

Complaint

120 F.T.C.

IN THE MATTER OF

THE ESKIMO PIE CORPORATION

CONSENT ORDER, ETC., IN REGARD TO ALLEGED VIOLATION OF
SECS. 5 AND 12 OF THE FEDERAL TRADE COMMISSION ACT*Docket C-3597. Complaint, Aug. 11, 1995--Decision, Aug. 11, 1995*

This consent order prohibits, among other things, a Virginia-based corporation from misrepresenting the existence or amount of calories or any other nutrient or ingredient in any frozen dessert product and from falsely claiming that any frozen dessert product has been approved, endorsed or recommended by any person, group or organization. In addition, the consent order requires a disclosure statement, should Eskimo Pie represent that any frozen dessert is a useful or appropriate part of a diabetic's diet.

*Appearances*For the Commission: *C. Steven Baker and Barbara DiGiulio.*For the respondent: *F. Clairborne Johnston, Jr., Mays & Valentine, Richmond, VA. and Stuart M. Pape and Daniel Krakov, Patton, Boggs & Blow, Washington, D.C.*

COMPLAINT

The Federal Trade Commission, having reason to believe that The Eskimo Pie Corporation ("respondent"), a corporation, 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. Respondent The Eskimo Pie Corporation is a Delaware corporation, with its principal office or place of business at 901 Moorefield Park Drive, Richmond, Virginia.

PAR. 2. Respondent has advertised, labelled, offered for sale, sold, and distributed a number of different varieties of Eskimo Pie Sugar Freedom frozen dessert products to the public. Each of these products is a "food" within the meaning of Sections 12 and 15 of the Federal Trade Commission Act.

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.

PAR. 4. Respondent has disseminated or has caused to be disseminated advertisements for Eskimo Pie Sugar Freedom Products, including but not necessarily limited to the attached Exhibits 1 through 6. These advertisements contain the following statements:

A. SLIM DOWN FOR SUMMER

[Among the products depicted in this advertisement are boxes of Eskimo Pie Sugar Freedom products. The packages for these products feature the name Sugar Freedom and the NutraSweet name and logo.]

[The advertisement also depicts figures engaged in exercise activities, such as weight lifting, bicycling, and jogging, and a tape measure running through it.] (Exhibit 1).

B. NOW IS YOUR LAST CHANCE TO SLIM DOWN FOR SUMMER, AND THE FOLLOWING GREAT TASTING FOODS CAN HELP.

* * *
SATISFY YOUR SWEET TOOTH WITH SUGAR FREEDOM ESKIMO PIE NOVELTY TREATS. MADE WITH THE GREAT TASTE OF NUTRASWEET, REFRESHING SUGAR FREEDOM ESKIMO PIE COMES IN BARS, CONES, SANDWICHES AND NOW HALF GALLONS.

[Transcript of tape recording attached as Exhibit 2]
(Tape recording attached as Exhibit 3).

C. SWEET SAVINGS

Millions of you who are trying to eat smarter enjoy NutraSweet in things like sodas and gum and yogurts. Many of you stock your kitchens with frozen desserts and jams sweetened with NutraSweet. But what about trying the other products sweetened with the great taste of NutraSweet? You can start by clipping these valuable coupons here and save!

At NutraSweet we believe that you shouldn't have to compromise on the delicious things in life for any reason -- even calories.

* * *

Sugar Freedom Eskimo Pie

[The coupon book in which this appeared contains a cents off coupon for Eskimo Pie Sugar Freedom products.] (Exhibit 4).

D. [Advertisement depicts 1/2 gallon carton of Eskimo Pie Sugar Freedom, which features the following:]

Sugar Freedom

A Proud Sponsor of the

[ADA Triangle Logo] American Diabetes Association

[NutraSweet Swirl Logo] NutraSweet

(Exhibit 5).

E. [The first side of a coupon states, in part,:]

PROUD PARTNERS.

PURE PLEASURE.

