connection with the advertising or sale of a colloidal silver product, Part IV prohibits proposed respondents from representing that ingestion of colloidal silver is proven effective in the treatment of disease or any number of diseases, or representing that medical studies demonstrate that ingestion of colloidal silver is safe or has no adverse side effects. Part V prohibits proposed respondents from representing that ingestion of colloidal silver is effective in the treatment of arthritis, blood poisoning, cancer, cholera, diptheria, diabetes, dysentery, gonorrheal herpes, influenza, leprosy, lupus, malaria, meningitis, rheumatism, shingles, staph infections, strep infections, syphilis, tuberculosis, whooping cough, or yeast infections unless, at the time the representation is made, proposed respondents possess and rely upon competent and reliable scientific evidence that substantiates the representation.

The proposed order defines ''shark cartilage product'' as ForMor's Ultimate II Shark Cartilage Concentrate or any covered product or service label for which the term ''shark cartilage'' appears on the covered product or service label or any advertising or promotion, and any covered product or service containing ''shark cartilage.'' Part VI requires proposed respondents, in connection with the advertising or sale of any shark cartilage product or any covered product or service, from representing that ingestion of such product is effective in the treatment of arthritis or other degenerative or inflammatory conditions, or is effective in the treatment of brain cancer, unless, at the time the representation is made, proposed respondents possess and rely upon competent and reliable scientific evidence that substantiates the representation.

Part VII prohibits proposed respondents, in connection with the advertising or sale of any covered product or service, from misrepresenting the existence, contents, validity, results, conclusions, or interpretations of any test, study, or research. Part VIII prohibits proposed respondents from representing that the experience represented by any user testimonial or endorsement of a covered product or service represents the typical or ordinary experience of members of the public who use the covered product or service, unless: (a) At the time the representation is made, proposed respondents possess and rely upon competent and reliable scientific evidence that substantiates the representation; or (b) proposed respondents disclose, clearly and prominently, and in close proximity to the endorsement or testimonial, either what the generally expected results would be for users of the covered product or service, or 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.

Part IX provides that proposed respondents, in connection with the advertising or sale of any St. John's Wort product, colloidal silver product, shark cartilage product, or any covered product or service, shall not make any representation that such product or service is effective in the mitigation, treatment, prevention, or cure of any disease or illness, or about the health benefits, performance, safety, or efficacy of any such product or service, unless, at the time the representation is made, proposed respondents possess and rely upon competent and reliable scientific evidence that substantiates the representation.

Part X requires proposed respondents to send a notice to all purchasers of St. John's Kava Kava, colloidal silver, and Ultimate II Shark Cartilage Concentrate informing them of the Commission's complaint allegations and describing the terms of the settlement. Part XI requires proposed respondents to provide refunds upon request to purchasers of colloidal silver and Ultimate II Shark Cartilage Concentrate, and Part XII requires proposed respondents to submit a report specifying the steps they have taken to comply with Part X (purchaser notice provisions) and Part XI (purchaser refund provisions).

Part XIII requires proposed respondents to take reasonable steps to ensure that all employees and agents engaged in sales, order verification, and other customer service functions comply with Parts I through IX of the proposed order. It further requires proposed respondents to terminate any employee who knowingly engages in conduct that violates these parts of the order. Part XIV requires proposed respondents to send each purchaser for resale—defined as any purchaser of any of respondents' St. John's Wort, colloidal silver, or shark cartilage products who orders five or more units of any such product at any one time or twenty or more units of any such products in any three-month period—the purchaser notice provisions required by Part X. In the event that proposed respondents receive any information that subsequent to receipt of such notice a purchaser is using or disseminating any advertisement or promotional material or making any oral statement that contains any prohibited representation or that does not contain the disclosure required pursuant to Part III, proposed respondents are required to investigate such information and upon verification terminate, and not resume, sales or shipments to such purchaser for resale. Part XV would allow proposed respondents to make any representation that is specifically permitted in the labeling for any product by regulations promulgated by the FDA pursuant to the Nutrition Labeling and Education Act of 1990, and would allow respondents to make any representation for any drug that is permitted by the FDA in the drug's labeling.

Part XVI of the proposed order contains record keeping requirements for materials that substantiate, qualify, or contradict claims covered by the proposed order. Part XVII of the proposed order requires distribution of a copy of the order to current and future officers and agents. Part XVIII provides for Commission notification upon a change in the corporate respondent and Part XIX requires Commission notification when the proposed individual respondent changes his business or employment. Part XX requires the proposed respondents to file with the Commission a report demonstrating compliance with the terms and provisions of the order. Part XXI provides for the termination of the order after twenty (20) years under certain circumstances.

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 the proposed order or to modify in any way their terms.

By direction of the Commission.

Donald S. Clark,

Secretary.

[FR Doc. 01–15547 Filed 6–19–01; 8:45 am]

BILLING CODE 6750–01–M

FEDERAL TRADE COMMISSION

[File No. 012 3091]

Michael Forrest, d/b/a Jaguar Enterprises of Santa Ana; 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 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 July 16, 2001.

