

COPY

1 IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA
2 IN AND FOR THE COUNTY OF SAN MATEO

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6 MAUREEN SALAMAN,)
7 Plaintiff,)
8 vs.) No. 350855
9)
10 CANCER CONTROL SOCIETY, INC.,)
a California nonprofit corporation,)
11 and LORRAINE ROSENTHAL, et al.,)
Defendants.)
-----)

12
13 REPORTER'S PARTIAL TRANSCRIPT OF PROCEEDINGS
14 BEFORE: HON. ROSEMARY PFEIFFER, JUDGE
15 DEPARTMENT 14
16 THURSDAY, MAY 12, 1994
17 (Testimony of Kurt W. Donsbach)

18 A P P E A R A N C E S:

19 For the Plaintiff SCOTT TIPS, ESQ.
P.O. Box 786
20 Novato, Ca 94948

21 For the Defendants DAVID H. GILL, ESQ.
22 475 N. First Street
San Jose, Ca 95112

23
24 REPORTED BY: LORETTA R. TRIMBLE, CSR
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DEFENDANTS'

NN	1983 to 1984 Books-in-Print		
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1 SOUTH SAN FRANCISCO, THURSDAY, MAY 12, 1994
2 CALIFORNIA

3 P R O C E E D I N G S

4 (Book entitled,
5 "Books-in-Print 1983 to
6 1984 Authors A to F
7 premarked Defendants'
8 Exhibit NN for
9 identification.)

10 THE COURT: Mr. Gill.

11 MR. GILL: Yes, Your Honor. We would call
12 Kurt Donsbach at this time, Your Honor.

13 KURT W. DONSBACH,
14 called as a witness by the Defendants, after being
15 first duly sworn, was examined and testified as
16 follows:

17 THE CLERK: State your full name and spell
18 your last name.

19 THE WITNESS: Kurt Walter Donsbach,
20 D-o-n-s-b-a-c-h.

21 DIRECT EXAMINATION

22 BY MR. GILL:

23 Q. Would you tell us where you reside please?

24 A. Bonita, California.

25 Q. And do you have any type of educational
26 degrees?

A. Yes, sir.

Q. Please tell us what those degrees are?

1 A. The first degree I received was a doctor
2 of chiropractic. Then I received a Bachelors of
3 Therapeutic Science. Those are from Western States
4 College of Chiropractics in healthopathic medicine
5 1957.

6 My next professional degree was of doctor
7 of naturopathic medicine 1960 from the Hollywood
8 College of Naturopathy. Then I received a PhD in
9 Nutrition 1975 from Union University Los Angeles,
10 California.

11 Q. And in your lifetime what licenses have
12 you held?

13 A. I held for some years a license to
14 practice chiropractic in the State of Montana. I
15 held for a short period of time a license to
16 practice naturopathic medicine in the State of
17 Oregon.

18 Q. Are you -- do you currently maintain
19 either of those licenses, sir?

20 A. No, I did not.

21 Q. All right. Now what is your occupation at
22 the present time?

23 A. A little bit difficult to specifically
24 say. Probably author and director of two
25 alternative hospitals.

26 Q. Can you tell us whether one hospital is

1 older than the other?

2 A. Yes, sir. The one in Mexico -- Rosarito
3 Beach, Mexico is considerably older than the one in
4 Poland.

5 Q. When was the hospital in Rosarito Beach
6 established?

7 A. We opened that in April 1987.

8 Q. Can you tell us how many beds it had?

9 A. At the present time about '84.

10 Q. And in 1984 how many did it have?

11 A. In '84 it was not yet built. I had
12 another facility about a mile away from there and
13 we began building the hospital in '86.

14 Q. All right. Now you indicate that you
15 have -- you referred to a second hospital.

16 A. Yes, in Poland.

17 Q. Could you tell us a little about the
18 circumstances there?

19 A. Well, it's based upon the philosophy of
20 the hospital in Mexico. We opened that in August
21 of 1989 at the request of the then Polish
22 government at an invitation, I should say, to bring
23 in alternative medicine into an existing hospital
24 which they agreed to give us one floor and we have
25 now over a period of years taken overall of the
26 floors.

1 Q. How large a hospital is that?

2 A. That has a capacity of 160 beds.

3 Q. What city is that located?

4 A. Kamienpomorski.

5 THE REPORTER: Could you spell that?

6 THE WITNESS: It's

7 K-a-m-i-e-n-p-o-m-o-r-s-k-i. It is at the north
8 western corner of Poland close to the Baltic Sea.

9 BY MR. GILL:

10 Q. What is the name of the Polish hospital?

11 A. Institute of DeMonica.

12 Q. What is the name of the hospital in
13 Rosarito Beach?

14 A. Hospital Santa Monica.

15 Q. How often do you spend at the hospital in
16 Rosarito Beach?

17 A. I spend approximately two days per week
18 there.

19 Q. How much time do you spend another the
20 hospital in Poland?

21 A. One week every three weeks.

22 Q. All right. Now have you authored any
23 publications?

24 A. Yes, sir.

25 Q. And have you authored any books?

26 A. Yes, sir.

1 Q. How many books have you authored under
2 your own name, sir?

3 A. Well, I have had co-authors on some of
4 them, sir. Do you want only those that do not
5 contain the co-author?

6 Q. Actually, I would like to get them all
7 stated for the record. The manner, method of
8 presentation is yours, Doctor.

9 A. The first book was a full length book
10 authored only by myself in 1970-71 era. Then
11 second one was authored only by myself and that was
12 approximately 1980. The third one was authored
13 only by myself. The fourth one I had an advisor
14 and listed as a co-author. That was put out in
15 1992.

16 MR. MORTIMER: May we have the titles for
17 these books, please?

18 BY MR. GILL:

19 Q. What is the title of the --

20 A. The first book circa 1970 "Passport to
21 Good Health". The second book "Super Health". The
22 third book "Nutrition in Action". The fourth book
23 "Embracing Wholistic Health".

24 Q. The third one again, please?

25 A. "Nutrition in Action".

26 Q. How were these books published doctor?

1 A. Self-published.

2 Q. Do you have a publisher's name that you
3 use?

4 A. Most of the books were published under the
5 name International Institute of Natural Health
6 Sciences.

7 Q. International Institute of National Health
8 Sciences?

9 A. Yes, sir.

10 Q. What is your relation to that
11 organization?

12 A. It was a corporation of mine.

13 Q. All right. .

14 Q. From 1971 to the present date, could you
15 tell us how many copies, how many printings you had
16 for "Passport of Good Health"?

17 A. I don't know on part of it because it went
18 from the larger version to a paperback version and
19 the rights of that were sold to a publisher, Keates
20 Publishing and I --

21 MR. TIPS: I believe the question has been
22 answered.

23 THE COURT: Sustained.

24 MR. GILL: All right. Do you have any
25 idea the total number of copies of "Passport to
26 Good Health" that has been sold from 1971 to

1 present?

2 MR. TIPS: Asked and answered.

3 THE COURT: Overruled.

4 THE WITNESS: Approximately, 80,000.

5 BY MR. GILL:

6 Q. Now how many editions -- as I understand
7 it, "Super Nutrition" came out in 1980.

8 A. Approximately, yes, sir.

9 Q. How many printings has that been through?

10 A. I think that went through four or five
11 printings.

12 Q. And can you tell us from the time it came
13 out to the present how many copies have been sold?

14 A. Probably in the same neighborhood 70 or
15 80,000.

16 Q. Now what year did "Nutrition in Action" --
17 what year was that published?

18 A. Very probably 1977 was when we first began
19 using it as a text for seminars.

20 Q. How many printings has that been book
21 through?

22 A. Probably twelve, fourteen.

23 Q. How many copies of that has been sold
24 since 1977?

25 A. Well over 100,000 because a lot of them
26 are overseas.

1 Q. And the fourth book something wholistic
2 health?

3 A. Embracing, yes.

4 Q. How many printings has that been through?

5 A. We were just at the end of the first
6 printing, sir, and that was 20,000.

7 Q. Now you indicated that "Nutrition in
8 Action" was used as a text for seminars?

9 A. Yes, sir.

10 Q. Was that used by -- who was that used by?

11 A. Primarily by myself but it was also used
12 during the time of Donsbach University as a text
13 for the student.

14 Q. When -- would it have been used -- would
15 you have used it as a text for seminars prior to --

16 MR. TIPS: Objection. Leading.

17 THE COURT: Sustained.

18 BY MR. GILL:

19 Q. Can you tell us whether or not you used
20 "Nutrition in Action" for seminars prior to the
21 establishment of Donsbach University?

22 A. Yes, I did, sir.

23 Q. I take it then that you have prior to
24 formation of Donsbach University would you tell us
25 whether or not you have ever taught as a teacher?

26 A. I was a visiting teacher at some

1 chiropractic schools and at an osteopathic
2 college.

3 Q. What years would you have been a visiting
4 teacher?

5 A. From approximately 1964 on.

6 Q. You at the present time continue to be a
7 visiting teacher?

8 A. No.

9 Q. What was the name of the chiropractic
10 college?

11 A. Los Angeles College of Chiropractics.

12 Q. What was the name of the osteopathic
13 college?

14 A. It was known as the California College of
15 Osteopathic Medicine in Pamona.

16 Q. Now have you co-authored books with anyone
17 else?

18 A. Yes, sir.

19 Q. How many books?

20 A. Approximately ten or twelve but these were
21 booklets, sir, as compared to full length books and
22 there were forty-nine of those totally published.

23 Q. There were forty-nine booklets that you
24 have published either alone or co-authored?

25 A. Forty-nine total with approximately twelve
26 co-authored.

1 Q. Who were some of the co-authors that you
2 worked with that corroborated -- collaborated with
3 you in writing these booklets?

4 A. Dirk Pierceson, Sandy Shaw,
5 Dr. Morton Walker, Dr. Harry Alsleben,.

6 THE REPORTER: Could you spell that?

7 THE WITNESS: A-l-s-l-e-b-e-n.

8 Dr. Lanzagorta, L-a-n-z-a-g-o-r-t-a.

9 BY MR. GILL:

10 Q. All right. And of the authors you have
11 just named are there any with whom you have
12 collaborated in writing more than one book?

13 A. Yes. Everybody except Dr. Lanzagorta had
14 more than one.

15 Q. All right. Will you tell the jury what a
16 booklet is, please, Doctor?

17 A. A booklet was a concept that I developed
18 in the late '70's to explore a single topic as
19 compared to writing a general book. It was my
20 opinion that there was too little reading of long
21 tomes published and that people were interested
22 particularly in the arenas I was writing in in
23 singular topics.

24 If you were interested in arthritis, as an
25 example, you were not necessarily interested in
26 menopause. So I went after single topics to appeal

1 to people with individual areas of interest.

2 Q. Was there any particular field in which
3 you wrote these forty-nine booklets?

4 A. They were all in the again practical
5 health field wholistically inclined.

6 Q. Wholistically inclined general health
7 field? All right. Will you tell us whether or not
8 any of these booklets have ever been updated?

9 A. All of those that are now in print have
10 been updated.

11 Q. Do you have any particular policy
12 concerning updating?

13 A. It is my belief that a book that is more
14 than five years old loses its sales value very
15 rapidly.

16 MR. TIPS: Objection. Relevancy, Your
17 Honor. These are booklets that we're talking about
18 not books.

19 THE COURT: Objection is sustained.

20 BY MR. GILL:

21 Q. How many copies of the -- how many pages
22 long are the booklets, Doctor?

23 A. At this point, we're making them
24 approximately eighty to a hundred pages. They at
25 one time they were less than that closer to forty.

26 Q. So would you call this -- would you tell

1 us whether or not you had also called a booklet a
2 short book?

3 MR. TIPS: Objection. Leading.

4 THE COURT: Objection sustained.

5 MR. GILL: Would there be any other sin
6 opinion for the designation booklet that you have
7 given us doctor?

8 MR. TIPS: Objection relevancy.

9 THE COURT: Overruled.

10 THE WITNESS: I don't know. It is a
11 single topic book that is uncluttered with trivia
12 hopefully.

13 BY MR. GILL:

14 Q. Single copy book? Thank you.

15 A. By single copy, I mean single broach,
16 single topic.

17 Q. Thank you for the clarification. How many
18 copies of your single copy books have been
19 published to date?

20 A. Over fifteen million.

21 Q. Now have any of your single copy books
22 been translated into any foreign languages?

23 A. Yes, sir.

24 Q. How many?

25 A. Well, more or less all of them have been
26 translated at some time into one language or

1 another. We have booklets in French, in Swedish,
2 in Japanese, Romanian.

3 Q. Polish?

4 A. No, not Polish.

5 Q. And have you parted any particular market
6 for your publications?

7 A. I believe I have yes, sir.

8 Q. Would you describe the market, please?

9 A. In the general population there is a
10 certain percentage. At one time it was widely
11 believed approximately eight percent.

12 MR. TIPS: Objection. Not responsive to
13 the question, Your Honor.

14 THE COURT: Objection is sustained.

15 BY MR. GILL:

16 Q. Would you describe the market, please?

17 A. The market that we were looking for was
18 the so-called eight percent of the population of
19 the United States that is intensely interested in
20 alternative approaches to health.

21 Q. All right. Will you tell us whether you
22 acquired an ISBN number for the books that you have
23 published?

24 MR. TIPS: Objection. Vague and
25 ambiguous. Is he referring to book or booklets?

26 THE COURT: Sustained.

1 BY MR. GILL:

2 Q. All right. You have indicated that you
3 wrote four books, Doctor. Will you tell us whether
4 or not you applied for an ISBN number yourself for
5 any of those four books?

6 A. I don't recall doing so, sir.

7 Q. All right. And on the single topic -- on
8 the single topic books that you have been
9 discussing, will you tell us whether or not you
10 have applied for an ISBN number for any of those
11 books?

12 A. There was a certain period where we had a
13 manager in the office --

14 MR. TIPS: Objection. Nonresponsive.

15 THE COURT: Sustained.

16 BY MR. GILL:

17 Q. Can you answer the question, Doctor?

18 A. Some of them had ISBN numbers.

19 Q. In what years did you obtain ISBN numbers
20 for your works?

21 MR. TIPS: Objection. Lack of
22 foundation. This witness has not testified that he
23 himself obtained the ISBN number.

24 THE COURT: Sustained.

25 BY MR. GILL:

26 Q. Who applied for the ISBN numbers for your

1 books, Doctor?

2 A. A manager in the office.

3 Q. And did you supervise the manager
4 yourself?

5 MR. TIPS: Objection. Leading.

6 THE COURT: Sustained.

7 BY MR. GILL:

8 Q. In reference to the application for an
9 ISBN, would you tell us what activities, if any,
10 you engaged in?

11 A. Subject was brought to my attention for my
12 approval and I approved it.

13 Q. Will you tell us whether or not you
14 subsequently determined whether the books had
15 received ISBN numbers?

16 A. I'm aware that some of them did receive
17 ISBN numbers, yes, sir.

18 Q. Would you tell us whether or not any of
19 your works have been listed in Books-in-Print?

20 A. To the best of my knowledge, they had not
21 until I was shown this morning that evidently they
22 had been.

23 MR. GILL: All right. Your Honor, we have
24 had during the recess marked Defendants' Exhibit NN
25 Books-in-Print, authors A to F, 1983 to 1984.

26 MR. TIPS: Your Honor, what is this going

1 to?

2 THE COURT: Mr. Gill?

3 MR. GILL: This is going to show -- this
4 is going to the designation of the publishers once
5 again, Your Honor, the names of the books that are
6 listed in Books-in-Print and the publishers or
7 other entities related to them.

8 MR. TIPS: Does it involve CCS?

9 MR. GILL: It does.

10 MR. TIPS: Then we would like an offer of
11 proof in terms of--

12 THE COURT: Please show Mr. Tips.

13 MR. GILL: Doctor --

14 MR. TIPS: May I finish?

15 THE COURT: Yes.

16 MR. TIPS: Your Honor, may we approach the
17 bench please?

18 THE COURT: Yes.

19 (Conference at the bench not reported.)

20 BY MR. GILL:

21 Q. Now a preliminary question, sir. Prior to
22 coming to San Mateo County today, did you know
23 whether or not any of your books were listed in
24 Books-in-Print?

25 A. No, I did not.

26 Q. Did you ever authorize Cancer Control

1 Society to list itself in connection with any of
2 your books?

3 A. No, I did not.

4 Q. Prior to the year 1994, did you ever have
5 any knowledge that this had, in fact, occurred?

6 A. Not prior to 1994.

7 Q. I would show you Exhibit NN page 1182 and
8 refer to you to the name Donsbach that appears
9 there. First question is how many times does the
10 name appear?

11 A. Three times, sir.

12 Q. Under the first appearance will you tell
13 us how many books are indicated under the first
14 appearance of your name?

15 A. Three.

16 Q. And in connection with each of the three
17 is there any entity -- any business entity
18 mentioned?

19 A. Cancer Control Society.

20 Q. What are the three books that you have
21 just referred to?

22 A. "Metabolic Cancer Therapies", "Passport to
23 Good Health", "Super Health".

24 Q. All right. Now the second listing under
25 your name will you tell us whether or not that is
26 under your name alone or in connection with another

1 person?

2 A. That is in connection with Morton Walker.

3 Q. And under the second -- strike that. Will
4 you tell us whether or not that was a book you
5 co-authored with Morton Walker?

6 A. Yes, sir.

7 Q. All right. And what is the entity
8 connected with that book?

9 A. Cancer Control Society.

10 Q. The name of the title?

11 A. "Chelation".

12 Q. All right. And the third heading under
13 your name what is the title of that book?

14 A. "Preventative Organic Medicine".

15 Q. And who is the publisher or -- strike
16 that. Who what is the entity mentioned in
17 connection with that book?

18 A. Keates Publishing. They had changed the
19 name of "Passport to Good Health" to "Preventative
20 Organic --

21 MR. TIPS: Objection. Nonresponsive to
22 the question.

23 THE COURT: Sustained.

24 MR. TIPS: Move to strike.

25 THE COURT: Motion to strike is granted.

26 / / /

1 BY MR. GILL:

2 Q. Did there come a time when you sold rights
3 to the book to Keates Publishing? Did there come a
4 time when you sold rights to a book of yours to
5 Keates Publishing?

6 A. Yes, absolutely.

7 Q. And what was the title of the book whose
8 rights you sold?

9 A. "Passport to Good Health".

10 Q. What was the nature of the rights that you
11 sold?

12 A. The paperback rights to that book.

13 Q. And did -- will you tell us whether or not
14 Keates published the paperback version under the
15 title "Passport for Good Health"?

16 MR. TIPS: Objection. Leading.

17 THE COURT: Sustained.

18 BY MR. GILL:

19 Q. What title -- what title did Keates use in
20 publishing paperback?

21 A. "Preventative Organic Medicine" which was
22 the subtitle.

23 Q. All right. Now "Metabolic Cancer Therapy"
24 came out in when, Doctor?

25 A. I don't remember, sir.

26 Q. Let's refresh your memory. There appears

1 to be a date mentioned here in Exhibit NN. Would
2 you look at the listing for the first book and tell
3 me whether --

4 A. 1981.

5 Q. That does refresh your memory then. Can
6 you tell me how -- do you recall the actual number
7 of sales year by year for this book, Doctor?