[ADA triangle] AMERICAN DIABETES ASSOCIATION

ESKIMO PIE [logo in bold]

[The other side states, in part,:]

Now Eskimo Pie and the American Diabetes Association are partners in providing the pure pleasure of frozen novelties to everyone! Just look for the ADA logo proudly displayed on all Sugar Freedom Eskimo Pie bars, cones and sandwiches made with NutraSweet.

(Exhibit 6).

PAR. 5. Through the use of statements contained in the advertisements referred to in paragraph four, including but not necessarily limited to the advertisements attached as Exhibits 1 through 6, respondent represented, directly or by implication:

(a) That Eskimo Pie Sugar Freedom products are significantly reduced in calories compared with comparable foods.

(b) That Eskimo Pie Sugar Freedom products are low in calories.

PAR. 6. In truth and in fact:

(a) Most Eskimo Pie Sugar Freedom products are not significantly reduced in calories compared with comparable foods. Most are not significantly reduced in calories compared with comparable foods on an equivalent weight basis.

(b) Eskimo Pie Sugar Freedom products are not low in calories.

Therefore, the representation set forth in paragraph five was, and is, false and misleading.

PAR. 7. Through the use of statements contained in the advertisements referred to in paragraph four, including but not necessarily limited to the advertisements attached as Exhibits 5 and 6, respondent represented, directly or by implication, that the American Diabetes Association has approved or endorsed Eskimo Pie Sugar Freedom products.

PAR. 8. In truth and in fact, the American Diabetes Association has not approved or endorsed Eskimo Pie Sugar Freedom products. Therefore, the representation set forth in paragraph seven was, and is, false and misleading.

PAR. 9. Through the use of statements contained in the advertisements referred to in paragraph four, including but not limited to the advertisements attached as Exhibit 5 and 6, respondent has represented, directly or by implication, that Sugar Freedom products are particularly useful or appropriate in the diabetic's diet. Respondent has failed to disclose:

A. That many Sugar Freedom products are high in total fat and saturated fat. Diabetics are at increased risk of heart disease and many diabetics are advised to regulate their total fat and saturated fat intake. Some Sugar Freedom products contain as much as 16 grams of total fat and 10 grams of saturated fat per serving. Some contain over 13 grams of total fat and many contain well over 4 grams of saturated fat per serving. While no food is inherently inappropriate for people with diabetes, in light of respondent's representation that Sugar Freedom products are particularly useful or appropriate in the diabetic's diet, the high total fat and saturated fat content of these Sugar Freedom products would be material to diabetics in deciding to purchase and use them and the failure to disclose these facts is deceptive.

B. That many Sugar Freedom products are not low or reduced in calories. Many diabetics are advised to regulate their caloric intake. Some Sugar Freedom products contain as many as 260 calories per serving. While no food is inherently inappropriate for people with diabetes, in light of respondent's representation that Sugar Freedom products are particularly useful or appropriate in the diabetic's diet, the fact that these Sugar Freedom products are not low or reduced in calories would be material to diabetics in deciding to purchase and use them and the failure to disclose these facts is deceptive.

PAR. 10. The acts and practices of the respondent as alleged in this complaint constitute unfair or deceptive acts of practices and the making of false advertisements in or affecting commerce in violation of Sections 5(a) and 12 of the Federal Trade Commission Act.

Complaint

120 F.T.C.

EXHIBIT 1

Slim Down for Summer!

WIN

A luxury weekend at the Abbey Resort and Fontana Spa

Fill out this official entry form and mail it to: Slim Down For Summer Sweepstakes, P.O. Box 8371, Northfield, IL 60093. Must be postmarked by July 2, 1993. You can win a luxury weekend for two adults valid through June 11, 1993 at the Abbey Resort and Fontana Spa. Weekend package includes: two nights accommodations, spa membership, breakfast and dinner. Approximate retail value \$100.

