

IN THE MATTER OF

G.C. THORSEN, INC.

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

*Docket C-3467. Complaint, Oct. 8, 1993--Decision, Oct. 8, 1993*

This consent order prohibits, among other things, an Illinois manufacturer of aerosol cleaning products from representing that any product containing an ozone-depleting substance is ozone friendly or that it will not damage or deplete the ozone in the upper atmosphere and from making environmental benefit claims for any product unless the respondent possesses competent and reliable evidence to substantiate the claims.

*Appearances*

For the Commission: *Ralph E. Stone and Jeffrey Klurfeld.*

For the respondent: *Stephen T. Moore, Hinshaw & Culbertson,*  
Rockford, IL.

COMPLAINT

The Federal Trade Commission, having reason to believe that G.C. Thorsen, Inc., a corporation, also trading and doing business as G.C. Electronics, Inc., hereinafter sometimes referred to as respondent, has 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. G.C. Thorsen, Inc. is a Delaware corporation, with its principal office or place of business at 1801 Morgan Street, Rockford, Illinois.

PAR. 2. Respondent has advertised, labeled, offered for sale, sold, and distributed computer and office equipment care and maintenance products containing the hydrochlorofluorocarbon ("HCFC") known as chlorodifluoromethane ("HCFC-22") to the public, includ-

ing the aerosol cleaning products known as "Air-Duster" and "Airjet II."

PAR. 3. The acts and practices of respondent alleged in this complaint have been in or affecting commerce, as "commerce" is defined in Section 4 of the Federal Trade Commission Act, 15 U.S.C. 44.

PAR. 4. Respondent has disseminated or has caused to be disseminated advertisements, including product labeling and point of sale materials for Air-Duster and Airjet II, including but not necessarily limited to, the attached Exhibits A - C.

The product labeling on the front of the Air-Duster (Exhibit A) and Airjet II (Exhibit B) cans includes the following statements:

Ozone friendly  
Environmentally responsible

The aforementioned product labeling also includes the following depiction:



The product labeling on the back of the aforementioned cans includes the following statement:

Contains HCFC-22, an EPA designated product that adheres to the Montreal Protocol in respect for concerns about depletion of the Earth's ozone layer.

The point of sale materials for Airjet II (Exhibit C) include the depiction mentioned above and the following statements:

Environmentally responsible  
EPA designated CFC replacement  
This is an aerosol that contains HCFC-22 (an EPA designated substitute for CFC's).  
Made with HCFC-22 EPA designated substitute. Formulated with chemistry that satisfies the Montreal Protocol.  
Does not contain CFC's or other ozone damaging components.

PAR. 5. Through the statements referred to in paragraph four in product labeling (Exhibits A and B) and point of sale materials (Exhibit C), respondent has represented, directly or by implication, that:

1. There are no ingredients in respondent's products that deplete the earth's ozone layer.
2. There are no ingredients in respondent's products that harm or damage the environment.
3. HCFC-22 is an EPA-approved chemical or an EPA-approved substitute for CFCs that complies with the Montreal Protocol, and does not contribute to the depletion of the earth's ozone layer.

PAR. 6. In truth and in fact, respondent's products contain the ozone-depleting chemical HCFC-22, a hydrochlorofluorocarbon, which harms or damages the environment by contributing to the depletion of the earth's ozone layer and which is not an EPA-approved chemical or an EPA-approved substitute for CFCs (chlorofluorocarbons) that complies with the Montreal Protocol. Therefore, the representations set forth in paragraph five were, and are, false and misleading.

PAR. 7. Through the statements contained in paragraph four, including but not limited to product labeling attached as Exhibits A and B and point of sale materials attached as Exhibit C, respondent has represented, directly or by implication, that at the time it made the representations set forth in paragraph five, respondent possessed and relied upon a reasonable basis that substantiated such representations.

PAR. 8. In truth and in fact, at the time it made the representations set forth in paragraph five, the respondent did not possess and rely upon a reasonable basis that substantiated such representations. Therefore, the representation set forth in paragraph seven was, and is, false and misleading.

