

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF GEORGIA  
ATLANTA DIVISION

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FEDERAL TRADE COMMISSION,	)	
	)	
Plaintiff,	)	
	)	
v.	)	
	)	CIVIL NO. 1-03-CV-3822
UNIVERSAL NUTRITION CORPORATION,	)	
	)	
MTM MARKETING AND CONSULTING, INC.,	)	
	)	
and ROBERT J. MICHNAL,	)	
	)	Judge
	)	
Defendants.	)	
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**COMPLAINT FOR PERMANENT INJUNCTION AND  
OTHER EQUITABLE RELIEF**

Plaintiff, the Federal Trade Commission (“FTC” or “Commission”),  
through its undersigned attorneys, for its Complaint alleges:

1. Plaintiff FTC brings this action under Section 13(b) of the Federal Trade Commission Act (“FTC Act”), 15 U.S.C. § 53(b), to secure injunctive relief, consumer redress, disgorgement, and other equitable relief against Defendants for engaging in deceptive acts or practices and false advertising in connection

with the advertising, marketing, and sale of a purported weight loss product in violation of Sections 5(a) and 12 of the FTC Act, 15 U.S.C. §§ 45(a) and 52.

### **JURISDICTION AND VENUE**

2. This Court has jurisdiction over this matter pursuant to 15 U.S.C. §§ 45(a), 52, 53(b) and 28 U.S.C. §§ 1331, 1337(a), and 1345.

3. Venue in this District is proper under 15 U.S.C. § 53(b) and 28 U.S.C. § 1391(b) and (c).

### **PLAINTIFF**

4. Plaintiff, the Federal Trade Commission, is an independent agency of the United States Government created by statute. 15 U.S.C. §§ 41-58. The Commission enforces Section 5(a) of the FTC Act, 15 U.S.C. § 45(a), which prohibits unfair or deceptive acts or practices in or affecting commerce. The Commission also enforces Section 12 of the FTC Act, 15 U.S.C. § 52, which

## **DEFENDANTS**

5. Defendant Universal Nutrition Corporation (“UNC”) is a closely held Nevada corporation with its principal office or place of business at 5875 Peachtree Industrial, Norcross, GA 30092-3677. At times relevant to the complaint, acting individually or in concert with others, UNC has advertised, marketed, distributed, and/or sold ThermoSlim to consumers throughout the United States. UNC transacts business in the Northernit IN5u,eri6orgia.75



## **ThermoSlim**

11. ThermoSlim is a tablet containing ephedrine alkaloids. The UNC/MTM defendants charge \$59.95 plus \$8 shipping and handling for a 90 tablet, one-month supply of ThermoSlim and the accompanying Accelerator dietary supplement containing Guarana (together, “ThermoSlim”).

*Lost 100 Pounds]*

UNIDENTIFIED FEMALE: ThermoSlim has changed my life because I'm a totally different person and I love it. I've lost 100 pounds and I've maintained my weight for over a year and I feel wonderful. Look at me now.

\* \* \*

*[ON SCREEN: Dr. Richard Kaplan, D.O.]*

DR. RICHARD KAPLAN: In my opinion as a physician, this is the safest and most effective product available for weight loss.

MALE ANNOUNCER: ThermoSlim has been formulated with a medically proven break-through natural ingredient that targets the fat cells in your body.

*[ON SCREEN: Burns Fat Not Muscle!]*

MALE ANNOUNCER: It speeds up your metabolism to burn fat and not muscle.

*[ON SCREEN: ThermoSlim Results*

*Lose Weight Without:*

*Missing Your Favorite Foods*

*Strenuous Exercise*

*Depriving Yourself]*

MALE ANNOUNCER: The result, you lose weight without missing your favorite foods, without any strenuous exercise and without depriving yourself.

FEMALE HOST: These are just some of the letters we get every day from satisfied customers. Listen to what they say about never feeling hungry and still being able to eat their favorite foods.

*[ON SCREEN: Before and after photos*

*Lost 83 Pounds*

*"I ate what I wanted and kept losing."*

*- Jackie Carrico]*

JAFn01 TwlC11 -1ARAPLOeds I wanted and kept losing."

- Jackie CarrihLFh ejesing."they wica duct neve and kept losing."

