over 70 pounds while eating all of the ice cream I want 4 days every week. THIS IS THE MOST SUCCESSFUL DIET EVER!" D.C., Norristown, PA

PAR. 8. Respondents' advertisements also contain photographs of individuals accompanied by the following statements:

(a) I'm Dottie Woolslager. I'm thin for the first time since the kids came, and I know I'll never be fat again. I found the Rotation Diet, the only diet I've ever been able to live with. . . .

I'm so pleased about what happened to me, I'd love to help it happen to you. . . .

I'm beginning to feel like a celebrity. Hundreds of people have been calling me personally, asking, "Why did you pick the Rotation Diet?" . . . They had read about me and The Rotation Diet, and seen how successful I was. But they weren't sure they could actually do it themselves.

That's why I volunteered to let The Rotation Diet Center relay calls to my home. I want to help spread the word about this wonderful diet. . . .
P.S. I'm no celebrity. I'm someone exactly like you, who's just a few months ahead of you on the Rotation Diet Program.

(b) I'm Judy Ruthrauff. After the birth of my last little girl, I couldn't get rid of 23 pounds. I was always hungry, and I ate enormous amounts of diet food until I discovered The Rotation Diet. It really worked for me. It not only got the weight off, it got me feeling good about myself again.

Par. 9. Through the use of the statements referred to in Paragraphs Five and Seven, and other statements in advertisements not specifically set forth herein, respondents have made the following material representations, directly or by implication:

(a) Consumers can eat unlimited quantities of food four days a week and, regardless of how much they eat on those four days, still lose substantial amounts of weight on the Rotation Diet, the Freedom Diet, and the Rotation-Freedom Diet.

(b) Thousands of consumers on the Rotation Diet have lost sixty-two pounds or more.

(c) Rotation Diet Wafers, Rotation Chewable Tablets, and Freedom Chewable Tablets stop hunger.

(d) Rotation Diet Wafers, Rotation Chewable Tablets, and Freedom Chewable Tablets eliminate or prevent fatigue.

(e) Rotation Diet "Take-A-Break" tablets help keep food from turning to fat.

(f) The testimonials in Paragraph Seven represent actual and genuine consumer testimonials from customers of the Rotation Diet Center.

Par. 10. Through the use of the endorsements authorized by expert respondent Dr. Barry Bricklin, referred to in Paragraph Six, and other endorsements in respondents' advertisements not specifically set forth herein, expert respondent Bricklin has made the following material representation, directly or by implication:

Consumers can eat unlimited quantities of food four days a week and, regardless of how much they eat on those four days, still lose substantial amounts of weight on the Rotation Diet, the Freedom Diet, and the Rotation-Freedom Diet.

Par. 11. In truth and in fact:

(a) Consumers cannot eat unlimited quantities of food four days a week and regardless of how much they eat on those four days, still lose substantial amounts of weight on the Rotation Diet, the Freedom Diet, and the Rotation-Freedom Diet.

(b) Only a small number of consumers on the Rotation Diet have lost sixty-two pounds or more.
(c) Rotation Diet Wafers, Rotation Chewable Tablets, and Freedom Chewable Tablets do not stop hunger.
(d) Rotation Diet Wafers, Rotation Chewable Tablets, and Freedom Chewable Tablets do not eliminate or prevent fatigue.
(e) Rotation Diet "Take-A-Break" Tablets do not help keep food from turning to fat.
(f) The testimonials in Paragraph Seven do not represent actual and genuine consumer testimonials from customers of the Rotation Diet Center.

Therefore, the representations set forth in Paragraph Nine were, and are, false and misleading.

And therefore, the representation contained in endorsements authorized by expert respondent Dr. Barry Bricklin, set forth in Paragraph Ten was, and is, false and misleading and expert respondent Bricklin knew or should have known that said representation was, and is, false and misleading.

Par. 12. Through their use of the photographs and statements referred to in Paragraph Eight, and others not specifically set forth herein, respondents have represented that the photographed individuals are satisfied users of the Rotation Diet and have endorsed the Rotation Diet, but respondents failed to disclose that the photographed individuals were employees of respondents. Consumers would not reasonably expect individuals so portrayed to be employees of the advertiser and that fact might materially affect the weight or credibility given to the endorsements. Therefore, respondents' representations, because of their failure to disclose such a material connection between respondents and the photographed individuals was, and is, false and misleading.

Par. 13. Through the use of the statements referred to in Paragraphs Five and Seven, and other statements in advertisements not specifically set forth herein, respondents have represented, directly or by implication, that:

(a) Usual weight loss for women customers of the Rotation Diet is eight to twenty pounds per month, and for men is twelve to twenty-five pounds per month.
(b) Usual first month weight loss for women customers of the Freedom Diet is eight to twenty pounds. A significant portion of men lose twenty-five pounds the first month on the Freedom Diet.
(c) The Rotation Diet is safe.
(d) The Freedom Diet cannot harm consumers.
(e) The Rotation Diet, the Freedom Diet, and the Rotation-Freedom Diet include maintenance programs that are effective in enabling consumers to maintain weight loss.
(f) Consumers on the Rotation Diet "Take-A-Break" plan can cease dieting for 15 days and after one week back on the diet, will have lost all weight gained during those 15 days.

(g) Consumers on the Freedom Diet "Make-A-Break" Plan can maintain their weight for up to fifteen days without any dietary restrictions and regardless of the type and quantity of food consumed.

(h) The Rotation Diet saves consumers more than it costs.

(i) Most Rotation Diet customers save approximately 40% on their food bill.

(j) Most women customers of the Rotation-Freedom Diet lose eight to twenty pounds the first month on the diet, while most men lose even more.

(k) Customers on the Rotation-Freedom Diet "Take-A-Break" plan can cease dieting for nine days and can maintain their prior weight without any dietary restrictions and regardless of the type and quantity of food consumed.

(l) The majority of women customers of the Rotation-Freedom Diet lose eight to twenty pounds the first month on the diet; men usually lose more.

PAR. 14. Through the use of the endorsements authorized by expert respondent Dr. Barry Bricklin, referred to in Paragraph Six, and other endorsements in respondents' advertisements not specifically set forth herein, expert respondent Bricklin has made the following representation, directly or by implication:

Usual weight loss for women customers of the Rotation Diet is eight to twenty pounds per month, and for men is twelve to twenty-five pounds per month.

PAR. 15. Through the use of the statements set forth in Paragraphs Five and Seven, and others not specifically set forth herein, respondents have represented, directly or by implication, that at the time of making the representations set forth in Paragraphs Nine and Thirteen they possessed and relied upon a reasonable basis for those representations.

PAR. 16. Through the use of the endorsements authorized by expert respondent Dr. Barry Bricklin, set forth in Paragraph Six, and other endorsements in respondents' advertising not specifically set forth herein, expert respondent Bricklin has represented, directly or by implication, that at the time of making the representations set forth in Paragraphs Ten and Fourteen he possessed and relied upon a reasonable basis for those representations, consisting of an actual exercise of his expertise in evaluating weight reduction and/or weight control programs and products with respect to which he is expert, in the form of an examination or testing of the programs and products.
at least as extensive as someone with a similar degree of expertise would normally conduct in order to support the conclusions presented in the endorsement.

**PAR. 17.** In truth and in fact, at the time of the initial dissemination of the representations set forth in Paragraphs Nine and Thirteen and each subsequent dissemination, respondents did not possess and rely upon a reasonable basis for making such representations. Therefore, respondents' representations, as set forth in Paragraph Fifteen were, and are, false and misleading.

**PAR. 18.** In truth and in fact, at the time of the initial dissemination of the representations set forth in Paragraphs Ten and Fourteen and each subsequent dissemination, expert respondent Dr. Barry Bricklin did not possess and rely upon a reasonable basis for making such representations. Therefore, expert respondent Bricklin's representations, as set forth in Paragraph Sixteen were, and are, false and misleading.

**PAR. 19.** Expert respondent Dr. Barry Bricklin has received compensation for the use of his endorsements in respondents' advertisements for weight reduction and/or weight control programs and products.

**PAR. 20.** The acts or practices of respondents and expert respondent Dr. Barry Bricklin as alleged in this complaint constitute unfair or deceptive acts or practices in or affecting commerce and false advertisements and endorsements in violation of Sections 5 and 12 of the Federal Trade Commission Act.

