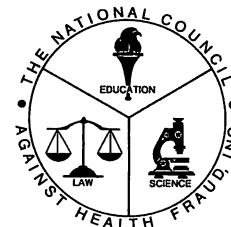


# NCAHF NEWSLETTER

QUALITY IN THE HEALTH MARKETPLACE



January / February 2003

Member Supported

Vol. 26, No. 1

## NOSTRUM MOGUL ARRESTED FOR TAX EVASION

Almon Glenn Braswell, owner of Gero-Vita International, perhaps the biggest direct marketer of bogus health products, was arrested January 13<sup>th</sup> in Miami Beach by Internal Revenue Service agents on charges of evading \$13.4 million in income taxes. Late last year a grand jury named Braswell in a 13-count indictment that was kept sealed until his arrest. If convicted on all charges, Braswell faces a maximum sentence of 51 years in federal prison. Also indicted in the case were a tax attorney and a certified public accountant who were accused of conspiring to help Braswell and his company evade tax payments.

Despite more than 140 civil regulatory actions against him by federal agencies, Braswell raked in hundreds of millions of dollars through his notorious mail-order operation, which sends consumers slick advertisements including materials designed to look like authoritative journals and reports. Gero-Vita International uses a Mail Boxes Etc. location in Toronto, Canada as its return address. His employees are based in Marina Del Rey, California.

Braswell, who had been convicted in 1983 for mail fraud, perjury, and tax evasion, received one the controversial pardons granted by President Clinton. In 2001 Braswell exercised his Fifth Amendment right to refuse to answer questions that might be self-incriminating at a U.S. Senate Special Aging Committee hearing on "Swindlers, Hucksters, and Snake Oil Salesman: The Hype and Hope of Marketing Anti-Aging Products to Seniors."

[Sources: Rosenzweig D. *Los Angeles Times*, 1/15/03, p. B1, B9; Associated Press, 1/14/03; US DOJ press release at <http://www.usdoj.gov/>

[usao/cac/pr2003/006.html](http://usao/cac/pr2003/006.html) ;  
[www.quackwatch.com / 01QuackeryRelatedTopics/PhonyAds/braswell.html](http://www.quackwatch.com/01QuackeryRelatedTopics/PhonyAds/braswell.html)]

## LIMITATIONS IDENTIFIED IN OVERSIGHT OF PRESCRIPTION DRUG ADS

The Food and Drug Administration's (FDA) oversight of direct-to-consumer (DTC) advertisements of prescription drugs has not prevented some pharmaceutical companies from repeatedly disseminating new misleading advertisements for the same drug, according to a U.S. General Accounting Office (GAO) report issued in October. The report recommends that the U.S. Department of Health and Human Services expedite the review of draft regulatory letters to pharmaceutical companies to ensure that misleading advertisements are withdrawn in a timely manner after they are identified and before advertising campaigns are completed.

GAO characterized FDA's efforts at halting dissemination of misleading advertisements as "generally effective." From August 1997 through August 2002, FDA issued 88 regulatory letters for misleading DTC advertisements.

The full GAO report (number GAO-03-177), "Prescription Drugs: FDA Oversight of Direct-to-Consumer Advertising Has Limitations," is available online at [www.gao.gov](http://www.gao.gov)

## MISLEADING DRUG ADS FOUND IN SPANISH MEDICAL JOURNALS

Researchers in Spain found that 45 out of 102 promotional statements in advertisements for antihypertensive and lipid-lowering drugs published in Spanish medical journals in 1997 were not supported by the bibliographic references provided in the ads. The

researchers suggest that physicians be cautious in assessing advertising claims of greater efficacy, safety, or convenience. [Villanueva P et al. Accuracy of pharmaceutical advertisements in medical journals. *Lancet* 361:27-32; 2003.]

