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13 SUPERIOR COURT OF THE STATE OF CALIFORNIA
14 COUNTY OF SANTA CRUZ
15

16 PEOPLE OF THE STATE OF CALIFORNIA AND)
THE DIRECTOR OF THE DEPARTMENT OF)
17 HEALTH SERVICES,)
18)
Plaintiffs,)
19 v.)
20 HERBALIFE INTERNATIONAL INC., a)
California corporation; MARK HUGHES;)
21 LAWRENCE THOMPSON; EDMOND WILLIAMS;)
DONALD HUGHES; EDWARD WHITING and)
22 DOES 1 - 1000,)
23)
Defendants.)

NO. 92767
COMPLAINT FOR
INJUNCTION, CIVIL
PENALTIES AND
EQUITABLE RELIEF

24
25 JOHN K. VAN DE KAMP, Attorney General of the State
26 of California, the Director of the California Department of
27 Health Services, and Arthur Danner III, District Attorney

(X)

1 of Santa Cruz County, on information and belief allege as
2 follows:

3 FIRST CAUSE OF ACTION

4 VIOLATIONS OF SHERMAN FOOD AND DRUG ACT
5 (HEALTH AND SAFETY CODE SECTION 26460 ET SEQ.)
6 AND BUSINESS AND PROFESSIONS CODE SECTION 17500

7 1. The authority of the Attorney General and of the
8 District Attorney to bring this action is derived from Business
9 and Professions Code sections 17200 et seq. and 17500 et seq.

10 2. The authority of the Director of the California
11 Department of Health Services to bring this action is derived
12 from Business and Professions Code sections 17200 et seq. and
13 17500 et seq., as well as the provisions of Division 21 of the
14 Health and Safety Code, sections 26000 et seq. (the Sherman
15 Food and Drug Act).

16 3. Defendants transact business in Santa Cruz County
17 and elsewhere throughout California. The violations of law
18 henceforth alleged have been and are being carried out within
19 Santa Cruz County and elsewhere throughout the state.

20 4. Defendant Herbalife International, Inc.,
21 (hereinafter "Herbalife") is and at all relevant times was a
22 California corporation whose principal place of business is in
23 Culver City, County of Los Angeles, State of California.

24 5. Defendant Mark Hughes is and at all relevant times
25 was the chief executive officer of Herbalife and as such has
26 directed, managed and controlled the operations of defendant
27 Herbalife, including the setting up of defendant Herbalife's
marketing plan, product line and advertisements therefore.

(X)

1 6. Defendant Lawrence Thompson is and at all
2 relevant times was vice president of Herbalife International,
3 Inc., and as such has directed, managed and controlled the
4 operations of defendant Herbalife, including the setting up of
5 defendant Herbalife's marketing plan, product line and
6 advertisements therefore.

7 7. Defendant Edmond Williams is and at all relevant
8 times was an officer of Herbalife International, Inc., and as
9 such has directed, managed and controlled the operations of
10 defendant Herbalife.

11 8. Defendant Donald Hughes is and at all relevant
12 times was an officer of Herbalife International, Inc., and as
13 such has directed, managed and controlled the operations of
14 defendant Herbalife.

15 9. Defendant Edward Whiting is and at all relevant
16 times was an officer of Herbalife International, Inc., and as
17 such has directed, managed and controlled the operations of
18 defendant Herbalife.

19 10. The true names and capacities, whether individual,
20 corporate, or otherwise, of defendants named herein as Does 1 -
21 1000 are unknown to plaintiffs, who therefore sue said
22 defendants by such fictitious names. Plaintiffs will amend this
23 complaint to show the true names when the same have been
24 ascertained.

25 11. Whenever in this complaint reference is made to
26 any act of any individual defendant, such allegation shall be
27 deemed to mean that said defendant is and was acting (a) as a

1 principal, (b) under the express or implied agency, or (c) with
2 actual or ostensible authority to perform the acts so alleged.

3 12. Whenever in this complaint reference is made
4 to any act of any defendant, such allegation shall be deemed
5 to mean the act of each defendant acting individually and
6 jointly.

7 NATURE OF DEFENDANTS' BUSINESS

8 13. Defendants are engaged in the business of selling
9 items they refer to as herbal based health, nutrition and skin-
10 care products. Defendants sell these products through a multi-
11 level marketing program wherein the amount of money one receives
12 is dependent upon the purchases he and those he has introduced
13 into the marketing program make from defendants.

14 Defendants claim that the products they refer to as
15 the Herbalife Slim and Trim Program (hereinafter "Slim and
16 Trim")--Formula #1, Formula #2, Formula #3 and Formula #4--
17 comprise an effective weight loss program and is "the country's
18 most popular weight control program" on which one can experience
19 a "typical weight loss of 10-29 excess pounds per month" because
20 the products contain "the amazing magic of natural herbs" which
21 among other things "naturally curb the appetite." Defendants
22 also claim that the same Slim and Trim products can be used by
23 those seeking to gain weight.

24 In addition to Slim and Trim defendants sell a variety
25 of products they allege to have a beneficial effect on the user's
26 health - e.g., Herbalife Cell-U-Loss, which defendants claim is
27 designed for "helping naturally to attack cellulite" "eliminate

1 inches" and that its "herbs naturally eliminate cellulite" and
2 promote circulation; Herbalife Herbal-Aloe, which defendants
3 claim, when taken internally will "aid digestion", "heal", and
4 "cleanse the system"; Herbalife N.R.G. which defendants claim
5 contain an herb which naturally "increases energy", naturally
6 aids or increases "mental alertness" and naturally "provide(s) a
7 nutritional lift;" Herbalife Lifeline which defendants claim
8 aids the cardio-vascular system and is "a very special nutri-
9 tional supplement"; Herbalife Schizandra Plus which defendants
10 claim contain nutrients which help "combat damage that can lead
11 to premature aging"; Herbalife Tang Kuei, which defendants claim
12 is "an herbal aid for nutritionally helping the regularity of
13 the menstrual function", that it relieves "menstrual disorders"
14 and is "effective for menopause symptoms including hot flashes";
15 Herbalife Flora-Fiber which defendants claim is a product that
16 "scrubs and cleanses" the intestine with fiber and that because
17 the product restores proper flow in the intestine it " prevents
18 disease" and that one who uses it "won't get disease"; and
19 Herbalife K-8, which defendants claim "stops induced depression"
20 and "elevates your mood so you can handle stress" by normalizing
21 "three neural hormones in the brain."