ADDRESSES: Comments should be directed to: FTC/Office of the Secretary, Room 159, 600 Pennsylvania Ave., NW., Washington, DC 20580.

FOR FURTHER INFORMATION CONTACT: Michael Milgrom, Federal Trade Commission, East Central Region, Eaton Center, Suite 200, 1111 Superior Ave., Cleveland, OH 44114–2507. (216) 263–3419.

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 by the Commission, has been placed on the public record for a period of thirty (30) 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 June 14, 2001), on the World Wide Web, at ''http://www.ftc.gov/os/2001/06/index.htm.'' A paper copy can be obtained from the FTC Public Reference Room, Room H–130, 600 Pennsylvania Avenue, NW., Washington, DC 20580, either in person or by calling (202) 326–3627.

Public comment is invited. Comments should be directed to: FTC/Office of the Secretary, Room 159, 600 Pennsylvania Ave., NW., Washington, DC 20580. Two paper copies of each comment should be filed, and should be accompanied, if possible, by a 3½ inch diskette containing an electronic copy of the comment. 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 Michael Forrest, individually and d/b/a Jaguar Enterprises of Santa Ana (''Forrest'' or the ''proposed respondent''). Forrest is an Internet seller of various electronic devices and herbal remedies purported to cure or treat a wide variety of illnesses and conditions.

The proposed consent order has been placed on the public record for thirty (30) days for reception of comments by interested persons. Comments received during this period will become part of the public record. After thirty (30) 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 and promotional practices related to the sale of various products known as Black Box, Magnetic Pulser, Magnetic Multi-Pulser, Beck-Rife unit, Portable Rife Frequency Generator, PC-Rife#1, PC-Rife#2, PC-Rife#3, and Miracle Herbs. Miracle Herbs is a combination of herbal ingredients purported to cure cancer and other serious diseases. The other products are devices that purport to cure cancer, AIDS, arthritis and other serious diseases by means of passing either an electric current or a magnetic pulse through the body. The Commission's complaint charges that Forrest failed to have a reasonable basis for the following claims, which were made on two Internet websites:

(1) The Black Box is effective in treating cancer, AIDS, hepatitis, Gulf War Syndrome, Chronic Fatigue Syndrome and rheumatoid arthritis;

(2) The Magnetic Pulser, together with the Black Box, is effective in treating cancer, AIDS, hepatitis, Gulf War Syndrome, Chronic Fatigue Syndrome and rheumatoid arthritis;

(3) The Magnetic Multi-Pulser is effective in treating cancer, localized infections and diseases caused by the herpes virus;

(4) The Beck-Rife unit, Portable Rife Frequency Generator, PC-Rife #1, PC-Rife #2, and PC-Rife #3 are effective in treating cancer and other serious diseases;

(5) The Black Box, Magnetic Pulser and Magnetic Multi-Pulser, used as directed, deactivate disease-causing viruses, bacteria (including drug-resistant bacteria), fungi and other parasites in humans; and

(6) The Miracle herbs product is effective in treating cancers of all types, AIDS, bacterial infections and viral infections.

The Complaint also alleges that Forrest claimed that scientific proof demonstrated the truth of two claims: (1) That Miracle Herbs is safe and effective in treating various cancers in humans with no side effects; and, (2) that use of the Black Box, Magnetic Pulser and Magnetic Multi-Pulser is effective to kill, deactivate or disable viruses, bacteria, fungi and other parasites in humans. The Complaint alleges that these claims of scientific proof are false.

Part I of the consent order requires that Forrest not misrepresent that the two claims listed above are scientifically proven.

Part II requires that Forrest must possess competent and reliable scientific evidence to substantiate any representation that:

(a) Any electronic therapy device or any other product or service is effective in (1) treating or curing cancer, AIDS, hepatitis, Gulf War Syndrome, Chronic Fatigue Syndrome, rheumatoid arthritis or Herpes; (2) treating or preventing bacterial infections; or (3) treating or preventing viral infections;

(b) That any such product or service is effective in the mitigation, treatment, prevention, or cure of any disease or illness; or

(c) About the health benefits, performance, safety, or efficacy of any such product or service.

Part III prohibits false claims about scientific support for any electronic therapy device or any service, program, dietary supplement, food, drug, or device. Part IV permits Forrest to make certain claims for devices, drugs or dietary supplements that are permitted in labeling under laws and/or regulations administered by the U.S. Food and Drug Administration. Parts V and VI require Forrest to offer and make a refund to all purchasers of the listed products from Jaguar since April 1, 1999, using the forms and procedures specified. Part VII requires Forrest to file a report with the Commission detailing how he has complied with Parts V and VI.

The remainder of the proposed order contains standard requirements that proposed respondent maintain advertising and any materials relied upon as substantiation for any representation covered by substantiation requirements under the order; distribute copies of the order to certain company officials and employees; distribute copies of the order to any distributors that it might set up; notify the Commission of any change in his status that may affect compliance obligations under the order; and file one or more reports detailing his compliance with the order. Part XIV of the proposed order is a provision whereby the order, absent certain circumstances, terminates twenty years from the date of issuance.