## ADVERTISING AGENCIES INFLUENCE DRUG DEVELOPMENT

The problem of compromises of science in the research process for developing new drugs to the promotional agendas of advertising companies was discussed in a November 22<sup>nd</sup> article in *The New York Times* ("Madison Ave. Plays a Growing Role in Drug Research" by Melody Petersen). Points made in the article include:

- The three largest advertising agencies have spent tens of millions of dollars to buy or invest in companies that perform clinical trials of experimental drugs.

- Some advertising agencies own companies that ghostwrite articles for medical journals and create continuing education courses for doctors.

- Marketers recruit physicians to speak at expensive dinners that physicians are paid (e.g., \$500) to attend.

- According to Arnold Relman, MD, professor emeritus of Harvard Medical School and a former editor of *The New England Journal of Medicine*: "Doctors are led to prescribe drugs that may not be necessarily worth the money, may not be better than a generic that's already on the market and that their patients don't need." He also said there is no place in medical education for ad agencies.

- Cases have been cited, that don't involve ad agencies, of drug companies manipulating results of clinical trials by controlling a study's

## NEWSWEEK ERRS ON "ALTERNATIVE MEDICINE," PART 1

William M. London, EdD, MPH

Faculty Mentor, M.S.P.H. Program, Walden University

In its December 2<sup>nd</sup> issue, *Newsweek* published an ill-conceived special report on "The Science of Alternative Medicine." In his "Editor's Desk" column, Mark Whitaker wrote: "We're proud to be working with Harvard Health Publications and its editor in chief, Dr. Anthony Komaroff, to bring you the best wisdom that our team of veteran health journalists and Harvard's experts have to offer." Unfortunately, the best wisdom they offer is packaged with propaganda promoting false notions about so-called complementary and alternative medicine (sCAM). Here are some of the problems with *Newsweek's* reporting:

1. The notion of "the science of alternative medicine" falsely implies that a meaningful category of healthcare called "alternative medicine" exists and that it is scientifically based. But in common usage, the term "alternative medicine" is a euphemism used by enthusiasts and profiteers to give the appearance of legitimacy to various methods promoted with scientifically implausible, invalidated, or nonvalidated claims.

2. An introduction to the report includes the false generalization that "... 'complementary' and 'alternative' therapies haven't been the subject of rigorous scientific testing—until now." However, many methods that have been promoted as being "complementary" and "alternative" have been tested rigorously and not been shown to add to health outcomes when combined with proven methods or substitute for proven methods. For example, in rigorous tests, megavitamin C and laetrile have failed as cancer treatments.

3. Geoffrey Cowley, one of *Newsweek's* reporters, refers to acupuncture as credible. But reviews of clinical studies of acupuncture do not support claims of acupuncture being an effective treatment for a wide variety of conditions. Beneficial effects reported for some types of acupuncture in treating some types of pain, nausea, and vomiting may be attributable to factors such as distraction, expectation, suggestion, conditioning, and characteristics of the client-practitioner relationship rather than anything special about acupuncture.

4. Cowley refers to chiropractic as credible. But chiropractic has nonsensical central tenets about how the nervous system affects health and numerous conflicting factions offering various dubious technique systems. Since 1895, when chiropractic was dreamt up by self-described grocer and "magnetic healer" D. D. Palmer, chiropractors have made no significant scientific advance to healthcare. Chiropractic leaders have often tried to undermine consumers' confidence in rational healthcare and public-health protections.

5. Cowley notes: "So after dismissing CAM therapies as quackery for the better part of a century, the medical establishment now finds itself racing to evaluate them." The term "medical establishment" is an abstraction. Use of the term in this context makes an over-generalization about interest in evaluating sCAM therapies. Many—perhaps most—physicians and scientists do recognize that the promotion of nonvalidated or invalidated sCAM treatments for financial gain is quackery. They would prefer research dollars to be allocated according to scientific promise rather than political agendas. Although many hospitals and research institutions are carrying out research on sCAM treatments, much of this has to do with the money trail. Large amounts of funding became available when nostrum enthusiast Sen. Tom Harkin's (D-Iowa) legislative efforts forced the creation of the NIH Office of Alternative Medicine, which then became the National Center for Complementary and Alternative Medicine (NCCAM). After spending more than \$110 million on research, NCCAM has issued no recommendations for or against the use of any sCAM treatment.