8 A. No, I do not.

9 Q. To your knowledge, sir, did the -- was
10 there ever any effect to the sales of your book as
11 a result of having it mentioned in Books-in-Print
12 in connected with Cancer Control --

13 MR. TIPS: Objection. Calls for a
14 conclusion. Lack of foundation. Assumes facts not
15 in evidence.

16 THE COURT: Objection to lack of
17 foundation is sustained.

18 BY MR. GILL:

19 Q. All right. Doctor, between the years
20 1982, 1985 to your knowledge was publication of
21 your book "Metabolic Cancer Therapies" promoted or
22 impeded in any way by being mentioned in
23 Books-in-Print in connection with Cancer Control
24 Society?

25 MR. TIPS: Same --

26 THE WITNESS: Not to my knowledge.

1 THE COURT: Objection is overruled.

2 BY MR. GILL:

3 Q. Okay. The same question as to "Passport
4 to Good Health". Would sales during those years be
5 impeded or promoted?

6 A. Not to my knowledge.

7 MR. TIPS: I don't know if we are having
8 an answer to question. He keeps saying impeded or
9 promoted.

10 MR. GILL: I do see that point and I will
11 rephrase the question. Thank you, Your Honor.

12 BY MR. GILL:

13 Q. Let's go back to "Metabolic Cancer
14 Therapies". Will you tell us whether or not the
15 connection for the years just discussed Cancer
16 Control Society promoted the books of the sales?

17 A. Are you asking did they promote the book?

18 Q. Yes.

19 A. To my knowledge they displayed them and
20 they had them --

21 Q. I'm afraid we are not communicating. Let
22 me start over. Between 1982 and 1985 your book was
23 listed in Books-in-Print in connection with Cancer
24 Control Society.

25 MR. TIPS: Objection. Assumes facts not
26 in evidence. He said 1982 to 1985. There has been

1 no evidence of that timeframe.

2 THE COURT: Sustained.

3 BY MR. GILL:

4 Q. All right. Let's go with 1983 and 1984
5 then, Doctor. During those years your book was
6 mentioned in Books in Print in connection with
7 Cancer Control Society. Would you be able to tell
8 us whether that reference in Books-in-Print impeded
9 your sales?

10 A. Not to my knowledge.

11 Q. Will you tell us whether that mention in
12 Books-in-Print promoted your sales?

13 A. Not to my knowledge.

14 Q. Asking the same question for "Passport to
15 Good Health" for the years just mentioned. Did the
16 mention of Cancer Control Society in connection
17 with your book in Books in Print impede the books
18 sales?

19 A. Not to my knowledge.

20 Q. Did it promote the book sales?

21 A. Not to my knowledge.

22 Q. "Super Health". Same years, same
23 question. Did the mention of the Cancer Control
24 Society had in the mention of that book impede your
25 sales?

26 A. Not to my knowledge.

1 Q. Did you promote your sales?

2 A. Not to my knowledge.

3 Q. Would you be able to tell us whether or
4 not for those years the book you co-authored with
5 Morton Walker "Chelation" was that book -- book
6 sales impeded by the mention or not?

7 A. Not to my knowledge.

8 Q. Were sales promoted by that mention or
9 not?

10 A. Not to my knowledge.

11 Q. Now when did you first become aware that
12 Keates had listed -- had listed "Preventative
13 Organic Medicine" in Books-in-Print?

14 A. Approximately 45 minutes ago.

15 Q. Thank you.

16 MR. GILL: I would ask that NN be
17 admitted, Your Honor.

18 THE COURT: Any objection, Mr. Tips?

19 MR. TIPS: We object on grounds of
20 relevancy as earlier argued to this court and we
21 would make that objection for the record.

22 THE COURT: Exhibit NN is admitted.

23 (Defendants' Exhibit NN
24 previously marked for
25 identification was
26 admitted into evidence.)

MR. TIPS: Your Honor, may I have the year

1 of that book, please?

2 THE COURT: '83, '84.

3 MR. GILL: It is authors A through F, Your
4 Honor.

5 BY MR. GILL:

6 Q. Now Doctor, have you listed all of your
7 single topic books in Books-in-Print?

8 A. Absolutely not.

9 Q. Why not?

10 A. In my opinion, it was not productive of
11 sales.

12 Q. Why and what is the basis of that opinion
13 sir?

14 A. The market I was trying to reach doesn't
15 read that book.

16 Q. All right. How did you reach the market
17 you've previously described?

18 A. By personal appearance, by mail order
19 solicitation and through health food stores.

20 Q. Now will you tell us whether or not you
21 have used any book distributors in connection with
22 your books?

23 A. Yes, I have, sir.

24 Q. And what books distributors have you used
25 over the years?

26 A. Nutri-Books has been the major

1 distributor.

2 Q. When did you first start doing business
3 with Nutri-Books?

4 A. Probably 1979 to 1980. Somewhere in that
5 area.

6 Q. And what was it about Nutri-Books that
7 drew you to them as a distributor as opposed to
8 someone else?

9 A. Now Nutri-Books is the largest to my
10 knowledge distributor of health related books in
11 the industry.

12 Q. Now do you have any knowledge of the
13 percentage of your books that are sold to
14 Nutri-Books for distribution?

15 A. Probably seventy percent of the sales
16 directly or indirectly came through Nutri-Books.

17 Q. And will you tell us where the sales for
18 the remaining thirty percent come from?

19 A. Those come primarily from personal
20 appearance and mail order.

21 Q. All right. Now you said twice now the
22 word personal appearance. Would you describe what
23 you mean by personal appearance?

24 A. Lecturing at conventions, appearing on
25 radio and TV talk shows. Things of that nature.

26 Q. All right. Have you ever had your own

1 program on the broadcast media?

2 A. Yes, sir.

3 Q. What years?

4 A. Approximately, 1981 through 1984.

5 Q. And what media was?

6 A. I had a daily radio show called, "Let's
7 Talk Health".

8 Q. Daily radio show called, "Let's Talk
9 Health"?

10 A. Yes, sir.

11 Q. Where was this broadcast from?

12 A. The original station was in Glendale,
13 California.

14 Q. All right. Was it always in Glendale from
15 '81 to '84, sir?

16 A. No. It became syndicated through several
17 other stations around the nation.

18 Q. What year did it become a syndicated
19 program?

20 A. I don't recall that, sir. Approximately
21 '82.

22 Q. And it was syndicated then from '82 to
23 '84?

24 A. Until --

25 MR. TIPS: Objection. Leading.

26 THE COURT: Sustained.

1 BY MR. GILL:

2 Q. How long was the program syndicated?

3 A. Until we discontinued the program
4 approximate reply '84, '85.

5 Q. Now you say it was syndicated. What does
6 that mean. Sir?

7 A. That means that the radio show
8 simultaneously was broadcast on several different
9 stations around the country. Sometimes by delayed
10 broadcast. Parts of them was simultaneous.

11 Q. Is a syndicated show carried by a network?

12 A. It --

13 MR. TIPS: Objection. Leading.

14 THE COURT: Sustained.

15 BY MR. GILL:

16 Q. Will you tell us how it happened? Will
17 you tell us what you know about the distribution of
18 the radio program by syndication, please?

19 A. Well, we purchased a spot on a satellite a
20 time slot on a satellite and the program was beamed
21 to the satellite and any station that had the
22 appropriate crystal was able to or whatever you
23 call those things that they have to receive that
24 signal simultaneously as we were broadcasting it.
25 Some of them taped it and played it later. Some of
26 them simultaneously broadcast it.

1 Q. I'm sorry. I missed how many stations
2 received the program during the years you
3 indicated.

4 A. Sir, I think the most we ever had was
5 seventeen. Most of the time it was between
6 thirteen and seventeen.

7 Q. Now have you ever given any lectures
8 with -- strike that. Will you tell us whether or
9 not you have ever given any lectures in the field
10 of nutrition or metabolic health?

11 A. Yes, sir, I have.

12 Q. Will you tell us when you first started
13 when you first gave a lecture?

14 A. Probably 1959 or '60.

15 Q. Now discounting the College of
16 Chiropractics and the College of Osteopathy you
17 previously referred to, will you tell us where else
18 you have appeared as a lecturer?

19 A. I don't think I can answer that question,
20 sir. I have lectured in many, many countries and
21 practically every state of the union. Most major
22 cities of the United States.

23 Q. All right. Will you tell us whether or
24 not you have ever appeared as a speaker at any
25 convention associated with your field of expertise?

26 A. Yes, sir.

1 Q. And can you tell us the names and sponsors
2 of some of the conventions that you have appeared
3 at?

4 A. National Health Federation --

5 MR. TIPS: Objection. Nonresponsive to
6 the question.

7 THE COURT: I'm sorry. The question is
8 sponsors.

9 MR. TIPS: The question calls for a yes or
10 no answer.

11 MR. GILL: No, it did not, Your Honor.

12 MR. TIPS: He said --

13 THE COURT: Could you tell us the name?
14 Objection is sustained.

15 BY MR. GILL:

16 Q. What are some of the names of some of the
17 entity or entities for whom you have appeared as a
18 speaker at a convention?

19 A. National Health Federation, Whole Life
20 Expose, Cancer Control, Cancer Victors and Friends,
21 various chiropractic and naturopathic state and
22 annual conventions, overseas. It's been all sorts
23 of different sponsors.

24 Q. All right. And have you ever appeared as
25 a guest on any radio shows?

26 A. Yes, sir.

1 Q. And will you tell us whether or not you
2 are aware of any custom in the radio broadcasting
3 industry relating to permitting a guest to tell the
4 audience where the product might be acquired?

5 MR. TIPS: Lack of foundation.

6 THE COURT: Sustained.

7 BY MR. GILL:

8 Q. All right. Have you ever appeared on a
9 radio station to discuss any of the books that you
10 had written?

11 A. Yes, sir.

12 Q. And in connection with the books that you
13 had -- in connection with appearances on radio
14 stations where you have discussed books that you
15 had written, are you aware of any custom in the
16 industry -- are aware of any custom of the
17 industry, sir?

18 MR. TIPS: It is calling for his knowledge
19 of industry custom. I don't believe this witness
20 has been qualified with that kind of knowledge. He
21 can testify perhaps as to his own personal
22 knowledge but that is about it.

23 MR. GILL: That was the intent of the
24 question, Your Honor.

25 THE COURT: Ask it again in that fashion.
26 The objection is sustained.

1 BY MR. GILL:

2 Q. In connection with radio appearances where
3 you discussed a book of yours, Doctor, will you
4 tell us whether you had any personal experiences
5 concerning giving out information relating to that
6 book?

7 A. It is customary not only in radio but
8 also --

9 MR. TIPS: Objection.

10 THE WITNESS: -- TV shows --

11 MR. TIPS: Not responsive and he's not
12 testified -- it is obvious from his answer he is
13 not testifying from his personal knowledge.

14 THE COURT: Objection sustained.

15 BY MR. GILL:

16 Q. Doctor, the question could be answered yes
17 or no. The question was do you have any personal
18 knowledge?

19 A. Yes, I have some personal knowledge.

20 Q. Would you tell us what your personal
21 knowledge is?

22 MR. TIPS: May we have --

23 THE WITNESS: What area?

24 MR. TIPS: Personal knowledge as to what?

25 THE COURT: Sustained.

26 / / /

1 BY MR. GILL:

2 Q. All right. On those occasions when you
3 appeared as a guest on radio show in connection
4 with your book, will you tell us whether or not you
5 were able to tell the audience where the book could
6 be obtained?

7 A. Yes, sir, you can.

8 Q. And was this an isolated experience? An
9 occasional experience a frequent experience? How
10 often what was your experience in this relation,
11 sir?

12 A. My experience has been it is a common
13 phenomenon, no.

14 Q. Have you ever appeared on a radio show in
15 connection with one of your books where you have
16 not been allowed to tell the audience where it
17 might be acquired?

18 A. Not to my knowledge that I remember.

19 Q. Can you tell us approximately how many
20 times a year in the 1980's you appeared as a guest
21 on a radio program?

22 A. As a guest?

23 Q. Yes.

24 A. Fifty.

25 Q. All right. Can you tell us whether or not
26 you have ever appeared as a guest on a television

1 show?

2 A. Yes, I have.

3 Q. And during the 1980's can you tell us
4 approximately how many times a year?

5 A. Probably at least two or three times a
6 year.

7 Q. All right. In connection with your -- now
8 these appearances on television two or three times
9 a year will you tell us whether or not those were
10 in connection with any of the books that you had
11 written?

12 A. Yes, sir.

13 Q. Now will you tell us what your experience
14 was of those television appearances that you just
15 referred to relating to telling the audience where
16 they might acquire a copy of your work -- your
17 book?

18 A. Yes, sir.

19 Q. What was your experience, sir?

20 A. On television usually the host would hold
21 up the book and show the title and give a summary
22 maybe of what the book was about and where it was
23 obtainable.

24 Q. Are you acquainted with
25 Lorraine Rosenthal?

26 A. Yes, sir.

1 Q. When did you first meet Miss Rosenthal?

2 A. That's a little bit difficult to say but
3 probably in the mid '70's.

4 Q. And in what connection, if any, did you
5 meet her?

6 A. I'm sure that I first met Lorraine in
7 conjunction with Cancer Control Society.

8 Q. All right. And have you had any type of
9 relationship with Mrs. Rosenthal over the years?

10 A. Yes, as a professional business type thing
11 where she was Cancer Control and we were interested
12 in exhibiting there.

13 Q. Other than the professional relationship
14 you just described have you had any other type of
15 relationship with her?

16 A. What are you referring to, sir?

17 Q. Social relationship, joint venture
18 partnership --

19 A. No, sir.

20 Q. All right. Incidentally, sir, you are
21 here today at my request?

22 A. Yes, I am.

23 Q. Will you tell us whether or not you have
24 been subpoenaed to do so?

25 A. Not to my knowledge, no, sir.

26 Q. And will you tell us whether -- will you

1 tell the jury what our understanding is concerning
2 compensation for your travel expenses is?

3 A. I am paying my own way, sir.

4 Q. And will you tell the jury what, if
5 anything, you are receiving for compensation for
6 appearing in court in this proceeding?

7 A. I expect a thank you.

8 Q. Yes, sir. I will extend that now. Sir,
9 are acquainted with the Plaintiff in this action?

10 A. Yes, I am.

11 Q. And when did you first become acquainted
12 with her?

13 A. Probably about the same time.

14 Q. And will you describe -- when you first
15 became acquainted with the Plaintiff? What kind of
16 relationship, if any, did you have with her?

17 A. Miss Salaman was promoting a tabloid
18 newspaper, as I recall, that had to do with the
19 cancer movement.

20 Q. And was this tabloid newspaper you just
21 referred to in connection with any company
22 organization or the like?

23 A. I don't know. I think it was
24 independent. I really don't know at that point.

25 Q. Will you tell us whether or not your--
26 will you tell us what your relationship with the

1 Plaintiff was during that period of time?

2 A. Well, as that tabloid became a part of the
3 National Health Federation which I was a part of,
4 then I became better acquainted with Miss Salaman
5 and she was as I recall, the assistant editor.

6 Q. And did there come a time when the tabloid
7 became connected with the National Health
8 Federation?

9 A. Yes.

10 Q. Can you tell us approximately when that
11 would have been?

12 A. That's very difficult. I'm sorry I can
13 not give you a year figure there.

14 Q. All right.

15 Q. Now sir, did there come a time when the
16 two of you worked together on the board of
17 directors of the National Health Federation?

18 A. Yes, sir, quite closely.

19 Q. All right. When would this have been?

20 A. In the late '70's, '80's primarily.

21 Q. And did the relationship between you and
22 the Plaintiff remain that of a business
23 relationship as it developed into --

24 MR. TIPS: Objection.

25 MR. GILL: -- relationship?

26 MR. TIPS: The relevancy here and

1 particularly in light of our previous rulings and
2 arguments with the court. Objection.

3 THE COURT: Objection is sustained to the
4 extent this question is directed to anything the
5 court has already ruled on in the motion in
6 limine.

7 MR. GILL: This is not, Your Honor. Let
8 me ask a leading question.

9 BY MR. GILL:

10 Q. Did there come a time, sir, when a
11 personal relationship developed personal or social
12 relationship developed between you and the
13 Plaintiff?

14 A. Yes, somewhat.

15 Q. What years would those have been?

16 A. Early '80's, sir.

17 Q. And will you tell us whether or not a
18 personal or social relationship developed during
19 that period also with the Plaintiff's husband?

20 A. Yes, sir.

21 Q. All right. What -- I have -- how would
22 you characterize that change in relationship, sir?
23 I don't want you to use my words personal or
24 social.

25 MR. TIPS: I don't want to use his words
26 either. I will object as vague and ambiguous and

1 assuming facts not in evidence.

2 THE COURT: Objection is overruled.

3 THE WITNESS: My only comment can be
4 unfortunate.

5 BY MR. GILL:

6 Q. Sir, in the '80's what type of
7 relationship did you have with the Plaintiff and
8 her husband?

9 A. I thought we were very good friends.

10 Q. All right. And will you tell us whether
11 or not you engaged in any social activities with
12 the Plaintiff?

13 A. Somewhat yes, sir.

14 Q. Were there occasions when the two of you
15 would be --

16 MR. TIPS: Objection. Relevancy, Your
17 Honor. What is the relevancy of this to the issue
18 of this case?

19 THE COURT: Mr. Gill?

20 MR. GILL: Let's approach the bench, Your
21 Honor. I will get into it.

22 (Conference at the bench not reported.)

23 BY MR. GILL:

24 Q. Did there some a time when you formed a
25 university?

26 A. Yes, sir.

1 Q. And what year would this have been?

2 A. '77, '78, sir. I'm not sure what the
3 exact year was.

4 Q. All right. What was the purpose of
5 forming the university?

6 A. The university was an off camps university
7 without walls for adult individuals who wished to
8 further their education in the alternative
9 nutrition field.

10 Q. All right.

11 Q. What types of courses were offered?

12 A. Basic sciences, anatomy, physiology,
13 chemistry, things of that nature and the
14 nutritional aspects of disease.

15 Q. And during the years that -- during the
16 years of the university, can you tell us how many
17 instructors or teachers or professors there would
18 have been?

19 A. Altogether probably over twenty.

20 Q. Will you describe what an university
21 without walls is, please?

22 A. It is allows an individual -- mature
23 individual who wishes to engage in academic
24 activity to do so without actually attending class;
25 thus, allowing them to engage in their home, work,
26 their job, etc., and do this in their quote leisure

1 time.

2 Q. Will you tell us whether or not there are
3 any types of self studies or homework assignments
4 or like that the student does?

5 A. Absolutely.

6 Q. Could you describe what is presented to
7 the student to do on the student's own part?

8 A. We base our educational program on a
9 program that is used for overseas education
10 particularly by the Army and Navy in which a
11 student is lead through a textbook or other
12 instructional material with a study guide that
13 supposedly guarantees that the student will be
14 cognizant of the information at least four times
15 which is what is thought to be necessary to imprint
16 that at least partially in the memory bank.

17 Q. All right. Will you tell us whether or
18 not there are any live courses?

19 A. Yes, we had what we call our off-camps
20 education.

21 MR. TIPS: The question has been answered,
22 Your Honor.

23 THE COURT: Sustained.

24 BY MR. GILL:

25 Q. Will you please tell the live courses?

26 A. The live courses were when we sent an

1 instructor to an area and any student who in that
2 area wished to participate could come to that
3 particular class and take part in it.

4 Q. And can you tell us where the instructors
5 would be sent to put on the live aspect of the
6 course?

7 A. Major cities throughout the United States
8 and actually the world.

9 Q. Can you name some of the cities within the
10 United States where instructors appear and gave
11 live courses?

12 A. Houston, Salt Lake City, San Francisco,
13 Los Angeles, New York, Chicago, Miami.

14 Q. Now what degrees did the university offer?

15 A. We offered Bachelors, Masters and Phd's in
16 nutrition.

17 Q. Now can you tell us what, if any, credit
18 was given by the university for a person for prior
19 education?

20 A. We accepted individuals who had a prior
21 Bachelors program into a Masters program. However,
22 they would required to take all of the subjects
23 that were basic regardless. They had to take the
24 basic Bachelors subject even though they were
25 enrolled in a Masters course.

