

UNITED STATES OF AMERICA
FEDERAL TRADE COMMISSION

In the Matter of)
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)
UNIVERSAL MERCHANTS, INC.)
a corporation, and) DOCKET NO. C-3707
)
STEVEN OSCHEROWITZ,)
individually and as an officer)
of the corporation.)
)

)

COMPLAINT

The Federal Trade Commission, having reason to believe that Universal Merchants, Inc., a corporation, and Steven Oscherowitz, individually and as an officer of the corporation (“respondents”), have violated the provisions of the Federal Trade Commission Act, and it appearing to the Commission that this proceeding is in the public interest, alleges:

1. Respondent Universal Merchants, Inc. is a Delaware corporation with its principal office or place of business at 4727 Wilshire Blvd., Suite 510, Los Angeles, CA 90010.
2. Respondent Steven Oscherowitz is an officer of the corporate respondent. Individually or in concert with others, he formulates, directs, or controls the policies, acts, or practices of the corporation, including the acts or practices alleged in this complaint. His principal office or place of business is the same as that of Universal Merchants, Inc.
3. Respondents have manufactured, advertised, labeled, offered for sale, sold, and distributed products to the public, including ChromaTrim and ChromaTrim-100 (“ChromaTrim”), chewing gums containing chromium picolinate. ChromaTrim is “drug,” and/or “food,” within the meaning of Sections 12 and 15 of the Federal Trade Commission Act.
4. The acts and practices of respondents alleged in this complaint have been in or affecting commerce, as “commerce” is defined in Section 4 of the Federal Trade Commission Act.
5. Respondents have disseminated or have caused to be disseminated advertisements for

ChromaTrim, including but not necessarily limited to the attached Exhibits A and B. These advertisements contain the following statements and depictions:

- A. "100% natural, ChromaTrim™ is the sugar-free, fat-reducing chewing gum that is proven to reduce body fat and decrease your appetite (especially sugar cravings). ChromaTrim works fast and is extremely safe. ChromaTrim's active ingredient Chromium Picolinate is so unique, it's patented by the U.S.D.A."

"No special diets, no tiring exercise, and no harmful chemicals, ChromaTrim is simply the secret to successful fat loss. Guaranteed. The fact is, thousands of formerly over-weight men and women have successfully changed their lives.

"I lost 40 pounds with ChromaTrim-100!" [The advertisement depicts a slender woman with the caption Belinda Woodruff.]

"I lost 35 pounds using ChromaTrim!" [The advertisement depicts a woman in a two-piece bathing suit with the caption Nicky Peters.]

(Exhibit A)

- B. Susan Ruttan: "This is not another fad diet or crash program. ChromaTrim is a chewing gum that contains chromium picolinate, a very special form of chromium. Now chromium is an essential mineral like iron and zinc. Your body needs it every day. It's important. And scientific research has shown that chromium works with your body's insulin, helping it to burn fat, preserve and build muscle, and control cravings and hunger. And when your body gets the chromium it needs by chewing ChromaTrim, listen to what can happen" (Exhibit B, p. 2)

Veronica Hall: "I lost 80 pounds. And I went down from a size 28, to a size 18." (Exhibit B, p. 2)

Donna Allison: "I've lost 36 pounds and I still have 20 or so more to lose." (Exhibit B, p. 2)

Susan Ruttan: "So how do you know it can work for you? Well, according to the U.S. Department of Agriculture, nine out of ten of us don't get enough chromium in our diet. . . . And if you don't get enough chromium in your diet, your body's natural system for burning fat, building muscle, and controlling cravings isn't going to work as well as it should." (Exhibit B, p. 3)

Susan Ruttan: "And with this system you don't have to starve yourself, or sweat buckets to see a real change." (Exhibit B, p. 3)

Susan Ruttan: "The real goal is to keep and even build muscle, and burn off that

fat. And that's where ChromaTrim comes in because it helps your body's natural fat burning and muscle building system work better. So, how do we know? Well, there have been studies, many of them testing what chromium does. (Exhibit B, p. 4)

Susan Ruttan: "ChromaTrim helps your body by helping it work better to burn fat, preserve and build muscle and to help control hunger and cravings. And it's so easy." (Exhibit B, p. 4)

