

Complaint

87 F.T.C.

IN THE MATTER OF

SIMEON MANAGEMENT CORPORATION, ET AL.

ORDER, OPINION, ETC., IN REGARD TO ALLEGED VIOLATION OF
SECS. 5 AND 12 OF THE FEDERAL TRADE COMMISSION ACT*Docket 8996. Complaint, Oct. 15, 1974—Final Order,* April 29, 1976*

Order requiring five independent California weight reduction clinic operators, among other things to cease failing to make conspicuous disclosure statements in advertising, and to potential purchasers that drugs used in weight reducing programs have not been approved by the Food and Drug Administration as safe and effective for weight control; drugs do not cause more attractive redistribution of weight; and treatment required adherence to a 500 calorie daily diet.

Appearances

For the Commission: *Alfred Lindeman, Harvey M. Freed and Paul D. Hodge.*

For the respondents: *Grayson & Gross, Los Angeles, Calif., for Simeon Management Corporation, John D. Howell, Simeons Weight Clinics Foundation, Robert Van Dine, J. William Byrd and Medical Weight Loss, Inc. Robert M. Aran, Beverly Hills, Calif., for Darrel P. Simpson. David L. Cunningham, Sausalito, Calif., for Bariatric Medical Clinics Management Corporation and David L. Cunningham. Lee Shaw, San Diego, Calif., for Harvey J. Lobelson and Weight Reduction Medical Clinic. Cooper & Scarpulla, San Francisco, Calif., for C.M. Norcal, Inc., HCG Weight Clinics Foundation, Peter J. Marengo, III and Joseph Costa.*

Complaint

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 Simeon Management Corporation, a corporation, and John D. Howell, individually and as principal investor in Simeon Management Corporation; Simeons Weight Clinics Foundation, a corporation, and Robert Van Dine and J. William Byrd, individually and as officers of Simeons Weight Clinics Foundation; Medical Weight Loss, Inc., a corporation, and Darrel P. Simpson, individually and as an officer of Medical Weight Loss, Inc.; Bariatric Medical Clinics Management Corporation, a corporation, and David L. Cunningham, individually and as an officer of Bariatric

* Reported as corrected by Commission order dated July 7, 1976.

Medical Clinics Management Corporation; Harvey J. Lobelson, an individual doing business as Weight Reduction Medical Clinic; C. M. Norcal, Inc., a corporation, HCG Weight Clinics Foundation, a corporation, and Peter J. Marengo, III and Joseph Costa, individually and as officers of C. M. Norcal, Inc. and HCG Weight Clinics Foundation, hereinafter referred to as respondents, have 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. (A) Respondent Simeon Management Corporation is a corporation organized, existing and doing business under and by virtue of the laws of the State of California, with its principal office and place of business located at 7712 Densmore Ave., Van Nuys, California.

Respondent John D. Howell is the principal investor in said corporate respondent Simeon Management Corporation, which has not yet named officers and directors or issued stock. He formulates, directs and controls the acts and practices of said corporate respondent, including the acts and practices hereinafter set forth. His business address is the same as that of said corporate respondent.

Respondent Simeons Weight Clinics Foundation is a corporation organized, existing and doing business under and by virtue of the laws of the State of California, with its principal office and place of business located at 7712 Densmore Ave., Van Nuys, California.

Respondents Robert Van Dine and J. William Byrd are officers of said corporate respondent Simeons Weight Clinics Foundation. Their business address is the same as that of said corporate respondent. Said individual respondents and respondents Howell and Simeon Management Corporation cooperate and act together to bring about the acts and practices hereinafter set forth, including the operation of numerous clinics known by the name Simeons Weight Clinics Foundation located in the State of California, and by other names located elsewhere in other States in the United States.

(B) Respondent Medical Weight Loss, Inc. is a corporation organized, existing and doing business under and by virtue of the laws of the State of California with its principal office and place of business located at 1901 Avenue of the Stars, Suite 470, Los Angeles, California.