6. Cowley cites the survey data published by Eisenberg and colleagues in 1993 as showing 34 percent of U.S. adults had received at least one "unconventional" therapy in 1990. But critics note that the percentage was greatly inflated because the survey included use of self-groups, exercise, prayer, and other activities that are not promoted as "CAM." Publicity about the study raised interest by consumers in dubious herbal remedies and some other sCAM products (as reflected in a 1997 follow-up survey), which in turn was used to justify the boondoggle of creating NCCAM.

7. Cowley quotes NCCAM head Dr. Stephen Straus: "We want to test therapies that have a plausible basis and

Continued in box on next page

design or choosing to report only positive data. [Bodenheimer T. *N Engl J Med* 342(20):1539-44; 2000.]

### OIG ISSUES DRAFT GUIDELINES FOR DRUG MARKETING

On October 3, 2002 the U.S. Department of Health and Human Services Office of Inspector General issued a draft for public comment setting forth its views on compliance programs of pharmaceutical manufacturers to reduce fraud and abuse in Federal health care programs. The OIG warned manufacturers against offering financial incentives to health care professionals to prescribe or recommend particular drugs, or to switch patients from one medicine to another.

It alerted manufacturers to the anti-kickback statute, which prohibits payments to induce or reward referrals of Federal health care business. [*Federal Register* 67(192):62057-62067; October 3, 2002.]

### NEW "SUPPLEMENT" LAWS PASSED IN CALIFORNIA

Gov. Gray Davis signed into California law SB 1884 by Sen. Jackie Speier, which (1) requires warning labels on dietary supplement products containing ephedrine group alkaloids or steroid hormone precursors to minors, and (2) bans the sale of these products to persons under 18 years of age. He also signed SB 1948 by Sen. Liz Figueroa, which requires warning labels on supplements to be clear and

conspicuous.

### SLIM CHANCE AWARDS

On January 21<sup>st</sup>—"Rid the World of Fads Diets and Gimmicks Day" of "Healthy Weight Week"—the Healthy Weight Network and NCAHF's Task Force on Weight Loss Abuse presented their 14<sup>th</sup> Annual Slim Chance Award to spotlight what they believe are the worst weight loss products and services of the year in an industry where quackery is widespread.

**Worst Product – Gorayeb Hypnosis Seminars.** Self-styled hypnotist books his seminars into hotels across the country. Only \$39 to attend, but expect a hard sell for overpriced hypnosis tapes and pills.

**Worst Gadget – L'Patch.** More

address some unmet need.” Cowley fails to point out NCCAM and NHLBI are wasting more than \$30 million to support a trial on chelation therapy for heart disease even though it has failed in prior trials and the rationales for such treatment make no sense [Green S, Sampson W. EDTA chelation therapy for atherosclerosis and degenerative diseases: implausibility and paradoxical oxidant effects. *Sci Rev Alt Med* 6:17-22; 2002]. Chelation’s avid following and federal funding for a large study to evaluate it are mentioned in a *Newsweek* sidebar without mention of the implausibility of rationales for using it to treat people with degenerative diseases.

8. Cowley suggests that nation’s insurers are biased against “holistic” care. But the real bias of nation’s insurers is against losing money. Unfortunately, some insurers cover dubious treatments promoted as holistic when they think that doing so will attract subscribers. Many plans charge an extra fee or merely enable subscribers to obtain discounts from designated practitioners. And Cowley fails to recognize that it is standard care to consider patients as whole beings, and that “holistic” is a dangerous banner under which practitioners of nonscientific methods rally.