Commissioners Bailey and Azcuenaga dissented as to the inclusion of Dr. Barry Bricklin as a respondent.
It's easy because it's the diet you can live with.

You can eat anything you want... without guilt... without injuring your health... without drugs... without being hungry all the time.

There are no special foods to buy... no weighing out portions... no calorie counting... no exercising. In fact, people don't even need to know you're on a diet. Best of all, you're never more than 24 hours away from the best meal of your life!

Think it's impossible? It's not! Read on for complete details...
The Rotation Diet Will Work For You, Too!

Now you can truly eat whatever you want, as much as you want without feeling guilty and you'll still lose weight. Doesn't seem possible. In fact, it's easy!

Here's how the Rotation Diet works:

**FREE DAYS**

On Monday, Thursday, and Sunday are FREE DAYS. You eat and drink whatever you want—any food you desire as much as you want. You can have any number of FREE DAYS a week but keep it to a maximum of 3 FREE DAYS. Of course, you can have as many FREE DAYS as you want, but those days should alternate with days of normal eating. Some people choose to have FREE DAYS every other day.

For those of you who are wondering why you don't just have FREE DAYS and eat your favorite foods, whether or not you're hungry, you won't lose weight. In fact, you'll put on weight, which is why it's called FREE DAYS. This is not a weight loss system.

**BALANCE DAYS**

Monday, Tuesday, Wednesday, Thursday, Friday, and Saturday are BALANCE DAYS. On these days you eat according to the guidelines of the Rotation Diet. Our spiral plan is for all foods, that is, all foods you eat. The guidelines are divided into two groups: protein and vegetables. The protein group includes fish, meat, eggs, and dairy products. The vegetable group includes all vegetables and fruits. The guidelines are designed to ensure that you eat the right balance of protein and vegetables on each day.

**How the Rotation Diet Works**

The Rotation Diet is based on the principles of balanced nutrition. It is designed to help you achieve a healthy weight and maintain it. The diet is based on the idea that a balanced diet is key to weight loss. The diet is not a restrictive diet, but rather a flexible approach to eating.

The Rotation Diet is based on the principles of balanced nutrition. It is designed to help you achieve a healthy weight and maintain it. The diet is based on the idea that a balanced diet is key to weight loss. The diet is not a restrictive diet, but rather a flexible approach to eating.

**How to Use the Rotation Diet**

The Rotation Diet is designed to be flexible. You can use it as a guide to help you make healthier choices, or you can use it as a framework for meal planning. The diet is not a restrictive diet, but rather a flexible approach to eating.

**What Will Happen**

When you begin the Rotation Diet, you will begin to feel better. You will have more energy and feel less tired. You will also begin to feel fuller, which will help you eat less.

**Resources**

For more information about the Rotation Diet, please visit our website or contact us.

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Meet Another Member Of The Advisory Board

Dr. Barry Beckler is a Director of Radiation Research and is a member of the Grassroots Advisory Board. He was appointed to the board in 2002.

Current, member of the Grassroots Advisory Board and a member of the Rotational Diet Advisory Board.

The Rotation Diet Advisory Board Answers Your Questions

Q: What is the Rotation Diet?

A: The Rotation Diet is a method of eating that involves eating a variety of different foods on a daily basis.

Q: How do I start the Rotation Diet?

A: You can start the Rotation Diet at any time. However, it is recommended that you start the diet on a Monday.

Q: Can I eat whatever I want on the Rotation Diet?

A: No, you cannot eat whatever you want on the Rotation Diet. You must follow the guidelines of the diet.

Q: How much weight can I lose?

A: The amount of weight you can lose on the Rotation Diet depends on a number of factors. However, it is generally recommended that you lose at least 1 pound per week.

Q: What are the benefits of the Rotation Diet?

A: There are a number of benefits to the Rotation Diet. These include improved health, increased energy, and weight loss.

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A.J. Robbins, M.D.

Dr. Robbins is a member of the Professional Advisory Board, a well-known旋转食者. The experience in the field of human nutrition at the University of Florida where she has been the Director of Health Sciences and the head of her department since 2001. She has been actively involved in research and teaching in the area of Nutrition at the University of Florida since 1975.

Dr. Robbins is also a member of the Grassroots Advisory Board.
The Diet You Can Live With. Does It Really Work?

It worked for Dot Wooslager...

and she ate cheesecake, fortune ice cream sundaes, Tut Martin and all the other foods that she loved! Here's Dot's testimonial story...

I started the Rotation Diet on April 23, 1979. By the end of the summer I had lost 40 pounds, dropping my weight from 285 to 145 pounds. I was beginning to realize the human scale.

Since then I have been able to maintain a modified maintenance program through the years and still my weight continues to drop. No, Portland is no longer on our list, but now it's down to 110 pounds with a new goal of 115. I am at a 160.675 steady weight. I have been at that weight for over 20 months now. I am small, slight and feel great.

I am very pleased with the way I feel now and looking good, too, even my hair grow longer. My friends are very proud of the dramatic change in their Dot. Many have repeated the plan...I have encouraged friends to try the program. I'm feeling this weight is where I am meant to be. And I am feeling great!

I just bought a new dress—size 10—that shows off my hips and butts. I really admire how truly miraculous the Rotation Diet has been for me.

For only have I lost 62 pounds and 20 that matter, but I am a new me in all the foods I love during the diet without that nagging guilt feeling.

The Rotation Diet has transformed my life and I know it could do the same for you.

In fact, people from all walks of life have become winners with the Rotation Diet.

Just look at all the professionals represented here: Rotarian, Dentist, Fireman, Teacher, Student, Nurse, Banker, Doctor, Teacher, Nurse, Student, Dentist, Nurse, Banker, and Teacher.

In fact, people from all walks of life have become winners with the Rotation Diet.

And it worked for all these people, too!

### Diet statistics

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<tr>
<th>Item</th>
<th>Before</th>
<th>Now</th>
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<tbody>
<tr>
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<td>123 lbs</td>
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<tr>
<td>Waist</td>
<td>34&quot;</td>
<td>26&quot;</td>
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<tr>
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<td>Chest</td>
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<td>Neck</td>
<td>13&quot;</td>
<td>11&quot;</td>
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<tr>
<td>Thigh</td>
<td>22&quot;</td>
<td>15&quot;</td>
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<tr>
<td>Calf</td>
<td>13&quot;</td>
<td>10&quot;</td>
</tr>
<tr>
<td>Upper Arm</td>
<td>12&quot;</td>
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### Diet statistics

<table>
<thead>
<tr>
<th>Name</th>
<th>Pounds Lost</th>
</tr>
</thead>
<tbody>
<tr>
<td>Dot</td>
<td>40</td>
</tr>
<tr>
<td>Ann</td>
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<tr>
<td>Linda</td>
<td>12</td>
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<tr>
<td>Judy</td>
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<td>Ruth</td>
<td>25</td>
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<td>Jerry</td>
<td>25</td>
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<td>James</td>
<td>23</td>
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<tr>
<td>June</td>
<td>25</td>
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With the Rotation Diet, our winners are winners. Would you like to see your name added to our list of winners? Start the Rotation Diet now and it will be done before you know it. I'm a eating winner with Rotation and I feel great!
Complaint
Discover DIET FREEDOM with The FREEDOM DIET

Read what glamorous Barbara Eden Star of “I Dream of Jeannie” and “Harper Valley” has to say about The Freedom Diet.

“No wonder homemakers, business people, workers everywhere have chosen The Freedom Diet. It’s fantastic.”

Now, You too can Discover Diet Freedom with the Safe, Simple and Affordable Freedom Diet. You can eat anything you want 4 days a week and still lose weight.
Eat AND Lose...
the FREEDOM DIET gives you the freedom to eat while you lose weight.
No more fighting, no more guilt, no more changing your lifestyle!

DIET THAT ARE EASY
just eat what you like, come down the size of the stars.

GET THE FREEDOM
and eat everything you like.

EAT ONE DAY
one is enough, then

NO MANDATORY
ENOUGH
nothing you don't want.

FREEDOM FRIENDS
and enjoy the joy of life.

OUR "MAKE A BREAK" plan
will help you maintain your weight.