PAR. 9. The acts and practices of respondent as alleged in this complaint constitute unfair or deceptive acts or practices in or affecting commerce in violation of Section 5(a) of the Federal Trade Commission Act, 15 U.S.C. 45(a).

EXHIBIT A

**STERLING**

**AIR-DUSTER®**

10-002

**OZONE FRIENDLY**

**AIR-DUSTER™**

**Removes Dust Without Scratching**

Cleans hard to reach places in:

- Computers
- Typewriters
- Tape Decks
- Keyboards
- CD Players
- Fax Machines
- Photo Equipment

USE EYE PROTECTION TO PROTECT FROM AIRBORNE PARTICLES

**PURPOSE:** A highly compressed air-blast gun which allows AIR-DUSTERS to blow away and remove dust and fine foreign particles in hard to reach places.

**NOTE:** If can is tilted too far from vertical, an extremely cold liquid spray will result. This spray could obscure optical lens, and has the potential to freeze, dull, or applied directly. Use with care.

**CAUTION:** Contents under pressure. Do not spray into face or flame. Combustion could produce toxic by-products. Do not store at temperatures above 120°F as can could burst violently. Do not puncture or incinerate. Use with adequate ventilation to remove any displaced oxygen.

Contains HCFC-22, an EPA designated product that adheres to the Montreal Protocol in respect for concerns about depletion of the Earth's ozone layer.


**WARNING:** Use only as directed. Irritation to skin by contact and breathing can be harmful or fatal.

Non-refillable. Federal law forbids transportation if filled primarily up to 625,000 lbs and the years transportation (49 U.S.C. § 5102). May be transported by air transportation.

D.O.T. 4-0003 2A0/200 M1118

**KEEP OUT OF REACH OF CHILDREN**

0 101511 13321 2


  
 0101511133212

3097051  
 4/2/0154

**CONTENTS UNDER PRESSURE**  
Read Carefully cautions on back panel

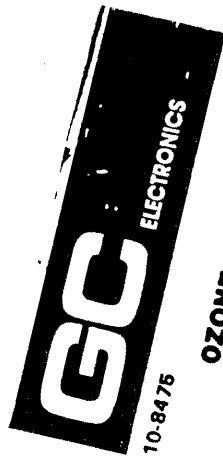
Contents: 12 AVDP 1/2 Net

Manufactured by GC Electronics

G.C. THORSEN, INC.

Complaint

EXHIBIT B



**OZONE FRIENDLY**  
**AIRJET II**

Removes Dust Without Scratching  
Cleans hard to reach places in:

- Computers
- Tape Decks
- CD Players
- Photo Equipment
- Typewriters
- Keyboards
- Fax Machines

**CONTENTS UNDER PRESSURE**  
Read Carefully. Cautions on Back Panel  
Contents: 12 AVDP Ounces Net

10-8475

**PURPOSE:** A highly compressed gas to provide a portable "air hose" for blowing away dust and fine particles intended for use in electronics, optics, etc.

**NOTE:** If can is tilted too far from vertical, an extremely cold liquid spray will result. This spray could shatter optics (etc.) and can freeze skin almost instantly; use with care.

**CAUTION:** Contents under pressure. Do not spray near heat or flame, combustion could produce toxic by-products. Do not store at temperatures above 120°F as can could burst violently. Do not puncture or incinerate. Use with adequate ventilation; contents may displace oxygen.

Contains HCFC-22, an EPA designated product that adheres to the Montreal Protocol in respect for concerns about depletion of the Earth's ozone layer.

**WARNING:** Use only as directed. Intentional misuse by concentrating and inhaling can be harmful or fatal. Non-refillable. Federal law forbids transportation if refilled, penalty up to \$25,000 fine and five years imprisonment (49 U.S.C. 1809).

Not permitted for air transportation.  
D.O.T. - E-9393 240/300 M1119  
**KEEP OUT REACH OF CHILDREN**



PAT. VENT. PAT.  
NO. 4,613,874  
309 204  
U.S. PAT. & TM. OFF.