22 14. Since defendants began in business, they have
23 published a manual for their distributors which they refer to as
24 the "Herbalife Official Career Handbook." Although various
25 editions of this "Career Book" have been published, and
26 revisions have been made to various pages and the descriptions
27 of various products (for example, attached hereto and

1 incorporated herein by this reference as Exhibit 1, are pages
2 B-4 through B-10 of defendant's Career Book, bearing a copyright
3 date of 1982, wherein defendants' describe their Formula #2;
4 attached hereto and incorporated herein by this reference as
5 Exhibit 2, is page B-6 of defendant's Career Book, which page
6 bears a 1984 copyright date, wherein defendants' describe their
7 Formula #2), defendants do not replace those earlier pages which
8 are in their distributors possession with the newly revised
9 pages. Rather such earlier pages are allowed to remain in
10 circulation and be used for sales promotion purposes.

11 Defendants not only describe their products in the Official
12 Career Book, but also in other product literature and sales aids
13 as well as on television shows which defendants, since 1983,
14 have broadcast over cable television stations. These television
15 shows, the purpose of which is to promote Herbalife products and
16 the Herbalife marketing program, are usually hosted by
17 defendants Mark Hughes and Lawrence Thompson. During these
18 shows defendants ask for testimonials from the audience
19 regarding individuals' experiences with the various Herbalife
20 products.

21 15. Defendants, in an attempt to attract new
22 individuals to join their marketing plan as distributors of
23 their products, produce a magazine (Herbalife Journal) and
24 television shows and opportunity meetings which extol the
25 economic benefits of being an Herbalife distributor. For
26 example:

27 /

1 (a) Each issue of the Herbalife Journal
2 contains stories of individuals who have made large
3 sums of money by being distributors of Herbalife
4 products and have built large distributor networks
5 for the distribution of such products.

6 (b) Many issues of the Herbalife Journal
7 contain a listing of the names of previous months'
8 top "Production Bonus Winners."

9 (c) The cover of the Herbalife Journal often
10 carries headlines similar to the following:

11 "LADY TRUCK DRIVER EARNED \$250,000.00 to become
12 the ultimate lady executive"; "Former Carpet Cleaner
13 is Cleaning Up Dollars with Herbalife, More Than
14 \$200,000 First Full Year!"; "The Shines - From a
15 Choice of Bankruptcy and Welfare to an INCOME of
16 \$400,000.00 in JUST 12 MONTHS"; "Unemployed Dental
17 Hygienist Earns an INCOME of \$400,000.00 in JUST 12
18 MONTHS"; "AFTER EARNING AN INCOME OF MORE THAN
19 \$175,000.00 IN JUST THE PAST 12 MONTHS . . . we're
20 going for an income that will put it to shame!"; and
21 "HERBALIFE TAKES THE BORTNEM'S from HUMBLE HOME TO
22 HERBAL MANOR."

23 (d) In their television shows, sometimes
24 referred to as an "Herbalife Opportunity Showcase,"
25 and in advertisements therefor, defendants make
26 mention of the "income opportunities offered by a
27 company called Herbalife". In one such advertisement

1 defendants state "And in her first nine months with
2 Herbalife, she earned an average of \$4,500 a month.
3 As wonderful as that sounds, Vicky is not unique.
4 . . . This weekend, you can see hundreds like
5 her . . ."

6 (e) During the "achievement award" portion of
7 the Herbalife Opportunity Showcase presentations are
8 made to the 10 to 15 individuals who during the
9 preceding quarter have earned the most money from
10 Herbalife as a result of their purchase of Herbalife
11 products. It is usually stated during these
12 presentations that each of these individuals has
13 received in excess of \$50,000.

14 (f) During defendants' opportunity television
15 shows, recipients of quarterly awards have made
16 statements similar to the following: "Getting
17 wealthy with Herbalife is the easiest thing you'll
18 ever do."

19 (g) During defendants' opportunity television
20 shows, Defendant Hughes in discussing Defendants'
21 marketing program stated that he had recently heard
22 one distributor tell a potential new distributor that
23 he "didn't care" how the marketing program worked
24 because all he knew was that he was making money.

25 16. Defendants' multi-level marketing scheme for the
26 distribution of their products works as follows:

27 /

1 (a) One ("Q") begins as a "Consultant" by
2 purchasing a distributor kit for \$29.95 from an
3 individual already in the marketing program. Q, as a
4 consultant, purchases all goods at a 25% discount off
5 the suggested retail price. Q can also sponsor other
6 distributors into Defendants' marketing program and
7 "that will help advance the sponsoring consultant (Q)
8 in the marketing system."

9 (b) Q can become a "Senior Consultant" in one
10 of three ways:

11 (1) One Day Qualification - Q purchases
12 in a single order \$400.00 worth of products.
13 (Because of a sliding scale of discount off the
14 suggested retail price based upon the dollar
15 volume purchased, a distributor who purchases
16 as a first, single order \$400.00 worth of
17 product would receive a 30% discount.); or

18 (2) One Month Qualification - Q
19 accumulates \$800.00 worth of product purchases
20 in one calendar month. (Product is purchased
21 at a 25% discount.); or

22 (3) Two Month Qualification - Q
23 accumulates \$400.00 worth of product purchases
24 in two consecutive calendar months. (Product
25 is purchased at a 25% discount.)

26 Once Q becomes a Senior Consultant, he always receives a 30% -
27 42% discount off the suggested retail price on products he

1 purchases. Thus, as a Senior Consultant, Q would receive a 30%
2 - 42% profit when he sold the products at the full suggested
3 retail price. Since Q may have sponsored other consultants,
4 when he is a Senior Consultant he will earn a "wholesale profit"
5 of between 5% (when Q purchases at a 30% discount) and 17% (when
6 Q purchases at a 42% discount) when he resells the product he
7 purchases to one of his sponsored consultants, who purchases at
8 a 25% discount. As a Senior Consultant, Q will start over every
9 month at the 30% discount level, but purchases throughout the
10 month will be accumulated so that all purchases between
11 \$1000-\$1999, for example, will earn a 41% discount and all
12 purchases between \$2000-\$4000 will earn a 42% discount. The
13 largest discount available to a Senior Consultant is 42%.