Respondent Darrel P. Simpson is an officer of Medical Weight Loss, Inc. Said individual respondent formulates, directs and controls the acts and practices of said corporate respondent, including the acts and practices hereinafter set forth. His business address is the same as that of said corporate respondent. He and respondent Medical Weight Loss, Inc. cooperate and act together to bring about the acts and practices

hereinafter set forth, including the operation of numerous clinics known by the name Medical Weight Loss located in the State of California and by the same name or other names located elsewhere in other States in the United States.

(C) Respondent Bariatric Medical Clinics Management Corporation is a corporation organized, existing and doing business under and by virtue of the laws of the State of California, with its principal office and place of business located at 560 Battery St., San Francisco, California.

Respondent David L. Cunningham is an officer of Bariatric Medical Clinics Management Corporation. Said individual respondent formulates, directs and controls the acts and practices of said corporate respondent, including the acts and practices hereinafter set forth. His business address is 680 Beach St., San Francisco, California. He and respondent Bariatric Medical Clinics Management Corporation cooperate and act together to bring about the acts and practices hereinafter set forth, including the operation of numerous clinics known by the name Bariatric Medical Clinics located in the State of California.

(D) Respondent Harvey J. Lobelson is an individual trading and doing business under the name of Weight Reduction Medical Clinic, with his principal office and place of business located at 6505 Alvarado Rd., San Diego, California, and with numerous other clinics known by the same name located elsewhere in the State of California.

(E) Respondent C. M. Norcal, Inc. is a corporation organized, existing and doing business under and by virtue of the laws of the State of California, with its principal office and place of business located at 6 West Swain Rd., Stockton, California.

Respondent HCG Weight Clinics Foundation is a corporation organized, existing and doing business under and by virtue of the laws of the State of California, with its principal office and place of business located at 6 West Swain Rd., Stockton, California.

Respondents Peter J. Marengo, III, and Joseph Costa are officers of C. M. Norcal, Inc. and HCG Weight Clinics Foundation. Their business address is the same as that of said corporate respondents. Said individual respondents formulate, direct and control the acts and practices of said corporate respondents, including the acts and practices hereinafter set forth. They and said corporate respondents cooperate and act together to bring about the acts and practices hereinafter set forth, including the operation of numerous clinics known by the name HCG Weight Clinics Foundation located in the State of California.

PAR. 2. Each of the respondents is engaged in the business of operating weight reduction clinics, and the advertising, offering for

sale and sale of weight reduction treatments by said clinics, which treatments are purported to produce significant loss of weight by persons who desire to lose weight. Said treatments are sometimes referred to as the "Simeon" method or "Simeons" method, and consist of five or six daily injections per week of a prescription drug, human chorionic gonadotropin (hereinafter referred to as HCG), which is a hormone derived from the urine of pregnant women, and adherence to a 500 calorie diet daily, both for a period of about four to six weeks. Said drug falls within the classification of "drug" as said term is defined in the Federal Trade Commission Act.

PAR. 3. In the course and conduct of their businesses as aforesaid, each of the respondents has disseminated and caused the dissemination of certain advertisements concerning the said reducing clinics and treatments in newspapers which are distributed by United States mails and by various means in commerce, as "commerce" is defined in the Federal Trade Commission Act, for the purpose of inducing and which are likely to induce, directly or indirectly, the purchase of said treatments including the drug HCG.

PAR. 4. Typical of such advertisements disseminated as aforesaid, but not all inclusive thereof, are the following:

SIMEON WEIGHT CLINICS FOUNDATION DECLAIMS WAR ON WEIGHT


MEDICALLY SUPERVISED WEIGHT LOSS

Lose weight safely, quickly and effortlessly through our proven weight reduction program developed by Medical Doctors and supervised by our Physicians and Nurses. Simeon Weight Clinics, its Doctors, Nurses and professionally trained staff, bring you a quick and safe way to melt away unwanted pounds. Start today by calling for your free consultation.

