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.

The Commission's complaint charges that proposed respondents made false claims that their Colloidal Silver product had been (1) medically proven to kill over 650 disease-causing organisms in the body; and (2) successfully used to treat all known infections. The Commission's complaint also charges that proposed respondents failed to have a reasonable basis for claims they made about the Colloidal Silver product's (1) efficacy in treating and curing cancer, multiple sclerosis, HIV/AIDS, and other specific illnesses; (2) superiority to antibiotics in healing and curing infections; (3) safety for human consumption without side effects; and (4) superiority in treating various medical and health problems in animals. Proposed respondents have also been charged with failing to have a reasonable basis for claims they made about the efficacy of their Chitosan with vitamin C product, the safety claims for their Ultimate Energizer product containing Mahuang, and other substances. Such claims, promoting dietary supplements, appeared on the website that proposed respondents produced or caused to be produced.

Part I of the consent order prohibits proposed respondents from misrepresenting, including by means of metatags, any claims that Colloidal Silver or any service, program, dietary supplement, food, drug, or device, has been medically proven to kill disease-causing organisms or any number of infections in the body. Part II of the order requires competent and reliable scientific evidence to substantiate representations that Colloidal Silver or any covered product (1) treats and cures cancer, multiple sclerosis, HIV/AIDS, and other specific illnesses; (2) is superior to antibiotics in healing and curing infections; (3) is safe for human consumption and has no side effects; (4) treats various medical and health problems in animals; and (5) enables consumers to lose substantial weight without the need for a restricted diet. Part III of the order prohibits proposed respondents from misrepresenting, including by means of metatags, the existence, contents or interpretation of any test, study, or research. Part V of the order requires that for any future advertisement of products containing ephedra or ephedrine, proposed respondents must include affirmative warnings concerning safety issues. This warning was developed after discussions with the Food and Drug Administration. FDA has announced that it intends to initiate a rulemaking for dietary supplements for women who are or who may become pregnant. In the event that FDA issues a final rule requiring a warning for pregnant women on dietary supplements, respondents may substitute that warning for the disclosure on that topic required under the proposed order. Part IV of the proposed order permits proposed respondents to make certain claims for drugs or dietary supplements, respectively, that are permitted in labeling under laws and/or regulations administered by the U.S. Food and Drug Administration.

The remainder of the proposed order contains standard requirements that proposed respondents 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; notify the Commission of any change in the business entity that may affect compliance obligations under the order; and file one or more reports detailing their compliance with the order. Part XII 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 respondents. 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 order or to modify in any way their terms.

By direction of the Commission.

Donald S. Clark,

Secretary.

[FR Doc. 01–15550 Filed 6–19–01; 8:45 am]

BILLING CODE 6750–01–M

FEDERAL TRADE COMMISSION

[File No. 002 3226]

ForMor, 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 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 Bloom or Donald D'Amato, Federal Trade Commission, Northeast Region, One Bowling Green, Suite 318, New York, NY 10004. (212) 607–2801 or 607–2802.

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, subject to final approval, an agreement to a proposed consent order from ForMor, Inc. (''ForMor''), a corporation, and Stan Goss, individually and as an officer of the corporation (''proposed respondents'').

The proposed consent order has been placed on the public record for thirty (30) days for the 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 comments received and will decide whether it should withdraw from the agreement and take appropriate action or make final the agreement's proposed order.

This matter involves proposed respondents' making of health-related advertising claims on the Internet and elsewhere for their St. John's Kava Kava (a dietary supplement that contains St. John's Wort), colloidal silver, and shark cartilage products. The proposed complaint alleges that proposed respondents violated sections 5 and 12 of the Federal Trade Commission Act by making deceptive claims for these products.

The proposed complaint alleges that proposed respondents made the unsubstantiated claim that ingestion of St. John's Kava Kava is effective in the treatment of HIV/AIDS, colds, syphilis, tuberculosis, dysentery, whooping cough, mania, hypochondria, fatigue, and hysteria. Further, the proposed complaint alleges that proposed respondents represented that ingestion of St. John's Kava Kava is effective in the treatment of HIV/AIDS, but deceptively failed to disclose the material fact that ingestion of St. John's Wort is not compatible with use of protease inhibitors and other drugs used in the treatment of HIV/AIDS. The proposed complaint also alleges that proposed respondents falsely represented that ingestion of St. John's Kava Kava has no serious drug interactions.