ERIK ELIAS: I was never weak or hungry.

*[ON SCREEN: Before and after photos*

*Lost 68 Pounds*

*"ThermoSlim has really helped me control my hunger. "*

*- Kathy Sumner]*

KATHY SUMNER: ThermoSlim has really helped me control my hunger.

\* \* \*

PENNY ARIAS: I'll still have my hamburgers, french fries, my milkshakes, and I'm still dropping off the weight. ThermoSlim has been a blessing in my life.

*[ON SCREEN: Kathy Hamby*

*South Carolina]*

KATHY HAMBY: Before, I thought I had to starve to death to lose weight and it came right back on. With ThermoSlim, I could eat food, normal food, and the weight was coming off.

*[ON SCREEN: Before and after photos*

*Lost 17 Inches*

*Lost 32 Pounds]*

KATHY HAMBY: I lost a total of 17 and a half inches with ThermoSlim. I did not have the cravings, I did not go in the back door every afternoon after work and go to the cabinet and pull out a bag of chips. It definitely curbed my appetite.

\* \* \*

*[ON SCREEN: Emily Seidell*

*Michigan]*

EMILY SEIDELL: I eat whatever I want with ThermoSlim. I eat Tw([ONffeptriz

said, can I eat whatever I want. I said, yes, eat whatever you want. And she's lost 25 pounds.

DR. RICHARD KAPLAN: ThermoSlim is fantastic in helping people curb their cravings. Absolutely wonderful. As a matter of fact, you'll notice early in the game that your sugar and fat cravings will be reduced by your taking these ThermoSlim products.





ANN KUKLA: But ThermoSlim curbs your appetite. I still eat the cheesecake and I don't gain any weight. I actually lose weight and it's wonderful. It's great. ThermoSlim is the easiest product that I've taken to lose weight.

\* \* \*

FEMALE HOST: The true test of any weight loss plan is not only if customers can take the weight off, but if they can keep it off.  
[

PAM GISH: ThermoSlim makes it so easy for me to keep my weight off and I just feel fabulous. I mean, I just -- I can't even explain it.

*[ON SCREEN: Lori Hillman  
Louisiana]*

LORI HILLMAN: I wanted to appear on the ThermoSlim show again to help other people who have struggled with their weight.

*[ON SCREEN: Before and after photos  
Lost 116 Pounds  
Kept weight off 10 years  
www.universalnutritioncorp.com  
1-800-579-7581]*

LORI HILLMAN: When I started taking ThermoSlim, I weighed 230 pounds and for the last 10 years, I've maintained my weight at 114. I take ThermoSlim when I feel that I may be gaining any weight back. It's very easy.

*[ON SCREEN: www.universalnutritioncorp.com  
1-800-579-7581]*

LORI HILLMAN: It works. It works. It changed my whole life.

*[ON SCREEN: Josie Amador  
Arizona]*

JOSIE AMADOR: I wanted to be on the show again to let people know that the ThermoSlim really does work.

*[ON SCREEN: Before and after photos  
Lost 75 Pounds  
www.universalnutritioncorp.com  
1-800-579-7581]*

JOSIE AMADOR: I lost 75 pounds six years ago and today I have still maintained the weight I lost.

\* \* \*

FEMALE HOST: If a weight loss product is going to be successful, you've got to see results fast.

*[ON SCREEN: Before and after photos  
Lost 55 Pounds  
"I lost 55 pounds... like that."  
- Patty Hennessey]*

PATTY HENNESSEY: I lost 55 pounds like that.

*[ON SCREEN: Before and after photos*

*Lost 50 Pounds*

*"I lost 30 pounds in the first month. "*

*- Harvell Baker]*

HARVELL BAKER: I lost 30 pounds in the first month.

*[ON SCREEN: Emily Seidell*

*Michigan]*

EMILY SEIDELL: I first heard about ThermoSlim through the infomercial. I was up early one morning and happened to see it and I looked at myself in the mirror and thought, wow, this is bad.

*[ON SCREEN: Before and after photos*

*Lost 68 Pounds*

*Lost 2 Sizes in 2 Weeks*

*www.universalnutritioncorp.com*

*1-800-579-7581]*

EMILY SEIDELL: Within the first two weeks, I dropped from a size 18 into a 16.