NAME: _____
 ADDRESS: _____
 CITY: _____ STATE: _____ ZIP: _____
 PHONE: _____

<p>MANUFACTURER'S COUPON EXPIRES 12/31/93</p> <p>Save 35¢ on any package of</p> <p>Sugar Freedom ESKIMO PIE novelty or half gallon</p> <p>72400-00117044</p>	<p>MANUFACTURER'S COUPON EXPIRES 6/30/93</p> <p>Save 30¢ on ONE 1.5 liter, ONE 1 liter or ONE 4-pack of 12 oz. bottles of</p> <p>Grayson Mountain Water</p> <p>95942-104847</p>	<p>MANUFACTURER'S COUPON EXPIRES 5/31/93</p> <p>Save 50¢ on any TWO packages of</p> <p>DICK'SWEET Express Frozen Vegetables for the microwave</p> <p>70510-23024</p>	<p>MANUFACTURER'S COUPON EXPIRES 12/31/93</p> <p>Save 35¢ on any package of</p> <p>CHICO SAN Frosted Cakes and Tarts Frosted Ritz Cakes Cream of Wheat</p> <p>72400-4003</p>	<p>MANUFACTURER'S COUPON EXPIRES 6/30/93</p> <p>Save 30¢ on any</p> <p>Farm Rich Non-Dairy Breakfast Cereal</p> <p>49800-16030</p>
--	--	---	---	---

Item 1-98

EXHIBIT 1

EXHIBIT 2

Radio Spot


NOW IS YOUR LAST CHANCE TO SLIM DOWN FOR SUMMER, AND THE FOLLOWING GREAT TASTING FOODS CAN HELP

START EACH DAY LIGHT WITH FARM RICH LIGHT NON-DAIRY BREAKFAST CREAMER. CHOLESTEROL FREE AND LOW IN SATURATED FAT, FARM RICH LIGHT NON-DAIRY CREAMER IS DELICIOUS IN COFFEE, ON CEREAL OR ADDED TO SLICED FRUIT.

FOR A TASTY, LOW CALORIE SNACK, TRY CHICO SAN FLAVORED POPCORN CAKES AND RICE CAKES. MADE FROM NUTRITIOUS, WHOLESOME GRAINS AND DELICIOUS ALL-NATURAL FLAVORS, CHICO SAN IS THE IDEAL ALTERNATIVE TO HIGH FAT SNACKS.

QUENCH ANY THIRST WITH GRAYSON MOUNTAIN WATER. BOTTLED AT ITS SOURCE ATOP VIRGINIA'S BLUE RIDGE MOUNTAINS, GRAYSON IS THE FINEST NATURAL DRINKING WATER IN THE WORLD. LOOK FOR GRAYSON IN YOUR FAVORITE GROCERY STORE.

FOR A QUICK SERVING SIDE DISH, TRY PICTSWEET EXPRESS FROZEN VEGETABLES. READY TO SERVE IN THREE MINUTES, U.S.A GROWN PICTSWEET ALL NATURAL VEGETABLES PROVIDE AN EXCELLENT SOURCE OF VITAMINS AND ARE LOW IN FAT.

SATISFY YOUR SWEET TOOTH WITH SUGAR FREEDOM ESKIMO PIE NOVELTY TREATS. MADE WITH THE GREAT TASTE OF NUTRASWEET, REFRESHING SUGAR FREEDOM ESKIMO PIE COMES IN BARS, CONES, SANDWICHES AND NOW HALF  GALLONS.

LOOK FOR MONEY SAVING COUPONS AND A CHANCE TO WIN A LUXURY WEEKEND AT THE ABBEY RESORT AND FONTANA SPA IN THIS WEEK'S LOCAL VALUES MAGAZINE AND CHICAGO TRIBUNE.