The proposed complaint further alleges that proposed respondents falsely claimed that ingestion of colloidal silver is proven effective in the treatment of over 650 infectious diseases, and that medical tests prove that ingestion of colloidal silver is safe and has no adverse side effects. In addition, the proposed complaint alleges that proposed respondents made the unsubstantiated claims that ingestion of colloidal silver is effective in the treatment of arthritis, blood poisoning, cancer, cholera, diphtheria, diabetes, dysentery, gonorrheal herpes, influenza, leprosy, lupus, malaria, meningitis, rheumatism, shingles, staph infections, strep infections, syphilis, tuberculosis, whooping cough, and yeast infections, and that a testimonial from a consumer appearing in the advertisement for proposed respondents' colloidal silver reflects the typical or ordinary experiences of persons with cancer who use the product.

Further, the proposed complaint alleges that proposed respondents made the following unsubstantiated claims regarding their shark cartilage products: Ingestion of shark cartilage is effective in the treatment of arthritis and other degenerative and inflammatory conditions; ingestion of shark cartilage is effective in the treatment of brain cancer; and a testimonial from a consumer appearing in the advertisement for proposed respondents' Ultimate II Shark Cartilage Concentrate reflects the typical or ordinary experience of persons with brain cancer who use the product. Finally, the proposed complaint alleges that proposed respondents falsely represented that scientific research establishes that ingestion of shark cartilage is effective in the treatment of arthritis and other degenerative and inflammatory conditions.

For purposes of the proposed order a ''covered product or service'' means any service, program, dietary supplement, food, drug, or device.

The proposed order defines ''St. John's Wort products'' as ForMor's St. John's Kava Kava or any covered product or service for which the term ''Hypericum Perforatum'' or ''St. John's Wort'' appears on the covered product or service label or in any advertising or promotion, and any covered product or service containing ''Hypericum Perforatum'' or ''St. John's Wort.''

Part I of the proposed consent order prohibits proposed respondents from representing that ingestion of a St. John's Wort product or any covered product or service is effective in the treatment of HIV/AIDS, colds, syphilis, tuberculosis, dysentery, whooping cough, mania, hypochondria, fatigue, or hysteria unless, at the time the representation is made, respondents possess and rely upon competent and reliable scientific evidence that substantiates the representation. Part II of the proposed consent order prohibits proposed respondents from representing that ingestion of a St. John's Wort product has no serious drug interactions.

Part III provides that in any advertisement, promotional material, or product label for any St. John's Wort product, that contains any representation about the efficacy, performance, or safety of such product, and in any discussion, communicated via electronic mail or any telephone line, that contains any representation about the efficacy, performance, or safety of any St. John's Wort product, proposed respondents shall make, clearly and prominently, the following disclosure:

> **Warning:** St. John's Wort can have potentially dangerous interactions with some prescription drugs. Consult your physician before taking St. John's Wort if you are currently taking anticoagulants, oral contraceptives, anti-depressants, anti-seizure medications, drugs to treat HIV or prevent transplant rejection, or any other prescription drug. This product is not recommended for use if you are or could be pregnant unless a qualified health care provider tells you to use it. The product may not be safe for your developing baby.

unless respondents possess competent and reliable scientific evidence that such product produces no adverse drug interactions or side effects. This disclosure was developed after discussions with the Food and Drug Administration. FDA has announced that it intends to initiate a rulemaking for dietary supplements for women who are or who may become pregnant. In the event that FDA issues a final rule requiring a warning for pregnant women on dietary supplements, respondents may substitute that warning for the disclosure on that topic required under the proposed order. Part III specifies that the product label requirements of this Part shall not apply to products that are shipped to consumers or purchasers for resale less than thirty (30) days after the date of service of this order, and that with regard to products shipped after thirty (30) days of the date of service of this order, respondents may affix the disclosure clearly and prominently by sticker or other device on the labels of products manufactured prior to thirty (30) days after the service of this order.

The proposed order defines ''colloidal silver product'' as ForMor's colloidal silver or any covered product or service for which the term ''colloidal silver'' or ''silver salts'' appears on the covered product or service label or in any advertising or promotion, and any covered product or service containing ''colloidal silver'' or ''silver salts.'' In

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]

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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