

UNITED STATES OF AMERICA  
FEDERAL TRADE COMMISSION

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In the Matter of	)	File No. 972 3024
	)	
KAVE ELAHIE d/b/a M.E.K. INTERNATIONAL,	)	AGREEMENT CONTAINING
	)	CONSENT ORDER
a sole proprietorship.	)	
	)	

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The Federal Trade Commission has conducted an investigation of certain acts and practices of Kave Elahie doing business as M.E.K. International ("proposed respondent"). Proposed respondent is willing to enter into an agreement containing a consent order resolving the allegations contained in the attached draft complaint. Therefore,

**IT IS HEREBY AGREED** by and between Kave Elahie and counsel for the Federal Trade Commission that:

1. Proposed respondent Kave Elahie, doing business as M.E.K. International, is a sole proprietorship doing business under and by virtue of the laws of the State of California, with his principal place of business located at 1669 Emeric Street, Simi Valley, California 93065.
2. Proposed respondent admits all the jurisdictional facts set forth in the draft complaint.
3. Proposed respondent waives:
  - a. Any further procedural steps;
  - b. The requirement that the Commission's decision contain a statement of findings of fact and conclusions of law; and
  - c. All rights to seek judicial review or otherwise to challenge or contest the validity of the Order entered pursuant to this agreement.
4. This agreement shall not become part of the public record of the proceeding unless and until it is accepted by the Commission.

If this agreement is accepted by the Commission, it, together with the draft complaint, will be placed on the public record for a period of sixty (60) days and information about it publicly released. The Commission thereafter may either withdraw its acceptance of this agreement and so notify the proposed respondent, in which event it will take such action as it may consider appropriate, or issue and serve its complaint (in such form as the circumstances may require) and decision in disposition of the proceeding.

5. This agreement is for settlement purposes only and does not constitute an admission by proposed respondent that the law has been violated as alleged in the draft complaint, or that the facts as alleged in the draft of Complaint, other than the jurisdictional facts, are true.

6. This agreement contemplates that, if it is accepted by the Commission, and if such acceptance is not subsequently withdrawn by the Commission pursuant to the provisions of Section 2.34 of the Commission's Rules, the Commission may, without further notice to proposed respondent, (1) issue its Complaint corresponding in form and substance with the draft complaint and its decision containing the following order in disposition of the proceeding and (2) make information about it public. When so entered, the order shall have the same force and effect and may be altered, modified, or set aside in the same manner and within the same time provided by statute for other orders. The order shall become final upon service. Delivery of the complaint and the decision and order to the proposed respondent by any means specified in Section 4.4 of the Commission's Rules shall constitute service. Proposed respondent waives any right he may have to any other manner of service. The complaint may be used in construing the terms of the order. No agreement, understanding, representation, or interpretation not contained in the order or in the agreement may be used to vary or contradict the terms of the order.

7. Proposed respondent has read the draft complaint and consent order. He understands that he may be liable for civil penalties in the amount provided by law for each violation of the order after it becomes final.

#### ORDER

#### DEFINITIONS

For the purposes of this order, the following definitions shall apply:

1. "Competent and reliable scientific evidence" shall mean tests, analyses, research, studies, or other evidence based on the expertise of professionals in the relevant area, that has been conducted and evaluated in an objective manner by persons qualified to do so, using procedures generally accepted in the profession to yield accurate and reliable results; and
2. Unless otherwise specified, "respondent" shall mean Kave Elahie, individually and doing business as M.E.K. International, his successors and assigns and each of his officers agents, representatives, and employees.
3. "Commerce" shall mean as defined in Section 4 of the Federal Trade Commission Act, 15 U.S.C. § 44.

I.

