

1 CECIL HICKS, DISTRICT ATTORNEY
2 COUNTY OF ORANGE, STATE OF CALIFORNIA
3 JAN NOLAN, DEPUTY-IN-CHARGE
4 CONSUMER & ENVIRONMENTAL PROTECTION UNIT
5 BY: WENDY BROUGH
6 DEPUTY DISTRICT ATTORNEY
7 POST OFFICE BOX 808
8 SANTA ANA, CA 92702-0808
9 TELEPHONE: (714) 541-7600

10 ATTORNEYS FOR PLAINTIFF

NOV 20 1989
GARY L. GRANVILLE County Clerk
By _____ DEPUTY

11 IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA
12 IN AND FOR THE COUNTY OF ORANGE

13 THE PEOPLE OF THE STATE OF CALIFORNIA,)
14)
15 Plaintiff,)
16 vs.)
17)
18 GREAT EARTH INTERNATIONAL, INC., GREAT)
19 EARTH DISTRIBUTION, INC. doing business)
20 as WVU, INC., JOSU, INC. doing business)
21 as GREAT EARTH OF ORANGE COUNTY,)
22 EVERGOOD PRODUCTS, INC., CONAGRA, INC.,)
23 PHOENIX LABORATORIES, INC., JOHN R.)
24 GORMAN, JR., EARL MINDELL, and Does 1)
25 through 100, Inclusive,)
26 Defendants.)

27 Plaintiff, The People of the Sate of California, having filed
28 its Complaint against defendants and Plaintiff, appearing through
its attorney Cecil Hicks, District Attorney of the County of Orange
by Wendy Brough, Deputy District Attorney and Defendants, Great
Earth International, Inc., Evergood Products, Inc., and Phoenix
Laboratories, (hereinafter referred to as "Settling Defendant")
having appeared through their attorney Jay H. Geller, have

1 stipulated that the Court may enter a Final Judgment as herein set
2 forth prior to the taking of any proof and without trial of any
3 issue of fact or law. Nothing in the Judgment shall be deemed to
4 be an admission by the Settling Defendants of any issue of fact or
5 law alleged in the Complaint, nor an admission of any wrongdoing.
6 The Plaintiff's lawsuit against the remaining defendants, ConAgra,
7 Inc., John R. Gorman, Jr., JoSu, Inc., Great Earth Distribution dba
8 WVU, Inc., and Earl Mindell, is not resolved by this stipulation.

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10 THE COURT HEREBY ORDERS:

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12 1. The provisions of the judgment are applicable to GREAT
13 EARTH INTERNATIONAL, INC., EVERGOOD PRODUCTS, INC., PHOENIX
14 LABORATORIES and their officers, employees, managers, successors
15 in interest and to all other persons who are acting in concert or
16 in participation with them or any of them with actual or
17 constructive notice of this judgment. Phoenix Laboratories and
18 Evergood Products, Inc. specifically agree that the terms of this
19 judgment bind Great Earth Distribution, Inc., a wholly owned
20 subsidiary of Phoenix Laboratories.

21 2. The Settling Defendants and those listed in paragraph 1
22 are permanently enjoined and restrained pursuant to Business and
23 Professions Code section 17203 and section 17534 from:

24 A. Advertising in the State of California in
25 violation of Health and Safety Code section 26463, that
26 a product effects the conditions, disorders or diseases

1 listed in Health and Safety Code section 26463 except as
2 otherwise provided for (1) by Health and Safety Code
3 26465; (2) in writing by the California State Department
4 of Health Services; (3) by any other provision of
5 California law or; (4) by any Federal law or regulation.

6 B. Selling, delivering, or giving away in the
7 State of California any new drug in violation of Health
8 and Safety Code section 26670 by making unapproved new
9 drug claims except as otherwise provided for by (1) the
10 California Department of Health Services; (2) any other
11 provisions of California law or; (3) any Federal law or
12 regulation.

13 C. Advertising, selling or offering to sell
14 products in the State of California that have
15 ingredients, characteristics or benefits they do not have
16 in violation of Civil Code section 1770(e).

17 D. Selling, manufacturing, delivering, holding or
18 offering for sale drugs that are misbranded in violation
19 of Health and Safety Code section 26630 and section
20 26650.

21 E. Selling, manufacturing, holding for sale or
22 offering to sell NUTRIMMUNE in the State of California.

23 3. Settling Defendants shall notify their employees who are
24 responsible for carrying out the terms of this order, and their
25 California franchisees, of the terms of this Judgment by delivering
26 a copy to each such employee and franchisee.

1 4. Defendants shall pay the sum of One Hundred Nine
2 Thousand, Five Hundred and Twenty Dollars (\$109,520). The sum
3 shall be paid as follows:

4 A. Nine Thousand Twenty Dollars (\$9,020) shall be
5 paid to the Department of Health Services, Food and Drug
6 Branch, for reimbursement of the costs of investigation.

7 B. Five Hundred Dollars (\$500) shall be paid to
8 Dr. Helene Swenerton for reimbursement of the costs of
9 investigation.

10 C. One Hundred Thousand Dollars (\$100,000) shall
11 be paid to the County of Orange. Forty Thousand Dollars
12 (\$40,000) of the One Hundred Thousand Dollars (\$100,000)
13 shall be deemed costs and the remaining Sixty Thousand
14 Dollars (\$60,000) shall be deemed penalties.

15 D. The payments to the Department of Health
16 Services (\$9,020) and Dr. Helene Swenerton (\$500) shall
17 be made on the 1st day of the 1st month immediately
18 following entry of judgment. Twenty Five Thousand
19 Dollars (\$25,000) of the One Hundred Thousand Dollars
20 (\$100,000) payable to the County of Orange shall be paid
21 upon the entry of judgment. The remaining Seventy Five
22 Thousand Dollars (\$75,000) shall be made in 18 equal
23 consecutive monthly payments of Four Thousand One Hundred
24 Sixty Six dollars and Sixty Seven cents (\$4,166.67).
25 Each payment shall be made on the first of the month.

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PHOENIX LABORATORIES

DATED: 11/14/89

BY: *Ann Dick Bus*

GREAT EARTH DISTRIBUTION, INC.
(a wholly owned subsidiary of
Phoenix Labs)

DATED: 11/14/89

BY: *Mel Rich*

DATED: 11/15/89

Jay H. Geller
JAY H. GELLER
ATTORNEY FOR DEFENDANTS

IT IS SO ORDERED.

DATED: NOV 20 1989

FRANK DOMENICHINI
JUDGE OF THE SUPERIOR COURT

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