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UNITED STATES OF AMERICA
BEFORE FEDERAL TRADE COMMISSION

Commissioners:

Robert Pitofsky
Sheila F. Anthony
Mozelle W. Thompson
Orson Swindle

In the Matter of

MEGA SYSTEMS INTERNATIONAL, INC., a corporation, and JEFFREY SALBERG,
individually and as an officer of the corporation.

DOCKET NO. G3811

DECISION AND ORDER

The Federal Trade Commission having initiated an investigation of certain acts and practices of the respondents named in the caption hereof, and the respondents having been furnished thereafter with a copy of a draft of complaint which the Chicago Regional Office proposed to present to the Commission for its consideration and which, if issued by the Commission, would charge respondents with violations of the Federal Trade Commission Act; and

The respondents, their attorney, and counsel for the Commission having thereafter executed an agreement containing a consent order, an admission by the respondents of all the jurisdictional facts set forth in the aforesaid draft of complaint, a statement that the signing of said agreement is for settlement purposes only and does not constitute an admission by respondents that the law has been violated as alleged in such complaint, and waivers and other provisions as required by the Commission's Rules; and

The Commission having thereafter considered the matter and having determined that it had reason to believe that the respondents have violated the said Act, and that complaint should issue stating its charges in that respect, and having thereupon accepted the executed consent agreement and placed such agreement on the public record for a period of sixty (60) days, and having duly considered the comments filed thereafter by interested persons pursuant to §2.34 of its Rules, now in further conformity with the procedure prescribed in § 2.34 of its Rules, the Commission hereby issues its complaint, makes the following jurisdictional findings and enters the following order:

1. Respondent Mega Systems International, Inc. is an Indiana corporation with its principal office or place of business at 2025 East 175th Street, Lansing, Illinois 60438.
2. Respondent Jeffrey Salberg is an officer of the corporate respondent. His principal office or place of business is at 2025 East 175th Street, Lansing, Illinois 60438.

3.

product or program that is substantially similar in components, techniques, composition and properties.

VI.

IT IS FURTHER ORDERED that respondents, directly or through any corporation, subsidiary, division, or other device, in connection with the labeling, advertising, promotion, offering for sale, sale, or distribution of Dr. Callahan's Addiction Breaking System or any substantially similar product in or affecting commerce, shall not represent, in any manner, expressly or by implication, that:

A. Such product reduces an individual's compulsive desire to eat, leading to significant weight loss;

B. Such product reduces an individual's compulsive desire to eat, leading to significant weight loss without the need to diet or exercise; or

C. Such product cures addictions and compulsions including but not limited to, smoking, eating and using alcohol or heroin.

For purposes of this Part, "substantially similar product" shall mean any product or program that is substantially similar in components, techniques, composition and properties.

VII.

IT IS FURTHER ORDERED that respondents, directly or through any corporation, subsidiary, division, or other device, in connection with the labeling, advertising, promotion, offering for sale, sale, or distribution of Jeanie Eller's Action Reading program or any other product or program that provides instruction in any aspect of reading in or affecting commerce, shall not make any representation, in any manner, expressly or by implication, concerning:

A. The extent to which individuals who use such product learn to read, or

B. The success rate of individuals who use such product,

unless, at the time the representation is made, respondents possess and rely upon competent and reliable evidence, which when appropriate must be competent and reliable scientific evidence, that substantiates the representation.

VIII.

IT IS FURTHER ORDERED that respondents, 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 or program in or affecting commerce, shall not misrepresent, in any manner, expressly or by implication, the existence, contents, validity,

IX.

IT IS FURTHER ORDERED that respondents, 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 or program in or affecting commerce, shall not make any representation, in any manner, expressly or by implication, about the benefits, performance, or efficacy of such product, unless, at the time the representation is made, respondents possess and rely upon competent and reliable evidence, which when appropriate must be competent and reliable scientific evidence, that substantiates the representation.

X.

IT IS FURTHER ORDERED that respondents, 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 or program 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, respondents possess and rely upon competent and reliable scientific evidence that substantiates the representation; or

B. Respondents disclose, 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.

Nothing contrary to, inconsistent with, or in mitigation of the disclosure shall be used in any advertisement or on any label.

XI.