9. Another reporter, Anne Underwood, wrote about traditional Chinese medicine (TCM) practitioner Nan Lu examining her tongue and “pulses”—one for each organ of her body—to diagnose “energy leak” from her heart and then recommend acupuncture, qigong (described misleadingly as Chinese yoga), meditation, dietary modifications, and herbal remedies containing green orange peel, sour-date seed and licorice root along with dozens of exotic ingredients. She describes Lu’s activities as sounding unscientific to “the Western mind.” She fails to acknowledge that Lu’s activities also sound unscientific to real scientists in Asia. TCM tongue and pulse examination lack validity and a rational basis for making diagnoses and recommending treatments. The diagnosis of “energy leak” in TCM is subjective; it has no scientific basis. Modern physics recognizes energy as a material entity, as signified by Einstein’s famous equation,  $E=mc^2$ , and explained by quantum theory. Energy is not an immaterial spirit as suggested by promoters of TCM and many other sCAM practices.

10. Underwood suggests that acupuncture relieves pain by boosting the body’s own opiates called endorphins. But some studies have shown that blocking endorphin receptors with an opiate antagonist does not reverse pain relief following acupuncture. Besides, it is not necessary to apply needles to specific points, as in acupuncture, to release endorphins. The release can be stimulated non-invasively.

11. Underwood cites one study presented at a conference in China suggesting that acupuncture with low-level electrical stimulation can reduce drug cravings and the relapse rate among heroin addicts. But she does not mention that reviews of studies of acupuncture treatment for addiction have not supported claims that acupuncture improves addiction treatment outcomes. And running electrical current through tissues isn’t “acupuncture.”

12. Underwood generalizes that “Chinese medications tend to have fewer side effects than Western pharmaceuticals...” and that “Western medicine...is riskier.” She provides an unsound argument for this generalization. She writes that a 1996 survey of the most populous Australian states found one adverse event from both herbs and acupuncture for every eight to nine months of a doctor’s full-time practice, or one problem per 633 consultations. She compares this survey data with the results of a study published in

*JAMA* in 1998 that used a totally different methodology: a meta-analysis of prospective studies. The authors of the 1998 paper estimated (not “found” as Underwood writes) more than 100,000 drug reactions among patients in U.S. hospitals in a single year. It is not reasonable to draw conclusions about the relative risks of all prescription drug treatments versus all herbal treatments by comparing adverse event data from hospitalized patients—who are often in weakened and uncertain conditions—with data on patients who visit doctors. The authors of the meta-analysis paper caution that their “results must be viewed with circumspection because of heterogeneity among studies [in their analyses] and small biases in the samples.” Underwood’s comparison is faulty also because it only considers adverse events following treatments and not benefits offered by the treatments. She does not consider what widespread adulteration of Chinese herbal treatments with synthetic drugs indicates about what developers of these products think their herbs have to offer in terms of benefits. (Other adulterants and contaminants that have been found in some herbal products include botanicals, microorganisms, microbial toxins, pesticides, fumigation agents, and toxic metals.) And as reported in the journal *Science* (1/10/03, p. 188): “According to a 1999 survey by the Hong Kong government, only 22% of outpatient medical consultations in the city were provided by Chinese medicine practitioners. Officials think the percentage is even lower, and they believe that safety concerns are driving people away from TCM.” Herbal products are prone to misbranding because of difficulties in correctly identifying plant species, chemical variations within plant species, lack of standardization, additions of chemicals, and ~~isolation~~ substitution of one plant for another. A variety of traditional Chinese herbs have been found to contain aristolochic acid which has been linked to kidney destruction and urinary tract cancers. In June 2002 Health Canada warned consumers not to take seven products marketed as traditional Chinese Medicines because they were found to contain undeclared prescription drugs. In January 2003 the Director-General of Health for New Zealand warned consumers to stop taking eleven traditional Chinese medicines sold as herbal remedies after investigation and testing revealed they contain prescription medicines and toxic substances.

