

**UNITED STATES INTERNATIONAL TRADE COMMISSION**  
**Washington, D.C. 20436**

**In the Matter of**

**CERTAIN PRODUCTS ADVERTISED  
AS CONTAINING CREATINE ETHYL  
ESTER**

**Investigation No. 337-TA-679**

**NOTICE OF COMMISSION ISSUANCE OF A LIMITED EXCLUSION ORDER  
AGAINST THE PRODUCTS ADVERTISED AS CONTAINING CREATINE ETHYL  
ESTER OF RESPONDENTS FOUND IN DEFAULT; ISSUANCE OF CEASE AND  
DESIST ORDERS**

**AGENCY:** U.S. International Trade Commission.

**ACTION:** Notice.

**SUMMARY:** Notice is hereby given that the U.S. International Trade Commission has issued a limited exclusion order and cease and desist orders against four respondents found in default in the above-captioned investigation under section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. § 1337 (“section 337”).

**FOR FURTHER INFORMATION CONTACT:** James A. Worth, Office of the General Counsel, U.S. International Trade Commission, 500 E Street, S.W., Washington, D.C. 20436, telephone (202) 205-3065. Copies of non-confidential documents filed in connection with this investigation are or will be available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street, S.W., Washington, D.C. 20436, telephone (202) 205-2000. General information concerning the Commission may also be obtained by accessing its Internet server (<http://www.usitc.gov>). The public record for this investigation may be viewed on the Commission's electronic docket (EDIS) at <http://edis.usitc.gov>. Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on (202) 205-1810.

**SUPPLEMENTARY INFORMATION:** This investigation was instituted on June 23, 2009, based upon a complaint filed on behalf of UneMed Corp. of Omaha, Nebraska (“UneMed”) on June 5, 2009, and supplemented on June 8 and 10, 2009. 74 *Fed. Reg.* 29717 (June 23, 2009). The complaint alleged violations of section 337(a)(1)(A) of the Tariff Act of 1930 (19 U.S.C. § 1337) in the importation into the United States, the sale for importation, and the sale within the United States after importation 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 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 Fed. Reg.* 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).

By order of the Commission.

/s/

William R. Bishop  
Acting Secretary to the Commission

Issued: April 1, 2010