advertising materials that are likely to mislead consumers concerning (1) the effectiveness of EDTA chelation therapy to treat atherosclerosis; and (2) the existence of scientific proof of the effectiveness of EDTA chelation therapy.

The proposed consent order addresses the alleged misrepresentations cited in the accompanying complaint by prohibiting proposed respondent from representing in any future advertising for chelation therapy that EDTA chelation therapy is effective to treat atherosclerosis unless the representation is supported by competent and reliable scientific evidence (Part I.A). In addition, the proposed order requires that proposed respondent have competent and reliable scientific evidence to support any claims about the effectiveness or comparative effectiveness of chelation therapy for any disease of the human circulatory system (Part I.B).

The proposed consent order also prohibits proposed respondent from misrepresenting in any future advertising for chelation therapy, the existence, contents, validity, results, conclusions or interpretations of any test, study, or research (Part II). Part III of the order allows proposed respondent to make representations permitted in labeling by the U.S. Food and Drug Administration.

The proposed consent order also requires that ACAM send a letter to its membership notifying them of the existence of the FTC order and advising them that any member who makes unsubstantiated advertising claims for chelation therapy could be subject to an enforcement action (Part IV). Other provisions in the consent order are customary record keeping, reporting and notification requirements as well as a ''sunsetting'' clause prescribing that the order automatically expires 20 years from either the date that the order becomes effective or the date of the last enforcement action.

The complaint and consent agreement in this matter address issues raised by certain statements that respondent made in its promotional brochures and other materials that were distributed to the public. The Commission's action should not be construed to regulate how doctors use or prescribe drugs in the course of treating their patients or other choice of therapy issues.

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.

By direction of the Commission.

Donald S. Clark,

Secretary.

[FR Doc. 98–33282 Filed 12–15–98; 8:45 am]

BILLING CODE 6750–01–M

FEDERAL TRADE COMMISSION

[File No. 9623270]

Max F. James; Analysis to Aid Public Comment

AGENCY: Federal Trade Commission.

ACTION: Proposed Consent Agreement.

SUMMARY: The consent agreement in this matter settles alleged violations of federal law prohibiting unfair or deceptive acts or practices or unfair methods of competition. The attached Analysis to Aid Public comment describes both the allegations in the draft complaint that accompanies the consent agreement and the terms of the consent order—embodied in the consent agrement—that would settle these allegations.

DATES: Comments must be received on or before February 16, 1999.

ADDRESSES: Comments should be directed to: FTC/Office of the Secretary, Room 159, 600 PA Ave., N.W., Washington, D.C. 20580.

FOR FURTHER INFORMATION CONTACT: Matthew Gold or Sylvia Kundig, San Francisco Regional Office, Federal Trade Commission, 901 Market Street, Suite 570, San Francisco, California 94103, (415) 356–5270.

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 above-captioned 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. The following Analysis to Aid Public comment describes the terms of the consent agreement, and the allegations in the complaint. An electronic copy of the full text of the consent agreement package can be obtained from the FTC Home Page (for December 8, 1998), on the World Wide Web, at ''http://www.ftc.gov/os/actions97.htm.'' A paper copy can be obtained from the FTC Public Reference Room, Room H–130, 600 Pennsylvania Avenue, N.W., Washington, D.C. 20580, either in person or by calling (202) 326–3627. 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).

Analysis of Proposed Consent Order to Aid Public Comment

The Federal Trade Commission has accepted an agreement, subject to final approval, to a proposed consent order from Max F. James (hereinafter ''James'' or ''respondent''). James is a distributor of nutritional supplements for New Vision International, Inc., a multi-level marketing company. In a separate action, the Commission has also accepted a similar agreement involving New Vision International, Inc., an affiliated company, and two individuals.

The proposed consent order has been placed on the public record for sixty (60) days for the 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 any 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 has focused on James' participation in the creation and dissemination of advertisements for a regimen of nutritional supplements that he has called ''God's Recipe.'' The advertisements claimed that God's Recipe could mitigate or cure the effects of Attention Deficit Disorder or Attention Deficit Hyperactivity Disorder.

The proposed complaint alleges that James could not substantiate the following claims: (1) That God's Recipe can cure, prevent, treat or mitigate Attention Deficit Disorder or its symptoms; (2) that God's Recipe can cure, prevent, treat or mitigate Attention Deficit Hyperactivity Disorder or its symptoms; (3) that God's Recipe is an effective alternative treatment to the prescription drug Ritalin for Attention Deficit Disorder and Attention Deficit Hyperactivity Disorder; and (4) that testimonials from consumers appearing in the advertisements for God's Recipe reflect the typical or ordinary experience of members of the public whose children have used the product.