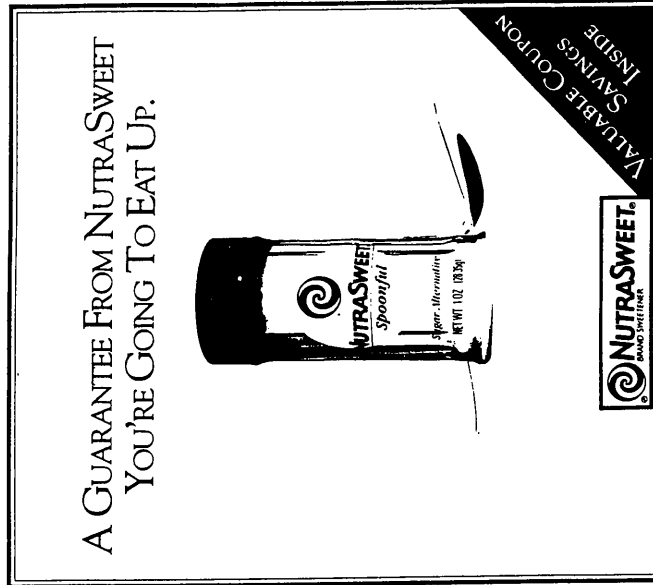
Complaint

120 F.T.C.

EXHIBIT 3

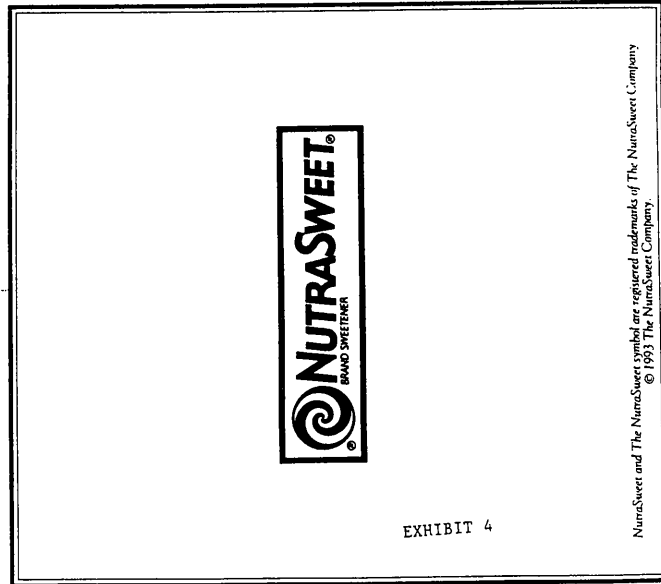
EXHIBIT THREE IS A TAPE RECORDING
AND IS AVAILABLE UPON REQUEST
FROM THE PUBLIC REFERENCE BRANCH

EXHIBIT 4



Item 1-70

2/REG



Complaint

120 F.T.C.

EXHIBIT 4

THE NUTRASWEET[®] SATISFACTION GUARANTEE

IF FOR SOME REASON YOU ARE NOT COMPLETELY SATISFIED
WITH ANY ONE OF THE PRODUCTS ADVERTISED IN THIS
BOOKLET, FOLLOW THE INSTRUCTIONS ON THE BACK
PAGE AND SEND IN FOR A REFUND.
(MAXIMUM REFUND \$4.00 PER HOUSEHOLD)

SWEET SAVINGS

Millions of you who are trying to eat smarter enjoy NutraSweet in things like sodas and gum and yogurts. Many of you stock your kitchens with frozen desserts and jams sweetened with NutraSweet. But what about trying the other products sweetened with the great taste of NutraSweet? You can start by clipping these valuable coupons here and save!

At NutraSweet we believe you shouldn't have to compromise on the delicious things in life for any reason — even calories.

A TASTEFUL OFFER

A few of the delicious products sweetened with the great taste of NutraSweet[®] brand sweetener have teamed up to make you a delicious deal—a personal taste satisfaction guarantee.

NutraSweet is putting its money where your mouth is—and giving you money back if you're not completely satisfied with any ONE of the products featured in this booklet.

TRUST THE SWIRL

For over a decade, NutraSweet[®] brand sweetener has been an important ingredient in thousands of products. Today, products sweetened with NutraSweet are enjoyed by 200 million people around the world, making them feel better about eating and drinking what they want. With 200 million votes of confidence, it's easy to make you this guarantee.

Complaint

EXHIBIT 4

312



BUY 3 GET 4TH FREE
Free Diet 7UP or Diet Cherry 7UP
Free when you purchase three 2 liter cans of any 7UP brand
(7UP, Diet 7UP, Cherry 7UP, Diet Cherry 7UP)
Retail Price - good up to \$1.49 Value
2 liter

© 1993 7UP, 7UP and Diet 7UP are registered trademarks of The Seven-Up Company, Inc., since 1989. NUTRASWEET and NUTRASWEET symbols are registered trademarks of The NutraSweet Company, Inc. All other trademarks are the property of their respective owners.