**USE EYE PROTECTION**

Complaint

116 F.T.C.

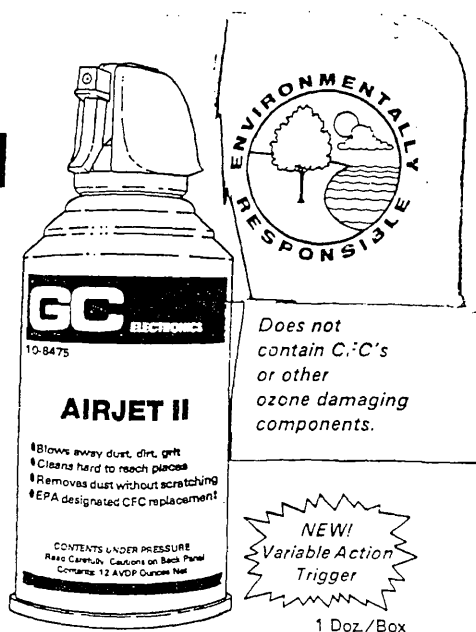
## EXHIBIT C

**NEW!**  
*Environmentally Responsible*  
**AIRJET II**

- Blows away dust, dirt, grit
- Cleans hard to reach places
- Removes dust without scratching
- EPA designated CFC replacement

A miniature and portable "air-compressor" for removing dirt, dust and grit that can not normally be removed or reached easily. This is an aerosol can that contains highly compressed HCFC-22 (an EPA designated substitute for CFC's). Provides a powerful blast of "air". A long extension tube is included for hard to reach places. Non-toxic, odor-free, and leaves no residue. Provides hundreds of "blasts".

No. 10-8475 12 Oz. Aerosol



## 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 San Francisco 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, 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 said 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 G.C. Thorsen, Inc. is a corporation organized, existing, and doing business under and by virtue of the laws of the State of Delaware, with its office and principal place of business located at 1801 Morgan Street, Rockford, Illinois.

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:

"*Class I ozone-depleting substance*" means a substance that harms the environment by destroying ozone in the upper atmosphere and is listed as such in Title 6 of the Clean Air Act Amendments of 1990, Pub. L. No. 101-549, and any other substance which may in the future be added to the list pursuant to Title 6 of the Act. Class I substances currently include chlorofluorocarbons, halons, carbon tetrachloride and 1,1,1-trichloroethane.

"*Class II ozone-depleting substance*" means a substance that harms the environment by destroying ozone in the upper atmosphere and is listed as such in Title 6 of the Clean Air Act Amendments of 1990, Pub. L. No. 101-549, and any other substance which may in the future be added to the list pursuant to Title 6 of the Act. Class II substances currently include hydrochlorofluorocarbons.

## I.

*It is ordered*, That respondent, G.C. Thorsen, Inc., a corporation, also trading and doing business as G.C. Electronics, Inc., its successors and assigns, and its officers, agents, representatives and employees, directly or through any corporation, subsidiary, division, or other device, in connection with the advertising, labeling, offering for sale, sale, or distribution of any product, in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from representing that any such product containing any Class I or Class II ozone-depleting substance is "ozone friendly," "environmentally responsible," "does not contain CFCs" or "does not contain ozone damaging components," or,



by words, depictions, or symbols representing directly or by implication, that any such product will not deplete, destroy, or otherwise adversely affect ozone in the upper atmosphere.

## II.

*It is further ordered*, That respondent G.C. Thorsen, Inc., a corporation, also trading and doing business as G.C. Electronics, Inc., its successors and assigns, and its officers, agents, representatives and employees, directly or through any corporation, subsidiary, division, or other device, in connection with the advertising, labeling, offering for sale, sale, or distribution of any product, in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from representing, in any manner, directly or by implication, that any product offers any environmental benefit, unless at the time of making such representation, respondent possesses and relies upon competent and reliable evidence, which when appropriate must be competent and reliable scientific evidence, that substantiates such representation. For the purposes of this order, "competent and reliable scientific evidence" shall mean tests, analyses, research, studies, or other evidence based on the expertise of professionals in the relevant area, that has been conducted and evaluated in an objective manner by persons qualified to do so, using procedures generally accepted in the profession to yield accurate and reliable results.

