consent order from three corporations who operate under the trade name Cancer Treatment Centers of America and offer cancer treatment services to the public. The three corporations are: Cancer Treatment Centers of America, Inc., Midwestern Regional Medical Centers, Inc., and Memorial Medical Center and Cancer Institute, Inc.

The proposed consent order has been placed on the public record for sixty (60) days for reception 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 will decide whether it should withdraw from the agreement or make final the agreement's proposed order.

The Commission has alleged that proposed respondents failed to possess a reasonable basis for claiming that their five year survivorship rates for cancer patients that they treated was ''among the highest recorded.'' The Commission further alleges that representations proposed respondents made about the ability of treatments known as ''whole body hyperthermia'' and ''brachytheraphy'' to successfully treat some cancers and/or improve survivorship rates were also unsubstantiated.

Additionally, the Commission has alleged that proposed respondents claimed that whole body hyperthermia was ''an approved medical procedure,'' implying that the procedure had been approved by an independent agency or medical body when, in fact, it had not. Finally, the Commission has alleged that proposed respondents failed to substantiate advertisements that featured the treatment experiences of former patients and represented, expressly or by implication, that such experiences represented the typical and ordinary experience of consumers of proposed respondents' treatment services.

The proposed consent order addresses the alleged misrepresentations cited in the accompanying complaint by requiring, among other things, that proposed respondents possess a reasonable basis consisting of competent and reliable evidence for any future claims regarding survivorship or cure rates. When appropriate the order would require that such evidence be competent and reliable scientific evidence. Additionally, under the order, any efficacy claims for any modality that purports to treat or mitigate cancer or its attendant symptoms must also be substantiated with competent and reliable scientific evidence.

The order further prohibits proposed respondents from misrepresenting that any independent organization has approved any treatment regimen for cancer. The order also requires that any future claims containing consumer endorsements or testimonials either represent the typical and ordinary experience of consumers of proposed respondents' services or contain a clear and prominent statement referring to the limited applicability of the endorser's experience. Finally, the order requires competent and reliable scientific evidence for any representation about the performance, safety, or benefits of any modality that purports to treat or mitigate cancer, its attendant symptoms or attendant diseases.

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

Donald S. Clark,

Secretary.

[FR Doc. 96–7293 Filed 3–25–96; 8:45 am]

BILLING CODE 6750–01–M

[File No. 952–3478]

Johnson & Collins Research, Inc. and Gregor A. Von Ehrenfels; Consent Agreement with Analysis To Aid Public Comment

AGENCY: Federal Trade Commission.

ACTION: Consent agreement.

SUMMARY: In settlement of alleged violations of federal laws prohibiting unfair acts and practices and unfair methods of competition, this consent agreement, accepted subject to final Commission approval, would prohibit the Minneapolis-based company from making false or unsubstantiated representations in future advertisements for weight-loss booklets or for other weight-loss products or programs. The consent agreement settles allegations that Johnson & Collins's advertisements for the Total Body Reshaping System and the Super Total Body Shaping System (''TBR System''), which appeared in magazines directed at teenage girls, failed to disclose that the TBR System consisted primarily of booklets containing advice on dieting and exercising.

DATES: Comments must be received on or before May 28, 1996.

ADDRESSES: Comments should be directed to: FTC/Office of the Secretary, Room 159, 6th St. and Pa. Ave., NW., Washington, DC 20580.

FOR FURTHER INFORMATION CONTACT:

Joel Winston, Federal Trade Commission, S–4002, 6th and Pennsylvania Ave., NW., Washington, DC, 202–326–3153.

Richard L. Cleland, Federal Trade Commission, S–4002, 6th and Pennsylvania Ave., NW., Washington, DC, 202–326–3088.

SUPPLEMENTARY INFORMATION: Pursuant to Section 6(f) of the Federal Trade Commission Act, 38 Stat. 721, 15 U.S.C. 46 and Section 2.34 of the Commission's Rules of Practice (16 CFR 2.34), notice is hereby given that the following consent agreement containing a consent order to cease and desist, having been filed with and accepted, subject to final approval, by the Commission, has been placed on the public record for a period of sixty (60) days. Public comment is invited. Such comments or views will be considered by the Commission and will be available for inspection and copying at its principal office in accordance with Section 4.9(b)(6)(ii) of the Commission's Rules of Practice (16 CFR 4.9(b)(6)(ii)).

Before Federal Trade Commission

[File No. 952–3478]

In the Matter of *Johnson & Collins Research, Inc.*, a corporation, and *Gregor A. Von Ehrenfels*, individually and as an officer of said corporation; Agreement Containing Consent Order to Cease and Desist.