STORE COUPON REDEEMABLE AT FACE VALUE ONLY | EXPIRES 8/30/94 | NOT SUBJECT TO DOUBLING



Save 35¢
on any Sugar Freedom®
ESKIMO PIE® Product

STORE COUPON REDEEMABLE AT FACE VALUE ONLY | EXPIRES 10/31/93 | NOT SUBJECT TO DOUBLING



SAVE \$1.00 NOW!
WHEN YOU BUY ONE 8 QT. BOX
OR THREE 2 QT. ENVELOPES,
ANY FLAVOR, ~~1-70~~ **1-70**

© 1993 NutraSweet, Inc. NUTRASWEET and the NutraSweet symbol are registered trademarks of The NutraSweet Company, Inc. All other trademarks are the property of their respective owners.

CONSUMER REFUND OFFER

Satisfaction Guarantee. Maximum refund - \$4.00 per household. Requests must be received by September 6, 1993. In the event you are not satisfied with your purchase of ONE of the products offered in the 1993 NutraSweet Spoonful Coupon Booklet, you may send for a refund on the purchase price of that product up to \$4.00.

In order to receive your refund by mail, please send us (1) the original cash register receipt with the purchase price circled, (2) the product's original UPC code (excepting Diet Barq's can, UPC codes may be written down on a 3" X 5" card) and (3) a completed official refund form found in the 1993 NutraSweet Spoonful Coupon Booklet (no photocopies accepted). Refund requests that do not contain the register receipt, UPC code and completed refund form will not be honored.

Mail your refund request to NutraSweet Satisfaction Guarantee Program, P. O. Box 83287, Milwaukee, WI 53224. All refund requests must be received by September 6, 1993. Please allow 10 weeks for processing. Refund will be made in the form of a check. Refund limited to purchase of ONLY ONE of those products offered in the 1993 NutraSweet Spoonful Coupon Booklet.

Limit of one refund on one product per household. In issuing refund, the sponsor of this offer shall not be deemed to have acknowledged your reason for refund. Not responsible for lost, late, misdirected or postage due mail or incomplete or illegible requests. Void where taxed, prohibited or restricted. Offer good only in the United States.

Maximum refund \$4.00. Refunds available only through this address. This offer is made exclusively by The NutraSweet Company. Do NOT request your refund from the product's manufacturer or your supermarket.

Please direct any questions or comments regarding this offer to NutraSweet Satisfaction Guarantee Program, P. O. Box 83287, Milwaukee, WI 53224.

