

THE NCAHF BULLETIN BOARD

NOVEMBER / DECEMBER, 1997

The NCAHF Bulletin Board is sent to NCAHF members and complimentary media *NCAHF Newsletter* recipients only. It is intended to stimulate and aid in activism against health fraud, misinformation and quackery at the local, state & national levels.

NCAHF EXECUTIVE DIRECTOR

On 9/28/97 the board of directors appointed outgoing president William Jarvis to be Executive Director of NCAHF and designated him as an official spokesperson for the Council. The NCAHF Bylaws limit official spokespersons to the president, board chairman, and those specifically designated by the board. This action will enable Jarvis to continue daily operations until the time that his retirement results in the relocation of the main office.

FUTURE OPTIONS STUDIED

An ad hoc committee made up of board members met on Sept 29 for the purpose of identifying options for operating NCAHF after it leaves the Loma Linda University campus. Each option will be carefully studied and reports will be given at the annual membership meeting.

ANNUAL MEMBERSHIP MEETING

The 1998 Annual Membership Meeting will be held in San Diego on Sunday, February 22 at the Holiday Inn Bayside. The NCAHF president will preside. The general meeting will be followed by the spring meeting of the NCAHF board of directors. Members are invited to attend. For information, contact either Drs. Jarvis, Renner, or Sampson.

ORANGE COUNTY 5 FTE FOR NUTRITION QUACKERY

Orange County (California) has voted a .5 FTE position for a Masters level Registered Dietitian to work on the problem of nutrition quackery. This is similar to the commitment of the San Bernardino County Health Department's Task Force on Nutrition Quackery Prevention. Orange County Health Services is a private public health agency that contracted with the county to do health care services after the County's bankruptcy.

CHANGE OF ADDRESS FOR VIDEO

The source for the video, *The New Believers*, has been changed to: Tom Corboy, 1010 Tigertail Road, Los Angeles, CA 90049; 310-476-8963.

NCAHF 1996 FINANCIAL REPORT

INCOME

Member dues	26,881.50
Newsletter subscriptions	7,376.00
NCAHF Library reprints	4,706.06
Royalties (from Newsletters)	703.86
Book Sales profit sharing	713.92
Contributions	10,062.09
Interest	1,385.01
Dividends	48.72
Total Income	51,877.16

EXPENSES

Occupancy (Main office @LLU)	18,000.00
Contractors	14,675.00
[Secretarial	10,800]
[Computer Services	2,300]
[Accounting	1,200]
[Web Site	375]
Telephone	312.00
Subscriptions & Books	399.41
Director's Travel & Lodging	4,362.67
Professional Legal Fees	1,000.00
Chapter Expenses	1,585.00
Office Supplies	1,127.63
Printing	3,013.83
Postage & Shipping	3,876.22
Taxes	47.36
Canadian to US exchange	863.00
Miscellaneous Other	307.47
Total Expense	49,569.59
1996 Gain / (Loss)	2,307.57
Net Cash Assets 12/31/95	23,958.00
Net Cash Assets 12/31/96	26,265.57

Please send items of possible interest to NCAHF members for *The Bulletin Board*, or for readers of the *NCAHF Newsletter* to NCAHF, P.O. Box 1276, Loma Linda, CA 92354; Fax 909-824-4838. Provide clear (not fax) copies suitable for photocopying, and complete references for citation purposes.

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Happy Holidays

A WAY TO REDUCE THE INCIDENCE OF QUACKERY AND HEALTH FRAUD IN CALIFORNIA

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It is no secret that quackery and health fraud have a pervasive hold on California. California has been associated with such chicanery since its early days. To take an informal survey of quackery in Southern California, all one has to do is flip through a local periodical or surf the Websites of some Southern California-based companies selling modern-day snake oils. Even with the presence of a good number of consumer protection agencies and offices in the state, such quackery goes unabated. This article will propose the means by which California could become a model for fighting health fraud and quackery throughout the United States.

It is not rare to find companies defrauding the public for years or even decades without being subjected to even minimal scrutiny by any government agency or activist organization. For example, the author is currently prosecuting a case where the defendant has been peddling her useless colon cleansing services for 35 years without any governmental interference or oversight. All this person had to do was obtain a business license and she was home free. No one even batted an eyelash when she touted colon cleansing to do everything from clearing acne to causing weight loss to fighting depression.

Perhaps as a direct response to this sad state of affairs in California, the state legislature has enacted consumer protection laws that are unprecedented and unmatched by any other state. These laws permit any person or organization to sue to enjoin the fraudulent activities of any person or company where the person or company is either situated in the state or its fraudulent activity affects consumers of the state. The plaintiff in such a case can also seek to have the offending party pay restitution to consumers for its past misrepresentations and to disgorge any undue profit it has earned. This is a potent weapon for fighting those who misrepresent the benefits of their products and services.

In order to fully appreciate the scope and power of such a law, one has to place himself in the shoes of a person who misrepresents the medical or health benefits of his products. The thinking of the typical white collar criminal involved in peddling worthless health-oriented products or services goes as follows:

As a private company (or individual), I am not subject to the mandates and requirements of a publicly-held company under the rules of the Securities and Exchange Commission. As my product is not labeled as a drug or medication, I escape the jurisdiction of the Food and Drug Administration. The Federal Trade Commission, due

to its limited resources and political agendas, almost never investigates smaller companies or individuals who are not in the limelight, and in the unlikely chance of an investigation, I'll merely stipulate to cease and desist any prospective false advertising without being required to pay anyone back. As my product will not injure anyone, no purchasers will sue me for damages. Even if a purchaser comes back and says the product didn't work, he would never sue over a few dollars; worse comes to worse, I'll just refund him his money. The Attorney General is too busy prosecuting 'real' criminals and won't bother coming after me. Even if he does, I'll just stipulate to a prospective cease and desist order.

According to my own experience with governmental offices, the above person is probably right in assuming that his conduct will go unpunished by the government. What this criminal doesn't realize, however, is that in California, any consumer protection organization or consumer activist can act as a "private attorney general" in order to fight quackery. Imagine the look of shock on such a criminal's face when some "Joe off the street" acts as his prosecutor.

Woe betide the criminal who raises the ire of a consumer protection organization or consumer activist who chooses to "prosecute" the criminal in California. The organization or individual carries the full power of the law and can seek an injunction and a restitution of wrongfully-earned profits. If the purchasers of the product cannot be found, the court can order the wrongdoer to pay restitution to a consumer protection organization whose function is to protect consumers from the very type of conduct in which the defendant has engaged.

I propose that healthcare practitioners, medical doctors, health-related organizations, and others interested in putting a dent in fraudulent health practices act as such private attorneys general in California. There are currently only a handful of concerned citizens who have volunteered to undertake this task. Unfortunately, given the large number of quacks out there, more activists are needed to fight such fraudulent practices. Anyone who chooses to act as a private attorney general in such cases is doing society a big favor. Healthcare professionals should be at the forefront of the fight against quackery. It is their profession that is being debased by such conduct and, accordingly, they should be at the front lines of the fight against health fraud.

YEAR-END CONTRIBUTION

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