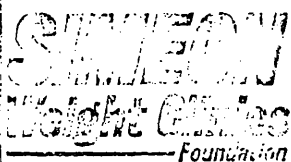
Important Facts to Know About
SIMEON
Weight Clinics
Foundation

- OVER 265 PROFESSIONALLY TRAINED EMPLOYEES
- OVER 77 MEDICAL DOCTORS
- OVER 75 LICENSED NURSES
- OVER 45 CLINICS IN CALIFORNIA ALONE
- TOTAL MEDICAL SUPERVISION
- APPROVED AS A HEALTHY WEIGHT LOSS PLAN
- NO DANGERS OF STARVATION OR COLLAPSE
- MASTER CHANGE THE BASKETWEIGHT A PERSON
- RESULT: 100% CHARGE FOR CONSULTATIONS
- SUPERBLY TRAINED STAFF MONITOR

SEE OUR DOCTORS NOW
Start today by calling for a free consultation on your nearest Simeon Weight Clinic location.



LOSE WEIGHT UNDER STRICT MEDICAL SUPERVISION.



Weekdays 8 to 7 • Saturdays 9 to 1

**CALL THE CLINIC
NEAR YOU TODAY!**

BAY AREA CLINICS


S.F. 2266 GEARY BLVD. 667-2543	REDWOOD CITY 365-4264
S.F. 656 SUTTER STREET 828-5908	SAN JOSE 267-8000
S.F. 2065 MISSION STREET ... 620-8461	GARLAND 465-8845
S.F. VINEY PORTAL 668-7164	EL CERRILLO 525-2342
DUBLIN CITY 788-8288	HAYWARD 537-6822
SAN MATEO 547-8220	SAN RAFAEL 450-5930

CALL A CLINIC IN YOUR AREA

S. F. Sunday Examiner & Chronicle Datebook, Sunday, June 23 1974

LOSING WEIGHT IS A DOCTOR'S BUSINESS


HOW YOU CAN LOSE WEIGHT... THROUGH A PROVEN METHOD—FAST ...



... using the safe and practical Dr. A. T. W. Simeons method of weight reduction. Expect dramatic results in just weeks. Call your nearest clinic today for a consultation at no charge. You'll also receive a copy of Dr. Simeons book, "POUNDS AND INCHES," at no charge. Enroll in the world's largest group of Doctor owned, Doctor operated medical weight loss clinics.

Summer's here ... Special rates for groups of 6 or more

NO CONTRACTS TO SIGN... 42 CLINICS OPEN IN THIS AREA

 <p>Look for the World Globe ... you'll know your at Medical Weight Loss.</p>	<p>SO. SAN FRANCISCO 586-7117</p> <p>DALY CITY 994-6446</p> <p>SAN CARLOS 591-9681</p> <p>SAN MATEO 347-3051</p> <p>MILL VALLEY 332-6560</p>	<p>REDWOOD CITY 369-2935</p> <p>MOUNTAIN VIEW 965-4300</p> <p>MILPITAS 263-8181</p> <p>CASTRO VALLEY/ SAN LEANDRO 581-5070</p> <p>DUBLIN 829-2424</p>	<p>FREMONT 786-9232</p> <p>SAN LORENZO/ HAYWARD 278-4144</p> <p>PETALUMA 763-4178</p> <p>LOS GATOS/ SARATOGA 356-1118</p> <p>EAST SAN JOSE 926-2737</p>
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BankAmericard or Master Charge Welcome FOR INFORMATION CALL (415) 697-0600

Complaint

87 F.T.C.

**medical
weight[®]
reduction**

**NEW CLINIC
NOW OPEN
DUBLIN
829-2626**



Bariatric's individual program is a safe and practical method for the entire family to lose weight and learn how to maintain proper weight ... under the strict supervision of Medical Doctors. Call for information Mon. thru Friday 8 a.m. to 6 p.m.

Bariatric Medical Clinics

OAKLAND 1419 Broadway 485-7800	SAN FRANCISCO Post & Powell 433-2333	PLEASANT HILL 1222 Contra Costa 798-7050	HAYWARD 21561 Foothill 888-8623
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14 San Francisco Chronicle Mon., June 24, 1974

LOOK AT ME NOW!



I lost 26 lbs in 6 weeks!

"I didn't sign any contracts or take any pills! I didn't even do any exercises! Also, my husband liked the money-back guarantee! The doctors and nurses were just great! Life really changes when you slim down!"

Chris Mishak, patient.

San Jose
296-2000

South San Jose
267-3131

Los Altos/Mt. View
941-6440

San Mateo
347-9901



Redwood City
369-0333




WEIGHT REDUCTION MEDICAL CLINIC

Already helping thousands in southern California!