26 Q. Now to your knowledge, sir, did there come

1 a time when the Plaintiff was a student at Donsbach
2 University?

3 A. Yes, sir.

4 Q. Would you have any independent
5 recollection of what period of time she was a
6 student?

7 A. No, sir, I do not.

8 Q. Do you know what degree the Plaintiff in
9 this case was pursuing?

10 A. I can not answer that with true knowledge,
11 sir. I have a feeling she was looking for a --

12 MR. TIPS: Objection. Asked and
13 answered.

14 THE COURT: Sustained.

15 BY MR. GILL:

16 Q. Sir, I would show you Exhibit H and ask
17 you to identify -- to examine the documents
18 contained therein.

19 A. Can I disentangle this?

20 Q. No. Please leave it stapled together?

21 A. There is something in my writing up here
22 that I can't read.

23 MR. GILL: Your Honor, for that purpose
24 may we remove the staple?

25 MR. TIPS: No objection, Your Honor.

26 MR. GILL: I think it will be all right if

1 we staple it on the right hand corner, Your Honor.

2 THE WITNESS: This is an application for
3 admission to Donsbach University. There is --

4 MR. TIPS: Objection. Is there a question
5 pending?

6 BY MR. GILL:

7 Q. The question was were you familiar with
8 any of the documents in the package, sir?

9 A. I recognize the application form. I
10 believe I recognize her handwriting and I certainly
11 recognize mine.

12 Q. How many pages do you recognize in the
13 exhibit?

14 A. There are three total pages that I see.
15 The one is the application and that's a two sided
16 form. I count that as two pages. This is a one
17 sided transcript which is not mine and it says
18 Donsbach University. It could have come from the
19 university. It is a transcript but I do not
20 (inaudible) signature on here. Margaret Layman was
21 an employee of the university.

22 Q. Would it appear that those records were,
23 in fact, kept in the normal course of the
24 university --

25 MR. TIPS: Objection. Lack of
26 foundation.

1 THE COURT: Sustained. We will stop
2 here. Take fifteen minute break. Be back at ten
3 after eleven. Don't talk about the case among
4 yourselves nor with anyone else. Don't form or
5 express any opinion about.

6 (Recess taken.)

7 BY MR. GILL:

8 Q. Doctor, when we broke for recess, we were
9 discussing the last three pages of Exhibit H.
10 Would you tell me whether or not you recognize
11 those three pages as business records of Donsbach
12 University?

13 A. Yes, sir, they appear to be --

14 Q. The entries on the record were made out
15 near or time the event on the record.

16 MR. TIPS: Lack of foundation.

17 THE COURT: Sustained.

18 BY MR. GILL:

19 Q. Do you know whether the entries are made
20 at or near the time of the act reflected in the
21 record?

22 A. Sir, I did not make the entry but I
23 certainly have a lot of confidence and
24 Margaret Layman who apparently did.

25 MR. TIPS: Not responsive. Move to
26 strike.

1 THE COURT: Objection is sustained.
2 Motion to strike is granted.

3 MR. GILL: Are there any procedures
4 adopted by Donsbach University concerning entries
5 made on its record?

6 MR. TIPS: Lack of foundation particularly
7 as to time.

8 THE COURT: Sustained.

9 BY MR. GILL:

10 Q. All right. In the early 1980's, Doctor,
11 were there any business procedures in effect at
12 Donsbach University concerning the entries made
13 into its records?

14 A. Yes, sir.

15 Q. And would you tell us whether or not the
16 policy included a requirement that the entries be
17 made into the record at or near the time --

18 MR. TIPS: Objection. Leading.

19 THE COURT: Objection is sustained.

20 BY MR. GILL:

21 Q. Will you tell us what the policy was, sir?

22 A. We felt that the transcript records were
23 very, very important to the student in the future
24 and, therefore, a --

25 MR. TIPS: Objection. Nonresponsive, Your
26 Honor.

1 THE COURT: Let me hear the entire
2 answer.

3 THE WITNESS: Therefore, we had a very
4 qualified individual who was in charge of all
5 student recordkeeping and this appears to be a copy
6 of such a record.

7 MR. TIPS: Objection. Nonresponsive.
8 Move to strike.

9 THE COURT: Sustained. Motion to strike
10 is granted.

11 BY MR. GILL:

12 Q. What was the name of the person who kept
13 records at Donsbach University?

14 A. Margaret Layman.

15 Q. Are you familiar with the procedures of
16 Margaret Layman concerning entries made to business
17 record under her control.

18 MR. TIPS: Lack of foundation.

19 THE COURT: Sustained.

20 BY MR. GILL:

21 Q. During what period of time was
22 Margaret Layman employed by Donsbach?

23 A. Approximately, 1978 the time that I was
24 affiliated with the university which was 1985.

25 Q. All right. And during that period of time
26 to your knowledge did she have any particular

1 method of making entries into the university's
2 business records?

3 A. Yes, sir.

4 Q. And will you tell us what her policies
5 were concerning the time --

6 MR. TIPS: Objection.

7 MR. GILL: -- entries would be made in
8 into the record?

9 MR. TIPS: Objection. This witness'
10 difference between policies and method. Now he has
11 switched to method as opposed to the follow --

12 MR. GILL: I will rephrase it.

13 BY MR. GILL:

14 Q. Can you describe what Margaret Layman's
15 policies were concerning making entries into the
16 record?

17 A. Yes, sir.

18 Q. What were those policies?

19 A. The policy was as the student completed a
20 given course, that record was accumulating until
21 the entire degree program had been completed at
22 which time a transcript was prepared.

23 Q. Now can you tell us whether or not the
24 Plaintiff in this action attended -- strike that.
25 Can you tell us, sir, whether or not the Plaintiff
26 in this action acquired a Bachelor of Science

1 Degree at Donsbach University?

2 A. Yes, she did.

3 Q. Can you tell us what year it was in which
4 she acquired that degree?

5 A. 1981.

6 Q. From the records before you, sir, can you
7 observe anything that would tell you whether or not
8 she obtained any other degree?

9 A. I do not have a perfect --

10 MR. TIPS: Objection. Calls for a yes or
11 no answer.

12 THE COURT: Sustained.

13 BY MR. GILL:

14 Q. Can you answer the question yes or no?

15 A. Would you repeat the question?

16 Q. Can you tell us whether or not those
17 records reflect she obtained any other degrees from
18 examining the records before you?

19 A. No.

20 Q. I would show you a document marked Exhibit
21 31. Ask you if you recognize that document.

22 A. I would recognize that document.

23 Q. Is that your signature on the document,
24 sir?

25 A. No, it is not.

26 Q. Was there -- do you recognize the letter

1 itself the body of the letter?

2 A. I recognize the letter, sir.

3 Q. Can you tell us whether or not this -- the
4 content of the letter is something that you would
5 have dictated?

6 A. Yes, sir.

7 Q. And following dictation can you tell us
8 whether or not the dictation would have been
9 transcribed into a letter form?

10 A. I am sure it was, sir.

11 Q. And was there -- can you tell us
12 whether -- drawing your attention to the month
13 December 1981, was there any person who was
14 authorized to place your signature on letters which
15 you had dictated?

16 A. Yes, sir.

17 Q. Who would that person have been?

18 A. This signature here is from
19 Linda Bunting-Smith who was the my assistant.

20 Q. All right. And was this letter signed by
21 her with your --

22 MR. TIPS: Objection. Leading.

23 THE COURT: Objection is overruled.

24 BY MR. GILL:

25 Q. Will you tell us whether or not this
26 letter was signed by her with your signature with

1 your authorization?

2 A. Yes, it was.

3 Q. All right. What is the topic of this
4 letter?

5 A. This letter refers to a conversation with
6 the student Maureen Salaman regarding her MS
7 Degree.

8 Q. And what was the topic of this
9 conversation that the letter refers to?

10 A. My recollection and the letter indicates
11 that it was regarding graduation.

12 Q. Will you tell us whether or not there were
13 any requirements that had to be met by the
14 Plaintiff before her graduation?

15 A. According to this letter indicates five
16 tests were to be completed.

17 Q. All right. And if the five tests were
18 completed, what degree, if any, would she had
19 received?

20 A. Master of Science in nutrition.

21 Q. All right. Now will you tell us whether
22 or not in order to obtain a Master of Science at
23 Donsbach University there was any thesis required?

24 A. Yes, there was.

25 Q. Will you tell else what knowledge, if any,
26 concerning how the Plaintiff met her thesis

1 requirement?

2 A. I have some knowledge yes, sir, regarding
3 the book which she had co-author with
4 Dr. Harold Manner.

5 Q. Who was Harold Manner, if you please?

6 A. Harold Manner was assistant professor at
7 Loyola University in Chicago who had conducted some
8 experimentation on funding granted by the National
9 Health Federation with the utilization of Laetrile
10 and other substances on mammary cancer in rats.

11 Q. Will you tell us whether or not you had
12 any personal acquaintance with Dr. Manner?

13 A. Yes, I did.

14 Q. What kind of a relationship did you have
15 with the doctor?

16 A. Strictly professional type relationship.

17 Q. Will you tell us whether or not you ever
18 did any work together?

19 A. No, we did not.

20 Q. All right. Was Dr. Manner a person --
21 strike that. See if we can do it nonleading.

22 Can you tell us what contact you would
23 have had in -- with Dr. Manner in the two or three
24 years prior to December of 1981?

25 A. I had met him at a variety of
26 conventions. The one that comes to mind the

1 clearest was when Miss Salaman and myself and
2 Dr. Manner were discussing the book and some
3 editing or suggestions I had made regarding a part
4 of the book.

5 Q. Now at that time at the time you wrote the
6 letter in December 10, 1981, what was your
7 understanding of the authorship of the book?

8 MR. TIPS: Objection as to relevancy, Your
9 Honor.

10 THE COURT: Objection sustained.

11 BY MR. GILL:

12 Q. Plaintiff 31 the last sentence in the
13 first paragraph says your book with Dr. Manner
14 meets the thesis requirement.

15 A. Yes, sir.

16 Q. Now what was your -- what was your
17 intention in using the phrase with Dr. Manner --
18 your book with Dr. Manner.

19 MR. TIPS: Objection. Relevancy, Your
20 Honor. What is the relevancy?

21 THE COURT: What is the relevance?

22 MR. GILL: Impeachment, Your Honor.

23 MR. TIPS: Impeachment of who?

24 MR. GILL: Authorship.

25 THE COURT: Impeachment of what witness?

26 MR. GILL: Impeachment of Plaintiff.

1 MR. TIPS: Is that relevant, Your Honor,
2 to the issues of this case?

3 THE COURT: Objection is overruled.

4 THE WITNESS: It was my understanding that
5 Dr. Manner and Miss Salaman had collaborated in
6 producing this particular book. I was going to
7 Europe --

8 MR. TIPS: Objection. Lack of
9 foundation.

10 THE COURT: Objection is sustained.

11 MR. GILL: When did this --

12 MR. TIPS: Move to strike.

13 THE COURT: Motion to strike is granted.

14 BY MR. GILL:

15 Q. Doctor, did you ever have a conversation
16 with the Plaintiff or with Dr. Manner in which you
17 were given any understanding -- strike that. Let's
18 do it a preliminary question.

19 The sentence says your book with
20 Dr. Manner meets the thesis requirement. Can you
21 tell us the title of the book to which you are
22 referring in this sentence?

23 A. I believe the title of that time was
24 "Nutrition-The Cancer Answer".

25 Q. All right. Now did there ever come a time
26 when you had a conversation with Dr. Manner or with

1 the Plaintiff concerning how this book had come
2 into being?

3 MR. TIPS: Objection. Leading.

4 THE COURT: Objection is overruled.

5 THE WITNESS: I don't believe I ever
6 queried them as to how it came about but I
7 discussed with them the book when in both their
8 presence.

9 BY MR. GILL:

10 Q. And in that can you tell us when that
11 conversation would have been?

12 A. It was in Los Angeles at a meeting.
13 Whether it was National Health Federation or Cancer
14 Control I don't remember.

15 Q. Can you tell us the year?

16 A. I'm sorry. I can not tell the year but it
17 was early '80's or that particular timeframe.

18 Q. Now what, if anything, was discussed
19 concerning authorship of this book with Dr. Manner
20 and the Plaintiff?

21 A. Our conversation regarded the alteration
22 of the book and in essence I think what was
23 occurring was I was presenting changes --

24 MR. TIPS: Objection.

25 THE WITNESS: -- to the two authors.

26 THE COURT: Objection sustained.

1 MR. TIPS: Move to strike the last
2 portion.

3 THE COURT: Motion to strike is granted.

4 BY MR. GILL:

5 Q. Drawing your attention to the 1980 or
6 1981, sir. Will you tell us whether or not there
7 you had a conversation with Dr. Manner and the
8 Plaintiff concerning their collaboration in
9 authoring "Nutrition-The Cancer Answer"?

10 MR. TIPS: Your Honor, again objection.
11 Leading question, first of all, but secondarily
12 objection as to relevancy. It is not in dispute
13 that this book that is being sued upon here is the
14 property of Miss Salaman, the Plaintiff in this
15 case. How the book was authored is really actually
16 irrelevant.

17 THE COURT: Objection is sustained.

18 BY MR. GILL:

19 Q. Will you tell us, Doctor, whether any --
20 whether the Plaintiff ever presented anything to
21 you as a proposal to meet her thesis requirement
22 for her Masters?

23 A. She did not present it to me, sir.

24 Q. Well, with whom -- who she had
25 discussed -- with whom would she have discussed her
26 thesis requirements?

1 MR. TIPS: Objection. Lack of
2 foundation.

3 THE COURT: Objection is overruled.

4 THE WITNESS: Probably
5 Dr. Linda Bunting-Smith.

6 BY MR. GILL:

7 Q. All right. And will you tell us whether
8 doctor Linda Bunting-Smith would have made the
9 decisions herself concerning thesis requirements or
10 whether she would have brought the matter to your
11 attention?

12 A. I usually approve all thesis and
13 dissertations.

14 Q. Now how would Dr. Bunting -- is that the
15 correct name?

16 A. Bunting-Smith yes.

17 Q. How would Dr. Bunting-Smith propose --
18 present a student's proposed thesis matter to you?

19 MR. TIPS: Your Honor, what is the
20 relevancy here? Objection. He has already stated
21 that it meets the thesis requirements.

22 THE COURT: What is the relevance,
23 Mr. Gill?

24 MR. GILL: The relevance, Your Honor, is
25 the authorship. The Plaintiff has testified she is
26 the sole author of the book and my intention is to

1 show, if possible, that this was not the case.

2 MR. TIPS: We are back to the same issue.

3 THE COURT: I already ruled on it,
4 Mr. Gill.

5 MR. GILL: All right. I'm sorry, Your
6 Honor. I will go on.

7 BY MR. GILL:

8 Q. Now did you, sir, I would show you Exhibit
9 30 a copy of "Nutrition-The Cancer Answer" for the
10 record. Did there come a time when you were asked
11 to review the consents of the document that ended
12 up as a book "Nutrition-The Cancer Answer"?

13 A. Yes, sir.

14 Q. And can you tell us approximately what
15 timeframe was for that?

16 A. '80-'81 area.

17 Q. Who requested -- first of all, who was it
18 that asked you to review the book?

19 A. Miss Salaman.

20 Q. And for what purpose was the request made?

21 A. She was asking my opinion prepublication
22 as to the contents.

23 Q. All right.

24 MR. TIPS: Could we have a point of
25 clarification, please whether we are talking since
26 it was before the book was published whether we are

1 talking the about book itself or whether we are
2 talking about the thesis that he had reviewed?

3 THE COURT: Objection sustained.

4 BY MR. GILL:

5 Q. Let's go to that question. What was it
6 that she asked you to examine prepublication?

7 A. The examination I made of the
8 prepublication copy had to do with the book and not
9 with the school requirement.

10 Q. All right. And what was it that you
11 examined at her request? Is it a manuscript?

12 A. As I recall it, it was a manuscript yes,
13 sir.

14 Q. All right. And did you, in fact, read the
15 manuscript?

16 A. I did.

17 Q. And after you had read the manuscript, did
18 you have any opinion as to its content?

19 MR. TIPS: Objection. Relevance.

20 THE COURT: What is the relevance?

21 MR. GILL: Your Honor, the testimony has
22 already been in this case from the Plaintiff that
23 the doctor did review it, did have certain comments
24 and he assisted her with certain corrections that
25 were made.

26 My recollection is also that this is part

1 and partial frontispiece or forward to the book. I
2 wish to establish his part of that.

3 MR. TIPS: It has already been
4 established, Your Honor, that the only question of
5 Donsbach was if he could use his -- if the author
6 could use his data on digestion in the book. The
7 credit was given to him in the book in 1983. There
8 is really no issue here.

9 THE COURT: Objection is overruled. Go
10 ahead.

11 BY MR. GILL:

12 Q. After reading the transcript what were
13 your conversations with the Plaintiff?

14 A. I indicated that I felt that a particular
15 chapter should be changed, altered and had given
16 some specific written suggestions.

17 Q. All right. And did you have an occasion
18 to meet with the Plaintiff after you had read the
19 book?

20 A. Yes, I did.

21 A. What occurred at this meeting?

22 A. As I recall, I met with her and Dr. Manner
23 and we agreed that -- they agreed, thought the
24 changes I had made were germane and proper and many
25 of them were used.

26 Q. Now did you actually make changes yourself

1 or did you merely suggest changes?

2 A. I merely suggested changes. I was not an
3 author of the book. I was only doing a favor to a
4 friend.

5 Q. And will you tell us whether or not the
6 changes were actually made?

7 A. Yes -- well, I don't know if 100 percent
8 of them were made most of them were made, yes.

9 Q. All right. I would like to go back to
10 Donsbach University for a moment, sir. You
11 described this as open wall university.

12 A. University without walls.

13 Q. Universities without walls. Thank you.
14 You told us there were live classes held in a
15 variety of different cities. Will you tell --

16 A. That's correct.

17 Q. Will you tell us what the policy of the
18 university was concerning graduation?

19 A. We held one annual graduation. We invited
20 as many students as wished to participate in that
21 graduation, to participate.

22 Q. Now one graduation per year, sir?

23 A. Yes, sir.

24 Q. Where was the one graduation per year
25 held?

26 A. At a variety of locations, sir. It was in

1 Boston, it was in Las Vegas. It was in a variety
2 of places.

3 Q. The variety of places would you tell us
4 whether or not those places would be places live
5 courses had -- live instructions had been
6 presented?

7 A. Often times, yes.

8 Q. Now what policy, if any, did Donsbach
9 University pursue in graduating students, its
10 graduation ceremonies?

11 A. Perhaps the only unusual aspect of the
12 graduation ceremony was the fact that we allowed
13 students who were close to but had not completed
14 their total requirements to participate in the
15 ceremonies but they were not issued a degree.

16 Q. What, if anything, were they issued in
17 lieu of a degree?

18 A. Actually, everyone who came up was only
19 presented with a rolled up piece of parchment. It
20 was not a degree with their name on it.

21 Q. In other words, can you tell us whether or
22 not at the graduate ceremony the physical document
23 of the degree would be given out?