The Federal Trade Commission, having initiated an investigation of certain acts and practices of Johnson & Collins Research, Inc., a corporation, and Gregor A. Von Ehrenfels, individually and as an officer of said corporation, hereinafter sometimes referred to as proposed respondents, and it now appearing that proposed respondents are willing to enter into an agreement containing an order to cease and desist from the use of the acts and practices being investigated.

It is hereby agreed by and between Johnson & Collins Research, Inc., by its authorized officer, and Gregor A. Von Ehrenfels, individually and as an officer of said corporation, and their attorney, and counsel for the Federal Trade Commission that:

1. Proposed respondent Johnson & Collins Research, Inc. is a corporation organized, existing, and doing business under and by virtue of the laws of the State of Minnesota, with its office and principal place of business located at 5115 Excelsior Blvd., in the City of Minneapolis, State of Minnesota 55416.

Proposed respondent Gregor A. Von Ehrenfels is an officer of said corporation. Individually or in concert with others, he participates in and/or

formulates, directs, and controls the acts and practices of said corporation and his address is the same as that of said corporation.

2. Proposed respondents admit all the jurisdictional facts set forth in the draft of complaint here attached.

3. Proposed respondents waive:

(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 of complaint contemplated thereby, will be placed on the public record for a period of sixty (60) days and information in respect thereto publicly released. The Commission thereafter may either withdraw its acceptance of this agreement and so notify the proposed respondents, 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 respondents of facts, other than jurisdictional facts, or of violations of law as alleged in the draft of complaint here attached.

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 § 2.34 of the Commission's Rules, the Commission may, without further notice to proposed respondents, (1) Issue its complaint corresponding in form and substance with the draft of complaint here attached and its decision containing the following order to cease and desist in disposition of the proceeding and (2) make information public in respect thereto. When so entered, the order to cease and desist 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 by the U.S. Postal Service of the complaint and decision containing the agreed-to order to proposed respondents' address as stated in this agreement shall constitute service. Proposed respondents waive any right they may have to any other manner of service. The complaint may be used in construing the terms of the order, and no agreement, understanding, representation, or interpretation not contained in the order or the agreement may be used to vary or contradict the terms of the order.

7. Proposed respondents have read the proposed complaint and order contemplated hereby. They understand that once the order has been issued, they will be required to file one or more compliance reports showing that they have fully complied with the order. Proposed respondents further understand that they may be liable for civil penalties in the amount provided by law for each violation of the order after it becomes final.

Order

For purposes of this Order;

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

(b) In a print advertisement, the disclosure shall be in a type size, and in a location, that are sufficiently noticeable so that an ordinary consumer will see and read it, in print that contrasts with the background against which it appears. In multipage documents, the disclosure shall appear on the cover or first page.

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

2. ''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.

3. ''Weight-loss product'' shall mean any product or program designed or used to prevent weight gain or to produce weight loss, reduction or elimination of fat, slimming, or caloric deficit in a user of the product or program.

I

It is ordered that respondents, Johnson & Collins Research, Inc., a corporation, its successor and assigns, and its officers; and Gregor A. von Ehrenfels, individually and as an officer of Johnson & Collins Research, Inc.; and respondents' agents, representatives and employees, directly or through any partnership, corporation, subsidiary, division or other device, in connection with the manufacturing, advertising, packaging, labeling, promotion, offering for sale, sale, or distribution of Total Body Reshaping System, Super Total Body Reshaping System, or any substantially similar product, in or affecting commerce, as ''commerce'' is defined in the Federal Trade Commission Act, do forthwith cease and desist from representing, in any manner, directly or by implication, that such product does not require dieting.

II

It is further ordered that respondents, Johnson & Collins Research, Inc., a corporation, its successors and assigns, and its officers; and Gregor A. von Ehrenfels, individually and as an officer of Johnson & Collins Research, Inc.; and respondents' agents, representatives and employees, directly or through any partnership, corporation, subsidiary, division or other device, in connection with the manufacturing, advertising, packaging, labeling, promotion, offering for sale, sale, or distribution of any weight-loss product, in or affecting commerce, as ''commerce'' is defined in the Federal Trade Commission Act, do forthwith cease and desist from representing, in any manner, directly or by implication, that:

A. Such product is effective in causing fast and significant weight loss;

B. Such product is effective in reducing body fat or cellulite;

C. Such product is effective in causing weight loss, fat reduction, or increased muscle tone in specific, desired areas of the body;

D. Such product is effective in burning excess calories, modifying caloric intake, or converting food into energy instead of fat; or

E. Such product has any effect on users' weight, body size or shape, body measurements, appetite,

unless, at the time of making such representation, respondents possess and rely upon competent and reliable scientific evidence that substantiates the representation.

III

Nothing in Parts I and II of this Order shall prohibit respondents from making

representations which promote the sale of books and other publications, provided that, the advertising only purports to express the opinion of the author or to quote the contents of the publication; the advertising discloses the source of the statements quoted or derived from the contents of the publication; and the advertising discloses the author to be the source of the opinions expressed about the publication. This Part shall not apply, however, if the publication or its advertising is used to promote the sale of some other product as part of a commercial scheme.