13. Underwood discusses the increasing demand of Westerners for Chinese medicine services without mentioning the increasing demand of people in China for modern medicine. [Normile D. The new face of traditional Chinese medicine. *Science* 299:188-190; 2003.]

14. Underwood offers a testimonial about a research scientist who said she had “serious dizzy spells” after suffering from West Nile virus. The scientist said treatment from “Western specialists” did not make her spells go away, but her dizziness, allergies, and chronic shoulder problem were “gone” after an acupuncturist diagnosed “stagnant liver qi” and administered acupuncture and herbal remedies. Underwood quotes the scientist as saying: “This doesn’t make sense, but there’s something there.” Underwood concludes: “If Chinese medicine can help complications of West Nile virus, can it work for insomnia? The jury is out, but I’m optimistic.” Underwood’s unjustified conclusion about Chinese medicine and her failure to explain to readers why testimonials are unreliable as evidence of a treatment’s efficacy is egregious journalism.

Part 2 of this commentary will appear in the next issue of NCAHF Newsletter.

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The National Council Against Health Fraud, Inc.

# NEWSLETTER

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“Snake-oil on a band-aid,” this diet patch is billed as an *advanced appetite suppressant and metabolism booster*. Advertised on email spam.

**Worst Claim – Ultimate HGH 1000.** Cure-all results claimed for Human Growth Hormone “stimulant.” Claims include body fat loss, flat tummy, wrinkle reduction, trim thighs, erased cellulite, increased energy, muscle strength, memory, and emotional stability.

**Most Outrageous – Nutramerica’s Trim Spa.** Two page newspaper ads flooded the country with before and after photos, testimonials and weight loss claims. But disclaimers in tiny type admit that paid models were used, weight loss results are not typical, and the ephedrine ingredient can cause serious adverse effects.

In 2002 the Slim Chance dishonorees were:

**Worst Product – 16-Plant Macerat Weight Loss Plan.** “Recent experiments have shown that the extract of the 16 plants, when combined together, can reverse the effect of calories. In other words, instead of

transforming calories into fat, the calories are consumed and eliminated by natural means...some people have lost 13 pounds the first week.”

**Worst Gadget – Slimming Slippers.** Advertising copy claims: “The Get Slim slippers...using reflexology science, magnets, and the laws of gravity to get slim!... Increase your metabolism naturally [and] stimulate the untouched sole of the foot, thus activating the nerves responsible for digestion and eating habits.”

**Worst Claim – Hydro-Gel Slim Patch.** “The remarkable dual fat-fighting ingredients, Fucus and Guaranine...boost your metabolism...your very own secret ‘fat furnace’...helping incinerate away your repulsive excess adipose tissue.”

**Most Outrageous – Weigh Out.** “It doesn’t matter how much weight you have to lose: 20, 40, 100, or 200+ pounds. This will change your life forever.”

In 2001 the Slim Chance Award “winners” were:

**Worst Product – Hollywood 48 Hour Diet.** Advertised that you can lose a dress size over the weekend.

### Worst Gadget – Slenderstrip.

This repeat winner of the worst gadget award is a snake oil-on-a-band-aid type of magical cure with the false claim that you can lose weight by attaching the strip to your body.

**Worst Claim – Super-Crash Diet.** Supposedly “turns ugly fat into harmless water which flows right out of your body by the hour!” and can shrink you “a full size smaller” in 24 hours.

**Most Outrageous – Blast Away Fat.** Uses apple pectin to “seek and destroy enemy fat” and leads people to believe they can lose as much as 60 pounds in 90 days.

The “winners” in 2000 were: (1) chitosan or chitin products (indigestible fiber of crushed crab or lobster shells that supposedly causes weight loss by binding fats in the stomach) sold under names like “Fat Magnet,” “Fat Blocker,” “Fat Trapper” and “Fat Absorb”; (2) Dr. Atkins’ New Diet Revolution; (3) Metabolife 356, a caffeine and ephedra combination pill; and (4) a gadget called Cellulift that is rolled back and forth over the thighs to press down excess fat.