## III.

*It is further ordered*, That three (3) years from the date that the respondent makes any representation covered by this order, the respondent shall maintain and upon written request make available to the Federal Trade Commission for inspection and copying:

A. All materials that the respondent relied upon in disseminating any representation covered by this order.

B. All tests, reports, studies or surveys, analyses, or other materials in the possession or control of the respondent that contradict, qualify, or call into question any representation covered by this order or the basis on which the respondent relied for such representation.

#### IV.

*It is further ordered,* That the respondent shall notify the Commission at least thirty (30) days prior to any proposed change in the corporation 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.

#### V.

*It is further ordered,* That the respondent shall distribute a copy of this order to each of its operating divisions and to each of its officers, agents, representatives or employees engaged in the preparation or placement of advertisements, promotional materials, product labels, or other sales materials covered by this order.

#### VI

*It is further ordered,* That the respondent shall, within sixty (60) days after service of this order upon it, and at such other times as the Commission may require, file with the Commission a report, in writing, setting forth in detail the manner and form in which it has complied with this order.

IN THE MATTER OF

SYNCHRONAL CORPORATION, ET AL.

*Docket 9251. Interlocutory Order, Oct. 8, 1993*

## ORDER AMENDING COMPLAINT

*It is hereby ordered,* That the September 9, 1993, Order Amending Complaint is superseded by the issuance of this order.

Pursuant to the Commission's Order dated August 6, 1993, and complaint counsel's subsequent Motion to Amend Complaint,

*It is further ordered,* That the amended complaint attached hereto should issue.

*It is further ordered,* That respondent shall answer the amended complaint within thirty days of service on him.

## AMENDED COMPLAINT

The Federal Trade Commission, having reason to believe that Synchronal Corporation, Synchronal Group, Inc., Smoothline Corporation, and Omexin Corporation, corporations; Ira Smolev, individually and as a former officer and director of Synchronal Corporation and Synchronal Group, Inc.; Richard E. Kaylor, individually and as a former officer and director of Synchronal Corporation, Synchronal Group, Inc., Smoothline Corporation, and Omexin Corporation; Thomas L. Fenton, individually and as a former officer and director of Synchronal Corporation and Synchronal Group, Inc.; and Ana Blau a/k/a Anushka, and Steven Victor, M.D., individually, hereinafter sometimes referred to as respondents, 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. Respondent Synchronal Corporation is a Delaware corporation, with its offices and principal place of business at 1035 Camphill Road, Fort Washington, Pennsylvania. Synchronal produces, distributes, and provides various services for numerous program-length television advertisements, or “infomercials,” on its own behalf or for third-party sellers of products and services. These infomercials include “Cellulite Free: Straight Talk with Erin Gray” for the Anushka Bio-Response Body Contouring Program (“the Anushka products”), a purported cellulite treatment; and “Can You Beat Baldness?” for Omexin, a purported treatment for hair loss. Synchronal has also sold various products through telephone solicitations, including Chae Basics, a purported skin treatment. Synchronal Corporation is a wholly-owned subsidiary of Regal Group, Inc.

Respondent Synchronal Group, Inc. (“Synchronal Group”), is a Delaware corporation, with its offices and principal place of business at 1035 Camphill Road, Fort Washington, Pennsylvania. Synchronal Group is now known as Regal Group, Inc.

Respondent Smoothline Corporation is a Delaware corporation, with its offices and principal place of business at 1035 Camphill Road, Fort Washington, Pennsylvania. It has advertised, offered for sale, and sold the Anushka products.

Respondent Omexin Corporation is a Delaware corporation, with its offices and principal place of business at 1035 Camphill Road, Fort Washington, Pennsylvania. It has advertised, offered for sale, and sold Omexin.

Respondent Ira Smolev (“Smolev”) is or was at relevant times herein an officer and director of Synchronal Corporation and Synchronal Group. Individually or in concert with others, he has formulated, directed, and controlled the acts and practices of Synchronal Corporation and Synchronal Group. His home address is 120 Meadow Lane, Southampton, New York.