14 (c) After Q is a Senior Consultant he can
15 further move up defendants' marketing ladder to
16 become a Supervisor in one of two ways:

17 (1) One Month Qualification - Q
18 accumulates \$4000.00 worth of product purchases
19 in one calendar month. \$1000.00 of this amount
20 must represent either Q's own purchases or
21 purchases made by others Q has sponsored (which
22 are not being used by such individual(s) to
23 qualify for Supervisor);

24 (2) Two Month Qualification - Q
25 accumulates \$2000.00 worth of product purchases
26 in two consecutive calendar months. A minimum
27 of \$1000.00 of each \$2000.00 must represent

1 either Q's own purchases or purchases made by
2 others Q has sponsored (which are not being
3 used by such individual(s) to qualify for
4 Supervisor).

5 In either qualification method the purchases of Q plus
6 the purchases of each distributor he has signed up count toward
7 Q's volume requirement.

8 Once Q becomes a Supervisor, he always receives a 50%
9 discount off the suggested retail price on products he purchases.
10 Thus, as a Supervisor, he would receive a 50% profit when he
11 sold the products at the full suggested retail price. Since Q
12 may have sponsored others as Consultants or Senior Consultants
13 he will earn a "wholesale profit" of between 8% (when his
14 sponsored Senior Consultant buys at a 42% discount) and 25%
15 (when his sponsored Consultant buys at a 25% discount) when he
16 resells the product he purchases to one of his sponsored Senior
17 Consultants or Consultants.

18 As a Supervisor, Q can also earn a Royalty Override
19 of 1% to 5% based on the monthly orders of Q and his personal
20 organization (excluding Supervisors) (a sliding scale is used,
21 e.g., 1% for monthly orders totalling \$400 - \$799 up to 5% for
22 monthly orders totalling \$2000 or more). Additionally, if Q has
23 sponsored a Consultant (R) who becomes a Supervisor, and R
24 sponsors a Consultant (T) who becomes a Supervisor, and T
25 sponsors a Consultant (U) who becomes a Supervisor, Q will earn
26 the same percentage Royalty Override bonus (the actual percentage

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1 received depending upon Q's purchases) on each of those
2 Supervisors' (R, T and U) organization's purchase volume.

3 Each Supervisor (Q, R, T and U) must requalify in
4 January of each year in one of the ways available for one to
5 originally become a Supervisor.

6 When Q personally sponsors 10 first line Supervisors
7 (R is a first-line Supervisor because Q sponsored him; T and U
8 are not because Q did not directly sponsor them), he becomes
9 eligible for the Herbalife Retirement Program. These 10 first
10 line Supervisors and Q must each requalify each year. If they
11 do, Q will earn a 5% Royalty Override bonus on the purchases of
12 all three levels of each of these 10 Supervisors' organizations
13 regardless of Q's personal purchase volume.

14 OFFENSES CHARGED

15 17. Beginning at an exact date unknown to the
16 plaintiffs, defendants, with the intent to induce members
17 of the California public to purchase their products, have
18 made untrue or misleading statements which they knew, or by
19 the exercise of reasonable care should have known, to be untrue
20 or misleading at the time these statements were made. These
21 misrepresentations, which violate Health and Safety Code section
22 26460 et seq., and Business and Professions section 17500
23 include, but are not limited to, the following:

24 A. In their Herbalife Official Career Book which
25 bears a copyright date of "1982", defendants make the following,
26 among other, misrepresentations relating to the Herbalife Slim
27 and Trim program: One who takes Slim and Trim will experience

1 an "effective weight loss of 10-29 pounds per month; the
2 products' "herbs naturally curb the appetite;" the product's
3 "herbs naturally cleanse the system;" the product "burns off
4 calories;" and that the product is effective because of "The
5 Amazing Magic of Natural Herbs."

6 B. In their current Herbalife Official Career Book
7 on the page which describes the Slim and Trim program and which
8 bears a 1984 copyright date, defendants make the following,
9 among other, misrepresentations relating to the Herbalife Slim
10 and Trim Program: One who uses the product will experience a
11 "typical weight loss of 10-29 excess pounds per month"; that the
12 product is "Designed for . . . Naturally helping to curb the
13 appetite"; that the product is "Designed for . . . Naturally
14 helping to cleanse the system"; that the product is "Designed
15 for . . . Burning excess calories"; and that the product
16 features "The Amazing Magic of Natural Herbs."

17 C. Defendants' representations, both in their Career
18 Book and during their television shows, imply that because of the
19 "magic of natural herbs" one who uses the Slim and Trim program
20 will, because of the special properties of defendants' products,
21 lose weight separate and apart from a reduction in the user's
22 caloric intake. Such representations are untrue or misleading,
23 in that for defendants' program to work, the user must either
24 restrict his or her caloric intake or increase the rate at which
25 calories are expended; if one does not, then one will, as defen-
26 dants in their television shows and product literature acknowledge
27 is possible, gain weight while using the Slim and Trim Program.

1 D. Defendants' representations, both in their Career
2 Book and during their television shows, imply that their products
3 are beneficial for users because of the herbal content of their
4 products. Such representations are untrue or misleading, in
5 that the manner in which defendants use herbs in many of their
6 products, makes the herbs non-effective for the purposes
7 advertised.

8 E. In their Herbalife Official Career Book which
9 bears a copyright date of "1982" (see Exhibit 1), defendants in
10 describing their Formula #2, which they refer to as the "Miracle
11 Worker," make the following misleading statements when they
12 claim it is helpful for the following, among other, conditions
13 and organs: Addison's Disease, age spots, arthritis, asthma,
14 bronchitis, blood purification, colds, constipation, coughs,
15 drug withdrawal, emphysema, endurance, female complaints,
16 hoarseness, hypoglycemia, longevity, menopause, sex stimulation,
17 the stomach, the throat, ulcers, vitality, colitis, fever, the
18 gall bladder, gall stones, the liver, warts, acne, bad breath,
19 bee stings, bladder infection, blood poisoning, boils,
20 carbuncles, gangrene, the gums, hemorrhage, infection, the
21 prostate, snake bites, tonsillitis, venereal disease, wounds,
22 cold sores, diarrhea, parasites, poison ivy, eczema, herpes,
23 lactation, ringworm, syphilis, leucorrhoea, lupus, mouth sores,
24 the teeth, the vagina, gout, jaundice, migraine headaches,
25 rheumatism, cancer, the eyes, the kidneys, lumbago, the spleen,
26 baldness, bursitis, chicken pox, diabetes, impotency, pleucisy,
27 senility and paralysis.

1 F. Defendants misleadingly claim that because of its
2 iodine content, the use of kelp in Formula #2 is extremely
3 valuable in a weight reduction program.

4 G. Defendants misleadingly claim that the inclusion
5 of lecithin in Formula #2 will result in "inch loss from fatty
6 areas."