\* \* \*

*[ON SCREEN: Jessica White*

*Washington]*

JESSICA WHITE: Well, I had my third child, couldn't lose any weight, saw the commercial for ThermoSlim, decided what did I have to lose besides pounds.

*[ON SCREEN: Before and after photos*

*Lost 33 Pounds*

*www.universalnutritioncorp.com*

*1-800-579-7581]*

JESSICA WHITE: So, I decided to call the number and order ThermoSlim and start taking it. Within the first week, I had lost a considerable amount of inches and weight.

*[ON SCREEN: www.universalnutritioncorp.com*

*1-800-579-7581]*

JESSICA WHITE: With ThermoSlim, I lost 33 pounds in two

months. Not even two months, it was about six weeks.

FEMALE HOST: How many times have you tried to lose weight and somehow you just don't have the energy? That's one of the reasons diets don't work. Well, with ThermoSlim, the opposite is true. You will feel an incredible energy boost right from the start.

\* \* \*

FEMALE ANNOUNCER: How would you like to lose weight, have that figure you've always dreamed of having and still eat your favorite foods?

*[ON SCREEN: ThermoSlim]*

FEMALE ANNOUNCER: Well, now you can thanks to the thermogenic formulation of ThermoSlim which keeps on burning fat and not lean muscle tissue --

*[ON SCREEN: Burns Fat Not Lean Muscle!]*

FEMALE ANNOUNCER: -- even for hours after taking the product.

*[ON SCREEN: www.universalnutritioncorp.com  
1-800-579-7581]*

DR. RICHARD KAPLAN: One of the scientific advantages of ThermoSlim is that after you lose body fat, you won't lose muscle and, therefore, you'll stay lean.

\* \* \*

FEMALE HOST: Another reason many diets don't work is because they require extensive exercise. Who has the time anyway? Now, with ThermoSlim, you don't have to do any strenuous exercise at all to lose weight.

*[ON SCREEN: Dr. Richard Kaplan, D.O.]*

DR. RICHARD KAPLAN: Another advantage of the ThermoSlim program is that special exercise is not necessary to lose weight.

*[ON SCREEN: Jolan Kazmirski  
New York]*

JOLAN KAZMIRSKI: I think ThermoSlim is different than anything else I've ever been on because there's no boundaries in the product.

*[ON SCREEN: Before and after photos  
Lost 80 Pounds]*

*www.universalnutritioncorp.com*  
*1-800-579-7581]*

JOLAN KAZMIRSKI: You can eat all your favorite foods, you can exercise if you want to, but you will lose weight without the exercising.

*[ON SCREEN: www.universalnutritioncorp.com*  
*1-800-579-7581]*

JOLAN KAZMIRSKI: I just found that exercising, I do lose it quicker.

\* \* \*

BARBARA CHARLTON: I've lost a total of about 65 pounds. I haven't had to do any extra exercising or any programs. All I've had to do is just take the ThermoSlim and I've lost the weight.

\* \* \*

*[ON SCREEN: Karen Kauth*  
*Wisconsin]*

KAREN KAUTH: I found I didn't have to exercise with ThermoSlim to lose weight, but if I did exercise, I lost that much faster.

\* \* \*

FEMALE HOST: You've probably heard about all those so-called miracle diet products that can be harmful to your health. But with ThermoSlim, you just won't find a safer product that's more effective. ThermoSlim is formulated with the highest quality all-natural ingredients.

side effects, ever.

\* \* \*

FEMALE HOST: We've all seen dozens of fad diets come and go and sometimes even change their formulation in mid-stream. Well, ThermoSlim's unique, all-natural formula has remained exactly the same for over 14 years. In fact, ThermoSlim's ingredients were scientifically tested for over 10 years before they were even made available to the public, and the results speak for themselves.

[At various points throughout the infomercial, fine-print disclaimers appear at the bottom of the television screen stating: "This result is not typical, you may be less successful."]

- Exhibit A, transcript of infomercial, pp. 3-9, 12-16, 19, 21, 25-28, 31, 35-40

b. [EXCERPTS FROM INTERNET WEBSITE]



ThermoSlim speeds up your body's ability to burn fat.