Part I of the proposed consent order prohibits James, when advertising God's Recipe or any other food, drug or dietary supplements, from making claims (1) through (3), above, unless the claim is substantiated at the time it is made. Part II of the proposed order addresses

claims made through endorsements or testimonials. Under Part II, respondent may make such representations if he possesses and relies upon competent and reliable 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 CFR 255.2(a).

Part III of the proposed order prohibits James from making unsubstantiated claims about the safety of any food, drug or dietary supplement, or about the ability of such product to treat, cure, alleviate the symptoms of, prevent, or reduce the risk of developing any disease or disorder. Part IV of the proposed order contains language permitting James to make drug claims that have been approved by the FDA pursuant to either a new drug application or a tentative final or final standard. Part V states that James would be permitted to make claims that the FDA has approved pursuant to the Nutrition Labeling and Education Act of 1990.

Part VI of the proposed order requires James to retain, and make available to the Commission upon request, all advertisements and promotional materials containing any representation covered by the order, as well as any materials that he relied upon in disseminating the representation and any materials that contradict, qualify, or call into question the representation.

Part VII of the proposed order requires James to distribute the order to all current and future employees, agents and representatives having responsibilities under the order. Part VII would permit James to distribute a summary, in the form of a letter attached to the order as Appendix A, in lieu of the actual order.

The remainder of the proposed order contains standard requirements that James notify the Commission of changes in their employments status, and that he file one or more reports detailing his compliance with the order.

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.

By direction of the Commission.

Donald S. Clark,

Secretary.

[FR Doc. 98–33283 Filed 12–15–98; 8:45 am]

BILLING CODE 6750–01–M

FEDERAL TRADE COMMISSION

[File No. 9623270]

New Vision International et al.; Analysis To Aid Public Comment

AGENCY: Federal Trade Commission.

ACTION: Proposed Consent Agreement.

SUMMARY: The consent agreement in this matter settles alleged violations of federal law prohibiting unfair or deceptive acts or practices or unfair methods of competition. The attached Analysis to Aid Public Comment describes both the allegations in the draft complaint that accompanies the consent agreement and the terms of the consent order—embodied in the consent agreement—that would settle these allegations.

DATES: Comments must be received on or before February 16, 1999.

ADDRESSES: Comments should be directed to: FTC/Office of the Secretary, Room 159, 600 Pa. Ave., N.W., Washington, D.C. 20580.

FOR FURTHER INFORMATION CONTACT: Matthew Gold or Sylvia Kundig, San Francisco Regional Office, Federal Trade Commission, 901 Market Street, Suite 570, San Francisco, California 94103, (415) 356–5270.

SUPPLEMENTARY INFORMATION: Pursuant to Section 6(d) 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 above-captioned 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. The following Analysis to Aid Public Comment describes the terms of the consent agreement, and the allegations in the complaint. An electronic copy of the full text of the consent agreement package can be obtained from the FTC Home Page (for December 8, 1998), on the World Wide Web, at ''http://www.ftc.gov/os/actions97.htm.'' A paper copy can be obtained from the FTC Public Reference Room, Room H–130, 600 Pennsylvania Avenue, N.W., Washington, D.C. 20580, either in person or by calling (202) 326–3627. 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)).

Analysis of Proposed Consent Order To Aid Public Comment

The Federal Trade Commission has accepted an agreement, subject to final approval, to a proposed consent order from New Vision International, Inc., NVI Promotions, L.L.C., and their two principals, Jason P. Boreyko and Benson K. Boreyko (hereinafter ''New Vision'' or ''respondents''). New Vision is a multi-level marketing company that sells nutritional supplements. In a separate action, the Commission has also accepted a similar agreement involving Max F. James, a distributor of New Vision products.

The proposed consent order has been placed on the public record for sixty (60) days for the 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 any 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 has focused on New Vision's advertisements for a regimen of nutritional supplements that they called ''God's Recipe.'' The advertisements claimed that God's Recipe could mitigate or cure the effects of Attention Deficit Disorder or Attention Deficit Hyperactivity Disorder.

The proposed complaint alleges that New Vision could not substantiate the following claims: (1) that God's Recipe can cure, prevent, treat or mitigate Attention Deficit Disorder or its symptoms; (2) that God's Recipe can cure, prevent, treat or mitigate Attention Deficit Hyperactivity Disorder or its symptoms; (3) that God's Recipe is an effective alternative treatment to the prescription drug Ritalin for Attention Deficit Disorder and Attention Deficit Hyperactivity Disorder; and (4) that testimonials from consumers appearing in the advertisements for God's Recipe reflect the typical or ordinary experience of members of the public whose children have used the product.

Part I of the proposed consent order prohibits New Vision, when advertising God's Recipe or any other food, drug or dietary supplement, from making claims (1) through (3), above, unless the claim is substantiated at the time it is made. Part II of the proposed order addresses claims made through endorsements or