Complaint
Now you can eat whatever you want...as much as you want.
The New FREEDOM DIET—It's safe, simple and affordable.

Here's how the FREEDOM DIET works:

The amazing diet actually lets you eat and drink what and whenever you want on TUESDAYS, THURSDAYS, SATURDAYS, and SUNDAYS. You can have breads, potatoes, rice, meat and coffee without any restrictions. And dessert like chocolate, light beer, or whatever other things you love, just because that's what the FREEDOM DIET says.

The other three days—MONDAYS, WEDNESDAYS, and FRIDAYS—are the Freedom Chewable Tablets, and on these days you will feel a simple weight loss program. You'll lose weight with Freedom Chewsable Tablets. And the only way you can know what you're doing is to take the Freedom Chewable Tablets. The Freedom Chewable Tablets are the key to your weight loss success. They contain no medicine or drugs, yet they keep hunger at bay, and help you to feel good on your diet days.

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By following the FREEDOM DIET, you can eat as much as you want up to 20 pounds or more in just 6 days. You'll follow this diet on all but three days of your week. In fact, you'll follow the FREEDOM DIET on all but three days of your week. The Freedom Chewable Tablets are the key to your weight loss success. They contain no medicine or drugs, yet they keep hunger at bay, and help you to feel good on your diet days.

If you follow the FREEDOM DIET as directed in this book or other Freedom Diet books, you can lose 10 pounds in just 6 days. And if you eat the same food you've been eating, you can lose 15 pounds in just 6 days.

Here are the results of the FREEDOM DIET:

Kathy Used To Weigh 190 Pounds...Today She Weighs 125 Pounds

Kathy had a problem with her weight. She tried many diets but none of them worked. She finally tried the FREEDOM DIET and lost 65 pounds. She was so happy that she continued to use the FREEDOM DIET and lost another 25 pounds. She is now 125 pounds and has kept it off for over 6 months.

Kathy is a teacher and she loves her job. She has never been happier with her weight. She now eats whatever she wants and never feels hungry. She has lost 65 pounds and has kept it off for over 6 months. She is a happy, healthy, and successful teacher. She is now 125 pounds and has kept it off for over 6 months.

Kathy is a teacher and she loves her job. She has never been happier with her weight. She now eats whatever she wants and never feels hungry. She has lost 65 pounds and has kept it off for over 6 months.

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NOW FOR THE FIRST TIME YOU CAN GET ALL THE ADVANTAGES OF A ROTATION DIET BUT AT A BARGAIN PRICE!

If anything you ever read or heard about a diet plan you read that it cost a lot of money to start. Not so. Our Freedom Diet Plan starts for less than $5.00.

Dear Friend,

If you've ever read all about the Rotation Diet that seems to be the most sensible way to lose weight it works. But it's also true that it's expensive—you have to pay a membership fee in order to use the diet program and then of course you have to pay a high price for the diet itself.

It's for this reason that I'm writing to you today. I'm very pleased to be able to tell you about the FREEDOM DIET. It is the same kind of diet I ever did and you need as much. You get the same advantages the plan works the same way and the Freedom callable Tapes do the same job. The big difference is the price.

If you're wondering how you can make two offer let me explain. You save money because

- no doctors, no surgery, no depot, no drugs, no books, no phone line, no willsend and no meetings, no meetings
- our unique Freedom Diet Plan
- we don't need your money on tapes and audios, you don't need the money to join the Freedom Diet Plan
- we don't need the money to join the Freedom Diet Plan
- we're the only organization in the United States
- we don't need the money to join the Freedom Diet Plan

But we're getting ahead of ourselves. Yes, and in a bit more about the enclosed Freedom Diet Plan—the Freedom Diet Plan is already in use by thousands of people who have already lost many pounds with the FREEDOM DIET. You can't try the Freedom Diet Plan free, but the tape is included.

Just like the people who have used the FREEDOM DIET have already lost many pounds with the FREEDOM DIET. The Freedom Diet Plan is already in use by thousands of people who have already lost many pounds with the FREEDOM DIET. You can't try the Freedom Diet Plan free, but the tape is included.

With your Freedom Diet Plan you can keep right on eating all those wonderful foods and stay any weight.

Every time you reach your weight loss goal you can assist in eating all those wonderful foods and stay any weight.

We think you are our starting tape. Read the enclosed brochure for complete details and then order your own FREEDOM DIET Kit today. See for yourself how you can have the freedom of eating as much as you want without the worry of losing weight.

Yours truly,

Richard E. Thompson
Director, Freedom Diet Headquarters

P.S. We've enclosed a special personalized order form and postage paid return envelope for your convenience. We assure you of our utmost best. We accept Visa, MasterCard, American Express, and Diners Club.
THE FREEDOM DIET™ Order Form

DIET FREEDOM with the FREEDOM DIET
Special Diet Opportunity For:

Now You Can Eat Whatever You Want - As Much As You Want Whenever You Want - 4 Days A Week And Still Lose All Those Unwanted Pounds!

And that's exactly what you'll get - the freedom to eat whatever you want while you lose weight: without exercising - without pulling or drugging - without counting calories - without special recipes or formulations.

You will be sending Diet Support Plan A 100/25 and any other ingredients necessary in the Freedom Diet Plan. One or more of these ingredients will be sent to the person(s) you are ordering for.

It's Easy To Begin
The FREEDOM DIET

1. Complete the form at right. There are additional order forms on the reverse for your friends.
2. Be sure to list your name and information and add any special instructions.
3. Mail your order form and payment to get started. All orders are sent within 7 days of receipt. This order form is provided for your convenience.

Additional order forms for your friends on the back.
Now You Can Get Bathing Suit Freedom With The Freedom Diet!

If you feel a little self-conscious when you slip (or struggle) into your swimsuit, then you need the FREEDOM DIET! It's the safe, simple, affordable way to shed unwanted pounds WITHOUT giving up any of the foods you love.

No exercising...no counting calories...no special foods...no drugs...

NO GUILT.

OUR "MAKE-A-BREAK" PLAN will help you maintain your weight for up to 15 days when you have to take a break from Freedom Diet. Enjoy your vacation...don't feel uncomfortable when you have house guests...
The diet you can live with

You can lose 10-20 pounds per month comfortably, eating what you like, and keep it off with THE ROTATION DIET.

ROTATION CENTER

The Rotation Diet

Does it work?

Don't measure. Lose 10 pounds while eating whatever

Rotations: Ice Cream Sundays Tuesday - All The Foods She

Loves - Every Tuesday, Thursday, Saturday And Sunday

<table>
<thead>
<tr>
<th>S</th>
<th>M</th>
<th>T</th>
<th>W</th>
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<th>F</th>
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</table>
It worked for Dot Wooslager

Dot's Funtastic Success Story

I started the Rotation Diet™ on April 23, 1979. By the end of the summer, I had gained 185 pounds at 140 pounds and was beginning to realize the human scale. During these intervening months, I was able to enjoy a modified maintenance program (mixed diet) and maintain my weight. I was content with the program and had completed 12 months. Dot's weight loss was 50 pounds. But I was far from done with my weight loss journey. By the end of 201 pounds, I had lost 50 pounds and was at 130 pounds. The Rotation Diet™ was the key to my initial weight loss, but it was also the key to my continued weight loss. By the end of the year, I was at 120 pounds and had lost an additional 20 pounds. I continued to lose weight, and by the end of the second year, I was at 100 pounds. It was at this point that I realized I had found the weight loss program that worked for me. The Rotation Diet™ has transformed my life and can do the same for you.

**Rotation Diet™ Losers are Winners**

<table>
<thead>
<tr>
<th>Name</th>
<th>Age</th>
<th>Gender</th>
<th>Weight Lost</th>
</tr>
</thead>
<tbody>
<tr>
<td>Dot</td>
<td>32</td>
<td>Female</td>
<td>50 pounds</td>
</tr>
</tbody>
</table>

It worked for thousands more who lost as little as 5 and as much as 100 pounds.

The Rotation Diet™ will work for you.
Here’s how...

It’s easy! It’s successful!
And it saves you more than it costs!