Imagine losing 75% of your body fat in just

With the medically proven, fat-burning substance in ThermoSlim, you can push your body's calorie-burning ability into high gear:

without missing your favorite foods!

without exercise!

without hunger and deprivations!

Shown to be effective by doctors -- ThermoSlim is not a dangerous drug, unnatural chemical or simple vitamin. The active ingredient in ThermoSlim is a weight loss breakthrough of enormous importance. It has been used by a doctor on people just like you with a 95% success rate!

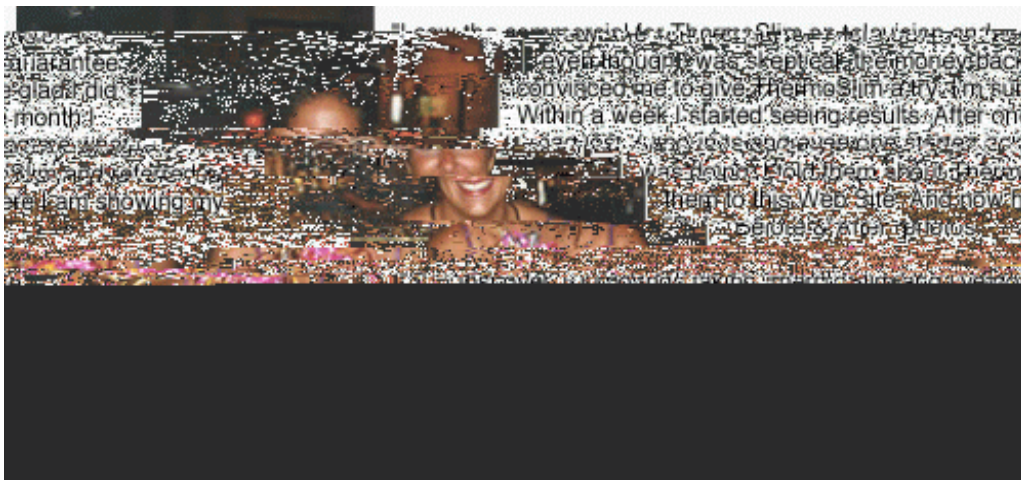
**Gone forever is your need for daily willpower to watch your diet.** Or the need to spend hours exercising. ThermoSlim does it all for you -- 24 hours a day, burning fat while you eat, sleep, work or relax.

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### UNC's Unconditional Guarantee

**"ThermoSlim wants you to succeed. We know you'll lose all the weight you want to, rapidly and without difficulty, diets or exercise. That we promise. But if you are unhappy with ThermoSlim for any reason, return the empty bottles (we'd like you to use the entire supply for every chance of success) within 90 days with proof of payment. We'll refund the full product price"**

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Now take a look at more of the amazing before and after pictures ThermoSlim users have



sent to us. These pictures are untouched -- they were not taken by professional photographers, but by ThermoSlim users themselves, proud and eager to show UNC just how well ThermoSlim helps you to lose weight and keep the weight off pound after pound, year after year.

**To see the remarkable results, simply place your cursor over the BEFORE picture. We think you'll be more than amazed.**

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### **59 pounds gone!**

"I was very happy with your product. I took the product for 4 months and went from 209 to 150 and it was easy. Thank-you!"

Brian Lloyd McCawley, Louisville, KY

### **104 pounds gone!**

"I lost 104 pounds since I started taking ThermoSlim and have gone down from a size 22 to a size 8/10. I recommend ThermoSlim to everyone. As a result, several of my friends started taking ThermoSlim and all are losing weight as well." Donna Putnam, South Carolina

### **83 pounds gone!**

Jackie went from 215 pounds to 132 pounds -- dropping from a size 22 to a slim and sexy size 14.

Jackie Carrion, Florida

### **70 pounds gone!**

"I was 196 pounds. Now I'm 126 pounds. ThermoSlim made it easy!"

Terry DiLonardo, New Jersey

### **50 pounds gone!**

"I've lost 50 pounds. So you know ThermoSlim is working for me. Great product.