24 A. No, it was not.

25 Q. Was there anything unusual concerning the
26 dress or guard used at graduation?

1 A. I don't think there was -- I think we
2 followed tradition in that respect.

3 Q. What was the tradition?

4 A. There is a difference in the type of cape
5 that is used for the various degrees.

6 Q. I would show you exhibit -- Plaintiff's
7 Exhibit 35. Would you tell me whether or not you
8 are able to recognize that photograph -- those two
9 photographs as having any relationship to Donsbach
10 University?

11 A. It would certainly appear to be a
12 graduating class that I believe was held in Orange
13 County.

14 Q. Now referring to the photograph on the
15 lower left, it appears to be a close up of
16 students. Can you tell us whether or not there are
17 two different types of colors on the robe?

18 A. Yes, sir, very definitely.

19 Q. The group of graduates in the back row
20 would you describe the type of colors that they are
21 wearing?

22 A. That's the color signifying the bachelors
23 degree.

24 Q. And what colors, if any, does that
25 particular color have?

26 A. White, sir.

1 Q. Now there are three individuals in
2 different colors in the front row. Can you
3 identify any of the three individuals?

4 A. Yes, I can.

5 Q. Which ones are you able to identify?

6 A. Miss Salaman is here.

7 Q. Is in the center.

8 A. Yes.

9 Q. Can you identify either of the other two
10 gentlemen?

11 A. I recollect this face. This was an older
12 gentleman physician I believe graduated. I don't
13 remember the name.

14 Q. Their colors are different colors.

15 A. I believe those are the colors of the
16 Masters Degree candidates I believe.

17 Q. All right. Now, Doctor, can you tell us
18 whether or not to your knowledge are you able to
19 tell us whether the Plaintiff ever received a
20 Masters of Science Degree or not?

21 A. No, I am not.

22 Q. Going back to Plaintiff's book
23 "Nutrition-The Cancer Answer", can you tell us a
24 little bit about the subject matter of the book?

25 MR. TIPS: Objection as to relevancy.

26 THE COURT: Sustained.

1 BY MR. GILL:

2 Q. Can you tell us whether the predominant
3 theme of the book was related to nutrition or
4 whether it was related to Laetrile, Doctor?

5 A. The textbook part of the book was
6 primarily resolving around the subject of
7 Laetrile.

8 Q. All right. Now what type of market in
9 your experience would serve this book --

10 MR. TIPS: Objection. Lack of
11 foundation.

12 THE COURT: Sustained.

13 MR. GILL: Will you tell us whether or not
14 you have any familiarity with books written in
15 metabolic therapy and the nutrition field.

16 MR. GILL: Objection. Lack of foundation
17 time.

18 THE COURT: Sustained.

19 BY MR. GILL:

20 Q. Did -- Doctor, did there come a time you
21 had any knowledge or experience concerning books
22 written in the metabolic therapy or nutritional
23 field?

24 A. Yes, sir.

25 Q. What point in time would you have become
26 familiar with this field of literature?

1 A. Intimately so from the 1976 period on.

2 Q. Now by the 19 -- by the early 1980's what,
3 if any, personal success did you have in your own
4 efforts to public in these fields?

5 A. Considerable.

6 Q. And will you tell us whether or not your
7 experience gave you any ability to judge or
8 anticipate the market for a book written in this
9 field?

10 MR. TIPS: Objection. Leading.

11 THE COURT: Sustained.

12 BY MR. GILL:

13 Q. Based on your experience, sir, by the
14 1980's can you tell us whether or not there are
15 occasions when an author will consult with you
16 concerning publication of a book in the field of
17 nutrition or metabolic therapy?

18 A. Yes, sir.

19 Q. Will you tell us whether there are
20 occasions when an author was -- would consult you
21 concerning the market for which the book should be
22 authored?

23 A. I think that would be a part of the
24 conversation, sir.

25 Q. Will you tell us where or not there was
26 ever any discussion with the Plaintiff or

1 Dr. Manner concerning the market for the book
2 "Nutrition-The Cancer Answer"?

3 MR. TIPS: Objection. This witness has
4 not been qualified as an expert in the field of
5 marketing books.

6 THE COURT: Objection is overruled. The
7 court is not taking his expert opinion but merely
8 as an own person opinion.

9 THE WITNESS: Would you repeat your
10 question?

11 MR. GILL: May it be read back, please?

12 THE COURT: Loretta, please read that
13 back.

14 (Record read.)

15 THE WITNESS: Not to my recollection.

16 BY MR. GILL:

17 Q. Drawing your attention to which the
18 Plaintiff asked you to review the book at that
19 point in time, did you give any consideration to
20 what market that book might be appropriate for?

21 A. Certainly had my own opinion.

22 Q. All right. And will you tell us what that
23 opinion was?

24 MR. TIPS: Objection as to relevancy of
25 this witness' opinion as to the market of
26 "Nutrition-The Cancer Answer".

1 THE COURT: What is the relevance?

2 MR. GILL: The relevance is this, Your
3 Honor. We had yesterday a witness coming in and
4 tell us these major significance of a book needing
5 an ISBN and being in Books-in-Print. We have a
6 doctor who has been quite successful with minimal
7 use of Books-in-Print because he has focused on a
8 particular market.

9 My line of my inquiry goes to whether this
10 particular book was targeted for the same or
11 similar market which the doctor has had his
12 experience.

13 MR. TIPS: The witness yesterday, Your
14 Honor, was a qualified expert in the field of
15 publishing. This witness is not.

16 MR. GILL: Your Honor --

17 THE COURT: No need to argue it further.
18 The objection is overruled. Go ahead.

19 MR. GILL: Can you answer the question,
20 Doctor?

21 THE WITNESS: By now I need the
22 recollection.

23 MR. GILL: The question was what in your
24 opinion was the appropriate market for the
25 Plaintiff's book "Nutrition-The Cancer Answer"?

26 THE WITNESS: Again, it appeals to that

1 arena of alternative approaches to the subject
2 which is a narrow market.

3 MR. TIPS: Objection. Vague and
4 ambiguous.

5 THE COURT: Objection to the answer or the
6 question?

7 MR. TIPS: Actually, probably both, Your
8 Honor.

9 THE COURT: The answer will stand. Go
10 ahead, Mr. Gill.

11 MR. GILL: Thank you, Your Honor. I am
12 finished.

13 THE COURT: Mr. Tips?

14 MR. TIPS: Should we break for lunch or
15 you want me to --

16 THE COURT: I prefer to get fifteen
17 minutes. We will break at noon.

18 (Certificate of
19 Naturopathy marked
20 Plaintiff's Exhibit No.
57 for identification.)

21 (Letter dated 5-14-90
22 marked Plaintiff's
23 Exhibit No. 58 for
24 identification.)

25 (Letter dated 6-4-90
26 marked Plaintiff's
Exhibit No. 59 for
identification.)

1 MR. TIPS: We can agree --

2 MR. GILL: Can I see the documents?

3 MR. TIPS: When I use them, I will parcel
4 them out.

5 CROSS-EXAMINATION

6 BY MR. TIPS:

7 Q. We can agree you have known
8 Lorraine Rosenthal for many years?

9 A. Yes, sir.

10 Q. And that you and Ms. Rosenthal have
11 similar views?

12 A. Not on everything, sir.

13 Q. And you and Miss Rosenthal have worked
14 together.

15 MR. GILL: Your Honor, objection. Lack of
16 foundation.

17 THE COURT: Sustained.

18 BY MR. TIPS:

19 Q. That Lorraine Rosenthal has referred
20 patients to your clinics?

21 MR. GILL: Lack of foundation. Date,
22 time, place.

23 THE COURT: Sustained.

24 BY MR. TIPS:

25 Q. That Miss Rosenthal has referred patients
26 to your clinics at any time.

1 A. Not that I am aware of, sir.

2 Q. That we can also agree that you are not a
3 medical doctor.

4 A. Absolutely.

5 Q. Absolutely we can agree.

6 A. Yes, sir.

7 Q. You have used the title doctor.

8 A. I believe Doctor of Chiropractic.

9 MR. GILL: Objection. Argumentative.

10 THE COURT: Objection is sustained. The
11 remark is clearly argumentative.

12 BY MR. TIPS:

13 Q. Have you used the title doctor?

14 A. Yes, sir.

15 Q. You used that title?

16 Q. You used the title MD?

17 A. I have never used the title MD, sir.

18 Q. You have been, in fact, had that title on
19 your drivers license have you not?

20 A. That is untrue, sir, and if we want to get
21 it into -- I am not, Your Honor -- Your Honor --

22 THE COURT: You have answered the
23 question. Go ahead please, Mr. Tips.

24 BY MR. TIPS:

25 Q. And you've used the title doctor because
26 of a degree in naturopathy.

1 A. That is not true, sir. I have used the
2 doctor as my doctor of chiropractic.

3 Q. But you have told the jurors here that you
4 have a degree from the Hollywood College of
5 Naturopathy.

6 A. I have a degree from Hollywood College of
7 Naturopathic medicine yes, sir.

8 Q. And in fact, Exhibit 57 which is a one
9 page document which is entitled the Hollywood
10 College School --

11 MR. GILL: Objection.

12 THE COURT: If you have not shown that to
13 Mr. Gill as I previously instructed you to do,
14 let's hold on until he looks at it. We have gone
15 over it three times in this trial. I had asked you
16 not to submit exhibits without giving advance
17 copies to Mr. Gill.

18 MR. TIPS: And you have instructed
19 Mr. Gill the same.

20 THE COURT: Absolutely. It works two
21 ways. Absolutely there is no question. While he
22 is doing that perhaps you could identify it for the
23 record, please.

24 MR. TIPS: Very good point. For the
25 record, this is an one page document and appears to
26 be a certificate entitled the Hollywood College

1 Naturopathy. Be known that Kurt W. Donsbach is
2 misspelled that appears on this Doctor of
3 Naturopathy and is dated in the lower right hand
4 corner and it is dated 17, s-t, day of June 1960.

5 THE COURT: That is marked for
6 identification as Exhibit 57. Is that correct?

7 MR. TIPS: That's correct, Your Honor.

8 THE COURT: Thank you. Ready?

9 MR. GILL: Yes, Your Honor. Thank you.

10 THE COURT: Go ahead, Mr. Tips.

11 MR. GILL: Might we approach for a side
12 bar at this point, please?

13 (Conference at the bench not reported.)

14 BY MR. TIPS:

15 Q. Do you recognize that document in front of
16 you?

17 A. Yes, sir.

18 Q. Exhibit 57?

19 A. Yes, sir.

20 Q. Has your name on it?

21 A. Yes, sir.

22 Q. Elaborate calligraphy.

23 MR. GILL: Argumentative. Documents
24 speaks for itself.

25 THE COURT: Objection sustained.

26 BY MR. TIPS:

1 Q. Is that misspelled?

2 A. Yes, sir.

3 Q. Showing you your degree issued on June 17,
4 s-t, 1906?

5 MR. GILL: Asked and answered.

6 MR. TIPS: I just identified it for the
7 record, Your Honor.

8 THE COURT: Objection is overruled.

9 BY MR. TIPS:

10 Q. Could you answer the question?

11 A. Yes, sir.

12 Q. You actually never got that degree?

13 A. Yes, I did, sir.

14 Q. In fact, did you not receive a letter in
15 May 1990 from the State of Oregon regarding your
16 naturopathic license in Oregon?

17 MR. GILL: I am going to object. He is
18 changing whether the man got a degree from a
19 college to a licensing question in Oregon.

20 MR. TIPS: I may do so, Your Honor. I
21 proceeding with my examination.

22 THE COURT: Go ahead.

23 BY MR. TIPS:

24 Q. Did you receive such a letter?

25 A. Yes, I did.

26 MR. GILL: Lack of foundation.

1 Relevance.

2 THE COURT: Objection to lack of
3 foundation is sustained.

4 MR. GILL: I haven't seen any such
5 letter.

6 MR. TIPS: I am about to put it into
7 evidence, Your Honor. I will give counsel a chance
8 to read it.

9 (Pause.)

10 MR. TIPS: Is counsel ready?

11 MR. GILL: No, Your Honor, I'm not.

12 (Pause.)

13 MR. TIPS: Your Honor, may I proceed now?

14 THE COURT: Ready, Mr. Gill?

15 MR. GILL: All right, Your Honor.

16 THE COURT: Go ahead.

17 MR. TIPS: I put before you Plaintiff's
18 Exhibit 58 which I will read into the record. Is a
19 letter from the --

20 MR. GILL: Objection. Foundation.

21 THE COURT: Sustained.

22 BY MR. TIPS:

23 Q. Do you recognize your name on this letter?

24 A. Yes, sir.

25 Q. And do you recognize that address?

26 A. Yes, sir.

1 Q. And that letter is addressed to you?

2 A. Yes, sir.

3 Q. And you received that letter.

4 A. Yes, sir.

5 Q. You read that letter?

6 A. Yes, sir.

7 Q. And I will read for the record what this
8 letter is. May 14th, 19 --

9 THE COURT: You are reading the
10 description.

11 MR. TIPS: Just the description. May 14,
12 1990. It is a letter of that date from the State
13 of Oregon Office of Educational Policy and
14 Planning. It consists of two pages with three
15 attachments of degrees purportedly received or
16 certificates purportedly received by
17 Kurt W. Donsbach and it has been identified as
18 Plaintiff's Exhibit 58.

19 BY MR. TIPS:

20 Q. You have seen this letter before?

21 A. Yes, sir.

22 Q. And is it fair to say that the letter
23 calls into question your naturopathic degree?

24 A. Yes, sir.

25 Q. It says that the degree is fraudulent.

26 A. That is what the contention is yes, sir.

1 Q. In fact, it says that your degree was
2 photocopied from another man's degree.

3 A. I don't recall seeing that in there, sir.

4 Q. The letter informs you that the Oregon
5 State Educational Office is proposing to prohibit
6 you from holding any professional license in that
7 state.

8 MR. GILL: Objection. Misstates the
9 letter.

10 MR. TIPS: Your Honor, it does not have
11 the letter in front of you but the letter does say
12 that.

13 MR. GILL: Your Honor --

14 THE COURT: I can't rule on it until I see
15 the letter.

16 MR. TIPS: I will read it in.

17 THE COURT: Don't read it in.

18 MR. TIPS: Direct you to the last second
19 page -- to the second to the last paragraph.

20 MR. GILL: Might the court take a moment
21 and peruse the entire first two pages, Your Honor?

22 MR. TIPS: Your Honor, I asked him a
23 specific question to --

24 THE COURT: Ask the question again so I
25 can hear the objection again.

26 MR. TIPS: The letter informs you that the

1 Oregon State Educational Office --

2 MR. GILL: Objection. The court was going
3 to read the letter.

4 THE COURT: I asked him to ask the
5 question again.

6 BY MR. TIPS:

7 Q. Informs you that the Oregon State
8 Educational Office is proposing to prohibit you
9 from holding a professional license in that state.

10 MR. GILL: Objection. Misstates the
11 letter.

12 THE COURT: Objection is sustained.

13 MR. TIPS: The letter states that they
14 propose to prohibit you from claiming a doctor's
15 degree in Oregon.

16 THE COURT: You can answer that question,
17 please.

18 THE WITNESS: That is what the letter
19 states, yes.

20 BY MR. TIPS:

21 Q. To notify the Naturopathic Board of that
22 determination.

23 A. It may say that.

24 MR. GILL: That misstates. That is a
25 proposal to notify the Naturopathic Board.

26 THE COURT: The correction is accepted.

1 MR. TIPS: A correction is made to my
2 question, Your Honor.

3 BY MR. TIPS:

4 Q. In fact, in June 1990 you received another
5 letter from the Oregon State Educational Office;
6 didn't you?

7 A. I may have, sir.

8 MR. GILL: If we might have a few
9 moments.

10 THE COURT: We will, in fact, take ninety
11 of them.

12 MR. TIPS: Could we finish this one
13 question?

14 THE COURT: How long is this letter?

15 MR. TIPS: It is a three paragraph
16 letter.

17 (Pause.)

18 MR. GILL: All right.

19 MR. TIPS: Because of the -- let me give
20 you a copy, too.

21 MR. TIPS: I have a few questions on this
22 and we will finish that line of inquiry.

23 MR. GILL: He may proceed, Your Honor.

24 THE COURT: Go ahead. Are you proposing
25 that this be marked also?

26 MR. TIPS: It has been marked as

1 Plaintiff's Exhibit 59. Excuse me for not
2 mentioning that.

3 Plaintiff's Exhibit 59 is also in the same
4 letterhead stationery as Plaintiff's Exhibit 58 is
5 a one page letter dated June 4, 1990 from the
6 Office of Educational Policy and Planning directed
7 to Kurt W. Donsbach and signed by David A. Young,
8 administrator Academic Degree Authorization.

9 BY MR. TIPS:

10 Q. I put this letter before you Plaintiff's
11 Exhibit 59 and that letter is addressed to you,
12 correct?

13 A. Yes, it is.

14 Q. And that's the other letter that you
15 received from the State Educational Office of
16 Oregon, correct?

17 A. Yes.

18 Q. And that letter was read by you.

19 A. I don't recall the letter specifically. I
20 see it now.

21 Q. And but you did receive the letter.

22 A. I assume I did, sir. I don't recall it.

23 Q. And is it fair to say that this letter is
24 now indicating that the matter is concluded with
25 respect to your Doctor of Naturopathy Degree? You
26 may not legally claim that from Hollywood College?

1 MR. GILL: That is not what it says, Your
2 Honor.

3 THE COURT: Objection sustained.

4 MR. TIPS: Your Honor, the first sentence
5 of the second paragraph I would submit to Your
6 Honor does say it.

7 THE COURT: The objection is sustained
8 based on the basis of the conclusion of the
9 question said that the matter was concluded.

10 BY MR. TIPS:

11 Q. Sir, you the letter indicates you may not
12 legally claim the Doctor of Naturopathy Degree from
13 Hollywood College.

14 MR. GILL: That misstates the evidence.

15 THE COURT: Objection is overruled.

16 MR. GILL: If Your Honor please, may I be
17 heard on this?

18 THE COURT: It is the first sentence of
19 paragraph two. The objection is overruled.

20 MR. TIPS: Could you answer the question?

21 MR. GILL: Your Honor, for the record I
22 would like to state that this is a letter from
23 Salem Oregon Office of Educational Policy and
24 Planning. The statement pertains to the State of
25 Oregon not blanket and that is the basis of my
26 objection. He has been misstating the content and

1 the purpose of the letter.

2 MR. TIPS: Your Honor, that was understood
3 when I laid the foundation for this whole line of
4 questioning.

5 THE COURT: That is something that you can
6 deal with on redirect. Go ahead.

7 MR. TIPS: May we have an answer to the
8 question, Your Honor?

9 BY MR. TIPS:

10 Q. The question is: You may not legally
11 claim the Doctor of Naturopathy Degree from
12 Hollywood College.

13 A. You have taken out of context something.
14 This --

15 MR. TIPS: Your Honor, I move to strike
16 that --

17 THE WITNESS: -- conclusion of the State
18 of Oregon.

19 MR. GILL: Calls for a yes or no answer.

20 THE COURT: Well, I don't believe it
21 does. I'm not clear either, Mr. Tips, whether you
22 are asking him whether he agrees with that
23 conclusion or he agrees that is what the sentence
24 says.

25 MR. TIPS: Let me make the question clear
26 then, Your Honor.

1 BY MR. TIPS:

2 Q. This letter indicates you may not legally
3 claim the Doctor of Naturopathy Degree from
4 Hollywood College.

5 A. In the State of Oregon, sir.

6 Q. Yes or no.

7 A. Only if I'm allowed addition to the
8 question.

9 THE COURT: The court understands that is
10 your answer. Is that correct?

11 THE WITNESS: Yes, sir.

12 BY MR. TIPS:

13 Q. This letter states that your diploma is
14 not authentic, is it not?

15 A. It indicates so in the State of Oregon,
16 sir.

17 Q. And that any such Naturopathy Degree is
18 counterfeit, does it not?

19 A. I didn't see that but --

20 Q. Paragraph two second sentence. Your --

21 A. That is their claim, sir. We never
22 disputed it because I had no license in the state
23 any way. You are not taking anything away.