This proposed order, if issued in final form, will resolve the claims alleged in the complaint against the named respondent. it is not the Commission's intent that acceptance of this consent agreement and issuance of a final decision and order will release any claims against any unnamed persons or entities associated with the conduct described in the complaint. 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 to order or to modify in any way their terms.

By direction of the Commission.

Donald S. Clark,

Secretary.

[FR Doc. 01–15549 Filed 6–19–01; 8:45 am]

BILLING CODE 6750–01–M

FEDERAL TRADE COMMISSION

[File No. 002 3098]

MaxCell BioScience, Inc., 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 complaint that accompanies the consent agreement and terms of the consent order—embodied in the consent agreement—that would settle these allegations.

DATES: Comments must be received on or before July 16, 2001.

ADDRESSES: Comments should be directed to: FTC/Office of the Secretary, Room 159, 600 Pennsylvania Ave., NW., Washington, DC 20580.

FOR FURTHER INFORMATION CONTACT: Matthew Daynard, FTC/S–4002, 600 Pennsylvania Ave., NW., Washington, DC 20580. (202) 326–3291.

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 FR 2.34), notice is hereby given that the above-captioned consent agreement containing a consent order to cease and desist, having been filed with an accepted by the Commission, has been placed on the public record for a period of thirty (30) 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 June 14, 2001), on the World Wide Web, at ''http://www.ftc.gov/os/2001/06/index.htm.'' A paper copy can be obtained from the FTC Public Reference Room, Room H–130, 600 Pennsylvania Avenue, NW., Washington, DC 20580, either in person or by calling (202) 326–3627.

Public comment is invited. Comments should be directed to: FTC/Office of the Secretary, Room 159, 600 Pennsylvania Ave., NW., Washington, DC 20580. Two paper copies of each comments should be filed, and should be accompanied, if possible, by a 3½ inch diskette containing an electronic copy of the comment. 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, subject to final approval, an agreement containing a consent order from MaxCell BioScience, Inc. and Stephen Cherniske, president of the corporation (collectively, ''MaxCell'').

The proposed consent order has been placed on the public record for thirty (30) days for receipt of comments by interested persons. Comments received during this period will become part of the public record. After thirty (30) days, the Commission will again review the agreement and the comments received, and will decide whether it should withdraw from the agreement or make final the agreement's proposed order.

This matter involves alleged misleading representations about Longevity Signal Formula (''LSF''), a dietary supplement containing, among other ingredients, arginine, DHEA, and 7-Keto DHEA, and an Anabolic/Catabolic Index™ (''ACI'') test, an at-home (with laboratory analysis) urine test that measures the ratio of 17-ketosteroids to creatinine in one urine sample. This matter concerns allegedly false and unsubstantiated advertising claims made in cassette tapes and web sites distributed directly to consumers and through distributors regarding the ability of LSF to reverse the aging process and, consequently, to prevent, treat, or cure numerous age-related diseases and conditions, and the ability of the ACI test to measure a person's overall healthiness and youthfulness and to prove the effectiveness of LSF for reversing aging.

According to the FTC complaint, MaxCell falsely claimed that the ACI test provides a clinical gauge of an individual's overall healthiness or youthfulness and demonstrates that LSF prevents or reverses aging. In fact, the complaint alleges that the ACI test only measures inactive androgen breakdown products in the urine, which products, in most instances, are not a significant or reliable measure of overall healthiness or youthfulness. The complaint further alleges that MaxCell falsely claimed that scientific testing demonstrates the ability of LSF to: Significantly reduce the risk of atherosclerosis; increase bone density, improve glucose tolerance, reduce body fat, increase muscle mass, and increase growth hormone levels in post-menopausal women; improve liver function; and significantly increase life expectancy.

In addition, the complaint challenges claims that LSF: Significantly reduces the risk of atherosclerosis; cures arthritis; lowers blood pressure; significantly lowers cholesterol levels in the bloodstream; strengthens bones; reduces or eliminates the need for corrective eyewear; promotes significant weight loss and muscle gain without dieting or exercise; increases glucose tolerance; increases Growth Hormone levels in the body, thereby causing positive clinical effects on health; improves liver function; prevents or reverses aging; and significantly increases life expectancy. The complaint alleges that these claims are unsubstantiated.

Finally, the complaint charges that MaxCell, by providing advertisements and promotional materials to distributors for use in their marketing and sale of LSF and the ACI test, have provided means and instrumentalities to distributors of MaxCell's products in furtherance of the deceptive and misleading acts or practices alleged in the complaint.

The proposed consent order contains provisions designed to prevent MaxCell and its distributors from engaging in similar acts and practices in the future and to redress consumer injury by requiring MaxCell to make a monetary payment to the Commission.

Part I of the order bans claims that the ACI Test or any other substantially similar device provides a clinical gauge of an individual's overall healthiness or youthfulness. ''Substantially similar device'' is defined as any product that measures the ratio of 17-ketosteroids to creatinine in one urine sample.