LOSE WEIGHT-NOW


-to look better
-to feel better
-to perform better



FREE CONSULTATION WITH NO OBLIGATION

MANDATORY, that all examinations, tests and treatments are medically supervised by M.D., R.N.'s and L.V.N.'s. You will receive a one-time complete blood count and blood chemistry. Also thyroid test and a urinalysis. Plus a complete computerized EKG and full physical exam given by the Doctor. This is all part of the program. before you are accepted. IT'S EASY - You'll be astounded how easy it is... Formerly available only to the very wealthy. The weight reduction plan is completely professional and now can be yours at a very modest cost. Terms are available.


CALL NOW
938-2565
 1409 HUNSEY LANE
 Walnut Creek



FREE
 This book with each consultation

FEATURING
 DR. A.T.W. SIMEON'S
 "POUNDS & INCHES" METHOD
 ... Obesity affects 4 out of 5 families... whether you are male or female, 18 or 80, HCG Weight Clinics Foundation can improve your appearance and attractiveness - and help you stay that way!

...lose weight in weeks... you can't afford not to... and we make it easy with our new Credit Plan!



Sacramento	927-2201	Modesto	521-8030
Stockton	478-5000	Walnut Creek	938-2565
Mother Lode	736-2142		

Oakland Tribune, June 16, 1973

PAR. 5. Through the use of the advertisements set forth in Paragraph Four, and others similar thereto but not specifically set forth herein, each of the respondents directly or indirectly invites and induces persons seeking to lose weight to attend its respective clinics and purchase its respective treatments to achieve this purpose. Said advertising fails to disclose the following material facts to prospective consumers:

1. The treatment offered by each respondent involves injections of the drug HCG;
2. The drug HCG is not approved by the Food and Drug Administration as safe and effective for the treatment of obesity or weight control.

Therefore, each respondent's advertisements were and are misleading in material respects and constituted, and now constitute "false advertisements" as that term is defined in the Federal Trade Commission Act; and the aforesaid advertisements were, and are, false, misleading, deceptive and unfair.

PAR. 6. The drug laws of the United States have been established by Congress to protect consumers from being subjected to certain drugs before such drugs have been approved by the Food and Drug Administration as both safe and effective for specific uses. Each respondent's advertising, promotion and marketing has the capacity to induce potentially large numbers of persons who desire to lose weight to be subjected to its respective treatments. Said treatments include numerous injections of the prescription drug HCG, which has not been approved by the Food and Drug Administration as safe and effective for the treatment of obesity or weight control, as provided for in the Federal Food, Drug and Cosmetic Act. Furthermore, the total cost of said treatments to each patient is substantial. Therefore, each respondent's advertising, promotion and marketing of a costly treatment which involves the use of a prescription drug prior to approval by the Food and Drug Administration as both safe and effective for its intended use is unfair.

PAR. 7. The aforesaid acts and practices of respondents as herein alleged, including the dissemination of "false advertisements," were and are all to the prejudice and injury of the public and constituted, and now constitute, unfair or deceptive acts or practices in violation of Sections 5 and 12 of the Federal Trade Commission Act.

INITIAL DECISION BY JOSEPH P. DUFRESNE, ADMINISTRATIVE LAW
JUDGE AS TO J. WILLIAM BYRD, MEDICAL WEIGHT LOSS, INC.,
AND DARREL P. SIMPSON JANUARY 7, 1975

PRELIMINARY STATEMENT

[2] In a complaint issued on October 15, 1974, in accord with its Rule 3.11, the Federal Trade Commission instituted a proceeding charging respondents with false, misleading, deceptive and unfair advertising for their weight reduction clinics where the "Simeon" or "Simeons" Method is used.

In the complaint it was alleged (1) that the method includes numerous injections of the prescription drug human chorionic gonadotropin (HCG) which has not been approved by the Food and Drug Administration (FDA) as safe and effective for the treatment of obesity or for weight control (complaint, Pars. Two and Six), and (2) that the total cost of the treatments per patient is substantial (complaint, Par. Six).