Respondent Richard E. Kaylor (“Kaylor”) is or was at relevant times herein an officer and director of Synchronal Corporation, Synchronal Group, Smoothline Corporation, and Omexin Corporation. Individually or in concert with others, he has formulated, directed, and controlled the acts and practices of Synchronal Corpo-

ration, Synchronal Group, Smoothline Corporation, and Omexin Corporation. His home address is 2 Woodside Lane, Rye, New York.

Respondent Thomas L. Fenton (“Fenton”) is or was at relevant times herein an officer and director of Synchronal Corporation and Synchronal Group. Individually or in concert with others, he has formulated, directed, and controlled the acts and practices of Synchronal Corporation and Synchronal Group. His home address is 160 East 38th Street, New York, New York.

Respondent Ana Blau a/k/a Anushka (“Blau”) is or was at relevant times herein the founder and co-owner of the Anushka Institute. Blau’s business address is 241 East 60th Street, New York, New York. Blau aided in the promotion of the Anushka products by providing an expert endorsement of the product on the “Cellulite Free: Straight Talk with Erin Gray” infomercial. In return for her role in marketing the Anushka products, Blau has received remuneration from the manufacturer and/or distributor of the product.

Respondent Steven Victor, M.D. (“Victor”) is or was at relevant times herein a medical doctor licensed to practice by the State of New York, with a specialty in dermatology. Victor’s business address is 30 East 76th Street, New York, New York. Victor aided in the promotion of Omexin by providing an expert endorsement of the product on the “Can You Beat Baldness?” infomercial. In return for his role in marketing Omexin, Victor has received remuneration from the manufacturer and/or distributor of the product.

The aforementioned respondents cooperated and acted together in carrying out the acts and practices hereinafter set forth.

PAR. 2. Respondents have manufactured, advertised, offered for sale, sold, and distributed the Anushka products, Omexin, and Chae Basics. These products are foods, cosmetics, and/or drugs, as the terms “food,” “cosmetic” and “drug” are defined in Sections 5, 12 and 15 of the Federal Trade Commission Act, 15 U.S.C. 45, 52 and 55.

PAR. 3. The acts and practices of respondents alleged in this complaint have been in or affecting commerce, as “commerce” is

defined in Section 4 of the Federal Trade Commission Act, 15 U.S.C. 44.

#### The Anushka Products

PAR. 4. Respondents Synchronal Corporation, Synchronal Group, Smoothline Corporation, Smolev, and Kaylor have disseminated or have caused to be disseminated advertisements and promotional materials for the Anushka products, including but not necessarily limited to the attached Exhibit A, a transcription of the infomercial entitled "Cellulite Free: Straight Talk with Erin Gray." The aforesaid advertisement contains the following statements:

1. Narrator: "The skin is massaged with our body contouring gel which has ingredients like our specially processed French seaweed formula with its unique beneficial properties that really penetrates the skin into the cellulite layer. You can actually feel the gel working as it penetrates into the cellulite. And in days our clients are on their way to being cellulite-free, even after years of living with cellulite." [Exhibit A, p. 8]

2. Vicki: "After the first treatment I was hooked. I really saw a difference immediately. So I did exactly what Anushka told me to do and the cellulite came off rapidly. Each week my hips and thighs looked better. Within six weeks it was all gone...You know, I should also mention that I lost nine pounds and a couple of inches off my hips and thighs." [Exhibit A, p. 10]

3. Gray: "Many doctors and others in the medical profession are enthusiastic about the Anushka program. . . ." [Exhibit A, p. 13]

4. Woman: "Within four weeks I lost inches off my thighs and my thighs looked smoother and firmer. Within six weeks the cellulite was gone." [Exhibit A, p. 30]

5. Woman: "Well, within three months I had not only lost all of my cellulite but I also lost about four inches from my hips and thighs. I lost fifteen pounds and a full dress size." [Exhibit A, p. 29]