EAT WHATEVER YOU WANT, AS MUCH AS YOU LIKE

- No calorie counting
- No food restrictions
- No drugs or medication
- No weighing of portions
- No gadgets or machines

SPECIAL “FLEXIBILITY” FEATURE
The Rotation Diet™ is the unique plan that shows you how to lose weight, keep it off, and save you money. All you do is eat as much as you want and still lose weight! It’s easy! It’s successful! And it saves you more than it costs!

And it saves you more than it costs!

LOSE WEIGHT FEELING GREAT
The other three days a week—Mondays, Wednesdays and Fridays—you’ll follow our "Rotation Diet™" plan. It’s the plan you can live with. It’s easy! It’s successful! It’s easy to live with! It’s not a restrictive diet, but a healthy way of eating that makes you feel good and helps you lose weight. It’s a plan that works for everyone because it’s flexible and easy to follow.

ELIMINATE FATTIGUE! You can do whatever you want on a Rotation Day from early morning till late at night.
- Take a long walk or run
- Swim or bike
- Dance or play tennis

On Rotation Days you’ll have Rotation diet plan, Rotation Multi-Diet, and a number of Rotation meals in addition, you’ll have unrestricted exercise options by joining with the Rotation Diet Center and you’ll be able to eat as much as you want on Rotation Days.

Enjoy unlimited advice, support, and encouragement
You’ll have more fun with the help of your personal counselor.
There are two very special ingredients in The Rotation Diet®.

The Rotation Diet Center for your
Phonewith you:

When you call The Rotation Diet Center, you become a member of the Phonewith you. You will receive a phonewith you kit that includes:

- A 28-day meal plan
- A calendar of meal times
- A chart of ingredients
- A list of approved foods
- A guide to healthy eating
- A workout plan
- A stress management guide
- A weight-loss journal

You will also receive a free subscription to the Phonewith you newsletter.

If you have any questions or concerns, please call the Phonewith you Center at (800) 555-5555.

1 for free subscription to Phonewith you
"I'm so pleased about what happened to me, I'd love to help it happen to you."

Talk it over with Dot herself....
Dear Friend:

I am beginning to feel like a celebrity. Hundreds of people have been calling me personally asking why did you pick The Rotation Diet*? Didn't you feel guilty, eating so much on your "FREE DAYS" and weren't you worried you would lose weight? They had read about me and The Rotation Diet* and seen how successfully I was. But they weren't sure they could actually do it themselves.

That's why I volunteered to let The Rotation Diet* Center relay calls to my home. I want to help spread the word about this wonderful diet.

So just call toll free (800) 323-6262 in Pennsylvania (215) 794-3278) and ask for Dot. I'm usually available most days and evenings but weekends hope to be talking to you soon.

P.S. I'm not actually someone even a few - who's just a few months a ago client of The Rotation Diet* Program and more impressive is that there are thousands of members who have lost as much weight as I have. In fact, many of these people have joined the Center as Probate Divors, but if they would be glad to speak to you. Ask for their names and numbers on "FREE DAYS".

In Pennsylvania the Center's Number is (215) 794-3278.

Sincerely,

Dot Woolslager

P.S. I'm not actually someone even a few months ago client of The Rotation Diet* Program and more impressive is that there are thousands of members who have lost as much weight as I have. In fact, many of these people have joined the Center as Probate Divors, but if they would be glad to speak to you. Ask for their names and numbers on "FREE DAYS".

In Pennsylvania the Center's Number is (215) 794-3278.

Sincerely,

Dot Woolslager
ROTATION DIET CALLED —-
"MOST SUCCESSFUL DIET EVER!!"

Here are some comments from the thousands of people who are currently enjoying the Rotation Diet:

"I love the true freedom of being able to eat whatever I want every TUESDAY, THURSDAY, SATURDAY and SUNDAY!!!"

"I feel normal!"

"I've lost over 70 pounds while eating all of the ice cream that I want 6 days every week. THIS IS THE MOST SUCCESSFUL DIET EVER!!"

"I've been on maintenance for 6 months and it's working great! I now have only ONE diet day each week."

"The Rotasum Tablets taste like Hostess Wafers. They really stop my hunger and increase my energy level. I feel good on my 3 diet days!"

"I really dig-out on my free days — pizza, cheeseburgers, beer, potato chips. I eat to my heart's content and have still lost 57 pounds!"

"I save enough on my 3 diet days to more than pay for the whole week. The diet actually costs me nothing!"

"The all natural diet — no drugs or medications! The Rotation Diet is really SANE and PROVEN SAFE!"

"I just used your switching process to make Wednesday a FREE DAY — it worked great!"

"It's wonderful to know that I'll never have to miss another eating day — no more birthday parties without the cake!"

Dr. Barry Bricklin joins Rotation Diet Staff as DIRECTOR of our Professional Advisory Board

One Day Service
Fast and Personal

We know that when you decide to go on a diet you want to start NOW! With the in mind we are geared-up to process all new orders the same day that they are received. We ship UPS and usually the order is delivered within a day or two in the East and two or three days to the West Coast. Many orders are actually delivered the next day.

How are we so efficient? Easy — we use people not computers! My son Paul ordered a book from Time-Life and 2 weeks before it was delivered. He asked me every day for 6 weeks where his book was (he's 12) and I kept telling him that computers take time. He asked why they were slow and I explained that they were needed in large-scale operations. The Rotation Diet Center is a smaller scale. All together we are run by 75 people up from 10 people only 12 months ago (Don't expect Sears-Roebuck). When you call us you get a person who is on the Rotation Diet and CARES about YOU! No answering machines — no computers — just people who care.
It worked for Dot Woolsager

For a Fabulous Success Story
I started the Rotation Diet on April 7, 1976. By
the end of the summer I had dropped both 58
pounds in 140 pounds and was beginning to
feel the benefits of the new maintenance pro-
gram. As I write this I have lost a total of
121 pounds with a new goal of 15 pounds.
I lost a total of 15 pounds. My total loss is
121 pounds and I feel great! I'm down to the
same weight as when I was 15 and a teenager.
I'm very proud of the way that it looks and feels.
My weight has continued to drop. I have lost
a total of 121 pounds and I feel great! I'm down
to the same weight as when I was a teenager.
I'm very proud of the way that it looks and feels.

The Rotation DietTM will work for YOU!

Here's How . . .

Tuesday, Thursday, Saturday and
Sunday are "FREE DAYS." You eat
whatevver you like. It's a good time to
look back and see what you can eat.

- Weight loss
- Maintenance program
- No boredom
- No hunger
- No dieting

The Rotation DietTM is the diet you can
eat. It's a diet that works. It's a
diet that you can enjoy. It's a
diet that you can live with.

DOT WOOLSAGER

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diet that you can live with.
And it saves you more than it costs!  
LOSE WEIGHT FEELING GREAT

Here's what you get in your Rotation Diet kit:

- your 3 Meal Feeding Device
- Your Diet Plan
- Unlimited Telephone

Call the Rotation Diet Center for more information

One day service—Fast and personal

Answers to your questions

Q. How do I know when to change feeding devices?
A. You can change feeding devices any time

Q. Can I change to another diet plan?
A. Yes, you can change to any other diet plan

Q. Can I change feeding devices without ruining my system?
A. Yes, you can change feeding devices without ruining your system

Q. Can I change feeding devices when I'm not satisfied with my results?
A. Yes, you can change feeding devices when you're not satisfied with your results

Q. Can I change feeding devices if I'm not losing weight?
A. Yes, you can change feeding devices if you're not losing weight

Q. Can I change feeding devices if I'm feeling better?
A. Yes, you can change feeding devices if you're feeling better

Q. Can I change feeding devices if I'm not feeling better?
A. Yes, you can change feeding devices if you're not feeling better

Q. Can I change feeding devices if I'm not feeling better and I'm not losing weight?
A. Yes, you can change feeding devices if you're not feeling better and you're not losing weight

Q. Can I change feeding devices if I'm not feeling better and I'm not losing weight and I'm not feeling better?
A. Yes, you can change feeding devices if you're not feeling better and you're not losing weight and you're not feeling better

Q. Can I change feeding devices if I'm not feeling better and I'm not losing weight and I'm not feeling better and I'm not feeling better?
A. Yes, you can change feeding devices if you're not feeling better and you're not losing weight and you're not feeling better and you're not feeling better
EXHIBIT E

**THE DIET YOU CAN LIVE WITH!**

You can lose 16-20 pounds per month with The Rotation Diet without giving up your favorite foods.