THE NCAHF  
**BULLETIN BOARD**

JANUARY / FEBRUARY 2003

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

**VICTOR HERBERT, MD, JD, M.A.C.P., F.R.S.M.**

**February 22, 1927 – November 19, 2002**

Victor Herbert, MD, JD, M.A.C.P. (Master American College of Physicians), F.R.S.M. (Fellow Royal Society of Medicine, London), 75, internationally recognized hematologist, nutrition scientist, and one of the world's leading opponents of quackery, died at his home in New York City on November 19<sup>th</sup>. Until his death, Dr. Herbert was a Professor of Medicine and Chair, Committee to Strengthen Nutrition at The Mount Sinai-New York University Health System and Chief, Mount Sinai Nutrition Center and Hematology and Nutrition Research Laboratory at the Veterans Affairs Medical Center, Bronx, N.Y.

“Victor was by far the most outspoken antiquackery activist in modern times,” said NCAHF Vice President Stephen Barrett, MD, who wrote an obituary for Dr. Herbert published online at <http://www.medscape.com/viewarticle/445263>. “His expert guidance and testimony helped state and federal regulatory authorities stop scores of misleading promotions. His willingness to ‘tell it like it is’ made him popular among television producers, print journalists, and health professionals who wanted to expose health frauds.”

During his prolific career he was the author of more than 850 papers on a wide range of medical topics. He was a much sought-after lecturer at medical institutions across the country and around the world. He also held numerous medical related patents.

In 1986 he was profiled in *Who Goes First? The Story of Self-Experimentation in Medicine* by New York Times medical writer Dr. Lawrence K. Altman, for his pioneering work on folic acid deficiency anemia. He was also the subject of feature articles in *The New York Times Magazine* (April 6, 1986), and *American Health* magazine (December 1993). Interviews of Dr. Herbert about nutrition quackery appeared in *Rx: Being Well* November/December 1986 and *The New York Times* (October 24, 1993). *The New York Times* published an obituary for Dr. Herbert on November 21<sup>st</sup>.

He served on the World Health Organization-FAO Committee on Nutritional Anemias and on its Committee on Dietary Requirements. His many awards for nutrition research include the McCollum Award - American Society of Clinical Nutrition (1972) and Middleton Award (1978), the highest award for medical research given by the Veterans Administration, the FDA Commissioner's Special Citation (1984) for “outstanding and consistent contributions against the proliferation of nutrition quackery to the American consumer,” and the Robert H. Herman Award - American Society of Clinical Nutrition (1986). Dr. Herbert received an Honorary Membership Award from the American Dietetic Association in 1988 and the American Institute of Nutrition's Lifetime Fellow Award in 1993 for his “nutrition research, teaching and unique contribution to the fight against health fraud.”

Dr. Herbert was a member of numerous scientific societies and served on the editorial boards of six scientific journals. He

was President of the American Society of Clinical Nutrition (1980-81) and a member of the Interagency Committee for Human Nutrition Research (a subcommittee of the Office of Science and Technology Policy in the Executive Office of the President). He served on the Food and Nutrition Board of the National Academy of Sciences and its RDA Committee and was Chair, Public Information Committee, Federation of the American Societies for Experimental Biology (1983-86). He frequently testified before Congress on health and nutrition subjects; was for five years Chairman, Committee on Life Sciences of the American Bar Association; and served as a medical-legal expert for the U.S. government and several state agencies in cases involving questionable health and nutritional practices.

In 1998 he moderated a session on “Alternative Medicine: Science or Snake Oil?” at the 22<sup>nd</sup> Clinical Congress of the American Society for Parenteral and Enteral Nutrition.