6. Announcer: "Now, here's how you can order the really proven way to get rid of cellulite. Just pick up your phone, dial this number and order Anushka's five-and-a-half-minute bio-response body contouring program right now. Imagine opening your package from Anushka and realizing you are on your way to ridding your body of ugly cellulite. In only minutes a day a few days a week. . . . After the first treatment you'll begin to see a difference. You'll be well on your way to a cellulite-free body." [Exhibit A, pp. 18-19, 30-31]

Announcer: "Step one, you massage the unique body contour and seaweed gel which penetrates the open pores of the skin to start attacking those ugly cellulite pockets from the very first treatment. In minutes you'll feel the seaweed

at work. The second step is to take cellulase enzymes to help your body metabolize carbohydrates and help you with your body contouring program. The third step is to apply your Anushka body firming lotion to firm the skin with its deep penetrating action. . . . Call now so you can start the Anushka body contouring program working for you. Get rid of those ugly cellulite pockets once and for all." [Exhibit A, pp. 19-20, 31-32]

7. Marie: "I was very impressed by Anushka's clients because they verified the claims. Also the extensive client charts that showed the proof with numbers, with statistics. And the experts, medical and otherwise that backed up what she was saying. And one thing that is very surprising and I was very, very impressed by it is that one of the key ingredients in her treatment is something as simple as seaweed."

Gray: "Well, tell us, Anushka, is this ordinary seaweed?"

Anushka: "Absolutely not. We use a very special seaweed. And one of the people we turned to for this seaweed is a leading researcher in marine biology. And he is here with us today to help explain how seaweed works to help get rid of cellulite. . . ."

Gray: "Now tell us, how is it that seaweed effects cellulite?"

Fryda: "Well, I think this diagram will help make it clear. These are cellulite cells with their trapped toxins surrounded by tough connective tissue. Now with cellulite cells the hardened connective tissue won't let these nutrients get to the cells so the trapped toxins cannot be neutralized and taken away. . . . There are other effective ingredients in Anushka's anti-cellulite gel. But seaweed is a key to its success. It's one reason why it's the most powerful anti-cellulite program ever developed." [Exhibit A, pp. 25-27]

8. Anushka: "Well, let me tell you that in the course of my research I finally found the combination which worked to make my cellulite disappear. And I was the happiest woman on earth. Needless to say. So that is what made me decide to start with the Anushka Institute so other women could benefit from our discovery." [Exhibit A, p. 6]

9. Anushka: "Many of our clients wanted to share the treatments with friends who lived outside New York . . . They urged us to develop a program that could be used at home. We insisted it be both easy to use and at the same time completely effective so their friends could get the same results." [Exhibit A, p. 9]

10. Anushka: "I am so certain that my anti-cellulite program will work for you as well as it has for thousands of my clients that I will return to you every penny you spend for the program if you're not completely satisfied." [Exhibit A, pp. 21, 32-33]

11. Anushka: "And remember you did not do anything to make cellulite appear, but now you can make it disappear." [Exhibit A p. 21]

PAR. 5. Through the use of the statements contained in the advertisements and promotional materials referred to in paragraph

four, including but not necessarily limited to the advertisement attached as Exhibit A, respondents Synchronal Corporation, Synchronal Group, Smoothline Corporation, Smolev, and Kaylor have represented, directly or by implication, that:

A. The Anushka Bio-Response Body Contouring Gel, Firming Lotion, Multi-Revitalizing Cream, and Cellulean tablets contain ingredients that substantially reduce or eliminate cellulite from the body.

B. Users of the Anushka Bio-Response Body Contouring Gel, Firming Lotion, Multi-Revitalizing Cream and Cellulean tablets will achieve a visible reduction in cellulite after a single or a few treatments.

C. Use of the Anushka Bio-Response Body Contouring Gel, Firming Lotion, Multi-Revitalizing Cream and Cellulean tablets will cause a substantial reduction in the size of the hips and thighs.

D. Use of the Anushka Bio-Response Body Contouring Gel, Firming Lotion, Multi-Revitalizing Cream and Cellulean tablets will cause the loss of a substantial amount of weight.

E. For thousands of women, the Anushka Bio-Response Body Contouring Gel, Firming Lotion, Multi-Revitalizing Cream, and Cellulean tablets have substantially reduced or eliminated cellulite from the body.