24 MR. TIPS: Your Honor, this does not
25 call -- nonresponsive. Move to strike.

26 THE COURT: Objection sustained. Motion

1 to strike is granted.

2 BY MR. TIPS:

3 Q. This letter states your claim to that
4 degree is not valid.

5 A. In the State of Oregon.

6 MR. TIPS: Your Honor, thank you for your
7 indulgence.

8 THE COURT: Ladies and Gentlemen, be back
9 outside 1:30 to meet the bailiff. Don't talk about
10 the case, don't form or express any opinion about
11 it.

12 (Whereupon, the luncheon recess was
13 taken.)

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AFTERNOON SESSION

THURSDAY, MAY 12, 1994

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THE COURT: Go ahead, Mr. Tips.

MR. TIPS: Thank you, Your Honor.

BY MR. TIPS:

Q. I would like to ask you some questions about your Hollywood College School Naturopathy. Do you understand?

A. Yes, sir.

Q. And with respect to the letter that is Plaintiff's Exhibit 59 after you received that letter you still continued to tell people that you had a degree from that particular college. Didn't you?

A. Yes, sir.

Q. And whom did you tell?

A. I don't make it a practice to tell anybody, sir.

Q. And you told people on television. Isn't that correct?

MR. GILL: Your Honor, at this point I am going to object. This line of questioning is suggesting is misstating the evidence. There is no evidence that the Hollywood College School of Naturopathy has removed any credential.

1 THE COURT: Objection sustained.

2 BY MR. TIPS:

3 Q. I will refer you to Plaintiff's Exhibit 58
4 then. Do you have that in front of you?

5 A. No, sir.

6 Q. Let's get the exhibit. I put before you
7 Plaintiff's Exhibit 58 which again for the court's
8 convenience is a letter dated May 14, 1990 from the
9 State of Oregon Office of Educational Policy and
10 Planning directed to you, Kurt W. Donsbach.

11 Referring you to the first indented paragraph on
12 the first page item number one --

13 MR. GILL: Your Honor --

14 MR. TIPS: It is has been made known to
15 you that the State of Arizona in a sworn testimony
16 Dean and Board --

17 MR. GILL: Objection, Your Honor.

18 MR. TIPS: -- affirmed --

19 THE COURT: What is the objection?

20 MR. GILL: This is hearsay.

21 THE COURT: Objection is sustained.

22 MR. TIPS: Your Honor, I am asking if he
23 is aware of this. I am not asking --

24 THE COURT: I apologize then. Maybe if I
25 heard the full question, I would have had a more
26 appropriate ruling.

1 BY MR. TIPS:

2 Q. Were you made aware that in sworn
3 depositions the Dean and Board President of
4 Hollywood College affirmed that the college did not
5 offer any naturopathic education or degree in 1960?

6 MR. GILL: Objection. The basis of this
7 question is hearsay and it is assuming facts not in
8 evidence.

9 MR. TIPS: He can admit or deny that, Your
10 Honor.

11 THE COURT: Admit or deny he was made
12 aware of it?

13 MR. TIPS: Correct.

14 THE COURT: Are you referring to some
15 other source of information other than this letter
16 or does your question address made aware by this
17 letter?

18 MR. TIPS: From other sources, Your
19 Honor.

20 THE COURT: Objection is overruled.

21 MR. TIPS: You may answer.

22 THE WITNESS: The only awareness I would
23 have would be this letter.

24 BY MR. TIPS:

25 Q. Were you made aware that a 1961
26 chiropractic graduate, a person submitted a

1 person -- that person submitted to Arizona the same
2 1960 naturopathic diploma as yours?

3 A. The only evidence or the only awareness I
4 have is what is right here on this piece of paper,
5 sir.

6 Q. Were you ever made aware at any time that
7 the creation of this Plaintiff's Exhibit 57 that a
8 naturopathy diploma that is in front of you was
9 made using xerographic reduction technology that
10 didn't even exist until 1969?

11 MR. GILL: Objection. Assumes a fact not
12 in evidence. Objection. Lack of foundation.
13 Proper foundation would be to present evidence that
14 the -- that this -- that this particular man's --
15 excuse me, Your Honor. May we have the Plaintiff
16 get out of my face again?

17 THE COURT: Please, Miss Salaman. It
18 happened this morning. I don't want it to happen
19 again.

20 MR. GILL: I'm sorry. I lost my
21 concentration. It was affected, however. I
22 apologize, Your Honor. I should not have said
23 that.

24 My objection is this, Your Honor. There
25 is no evidence before the court or the witness that
26 his particular certificate has had any reduction or

1 manufactured in any unusual manner. That would be
2 the basis of my objection.

3 MR. TIPS: Your Honor, the question was
4 whether he was aware or ever made aware at any
5 time.

6 THE COURT: Of the facts or of the
7 statement in the letter?

8 MR. TIPS: Of the facts and in --

9 THE COURT: The objection is sustained.

10 MR. TIPS: The statement -- of the
11 statement in the letter.

12 BY MR. TIPS:

13 Q. Mr. Donsbach, were you ever made aware of
14 the statement in the letter that this diploma that
15 is in front of you used xerographic reduction
16 technology that did not exist until 1969?

17 A. I am only aware of what is in this
18 letter.

19 Q. So you are at not aware in any other
20 respect as to that circumstance that is the
21 xerographic technology not having existed until
22 nine years later.

23 MR. GILL: Asked and answered.

24 THE COURT: Sustained.

25 MR. TIPS: In fact, sir, at one time you
26 appeared on an expose about you on NBC News --

1 MR. GILL: Objection, Your Honor.

2 MR. TIPS: -- Dateline November 2nd.

3 THE COURT: What is the objection?

4 MR. GILL: Now we are getting into
5 hearsay.

6 THE COURT: Sustained.

7 MR. GILL: Thank you.

8 MR. TIPS: I'm about to impeach this
9 witness. He said he had not heard these
10 allegations before. I am about to show that he had
11 heard them before.

12 THE COURT: Objection sustained as to
13 hearsay.

14 MR. TIPS: It's going to the state of
15 mind, Your Honor.

16 THE COURT: Objection is sustained.

17 MR. TIPS: Your Honor, it is a hearsay
18 exception. It is merely offered for the fact that
19 it was said.

20 THE COURT: Exception is what?

21 MR. TIPS: It is merely offered for the
22 fact that it was said.

23 THE COURT: What it is being offered --

24 MR. TIPS: I slowed down. Thought I was
25 done. It is offered merely for the fact that it
26 was said not for the truth of the matter asserted.

1 Therefore, it falls within the exception of the
2 hearsay rule.

3 THE COURT: What is the relevance of it,
4 though?

5 MR. TIPS: The relevance of it is that
6 this witness got on the stand and said he only
7 heard of it through this letter. I am about to be
8 able to show that he heard of it through another
9 means as well, Your Honor.

10 THE COURT: The objection then is
11 overruled.

12 MR. TIPS: I would have marked as the
13 exhibit next in order which I believe is Exhibit
14 60.

15 THE CLERK: That's correct.

16 (Article entitled, "NBC
17 News Dateline" dated
18 11-2-93 marked
19 Plaintiff's Exhibit No.
20 60 for identification.)

21 MR. TIPS: Identify --

22 MR. GILL: For the record, I had just been
23 handed a twenty-three page document. Might we have
24 a fifteen minute recess?

25 THE COURT: Yes. Mr. Tips, approach the
26 bench, please. In fact, approach the back.

(Conference at the bench not reported.)

MR. GILL: May counsel approach, please?

1 THE COURT: No. Let's proceed.

2 MR. GILL: I have not had an opportunity
3 to read this exhibit or the three subsequent
4 exhibits.

5 MR. TIPS: I took your words to heart. I
6 gave him all the exhibits that we have for this
7 witness that I am aware of.

8 THE COURT: In that case we will break for
9 about ten minutes. If you'd come back about ten
10 after two. Be outside waiting for the bailiff.
11 Don't talk about the case among yourselves, don't
12 form or express any opinion about it.

13 (Recess taken.)

14 (The following proceedings were had
15 outside the presence of the jury.)

16 (Document entitled,
17 "Report of Trial" marked
18 Plaintiff's Exhibit 61
for identification.)

19 (Document entitled,
20 "Summary Probation
21 Order" marked Plaintiff's
Exhibit No. 62 for
identification.)

22 (Document entitled,
23 "Cease and Desist Order"
24 marked Plaintiff's
Exhibit No. 63 for
identification.)

25 THE COURT: Back on the record. For the
26 record, the record should indicate we are in

1 session without the presence of the jury for the
2 limited purpose of voir diring this witness about
3 the possible expungement of some exhibits which
4 have been proposed. Perhaps by number they are
5 Exhibits 61 and 62 both which appear to be court
6 documents from West Orange County Municipal Court
7 in West Minster.

8 MR. TIPS: For the record here is Exhibit
9 63 as well.

10 THE COURT: Also offered has been Exhibit
11 63 which appears to be a Cease and Desist Order
12 dated July 20th, 1988 and signed by James A. Cohen,
13 Judicial Officer under the heading Judicial
14 Officer. United States Postal Service Washington,
15 D.C. For the limited purpose for this voir dire
16 goes to Exhibits 61 and 62 and whether they have
17 been expunged.

18 MR. GILL: If the court would recite for
19 the record the information on the date and charges
20 in 61 and 62.

21 THE COURT: 61 alleges violations of three
22 counts of Health and Safety Code 26286.5. Three
23 counts of Business and Professions Code 2141 and
24 three counts of Health and Safety Code 26280 and
25 Exhibit No. 62 --

26 MR. GILL: Excuse me. 61, Your Honor, it

1 reflects in the upper right corner a date of trial
2 of April --

3 THE COURT: Date of April 9th, 1971.
4 Exhibit 62 appears to be a plea form -- I'm sorry.
5 Strike that. A summary probation order for a
6 violation of what the court assumes to be Health
7 and Safety Code 26670. There is no letter
8 designation in front of the probation order. That
9 probation order is dated July 13, 1973.

10 MR. GILL: May the record also reflect
11 that neither 61 nor 62 has been certified by the
12 clerk of the Municipal Court?

13 THE COURT: The record will so reflect.

14 MR. GILL: Thank you. Shall I proceed?

15 THE COURT: I would allow you to ask the
16 question.

17 MR. GILL: May I show the witness the
18 exhibits, Your Honor?

19 VOIR DIRE EXAMINATION

20 BY MR. GILL:

21 Q. Dr. Donsbach, I draw your attention to
22 Plaintiff's exhibit 61. First of all, are you
23 familiar with this document?

24 A. Yes, I am, sir.

25 Q. And --

26 MR. TIPS: Excuse me. Exhibit 61, what is

1 the title of the document?

2 MR. GILL: Report of Trial.

3 MR. TIPS: Report of Trial. Thank you. I
4 see it here.

5 BY MR. GILL:

6 Q. Just so the record is clear this makes
7 reference to West Prolab, Inc., and Natures Way
8 Health Food Store?

9 A. That's correct, sir.

10 Q. Were you a defendant in this proceeding?

11 A. Yes, I was.

12 Q. And will you tell us whether or not you
13 were convicted in any matter relating to this
14 document?

15 A. I don't know if the court conviction is
16 correct. We entered a plea what I thought was no
17 contest. It says here entered a plea of guilty to
18 one charge and I remember the one charge. I
19 remember that no contest was similar to guilty or
20 the same as guilty.

21 Q. All right. Now did you receive a
22 probationary term?

23 A. Yes, I did, sir.

24 Q. And did you serve the probationary term?

25 A. Yes, I did.

26 Q. Following completion of the probationary

1 term, will you tell us whether or not any steps
2 were taken to have this expunged from your record?

3 A. There were, sir.

4 Q. Will you describe those steps and the
5 results to the court, please?

6 A. An attorney informed me that under the law
7 after the --

8 MR. TIPS: Objection, Your Honor. This is
9 not responsive to the question.

10 THE COURT: Sustained.

11 MR. GILL: We will do it one step at a
12 time.

13 THE COURT: I don't think -- we don't have
14 the time to do this all. What I wanted you to do
15 is whether or not they had expunged that. It will
16 fulfill my request.

17 BY MR. GILL:

18 Q. The charges in exhibited in Plaintiff's 61
19 dated April 9, 1971, will you tell us whether or
20 not these charges were ever expunged?

21 A. They were definitely expunged from the
22 record.

23 Q. At what point in time?

24 A. Somewhere around 1978, sir.

25 Q. Now going to Plaintiff's 62 are you
26 familiar with this document?

1 A. Yes, I am.

2 Q. And there resulted some sort of conviction
3 in this matter?

4 A. I am a little more hazy on this but there
5 was some form, if I remember right, it was a
6 probationary thing. That is all I remember.

7 Q. All right. Can you tell us whether or not
8 this matter has ever been expunged from your
9 record?

10 A. It was definitely expunged from the
11 record, sir.

12 MR. GILL: Your Honor, might I ask the
13 witness has this --

14 BY MR. GILL:

15 Q. Have these -- either of these come up to a
16 court previously concerning their existence and
17 expungement?

18 A. They were attempted to be entered into a
19 federal court record and the judge did not allow
20 it.

21 Q. Will you tell us when and where that
22 occurred, please?

23 A. Approximately, I believe it was a year ago
24 or a year and a half ago.

25 Q. What jurisdiction?

26 A. In Iowa.

1 MR. GILL: Your Honor, would there be
2 anything further?

3 MR. TIPS: Your Honor, I do just real
4 quickly, if I may. If I may be permitted to ask
5 this witness if he knows for a matter of fact that
6 these expungements took place or was he informed of
7 this fact?

8 THE WITNESS: I was not in the courtroom
9 when the expungement was issued, Your Honor. I
10 know it was expunged.

11 VOIR DIRE EXAMINATION

12 BY MR. TIPS:

13 Q. Was he told this -- were you told this?

14 A. My recollection is I was told and shown
15 papers of the expungement by the attorney who did
16 it.

17 Q. By your attorney?

18 A. Certainly my attorney.

19 Q. And in both of these matters you were
20 shown the papers?

21 A. It was done at the same time.

22 Q. Excuse me, sir. You didn't answer the
23 question. Were you shown the papers with the --
24 for the expungement or were you simply told of the
25 expungement?

26 A. It is my recollection I was shown the

1 papers and told of the expungement.

2 Q. And the federal court matter were you in
3 court at the time that that occurred where the
4 court did not allow the matter to be introduced?

5 A. I don't believe. I think my attorney
6 prevented it from being introduced.

7 Q. You don't know yourself personally, do
8 you?

9 MR. GILL: Your Honor, argumentative.

10 THE COURT: Objection sustained.

11 BY MR. TIPS:

12 Q. Did the federal court matter lead to a
13 conviction?

14 A. No, it did not.

15 MR. GILL: Objection. Assumes facts not
16 in evidence. Assumes it was a criminal matter not
17 a civil matter.

18 THE COURT: Sustained.

19 BY MR. TIPS:

20 Q. Was it a civil matter or criminal matter?

21 A. Civil matter.

22 Q. And did it result in a verdict or
23 decision?

24 MR. GILL: Irrelevant. Objection.

25 THE COURT: Objection is sustained. All
26 right. So the court would reiterate its previous

1 ruling but having heard under oath the statement
2 that the matters referred in to in Exhibit 61 and
3 62 have been expunged the objection to using those
4 exhibits will be sustained without prejudice to
5 Plaintiff's right to pursue documentary proof of
6 that expungement and the court will restate its
7 offer on the record that in the event any
8 verification of the need for that is required from
9 the Oregon -- from the Orange Municipal Court that
10 I will provide that upon request.

11 As to Exhibit 63, do you want to make your
12 comments on that, Mr. Tips, for the record? I will
13 indicate that off the record I indicated that the
14 court would not allow 63 to be used because it is a
15 consent -- it is a Cease and Desist order which
16 contains no findings about the conduct of this
17 witness.

18 MR. TIPS: Thank you, Your Honor, for
19 giving me the opportunity to do that. For the
20 record, if I may -- before I do so, I would ask
21 that Your Honor do make the request on the Orange
22 County records and --

23 THE COURT: Can I ask this? That you call
24 the Orange County Municipal Clerk and find out what
25 exactly they would require from me? They may not
26 need my authorization. If they do, find out what

1 particular the cease and desist order of July 20,
2 1988 entered into on behalf of the United States
3 Postal Service related to this particular witness
4 and I quote, "falsely representing or encouraging
5 or assisting others to falsely represent", close
6 quote.

7 MR. GILL: Excuse me.

8 MR. TIPS: There is a list of items.

9 MR. GILL: Could you identify a portion of
10 this document 63 you are reading from?

11 MR. TIPS: Look at the second page of
12 Exhibit 63 and the very last two lines.

13 MR. GILL: Under conduct prohibited?

14 MR. TIPS: Correct. Falsely representing
15 or encouraging or assisting others or falsely
16 representing. Then on the next page on page three
17 it continues on but I see no need to recite that
18 into the record, Your Honor.

19 In that sense because it involved these
20 charges of false representations and assisting
21 others to making false representation it reflects
22 and bear truthfulness or lack of truthfulness of
23 this witness and is relevant.

24 MR. GILL: If Your Honor, please. I would
25 comment that there is no admission of culpability
26 contained in this document. There is no conviction

1 of culpability contained in this document. This
2 document is strictly prospective in nature
3 addressing future conduct.

4 The conduct prohibited in paragraph three
5 says the persons identified are in paragraph one
6 are ordered to cease and desist immediately from
7 and listing a number of categories. This is not
8 the type of document that is impeachment. There is
9 no admission of culpability or laundering.

10 THE COURT: Submitted?

11 MR. TIPS: Submitted.

12 THE COURT: All right. 63 then motion
13 will be -- it would be the motion to admit I
14 suppose motion to admit will be denied. 63 will
15 not be admitted. 61 and 62 just for procedural
16 purposes would remain then under submission pending
17 further documentation from Orange County. We will
18 go back to 60 when we get the jury in.

19 MR. TIPS: I'm sorry, Your Honor. Let me
20 ask a question of the court, if I may. If it
21 decides to inquire of this witness, will he be in
22 Poland next week? What would make him unavailable
23 to be here?

24 THE WITNESS: Tuesday morning I leave and
25 I will be gone for eight days.

26 THE COURT: The 17th through, what, the

1 24th?

2 THE WITNESS: 25th.

3 THE COURT: Would you be available on the
4 16th if necessary?

5 THE WITNESS: It would be very difficult,
6 Your Honor.

7 THE COURT: Where are you flying out on
8 the 17th?

9 THE WITNESS: San Diego. Early in the
10 morning.

11 THE COURT: Can we go back before the jury
12 comes in to Exhibit 60 because off the record there
13 also was another ruling that the relevant portions
14 of Exhibit 60 I believe were pages seven and
15 eight.

16 MR. TIPS: Correct, Your Honor. There
17 were other matters that it depended upon what the
18 witness' answers were. In all fairness, if I may
19 say, to myself it depended on what answers the
20 witness would give in answers of questions
21 regarding pages seven and eight; but Your Honor is
22 correct. Those were the two pages I directed the
23 court's attention.