EXHIBIT 4

<p>STORE COUPON REDEEMABLE AT FACE VALUE ONLY EXPIRES 9/30/93 NOT SUBJECT TO DOUBLING</p> <p>To The Dealer: The Seven-Up Bottling Company will reimburse you the face value of this coupon plus 8¢ handling if you and the consumer have met the offer's terms. Void if prohibited, taxed, restricted, transferred, assigned, if coupon is reproduced, aged, cut, or in any condition, or if retailer cannot provide invoices to prove sufficient stock upon request. Consumer pays deposit and taxes. Cash value 1/20th of face value only in U.S.A. ONE COUPON PER CONSUMER PURCHASE. BEGINS BY MAILING TO THE SEVEN-UP BOTTLING COMPANY, P. O. Box 870133 El Paso, TX 88587-0133</p> <p>Retail Price: <input type="text"/></p>  <p>514-373 78000-77001</p>	<p>STORE COUPON REDEEMABLE AT FACE VALUE ONLY EXPIRES 12/31/93 NOT SUBJECT TO DOUBLING</p>  <p>30¢ OFF! of Diet Barq's Root Beer 6-packs, 12-packs, or 2-liter bottles</p>
<p>STORE COUPON REDEEMABLE AT FACE VALUE ONLY EXPIRES 6/30/94 NOT SUBJECT TO DOUBLING</p> <p>To The Dealer: We will pay legitimate retailers face value plus 8¢ handling for each coupon received in connection with the retail sale of the products indicated. Coupon void and forfeited if invoices providing purchase of sufficient stock to cover rate of redemption are not produced on request, or if coupon assigned, transferred or presented by one not a retail seller of these products. Presentation for redemption without compliance constitutes fraud. Customer pays any applicable tax. Limit one coupon per purchase (or customer's cash redemption value 1/20th of face value). Reproduction prohibited. Send to E.P.C., CMS Dept. #72800, One Fawcett Drive, Del Rio, TX 78840. Void where prohibited by law.</p> <p>900218</p>	<p>STORE COUPON REDEEMABLE AT FACE VALUE ONLY EXPIRES 8/31/93 NOT SUBJECT TO DOUBLING</p>  <p>SAVE 35¢ on your next purchase of <i>Tropicana Twister Light</i></p> <p>Good on one 46 oz. bottle of Tropicana Twister Light.</p> <p>801228</p>
<p>STORE COUPON REDEEMABLE AT FACE VALUE ONLY EXPIRES 10/31/93 NOT SUBJECT TO DOUBLING</p> <p>Save \$1.00 when you buy one 8 qt. box or three 2 qt. envelopes, any flavor. Sugar Free Kool-Aid® Brand Soft Drink Mix.</p> <p>This coupon good only on purchase of product indicated. Any other use constitutes fraud. COUPON NOT TRANSFERABLE. LIMIT ONE COUPON PER PURCHASE. To the retailer: KGF will reimburse you for the face value of this coupon plus 8¢ if submitted in compliance with KGF Redemption Policy C-1, incorporated herein by reference. Valid only if redeemed by retail distributors of the merchandise or anyone specifically authorized by KGF. Cash value 1/20th of face value. © 1993 Kool-Aid, Inc., P. O. Box 103, Kanawake, IL 60902. \$14.3000-81476-0 OFFER EXPIRES 10/31/93</p>  <p>6F4GLAL3 \$14.3000-81476-0</p>	<p>STORE COUPON REDEEMABLE AT FACE VALUE ONLY EXPIRES 8/31/93 NOT SUBJECT TO DOUBLING</p>  <p>SAVE 50¢ on any flavor half gallon or quart of Edy's Sugar Free.</p> <p>Edy's SUGAR FREE</p> <p>NEW!</p>

EXHIBIT 4

<p>STORE COUPON REDEEMABLE AT FACE VALUE ONLY EXPIRES 12/31/93 NOT SUBJECT TO DOUBLING</p> <p>CUSTOMER: Only use this coupon to purchase the products specified. You must pay any sales tax.</p> <p>RETAILER: We will reimburse you the face value of this coupon plus 8¢ handling, provided you honor this coupon for retail sales of the product specified and furnish proof of purchase on request. Coupons not redeemed legitimately could violate U.S. mail statutes. Where prohibited, transferred, assigned, leased, restricted, or where prohibited, transferred, assigned, leased, restricted, or where prohibited. Send to Barg's, Inc. CRC Dept. 95, P.O. Box 625, Delran, NJ 08075. Cash value 1/100th cent. Limit one coupon per purchase.</p> <p>1033</p>  <p>\$ 71702 53030-1</p>	<p>STORE COUPON REDEEMABLE AT FACE VALUE ONLY EXPIRES 8/31/93 NOT SUBJECT TO DOUBLING</p> <p>GROCER: We will reimburse you for the face amount of the coupon plus 8¢ handling provided you and the consumer have complied with the terms of this offer. Presentation for redemption without such compliance constitutes fraud. Invoices proving purchase of sufficient stock of our brand(s) to cover coupon presented for redemption must be shown upon request. Consumer must pay any sales tax. Coupon may not be transferred or assigned and is void where its use is prohibited, leased or otherwise restricted. Cash value 1/20¢. This offer is limited to one coupon per purchase. Redeem by mailing to: Tropicana Products, Inc., CMS Dept. #46500, One Fawcett Drive, Del Rio, TX 78840.</p>  <p>\$ 46500 50035</p>	<p>STORE COUPON REDEEMABLE AT FACE VALUE ONLY EXPIRES 8/31/93 NOT SUBJECT TO DOUBLING</p> <p>ATTENTION GROCER: Edy's will pay you the face value of this coupon plus 8¢ handling, provided you and the consumer have complied with the terms of this offer. Consumer must purchase specific product. This coupon is non-assignable and may not be reproduced. Invoices that prove purchase of sufficient stock of product specified to cover coupons must be shown on request. Ship coupons to EDY'S GRAND ICE CREAM, CMS Dept. #41548, One Fawcett Drive, Del Rio, TX 78840. Limit one coupon per purchase.</p> <p>41548-8235</p>
<p>Save 55¢ on one 8-qt. or 12-qt. canister any flavor. SUGAR FREE Crystal Light[®]</p> 	<p>STORE COUPON REDEEMABLE AT FACE VALUE ONLY EXPIRES 10/31/93 NOT SUBJECT TO DOUBLING</p> <p>Save 30¢ When You Buy Any Two Weight Watchers[®] Ultimate 90[®] Yogurt</p> 	<p>STORE COUPON REDEEMABLE AT FACE VALUE ONLY EXPIRES 9/30/93 NOT SUBJECT TO DOUBLING</p> <p>Save 30¢ On Any Sugar Free or Diet Carnation[®] Hot Cocoa Mix</p>  <p>6651</p>