Four days a week, eat what you like, as much as you like.

- Tuesday, Thursday, Saturday, and Sunday: Eat and drink whatever you like, good food or junk food, from pancakes to pizza to pastry.

Three days a week: Monday, Wednesday, and Friday, you follow the special-meal program. The weight comes off and stays off.

- No calories to count
- No forbidden foods
- No drugs

To start losing the way you want, call for your free no-obligation information package.

**CALL US TOLL FREE.**

(800) 523-5763
In Penn. call (215) 749-1078
Call 7 days a week 8:00 a.m. to 9:00 p.m.

I'm Dottie Woolslager, I'm thin for the first time since the kids came, and I know I'll never be fat again. I found the Rotation Diet, the only diet I've ever been able to live with.
Buckingham
Direct Response Advertising
Buckingham, PA 18912-0102 • (215) 794-5914

SCRIPT FOR BUCKINGHAM PRODUCTS
60 SECOND DIET SPOT

PLEASE GET A PENCIL AND STAND BY.
I'M GOING TO TELL YOU ABOUT AN EXCITING NEW DIET THAT IS SWEETING THE COUNTRY. THERE ARE NOW OVER 100,000 PEOPLE ON THE ROTATION DIET---AND THESE PEOPLE ARE LOSING POUNDS WHILE EATING WHATEVER THEY WANT 4 DAYS EVERY WEEK.

THAT'S RIGHT! ON THE ROTATION DIET EVERY TUESDAY, THURSDAY, SATURDAY AND SUNDAY ARE FREE DAYS WHEN YOU ARE ENTIRELY FREE TO EAT WHATEVER YOU WANT---AND AS MUCH AS YOU WANT. THE OTHER 3 DAYS YOU OPERATE ON A PERSONALIZED DIET THAT KEEPS YOUR ENERGY HIGH AND YOUR HUNGER LOW AND YOU'RE NEVER MORE THAN TOMORROW MORNING AWAY FROM BEING ABLE TO HAVE WHATEVER YOU WANT. FOR A FREE BROCHURE CALL NOW TOLL FREE.

800-523-62-62
THAT'S
800-523-62-62

ONCE AGAIN, FOR A FREE BROCHURE CALL
800-523-62-62

SEE OUR AD IN THIS WEEK'S TV GUIDE
Take-A-Break Tablets help to maintain your current weight up to 15 days if you must "Take-A-Break" from your Rotation Diet.

That's right! You can now enjoy up to 15 consecutive Free Days without regaining the weight that you have lost.

We know that there are times when it's impossible to diet—even Rotation Diet:

- Vacations with meals paid in advance.
- Last second business dinners.
- When you're sick in the hospital.
- Just a feeling that you can't argue with.
- All sorts of pleasant times, emotional times, hard times—when it's just not the time to diet.

NO DRUGS OR MEDICINE

Take-A-Break Tablets are specifically formulated to work with the Rotation Diet and help you keep off the pounds during your breaks. They mean that for the day, no diets, any number of 15 days, you can enjoy a break from your Rotation Diet. Soon as you return, get back on the Rotation Diet and in the week or less you'll be back at your Pre-Break weight. Takes the 3 balance days to trim your body of the food that was accumulated during your Break Time.

Order Now...

You should have a supply of Take-A-Break Tablets Design for those situations that develop at the last minute. Can't worry about keeping the tablets around — they have unlimited life.

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Provide postage and handling.
You were very wise to request information about our popular Rotation Diet...

And because you acted at this time, you can now take advantage of a very special offer, including a valuable free gift and a money-back guarantee.

The ROTATION DIET is the only diet available to you that lets you eat or drink anything you want 3 days a week and still lose up to 20 lbs. a month.

No Pills. No calorie counting. No special foods. No weighing or measuring. No exercising. No boredom. No gimmicks. NO KIDDING!

Dear Friend,

If you're like me and the thousands of people I've helped to lose weight, you've tried everything to shed all those unwanted pounds—from calorie counting and weighing foods to carbohydrate, grapefruit, water, and liquid protein diets. But the problem with diets is just this—they're diets! And as we all know, anything that demands that you alter your lifestyle is difficult to stick with. And when you don't, all those pounds and inches come right back!

The Rotation Program is the diet you can live with.

That's right—the Rotation Diet is different from all the others because it lets a week you eat and drink anything you want, as much as you want. Not cakes, and carrots, but tacos, pizza, steak, beer, past, candy, anything at all. These 4 days are your "FREE DAYS" and they help satisfy your cravings so you can stay with the program and lose weight and keep pounds you want to.

Unlike other weight-loss plans, Rotation Diet lets you celebrate birthdays with cake... live out with no restrictions... vacation without limitations... and many parties without guilt sex everyday else.

"Amazing" I did a week to lose weight three month including 16 to 20 pounds the first month. Impossible? Not at all! I've lost 82 pounds.

That's right, I've lost 82 pounds by using the Rotation Plan. Three days a week I followed a permanent weight loss program using Rotation Nights and Champions. I didn't experience fatigue, extreme hunger or boredom, I lost the weight I wanted to without guilt and without drugs.

Put: I've lost all that unwanted weight. That's the beauty of the Rotation Diet. They don't wake you "high and dry," when you've reached your weight-loss goal, just like every other case.
Rotation Diet gives you an easy weight maintenance plan, too!

After you reach your goal, Rotation Center will show you how easy it is to keep that weight off without anyone ever knowing and without interfering with your lifestyle.

In addition, the Rotation Diet also allows you to reward yourself from guilt with our special TAKE-A-BREAK that you can now enjoy in your own home for up to 3 days when you need to. It contains proteins, fruits, and vegetables that are low in calories and do not contribute to the weight gain that could materialize.

The Rotation Diet can actually save you more money than it costs!

With the Rotation Diet, you can save more than you spend for the diet. If you're like most people, you'll cut about 40% of your food bill because you'll cut down on expensive foods during your "BALANCE DAYS" each week.

Plus, there are never any expensive consultations or office visits to pay for. Our TOLL FREE HOTLINE also assures you that you won't have any phone bills, and we guarantee you unlimited use of this service and consultation service.

Now's the time to act!

I hope you will take a few minutes right now to read my personal story and all the other important information in the enclosed brochure. Then call me and I'll send out the Rotation Diet for you. Or if you prefer, use the special personal order form that we've enclosed. Either way, don't put it off—you'll get something of value at no cost.
Dot and Judy Introduce the "NO FRILLS" Rotation Diet...
It's the real thing—not an imitation!

Because of overwhelming product interest, we've created a low cost 'No Frills' version of our unique Rotation Diet Program. You still eat anything you want 5 days a week, and you still lose weight. It's still the diet you can live with because you're never more than 24 hours away from eating all the foods you love.

How Is This Possible?
You can now get this very popular, successful diet at a substantially reduced cost because:
- there's no membership fee
- there are no expensive movie stars advertising our diet
- there are no expensive TV or radio commercials
- there's no newsletter
- there's no fancy packaging
- there are no free gifts to decrease the cost
- there's no free '300' phone number
- and there are no separate vacations—you choose your own multi-rotation

Everything else about the Rotation Diet remains the same—you sacrifice nothing when it comes to losing weight!

Compare Rotation Diet With Others You See Advertised...
- Do the other 'miracle' diets require you to count calories? Prepare special foods? Do special exercises? Take some sort of drug? Do without your favorite foods for weeks at a time? Make you spend money and waste valuable time at weight reduction sessions?

Rotation Diet doesn't make you do any of these!

Please take a few minutes right now to read the enclosed details on this "NO FRILLS" Rotation Diet Plan. You'll see that it works just like the original Plan. It's just as safe, just as effective, and just as easy. Best of all, you can now try it for as little as $19.98 So go ahead—ORDER TODAY.

When do you have to lose these extra pounds?

If you're still not convinced, give us a call. We'll talk with you personally and answer any questions you have!
The Rotation Diet Will Work For You, Too!

Here's how the Rotation Diet works:

**FREE DAYS**

During Thursday, Saturday and Sunday are FREE DAYS. You do not have to do anything, except eat what you normally eat. But you must eat a healthy diet. Don't eat too much and eat enough. Don't eat junk food. Be sure to eat fruits, vegetables, and lean meats. Eat plenty of water.