Rick Gordon: "In the afternoon when I get this craving for a candy bar or sweets, I just grab the gum, throw it in my mouth. Cuts the craving just like that." (Exhibit B, pp. 4-5)

Wendy Wilburn: "I did notice that my cravings for chocolate and things like that changed. But I didn't go out of my way to make this a diet plan whatsoever." (Exhibit B, p. 5)

Susan Ruttan: "Look, your body needs chromium to work properly. And nine out of ten people don't get enough from their daily diet. In fact, in order to get enough chromium it's been estimated that the average person if they didn't change their diet would have to consume as much as 13,000 calories a day." (Exhibit B, p. 5)

Female Announcer Wearing Lab Coat: "Nine out of ten of us don't get enough chromium from our daily diet. And chromium . . . is an essential mineral. You need it to survive. So, what does chromium do? Scientists have shown that chromium plays a key role in helping your body's insulin work better. And insulin is your body's key to burning fat and preserving and building muscle. Insulin is also known as the hunger hormone. It helps control cravings and hunger. So you need to get enough chromium in your diet every day to help your insulin work the way it should. And remember, chances are nine out of ten you're not getting enough chromium right now." (Exhibit B, pp. 5-6)

Announcer in Lab Coat: "In a double blind study of 150 people conducted in conjunction with the University of Texas, . . . people who were given a chromium picolinate supplement lost an average of 4.2 pounds of body fat . . . [and] gained 1.2 pounds of muscle mass. . . . Now you can get the chromium advantage with ChromaTrim. . . . You simply chew two to three pieces of the mint flavored gum every day. That way your body gets the chromium it needs to help your insulin work better, to burn fat, preserve muscle and control cravings." (Exhibit B, p. 11)

6. Through the means described in Paragraph 5, respondents have represented, expressly or

by implication, that:

- A. ChromaTrim significantly reduces body fat.
- B. ChromaTrim causes significant weight loss.
- C. ChromaTrim significantly reduces body fat and causes weight loss without dieting or exercise.
- D. ChromaTrim increases lean body mass and builds muscle.
- E. ChromaTrim controls appetite and craving for sugar.
- F. Testimonials from consumers appearing in the advertisements for ChromaTrim reflect the typical or ordinary experience of members of the public who use the product.
- G. Nine out of ten people do not consume enough chromium to support normal insulin function, resulting in decreased ability to burn fat, preserve muscle, and control hunger and cravings.

7. Through the means described in Paragraph 5, respondents have represented, expressly or by implication, that they possessed and relied upon a reasonable basis that substantiated the representations set forth in Paragraph 6, at the time the representations were made.

8. In truth and in fact, respondents did not possess and rely upon a reasonable basis that substantiated the representations set forth in Paragraph 6, at the time the representations were made. Therefore, the representation set forth in Paragraph 7 was, and is, false or misleading.

9. Through the means described in Paragraph 5, respondents have represented, expressly or by implication, that scientific studies demonstrate that:

- A. ChromaTrim significantly reduces body fat.
- B. ChromaTrim causes significant weight loss.
- C. ChromaTrim significantly reduces body fat and causes weight loss without dieting or exercise.
- D. ChromaTrim increases lean body mass and builds muscle.
- E. ChromaTrim controls appetite and craving for sugar.

10. In truth and in fact, scientific studies do not demonstrate that
- A. ChromaTrim significantly reduces body fat.
 - B. ChromaTrim causes significant weight loss.
 - C. ChromaTrim significantly reduces body fat and causes weight loss without dieting or exercise.
 - D. ChromaTrim increases lean body mass and builds muscle.
 - E. ChromaTrim controls appetite and craving for sugar.

Therefore, the representations set forth in Paragraph 9 were, and are, false or misleading.

11. The acts and practices of respondents as alleged in this complaint constitute unfair or deceptive acts or practices, and the making of false advertisements, in or affecting commerce in violation of Sections 5(a) and 12 of the Federal Trade Commission Act.

Therefore, the Federal Trade Commission this twenty-third day of January, 1997, has issued this complaint against respondents.

By the Commission.

Donald S. Clark
Secretary

SEAL:

[Exhibits A-B attached to paper copies of complaint, but not available in electronic form.]