7 H. Defendants misleadingly claim that the manner in
8 which they include cider vinegar in Formula #2 acts to "help
9 curb the appetite."

10 I. Defendants misleadingly claim that because of the
11 herbs and the manner in which they are included in Herbalife's
12 products, their use will "cleanse" the villi and help prevent
13 the clogging of the villi in the intestine.

14 J. Defendants misleadingly claim that because of the
15 herbs and the manner in which they are included in Herbalife's
16 products, and their ability to clean the villi in the intestine,
17 one who takes defendants' products will be able to better absorb
18 nutrients.

19 K. In their Herbalife Official Career Book which
20 bears a copyright date of "1982", defendants make the following,
21 among other, misrepresentations relating to the Herbalife
22 Cell-U-Loss product: That the herbs in the product "naturally
23 eliminate cellulite;" that the herbs in the product "naturally
24 eliminate excess fluids" and thus cellulite; that Cell-U-Loss
25 has the following "medicinal properties" which are helpful for
26 the following, among other, conditions and organs: kidney,
27 liver and gall bladder troubles, dropsy, painful urination,

1 sialagogue, dysentery, piles, hemorrhoids, excessive
2 menstruation, gonorrhoea, ulceration of the neck of the womb,
3 scorbutic diseases; and that it is an appetite suppressant.

4 L. In their current Herbalife Official Career Book
5 on the page which describes Cell-U-Loss, and which bears a
6 copyright date of "1984" and in their television shows,
7 defendants make the following, among other, misrepresentations
8 relating to the Herbalife Cell-U-Loss product: That the product
9 is designed for "helping naturally to attack cellulite" and
10 "assisting in eliminating excess fluids"; that the content of
11 the product, including the herbs, is unique and that is the
12 reason the product works on cellulite; and that Cell-U-Loss
13 directs weight loss to particular portions of the body.

14 M. In their Herbalife Official Career Book which
15 bears a copyright date of "1982", defendants make the following,
16 among other, misrepresentations relating to the Herbalife N.R.G.
17 product: That the herb in N.R.G., guarana, "naturally increases
18 energy," "naturally increases mental alertness" and "naturally
19 provides a natural lift"; that its "medical action and uses"
20 include help for mild forms of leucorrhoea, diarrhea, headaches
21 especially of a rheumatic nature, for nervous headaches or the
22 distress that accompanies menstruation, or exhaustion following
23 dissipation; and that it is serviceable where the brain is
24 irritated or depressed by mental exertion.

25 N. In their current Herbalife Official Career Book,
26 on the page which describes N.R.G., and which bears a copyright
27 date of "1984", and in their television shows, defendants make

1 the following, among other, misrepresentations relating to the
2 Herbalife N.R.G. product: That the product is designed to
3 naturally "help increase energy," "aid mental alertness" and
4 "provide a nutritional lift"; that the product helps "to reduce
5 hunger"; that the product is "a great nutritional factor in
6 health."

7 O. In describing their Herbalife N.R.G. product,
8 defendants misleadingly fail to disclose that one of guarana's
9 active ingredients is caffeine.

10 P. In their Herbalife Official Career Book which
11 bears a copyright date of "1982", defendants make the following,
12 among other, misrepresentations relating to the Herbalife
13 Lifeline product: That the product normalizes blood pressure;
14 that it alleviates the abnormal build-up of plaque in the
15 arteries; that it provides "protection of the entire vascular
16 system"; and that it contains nutritional factors "essential for
17 achieving and maintaining a healthy cardiovascular system."

18 Q. In their current Herbalife Official Career Book
19 on the page which describes Herbalife Lifeline and which bears a
20 copyright date of "1984" and in their television shows,
21 defendants make the following, among other, misrepresentations
22 relating to the Herbalife Lifeline product: That the product
23 aids the cardiovascular system; that it is a "very special
24 nutritional supplement"; and that is effective in lowering high
25 blood pressure.

26 R. Defendants imply, in their Herbalife Journal, in
27 their television shows and in their Official Career Books that

1 one who signs up as a distributor can expect to make large sums
2 of money as an Herbalife distributor. Said representations are
3 untrue or misleading in that defendants' have no reasonable
4 basis upon which to assert that most individuals who have joined
5 or who are currently joining defendants' multi-level chain
6 distribution scheme have earned large sums of money as an
7 Herbalife distributor.

8 S. Defendants imply in their Official Career Book
9 that a typical Supervisor should be able to obtain "four new
10 customers and two new distributors each week." Said represen-
11 tations are untrue and misleading in that defendants have no
12 reasonable basis upon which to assert that most Supervisors
13 obtain "four new customers and two new distributors each week."

14 T. Defendants imply that it is not unusual for
15 Supervisors to earn a \$1500 Royalty Override bonus per month.
16 Said representation is untrue or misleading in that defendants
17 have no reasonable basis upon which to assert that most
18 Supervisors will earn a \$1500 per month Royalty Override bonus.

19 U. Defendants state that Herbalife offers a full
20 warranty on all its products based on the customer's satisfac-
21 tion, when such is untrue or misleading. In fact, customers of
22 Herbalife who attempt to invoke the warranty are often thwarted
23 in their efforts by defendants.

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1 SECOND CAUSE OF ACTION

2 VIOLATIONS OF BUSINESS AND PROFESSIONS CODE
3 SECTION 17200 (ACTS OF UNFAIR COMPETITION)

4 18. Plaintiffs reallege and incorporate by reference
5 paragraphs 1 through 16 inclusive, of the First Cause of
6 Action, as though set forth fully and at length herein.

7 19. Beginning on an exact date unknown to plaintiff,
8 defendants, and each of them, have engaged in and are still
9 engaged in the following, among other, acts of unfair competition,
10 as defined in Business and Professions Code section 17200, in
11 that:

12 A. Defendants have violated and continue to violate
13 Business and Professions Code section 17500 as alleged in
14 paragraph 17 above of the First Cause of Action which paragraph
15 is incorporated by this reference as though set forth in full.

16 B. Defendants have violated and continue to violate
17 Health and Safety Code, section 26460 et seq., as alleged in
18 paragraph 17 above of the First Cause of Action which paragraph
19 is incorporated by this reference as though set forth in full.

20 C. Defendants have violated and continue to violate
21 Health and Safety Code section 26461 in that they manufacture,
22 sell, deliver, hold or offer for sale their food and drug
23 products which are falsely advertised as more particularly set
24 forth in paragraph 17 of the First Cause of Action, which
25 paragraph is incorporated herein by this reference as though set
26 forth in full.

27 /

1 D. Defendants have violated and continue to violate
2 Penal Code section 327, in that as defined in said section,
3 defendants have contrived, prepared, set up, and operated an
4 "endless chain" marketing scheme for the distribution of
5 property whereby one who wishes to participate in the scheme
6 ("Q") pays a valuable consideration to defendants for the chance
7 to receive compensation when others who have been introduced by
8 him and when others who are introduced by them, etc., purchase
9 defendants' products, all as more fully described in paragraph
10 16 above, which paragraph is incorporated by this reference as
11 though set forth in full. As set forth therein, it is clear
12 that individuals ("Q") can buy in at any level of the multi-level
13 distribution system, that Q as a distributor who sponsors others
14 ("R") can make money based on the inventory purchases made by R
15 and others Q sponsors without regard to whether any retail sales
16 are made and that Q can also make money based on purchases by
17 those R sponsors without regard to whether any retail sales are
18 made by them.

19 E. Defendants have violated and continue to violate
20 Penal Code section 320 in that their marketing system comprises
21 a lottery as defined in Penal Code section 319.

22 F. Defendants have violated and continue to violate
23 Civil Code section 1812.203 in that their marketing program in
24 so far as one can become a Supervisor by purchasing \$4,000 worth
25 of product from defendants, or a Senior Consultant by purchasing
26 \$800.00 worth of product from defendants comprises a seller
27 assisted marketing plan as defined in Civil Code section

1 1812.201, and defendants have advertised and made representations
2 about their marketing program to potential Supervisors and
3 Senior Consultants prior to complying with the filing
4 requirements of Civil Code section 1812.203.

5 G. Defendants have violated and continue to violate
6 Civil Code section 1812.204(d) in that in describing their
7 marketing program, they make income or earning potential claims
8 without providing the disclosures required by section 1812.204(d).

9 H. Defendants have made many claims relating to the
10 medicinal effects of their products (see, e.g., paragraph 17
11 above). These claims have been disseminated to distributors for
12 use in selling defendants' product. Although defendants' current
13 Official Career Book no longer makes some of these same medicinal
14 claims, defendants have never withdrawn the previous claims, nor
15 instructed distributors to destroy old promotional materials
16 relating to the products. Additionally, through the use of
17 written and televised testimonials, defendants have perpetuated
18 some of the same medicinal claims. Because of the residual
19 effect of their prior claims, and their failure to fully withdraw
20 such claims, defendants commit the unfair act of perpetuating
21 these improper claims through implication by the use of
22 testimonials and "buzz" words in their television shows and
23 their current Official Career Book.

24 I. Defendants have violated and continue to violate
25 Health and Safety Code section 26670 in that they sell or deliver
26 a new drug, as drug is defined in Health and Safety Code section
27 26010(b) in that defendants sell and advertise their products,

(X)

1 as set forth in paragraph 17 of the First Cause of Action, which
2 paragraph is incorporated herein by this reference as though set
3 forth in full, as being able to mitigate, treat or prevent
4 disease in man, without complying with the requirements of Health
5 and Safety Code sections 26670(a) or (b).

6 WHEREFORE, plaintiffs pray that:

7 1. Pursuant to Business and Professions Code sections
8 17203 and 17535, defendants, and each of them, and their
9 employees, agents, salesmen, representatives, successors, and
10 assigns, and all other persons, corporations, or other entities
11 acting under, by, through, or on behalf of defendants, be
12 enjoined from engaging in or performing, directly or indirectly,
13 any and all of the following acts:

14 A. Making or disseminating, or causing to be
15 disseminated, any untrue or misleading statements in connection
16 with the sale, offer for sale, or other disposition of their
17 products, including, but not limited to, those representations
18 set forth in the First Cause of Action of this complaint;

19 B. Failing to comply with any provision of the
20 Sherman Food, Drug, and Cosmetic Law as set forth in the First
21 or Second Cause of Action of this complaint;

22 C. Engaging in any of the practices set forth
23 in the Second Cause of Action of this complaint, or any
24 other unfair, unlawful, or fraudulent business practices.

25 D. Failing to affirmatively recall from all distribu-
26 tors all product literature and Career Book pages which are not

27

/

(X)

1 the most current and replace the returned materials, at no cost
2 to the distributor, with the most current materials.

3 2. Pursuant to Business and Professions Code section
4 17536, defendants, and each of them, be assessed a civil penalty
5 of Two Thousand Five Hundred Dollars (\$2,500), for each
6 violation of section 17500 as proved at trial.

7 3. Pursuant to Business and Professions Code section
8 17206, defendants, and each of them, be assessed a civil penalty
9 of Two Thousand Five Hundred Dollars (\$2,500), for each act of
10 unfair competition in violation of section 17200 as proved at
11 trial.

12 4. Pursuant to Health and Safety Code section 26851,
13 defendants, and each of them, be assessed a civil penalty of One
14 Thousand Dollars (\$1,000) per day for continued violations of
15 the Health and Safety Code provisions as proved at trial.

16 5. Plaintiffs recover their costs, including costs
17 of investigation.

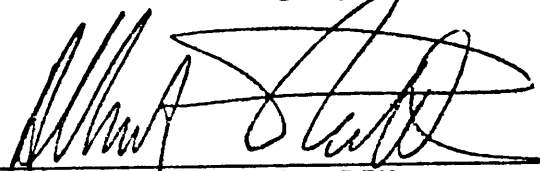
18 6. Plaintiffs have such other and further relief as
19 the nature of the case may require, and the court deems proper,
20 to fully and successfully dissipate the effects of the untrue or
21 misleading representations and the acts of unfair competition

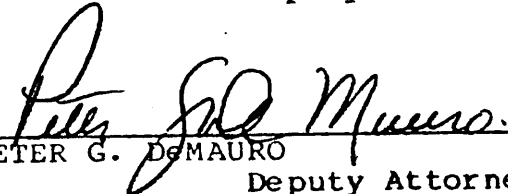
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1 complained of herein, including the relief of ordering defendants
2 to engage in corrective advertising.


3 DATED: February 28, 1985.

4 JOHN K. VAN DE KAMP, Attorney General
5 of the State of California
6 HERSCHEL T. ELKINS
7 CHARLTON HOLLAND
8 Assistant Attorneys General
9 ALBERT NORMAN SHELDEN
10 PETER G. DeMAURO
11 Deputy Attorneys General

12
13 By 
14 ALBERT NORMAN SHELDEN
15 Deputy Attorney General

16
17 By 
18 PETER G. DeMAURO
19 Deputy Attorney General

20 ARTHUR DANNER III
21 District Attorney of Santa Cruz County
22 DON GARTNER
23 Assistant District Attorney

24
25 By 
26 DON GARTNER
27 Assistant District Attorney
Attorneys for Plaintiffs

ANS:gm:sol

HERBALIFE™ SLIM AND TRIM FORMULA #1

All of life requires protein. It is the chief tissue builder and the basic substance of every cell in our bodies. Muscles, hair, blood, skin, nails, and internal organs are basically made up of proteins. Proteins are required in the daily diet for growth, maintenance, and repair of tissue as well as for many other body processes. Proteins are used to make hemoglobin in the blood and form antibodies that fight infection. It also supplies energy to the body. After foods are eaten, the proteins are broken down into amino acids which are rearranged to form the thousands of special and distinct proteins in the body.

Herbalife Slim and Trim Formula #1 is a high quality, balanced protein powder from natural, vegetable soy, casein and whey protein. It contains no saturated fats and no animal ingredients. It contains all 22 protein-building amino acids including the 8 essential amino acids that the body cannot produce and which must be supplied by our diet. This powder is effective because the protein is properly balanced with the appropriate proportions of amino acids required by the body. If they were not balanced, the body would use the excess for energy and fat production much like it uses carbohydrates. This would result in weight gain rather than weight loss.

The basis of the complete Herbalife Slim and Trim program is in the fact that when the body's need for protein is supplied and the intake of fats and carbohydrates are limited, the body will use the unwanted stored fat tissue for its energy production rather than use its precious protein tissue.

Presenting a Special Blend of 14 Herbs

We call this the *Miracle Worker*—a special blend of 14 herbs, plus kelp, lecithin, B-6, and cider vinegar.

FORMULA #2

Licorice

Licorice has a slightly laxative effect and helps to maintain blood sugar levels. It acts as the natural hormone for the adrenal glands in Addisons or Cushings Disease.

Licorice has been helpful in these areas also.

Age Spots	<i>Drug Withdrawal</i>	Menopause
Arthritis	Emphysema	Sex Stimulant
Asthma	<i>Endurance</i>	Stomach
Blood Purifier	<i>Female Complaints</i>	Throat
Bronchitis	Hoarseness	Tonic
Colds	<i>Hypoglycemia</i>	Ulcers
Constipation	Longevity	<i>Vitality</i>
Coughs	Lungs	

Contains *Natural Hormones*

Mandrake

Mandrake acts on liver by relieving bilious sensations. It has a natural cathartic effect. It cleanses through the skin by increasing perspiration, dissolves and removes tumors, expels worms from the body, moves obstructions, and loosens decaying fecal wastes which may be adhering to the intestinal wall. It overcomes adhesions in the body caused by surgery or infection.

Mandrake has been helpful in these areas also.

Colitis	Gall Bladder	Warts
Constipation	Gall Stones	
Fever	Liver	

Saffron

When the body loses fat, the loss can cause a gouty condition. In pregnancy it causes toxemia. Saffron is an essential herb for the person who is reducing since it is necessary to remove fatty waste through the blood stream without causing a uric and lactic build up. Saffron activates the elimination of skin perspiration, and regulates the menstrual flow. It neutralizes uric and lactic acids, thereby assisting digestion.

It is wonderful for stomach gas, measles, skin diseases, scarlet fever, and hysteria. Saffron and Dandelion are both good for acid stomach.

Saffron helps get rid of uric acid—thus helps regular type arthritis. Arthritis cannot tolerate meat because of uric acid which holds calcium in deposit in joints. Saffron reduces lactic acid build up. Lactic acid is what makes muscles sore after exercise. Two Saffron before exercise and two after and no soreness. Saffron also aids adrenal glands and Addison's Disease.

Echinacea

This herb works well in an obesity formula because of its ability to act on the lymph glands of the body and assist in the removal of waste. It is effective in eliminating acute waste such as pus, boils, gangrene, poisonous bites, etc. This wonderful herb literally expels these poisons and toxins and is the blood cleanser for this group of herbs.

Echinacea has also been helpful in these areas.

Acne	Boils	Lymph
Bad Breath	Carbuncles	Prostate
Bee Stings	Fever	Smoking
Bites	Gangrene	Snake Bites
Bladder Infection	Gums	Tonsillitis
Blood Poisoning	Hemorrhage	Venereal Disease
Blood Purifier	Infection	Wounds

It has been known to cleanse the blood in gangrene conditions.

It is especially good for congestion of the *lymphatic system* and *glands*. It is often used with Myrrh.

Black Walnut

Black Walnut expels parasites (as in pork or bad chicken). There are some 300 parasites and 3 out of 4 people have parasites. Black Walnut kills the parasites.

Black Walnut is rich in Manganese which is important for nerves, brain, and cartilage. It is used for many kinds of skin diseases, and is a natural source of iodine for the thyroid gland. It is also helpful in regulating the fluids of the body.

Other areas where Black Walnut has been helpful include:

Boils	Eczema	Leucorrhea
Cold Sores	Herpes	Lupus
Diarrhea	Lactation	Mouth Sores
Parasites	Ringworm	Teeth
Poison Ivy	Syphilis	Vagina

Black Walnut has been used successfully in a tincture for Poison Ivy, Ringworm, and other types of skin disorders. It may also be used as a poultice or taken internally. A powder may be used in brushing teeth to help restore the enamel.

Fennel Seed

This herb also kills the appetite and aids digestion when uric acid is a problem. Fennel increases the flow of urine and clears obstructions from the liver.

Fennel has been helpful in these areas also.

<i>Appetite</i>	Emphysema	Menstruation
Bed Wetting	Eye Wash	Migrane Headaches
Bites	Gall Bladder	Mucous
Bronchitis	<i>Gas</i>	<i>Obesity</i>
<i>Colic</i>	Gout	Rheumatism
Convulsions	Hoarseness	Sinus
Coughs	<i>Indigestion</i>	Spasms
Cramps	Jaundice	Urination

Fennel helps to increase milk for nursing mothers.

Parsley

Parsley is in this formula for its nutritious value. It is high in potassium which helps to regulate the fluids of the body. One of the functions of the thyroid is to regulate body fluids. Parsley helps in this regulatory process.

It is an excellent remedy for difficult urination, dropsy, stones in kidneys, obstructions of liver and spleen, and is one of the most excellent herbs for gallbladder and expells gallstones. It is also excellent for cancer and should be classed among the preventive herbs. Parsley is rich in potassium, and cancerous germs cannot live in potassium.