IT IS ORDERED that respondent, directly or through any corporation, subsidiary, division, or other device, in connection with the labeling, advertising, promotion, offering for sale, sale, or distribution of the "NutraTrim Bio-Active Cellulite Control Cream," or "NutraTrim Weight Loss" tablets, or any other food, drug, or dietary supplement, as "food" and "drug" are defined in Section 15 of the Federal Trade Commission Act, in or affecting commerce, shall not make any representation, in any manner, expressly or by implication:

- A. That such product causes, aids, facilitates or contributes to reducing body fat;
- B. That such product causes, aids, facilitates or contributes to causing rapid weight or body fat loss;
- C. That such product causes or assists in causing weight or fat loss without dieting or strenuous exercise;
- D. That such product reduces serum cholesterol levels;
- E. That such product increases human metabolism;
- F. That such product controls appetite;
- G. That such product increases energy or stamina; or

H. That such product eliminates cellulite or fat;

unless at the time it is made, respondent possesses and relies upon competent and reliable scientific evidence that substantiates the representation.

II.

IT IS FURTHER ORDERED that respondent, directly or through any corporation, subsidiary, division, or other device, in connection with the labeling, advertising, promotion, offering for sale, sale, or distribution of the "NutraTrim Bio-Active Cellulite Control Cream," or "NutraTrim Weight Loss" tablets, or any other food, drug, or dietary supplement, as "food" and "drug" are defined in Section 15 of the Federal Trade Commission Act, in or affecting commerce, shall not make any representation, in any manner, expressly or by implication, regarding the performance, benefits, efficacy, or safety of such product, unless at the time it is made, respondent possesses and relies upon competent and reliable scientific evidence that substantiates the representation.

III.

IT IS FURTHER ORDERED that respondent, directly or through any corporation, subsidiary, division, or other device, in connection with the labeling, advertising, promotion, offering for sale, sale, or distribution of the "NutraTrim Bio-Active Cellulite Control Cream," or "NutraTrim Weight Loss" tablets, or any other food, drug, or dietary supplement, as "food" and "drug" are defined in Section 15 of the Federal Trade Commission Act, in or affecting commerce, shall not make any misrepresentation, in any manner, expressly or by implication, regarding the existence, contents, validity, results, conclusions, or interpretations of any test or study.

IV.

IT IS FURTHER ORDERED that respondent, directly or through any corporation, subsidiary, division, or other device, in connection with the labeling, advertising, promotion, offering for sale, sale, or distribution of any product in or affecting commerce, shall not represent, in any manner, expressly or by implication, that the experience represented by any user testimonial or endorsement of the product represents the typical or ordinary experience of members of the public who use the product, unless:

- A. At the time it is made, respondent possesses and relies upon competent and reliable scientific evidence that substantiates the representation; or
- B. Respondent discloses, clearly and prominently, and in close proximity to the endorsement or testimonial, either:
  - 1. what the generally expected results would be for users of the product, or
  - 2. the limited applicability of the endorser's experience to what consumers may generally expect to achieve, that is, that consumers should not expect to experience similar results.

For purposes of this Part, "endorsement" shall mean as defined in 16 C.F.R. § 255.0(b).

V.

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

VI.

Nothing in this order shall prohibit respondent from making any representation for any drug that is permitted in labeling for such drug under any tentative final or final standard promulgated by the Food and Drug Administration, or under any new drug application approved by the Food and Drug Administration.

VII.

IT IS FURTHER ORDERED that respondent shall, for five (5) years after the last date of dissemination of any representation covered by this order, maintain and upon request make available to the Federal Trade Commission for inspection and copying:

- A. All advertisements and promotional materials containing the representation;
- B. All materials that were relied upon in disseminating the representation; and
- C. All tests, reports, studies, surveys, demonstrations, or other evidence in their possession or control that contradict, qualify, or call into question the representation, or the basis relied upon for the representation, including complaints and other communications with consumers or with governmental or consumer protection organizations.

VIII.

IT IS FURTHER ORDERED that respondent shall deliver a copy of this order to all current and future principals, officers, directors, and managers, and to all current and future employees, agents, and representatives having responsibilities with respect to the subject matter of this order, and shall secure from each such person a signed and dated statement acknowledging receipt of the order. Respondent shall deliver this order to current personnel within thirty (30) days after the date of service of

this order, and to future personnel within thirty (30) days after the person assumes such position or responsibilities.