IV

It is further ordered that respondents, Johnson & Collins Research, Inc., a corporation, its successors and assigns, and its officers; and Gregor A. von Ehrenfels, individually and as an officer of Johnson & Collins Research, Inc.; and respondents' agents, representatives and employees, directly or through any partnership, corporation, subsidiary, division or other device, in connection with the manufacturing, advertising, packaging, labeling, promotion, offering for sale, sale, or distribution of Total Body Reshaping System, Super Total Body Reshaping System, or any substantially similar product, in or affecting commerce, as ''commerce'' is defined in the Federal Trade Commission Act, do forthwith cease and desist from making any representation, in any manner, directly or by implication, that any such product has any effect on weight or body size, unless respondents disclose, clearly and prominently, that such product consists primarily of a booklet or pamphlet containing information and advice on weight loss.

V

It is further ordered that respondents, Johnson & Collins Research, Inc., a corporation, its successors and assigns, and its officers; and Gregor A. von Ehrenfels, individually and as an officer of Johnson & Collins Research, Inc.; and respondents' agents, representatives and employees, directly or through any partnership, corporation, subsidiary, division or other device, in connection with the manufacturing, advertising, packaging, labeling, promotion, offering for sale, sale, or distribution of any weight-loss product, in or affecting commerce, as ''commerce'' is defined in the Federal Trade Commission Act, do forthwith cease and desist from making any representation, in any manner, directly or by implication, that any such weight-loss product has any effect on weight or body size, unless they disclose, clearly and prominently, that dieting and/or increasing exercise is required to lose weight; provided however, that this disclosure shall not be required if respondents possess and rely upon competent and reliable scientific evidence demonstrating that the weight-loss product is effective without either dieting or increasing exercise.

VI

It is further ordered that respondent, Johnson & Collins Research, Inc., shall:

A. Within thirty (30) days after service of this Order, provide a copy of this Order to each of respondent's current principals, officers, directors, and managers, and to all personnel, agents, and representatives having sales, advertising, or policy responsibility with respect to the subject matter of this Order; and

B. For a period of five (5) years from the date of issuance of this Order, provide a copy of this Order to each of respondent's future principals, officers, directors, and managers, and to all personnel, agents, and representatives having sales, advertising, or policy responsibility with respect to the subject matter of this Order who are associated with respondent or any subsidiary, successor, or assign, within three (3) days after the person assumes his or her responsibilities.

VII

It is further ordered that five (5) years after the last date of dissemination of any representation covered by this Order, respondents, or their successors and assigns, shall maintain and upon request make available to the Federal Trade Commission or its staff for inspection and copying:

A. All materials that were relied upon in disseminating such representation; and

B. All tests, reports, studies, surveys, demonstrations or other evidence in their possession or control that contradict, qualify, or call into question such representation, or the basis relied upon for such representation, including complaints from consumers.

VIII

It is further ordered that respondent, Johnson & Collins Research, Inc., shall notify the Federal Trade Commission at least thirty (30) days prior to any proposed change in its corporate structure, including but not limited to dissolution, assignment, or sale resulting in the emergence of a successor corporation, the creation or dissolution of subsidiaries or affiliates, the planned filing of a bankruptcy petition, or any other corporate change that may affect compliance obligations arising out of this Order.

IX

It is further ordered that respondent, Gregor A. von Ehrenfels, shall, for a period of three (3) years from the date of issuance of this Order, notify the Commission within thirty (30) days of the discontinuance of his present business or employment and of his affiliation with any new business or employment involving the advertising, offering for sale, sale, or distribution of any weight-loss product. Each notice of affiliation with any new business or employment shall include respondent's new business address and telephone number, current home address, and a statement describing the nature of the business or employment and his duties and responsibilities.

X

This Order will terminate twenty years from the date of its issuance, or twenty 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 paragraph in this Order that terminates in less than twenty 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 paragraph.

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 paragraph as though the complaint was never 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.

XI

It is further ordered that respondents shall, within sixty (60) days after 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 they have complied with this Order.

Analysis of Proposed Consent Order To Aid Public Comment

The Federal Trade Commission has accepted an agreement to a proposed consent order from proposed respondents Johnson & Collins Research, Inc. and Gregor A. von Ehrenfels, an officer of the corporation.

The proposed consent order has been placed on the public record for sixty (60) days for reception 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 withdraw from the agreement and take other appropriate action or make final the agreement's proposed order.

This matter concerns advertising for ''Total Body Reshaping System'' and ''Super Total Body Reshaping System'' (collectively referred to herein as ''TBRS''). These products are booklets or pamphlets containing advice on dieting and exercise in order to achieve weight loss and body toning. The advertisements ran in teen-oriented magazines.