Dr. Herbert was the author of the classic book, *Nutrition Cultism: Facts & Fictions* (1984), described by *The New England Journal of Medicine* as: “a must for all readers who value the importance of nutrition in public health but are chagrined by the pretenders who exploit the public with food frauds, dietary cures, and nutrition nonsense.” He was co-author with Dr. Barrett of *Vitamins and “Health” Foods: The Great American Hustle* (1982) and *The Vitamin Pushers* (Prometheus Press, 1994). He was a consultant for *The Reader's Digest* book, *Eat Better, Live Better* and Metropolitan Life's *Eat Well, Be Well* public television series and cookbook. Dr. Herbert was co-author of *Genetic Nutrition* (Macmillan, 1993), with A. Simopoulos and Beverly Jacobson; later reprinted in softcover as *The Healing Diet* (Macmillan, 1995). He was the editor of *The Mount Sinai School of Medicine Complete Book of Nutrition* (St. Martin's Press 1990) and *Total Nutrition: The Only Guide You'll Ever Need: From the Mount Sinai School of Medicine* (St. Martins Press, 1995).

“I will remember Victor fondly for: his kindness; his compassion for vulnerable and suffering people; his intolerance for injustice, incompetence, unreason, scheming, and scamming; his resolve to do what was right even when doing so was not politically expedient; his undeniable brilliance, frankness, tenacity, and courage; his razor-sharp wit; his delightful sense of humor; his charismatic outspokenness; his enthralling lectures; and his illuminating writings,” said William M. London, EdD, MPH, editor of *NCAHF Newsletter*.

A native of New York, Dr. Herbert received his B.S. in chemistry (1948), MD (1952) and JD (1974), all at Columbia University. He served on the full-time medical school faculties of Einstein, Mount Sinai, Harvard, Columbia, SUNY-Brooklyn (formerly SUNY-Downstate), and Hahnemann, before returning in 1985 to Mount Sinai. Beginning in 1968, he based his research at the Bronx VA Medical Center.

Dr. Herbert has the distinction of military service in four wars: WW II, Korea, Vietnam and the Persian Gulf. He retired from military service as a Green Beret with the rank of Lt.

Colonel. In recognition of his military service he was honored with a burial in Arlington National Cemetery.

He is survived by his wife, Marilynne and their daughters, Alissa and Laura Herbert. Dr. Herbert also has two sons Robert and Steven and a daughter, Kathy Rose, from a previous marriage, and four grandchildren, Jessica, Nicole, Andrew and Daniel.

Donations in Dr. Herbert's memory may be made to the Dystonia Medical Research Foundation, One East Wacker Drive – Suite 2430, Chicago, Illinois 60601-1905 or The National Council Against Health Fraud, 119 Foster Street, Peabody, MA 01960.

Additional information about and from Dr. Herbert is available online at [www.victorherbert.com](http://www.victorherbert.com)

### **DR. HERBERT'S EXPOSÉ OF BOGUS NUTRITION CREDENTIALS**

A story about how Dr. Victor Herbert exposed the absurdity of professional membership in the American Association of Nutrition and Dietary Consultants is reprinted from the September/October 1983 issue of *ACSH News & Views* online at [http://healthfactsandfears.com/featured\\_articles/nov2002/sassafras111502.html](http://healthfactsandfears.com/featured_articles/nov2002/sassafras111502.html). Dr. Herbert obtained professional membership in that association for his poodle Sassafras Herbert. The only requirements for membership were a name, an address, and payment of \$50. He later obtained professional membership for his cat Charlie in the International Academy of Nutritional Consultants. Dr. Herbert's exposés made headlines.

**DR. HERBERT ON TELLING THE WHOLE TRUTH**  
(Excerpted from *Herbert V. Health claims in food labeling and advertising: literal truths but false messages; deception by omission of adverse facts*. Nutrition Today, May/June 1987, 25-30.)