IX.

IT IS FURTHER ORDERED that respondent Kave Elahie, for a period of ten (10) years after the date of issuance of this order, shall notify the Commission of the discontinuance of his current business or employment, or of his affiliation with any new business or employment. The notice shall include respondent's new business address and telephone number and a description of the nature of the business or employment and his duties and responsibilities. All notices required by this Part shall be sent by certified mail to the Regional Director, Federal Trade Commission, 901 Market Street, Suite 570, San Francisco, California 94103.

X.

IT IS FURTHER ORDERED that respondent shall, within sixty (60) days after the date of service of this order, and at such other times as the Federal Trade Commission may require, file with the Commission a report, in writing, setting forth in detail the manner and form in which he has complied with this order.

XI.

This order will terminate twenty (20) years from the date of its issuance, or twenty (20) years from the most recent date that the United States or the Federal Trade Commission files a complaint (with or without an accompanying consent decree) in federal court alleging any violation of the order, whichever comes later; provided, however, that the filing of such a complaint will not affect the duration of:

- A. Any Part in this order that terminates in less than twenty (20) years;
- B. This order's application to any respondent that is not named as a defendant in such complaint; and
- C. This order if such complaint is filed after the order has terminated pursuant to this Part.

Provided, further, that if such complaint is dismissed or a federal court rules that the respondent did not violate any provision of the order, and the dismissal or ruling is either not appealed or upheld on appeal, then the order will terminate according to this Part as though the complaint had never been filed, except that the order will not terminate between the date

such complaint is filed and the later of the deadline for appealing such dismissal or ruling and the date such dismissal or ruling is upheld on appeal.

Signed this 25th day of March, 1997.

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Kave Elahie, Respondent  
M.E.K. International  
1669 Emeric Street  
Simi Valley, California 93065  
(805) 584-9001

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Ralph E. Stone  
Counsel for the Federal Trade  
Commission

APPROVED:

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Jeffrey Klurfeld  
Regional Director  
San Francisco Regional Office

UNITED STATES OF AMERICA  
FEDERAL TRADE COMMISSION

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In the Matter of )  
 )  
KAVE ELAHIE d/b/a M.E.K. INTERNATIONAL, ) Docket No.  
 )  
a sole proprietorship. )  
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 )

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COMPLAINT

The Federal Trade Commission, having reason to believe that Kave Elahie doing business as M.E.K. International ("respondent"), has 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 Kave Elahie is the sole proprietor of M.E.K. International, a California company with its principal office or place of business at 1669 Emeric Street, Simi Valley, California 93065. Individually or in concert with others, he formulates, directs, or controls the policies, acts or practices alleged in this complaint.

2. Respondent has advertised, labeled, offered for sale, sold, and distributed products to the public, including the "NutraTrim Bio-Active Cellulite Control Cream" (with aminophylline), and the "NutraTrim Weight Loss" tablets (with chromium picolinate) collectively referred to as the NutraTrim products. The NutraTrim products are advertised in Spanish-language magazines, such as Buenhogar. The NutraTrim products are "foods" and/or "drugs" within the meaning of Sections 12 and 15 of the Federal Trade Commission Act.

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

4. Respondent has disseminated or has caused to be disseminated advertisements for the NutraTrim products, including but not necessarily limited to the attached Exhibits A through C. These advertisements contain the following statements:

- A. "Love handles, cellulite and fat. Now you can eliminate it with NutraTrim Bio-activa cream." (Exhibit A)
- B. "Eliminate cellulite. Lose weight in 15 days beginning with the first application." (Exhibit A)
- C. "The results are instantaneous and permanent." (Exhibit A)
- D. "Imagine a bunch of ice melting under the sun. This is how the cellulite in your body will be disappearing thanks to Bio-Active action of NutraTrim cream." (Exhibit A)
- E. "The potent action helps to eliminate the excess water and fat and other wastes that are responsible for cellulite and orange skin. But this is not all. Once you have the perfect body that you have always wanted, you'll have to apply the NutraTrim Bio-Activa only once in awhile and that way you can keep the results that you have always wanted." (Exhibit A)
- F. "Until today this is the most secure and beneficial method to eliminate fat and cellulite from your body." (Exhibit A)
- G. "Remember the results are guaranteed." (Exhibit A)
- H. "Lose up to 35 pounds without having to diet." (Exhibit B)
- I. "Yes today you can eliminate fat and cellulite from your body without having to diet and exercise that are impossible." (Exhibit B)
- J. "Clinical test results in hospitals and labs have confirmed the actions of chromium formulated with other natural ingredients." (Exhibit B)
- K. "NutraTrim is a new treatment that is 100% natural and will help your metabolism to process and eliminate fat and control your appetite." (Exhibit B)
- L. "The results are real: You will lose fat and cellulite in the areas that you wish to lose the most. You will

feel more active and energetic. It lowers the level of cholesterol in your blood." (Exhibit B)

- M. "These results that have been obtained by real multiple tests by scientists and hospitals have proven that the qualities and the ingredients from NutraTrim help to notably eliminate fat and to lessen the level of cholesterol in your blood. Besides, they will not bring down your metabolism. This is very important because it ensures that the weight that you will lose during your treatment will not come back." (Exhibit B)
- N. "Call today and see for yourself how easy it is to lose weight forever with NutraTrim. Without dieting and without extraneous exercises or secondary effects. NutraTrim works for real." (Exhibit B)
- O. Consumer testimonial: "How I lost 34 pounds in little time, without regimens or diets. Its great. I'll bet you anything that in 4 or 5 weeks you'll be skinny as me. Anabella Torres C." (Exhibit C)

5. Through the means described in Paragraph 4, respondent has represented, expressly or by implication, that one or more of the NutraTrim products:

- A. Significantly reduce body fat.
- B. Cause significant and rapid weight loss.
- C. Reduce serum cholesterol.
- D. Increase human metabolism.
- E. Cause weight loss without diet or strenuous exercise.
- F. Control appetite.
- G. Eliminate cellulite or fat.
- H. Increase energy.

6. Through the means described in Paragraph 4, respondent has represented, expressly or by implication, that he possessed and relied upon a reasonable basis that substantiated the

representations set forth in Paragraph 5, at the time the representations were made.

7. In truth and in fact, respondent did not possess and rely upon a reasonable basis that substantiated the representations set forth in Paragraph 5, at the time the representations were made. Therefore, the representation set forth in Paragraph 6 was, and is, false and misleading.

8. Through the means described in Paragraph 4, respondent has represented, expressly or by implication, that scientific studies demonstrate that the NutraTrim products:

- A. Significantly reduce body fat.
- B. Cause significant and rapid weight loss.
- C. Reduce serum cholesterol.
- D. Eliminate cellulite or fat.

9. In truth and in fact, scientific studies do not demonstrate that the NutraTrim products:

- A. Significantly reduce body fat.
- B. Cause significant and rapid weight loss.
- C. Reduce serum cholesterol.
- D. Eliminate cellulite or fat.

Therefore, the representations set forth in Paragraph 8 were, and are, false and misleading.

10. Through the means described in Paragraph 4, respondent has represented, expressly or by implication, that a testimonial from a consumer appearing in the advertisements for a NutraTrim product reflects the typical or ordinary experience of members of the public who use the product.

11. Through the means described in Paragraph 4, respondent has represented, expressly or by implication, that he possessed and relied upon a reasonable basis that substantiated the representation set forth in Paragraph 10, at the time the representation was made.

12. In truth and in fact, respondent did not possess and rely upon a reasonable basis that substantiated the representation set forth in Paragraph 10, at the time the representation was made. Therefore, the representation set forth in Paragraph 11 was, and is, false and misleading.