PAR. 6. In truth and in fact:

A. The Anushka Bio-Response Body Contouring Gel, Firming Lotion, Multi-Revitalizing Cream, and Cellulean tablets do not contain ingredients that substantially reduce or eliminate cellulite from the body.

B. Users of the Anushka Bio-Response Body Contouring Gel, Firming Lotion, Multi-Revitalizing Cream and Cellulean tablets will not achieve a visible reduction in cellulite after a single or a few treatments.



C. Use of the Anushka Bio-Response Body Contouring Gel, Firming Lotion, Multi-Revitalizing Cream and Cellulean tablets will not cause a substantial reduction in the size of the hips and thighs.

D. Use of the Anushka Bio-Response Body Contouring Gel, Firming Lotion, Multi-Revitalizing Cream and Cellulean tablets will not cause the loss of a substantial amount of weight.

E. For thousands of women, Anushka Bio-Response Body Contouring Gel, Firming Lotion, Multi-Revitalizing Cream, and Cellulean tablets have not substantially reduced or eliminated cellulite from the body.

Therefore, the representations set forth in paragraph five were, and are, false and misleading.

PAR. 7. Through the use of the statements contained in the advertisements and promotional materials referred to in paragraph four, including but not necessarily limited to the advertisement attached as Exhibit A, respondents Synchronal Corporation, Synchronal Group, Smoothline Corporation, Smolev, and Kaylor have represented, directly or by implication, that at the time they made the representations set forth in paragraph five, they possessed and relied upon a reasonable basis for such representations.

PAR. 8. In truth and in fact, at the time they made the representations set forth in paragraph five, respondents Synchronal Corporation, Synchronal Group, Smoothline Corporation, Smolev, and Kaylor did not possess and rely upon a reasonable basis for such representations. Therefore, respondents' representation as set forth in paragraph seven was, and is, false and misleading.

PAR. 9. Respondent Blau has made statements as an expert endorser in advertisements and promotional materials for the Anushka products, including but not necessarily limited to the attached Exhibit A. These statements include the following:

1. Anushka: "Well, let me tell you that in the course of my research I finally found the combination which worked to make my cellulite disappear. And I was the happiest woman on earth. Needless to say. So that is what made me decide to start with the Anushka Institute so other women could benefit from our discovery." [Exhibit A, p. 6]

2. Anushka: "Many of our clients wanted to share the treatments with friends who lived outside New York . . . They urged us to develop a program that could be used at home. We insisted it be both easy to use and at the same time completely effective so their friends could get the same results." [Exhibit A, p. 9]

3. Anushka: "I am so certain that my anti-cellulite program will work for you as well as it has for thousands of my clients that I will return to you every penny you spend for the program if you're not completely satisfied." [Exhibit A, pp. 21, 32-33]

4. Anushka: "And remember you did not do anything to make cellulite appear, but now you can make it disappear." [Exhibit A, p. 21]

5. Anushka: "We use a very special seaweed. And one of the people we turned to for this seaweed is a leading researcher in marine biology. And he is here with us today to help explain how seaweed works to help get rid of cellulite." [Exhibit A, p. 26]

6. Anushka: "Remember, it's not your fault you have cellulite. Just say to yourself, I don't have to put up with it anymore because now I know what to do. I did it. You can do it too." [Exhibit A, p. 34]

PAR. 10. Through the use of the statements contained in the advertisements and promotional materials referred to in paragraph nine, including but not necessarily limited to the advertisement attached as Exhibit A, respondent Blau has represented, directly or by implication, that:

A. The Anushka Bio-Response Body Contouring Gel, Firming Lotion, Multi-Revitalizing Cream, and Cellulean tablets contain ingredients that substantially reduce or eliminate cellulite from the body.

B. For thousands of women, the Anushka Bio-Response Body Contouring Gel, Firming Lotion, Multi-Revitalizing Cream, and Cellulean tablets have substantially reduced or eliminated cellulite from the body.