I've been on a FREE DAY schedule for 14 days now and I've lost 14 pounds. I'm sticking to my schedule of FREE DAYS.

**DIET DAYS**

Monday through Wednesday are DIET DAYS. These are the days you must follow the Rotation Diet. You must eat what is on the Rotation Diet menu. You must eat the foods that are recommended for each day.

**Maintenance**

After 4 weeks, you may continue to follow the Rotation Diet menu or you may switch to maintenance mode. Maintenance mode is the same as the rotation diet, but you can eat what you normally eat and still lose weight.

**Phone Friends Help You Succeed**

Available 8 days a week, 7 days a week. Phone Friends will answer your questions and support you. Help you lose weight and keep it off. They'll guide you through daily exercises and routines.

A.J. Robinson, M.D., chief physician, orientation, supervisor of a large hospital in NJ, and a member of the Professional Advisory Board of the Rotation Diet Center says...

"Experience, both personally and professionally, with the Rotation Diet has convinced me of its effectiveness as well as its safety.

**Take-A-Break**

The Rotation Diet is designed to be a break from the normal diet. It is a break from the stress of dieting. It is a break from the monotony of dieting. It is a break from the weight loss goals.
Prompt Confidential Service

Rotation Center's Advisory Board
Answers Your Questions.

Why wait any longer?
Get the diet you can really live with...

Losers Are Winners
Get the diet you can really live with...

Prompt Confidential Service
It's Easy To Get The Diet You Can Live With...

Here's How:

THE REAL ROTATION DIET
"NO FRILLS" Plan
National Headquarters • Rotation Plaza • Pittsburgh, Pennsylvania 15225

If you want to begin the NO FRILLS Rotation Diet Plan right away, please send the following:

1. The NO FRILLS Rotation Diet Plan - 1 Week Introduction Supply ($19.99)
2. The NO FRILLS Rotation Diet Plan - 1 Week Introduction Supply ($19.99) plus postage & handling

Total $24.99

AWSHARKONE.

Please Check One (no C.O.D.):

[ ] Money Order □ Check payable to ROTATION DIET
[ ] MasterCard □ Visa □ American Express □ Diners Club

Card 

Expiration Date 

Signature 

Date 

Phone 

Tell a friend about the "NO FRILLS" Rotation Diet Plan...

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[ ] MasterCard □ Visa □ American Express □ Diners Club

Card 

Expiration Date 

Signature 

Date 

Phone
JUDY RUTHRAUFF  
PRESIDENT  
ROTATION-FREEDOM DIET  

"Four years ago I lost 23 lbs on this diet while eating whatever I wanted 4 days every week. More amazing! I've stayed at my right weight for 4 years and I eat whatever I want 6 days a week! I enjoy the freedom - and knowing that I'm in control of my life. I also enjoy the way I look - I'm not a movie star but I'm the best I can be. Our files are filled with 1000's of people who have made this diet a part of their lives and are enjoying themselves just as I do. Join us! This diet has changed my life so dramatically that it thrills me to be able to offer you the chance of doing the same. To make it easier, I'm establishing a special introductory price of $9.95 (plus P&H) for a full 2 weeks of the Rotation-Freedom Diet. Join me!"

Here's how the diet works:

Free Days - or Fast Days - are days when you eat only 400 calories. On Fast Days you can eat Grapes, Jugo, and Calories but nothing else. On Fast Days you're not hungry at all. You are never more than one day away from your next eating meal. Fast Days are the days when you lose weight the fastest. Fast Days are the days when you take all the bad food out of your diet. You can eat anything you want as long as it's not on the Fast Days. Rotation-Freedom Chewable Tablets are one of the keys to your weight loss success. These are specially formulated to supplement your meals and are also used to control your appetite. You can have one before you eat breakfast and one before dinner. Great news, you can Switch Diet Days - you can choose the days you want to eat the Rotation-Freedom Diet and the days you want to eat regular food. The thinking part is easy - the hard part is sticking to the program.

A new and exclusive feature of the Rotation-Freedom Diet is the new Rotation-Freedom Chewable Tablets. These tablets are specially formulated to help you lose weight and keep it off. They are also used to control your appetite. You can have one before you eat breakfast and one before dinner. Great news, you can Switch Diet Days - you can choose the days you want to eat the Rotation-Freedom Diet and the days you want to eat regular food. The thinking part is easy - the hard part is sticking to the program.

INTRODUCTORY  
2 WEEKS OF THE  
ROTATION FREEDOM DIET  
$9.95  
SPECIAL  

Rotation-Freedom . . . the diet people

ANNOUNCE
the breakthrough diet of the future!

Food Freedom plus Quick Weight Loss

Just like Rotation-Freedom, you will enjoy 4 ABSOLUTELY FREE EATING DAYS every week BUT NOW LOSE UP TO 3 TIMES AS FAST!! Every Tuesday, Thursday, Saturday, and Sunday enjoy your ice cream, French Fries, cake and cookies — whatever you want, and as much as you want WHILE YOU LOSE 10, 20, 40, 60, or more POUNDS FAST!

All FREEDOM Plus! dieters are automatically eligible for $500 weight loss prizes! You will receive complete information with your supplies.

Monday, Wednesday, and Friday you’ll enjoy the all-natural FREEDOM Plus! Chewable Tablets and eat real foods as outlined in your instructions. It’s pretty easy getting through the Diet Day when you know that tomorrow you can eat whatever you want!

We’ve added Q-L 2001 to the Free Day. Q-L 2001 can be used as a delicious soup or as a dip with crackers or vegetables. ITS SPECIAL ALL-NATURAL INGREDIENTS HELP THE FREE DAY FOOD MOVE RIGHT OUT OF YOUR BODY. Within 3 days you’ll see the change IN YOUR CLOTHES AND ON YOUR SCALE as this dramatic new weight loss plan DOES ITS JOB!
OVER 100,000 DIETERS WORLDWIDE HAVE ENJOYED THE "DIET THAT LETS YOU EAT WHAT YOU WANT 4 DAYS EVERY WEEK!"

ROTATION-FREEDOM...THE DIET PEOPLE
Proudly Announce

The Breakthrough Diet of the Century

FREEDOM PLUS!
FOOD FREEDOM PLUS QUICK WEIGHT LOSS

Here's How The FREEDOM PLUS DIET Works:

Five Days...It really is fabulous because on Tuesdays, Thursdays, Saturdays and Sundays you eat and drink anything you want. As much as you want. And still lose weight. It's truly a diet you can live with.

Eat Anything You Want...eat spaghetti, ravioli, pizza, bread, potatoes. And desserts: chocolate mousse, and fudge cake. Goopy banana splits. Pecan pie (with ice cream if you want). Eat all your favorites. Seconds if you want.

Especially...imagine: eat anything you want 4 days every week and still lose weight. Tuesdays, Thursdays, Saturdays and Sundays are your Free Days.

You Are Never More Than One Day Away From Your Next Exciting Meal.QL 2001!

On your Free Days you will sip 3 cups of QL 2001; a delicious soup that comes in chicken, onion and beef flavors. The special all-natural fiber in the soup helps to move the free day food right out of your body!

Diet Days...on just 3 days (Mondays, Wednesdays and Fridays) you follow the simple Freedom Plus Weight Loss Program. On Diet Days, you eat tasty Freedom Plus Chewable Tablets along with as much water, tea, coffee or diet soda that you want.

These Are Even Real Foods allowed on Diet Days (listed in your Instruction Booklet). The Freedom Plus Chewable Tablets are one of the keys to your weight loss success. They are specially formulated, food supplement tablets, manufactured only for the Freedom Plus Center. They contain no medicine or drugs yet help to make your Diet Days easier. They are only available for members of this weight loss plan.

Great News...You Can Switch Diet Days. Wow, that is great news...Special Occasions, holidays, and weeknight parties take precedence. Your friends won't even know you're on a diet. (The "Switching Plan" is in the Freedom Plus Instruction Booklet).

A Day To Maintain Weight Loss too...the Freedom Plus Diet has a built-in weight maintenance plan. Once you have reached your goal you reduce your Diet Days to "2," then as your system adjusts to your new weight your Diet Day Number is "1". You can then adjust any weight changes by adding and subtracting diet days as you need them. In other words, if you stick to the plan you should be able to stay at the weight you want for the rest of your life. Isn't that incredible!