13. The acts and practices of respondent 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      day of  
    , 1997, has issued this complaint against respondent.

By the Commission.

Donald S. Clark  
Secretary

**SEAL:**



ENGLISH TRANSLATION OF EXHIBIT A

Love handles, cellulite and fat. Now you can eliminate it with NutraTrim Bio-activa cream. Try it and convince yourself.

Eliminate cellulite. Lose weight in 15 days beginning with the first application.

Imagine a bunch of ice melting under the sun.

This is how the cellulite in your body will be disappearing thanks to Bio-Active action of NutraTrim cream. Do not think that this is an exaggeration. From your first application you will see the fantastic results.

What do you have to do?

Very simple. All you have to do is apply the NutraTrim Bio-activa cream with a soft massage in the area you want until the cream disappears and it is absorbed totally into the skin. Repeat the application 2 times a day and that is it. It is that simple.

The results are instantaneous and permanent.

You don't need to wait months to compare the results for yourself. Since the first application you will be able to see results. Your measuring tape doesn't lie. NutraTrim is not a magic cream. But it is scientific. Thanks to the components of Bio-Active Cream it works over the linfa. This is something that you'll find over different parts of your body. The potent action helps to eliminate the excess water and fat and other wastes that are responsible for cellulite and orange skin. But this is not all. Once you have the perfect body that you have always wanted, you'll have to apply the NutraTrim Bio-Activa only once in awhile and that way you can keep the results that you have always wanted.

The opinion of one doctor, Dr. Christine Vivienne from Switzerland, loves the results the NutraTrim Bio-Active has given. It is completely natural and very easy to apply. There is no side effects and in reality it does help to eliminate the deposits of fat in the human body. I recommend it to all my patients. Until today this is the most secure and beneficial method to eliminate fat and cellulite from your body.

100% Quality.

Do not accept cheap imitations. NutraTrim is made of high quality products guaranteeing best results.

Special offer 50% more for free.

Buy your NutraTrim Cream today and get it at the regular price of \$26.95 with 50% more cream. Take advantage now and save.

Do not question it any longer.

Now you have the opportunity to have a beautiful silhouette. You'll be so attractive you'll cause admiration.

Imagine your friends faces when they see the change in your body. More attractive more younger looking and more secure of yourself. Remember that the results are guaranteed. Hurry and mail your coupon today and take advantage of the promotional offer to look better in less time than you expect. You will not regret it.

Total Guarantee.

Try NutraTrim Bio-Active for 30 days and if you are not happy with the results you can return it and we will return your money minus shipping and handling.



## ENGLISH TRANSLATION OF EXHIBIT B

World News. Lose up to 35 pounds without having to diet. This revolutionary new treatment, in reality will help you lose fat. Yes today you can eliminate fat and cellulite from your body without having to diet and exercise that are impossible. Clinical test results in hospitals and labs have confirmed the actions of chromium formulated with other natural ingredients:

Will control your appetite including sweets.

Will help your metabolism to burn fat.

Will preserve your muscular tissue without having to exercise.

With these results this time you will not fail. You will lose weight or we will refund your money.

Do not lose more time or money with products or diets that promise you the world. NutraTrim is a new treatment that is 100% natural and will help your metabolism to process and eliminate fat and control your appetite.

Because of this composition ( minerals, vitamins, plant extracts) NutraTrim can be used by persons of all sexes and ages.

The results are real:

You will lose fat and cellulite in the areas that you wish to lose the most.

They will help to ensure your ideal weight.

You will feel more active and energetic.

It lowers the level of cholesterol in your blood.

These results that have been obtained by real multiple tests by scientists and hospitals have proven that the qualities and the ingredients from NutraTrim help to notably eliminate fat and to lessen the level of cholesterol in your blood. Besides, they will not bring down your metabolism. This is very important because it ensures that the weight that you will lose during your treatment will not come back.