IT IS FURTHER ORDERED that respondents, 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 or program in or affecting commerce, shall not create, produce, sell, or disseminate:

A. Any advertisement that misrepresents, directly or by implication, that it is not a paid advertisement;

sufficient for an ordinary consumer to read, within the first thirty (30) seconds of the advertisement and immediately before each presentation of ordering instructions for the product or service, the following disclosure:

"THE PROGRAM YOU ARE WATCHING IS A PAID ADVERTISEMENT FOR [THE PRODUCT OR SERVICE]."

Provided that, for the purposes of this provision, the oral or visual presentation of a telephone number, email address or mailing address for viewers to contact for further information or to place an order for the product or service shall be deemed a presentation of ordering instructions so as to require the display of the disclosure provided herein; or

C. Any radio commercial or other radio advertisement five (5) minutes in length or longer that does not broadcast, clearly and audibly, within the first thirty (30) seconds of the advertisement and immediately before each presentation of ordering instructions for the product or service or periodically through the program, but no more than approximately ten (10) minutes apart, the following disclosure:

"THE PROGRAM YOU ARE LISTENING TO IS A PAID ADVERTISEMENT FOR [THE PRODUCT OR SERVICE]."

Provided that, for the purposes of this provision, the presentation of a telephone number, email address or mailing address for listeners to contact for further information or to place an order for the product or service shall be deemed a presentation of ordering instructions so as to require the announcement of the disclosure provided herein.

Provided further that, for a period of one (1) year from the date of entry of this order, the specific disclosure language of Subparts XI(B) and (C) shall not apply to any commercial or other video or audio advertisement produced prior to the date of entry of this order that contains a clear and prominent disclosure of the fact that the program is a paid advertisement or presentation within the first thirty (30) seconds of the commercial and immediately before each presentation of ordering instructions for the product or program that includes one or more of the following disclosures:

1. "The following is a paid commercial program brought to you by Mega Systems International, Inc."
2. "This is a paid advertisement for [the product or program]."
3. "The preceding has been a paid commercial program brought to you by Mega Systems International, Inc."

XII.

Nothing in this order shall prohibit respondents 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.

XIII.

IT IS FURTHER ORDERED that:

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 or Exhibit A. Exhibit A shall be printed in its entirety in an easily readable font in at least 12 point double spaced type against a contrasting background and shall contain no additional language. Bracketed language in Exhibit A may be included at Mega Systems' option but is not required. Respondents shall deliver this order or Exhibit A 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.

XVI.

IT IS FURTHER ORDERED that respondent Mega Systems International, Inc. and its

This order will terminate on June 8, 2018, 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 a 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 under 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.

By the Commission [\(1\)](#)

Donald S. Clark
Secretary

SEAL

ISSUED: June 8, 1998

Exhibit A

NOTICE TO MSI, INC'S EMPLOYEES AND AGENTS IN THE SALE OF MSI PRODUCTS

MSI has signed an agreement with the Federal Trade Commission that contains rules and standards about the marketing of products to consumers. With MSI's consent, the FTC has issued an order that gives that agreement the force of law. Of particular importance to you are things that can be said or not said to consumers about any product or service. This document contains several specific parts of the agreement and order that persons who deal directly with customers must know. It is important that you read it and understand it. When you sign it, you will be certifying not only your understanding, but your agreement to follow the requirements.

[It is important that MSI follow the agreement carefully to avoid future legal disputes, and you can be sure that we will make every effort to do so. This document is a way that we make sure that you also understand how important it is to follow it and that MSI takes the agreement and other aspects of dealing fairly with consumers very seriously. You could be 4(nd)TJ ->ing dea

put a burden on you or scare you. To the contrary, MSI puts a lot of effort into making sure its telemarketing scripts are legal and, if you follow them, you will have no problem. However, you should not make claims beyond the script

VI. In connection with the sale of any addiction cure product, MSI shall not represent, in any manner, expressly or by implication, that:

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.

Nothing contrary to the disclosure shall be stated.

On this ____ day of _____, _____, I have read and understood this document and agree to follow it. [I am signing this voluntarily and understand that I could be disciplined, even terminated, for serious violations.]

_____ Employee _____

[_____ Witness _____]

Endnote

(1) Prior to leaving the Commission, former Commissioner Azcuenaga registered a vote in the affirmative for this Decision & Order.