Exiting Weight Loss the First Month. Rate of weight loss varies with different people, but the majority of women usually fall within a range of 8 to 20 pounds during the first month, men usually lose more.

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Here's what dieters were telling us before QL-2001
Imagine what they'll be saying NOW!!!
FREE $14.95 WEIGHT-MATE PLUS LOWER PRICES IF YOU ORDER NOW!

As Seen In... TV GUIDE

ORDER FORM
I'm ready for Diet Freedom with the FREEDOM Plus Diet! Please send me:

- One 2 week FREEDOM Plus Diet Kit including FREEDOM Plus Chewable Tablets, QL 2001, complete instructions, information on the free weight loss contest, and Diet Tips. $14.95 plus $2.00 postage & handling. TOTAL $16.95
- One 4 week FREEDOM Plus Diet Kit including FREEDOM Plus Chewable Tablets, QL 2001, complete instructions, information on the free weight loss contest, and Diet Tips. $29.90 (we pay postage & handling). TOTAL $32.90

LOSE FASTER! Substitute one of our wonderful milkshakes for any meal on your Free Day. Contains the vitamins, minerals, and fiber that you need! We'll send Vanilla, Chocolate and Strawberry!

- 3 Shakes — Add $7.95 (2 Week Plan)
- 16 Shakes — Add $14.95 (4 Week Plan)

Name ___________________________ Address ___________________________
City __________ State ______ Zip ______

Name ___________________________ Address ___________________________
City __________ State ______ Zip ______

We pay postage & handling.

TOLL FREE
Credit Card Orders Only:
Call (800) 433-3378, Ext. 300
In PA call (215) 794-5643, Ext. 300
9 AM to 9 PM Eastern Time
7 days a week

FREEDOM Plus! ROTATION FREDOM CENTER, HEALTH PLAZA, FURLONG, PA 18925
The Commission having heretofore issued its complaint charging the respondent named in the caption hereof with violations of Sections 5 and 12 of the Federal Trade Commission Act, as amended, and the respondent having been served with a copy of that complaint, together with a notice of contemplated relief; 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 complaint, a statement that the signing of said 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 Secretary of the Commission having thereafter withdrawn this matter from adjudication in accordance with Section 3.25(c) of its Rules; and

The Commission having considered the matter 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 3.25(l) of its Rules, the Commission hereby makes the following jurisdictional findings and enters the following order:

1. Respondent Dr. Barry Bricklin is an individual whose address is 470 General Washington Road, Wayne, Pennsylvania.

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 expert respondent Dr. Barry Bricklin, 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 any weight reduction or weight control product, program or service, in or affecting commerce, as “commerce” is defined in the Federal Trade Commission Act, does forthwith cease and desist from:

(A) Representing in advertising, directly or by implication, that any consumer can eat any quantity of food and still lose weight or main-
tain that weight loss, without an accompanying and proximate, clear and prominent disclosure that the consumer's weight loss or ability to maintain that weight loss depends on a reduction in caloric intake in the short term and an overall reduction in caloric intake over the long term.

(B) Representing in advertising, directly or by implication, the usual or average weight loss, or range of weight loss, obtained or obtainable from any such weight reduction or weight control product, program or service, unless at the time of making such representation expert respondent Dr. Barry Bricklin possesses and relies upon competent and reliable survey or other scientific evidence that substantiates the representation.

(C) Making any representation in advertising, directly or by implication, regarding the efficacy or performance of any weight reduction or weight control product, program or service, the content or mode of action of any weight reduction or weight control product, program or service, unless at the time of making such representation expert respondent Dr. Barry Bricklin possesses and relies upon competent and reliable survey or other scientific evidence that substantiates the representation.

For purposes of Part I of this order, competent and reliable evidence shall mean an actual exercise of expert respondent Dr. Barry Bricklin's expertise in evaluating weight reduction and/or weight control programs and products with respect to which he is expert, in the form of an examination or testing of the programs and products at least as extensive as someone with a similar degree of expertise would normally conduct in order to support the conclusions presented in the representation.

II

It is further ordered, That for three years from the date that the representations to which they pertain are last disseminated, expert respondent Dr. Barry Bricklin shall maintain and upon request make available to the Federal Trade Commission for inspection and copying:

1. All materials that were relied upon to substantiate any such representation.
2. All test reports, studies, surveys, or other materials in his possession or control that contradict, qualify, or call into question such representation.
III

It is further ordered, That expert respondent Dr. Barry Bricklin shall promptly notify the Commission of the discontinuance of his present business or employment and of his affiliation with a new business or employment and that, for a period of 10 years from the date of service of this order, expert respondent Dr. Barry Bricklin shall promptly notify the Commission of each affiliation with a new business or employment whose activities include the advertising, endorsing, promotion, offering for sale, sale, or distribution of any weight reduction or weight control product, program, or service, and of his affiliation with a new business or employment in which his own duties and responsibilities involve the advertising, endorsing, promotion, offering for sale, sale, or distribution of any weight reduction or weight control product, program or service, with each such notice to include expert respondent Dr. Barry Bricklin's new business address and a statement of the nature of the business or employment in which expert respondent Dr. Barry Bricklin is newly engaged as well as a description of expert respondent Bricklin's duties and responsibilities in connection with the business or employment.

IV

It is further ordered, That expert respondent Dr. Barry Bricklin, and his corporate successors or assigns, shall, within sixty (60) days after service of this order, and also one (1) year thereafter, file with the Commission a report, in writing, setting forth in detail the manner and form in which he has complied with this order.

Commissioners Bailey and Azcuenaga were recorded as voting in the negative with the notation that, not having reason to believe that Dr. Bricklin should have been charged with violations of Sections 5 and 12 of the Federal Trade Commission Act, they dissented from the decision to accept an agreement that placed him under an order to cease and desist.
IN THE MATTER OF

JOHN TREADWELL
d/b/a TRANS-CONTINENTAL INDUSTRIES

CONSENT ORDER IN REGARD TO ALLEGED VIOLATION OF SEC. 5 OF THE FEDERAL TRADE COMMISSION ACT


This consent order requires John Treadwell, doing business as 'Trans-Continental Industries', to cease, among other things, making any performance claims for any gasoline additive without competent and reliable evidence; claiming that tests support any performance claims without proper substantiation; and misrepresenting the results or conclusions of any tests pertaining to gasoline additives or the potential profits or marketing assistance that will be provided for distributors of respondent's products. Further, respondent is required to maintain records of substantiation for three years; file a compliance report with the Commission within 60 days; and notify the Commission of the discontinuance of his present employment and any future employment in similar areas for five years.

Appearances

For the Commission: Paul R. Roark.
For the respondent: Pro se.

COMPLAINT

Pursuant to the provisions of the Federal Trade Commission Act, as amended, and by virtue of the authority vested in it by said Act, the Federal Trade Commission, having reason to believe that John Treadwell, an individual doing business as Trans-Continental Industries, hereinafter sometimes referred to as respondent, has 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. Respondent John Treadwell is an individual doing business as Trans-Continental Industries ("TCI"), a sole proprietorship with its office and principal place of business located at 2489 Burlingham Place, Simi Valley, California.

Par. 2. Respondent is now, and at all times relevant to this complaint has been, engaged in the manufacturing, offering for sale, sale, and distribution to the public of a product known as 20% PLUS ORGANIC FUEL CATALYST ("20% Plus") and other gasoline and
fuel additives. Respondent, in connection with his offering these products for sale, has also published and disseminated, and now publishes and disseminates, advertisements and other sales promotional material for the purpose of promoting their sale. 20% Plus is a gasoline additive advertised to be a means of substantially improving fuel economy in automobiles and other motor vehicles.

Par. 3. In the course and conduct of his said business, respondent has disseminated and caused the dissemination of certain advertisements for 20% Plus and other gasoline and fuel additives by various means in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act, including, but not limited to, the sending of promotional materials through the mail and the direct solicitation of individuals by telephone calls from California to numerous other states, for the purpose of inducing and which are likely to induce, directly or indirectly, the purchase of these products in or affecting commerce.

Par. 4. Among the advertisements and other sales promotional materials disseminated by respondent are those identified as Exhibits A and B, which are attached hereto.