The advantages of NutraTrim:

100% natural.

Any person can use it.

Does not contain uppers or amphetamine.

Does not induce upset stomach, headaches, dizziness, nervousness.

This does not require a special diet.

You do not have to follow a diet plan.

Does not produce extra/hanging skin.

If you have any problems with your health you should consult your doctor first. For better results you should control your meals and try to help yourself with some type of exercise. NutraTrim is a registered product and you can only buy it through MEK.

NutraTrim is the quickest and most convenient system to lose weight. You should see for yourself how the weight disappears and stays off (without a doctor's prescription).

Call today and see for yourself how easy it is to lose weight forever with NutraTrim. Without dieting and without extraneous exercises or secondary effects. NutraTrim works for real.

100% guaranteed. Try NutraTrim and if you are not completely satisfied we will return your money less shipping and handling.



## ENGLISH TRANSLATION OF EXHIBIT C

How I lost 34 pounds in little time, without regimens or diets.

All my life I have been gaining weight. When my baby was born I gained so much weight. Of course I tried so many different things. Nothing would work for me. I really thought that I was a lost cause. You could just say that I was swollen in all of my body, legs, stomach and face. I didn't even know how to dress. I looked horrible and I felt like my husband didn't see me as attractive as before.

I discovered something incredible.

I have a friend. I don't know what she does. She doesn't deprive herself from anything. She eats more than three and for the past year she lost her weight and maintained her body like a model.

One day I asked her what do you do to be so skinny? She confessed her secret to me. A product called NutraTrim that was distributed a couple of years ago.

Let me explain. With this I'm positive that you'll lose weight. Even if you eat a lot. Even if you have tried everything and it didn't work. There is no need to take any medication, no exercise. This product does not have anything to do with others in stores. It has nothing to do with the product you took before. She told me I wouldn't tell you more. You'll see it. Its great. I'll bet you anything that in 4 or 5 weeks you'll be skinny as me. Without believing me too much, I promised her I would try it, and I bet her a good dinner, I was sure to win. I was sure that if it made her lose weight, it would make me lose weight.

I began to use the system the next day. If you don't want to, then don't believe me, but on the third day I had lost 4 ½ lbs. It seemed like a miracle! That morning, I was well, very light with soft skin. Even my husband noticed the difference he started to admire me, something he hadn't done for a long time.

The first week I had already lost 10 lbs.

I continued because it was really easy and very pleasing. After every NutraTrim session, I experienced the same delicious sensation of well-being, besides I had the joy of seeing how the scale marker kept moving to the left. As I saw myself in the mirror, I could see my shape toning, remodeling day after day. Regimes and deprivations have ceased, I ate everything I wanted and I lost weight like that. Imagine, I had lost pounds the first week! In over a month, I went from 173 lbs to 138 lbs, I had a complete change in form. I had literally "uninflated." My legs, my hips had uninflated and my stomach was very flat. My friend had won her bet and I haven't gained weight; the only thing I have gained is my husband because I think he fell in love again because he has begun to be attentive and delicate like when I knew him.

It also has to work for you!

I spoke with my doctor concerning the treatment. He explained that it was the ideal method truly efficient to lose weight because it works quickly, draining the fat out of the cells, above all on the body parts that mostly need thinning: stomach, legs, face. Besides I had the pleasant surprise that my skin had returned to being more firm, more soft and more flexible.

Anabella Torres C.

This system for weight loss really works.

Utilizing the NutraTrim system (easy work) obtain evident results from the first time. In 48 hours you could lose 2 to 4 pounds. Then you will lose weight day by day until you have your ideal weight.

When you look at yourself in a mirror you will be surprised. To see that you have lost weight in places where you need it. Stomach, legs, hips. Your skin will turn more soft and silky.

Would you like to be more seductive? Would you like to be able to wear those dresses that you like a lot? Would you like to have a husband who is proud of you and crazy in love with you, just like the beginning? It is up to you. Don't permit that your husband keep admiring other women. Like Anabella and all others who have done it, you will be absolutely delighted from the results which you will obtain from the treatment NutraTrim. You can lose from 5 to 10 pounds a week until you reach the weight you want.