PAR. 11. In truth and in fact:

A. The Anushka Bio-Response Body Contouring Gel, Firming Lotion, Multi-Revitalizing Cream, and Cellulean tablets do not contain ingredients that substantially reduce or eliminate cellulite from the body.

B. For thousands of women, the Anushka Bio-Response Body Contouring Gel, Firming Lotion, Multi-Revitalizing Cream, and Cellulean tablets have not substantially reduced or eliminated cellulite from the body.

Therefore, the representations set forth in paragraph ten were, and are, false and misleading, and respondent Blau knew or should have known that said representations were, and are, false and misleading.

PAR. 12. Through the use of the statements contained in the advertisements and promotional materials referred to in paragraph nine, including but not necessarily limited to the advertisement attached as Exhibit A, respondent Blau has represented, directly or by implication, that at the time she made the representations set forth in paragraph ten, she possessed and relied upon a reasonable basis for such representations, consisting of an actual exercise of her represented expertise in cellulite reduction, in the form of an examination or testing of the Anushka products at least as extensive as an expert in that field would normally conduct in order to support the conclusions presented in the endorsement.

PAR. 13. In truth and in fact, at the time she made the representations set forth in paragraph ten, respondent Blau did not possess and rely upon a reasonable basis for such representations. Therefore, respondent Blau's representation as set forth in paragraph twelve was, and is, false and misleading.

#### Omexin

PAR. 14. Respondents Synchronal Corporation, Synchronal Group, Omexin Corporation, Smolev, Kaylor, and Fenton have disseminated or have caused to be disseminated advertisements and promotional materials for Omexin, including but not necessarily limited to the attached Exhibit B, a transcription of the infomercial entitled "Can You Beat Baldness?". The aforesaid advertisement contains the following statements and depictions:

1. Announcer: "The following program will give you news of a product unlike anything else available anywhere for stopping hair loss and actually reversing balding by growing new hair." [Exhibit B, p. 2]

2. John Hylan: "Well, our research is still going on, but, it has gone far enough to show that Omexin works. We know that Omexin really does stop hair loss and does grow hair back." [Exhibit B, p. 7]

3. Announcer: "Omexin has been scrupulously tested by dermatologists, and clinicians, and by thousands of grateful individuals. The test results and the personal stories speak for themselves." [Exhibit B, p. 14]

4. Announcer: "The answer couldn't have been simpler. The Omexin System is based on the Omexin Active Treatment, a fine white cream which you simply massage into the affected areas daily." [Exhibit B, p. 15]

5. Announcer: "Omexin works for the vast majority of people." [Exhibit B, p. 16]

6. Campanella: "It reportedly has stopped the balding process in a high percentage of test subjects and even re-grown healthy new hair for a large number of men and women of all ages." [Exhibit B, p. 17]

7. Campanella: "What are your initial impressions of Omexin?"

Dr. Victor: "[In] Omexin, we have for men and women a new safe product that they can apply that will stop the hair from falling out, and in a fair number of patients, probably up to 70%, will start growing some new hair." [Exhibit B, p. 9]

8. Campanella: "Dr. Wexler, what about your research?"

Dr. Wexler: "We have patients in both a double-blind study and using what we consider to be a very active ingredient, and what we've seen is that patients are ceasing to lose their hair very quickly within starting Omexin and then within a short time after, they start seeing new hair appear. It's not just a fuzz, we're seeing actual pigmented terminal hair, which is very exciting for the patient as well as the doctor." [Exhibit B, p. 10]

9. Hylan: "Now, we don't know if that's the reason Omexin grows hair, but we sure do know that it does."

Campanella: "And can you prove that?"

Hylan: "Absolutely! To prove that Omexin works, we've done thorough, extensive testing using medically sound methods and applying the highest scientific standards." [Exhibit B, p. 7]

PAR. 15. Through the use of the statements contained in the advertisements and promotional materials referred to in paragraph fourteen, including but not necessarily limited to the advertisement attached as Exhibit B, respondents Synchronal Corporation, Synchronal Group, Omexin Corporation, Smolev, Kaylor, and Fenton have represented, directly or by implication, that:

