

UNITED STATES OF AMERICA  
FEDERAL TRADE COMMISSION

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In the Matter of )  
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)  
KCD HOLDINGS, INC., )  
KCD, INCORPORATED, )  
and DEERFIELD CORPORATION, )  
corporations, and )  
)  
CLARK M. HOLCOMB, )  
individually and as a former officer of )  
KCD Holdings, Inc., and KCD, Incorporated, )  
)  
BONNIE L. RICHARDS, ) DOCKET NO. C-3752  
individually and as an officer of )  
KCD Holdings, Inc., and KCD, Incorporated, )  
and )  
)  
GERALD E. HATTO, )  
individually and as an officer of )  
Deerfield Corporation. )  
\_\_\_\_\_ )

COMPLAINT

The Federal Trade Commission ("Commission"), having reason to believe that KCD, Incorporated, KCD Holdings, Inc., and Deerfield Corporation, corporations, and Clark M. Holcomb, individually and as a former officer of KCD, Incorporated, and KCD Holdings, Inc., and Bonnie L. Richards, individually and as a current officer of KCD, Incorporated, and KCD Holdings, Inc., and Gerald E. Hatto, individually and as an officer of Deerfield Corporation ("respondents"), have violated the provisions of the Federal Trade Commission Act, and it appearing to the Commission that this proceeding is in the public interest, alleges:

1. Respondent KCD Holdings, Inc. ("KCD Holdings"), is a Nevada corporation with its principal office or place of business at 2835 Townsgate Road, Suite 110, Westlake Village, California 91361.
2. Respondent KCD, Incorporated ("KCD"), is a California corporation with its principal office or place of business at 2835 Townsgate Road, Suite 110, Westlake Village, California 91361. KCD is a wholly owned subsidiary of KCD Holdings.
3. Respondent Deerfield Corporation ("Deerfield") is a California corporation with its principal office or place of business at 1455 Valley High Avenue, Thousand Oaks, California 91359. Respondent Deerfield is now and has been at all times relevant to this complaint an advertising agency of KCD and KCD Holdings.
4. Respondent Clark M. Holcomb ("Holcomb") was the president, director and a majority shareholder of KCD Holdings and KCD from November 1993 through April 1996. Individually or in concert with others, he has formulated, directed, controlled or participated in the acts and practices of KCD Holdings and KCD, including the acts and practices alleged in this complaint. His principal office or place of business is the same as that of KCD Holdings.
5. Respondent Bonnie L. Richards ("Richards") is vice president, secretary, and director of KCD Holdings and KCD. Individually or in concert with others, she formulates, directs, controls or participates in the acts and practices of KCD Holdings and KCD, including the acts and practices alleged in this complaint. Her principal office or place of business is the same as that of KCD Holdings.
6. Respondent Gerald E. Hatto ("Hatto") is an officer and the owner of Deerfield. Individually or in concert with others, he formulates, directs, controls or participates in the acts and practices of Deerfield Corporation, including the acts and practices alleged in this complaint. His principal office or place of business is the same as that of Deerfield.
7. Respondents have advertised, labeled, offered for sale, sold and distributed products to the public, including SeQuester, an over-the-counter fat reduction and weight-loss tablet. SeQuester is a "food" and/or "drug," within the meaning of Sections 12 and 15 of the Federal Trade Commission Act.
8. Since at least May 1994, respondents KCD, KCD Holdings, Holcomb and Richards ("KCD respondents") have advertised, distributed and sold an over-the-counter fat reduction and weight-loss product to the public through, among other means, newspaper and radio advertisements disseminated nationally. The KCD respondents have wholesaled this product to retail drug stores and other retailers for resale to the general public. The product, sold under the name "SeQuester," is a combination of fiber and ox bile extract.

9. The acts and practices of respondents alleged in this complaint have been in or affecting commerce, as "commerce" is defined in Section 4 of the Federal Trade Commission Act.

10. The KCD respondents have prepared and disseminated or have caused to be disseminated advertisements for SeQuester, including but not necessarily limited to the attached Exhibits A through E. Respondents Deerfield and Hatto have prepared and disseminated or have caused to be disseminated advertisements for SeQuester, including but not necessarily limited to the attached Exhibits A through C and E. These advertisements contain the following statements and depictions:

A.

**THIS  
IS WHAT  
SEQUESTER  
DOES TO  
THE FAT  
IN FOOD  
YOU  
EAT**

Introducing SeQuester - the revolutionary tablet that "shrinks" the amount of dietary fat your body absorbs.

SeQuester is a lab-tested formula that neutralizes fat in the food you eat - safely and naturally - *before* it's absorbed, so it won't wind up on your body.

SeQuester's unique, patented ingredients bind fat molecules to vegetable fiber passing them gently and harmlessly through your digestive tract. It's like you never ate them at all. Shrink fat with SeQuester. Take advantage of introductory savings, and discover the safe, natural approach to fat reduction. It's in the diet section, today.

(Exhibit A -- newspaper advertisement)

B. **THE FAT STOPS HERE**

Dietary fat is a prime cause of overweight, heart disease, high cholesterol, and other major health problems. So imagine a tablet that can "shrink" the amount of fat your body absorbs.

Imagine SeQuester. A revolutionary discovery that lets you "remove" fat from the food you eat before it's absorbed, so it won't wind up on your body. Or in your arteries.

SeQuester is a safe, natural, lab-tested formula, shown to be effective in lowering fat absorption. It's easy. Just take one or more SeQuester tablets 30 minutes before meals. Its unique, patented formula binds fat molecules to natural vegetable fiber (as illustrated), passing it gently and harmlessly through your digestive tract.

SeQuester is intended for use as part of a program of sensible nutrition and exercise. Unlike fad diets that are ineffective at best, unhealthy at worst, SeQuester contributes to a safe, gradual loss of body fat and weight significantly better than what you're likely to accomplish through dieting and exercise alone.

So get control of fat, before fat controls you. Take advantage of our introductory savings on SeQuester, and experience for yourself this patently superior approach to fat reduction. Look for SeQuester in the diet section, today.

(Exhibit B -- newspaper advertisement)

C. For the holidays, don't cut it all out.  
**Just take SeQuester.**

**SEQUESTER REDUCES FAT FROM THE FOOD YOU EAT.**  
Don't look now, weight watchers, but the holidays are gaining on us. So many parties, so much good food, so hard to say, "no." So consider your choices:

Either you can cut out all those rich, delicious foods that make life worthwhile.

Or you can cut out this coupon and introduce yourself to SeQuester - a revolutionary discovery that helps your body minimize fat retention from the food you eat.

With SeQuester, you can plan on enjoying reasonable portions of all those great holiday foods, confident that their entire fat content won't be showing up on your scale - or in your arteries - come January 1st.

SeQuester is a safe, natural dietary supplement. Its unique, patented formula helps bind fat molecules to natural vegetable fiber, so they pass gently and effortlessly through the digestive tract. Just take one or more tablets 30 minutes before meals.

This season, make SeQuester the centerpiece of all your holiday meals. You'll find it in better drugstores and supermarkets, everywhere.

*NOTE: SeQuester is intended for use as part of a complete program of sensible nutrition and moderate exercise. By following this program, studies suggest that SeQuester contributes to a safe, gradual loss of body fat and weight significantly more successful than dieting and exercise alone.*

(Exhibit C -- newspaper advertisement)

D. . . . .

**Q. SHOULD I INCREASE MY DOSAGE?**

**A:** After two or three days, increase your dosage to 2 tablets prior to your largest and fattiest meal of the day. If no diarrhea results from 2 tablets at your largest meal, you may choose to use 2 tablets before every meal. Some people will even use 3 or

more SeQuester tablets prior to their fattiest meal. If diarrhea occurs, it is controllable. It does not require medication or any treatment. It just means that there is too much fat in your stool to allow a normal bowel movement. This actually is a condition we regard as desirable as it means the fat is leaving your body. Whatever is appropriate for you depends upon how your body responds to lesser dosages, and upon the advice of your physician.

. . . .

(Exhibit D -- product package insert)

E.

## **SeQuester** Natural Nutritional Fat Sequestrant\*

\*SeQuester is a specially formulated patented product which, when used as directed, reduces fat and sugar from the foods you eat.

Tests have shown SeQuester effects metabolizable energy, thus increasing fecal energy (calorie) excretion and reduces hunger feelings without increasing total calorie intake.

(Exhibit E -- product package label)

### **The KCD Respondents**

11. Through the means described in Paragraph 10, the KCD respondents have represented, expressly or by implication, that:

- A. SeQuester prevents or significantly reduces the body's absorption of fat from consumed food.
- B. SeQuester significantly reduces the body's absorption of sugar from consumed food.
- C. Scientific research demonstrates that SeQuester prevents or significantly reduces the body's absorption of fat from consumed food.
- D. Scientific research demonstrates that SeQuester causes significant weight loss.

12. In truth and in fact:

- A. SeQuester does not prevent or significantly reduce the body's absorption of fat from consumed food.
- B. SeQuester does not significantly reduce the body's absorption of sugar from

consumed food.

- C. Scientific research does not demonstrate that SeQuester prevents or significantly reduces the body's absorption of fat from consumed food.
- D. Scientific research does not demonstrate that SeQuester causes significant weight loss.

Therefore, the representations set forth in Paragraph 11 were, and are, false or misleading.

13. Through the means described in Paragraph 10, the KCD respondents have represented, expressly or by implication, that they possessed and relied upon a reasonable basis that substantiated the representations set forth in Paragraph 11(A) and(B), at the time the representations were made.

14. In truth and in fact, the KCD respondents did not possess and rely upon a reasonable basis that substantiated the representations set forth in Paragraph 11(A) and (B), at the time the representations were made. Therefore, the representation set forth in Paragraph 13 was, and is, false or misleading.

15. Through the means described in Paragraph 10, the KCD respondents have represented, expressly or by implication, that:

- A. SeQuester causes significant weight loss.
- B. Use of SeQuester allows consumers to eat high-fat foods without gaining weight.
- C. SeQuester causes significantly greater loss of weight and body fat than diet and exercise alone.
- D. Use of SeQuester allows consumers to eat high-fat foods without increasing their risk of high cholesterol, clogged arteries, heart disease and other health problems associated with a high-fat diet.
- E. SeQuester reduces the risk of high cholesterol, clogged arteries, heart disease, and other health problems associated with a high-fat diet.
- F. Use of SeQuester in amounts sufficient to cause diarrhea is beneficial and safe.

16. Through the means described in Paragraph 10, the KCD respondents have represented, expressly or by implication, that they possessed and relied upon a reasonable basis that substantiated the representations set forth in Paragraph 15, at the time the representations were

made.

17. In truth and fact, the KCD respondents did not possess and rely upon a reasonable basis that substantiated the representations set forth in Paragraph 15, at the time the representations were made. Therefore, the representation set forth in Paragraph 16 was, and is, false or misleading.

**Respondents Deerfield and Hatto**

18. Through the means described in Paragraph 10, including but not limited to the advertisements attached as Exhibits A through C and E, respondents Deerfield and Hatto have represented, expressly or by implication, that:

- A. SeQuester causes significant weight loss.
- B. Use of SeQuester allows consumers to eat high-fat foods without gaining weight.
- C. Use of SeQuester allows consumers to eat high-fat foods without increasing their risk of high cholesterol, clogged arteries, heart disease and other health problems associated with a high-fat diet.
- D. SeQuester prevents or significantly reduces the body's absorption of fat from consumed food.
- E. SeQuester reduces the risk of high cholesterol, clogged arteries, heart disease and other health problems associated with a high-fat diet.
- F. SeQuester significantly reduces the body's absorption of sugar from consumed food.

19. Through the means described in Paragraph 10, including but not limited to the advertisements attached as Exhibits A through C and E, respondents Deerfield and Hatto have represented, expressly or by implication, that they possessed and relied upon a reasonable basis that substantiated the representations set forth in Paragraph 18, at the time the representations were made.

20. In truth and in fact, respondents Deerfield and Hatto did not possess and rely upon a reasonable basis that substantiated the representations set forth in Paragraph 18, at the time the representations were made. Therefore, the representation set forth in Paragraph 19 was, and is, false or misleading.

21. Through the means described in Paragraph 10, including but not limited to the advertisements attached as Exhibits A through C and E, respondents Deerfield and Hatto have represented, expressly or by implication, that scientific research demonstrates that SeQuester:

- A. Prevents or significantly reduces the body's absorption of fat from consumed

food.

B. Causes significant weight loss.

22. In truth and in fact, scientific research does not demonstrate that SeQuester:

A. Prevents or significantly reduces the body's absorption of fat from consumed food.

B. Causes significant weight loss.

Therefore, the representation set forth in Paragraph 21 was, and is, false or misleading.

23. Respondents Deerfield and Hatto knew or should have known that the representations set forth in Paragraphs 18, 19 and 21 were, and are, false or misleading.

24. The acts and practices of respondents as alleged in this complaint constitute unfair or deceptive acts or 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.

THEREFORE, the Federal Trade Commission this sixteenth day of June, 1997, has issued this complaint against respondents.

By the Commission.

Donald S. Clark  
Secretary

SEAL:

[Exhibits A-E attached to paper copies of complaint, but not available in electronic form.]