24 THE COURT: That is where we would start.
25 Could you bring the jury in, please.

26 MR. GILL: For the record, if I understood

1 correctly, Your Honor.

2 THE COURT: For the record.

3 MR. GILL: If I understood it, the
4 comments on page seven were allowed as the court's
5 ruling and the comments on page eight were not
6 allowed.

7 THE COURT: Comments on page eight are not
8 allowed at this point unless there is further
9 testimony by this witness that brings them somehow
10 relevant before the court.

11 MR. TIPS: Okay.

12 (The following proceedings were had in the
13 presence of the jury.)

14 THE COURT: Thank you all for your
15 patience. All right. Mr. Tips, proceed.

16 MR. TIPS: Thank you very much, Your
17 Honor. Mr. Donsbach, just to start back.

18 MR. GILL: Excuse me, Your Honor, so the
19 record this clear, this man has a doctorate. May
20 he be referred to appropriately?

21 MR. TIPS: We disagree with that.

22 THE COURT: I have not yet heard any
23 questions which impeach this witness' statement
24 that he has a Doctor of Chiropractics. Unless such
25 evidence comes before the court, I would ask for
26 you address him as a doctor based on that degree.

1 MR. TIPS: What if I don't address him by
2 name?

3 THE COURT: Of course.

4 BY MR. TIPS:

5 Q. I believe you were mentioned on NBC?

6 A. Yes, sir.

7 Q. And that was in expose program on NBC
8 Dateline TV program?

9 A. Yes, sir.

10 MR. GILL: Objection. I am making an
11 objection pursuant to 352. I am objecting to this
12 question on that basis.

13 THE COURT: Objection is overruled. If we
14 can get through the relative portions of the
15 transcript.

16 BY MR. TIPS:

17 Q. I was trying to recover the ground. That
18 program was entitled, "Hope for Sale"?

19 A. I don't know.

20 Q. And that program took place on November
21 2nd, 1993 to be exact?

22 A. I don't know that either, sir.

23 Q. You appeared on that program?

24 A. Appeared on a Dateline program of NBC.

25 Q. And at that time you were asked, were you
26 not, if your degree from the Hollywood College of

1 naturopathy was authentic, were you not?

2 A. The interviewer waved the same documents
3 that you have brought to this court in front of my
4 face --

5 MR. TIPS: Objection, Your Honor. That
6 calls for a yes or no answer.

7 THE COURT: Objection sustained.

8 THE WITNESS: Yes, he did.

9 BY MR. TIPS:

10 Q. And you said and I quote from page seven
11 of the transcript about 40 percent of the way down
12 from the top, quote, "It is a valid degree from
13 that school," close quote.

14 A. I would repeat that statement now, sir.

15 Q. And at the same time you were informed by
16 one of the program people on the air that according
17 to authorities in Oregon that your --

18 MR. GILL: Objection, Your Honor,
19 hearsay.

20 THE COURT: Objection is overruled based
21 on the same rationale that we previously
22 discussed.

23 BY MR. TIPS:

24 Q. That according to authorities in Oregon
25 that your quote so-called naturopathy degree is a
26 counterfeit and authorities suspect two other of

1 your medical certificates also are counterfeit.

2 MR. GILL: I will object to that last
3 commentary. That clearly is hearsay. That is a
4 commentator's statement. I would ask that that be
5 stricken. Move under 352 for that.

6 THE COURT: Objection as -- go ahead.
7 Address the objection.

8 MR. TIPS: Is that true?

9 THE COURT: Just a moment. The objection
10 as to the second part of the statement does not
11 rely on authorities in the same specific way the
12 first part of the statement does.

13 MR. TIPS: It did because the two -- the
14 document that we have as Plaintiff's Exhibit 58
15 makes reference in the same way as on this Dateline
16 program and that's why it is the same, Your Honor
17 in that respect.

18 MR. GILL: Your Honor, the statement says
19 and authorities suspect. That is the basis of my
20 objection.

21 THE COURT: Objection sustained to the
22 second part of the statement.

23 BY MR. TIPS:

24 Q. And isn't it true that you were told at
25 that time that you had not according to the dean of
26 the university of the college you had not gotten

1 that degree?

2 A. Sir, they were repeating accusations in
3 there. I was not told --

4 Q. This is a yes or --

5 A. I was used.

6 MR. TIPS: I would move to strike.

7 THE COURT: The motion to strike is
8 granted. Ask the question again, if you would,
9 please.

10 MR. TIPS: You were told on the Dateline
11 program that according to the Dean of the College
12 of Naturopathy -- the Hollywood College of
13 Naturopathy that you had not gotten this degree.
14 That there were no such courses wherein you
15 supposed --

16 MR. GILL: At this point I will object.
17 This is a double hearsay.

18 THE COURT: As I understand the question
19 is, was he told these statements on the program?
20 Do you have the transcript in front of you?

21 THE WITNESS: No, I do not.

22 MR. GILL: Even if he was told these
23 statements on the program by a commentator, Your
24 Honor, I submit that portion would be irrelevant.

25 THE COURT: As I understand this line of
26 questioning, it is difficult to pick it up except

1 the line of questioning before the break was
2 whether there was any other source of this
3 information other than the letter from Oregon, and
4 this is as I understand it, attempted impeachment
5 of the answer which was there was no other source
6 of information.

7 So these questions are being asked to
8 ascertain whether he received this information on
9 this program.

10 MR. TIPS: That's absolutely correct, Your
11 Honor.

12 THE COURT: It would be allowed on that
13 basis. Let's proceed.

14 MR. TIPS: Thank you, Your Honor.

15 BY MR. TIPS:

16 Q. You were told that you had three
17 certificates that were misspelled with your name
18 misspelled in exactly the same way. Weren't you?

19 A. I was accused of that, sir.

20 Q. Could I have a yes or no answer to my
21 question, please?

22 MR. GILL: The question has been answered,
23 Your Honor.

24 THE COURT: Objection is overruled.

25 THE WITNESS: Are you directing me?

26 THE COURT: Yes.

1 THE WITNESS: I have problems with the
2 word told.

3 THE COURT: Understood. It would be up to
4 the court and to counsel to argue with the word
5 quote. Let's accept it as a factual statement
6 where you told that statement in this program.

7 THE WITNESS: Okay. I still have problems
8 with it but it was stated, yes.

9 THE COURT: Thank you.

10 BY MR. TIPS:

11 Q. I refer you to Exhibit 58. In particular
12 refer you to page three of that document please.
13 Is your name spelled correctly there, sir?

14 A. No, it is not.

15 MR. GILL: I am going to lodge an
16 objection. There is a lack of foundation.
17 Foundational requirement would be to indicate type
18 of matter that is printed as far as his name goes.
19 For the record my observation is that this is in
20 some sort of specialized print; that is, the
21 letters are not crystal clear.

22 THE COURT: He can answer the question to
23 the best of his ability. Overruled.

24 BY MR. TIPS:

25 Q. I refer you to the next page, page four,
26 please. And is that name of yours misspelled?

- 1 A. Yes, sir.
- 2 Q. And the following last page of Exhibit 58
3 your name is misspelled there, too.
- 4 A. Yes.
- 5 Q. And on each of those three pages they're
6 misspelled in exactly the same way?
- 7 A. Yes.
- 8 Q. And, in fact, the calligraphy used is
9 essentially the same?
- 10 A. I am not an expert on calligraphy.
- 11 MR. TIPS: Your Honor, I ask -- that is a
12 yes or no question. I ask that it be answered,
13 please.
- 14 THE COURT: Objection is sustained. He
15 stated he doesn't have enough information to
16 answer.
- 17 MR. TIPS: You manufactured health food
18 substances?
- 19 MR. GILL: Objection. Irrelevant. Beyond
20 the scope of direct.
- 21 THE COURT: Objection sustained.
- 22 BY MR. TIPS:
- 23 Q. Do you know a Mr. Durk Pearson and
24 Miss Sandy Shaw?
- 25 A. Yes, sir.
- 26 Q. And how long have you known them?

1 MR. GILL: Your Honor, relevance. Perhaps
2 we should have an offer of proof.

3 THE COURT: There is no need to approach.
4 This witness has testified previously that
5 Durk Pearson and Sandy Shaw wrote the book --

6 MR. GILL: On that basis I will withdraw
7 the objection.

8 MR. TIPS: I'm sorry. I don't know what
9 the answer to my question was.

10 BY MR. TIPS:

11 Q. Did you answer the question?

12 A. I don't know the question.

13 THE COURT: Why don't you ask another
14 one?

15 BY MR. TIPS:

16 Q. If I repeat myself --

17 A. You asked me if I knew Durk Pearson and
18 Sandy Shaw. I answered yes.

19 Q. How long have you known those two
20 individuals?

21 A. I first met them somewhere in the late
22 '70's probably.

23 Q. And you have had a business relationship
24 with them?

25 A. Only in that they co-authored two books
26 with me.

1 Q. Wasn't it three books?

2 A. I recall two. It could have been three.

3 Q. And, in fact, you had a business
4 arrangement with them?

5 A. Yes, sir.

6 Q. And your business arrangement with them
7 was that you would pay them certain royalties for
8 their writing?

9 A. That's correct.

10 MR. GILL: Objection. Irrelevant.

11 THE COURT: What is the relevance?

12 MR. TIPS: The relevancy is that this
13 witness is claiming that he had booklets that he
14 sold and for which he has made a claim as to the
15 number of sales. And in fact, he has never made an
16 accounting of these certain booklets --

17 MR. GILL: Your Honor, objection.

18 THE COURT: Let me hear the -- finish.

19 What is the relevance of that?

20 MR. TIPS: The relevance is to undercut
21 his claim as to number of sales of these booklets
22 in the sense that Mr. Pearson and Miss Shaw who,
23 and I have precipient knowledge of this line of
24 questioning myself of these facts is, had made
25 demand on this witness for payment for accounting
26 and never received one.

1 meant that you could set the contents as to whether
2 or not a book was promoted on that program or not;
3 didn't it?

4 A. I don't believe that was the intent of the
5 program, no, sir.

6 MR. TIPS: Objection. Move to strike.
7 Calls for yes or no answer.

8 THE COURT: The objection is sustained.

9 THE WITNESS: No.

10 BY MR. TIPS:

11 Q. You're saying then that you didn't have
12 the authority to write the perimeters of your own
13 show?

14 A. I don't believe I said that no, sir.

15 Q. You don't have the authority to write the
16 perimeters of your own show that you sponsor?

17 MR. GILL: Misstated the witness'
18 objection.

19 THE COURT: Sustained.

20 BY MR. TIPS:

21 Q. Did you have any authority over that show?

22 A. Yes, sir.

23 Q. And that authority included the right to
24 the content of the show itself.

25 A. In a broad sense, yes.

26 Q. So you were able to, if you wanted to,

1 that program and to promote your book with the name
2 and address and telephone number should you so
3 desire.

4 A. Yes, if I desire.

5 Q. Now you indicated earlier that you had
6 several books that you have written and co-written,
7 correct?

8 A. That's correct.

9 Q. And the first one that you mentioned is
10 "Passport to Good Health"?

11 A. That is incorrect.

12 Q. "Passport to Good Health" sold for -- from
13 the years 1971 to the present 80,000 copies.

14 A. I indicated that approximately 80,000
15 copies have been sold, yes.

16 Q. Have you heard of the book "Cancer Therapy
17 Workbook"?

18 A. I don't believe so.

19 Q. What was the percent of sales increase of
20 your book "Passport to Good Health" in the first
21 year of sales?

22 A. I can not answer that, sir.

23 Q. But it is your testimony that over a
24 twenty-three year period you sold approximately
25 80,000 copies.

26 A. That's correct. Most of them were sold in

1 the first five year.

2 Q. How many?

3 A. How many what?

4 Q. How many were sold in the first five
5 years?

6 A. I don't know, sir.

7 Q. You just told the jurors and you just told
8 me that most of them were sold in the first five
9 years. Can you tell --

10 MR. GILL: This is badgering the witness.

11 THE COURT: Sustained.

12 BY MR. TIPS:

13 Q. Can you tell us the exact number?

14 A. No.

15 MR. GILL: Asked and answered.

16 THE COURT: Sustained.

17 BY MR. TIPS:

18 Q. Did you have a 100 percent increase in
19 sales in the first year of your book "Passport to
20 Good Health"?

21 MR. GILL: Asked and answered.

22 THE COURT: Sustained.

23 BY MR. TIPS:

24 Q. Have you heard of the books "Your Body's
25 Many Cries for Water"?

26 A. Would you repeat that?

1 Q. "Your Body's Many Cries for Water"?

2 A. I don't believe so.

3 Q. Have you heard of the book "Anxiety Phobia
4 Workbook"?

5 A. No.

6 Q. Have you heard of the book "Foods that
7 Heal" by Maureen Salaman?

8 A. Yes.

9 Q. And when did you first hear of that?

10 A. Prior to publication.

11 Q. And are you aware that in 1991 that book
12 sold 85,0000 copies approximately in one year?

13 A. I have no knowledge whatsoever.

14 MR. GILL: 1981?

15 THE COURT: '91 was the statement on the
16 record.

17 MR. GILL: Thank you.

18 BY MR. TIPS:

19 Q. Isn't it true more sales than your book
20 sold in twenty-three years?

21 MR. GILL: Objection. Argumentative.

22 THE COURT: Sustained.

23 BY MR. TIPS:

24 Q. As you sit there, as you had testified
25 before, you have claimed that you were giving
26 Maureen Salaman advice about the appropriate market

1 place for her book. Is that correct?

2 A. I don't recall saying that, sir.

3 MR. TIPS: Your Honor, can we refresh his
4 recollection in the record?

5 THE COURT: Just a moment. My
6 recollection is actually he did not say that
7 either. He was asked that question. He said he
8 did not give marketing advice. He was questioned
9 about marketing advice to other authors. He said
10 he did but specifically as to Dr. Manner and
11 Miss Salaman he said he did not give marketing
12 advice.

13 MR. MORTIMER: Your Honor, I could be
14 wrong but I thought I specifically heard a
15 conversation or a statement from the witness about
16 how he felt that Maureen's book "Nutrition-The
17 Cancer Answer" was not being marketed to the
18 appropriate audience.

19 THE COURT: He spoke to the audience that
20 he thought would be the market which is it appealed
21 to the alternative health market but he --

22 MR. MORTIMER: You're correct.

23 MR. TIPS: He was indicating what his
24 opinion was to the appropriate -- right, that's
25 it.

26 BY MR. TIPS:

1 Q. During the time that you have been
2 involved in sales of your books "Passport to Good
3 Health", "Super Health" and the others, was a
4 Books-in-Print campaign important to you?

5 A. No.

6 Q. Did you direct any of your sales to a
7 Books-in-Print campaign?

8 A. No.

9 Q. Were you familiar with your competition in
10 the market place with books similar to yours?

11 A. I don't understand the question.

12 Q. Were you familiar in any way with the
13 competition in the market place to books in that
14 you had written and were trying to sell?

15 MR. GILL: Your Honor, that question is
16 vague and ambiguous. May it be rephrased?

17 THE COURT: I am going to allow it. Go
18 ahead.

19 THE WITNESS: I don't know how to answer
20 it. Sure I know there were other books out there.

21 THE COURT: The answer is yes.

22 THE WITNESS: I'm sure there are other
23 books out there.

24 BY MR. TIPS:

25 Q. Have you heard of -- do you know if any of
26 those other books had the same amount of media

1 exposure that you have claimed to have for your
2 books?

3 A. I have no idea what other books' media
4 exposure is.

5 Q. Now you indicated earlier that your
6 seventy percent of your sales were to distributors,
7 correct?

8 A. To a particular distributor.

9 Q. And that thirty percent were through mail
10 order and through conventions, correct?

11 A. Direct appearance.

12 Q. Direct appearances are by you?

13 A. Yes, by me.

14 Q. And direct appearances by you at
15 conventions and health food shows?

16 A. Yes, sir.

17 Q. And the mail order sales were direct mail
18 order sales through your company?

19 A. What was then my company, yes.

20 Q. The mail sales that you made were to what
21 types of customers?

22 A. Customers who were interested in the
23 wholistic health field.

24 Q. So then these were individual orders?

25 A. Yes.

26 Q. So when you say mail sales, that includes

1 sales only to individuals?

2 A. I'd say primarily. Sure.

3 Q. I'm sorry?

4 A. Yes.

5 Q. Those orders came to you directly from
6 those individuals?

7 A. Yes.

8 Q. And so that would account for 100 percent
9 of your sales, the direct mail sales, the direct
10 appearances and the distributor sales?

11 A. Sir, I don't know where you are going to.
12 I don't know if that is 100 percent. There may be
13 a category I'm not aware of.

14 Q. Previously you testified that thirty
15 percent of your sales went to direct appearances
16 and to mail order and seventy percent went to
17 distributor sales, correct?

18 A. I'm sure you will find I used the word
19 approximate but yes, approximately.

20 Q. And -- so in that respect you know of no
21 other source besides those that you have already
22 indicated to us?

23 A. Coming to mind immediately that's it. We
24 haven't taken into consideration oversea sales, the
25 translations and things of that nature.

26 Q. And the distributor sales that you are

1 referring to are what distributors?

2 A. Nutri-Books.

3 Q. Any other distributors?

4 A. I'm sure there are some minor health food
5 product containing distributors that purchase some
6 of them but they're all to the same market.

7 Q. And what are those names of the other?

8 A. I don't know, sir. I have not controlled
9 the marketing of my books for several years.

10 Q. So it is not a name you heard recently
11 then for those other distributors?

12 A. Greentree Distributors, as an example.
13 Nature's Best, as an example. Some of those
14 distributors probably carry the books.

15 MR. TIPS: Your Honor, may I have an
16 answer to my question, please? The question was so
17 those other distributors -- let me rephrase the
18 question.

19 BY MR. TIPS:

20 Q. Those other distributors are not names
21 that you have heard of in recent years?

22 A. Certainly, I have heard of them.

23 Q. Now you mentioned Greentree did you say?

24 A. I think that's the name of the distributor
25 yes, sir.

26 Q. And any others?

1 A. And Nature's Best.

2 Q. And any others than those two?

3 A. That come to mind right now, no.

4 Q. Does that mean if there are any other
5 distributors those would be an insignificant number
6 of your total sales of your books?

7 A. Yes, sir, in the United States.

8 Q. So -- who markets your book outside of the
9 United States?

10 A. One company is known as Hela, H-e-l-a.
11 That is out of Swedan. In Japan I think name of
12 the company Takayoshi something. In Romania it is
13 a private person and I frankly can't pronounce the
14 name right now. In France it is a publishing
15 company. Quebec I don't have that name on the tip
16 of my tongue other either.

17 Q. Do any American distributors distribute
18 outside the country?

19 A. No, not that I am aware of.

20 Q. So then all of your books are listed in
21 Books-in-Print to your knowledge?

22 A. To my knowledge none of them were listed
23 until this morning I saw three or four of them but
24 certainly not all of them.

25 Q. Are you aware of whether or not your books
26 have been listed in Books-in-Print previous to what

1 you've seen today?

2 A. No, sir.

3 Q. Are you aware of whether or not any
4 listings of which you are aware involve CCS being
5 mentioned as your publisher of your books?

6 A. I was made aware this morning that they
7 were listed in that '83, '84 whatever that version
8 is. I have no other knowledge.

9 Q. So then -- I believe you testified that
10 you got an ISBN?

11 A. I testified that some of the booklets had
12 ISBN numbers, yes.

13 Q. I am not referring to the booklets. I am
14 referring to your books. You testified you got an
15 ISBN number for each of those books?