The Commission's complaint charges that proposed respondents falsely represented that users of the TBRS are not required to consciously diet to lose weight. The complaint also alleges that proposed respondents lacked a reasonable basis when they made the following claims: (1) TBRS is effective in causing fast and significant weight loss; (2) TBRS is effective in significantly reducing body fat and cellulite; (3) TBRS is effective in causing weight loss, fat reduction, and increased muscle tone in specific, desired areas of the body; and (4) TBRS is effective in burning excess calories, modifying caloric intake, and converting food into energy instead of fat. Finally, the complaint alleges that, in light of their representations, proposed respondents' failure to disclose in advertisements that TBRS consists only of booklets or pamphlets containing advice concerning techniques for reducing caloric intake and/or increasing exercise, and that reducing caloric intake and/or increasing exercise is required to lose weight, was a deceptive practice.

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

Part I of the proposed order prohibits proposed respondents from representing that TBRS, or any substantially similar product, does not require dieting. Part II requires proposed respondents to possess competent and reliable scientific evidence before making any of the representations alleged to be unsubstantiated in the complaint for any weight-loss product; as well as any representation that any such product has any effect on users' weight, body size or shape, body measurements, or appetite.

Part III of the proposed order provides that nothing in Parts I and II prohibits proposed respondents from making representations which promote the sale of books and other publications, provided that, the advertising only purports to express the opinion of the author or to quote the contents of the publication; the advertising discloses the source of the statements quoted or derived from the contents of the publication; and the advertising discloses the author to be the source of the opinions expressed about the publication. Part III does not apply to any publication or its advertising that is used to promote the sale of some other product as part of a commercial scheme.

Part IV prohibits proposed respondents from representing that TBRS, or any substantially similar product, has any effect on weight or body size, unless they disclose clearly and prominently that the product consists solely of a booklet or pamphlet containing information and advice on weight loss. Part V requires proposed respondents to disclose that diet or exercise are required to lose weight in connection with any representation about the effect of weight-loss product on weight or body size, unless they have competent and reliable scientific evidence to the contrary.

Part VI requires Johnson & Collins Research to distribute a copy of the order to certain current and future company personnel. Part VII requires proposed respondents to maintain, for five years, all materials that support, contradict, qualify, or call into question any representations they make that are covered by the proposed order. Under Part VIII of the proposed order, Johnson & Collins Research is required to notify the Federal Trade Commission at least thirty days prior to any proposed change in its corporate structure that may affect compliance with the order's obligations. Part IX requires that Gregor A. von Ehrenfels, for a period of three years, notify the Commission of his affiliation with any new business or employment involving the advertising, offering for sale, sale, or distribution of any weight-loss product. Part X provides for the termination of the order after twenty years under certain circumstances. Part XI obligates proposed respondents to file compliance reports with the Commission.

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

Donald S. Clark,

Secretary.

[FR Doc. 96–7292 Filed 3–25–96; 8:45 am]

BILLING CODE 6750–01–M

[File No. 952–3099]

NW Ayer, Inc.; Consent Agreement With Analysis To Aid Public Comment

AGENCY: Federal Trade Commission.

ACTION: Consent agreement.

SUMMARY: In settlement of alleged violations of federal law prohibiting unfair acts and practices and unfair methods of competition, this consent agreement, accepted subject to final Commission approval, would prohibit the New York City-based advertising agency from misrepresenting the absolute or comparative amounts of cholesterol, total fat, saturated fat, or any other fatty acid in eggs or in any meat, dairy, or poultry product and from misrepresenting the existence or results of any test or study. The consent agreement settles allegations arising from Ayer's role in creating advertisements that conveyed allegedly deceptive claims regarding the effect of Eggland's Best eggs on blood cholesterol.

DATES: Comments must be received on or before May 28, 1996.

ADDRESSES: Comments should be directed to: FTC/Office of the Secretary, Room 159, 6th St. and Pa. Ave., NW., Washington, DC 20580.

FOR FURTHER INFORMATION CONTACT:

C. Lee Peeler, Federal Trade Commission, S–4002, 6th and Pennsylvania Ave, NW., Washington, DC, 202–326–3090.

Justin Dingfelder, Federal Trade Commission, S–4302, 6th and Pennsylvania Ave., NW., Washington, DC, 202–326–3088.

SUPPLEMENTARY INFORMATION: Pursuant to Section 6(f) of the Federal Trade Commission Act, 38 Stat. 721, 15 U.S.C. 46 and Section 2.34 of the Commission's Rules of Practice (16 CFR 2.34), notice is hereby given that the following consent agreement containing a consent order to cease and desist, having been filed with and accepted, subject to final approval, by the Commission, has been placed on the public record for a period