

1 Stephen Calkins
General Counsel

2
3 Ann I. Jones
Gregory W. Staples
Federal Trade Commission
4 11000 Wilshire Boulevard, Suite 13209
Los Angeles, California 90024
5 (310) 235-4040

6 Attorneys for Plaintiff

7
8 UNITED STATES DISTRICT COURT
9 CENTRAL DISTRICT OF CALIFORNIA

10 _____)
11) Civ. No.
12 FEDERAL TRADE COMMISSION,)
13 Plaintiff,) COMPLAINT
14 v.)
15 MOUNTAIN SPRINGS L.L.C., and)
16 MAX PEREZ,)
_____)

17
18 Plaintiff, the Federal Trade Commission ("Commission"), by
19 its undersigned attorney, alleges as follows:

20 JURISDICTION AND VENUE

21 1. This is an action under Section 13(b) of the Federal
22 Trade Commission Act ("FTC Act"), 15 U.S.C. § 53(b), to secure a
23 permanent injunction and other equitable relief, including
24 rescission, restitution and disgorgement, against Defendants'
25 violations of Sections 5(a) and 12 of the FTC Act, 15 U.S.C. §§
26 45(a) and 52, respecting deceptive acts or practices. This Court
27 has subject matter jurisdiction over Plaintiff's claim pursuant
28

1 to 28 U.S.C. §§ 1331, 1337(a) and 1345, and 15 U.S.C. §§ 45(a)
2 and 53(b). Venue in this District is proper under 28 U.S.C.
3 § 1391(b) and 15 U.S.C. § 53(b).

4 THE PARTIES

5 2. Plaintiff Commission is an independent agency of the
6 United States Government created by statute (15 U.S.C. § 41 et
7 seq.). The Commission is charged, inter alia, with the
8 enforcement of Sections 5(a) and 12 of the FTC Act, 15 U.S.C.
9 §§ 45(a) and 52, and is authorized under Section 13(b) of the FTC
10 Act, 15 U.S.C. § 53(b), to initiate court proceedings to enjoin
11 violations of the FTC Act and to secure such equitable relief as
12 may be appropriate in each case.

13 3. Defendant Mountain Springs L.L.C. ("Mountain Springs")
14 is a New York limited liability company. Mountain Springs'
15 principal place of business is located at 125 Park Avenue, 8th
16 Floor, New York, New York. At all times relevant to this
17 complaint, Mountain Springs conducted business in this District.

18 4. Defendant Max Perez is a manager of Mountain Springs.
19 At all times relevant to this complaint, Max Perez conducted
20 business in this District. Individually or in concert with
21 others, he formulates, directs, or controls the policies, acts or
22 practices of Mountain Springs, including the acts or practices
23 alleged in this complaint.

24 COMMERCE

25 5. At all times relevant to this complaint, the Defendants
26 maintained a substantial course of trade, in or affecting
27

1 | commerce, as "commerce" is defined in Section 4 of the FTC Act,
2 | 15 U.S.C. § 44.

3 | DEFENDANTS' COURSE OF CONDUCT

- 1 A. "It's been tested in Italy, Austria, Germany . . . And
2 it's been proven in laboratories that 'Una de Gato' . .
3 . reinforces the immune system and reduces
4 inflammation."
- 5 B. "MANAXX CAT'S CLAW has been proven in laboratories to
6 strengthen the human immune system and enhance overall
7 health and well-being."
- 8 C. "Una de Gato, whose incredible properties, according to
9 medical science, have various medicinal uses ranging
10 from the reduction of muscular and skin inflammations
11 to overall strengthening of the Human Immune system . .
12 . ."
- 13 D. "And the observable defense reinforcement that we've
14 found resulting from Manaxx's Una de Gato mark it as a
15 weapon against any immunological problems, regardless
16 of their cause."
- 17 E. "Another favorable quality is the effect on
18 inflammation . . . Manaxx's Una de Gato can be an
19 excellent nutritional source for the reduction of the
20 abnormal irritation of body tissues."
- 21 F. "We can also add to the list of benefits the fact that
22 Manaxx's Una de Gato does not affect the stomach and
23 does not have any abnormal effects resulting from
24 exceeding the recommended dosage. It has also been
25 shown in experiments in Europe to be void of any toxic
26 effects."

1 9. In the course of telephone calls with consumers, the
2 Defendants made additional claims regarding una de gato. The
3 script provided to telemarketers states that una de gato is used
4 as a "supplement to improve overall health . . . [i]t also
5 strengthens the immune system." During a call made to (800) 441-
6 4868, a number provided by Defendants to place orders for una de
7 gato, Defendants' agent or representative stated that una de gato
8 prevented diseases from occurring because it strengthened the
9 immune system.

10 10. In its advertisements Defendants have used
11 testimonials, including the following: "I was taking 'Una de
12 Gato' between '82 and '84. . . the prognosis for my illness was
13 pretty bad but it's been 10 or 12 years now and I'm still here";
14 "For many years, I could hardly walk because of the discomfort
15 and swelling I had in my leg, and now I walk perfectly"; and "I
16 had skin problems, with a lot of pimples that just would not go
17 away with any remedy, until I started taking Manaxx, and then my
18 skin cleared up in just two weeks."

19 DEFENDANTS' VIOLATIONS OF THE FTC ACT

20 11. Sections 5(a) and 12 of the FTC Act, 15 U.S.C. §§ 45(a)
21 and 52, prohibit deceptive acts and practices and the making of
22 false advertisements to induce, or likely to induce, the purchase
23 of "foods" and/or "drugs," respectively, in or affecting commerce.

24 12. Through the means described in paragraphs 7 through 10,
25 Defendants, individually or in concert with others, have
26 represented, expressly or by implication, that:
27
28

- 1 A. Una de gato strengthens or reinforces the immune
- 2 system;
- 3 B. Una de gato effectively treats inflammation and reduces
- 4 abnormal irritation of body tissue;
- 5 C. Una de gato reduces swelling in the legs thereby
- 6 allowing users to walk without discomfort;
- 7 D. Una de gato cures acne;

1 | the immune system, effectively treats inflammation, reduces the
2 | abnormal irritation of body tissue, and is void of any toxic
3 | effects. In fact, clinical and laboratory research does not
4 | demonstrate that una de gato strengthens or reinforces the immune

1 (1) Enjoin Defendants permanently from violating Sections
2 5(a) and 12 of the FTC Act in connection with the advertising,
3 offering, sale, distribution, or other promotion of Manaxx, other
4 una de gato products or any food, drug or dietary supplement.

5 (2) Award such relief as the Court finds necessary to
6 remedy the Defendants' violations of Sections 5(a) and 12 of the
7 FTC Act, including but not limited to disgorgement, rescission of
8 purchases, and refund of money.

9 (3) Award Plaintiff such other and additional equitable
10 relief as the Court may determine to be proper and just.

11 Dated: June 24, 1997

FEDERAL TRADE COMMISSION

12
13
14 By: _____
15 Gregory W. Staples
16 Attorney for Plaintiff
17 Federal Trade Commission
18
19
20
21
22
23
24
25
26
27
28