Therefore, it was alleged, it is unfair and violative of Sections 5 and 12 of the Federal Trade Commission Act (15 U.S.C. §§45 and 52) for respondents to advertise, promote and market their method prior to FDA approval of HCG as being both safe and effective for its use in treating either obesity or weight control (complaint, Pars. Six and Seven).

[3] Commission records show that respondent J. William Byrd received a copy of the Complaint on November 21, 1974 (pp. 9 and 10, transcript of prehearing conference). Respondents Medical Weight Loss, Inc., and Darrel P. Simpson received their copies on October 21, 1974 (p. 8, transcript of prehearing conference). However, none of these three respondents filed an answer to the complaint within the thirty (30) days allowed under Commission Rule 4.3, nor have they done so to date. The other respondents in this matter have filed answers to the allegations.

The failure by the three respondents to file an answer constitutes a waiver of their right to appear and contest the allegations. This is noted in the notice section* of the complaint (pp. 6 and 7). The same section also alerts respondents to the fact that failure to answer authorizes the administrative law judge to find the facts as alleged and to enter an initial decision (see also Commission Rule 3.12(c)).

On the basis of the allegations, it is clear that this proceeding is concerned with risks to which members of the public are exposed, particularly if they contract with respondents for obesity or weight

* Not reproduced herein.

control treatments in accord with the Simeon Method. Such proceedings are within the purview of Sections 12 and 13 of the Federal Trade Commission Act (15 U.S.C. §§ 52 and 53) which, in pertinent part, have to do with bringing an end, as promptly as possible, to the false advertising of drugs; and HCG is a drug (complaint, Par. Two).

Consequently, I am of the opinion that my initial decision in this matter, insofar as the three nonanswering respondents are concerned, should be rendered as promptly as possible, consistent with their being accorded due process. My view that the decision should be rendered as promptly as possible is buttressed by the fact that the Commission sought to obtain a preliminary injunction in the United States District Court for the Northern District of California (C74-2226 WHO) to bring an end to the offensive practices pending litigation of the allegations made in the complaint.

[4] With regard to their rights to due process, deferral of the rendition of this decision as to these three respondents until after the prehearing conference, which none of the three attended, has accorded them more than the right to due process requires. They have had ample notice both of the charges and of their opportunity to contest them. 5 U.S.C. §554(b) and (c), (formerly the Administrative Procedure Act); *United States v. San Juan Lumber Co., Inc.*, 313 F. Supp. 703 (U.S. Dist. Ct. Colo. - 1969); *Goldberg v. Kelly*, 397 U.S. 254 (1970); *Golden Grain Macaroni Company v. Federal Trade Commission*, 472 F.2d 882 (9th Cir. 1972), *cert. denied*, 412 U.S. 918 (1973).

Accordingly, complaint counsel's motion that these three respondents be declared in default and that an initial decision, conclusion and order against them should issue, which motion was made to me at the prehearing conference (p. 7, transcript of prehearing conference), is granted.

Complaint counsel's motion for a summary decision against respondents Harvey J. Lobelson and Weight Reduction Clinic (p. 44, transcript of prehearing conference) is denied because those respondents have amended their answer to deny the key charge in Paragraph Six of the complaint which formed the primary basis for that motion.

Any motions not heretofore or herein specifically ruled upon, either directly or by the necessary effect of the conclusions in the initial decision, are hereby denied. The findings of fact made herein are based on the failure to answer, on a review of the allegations made in the complaint and on an examination of the transcript of the prehearing conference which was held in San Francisco on December 2, 1974.

In accord with Rule 3.12(c), the undersigned hereby makes the following findings of fact, conclusions and order.

FINDINGS OF FACT AS TO RESPONDENTS J. WILLIAM BYRD,
MEDICAL WEIGHT LOSS, INC., AND DARREL P. SIMPSON.

(1) Respondent J. William Byrd is, or when the complaint was filed was, an officer of said corporate respondent Simeons Weight Clinics Foundation. His business address is, [5] or was, the same as that of said corporate respondent. Respondent J. William Byrd and respondents John D. Howell and Simeon Management Corporation cooperated and acted together to bring about the acts and practices hereinafter set forth, including the operation of numerous clinics known by the name Simeons Weight Clinics Foundation located in the State of California, and by other names located elsewhere in other States of the United States.