Complaint

EXHIBIT 4

120 F.T.C.

STORE COUPON REDEEMABLE AT FACE VALUE ONLY EXPIRES 10/31/93 NOT SUBJECT TO DOUBLING

Save 50¢
On Any Variety or Size
of Lipton Sugar Free
Iced Tea Mix



STAKE COUPON REDEEMABLE AT FACE VALUE ONLY / EXPIRES 12/31/93 / NOT SUBJECT TO DOUBLING

STAKE COUPON REDEEMABLE AT FACE VALUE ONLY / EXPIRES 12/31/93 / NOT SUBJECT TO DOUBLING

Save 75¢
on one Pint of Simple Pleasures® Light
made with




NUTRASWEET & **e-Simplesse**
"Not available in all areas."



55¢ STORE COUPON REDEEMABLE AT FACE VALUE ONLY EXPIRES 10/31/93 NOT SUBJECT TO DOUBLING

This coupon good only on purchase of product indicated. Other use constitutes fraud. COUPON NOT TRANSFERABLE. LIMIT ONE COUPON PER PURCHASE. To the retailer: KGF will reimburse you for the face value of this coupon plus 8¢ if submitted in compliance with KGF Redemption Policy C-1, incorporated herein by reference. Valid only if redeemed by retail distributors of our merchandise or anyone specifically authorized by KGF. Cash value 1/20¢. Mail to: Kraft General Foods, Inc., P.O. Box 103, Oakdale, IL 60092. Expires on December 31, 1993.

0181483




3 43000 83135 0

STORE COUPON REDEEMABLE AT FACE VALUE ONLY EXPIRES 10/31/93 NOT SUBJECT TO DOUBLING

CONSUMER: Only one coupon is redeemable per purchase on Weight Watchers Ultimate 90 Yogurt. You pay any sales tax. Void if transferred to any person or group prior to redemption. Any other use constitutes fraud!

RETAILER: We will reimburse you for the face value of this coupon plus 8¢ if submitted in compliance with KGF Redemption Policy C-1, incorporated herein by reference. Valid only if redeemed by retail distributors of our merchandise or anyone specifically authorized by KGF. Cash value 1/20¢. Mail to: Kraft General Foods, Inc., P.O. Box 103, Oakdale, IL 60092. Expires on December 31, 1993.

180084




3 17198 41103 8 5

STORE COUPON REDEEMABLE AT FACE VALUE ONLY EXPIRES 9/30/93 NOT SUBJECT TO DOUBLING

CONSUMER: Limit one coupon per item purchased. This coupon good only on product sizes and flavors indicated.

