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.

Part II of the order requires that future claims that any test or device provides a clinical gauge of an individual's overall healthiness or youthfulness be true and substantiated by competent and reliable scientific evidence.

Part III of the order requires competent and reliable scientific evidence as substantiation for future claims that LSF or any other food, drug, device, service, or dietary supplement provides any of the specific health benefits challenged above as unsubstantiated. In addition, Part III. L requires scientific substantiation for any future claim about the effect of covered products or services on any disease, on the structure or function of the human body, or about any other health benefit, or the safety, of any covered product or service.

Part IV of the order prohibits MaxCell from providing to any person or entity ''means and instrumentalities'' that contain any claim about the effect of any product or service on any disease, or about the effect of any product or service on the structure or function of the human body, or about any other health benefit, or the safety, of any product or service, unless such claim is true and substantiated by competent and reliable scientific evidence. ''Means and instrumentalities'' is defined as any information, including but not necessarily limited to any advertising, labeling, or promotional materials, for use by distributors in their marketing or sale of the ACI test or LSF or any other product or service covered under the order.

Part V of the order prohibits MaxCell from misrepresenting the existence, contents, validity, results, conclusions, or interpretations of any test, study, or research.

Part VI of the order requires dissemination of a notice (''Attachment A'') about the order to MaxCell's distributors who have purchased the ACI Test or LSF since January 1, 2000. This notice indicates that MaxCell has agreed to cease making challenged representations, and warns distributors that they may be terminated if they do not conform their representations to the requirements placed on MaxCell.

Part VII of the order requires dissemination of Attachment A to future distributors, and that MaxCell monitor their distributors, and terminate sales to distributors who make representations prohibited by the order.

Part VIII of the order permits FDA-approved drug claims and claims for food or dietary supplements authorized under the Nutrition Labeling and Education Act of 1990.

Part IX of the order requires that MaxCell make a payment of $150,000 to the Commission, which funds the FTC can forward to the U.S. Treasury as disgorgement or use for purposes of consumer redress.

Parts X, XI, XII, and XIV of the order require MaxCell to keep copies of relevant advertisements and materials substantiating claims made in the advertisements, to provide copies of the order to certain of its personnel, to notify the Commission of changes in corporate structure, and to file compliance reports with the Commission. Part XIII requires Stephen Cherniske to notify the Commission of his employment status, and Part XV provides that the order will terminate 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 proposed order or to modify in any way their terms.

By direction of the Commission.

Donald S. Clark,

Secretary.

[FR Doc. 01–15548 Filed 6–19–01; 8:45 am]

BILLING CODE 6750–01–M

FEDERAL TRADE COMMISSION

[File No. 002 3229]

Panda Herbal International, 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 Panda Herbal International, Inc. (''Panda''), a corporation, and Everett L. Farr III, 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 Herbal Outlook (a dietary supplement that contains St.