Parsley is also known to be helpful in these areas.

Allergies	Coughs	Low Blood Pressure
<i>Appetite</i>	Digestion	Lumbago
Arthritis	Eyes	Menstruation
Asthma	Gall Bladder	<i>Pituitary</i>
<i>Bad Breath</i>	Gall Stones	Prostate
Bed Wetting	Gout	Spleen
Bites	Hay Fever	Thyroid
Bruises	Kidneys	Water Retention
Cancer	Liver	

Poke Root

Poke Root is the great cleanser of the lymphatic system. It has a flushing action of the entire body and aids in expelling waste.

Burdock Root

Burdock Root contains B-3, niacin and Vitamin C. Burdock is a helpful addition to this formula, but it also is one of the best blood purifiers, keeping the waste moving out of a weak body where there is weak muscle structure and general weakness, where toxic waste is more rapidly accumulated. It increases the flow of urine.

Additional areas where Burdock is helpful:

- | | | |
|----------------|--------------|--------------------|
| Acne | Cleansing | Nerves |
| Allergies | Eczema | Obesity |
| Arthritis | Endurance | Poison Ivy and Oak |
| Baldness | Gall Bladder | Psoriasis |
| Bladder | Gall Stones | Rheumatism |
| Blood Purifier | Gout | Skin Disease |
| Boils | Hay Fever | Stomach |
| Burns | Hemorrhoids | Throat |
| Bursitis | Itching | Ulcers |
| Cankers | Kidneys | Venereal Disease |
| Chicken Pox | Liver | |

Burdock helps to reduce swelling and deposits in joints. It also helps to regulate the urine flow.

Dandelion

Dandelion has 28 parts sodium, which purifies the blood and destroys acids in the blood. It is a splendid remedy for obesity because most people who are overweight become very over acid as the fat begins to come off the body. Dandelion, being a diuretic, quickly eliminates these acids.

Other areas where Dandelion has been helpful:

- | | | |
|----------------|--------------|--------------|
| Asthenia | Cancer | Fatigue |
| Age Spots | Cleansing | Fever |
| Anemia | Constipation | Gall Bladder |
| Appetite | Cramps | Gall Stones |
| Bladder | Diabetes | Hemorrhage |
| Blood Purifier | Eczema | Hypoglycemia |
| Boils | Endurance | Indigestion |
| Bronchitis | Energy | Insomnia |

Hawthorn

Hawthorn is the heart herb. In obesity the heart is overburdened and fatigued. Hawthorn has a profound effect upon the muscles, body pressure and generally strengthens the heart, dilating, in a mild way the coronary blood vessels of the heart.

It is highly commended as a heart tonic. Hawthorn normalizes blood pressure by regulating heart action and extended use will usually lower blood pressure. It is good for heart muscle weakened by age and for inflammation of the heart muscle (myocarditis) for arteriosclerosis.

Hawthorn has been helpful in these areas also.

Adrenal Glands	Endurance	Low Blood Pressure
Arteriosclerosis	Energy	Menopause
Arthritis	Heart	Rheumatism
Blood Pressure	<i>Hypoglycemia</i>	
Emotion Stress	Insomnia	

Chickweed

Chickweed has a cooling effect, dissolves tumors, fat and fatty tumors and removes them from the body. It is said to be one of the best remedies for tumors, piles, swollen testes, ulcerated throat and mouth, and deafness. It is excellent for bronchitis, pleurisy, coughs, colds, hoarseness, rheumatism, lungs and bronchial tubes. It heals and soothes anything it comes in contact with. It is also good for inflammation and weakness of the bowels—excellent for swollen hemorrhoids.

Chickweed is helpful in these additional areas.

Acne	Burns	Hemorrhoids
Allergies	Cancer	Hoarseness
<i>Appetite</i>	Canker	Itching
Asthma	Circulation	Impotency
Blood Poisoning	Cleanser	Lungs
<i>Boils</i>	Constipation	Mouth Sores
Bowels	Diabetes	<i>Obesity</i>
Bronchitis	Hay Fever	Pleurisy

Gotu-Kola

Gotu-Kola has a soothing effect on the nervous system and is helpful as a valuable brain food when the diet is limited. It helps overcome fatigue when the person is on a cleansing program. It contains remarkable rejuvenating properties. It is known as "The Secret of Perpetual Youth." It is claimed that it will increase the vitality of 70 and 80 to that of 40. The claim is Gotu-Kola will increase the span of life by 50 years by helping in developing a brain that is incapable of breaking down for a long time.

In the Ceylon Daily News, December 22, 1932, there appeared an article entitled "GOTU-KOLA--THE SECRET OF PERPETUAL YOUTH" from which we quote some excerpts as follows: "GOTU-KOLA has a very ancient history behind it. It was known to writers in India hundreds of years ago, always as a longevity plant. It is claimed that this vegetable will increase the vitality of 70 and 80 to that of 40. The leaves reportedly have a marked energizing effect on the cells of the brain, and can help PRESERVE IT INDEFINITELY. The leaves are not necessarily a stimulant, but are said to be a brain food."

Gotu-Kola has been known to be helpful in these areas also.

<i>Age Spots</i>	High Blood Pressure	<i>Pituitary</i>
Aging	Longevity	Senility
<i>Brain Food</i>	<i>Memory</i>	Vitality
<i>Endurance</i>	Menopause	
Energy	<i>Mental Fatigue</i>	

Papaya Fruit

Papaya is an excellent digestive, an ability which is due to its content of papain, and enzyme similar to pepsin. Improper protein breakdown in the system often leads to constipation. Papaya is effective in relieving constipation due to its ability to denaturize proteins. Also valued as an active blood clotting agent, it has been employed to arrest bleeding. It is also said to be effective in destroying intestinal worms. Papaya is high in Vitamin C as well as a very fine digestive aid.

Papaya Fruit is also helpful in these areas.

Allergies

Gas

Stomach

Digestion

Hemorrhage

Worms

Diverticulitis

Paralysis

Wounds

Kelp

Kelp is a seaweed derivative which is rich in iodine. The inclusion of Kelp in a nutritionally proper diet is extremely important because of what it does for the functioning of the Thyroid Gland. The Thyroid is important for people who are overweight because of its role in burning fat tissue. Kelp is also important to aid digestion, gas, and constipation. The inclusion of Kelp in your diet is like loading a cannon to wage war on obesity. It is also important in fighting the battle of nerves, which is important in our society.