16 A. I don't believe I testified to that, sir.

17 Q. Would you refresh our recollection and
18 tell us what you did testify to in that respect?

19 A. I testified that some of the booklets were
20 issued ISBN numbers. I noted that in the
21 Books-in-Print this morning that the Keates Company
22 had evidently issued an ISBN number to the original
23 "Passport to Good Health". I did not apply for
24 that.

25 Q. Did you apply for any ISBN number?

26 A. Personally, no. Under my direction, yes.

1 MR. GILL: Your Honor, at that point the
2 question is objectionable as vague. It does not
3 define whether these were the four books or the
4 specialized booklets.

5 MR. TIPS: He has answered the question,
6 Your Honor.

7 THE COURT: Objection is overruled.

8 BY MR. TIPS:

9 Q. You yourself never applied to Bowker for a
10 listing in Books-in-Print, correct?

11 A. No, sir.

12 Q. And to you you never checked in
13 Books-in-Print until today to see if any of your
14 books were listed, did you?

15 A. I didn't check today. I was told. I was
16 demonstrated.

17 Q. So you didn't look in Books-in-Print even
18 today, did you?

19 A. I looked, yes.

20 Q. So then you were not only told. You did
21 look, didn't you?

22 MR. GILL: Your Honor, this is
23 argumentative.

24 THE COURT: Objection is sustained.

25 BY MR. TIPS:

26 Q. Do you consider yourself an experienced

1 author publisher?

2 A. Yes.

3 Q. Is it your testimony as you sit here
4 today, that none of your sales of any of your books
5 came as a result of Cancer Control Society?

6 MR. GILL: Objection, Your Honor. Vague
7 and ambiguous.

8 THE COURT: Objection is overruled.

9 THE WITNESS: Cancer Control Society
10 purchased a few of my books.

11 BY MR. TIPS:

12 Q. How many?

13 A. I can not give a figure answer to that,
14 sir.

15 Q. Under a hundred?

16 A. Combined?

17 Q. Combined or by book. Whatever is easier
18 for you.

19 MR. GILL: Objection --

20 THE WITNESS: Probably.

21 MR. GILL: Calling for speculation on the
22 part of the witness.

23 MR. TIPS: Your Honor, it is no different
24 than what Mr. Gill --

25 THE COURT: Objection is overruled.

26 THE WITNESS: Probably more than a hundred

1 and less than a thousand, sir.

2 BY MR. TIPS:

3 Q. Of all books combined?

4 A. Of all books combined.

5 Q. And "Passport for Good Health" how many
6 did they purchase CCS?

7 A. I do not know.

8 Q. And when you say more than hundred and
9 less than a thousand you are, of course, including
10 your booklets?

11 A. Yes, sir. I must take into
12 consideration -- if I can speak to the issue --

13 Q. There is no pending question.

14 THE COURT: Wait until Mr. Tips asks the
15 next question.

16 BY MR. TIPS:

17 Q. You analyze the sales success of your
18 book?

19 A. Did you say book or books?

20 Q. I should have said books. Do you analyze
21 the sales success of your books?

22 A. Somewhat, yes. I don't take or fill
23 orders.

24 Q. Do you compare -- do you analyze the sales
25 success of your books by comparing them to other
26 book sales?

1 A. No.

2 Q. Do you analyze the sales performance of
3 your books by reviewing your own books and records?

4 A. I have in the past. I have not recently.

5 Q. How many times in the past have you done
6 that?

7 A. I can't answer that question, sir. This
8 has been twenty-five years.

9 Q. When is the last time that you did that?

10 A. Possibly six, seven years ago.

11 Q. So then you did not do that for your most
12 recent book preventative -- your 1992 book which is
13 entitled, "Embracing Wholistic Health"?

14 A. Sir, I know how many were printed --

15 Q. Excuse me?

16 A. I know how many I have left.

17 THE COURT: Objection.

18 THE COURT: Sustained.

19 MR. TIPS: Motion to strike.

20 THE COURT: Motion to strike is granted.

21 BY MR. TIPS:

22 Q. Could you answer the question please, sir?

23 A. Would you rephrase the question please,
24 sir.

25 Q. So you did not do an analysis of your
26 sales or potential sales for your most recent book

1 in "Embracing Wholistic Health".

2 MR. GILL: I object to the use of the word
3 analysis.

4 THE COURT: Objection sustained.

5 BY MR. TIPS:

6 Q. Did you conduct any procedure with respect
7 to your most recent book "Embracing Wholistic
8 Health" in terms of analyzing its sales in terms of
9 projecting its sales potential?

10 A. Yes, sir.

11 Q. What was that?

12 A. I checked inventory as compared to how
13 many were printed, sir.

14 Q. That was in order to tell how many were
15 sold?

16 A. That's correct.

17 Q. On that basis then you would project how
18 many more you needed to order for that book?

19 A. Yes, sir.

20 Q. You sell audio tapes as well, don't you?

21 A. I have in the past. I do not now.

22 MR. GILL: Objection irrelevant.

23 THE COURT: Objection sustained.

24 MR. TIPS: At this time no further
25 questions, Your Honor.

26 THE COURT: Mr. Gill?

1 MR. GILL: Thank you, Your Honor.

2 REDIRECT EXAMINATION

3 BY MR. GILL:

4 Q. Doctor, will you tell us whether or not to
5 your knowledge Greentree has ever ordered any major
6 quantities of any of your books?

7 A. I don't have that knowledge, no, sir.

8 Q. All right. How about Nature's Best?

9 A. No, sir, I do not have that knowledge.

10 Q. Referring to your radio show what was the
11 purpose of that show?

12 A. It was a talk show, sir.

13 Q. All right. Was any amount -- was anything
14 significant about the air time given to the
15 promotion of your books?

16 A. No, sir.

17 Q. Concerning the Hollywood College School of
18 Naturopathy did you attend that college?

19 A. Yes, I did.

20 Q. What period of time?

21 A. During 1960.

22 Q. How long were you there?

23 A. Less than nine months. The naturopathic
24 course --

25 MR. TIPS: Objection. Already answered.

26 THE COURT: Sustained.

1 BY MR. GILL:

2 Q. Will you describe the naturopathic course?

3 A. The curriculum for a naturopathic degree
4 requires four years and nine months. It was almost
5 identical to a chiropractic, sir.

6 Q. Did you received any credit for prior work
7 that you had done at another college?

8 MR. TIPS: Objection. Leading.

9 MR. GILL: Will you tell us --

10 THE COURT: Sustained.

11 BY MR. GILL:

12 Q. Will you tell us whether or not credits
13 from another educational institution were accepted
14 by the Hollywood School -- College School of
15 Naturopathy?

16 A. Yes, sir.

17 Q. And did you receive a degree from the
18 college?

19 A. Yes, sir.

20 Q. Has the college ever notified you that
21 that degree --

22 MR. TIPS: Objection. Leading.

23 THE COURT: Objection is sustained.

24 MR. GILL: Will you tell us whether or not
25 you have ever had any communication from that
26 college advising you that the degree was not a

1 proper degree?

2 MR. TIPS: Objection. Vague and ambiguous
3 as to what college he is referring to.

4 THE COURT: Objection sustained.

5 BY MR. GILL:

6 Q. Referring to the Hollywood College School
7 of Naturopathy since you graduated have you had any
8 communication from that school concerning your
9 degree?

10 A. No, sir.

11 Q. Now was there ever a time you had any time
12 a license in the State of Oregon based upon the
13 degree you received from the Hollywood College
14 School of Naturopathy?

15 A. Yes, sir.

16 MR. TIPS: Objection. Leading.

17 THE COURT: Objection is overruled.

18 BY MR. GILL:

19 Q. For what period of time would you have had
20 such a license?

21 A. I took the board of Naturopathic Examiners
22 in the '70's. Maintained the license probably into
23 the early '80's.

24 Q. What happened in the early '80's?

25 A. I stopped paying the license fee and
26 dropped the license.

1 Q. Now counsel for the Plaintiff has shown
2 you some correspondence from the Office of
3 Educational Policy and Planning. Do you have that
4 in mind, sir?

5 A. Yes, sir.

6 Q. If I might have Exhibit 58, Your Honor.

7 A. I have some of it here.

8 Q. Yes, this. Now would you --

9 MR. TIPS: What exhibit?

10 THE COURT: 58.

11 BY MR. GILL:

12 Q. This is Plaintiff's 58. The next to the
13 last paragraph does that governmental entity
14 advised you of any action they are proposing to
15 take?

16 A. Yes, sir.

17 Q. Would you tell -- would you tell the jury
18 what action they are proposing to take?

19 A. We now propose to prohibit you from
20 claiming a doctor's degree in Oregon and to notify
21 the board of this determination.

22 Q. All right. Now in the following paragraph
23 will you tell us whether or not you were given an
24 opportunity to have a hearing to contest this
25 proposed action?

26 A. Absolutely.

1 MR. TIPS: Objection. Document speaks for
2 itself.

3 THE COURT: Objection is sustained.

4 BY MR. GILL:

5 Q. All right. Will you tell us of any offer
6 made to you in this letter by -- from the Office of
7 Educational Policy and Planning?

8 A. It offers to give me a chance to respond
9 to this action if I wish either with a formal
10 hearing or in writing or an interview; however, as
11 I read it, I want --

12 Q. All right. Did you respond to this letter
13 in any way?

14 A. No, sir.

15 Q. Why did you not respond to this letter?

16 A. I had no intent of using a degree in the
17 State of Oregon as a practitioner and knowing
18 bureaucratic review committees and so forth it was
19 not worth the effort. If I had known some
20 Jack-kneed attorney was going to make an issue of
21 it, I would have --

22 MR. TIPS: Objection, Your Honor.

23 THE COURT: Objection sustained.

24 MR. GILL: Thank you, Your Honor. I have
25 no further questions.

26 THE COURT: Mr. Tips?

RECROSS-EXAMINATION

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BY MR. TIPS:

Q. You knew, did you not, that this kind of a proceeding referred to in Plaintiff's Exhibit 58 could be used against you in other states, did you not?

MR. GILL: Objection. Irrelevant.

THE COURT: Objection is overruled.

THE WITNESS: No, I did not.

BY MR. TIPS:

Q. You knew at the time of the letter Plaintiff's Exhibit 58; that is, May 14, 1990, that it was an issue in the State of Arizona.

A. No, I did not.

Q. And this -- so then it is your testimony that this was never an issue in Arizona what was raised in Plaintiff's 58.

MR. GILL: Misstates the witness' testimony.

THE COURT: Sustained.

MR. GILL: Also beyond the scope.

THE COURT: Objection sustained.

BY MR. TIPS:

Q. Are you telling me the issues raised in Plaintiff's Exhibit 58 were not raised in any similar proceeding to that raised by the State

1 Office of Educational Policy and Planning?

2 MR. GILL: Objection. Beyond the scope.

3 Objection argumentative.

4 THE COURT: Sustained.

5 MR. TIPS: You understand looking at

6 Exhibit 58 that you were accused of fraud here?

7 MR. GILL: Objection. Beyond the scope.

8 THE COURT: Sustained.

9 MR. TIPS: Your Honor, I would submit it
10 is not beyond the scope because he indicated in his
11 redirect to defense counsel that this witness took
12 the board in 1970 and maintained it into the early
13 '80's and gave it up -- gave up his license in the
14 State of Oregon and so the issue has been raised on
15 redirect as to the response the that he would make
16 to this letter.

17 In other words, they're trying to claim
18 because he didn't have a license he didn't need to
19 respond. My questions go directly to the heart of
20 that.

21 MR. GILL: That misstates the evidence.

22 THE COURT: Objection sustained.

23 BY MR. TIPS:

24 Q. Were you aware whether or not these -- did
25 you consider these claims in Exhibit 58 to be
26 serious?

1 MR. GILL: Objection. Beyond the scope.

2 THE COURT: Objection is overruled.

3 THE WITNESS: They were not serious to me
4 at the time because I had no need for the
5 license --

6 MR. TIPS: Objection.

7 THE WITNESS: I read it --

8 MR. TIPS: Yes or no answer.

9 THE COURT: Objection sustained. The
10 question is answered.

11 MR. TIPS: You did not regard an
12 accusation of counterfeiting is something serious
13 to respond to.

14 MR. GILL: Objection, Your Honor.
15 Argumentative.

16 THE COURT: Objection sustained.

17 MR. GILL: Beyond the scope.

18 MR. TIPS: No further questions, Your
19 Honor.

20 THE COURT: Anything further, Mr. Gill?

21 MR. GILL: Nothing further, Your Honor.

22 THE COURT: Thank you, sir. Subject to be
23 notified to recall.

24 * * * * *

25

26

The Hollywood College School of Naturopathy
 Incorporated
 Los Angeles, California

to all to whom these Letters shall come, Greetings:

Be it known that

Kurt W. Donsback

has completed the prescribed course of study in this degree and passed the requisite examinations and furnished satisfactory evidence of a thorough knowledge of the Art, Science and Philosophy of Naturopathy

We therefore confer the degree of

Doctor of Naturopathy

together with all the honors, rights and privileges belonging to that Degree.

Done by virtue of rights and privileges granted to us by charter from the State of California, given under our hands and the Seal of the Hollywood College School of Naturopathy this 27th day of June 1960

Deane Foster M.D.
 Faculty Member
[Signature]
 Secretary

[Signature]
 President
[Signature]
 Dean

254

MAY 11 1964 17:45



Office of Educational Policy and Planning

225 WINTER STREET NE, SALEM, OREGON 97310-0301 PHONE (503) 378-3921
FAX (503) 378-4789

May 14, 1990

Kurt W. Donsbach
424 Calle Primera, Suite 102
San Ysidro, California 92073

Dear Mr. Donsbach:

The Oregon Board of Naturopathic Examiners has asked this office, pursuant to our responsibility under ORS 348.885, to determine the authenticity of your 1960 Hollywood College doctoral diploma.

After considerable investigation, we find that the diploma is not authentic. In addition to "17st day of June," the diploma copy contains several very obvious internal inconsistencies in spacing, line, and calligraphy. It is not copied from an integral diploma. Instead it is, with a different name of recipient, a copy identical to one that has been determined by the Arizona Department of Public Safety to be a photocopy manipulation, derived from an actual chiropractic diploma of one Hollywood College School of Chiropractic.

This office has further determined

- (1) that separate sworn depositions, obtained by the State of Arizona from a dean and a board president of Hollywood College, affirm that the college did not offer any naturopathic education or degree in 1960;
- (2) that a 1961 commencement program from the Hollywood College indicates no naturopathic faculty or ceremony, while it names, as a 1961 chiropractic graduate, a person who submitted to Arizona the same 1960 naturopathic diploma as yours;
- (3) that creation of the Hollywood College naturopathic diploma copy, using parts of the school's authentic chiropractic diploma, required xerographic reduction technology, which did not exist until 1969;
- (4) that documents purportedly from three different institutions in two states carry your name with the same misspelling and in essentially the same calligraphy; and

EXHIBIT No. 83
HERBERT v. AQA C87-3169 (MKB)

Ex. 58

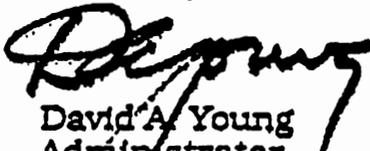
Kurt W. Donsbach
May 14, 1990
Page 2

(5) that all of the signatures on the ND "diploma" from Hollywood College appear to have been written by the same hand; but in any case that the signatures include "Jesse Lester MD," despite the fact that Lester reported no MD in his 1963 naturopathic license application to the State of Arizona.

We now propose to prohibit you from claiming a doctor's degree in Oregon and to notify the naturopathic board of this determination, whereupon you would be prohibited from holding a professional license dependent upon the possession of such a degree.

If you wish to seek modification of this proposed action before it becomes final, please contact me by May 24. We can arrange for you to respond in writing, in an interview, or in a formal public hearing. In the absence of a reply, final action will be as proposed.

Sincerely,



David A. Young
Administrator
Academic Degree Authorization

c: P. Sundermier

MAY 11 1961 17:45

The Hollywood College School of Naturopathy

Incorporated
Los Angeles, California

to all to whom these Letters shall come, Greetings:

Be it known that

Kurt W. Donsback

has completed the prescribed course of study in the above named school and passed the requisite examinations and furnished satisfactory evidence of a thorough knowledge of the Art, Science and Philosophy of Naturopathy

We therefore confer the degree of

Doctor of Naturopathy

together with all the honors, rights and privileges belonging to that Degree.

Done by virtue of rights and privileges granted to us by charter from the State of California, given under our hands and the Seal of the Hollywood College School of Naturopathy this 27th day of June 1960

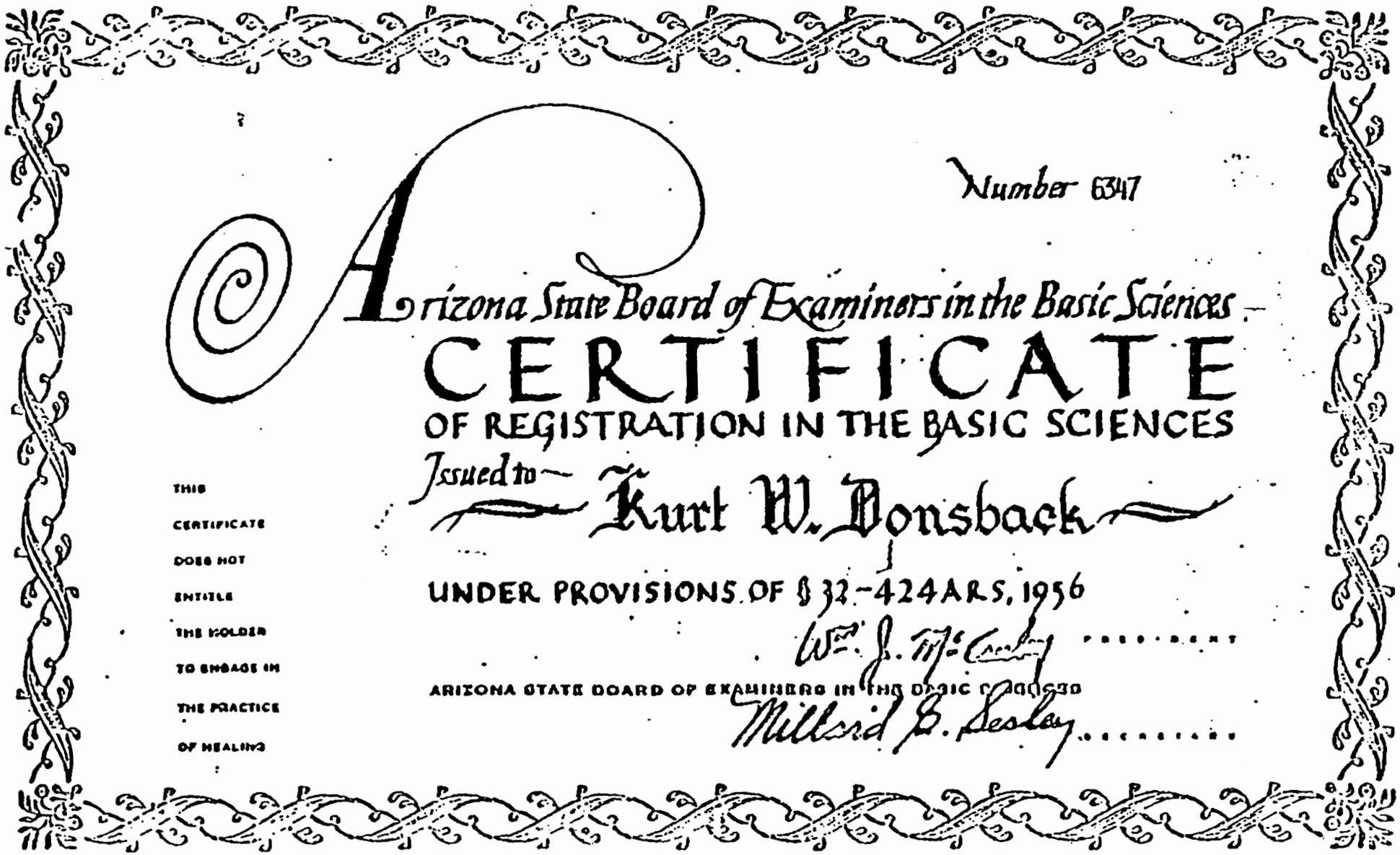
James Foster M.D.
Faculty Member
[Signature]
Secretary

[Signature]
President
[Signature]
Dean

2164449615 PAGE.004

MAY 11 9 17 AM

2-34430815 PAGE ONE



Number 6347

Arizona State Board of Examiners in the Basic Sciences
CERTIFICATE
OF REGISTRATION IN THE BASIC SCIENCES

Issued to *Kurt W. Donsback*

UNDER PROVISIONS OF § 32-424 ARS, 1956

Wm. J. ...
ARIZONA STATE BOARD OF EXAMINERS IN THE BASIC SCIENCES
Mildred B. Lesley

THIS
CERTIFICATE
DOES NOT
ENTITLE
THE HOLDER
TO ENGAGE IN
THE PRACTICE
OF HEALING

California Doctor's Hospital



on the recommendation of the Faculty
and by virtue of the authority vested in them, the Board of Directors
of the California Doctors Hospital Corp. does hereby confer on

Kurt W. Donsback

THIS CERTIFICATE OF INTERNSHIP

With all the rights & privileges pertaining thereto
in recognition of the satisfactory Completion of the required Course of Internship.