At a seminar, which appeared to be orchestrated to overturn consumer protection law against deceptive and misleading supplement health claims, "a basic conflict between the public health scientists or 'activists' (the 'good guys'?) and the academic scientists or 'traditionalists' ('the bad guys'?)" was identified. The "health claims on foods" conflict is misrepresented as one in which academic scientists believe that "existence of *any* doubt in the relationship between diet and disease is sufficient to withhold accepting the relationship."

This type of statement falsely represents the position of the academic community as a rigid straw man, and many media writers have been taken in by it. It is the old "health foods" scam argument in a new form. Academic scientists are not "traditionalists"—inquiry and skepticism are our lifeblood. Many of us are activists. We believe in responsibly informing the public regarding total daily diet and health, both qualitatively and quantitatively, speaking in terms of appropriate and adequate total dietary quantities, and always in terms of efficacy and safety, giving the public both the upside and the downside. We oppose overaggressive product promotion falsely representing unresolved scientific issues as facts. Some public health epidemiology enthusiasts, who misrepresent themselves as "the activists" and "the good guys," irresponsibly give the public only the upside, promote specific products rather than the total daily diet and talk in terms of "eat more of this and less of that," which is bad advice for many people who are already eating more than enough of this and less than they should of that. *They* are the traditionalists. They are sophisticated clones of our

tradition of nineteenth century vegetarian reformists, from Alcott through Fletcher, Graham and Kellogg, as James Whorton describes them in *Crusaders for Fitness*.

Some would argue that it is fair for the public to know what we think the best information is today, just as a doctor would give advice in a clinical situation. I say, "Amen,"—but we should give the public the *whole* truth, as a doctor does, instead of just the upside....

**DR. VICTOR HERBERT ON FRAUDULENT REPRESENTATION OF "BEST CASES"**  
(Excerpted from *Herbert V. and Kasdan TS. Misleading nutrition claims and their gurus*. Nutrition Today 20(3):28-35;1994.)

...Questionable alternatives represented as genuine and used to make a profit are fraudulent since, by legal definition, the two requisite elements of civil fraud are deception and profit. For criminal fraud a third element is required: *scienter*. *Scienter* means the culprit is deliberately deceiving and knows or should know that his/her representations of efficacy and safety are unsupported by anything other than "best cases."

Best cases are not evidence of either efficacy or safety because on investigation they invariably prove to be cures that are not cures. These fake cures fall into six categories:

1. The disorder is self-limiting and will go away with no treatment. Eighty percent of all symptoms which patients present go away within a day to a month with no treatment. This is why quacks have 80% satisfied customers.
2. The patient was "cured" of a disease he/she never had.
3. The cure or remission was induced by genuine therapy, but the quack remedy also given was credited.
4. The disease was progressing silently, but was erroneously believed to be cured.
5. The patient is dead, but fraudulently represented as cured.
6. The patient had a spontaneous remission publicized as a success, but the proponents failed to keep score and publicize all the failures before and after each "success." The difference between promoters of quack remedies and promoters of legitimate remedies is that only the latter keep score.

**DR. VICTOR HERBERT ON CARLTON FREDERICKS**  
(Excerpted from *Greene D. Westchester Q&A: Dr. Victor Herbert. The Case Against Vitamin Supplements. Interview in The New York Times. October 24, 1993.*)

One day...I got a call from the Food and Drug Administration saying it had brought a Federal court action in New Jersey against a multivitamin mineral supplement and its promoter, Dr. Carlton Fredericks. The F.D.A. asked if I would be willing to review the materials and testify.

So I did, and I learned that, among other things, Carlton Fredericks, who is now dead but had a regular television program for years where he was introduced as the world's foremost nutrition expert, in fact had no nutrition expertise.

And he called himself doctor because he had a Ph.D. in radio communications. His only medical expertise was that he had been arrested for practicing medicine without a license in New York City and paid a fine for doing so instead of going to jail.

So I characterized him as a charlatan in court, and his attorney objected. I asked for a dictionary and read the dictionary's definition of charlatan, and the judge overruled the objection.