Par. 5. In the advertisements and sales promotional materials referred to in Paragraph Four and other advertisements and sales promotional materials, and in statements made orally to prospective purchasers by telephone, respondent has stated that:

a. 1. "20%
PLUS
ORGANIC FUEL CATALYST

—PROVEN IN TESTING TO—
Deliver marked improvement of fuel
efficiency and mileage.

LABORATORY AND FIELD TESTING
BOOKLET" (Exhibit A)

2. "20% PLUS organic fuel catalyst has been designed to improve combustion of normally unused and unburned fuel. In carefully controlled tests it has proven to aid fuel efficiency and reduce fuel consumption. It has effectively reduced fuel costs 20 to 25% in cases tested." (Exhibit B)

b. "To give you an idea of the money to be made as a distributor. . . . Back in January, 1982, . . . we had 46 distributors. 42 of those distributors made in excess of $6200.00 net, . . . . In fact, (name), this is the only business that I know of that you can literally double your money in 60 days or less."
c. Trans-Continental Industries will assist distributors of 20% Plus and other TCI products in reselling those products by placing advertising in local and national print and broadcast media and by soliciting accounts by telephone and referring those accounts to the local distributors.

PAR. 6. By and through the use of these and other statements, respondent has represented, directly or by implication, that:

a. Laboratory and road tests prove that 20% Plus reduces motor vehicle fuel costs 20 to 25%.

b. Forty-two out of forty-six distributors made in excess of $6200 profit in January 1982 by reselling 20% Plus, and distributorships are, in general, very profitable.

c. Respondent would assist distributors of 20% Plus in reselling it.

PAR. 7. In truth and in fact, contrary to respondent's representations set forth in Paragraph Six:

a. Laboratory and road test results do not prove that 20% Plus reduces motor vehicle fuel costs 20 to 25%. Laboratory test reports used by respondent in promoting 20% Plus were, in fact, altered test reports relating to tests conducted for another company and for different purposes. Such reports were used without authorization from either the testing company or the company for which the tests were conducted, and such reports do not prove or in any way substantiate the fuel cost reduction claims made by respondent.

b. Forty-two out of forty-six distributors did not make in excess of $6200 in January 1982. Most distributors have made little or no profit from the resale of respondent's products.

c. Respondent has not assisted distributors of 20% Plus in reselling it. Respondent has not placed advertisements in the media and does not conduct telephone solicitations for the benefit of its distributors.

Therefore, said advertisements and other sales promotional materials disseminated by respondent and oral statements made by respondent were and are false and misleading.

PAR. 8. By disseminating Exhibits A and B and other advertisements and sales promotional materials, respondent has represented, directly or by implication, that respondent possessed and relied upon a reasonable basis for making, at the time they were made, the representations alleged in part a. of Paragraph Six. In truth and in fact, respondent had no reasonable basis for such representations. Therefore, said advertisements and other sales promotional materials disseminated by respondent are false and misleading.

PAR. 9. The use by respondent of the aforesaid false and misleading representations 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 and into the purchase of substantial quantities of products sold by respondent by reason of said erroneous and mistaken belief.

PAR. 10. The aforesaid acts and practices of respondent, as herein alleged, were and are all to the prejudice and injury of the public, and constituted and now constitute unfair and deceptive acts or practices in or affecting commerce in violation of Section 5 of the Federal Trade Commission Act. The acts and practices of respondent, as herein alleged, are continuing and will continue in the absence of the relief herein requested.
EXHIBIT A

LABORATORY AND FIELD TESTING BOOKLET
SAVE 20% of your fuel cost or more on earth moving equipment, trucks, and all combustion engines...

DIESEL & GASOLINE

Proven Test Results...

20% PLUS™ Organic Fuel Catalyst
NEW SCIENTIFIC DEVELOPMENT

20% PLUS™ organic fuel catalyst is blended with a multipurpose detergent-cleaning additive for all grades of diesel fuel. leaded and unleaded gasoline, which GUARANTEES a definite improvement in fuel efficiency, fuel mileage and increased engine life.

20% PLUS™ organic fuel catalyst has been designed to improve combustion of normally unused and unburned fuel. In carefully controlled tests it has proven to aid fuel efficiency and reduce fuel consumption. It has effectively reduced fuel costs 20 to 25% in cases tested.

Guaranteed:
* To give definite improvement of fuel efficiency and mileage
* To restore and maintain horsepower
* To lubricate upper cylinder area
* To prevent engine deposits
* To aid faster starting

(SATISFACTION GUARANTEED)

TRANS-CONTINENTAL IND.

4359 Trinity Avenue, Simi Valley, California 93063

For orders call collect 1-805-581-0477

FEDERAL TRADE COMMISSION DECISIONS

EXHIBIT B

106 F.T.C.
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 Los Angeles Regional Office proposed to present to the Commission for its consideration and which, if issued by the Commission, would charge respondent with violation 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 said 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 John Treadwell is an individual doing business as Trans-Continental Industries, a sole proprietorship, with its office and principal place of business located at 2489 Burlingham Place, Simi Valley, California.

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 John Treadwell, an individual doing business as Trans-Continental Industries or under any other name or names, his successors and assigns, and respondent's agents, representatives and employees, directly or through any corporation, subsidiary, division or other device, in connection with the man-
manufacturing, advertising, labeling, offering for sale, sale or distribution of the gasoline additive known as 20% PLUS ORGANIC FUEL CATALYST ("20% Plus") or any other gasoline, oil, or fuel-saving product, in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

a. Representing, directly or by implication, that any such product will or may result in fuel economy improvement when used in an automobile, truck, recreational vehicle or other motor vehicle unless, at the time of making such representation, respondent possesses and relies upon written results of competent and reliable testing that isolates the effects of the product and substantiates the representation. Respondent may use such tests as the then current urban dynamometer driving schedule (40 CFR 86, Appendix I) or the then current highway fuel economy driving schedule (40 CFR 600, Appendix I) established by the Environmental Protection Agency or other tests of an equivalent competency and reliability;

b. Representing, directly or by implication, that any performance claim about any such product is based upon any competent and reliable test(s) or survey(s), unless such representation is true;

c. Misrepresenting, directly or by implication, the purpose, content, or conclusion of any test or survey pertaining to any such product;

d. Misrepresenting, directly or by implication, the past, present or future sales, profits or earnings available from the resale of respondent's products, or misrepresenting, directly or by implication, the past or present sales, profits or earnings of respondent's sales agents;

e. Misrepresenting, directly or by implication, the advertising or promotional efforts to be undertaken by respondent to assist distributors in the resale of respondent's products.

For the purposes of Part I, a competent and reliable test means one in which persons qualified to do so conduct the test and evaluate its results in an objective manner using procedures that ensure accurate and reliable results.

II

It is further ordered, That respondent, his successors and assigns, in connection with the manufacturing, advertising, labeling, offering for sale, sale or distribution of any gasoline, oil, or fuel-saving product in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act, shall for at least three years after the last date of dissemination by respondent either directly or through any business entity of any representation about any such product maintain and upon request make available to the Federal Trade Commission
for inspection and copying, copies of, and dissemination schedules for, all advertisements, labels, sales promotional materials and post-purchase materials for such product and copies of all test materials and results upon which such representation is based.

III

*It is further ordered,* That respondent forthwith distribute a copy of this order to all present or future personnel, agents or representatives of respondent having sales, advertising, or policy responsibilities with respect to the subject matter of this order, and that respondent secure from each such person a signed statement acknowledging receipt of said order and maintain that statement in its files for at least three years.

IV

*It is further ordered,* That respondent shall promptly notify the Commission of the discontinuance of his present business or employment and that for a period of five (5) years from the date of service of this order respondent shall promptly notify the Commission of each affiliation with a new business or employment in telephone sales, or in connection with the manufacturing, advertising, labeling, offering for sale, sale or distribution of any gasoline additive or any other gasoline, oil, or fuel-saving product, each such notice to include the new business address of respondent and a statement of the nature of the business or employment in which the respondent is newly engaged, as well as a description of the respondent's duties and responsibilities in connection with the new business or employment.

V

*It is further ordered,* That respondent shall within sixty (60) days after service upon him of this order, file with the Commission a report, in writing, setting forth in detail the manner and form in which he has complied with this order.