In testimony whereof the Seal of the Hospital & the
Signature of its duly Authorized officer are hereto affixed.

Given at Los Angeles, California on this 1st day of June 1960

Hugh McArthur M.D.
President, Board of Directors

EXHIBIT 59



Office of Educational Policy and Planning

225 WINTER STREET NE, SALEM, OREGON 97310-0301 PHONE (503) 378-3921
FAX (503) 378-4789

June 4, 1990

Kurt W. Donsbach
424 Calle Primera, Suite 102
San Ysidro, California 92073

Dear Mr. Donsbach:

Since you did not respond to our letter of May 14, the findings reported to you therein are now recorded without amendment. The conclusion of the state is as follows with respect to activities you may undertake in Oregon.

You may not legally claim the Doctor of Naturopathy degree from Hollywood College. Your diploma is not authentic, any such ND degree is counterfeit, and your claim to it is not valid.

We will now transmit this final determination to the Board of Naturopathic Examiners and the Department of Justice.

Sincerely,

David A. Young
Administrator
Academic Degree Authorization

c: P. Sundermier

EXHIBIT No. 84
HERBERT v. AQA C87-3109 [MKB]

Ex. 59

COPY

▶ **DATELINE**
N B C

November 2, 1993

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Box 7 • Livingston, New Jersey 07039

And there's something else Dr. Donsbach's patients may not know, he's not a medical doctor.

What are your credentials?

Dr. DONSBACH: I am a graduate chiropractor.

ROSS: (*Voiceover*) Dr. Donsbach told us he calls himself a doctor because he is a chiropractor with a doctorate degree in naturopathy.

Here's the degree...

Dr. DONSBACH: Yes, sir.

ROSS: ...Doctor of Naturopathy.

Dr. DONSBACH: Yes.

ROSS: Hollywood College.

Dr. DONSBACH: Right.

ROSS: They had no such courses when you supposedly got this degree.

Dr. DONSBACH: They didn't?

ROSS: Not according to the dean at the time.

Dr. DONSBACH: Well.

ROSS: Is it a valid degree?

Dr. DONSBACH: It is a valid degree from that school.

ROSS: Do you tell people you had this degree?

Dr. DONSBACH: Certainly, I have.

ROSS: (*Voiceover*) According to authorities in Oregon, Dr. Donsbach's so-called naturopathy degree is a counterfeit, and authorities suspect two other of Donsbach's medical certificates also are counterfeit. Each of the three documents is misspelled in exactly the same way.

(Degree certificates)

ROSS: (*Voiceover*) Isn't it a fundamental question as to whether anybody can believe you if you would counterfeit a degree?

Dr. DONSBACH: If I would, I think it would, yes.

ROSS: You deny they're counterfeit?

Dr. DONSBACH: I deny they're counterfeit, and that's all I'm going to say on that subject.

ROSS: Each of these three, you deny that? This doesn't strike you as unusual?

Doctor...

Dr. DONSBACH: Would you unhook me, please?

ROSS: Sit down. I've got some more questions for you.

Dr. DONSBACH: Brian!

ROSS: These are fundamental questions, sir.

Dr. DONSBACH: Bull..(*censored by network*)...

Mr. PHILLIP HALPERN: I think you're dealing with the king of the quacks. If Dr. Donsbach was talking reality, he would be getting the Nobel

REPORT OF TRIAL

I. NO.	CITATION NO.	DATE OF TRIAL 4/9/71
VIOLATION CHARGED		3 Cts 26286.5 (H&S); 3 Cts. 2141 (B&P); 3 Cts 26280 (H&S)
DEFENDANT		Kurt W. DONSBACH
FIRM		WESTPRO LABS INC., & Nature's Way Health Food Store
ADDRESS		12975 Main St. 10072 Chapman Avenue
TOWN		Garden Grove
COURT	LOCATION	DOCKET NO.
West Orange County Municipal Court	Westminster	#37778
JUDGE	PROSECUTING ATTORNEY	
Fenton E. Jones	Stuart Grant	
RESULT OF TRIAL	SENTENCE	
Entered plea of Guilty 1 Ct. 2141 (B&P)	\$500.00 + P.O.E. to court; 2 yrs Summary Prob., \$2,000 restitution to	
FINE PAID	SUSPENDED	
Court fines to be paid by 4/12/71 Restitution to be paid by 7/31/71	None	Food & Dr
REMARKS		
Terms of probation: that def. obey all laws.		
All other counts suspended in interest of justice.		

INSPECTOR
Jim D. Eddington
Jim D. Eddington

STATE OF CALIFORNIA
 DEPARTMENT OF PUBLIC HEALTH

BUREAU OF FOOD AND DRUG INSPECTION
 (11-12-61) FORM F&D-14

FD-203 (1-65) 10-570

TT 5/61

Cont'd

1. Payment of a fine in the sum of \$100.00, plus penalty assessment;
2. That the defendant, Mr. Kurt W. Donsbach, relieve himself of all his proprietary interest in Westpro Laboratories, Inc.; and further that he not involve himself in the sale, manufacturing, or repacking of any drugs;
3. That the defendant violate no law; and
4. Stipulation to no violations on previous probation.

The People of the State of California,

Plaintiff

Case No. CR 5 2546

Kurt W. Donbach

SUMMARY PROBATION ORDER

Defendant(s)

26670

Defendant having been convicted for violation of _____ and no legal cause being shown why judgment should not be pronounced,

IT IS ORDERED THAT (execution of sentence of _____) (Imposition of sentence) be suspended and that defendant be placed on summary probation to this Court for a term of 2 yrs. from this date on the following terms and conditions as indicated by a checkmark in each box below:

FINE & OR JAIL	ALCOHOL & NARCOTICS	TRAFFIC
<input checked="" type="checkbox"/> PAY FINE OF \$ <u>100.00</u> (Does not include Penalty Assessment) or serve in County Jail at rate of 1 day for each \$ _____ SUSPENDED. STAY to _____ <input type="checkbox"/> SERVE _____ in Orange County Jail. beginning _____ (Concurrent or Consecutive) <input type="checkbox"/> CREDIT FOR TIME SERVED DAYS: _____ <input type="checkbox"/> SERVE _____ week-ends in Orange County Jail - From _____ to _____ beginning _____ <input type="checkbox"/> SUSPENDED <input type="checkbox"/> HONOR FARM RECOMMENDED <input type="checkbox"/> WORK FURLOUGH RECOMMENDED	<input type="checkbox"/> CONSUME NO ALCOHOLIC BEVERAGES and do not go to places where alcohol is chief item of sale. <input type="checkbox"/> USE OR POSSESS NO DRUGS OR NARCOTICS (except as legally prescribed). <input type="checkbox"/> SUBMIT TO SEARCH & SEIZURE OF PERSON, PROPERTY, AUTO OR RESIDENCE UNDER DEFENDANT'S CONTROL by any peace officer or probation officer at any time or place without a warrant. <input type="checkbox"/> ALCOHOLICS ANONYMOUS See back of this Order for instructions. <input type="checkbox"/> ORANGE COUNTY SCHOOL ON ALCOHOLISM See back of this Order for instructions. <p><i>Defendant release himself of all his proprietary interest in West Pos Labs; and further, that he not involve himself in the sale, manufacturing, or re-packing of any drugs</i></p> <p><i>Stipulation to no violation on previous probation.</i></p>	<input type="checkbox"/> ATTEND & COMPLETE TRAFFIC SAFETY CLASS. Check instruction sheet for further details. <input type="checkbox"/> DO NOT DRIVE MOTOR VEHICLE UNTIL _____ except to and from work and in course of employment. <input type="checkbox"/> DRIVER'S LICENSE SUSPENDED DO NOT DRIVE MOTOR VEHICLE UNTIL _____ <input type="checkbox"/> COURT RECOMMENDS THAT D.M.V. NOT SUSPEND DEFENDANT'S OPERATOR'S LICENSE <input type="checkbox"/> COURT ORDERS THAT D.M.V. SUSPEND DEFENDANT'S OPERATOR'S LICENSE. <input type="checkbox"/> DO NOT DRIVE WITHOUT VALID LICENSE
<p>MISCELLANEOUS</p> <input type="checkbox"/> DO NOT WRITE ANY CHECKS & DO NOT MAINTAIN A CHECKING ACCOUNT. <input type="checkbox"/> REGISTER AS REQUIRED BY PENAL CODE 290. READ & SIGN CH FORM CII-4 <input type="checkbox"/> MAKE RESTITUTION AS FOLLOWS: TO: _____ AMT: \$ _____ PAY ON _____ OR BEFORE: _____ Report in person to this Court with proof of restitution on _____		<p>MISCELLANEOUS</p> <input type="checkbox"/> DILIGENTLY PURSUE SCHOOL WORK. Report in person to this court on _____ <input type="checkbox"/> DILIGENTLY SEEK & MAINT/ EMPLOYMENT. Report in person to this Court on _____ <input checked="" type="checkbox"/> VIOLATE NO LAW AND REPORT in writing immediate! this Court any violation - such as parking tickets or mechanical violations <i>except minor</i> <input type="checkbox"/> REPORT IN PERSON TO THE COURT ON _____

DATE: 7-13-73
 I, Kurt W. Donbach have received and read a copy of this ORDER.
 I live at PO Box 924 Harbor View Cal 92640 phone: 636-1592
 Date: 7-13-73

 DEFENDANT

TR 62

DEFENDANT'S WAIVER OF RIGHTS
IN THE MUNICIPAL COURT

DEFENDANT: KURT W. JONGBACH ATTORNEY: R. B. WER

(Defendant Must Initial After Reading)

1. DEFENDANT: I understand that I am charged with violating Section 24670 (CCT VI) of the H+S Code, commonly known as LA MARI-OET ONLY FOR \$500 FINE. I also understand that the maximum penalty for this offense is LA MARI-OET ONLY FOR \$500 FINE.
2. DEFENDANT: I understand that I have the right to be represented by an attorney at all stages of these proceedings, and that if I cannot afford an attorney one will be appointed to represent me.
- 3(a) DEFENDANT: I understand that I have a right to a speedy and public trial either by jury or by court.
- (b) DEFENDANT: I understand that by entering this plea I am waiving and giving up my right to a jury of court trial and that is my desire.
- 4(a) DEFENDANT: I understand that I have the right to be confronted by the witness(es) against me and to cross examine them myself or through an attorney.
- (b) DEFENDANT: I understand that by entering this plea I will be waiving and giving up the right to be confronted by the witness(es) against me and that is my desire.
- 5(a) DEFENDANT: I understand that I have the right to call witnesses to testify in my own behalf and to invoke the compulsory process of the court to subpoena those witnesses and to produce real evidence to be used in my behalf.
- (b) DEFENDANT: I understand that by entering this plea I will be waiving and giving up the right to call witnesses in my own behalf and the right to the compulsory process of the court in producing these witnesses and other evidence in my behalf and that is my desire.
- 6(a) DEFENDANT: I understand that I have the right to testify on my own behalf but that I cannot be compelled to be a witness against myself, and may remain silent if I so choose, and that if I exercise that right it cannot be used against me.
- (b) DEFENDANT: I understand that by entering this plea I will be waiving and giving up the right to testify or not to testify on my own behalf if I so choose and that is my desire.
7. DEFENDANT: I have been advised of the nature of the charges against me, my possible defenses, and the consequences of my plea of (guilty) (no contest) (and the possible consequences of a subsequent violation of probation in this matter). I have also been advised that this plea may subject me to penalties on any other matter as to which I am currently on probation.
8. DEFENDANT: I am entering this plea in consideration that the penalty to be imposed for the offense will be as follows: (SEE ATTACHED SHEET)

If the court does not accept this negotiated plea and seeks to impose additional or a different penalty, I reserve the right to withdraw my plea. No other promises other than those above have been made to me in connection with the disposition of this case or any other matter I may have pending.

9. DEFENDANT: I am entering this plea because I (am in fact guilty of the charges) (do not wish to contest the charges) and am taking this action freely and voluntarily.
10. DEFENDANT WITHOUT ATTORNEY: I have been advised and understand that I have the right to an attorney and I do freely and voluntarily waive my right to have an attorney represent me in these proceedings.
11. DEFENDANT: I have personally initialed each of the above and I understand each and every one of the rights outlined above and I hereby waive and give up each of them in order to enter my plea of (guilty) (no contest) and request the court to accept this plea.

Dated: 7/13/73 Signed: [Signature]

12. DEFENDANT'S ATTORNEY: I am attorney for the defendant in this proceeding. I have fully explained to the defendant each of his rights referred to above and that he is waiving and giving up all of those rights by taking this action. In addition I have explained to him the nature of the charge, his possible defenses to the charge, the possible penalties and the consequences of his plea in this matter. I am of the opinion that he understood my explanations and is taking this action freely and voluntarily with a full understanding of the nature of his rights and the consequences of his action. I stipulate that this document may be received by the court as evidence of defendant's intelligent waiver of those rights.

Dated: 7/13/73 Signed: R. B. WER

- I have explained defendant of the elements of and the nature of the charges against him, the possible consequences of his plea of (guilty) (no contest), including the consequences of probation that he may currently be on, the consequences of a second conviction, (and the consequences of a violation of the probation he is being placed on in this matter).
- The court finds that this is a negotiated plea of (guilty) (no contest).
- Court after examination of defendant finds that the waivers herein have been made knowingly and intelligently by the defendant.
- Court after examination of defendant finds defendant did execute this document and that he does understand his action taken in this matter and its consequences.
- Court finds a factual basis for the plea.

Dated: 7/13/73 Signed: [Signature]

Defendant acknowledges that he has received a copy of this executed document for his files.

LIMITED INSPECTION REPORT

H:
de 5
nn 1,
th Code
olumn 2.

Phase of Inspection (Col. 3)

(0) Original

Entry Number (Col. 4)

- (1) Add New Record
- (3) Modify Record
- (5) Delete - Remove Record

Firm File No.

(Col. 5-9)

Date of Inspection

(Col. 10-15)

Mo. Day Yr.

Firm Name: Westpro Laboratories, Inc.

Firm Address: 10422-10428 Stanford Ave., Garden Grove, Ca. 92640

ACTIONS TAKEN	Col. No.	(0) NO	(1) YES	FOLLOW-UP ACTIONS NEEDED	Col. No.	(0) NO	(1) YES
V. C. AND D.	16	X		General Inspection	26	X	
EMBARGO	17	X		Embargo Disposition	34	X	
EMBARGO DISPOSITION	18	X		Lab Chem. Anal.	36	X	
CITATION	19		X	Lab Micro. Anal.	38	X	
LAB SAMPLE	20	X		Adm. Rev. Label	40	X	
LABEL	21	X		Obtain Sample	42	X	
ADVERTISING	22	X		Letter	44	X	
OTHER EVIDENCE	23	X		Hearing	46	X	
NONE	24	X		Citation	48	X	
OTHER	25		X	Other	50	X	

COMMODITIES COVERED BY ACTIONS TAKEN:

Name	Col. No.	Commodity Code		
1. Phendimetrazine Tartrate tablets 35 mg.	52-54	7	1	7
2.	55-57			
3.	58-60			
4.	61-63			
5.	64-66			
6.	67-69			

On the date indicated above, at approximately 08:00 a.m., Mr. Sal A. Eppolito, Dep District Attorney, West Orange County Municipal Court located at 8144 Westminster Westminster, was contacted.

Mr. Kurt W. Donsbach, in behalf of Westpro Laboratories, Inc., entered a plea of guilty to the charge of one count on violation of Section 26670, Health and Safety Code on July 13, 1973.

Imposition of sentence was suspended and defendant, Mr. Kurt W. Donsbach, be placed on summary probation for a term of two (2) years on the following conditions:
(See attached)

Cont'd (Over)

Inspector's Name K. Sub

Inspector's I.D. No. (Col. 16-18)

Joint Inspector's Name _____

Joint Inspector's I.D. No. (Col. 16-18)

Kurt W. Donsbach, current Vice President. Mr. Donsbach pleaded guilty on April 9, 1971 to practicing medicine without a license on charges brought by the State of California. According to the State records, the case culminated a five-month investigation by the Fraud Section of the State Bureau of Food and Drug Inspections.

Undercover agents of the California State Bureau of Food and Drug Inspections made repeated visits to Donsbach's "Nature's Way Health Food Store" in Garden Grove, California. They reported business "very good," usually with about 15 persons waiting to see "the doctor." Donsbach represented himself as a chiropractor, a naturopath, and a "Bachelor of Therapeutic Science." Investigation disclosed he is not licensed as a chiropractor in California, and the State does not recognize the other credentials. His driver's license identified him as an M.D.

The case resumé states that the California agents found that Donsbach was receiving "patients" in his "consulting room" and prescribing organic vitamins, minerals, etc. for disorders ranging from spastic colons to menopause and from serious heart ailments to breast cancer.

A woman agent was told by Donsbach on several occasions that her "breast cancer" could be controlled if she followed his advice and adhered to a strict diet with vitamins, minerals, and a herbal tea called "chapparral.

Another woman agent was told that her "emphysema" and "heart condition" would be helped 100 percent by following a regimen of vitamins, minerals, and herbs.

A man agent was instructed to take cabbage tablets daily to cure "stomach ulcer."

The cost of Donsbach's treatment to the woman agent with "breast cancer" would have been approximately \$60 per month. With this as a yardstick for ten patients daily, and a five-day week, the California authorities estimated a gross income to Donsbach of around \$2 million a year.



Page 4 - State and Local Food Officials

Donsbach was fined \$750 plus \$2,000 costs of investigation, and placed on probation for two years. Additionally, he consented to stop all "nutritional consultation" in the State of California.

Aside from his "health food" store, Kurt W. Donsbach is president of Westpro Labs, Inc., of Garden Grove, California. The firm's stationery indicates it deals in proteins, vitamins, stock formula, private labeling, custom formulation, contract development, market research, and unusual cosmetics.