If you are not 100% delighted and enthusiastic with your weight loss, simply return the container that had the treatment and we will return your purchase price without any conditions or any questions.

Don't you think that we wouldn't make you a proposition like this unless the results were real.  
Don't wait any more. Return the coupon below, right now, today. Don't need to wait to start to lose weight.  
Important: Satisfaction 100% guaranteed.

Analysis of Proposed Consent Order  
to Aid Public Comment

The Federal Trade Commission has provisionally accepted an agreement to a proposed consent order from respondent Kave Elahie doing business as M.E.K. International, a California company that markets the NutraTrim Bio-Active Cellulite Reduction Cream and the NutraTrim Weight Loss tablets.

The proposed consent order has been placed on the public record for sixty (60) days for receipt of comments by interested persons. Comments received during this period will become part of the public record. After sixty (60) days, the Commission will again review the agreement and the comments received and will decide whether it should make final the agreement's proposed order, or withdraw from the agreement and take other appropriate action.

This matter concerns the advertising of the NutraTrim brand products. The advertising of the NutraTrim Bio-Active Cellulite Reduction Cream, which contains aminophylline, claims that the product will eliminate cellulite and fat, even in the absence of general weight loss. The advertising for the NutraTrim Weight Loss tablets, which contain chromium picolinate, claims that the product will cause weight loss, reduce cholesterol levels, control appetite, and increase metabolism. The Commission's complaint charges that the respondent did not possess and rely upon a reasonable basis that substantiated the claims at the time they were made.

In addition, the complaint alleges as false respondent's claim that these claims were based on competent and reliable scientific studies.

Lastly, the Commission's complaint charges that respondent represented, without a reasonable basis, that the testimonials or endorsements from consumers appearing in advertisements for its NutraTrim brand products reflect the typical or ordinary experience of members of the public who use its cellulite reduction cream and weight loss tablets.

The proposed consent order contains provisions designed to remedy the violations charged and to prevent the respondent from engaging in similar acts and practices in the future.

Part I of the proposed order prohibits the respondent from making unsubstantiated claims that its aminophylline-based cream can cause or contribute to cellulite reduction and fat loss and that its chromium picolinate weight loss tablets can cause or contribute to achieving body fat loss, weight loss, reduction in

cholesterol levels, increase in metabolism, or appetite control. Part II of the proposed order prohibits the respondent from making any claims regarding the performance, benefits, efficacy, or safety of its products unless it has competent and reliable scientific evidence to substantiate such claims. Part III of the proposed order prohibits the respondent from making any misrepresentation regarding any test or study.

Part IV of the proposed order addresses claims made through endorsements or testimonials. Under Part IV, the respondent may make such representations if the respondent possesses and relies upon competent and reliable scientific evidence that substantiates the representations; or the respondent must disclose either what the generally expected results would be for users of the advertised products, or the limited applicability of the endorser's experience to what consumers may generally expect to achieve. The proposed order's treatment of testimonial claims is in accordance with the Commission's "Guides Concerning Use of Endorsements and Testimonials in Advertising," 16 C.F.R. 255.2 (a).

Parts V and VI of the proposed order harmonize the requirements of the order with the requirements of the Nutrition Labeling and Education Act of 1990 and with Food and Drug Administration procedures.

The proposed order also requires the respondent to maintain advertising materials and materials relied upon to substantiate claims covered by the order; to provide a copy of the consent agreement to certain personnel in the company; to notify the Commission of any change in his employment; and to file one or more reports detailing compliance with the order.

Under Part XI, the order terminates 20 years from the date of issuance, except under certain specified conditions.

The purpose of this analysis is to facilitate public comment on the proposed order. It is not intended to constitute an official interpretation of the agreement and proposed order or to modify in any way their terms.