Respondent Medical Weight Loss, Inc. is a corporation organized, existing and doing business under and by virtue of the laws of the State of California with its principal office and place of business located at 1901 Avenue of the Stars, Suite 470, Los Angeles, California.

Respondent Darrel P. Simpson is an officer of Medical Weight Loss, Inc. Said individual respondent formulates, directs and controls the acts and practices of said corporate respondent, including the acts and practices hereinafter set forth. His business address is the same as that of said corporate respondent. He and respondent Medical Weight Loss, Inc. cooperate and act together to bring about the acts and practices hereinafter set forth, including the operation of numerous clinics known by the name Medical Weight Loss located in the State of California and by the same name or other names located elsewhere in other States in the United States.

(2) Each of the respondents is, or was, engaged in the business of operating weight reduction clinics and the advertising, offering for sale and sale of weight reduction treatments by said clinics, which treatments were and are purported to produce significant loss of weight. Said treatments are sometimes referred to as the "Simeon" or "Simeons" method, and include (a) five or six daily injections per week of HCG, which is a hormone derived from the urine of pregnant women, and (b) adherence to a 500 calorie diet daily, both for a period of about four to six weeks. HCG falls within the classification of "drug" as said term is defined in the Federal Trade Commission Act.

[6] (3) In the course and conduct of their business each of the three respondents has disseminated and caused the dissemination of certain advertisements concerning the said reducing clinics and treatments in newspapers which are distributed by United States mails and by various means in commerce, as "commerce" is defined in the Federal Trade Commission Act, for the purpose of inducing and which are

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Initial Decision

likely to induce, directly or indirectly, the purchase of said treatments including the drug HCG.

(4) Typical of such advertisements, but not all inclusive thereof, are the following:

SIMEON WEIGHT CLINICS FOUNDATION DECLARES WAR ON WEIGHT

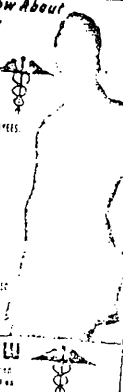
MEDICALLY SUPERVISED WEIGHT LOSS

Lose weight safely, quickly and effortlessly through our proven weight reduction program developed by Medical Doctors and supervised by our Physicians and Nurses. Simeon Weight Clinics, its Doctors, Nurses and professionally trained staff, bring you a quick and safe way to melt away unwanted pounds. Start today by calling for your free consultation.

Important Facts to Know About
SIMEON
Weight Clinics
Foundation

- OVER 200 PROFESSIONALLY TRAINED EMPLOYEES
- OVER 17 MEDICAL DOCTORS
- OVER 75 LICENSED NURSES
- OVER 40 CLINICS IN CALIFORNIA ALONE
- TOTAL MEDICAL SUPERVISION
- APPROVED AS A FULL-FACILITY HEALTH PLAN
- NO CHARGES OF STENOLOGIC CHARGE
- MASTER CHARGE AND BANK AMERICAN EXPRESS
- PERSONAL AND CHARGE FOR CONSULTATIONS
- 12 MONTHS FREE TO 120 DAYS MONTHLY

SEE OUR DOCTORS NOW
Start today by calling for a free consultation. We'll help you lose weight safely and effectively. No more dieting. No more frustration.



LOSE WEIGHT UNDER STRICT MEDICAL SUPERVISION.

SIMEON
SIMEON
Weight Clinics
Foundation

Weekdays 8 to 7 • Saturdays 9 to 1

**CALL THE CLINIC
NEAR YOU TODAY.**

BAY AREA CLINICS

S.F. 2266 GEARY BLVD.	587-2643	REDWOOD CITY	365-4264
S.F. 655 SUTTER STREET	622-6008	SAN JOSE	257-8600
S.F. 2065 MISSION STREET ...	622-5491	OAKLAND	465-5845
S.F. WEST PORTAL	666-7154	EL CERRITO	525-2342
DALY CITY	748-0976	HAYWARD	537-6822
SAN MATEO	547-0213	SAN RAFAEL	456-5930

CALL A CLINIC IN YOUR AREA

Datebook, Sunday, June 23, 1974
S. F. Sunday Examiner & Chronicle