RETAILER: NESTLE USA, INC., will reimburse you face value plus 8¢ if submitted in compliance with NESTLE USA Manufacturers Coupon Redemption Policy dated 10/91, available upon request. Consumer must pay sales tax. Good only in USA. Send coupons to NESTLE USA, INC., CMS Department, 00020, 1 Fawcett Drive, Del Rio, TX 78840. Cash value 1/20¢. Void where prohibited or restricted. © 1993 S.P.N., Nestlé Beverage Co.

6651



3 50000 77430 5

Announcing New Spoon Size Sugar Freedom Eskimo Pie.



11-00 1-132

MER Coupon Exp. 12/31/94

50¢ Off

Sugar Freedom Eskimo Pie Half Gallon

Now you can enjoy the delicious taste of Sugar Freedom Eskimo Pie in our new half gallons. So whether you choose rich Vanilla, creamy Chocolate or luscious Fudge Ripple, there'll be more than enough to please the whole family. Offer good only on Sugar Freedom half gallons.



10900 00117390

In The States: We will not deal or communicate with the retail sale of the product unless the Consumer and full featured name on a coupon assigned to the product is received by you over a retail price card. In some instances, the coupon may be void where prohibited by law. © 1994 Nestlé U.S.A., Inc. All rights reserved. Void where prohibited by law.

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 Chicago 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 a 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 The Eskimo Pie Corporation is a Delaware corporation, with its office and principal place of business located at 901 Moorefield Park Drive, Richmond, Virginia.
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 The Eskimo Pie Corporation, a corporation, 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 manufacturing, labelling, advertising, promotion, offering for sale, sale, or distribution of any frozen dessert product in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from misrepresenting, in any manner, directly or by implication, through numerical or descriptive terms, logos, symbols, or any other means:

A. The existence or amount of calories or any other nutrient or ingredient in any such product; or

B. That such product has been approved, endorsed or recommended by any person, group or organization.

II.

It is ordered, That respondent The Eskimo Pie Corporation, a corporation, 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 manufacturing, labelling, advertising, promotion, offering for sale, sale, or distribution of any frozen dessert product in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from failing to disclose clearly and prominently in any advertisement or promotional material that represents, in any manner, directly or by implication, through numerical or descriptive terms, logos, symbols, or any other means, that such product is a useful or appropriate part of a diabetic's diet:

A. The fat content per serving of such product expressed as 1) the number of grams and 2) the percentage of the "Maximum Daily Value," unless such product is low in total fat;

B. The saturated fat content per serving of such product expressed as 1) the number of grams and 2) the percentage of the "Maximum Daily Value" of the saturated fat, unless such product is low in saturated fat; and

C. The statement "Not a reduced calorie food" when such a statement would be required on the label pursuant to regulations promulgated by the Food and Drug Administration.

The statements required by subparagraphs A.1 and A.2 and B.1 and B.2 of this Part shall appear in close proximity. For purposes of this Part, the term "Maximum Daily Value" shall mean the daily reference value or other daily intake limit for total fat or saturated fat established in an effective final regulation of the Food and Drug Administration. For purposes of this Part, "low in fat" and "low in saturated fat" shall mean the qualifying amount for such terms as set forth in regulations promulgated by the Food and Drug Administration.

For purposes of this order, "clearly and prominently" shall mean as follows:

1. In a television or videotape advertisement, the disclosure shall be presented simultaneously in both the audio and video portions of the advertisement. The audio disclosure shall be delivered in a volume and cadence and for a duration sufficient for an ordinary consumer to hear and comprehend it. The video disclosure shall be of a size and shade, and shall appear on the screen for a duration, sufficient for an ordinary consumer to read and comprehend it;

2. In a print advertisement, the disclosure shall be in close proximity to the representation that triggers the disclosure in at least twelve (12) point type; and

3. In a radio advertisement, the disclosure shall be delivered in a volume and cadence and for a duration sufficient for an ordinary consumer to hear and comprehend it.

III.

Nothing in this order shall prohibit respondent from making any representation that is specifically permitted in labeling for any product by regulations promulgated by the Food and Drug Administration pursuant to the Nutrition Labeling and Education Act of 1990.

IV.

It is further ordered, That for five (5) years after the last date of dissemination of any representation covered by this order, respondent, or its successors and assigns, shall maintain and upon

