

Nebraska Uniform Deceptive Trade Practices Act, R.R.S. Neb. § 87-302 (2008). The complaint named as respondents Bodyonics, Ltd. of Hicksville, New York ("Bodyonics"); EST Nutrition LLC d/b/a Engineered Sport Technology, Inc. of Oviedo, Florida ("EST"); Proviant Technologies, Inc. of Champagne, Illinois ("Proviant"); NRG-X Labs. of Bentonville, Arkansas ("NRG-X"); and San Corporation of Oxnard, California.

On September 29, 2009, the Commission issued notice of its decision not to review an ID terminating the investigation with respect to San Corporation on the basis of a consent order.

On October 19, 2009, the Commission issued notice of its determination not to review an ID finding Bodyonics, NRG-X, and Proviant in default. On December 23, 2009, the Commission issued notice of its determination not to review an ID finding respondent EST in default, and requesting briefing on remedy, the public interest, and bonding with respect to the respondents found in default. 74 FR 69146 (Dec. 30, 2009).

On January 6, 2010, UneMed submitted briefing, requesting a limited exclusion order, cease and desist orders, and bonding at the level of 100 percent of entered value during the period of Presidential review. Also on January 6, 2010, the Commission investigative attorney (IA) submitted briefing, proposing the same.

The Commission found that each of the statutory requirements of section 337(g)(1)(A)-(E), 19 U.S.C. 1337(g)(1)(A)-(E), has been met with respect to the defaulting respondents. Accordingly, pursuant to section 337(g)(1), 19 U.S.C. 1337(g)(1), and Commission rule 210.16(c), 19 CFR 210.16(c), the Commission presumed the facts alleged in the complaint to be true.

The Commission determined that the appropriate form of relief in this investigation includes a limited exclusion order prohibiting the unlicensed entry of certain products advertised as containing creatine ethyl ester by reason of false advertising in violation of Section 43(a) of the Lanham Act, 15 U.S.C. 1125(a)(1)(B) and the Nebraska Uniform Deceptive Trade Practices Act, R.R.S. Neb. § 87-302 (2008). The order covers certain products advertised as containing creatine ethyl ester that are manufactured abroad by or on behalf of, or imported by or on behalf of, respondents Bodyonics, EST, Proviant, or NRG-X, or any of their affiliated companies, parents, subsidiaries, or other related business entities, or their

successors or assigns. The Commission also determined to issue cease and desist orders prohibiting domestic respondents Bodyonics, EST, Proviant, or NRG-X from importing, selling, marketing, advertising, distributing, offering for sale, transferring (except for exportation), and soliciting U.S. agents or distributors for certain products advertised as containing creatine ethyl ester. The Commission further determined that the public interest factors enumerated in section 337(g)(1), 19 U.S.C. 1337(g)(1), do not preclude issuance of the limited exclusion order and cease and desist orders. Finally, the Commission determined that the bond under the limited exclusion order during the period of Presidential review shall be in the amount of 100 percent of the entered value of the imported articles. The Commission's orders were delivered to the President and the United States Trade Representative on the day of their issuance.

The Commission has therefore terminated this investigation. The authority for the Commission's determination is contained in section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), and sections 210.16(c) and 210.41 of the Commission's Rules of Practice and Procedure (19 CFR 210.16(c) and § 210.41).

Issued: April 1, 2010.

By order of the Commission.

**William R. Bishop,**

*Acting Secretary to the Commission.*

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## DEPARTMENT OF JUSTICE

### Notice of Lodging of Consent Decree Under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA)

Consistent with 28 CFR 50.7, notice is hereby given that on April 1, 2010, a Consent Decree in *United States v. Exxon Mobil Corporation and Holcim (US) Inc.*, Civil Action No. 3:10-cv-00222-RET-CN, was lodged with the United States District Court for the Middle District of Louisiana.

In a complaint that was filed simultaneously with the Consent Decree, the United States sought from Exxon Mobil Corporation and from Holcim (US) Inc. costs incurred by the United States in response to the release or threatened release of hazardous substances at the Coastal Radiation Services Superfund Site in San Gabriel,

Iberville Parish, Louisiana. (The United States alleges that Holcim is liable as a result of its acquisition of and merger with Ideal Basic Industries, formerly known as Ideal Cement Company.) The Site, located in part at 6745 Bayou Paul Road, San Gabriel, Louisiana, was contaminated with radioactive substances, primarily cesium-137 and thorium-232. The United States Environmental Protection Agency removed 111 tons of non-hazardous debris and 4,415 cubic yards of radioactive soil and debris. Demobilization was complete on January 4, 2004. As of October 31, 2007, EPA had unreimbursed costs of \$7,542,587.

Pursuant to the Consent Decree, Exxon Mobil Corporation will pay the United States \$4,200,000 and Holcim (US) Inc. will pay the United States \$600,000.

The Department of Justice will receive comments relating to the Consent Decree for a period of thirty (30) days from the date of this publication. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, P.O. Box 7611, U.S. Department of Justice, Washington, DC 20044-7611, or submitted via e-mail to [pubcomment-ees.enrd@usdoj.gov](mailto:pubcomment-ees.enrd@usdoj.gov), and should refer to *United States v. Exxon Mobil Corporation and Holcim (US) Inc.*, D.J. Ref. No. 90-11-3-07861/1.

The Consent Decree may be examined at the Offices of the U.S. Environmental Protection Agency, Region 6, 1445 Ross Avenue, Dallas, Texas. During the public comment period, the Consent Decree may also be examined on the following Department of Justice Web site: [http://www.usdoj.gov/enrd/Consent\\_Decrees.html](http://www.usdoj.gov/enrd/Consent_Decrees.html). A copy of the Consent Decree may also be obtained by mail from the Consent Decree Library, P.O. Box 7611, U.S. Department of Justice, Washington, DC 20044-7611 or by faxing or e-mailing a request to Tonia Fleetwood ([tonia.fleetwood@usdoj.gov](mailto:tonia.fleetwood@usdoj.gov)), fax number (202) 514-0097, phone confirmation number (202) 514-1547. In requesting a copy from the Consent Decree Library, please enclose a check in the amount of \$7.00 (25 cents per page reproduction cost) payable to the U.S. Treasury.

**Maureen M. Katz,**

*Assistant Section Chief, Environmental Enforcement Section, Environment and Natural Resources Division.*

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