Lecithin

Herbalife Slim and Trim includes the use of Lecithin, which helps to break down, or dissolve, the hard fat cells, or cholesterol. Once broken down, these cells become a source of energy... and are burned away. Lecithin keeps the fat divided into tiny particles and prevents them from clumping together, and appears to redistribute body weight. This is the reason we are so successful with inch loss from fatty areas.

It has also been used in the treatment of softening and then liquifying the hardened cholesterol in the blood stream. One recent scientific study reports, "If enough Lecithin is ingested, atherosclerosis does not occur, regardless of how much cholesterol is consumed. Even if you have a far-advanced case of atherosclerosis, your health can be improved, if you add Lecithin to your diet."

Vitamin B-6

This vitamin plays a major role in protein metabolism. It is important in the production of antibodies as part of the body's immune response. It also is a natural tranquilizer and aids in the prevention of one of the most common complaints of a person on other weight loss programs: nervousness, insomnia and irritability. B-6 works with sodium and potassium to set up a balance to regulate body fluids and thereby prevents water retention.

The Herbalife Slim and Trim program includes the use of B-6 for many other reasons, too. It is a help in reducing cramps in the calves or legs in the middle of the night, helpful to women prior to their menstrual period or during menopause, and a big help in reducing certain weight control. Also, if you're one of those people who notices tingling and numbness in your fingers or toes, B-6 can help you to reduce that. B-6 has been found to be an important source of energy, a great aid in preventing acne and tooth decay, and seems to act as a natural antihistamine. Lack of B-6 seems to be associated with Diabetes and low blood sugar, the cause of some types of kidney stones and burning feet, muscular weakness, ulcers, insomnia, and some types of heart disturbances. You might also notice a help in relieving Pancreatitis, Hemorrhoids and some types of visual disturbances—along with Diarrhea, elevated cholesterol, thinning and loss of hair, eczema, and some male sexual disorders.

Cider Vinegar

Cider Vinegar is a rich source of potassium and other minerals. One of its primary functions is curbing the appetite. It is also important in maintaining energy and fluid balance. It aids in digestion as well as emulsifying fat.

"Country Store" apple cider vinegar is difficult for many people to find these days, but no less authority than the Encyclopedia Britannica says, "Vinegar... is taken as a cure for obesity." Cider vinegar is an old New England folk remedy which has been used for many years as a cure-all, and still being used today.

SLIM AND TRIM FORMULA #2

Presenting a Special Blend of 14 Herbs

We call this the Miracle Worker--a special blend of 14 herbs that are designed to naturally cleanse the digestive system, and naturally help curb the appetite.

The herbs supplied by Formula 2 are: Cascara Sagrada, Senna Leaves, Licorice, Saffron, Echinacea, Black Walnut, Fennel Seed, Parsley, Burdock Root, Dandelion, Hawthorn, Chickweed, Gotu-Kola and Papaya Fruit.

Plus Kelp, Lecithin, B-6, and Cider Vinegar

Kelp is a seaweed derivative, rich in iodine and various trace minerals. It is because of the iodine content that kelp is extremely valuable in a nutritional weight reduction program. Iodine is used by the thyroid gland to produce the two thyroid hormones which help maintain the metabolism of the entire body. They help determine whether we are hungry or full, tired or energetic, nervous or calm. Without sufficient thyroid hormones, our bodies cannot sustain an efficient metabolic rate necessary for "burning" calories and excess stored fat.

Kelp is also important to aid digestion. The inclusion of kelp in your diet, along with other diet nutrition features of our program, is like leading a cannon to wage war on obesity.

Lecithin: Herbalife Slim and Trim includes lecithin, which helps to break down or dissolve hard fat cells or cholesterol. According to the great scientist, Dr. Roger Williams, lecithin is a powerful emulsifier. Lecithin keeps the fat divided into tiny particles so that once broken down, these cells can become a source of energy...to be burned away. Lecithin is very high in essential unsaturated fatty acids and the essential vitamin choline. Use of lecithin in our program is one reason, we believe, we are so successful with inch loss from fatty areas.

Vitamin B-6 plays a major role in protein and fat metabolism. It is required for the proper absorption of vitamin B-12 and for the production of hydrochloric acid. It also helps the function of the essential unsaturated fatty acid, linoleic acid. Vitamin B-6 also plays an important role as a co-enzyme in the breakdown and utilization of

carbohydrates, fats and proteins, and it must be present for the production of antibodies and red blood cells. The release of glycogen for energy from the liver and muscles is facilitated by vitamin B-6. Vitamin B-6 also helps maintain the balance of sodium and potassium, which regulate body fluids and promote the normal functioning of the nervous and musculoskeletal systems. Some of the most common complaints of persons on other weight loss programs are nervousness, insomnia, and irritability. Vitamin B-6 is important for normal nervous system functioning, which is one of many reasons why it is included in our program.

Cider Vinegar: "Country Store" apple cider vinegar is difficult for many people to find these days, but no less an authority than the Encyclopedia Britannica says, "Vinegar...is taken...for obesity." Cider vinegar is an old New England folk remedy which has been used for many years, and is still being used today.

Cider vinegar is a rich source of naturally associated nutrients and factors which can help emulsify fat, among other things. We included it in our program primarily as an aid, together with other features of our program, to help curb appetite.

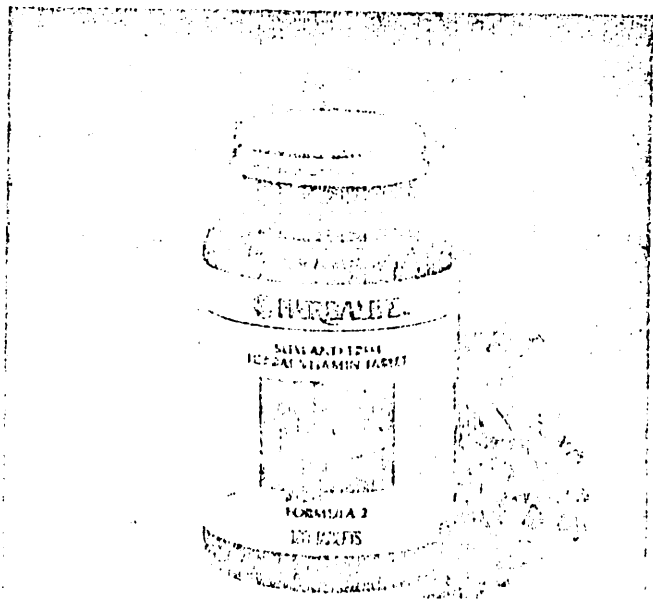


Exhibit 2