Leonard Fridella, New York

### **55 pounds gone!**

"I lost 55 pounds like that! What's more I did it during the time of the year when you gain weight: labor day through Halloween, Thanksgiving and December holiday parties. I went from a size 16 to a size 10 thanks to ThermoSlim" Patty Hennessey, New Jersey

### **48 pounds gone!**

"I lost 48 pounds; my daughter lost 50 pounds and went from a size 18 to a size 9. ThermoSlim is one of the easiest ways to lose. I didn't get hungry, or think about food all

the time. And I have not gained back one pound!  
Marilyn Gongwer, Tennessee

### **32 pounds gone!**

"Thank you! I've lost 32 pounds. I was a size 14 when I started ThermoSlim. Now I'm a size 7!"

Karen Kouth, Wisconsin

\* \* \*

ThermoSlim has been the weight loss choice of over 1 million Americans. ThermoSlim helps you lose weight, keep the weight off, look better, feel better, and have more energy.

But don't take our word for it!

Read the inspiring comments from some ThermoSlim users and see for yourself how powerful the ThermoSlim formulation can be. Losing weight is really this easy -- if you use ThermoSlim.

(These comments are unedited, and appear just as we received them from customers -- people just like you who have tried pills and powders and fad diets, only to find that

THE END

equivalent calorie burning benefit of exercise just by taking ThermoSlim.

Of course, I don't want to be accused of discouraging anybody from exercise. Exercise is very beneficial for weight loss and has many other health benefits, which have been well documented as well. But for people who can't exercise because of physical disability or for whatever reason, ThermoSlim certainly provides much of the same benefit in an easy to take tablet form.

\* \* \*

**How much research did ThermoSlim do before they offered it to the public?**

The ingredients in ThermoSlim had been shown to be safe and effective for weight loss dating back to the early 80's. As a matter of fact, the first groundbreaking study that showed significant weight loss using the ingredients in ThermoSlim was actually published in the International Journal of Obesity back in 1981. So the ingredients in ThermoSlim have a long and well-documented scientific history of being safe and effective for weight loss.

\* \* \*

**You say that ThermoSlim is more than just a diet, and it results in figure transformation. Can you elaborate?**

Yes, to cite a recent medical study that showed when compared to dieting, the ingredients in ThermoSlim increased fat loss by 100%, and decreased muscle breakdown by 72%. So the women in this study taking the ingredients in ThermoSlim lost twice as much body fat as the women who lost weight by dieting. Also, these women taking the ThermoSlim ingredients retained 72% more of their muscle than did the women who dieted. The bottom line is in all of this is ThermoSlim causes you to burn the fat and keep the muscle, and that as every woman knows is the essence of healthy figure transformation.

\* \* \*

**Remember – Your purchase price is fully guaranteed.** If you are not satisfied with

\* \* \*

c. [EXCERPTS FROM DIRECT MAIL PIECE]

Dr. Richard Kaplan, D.O.

**Nutritional Medicine, Weight Loss, Food Allergies**

(Licensed to practice and resides in the State of New Jersey)

From: Dr. Richard Kaplan  
Thursday, 3:30 P.M.

Re: Nationwide Campaign  
**Learn How You can Burn Off Body Fat Hour-By-Hour**  
(and receive a FREE GIFT)

Dear Friend:

Have you been invited recently to participate in the most incredible weight loss campaign?

Participation is by referral only, so please read this letter carefully, very carefully. You may not get another chance. Here's why . . .

**If you would like to lose up to 10 pounds in the first 72 hours, dissolve up to 15 pounds in the first week, easily drop 30 pounds in the first month and then continue losing 50, 60, even 100 pounds or more, participation in this campaign is for you.**

And you will receive a FREE GIFT worth \$34.95 for your help. Why?

Well, I heard about a new and extremely powerful weight loss formula from some friends and colleagues. One of the doctors reported that 95% of his patients using this formula experienced outstanding weight loss. During a twelve week program, they lost an average of 24 pounds. One patient lost 40 pounds and all this in spite of the fact that these patients had a long history of obesity.

So, after reading the research on this powerful formula, I have decided to join forces in a campaign that will prove without a doubt, that this amazing formula is just what is needed to help solve the problem of being overweight. And listen to this . . .

**In the past eighteen months 136,464 people have decided to participate in this extremely effective campaign. A sample of over 100 letters from participants who used this powerful weight**

loss formula indicated an average weight loss of 22.7 pounds in only a 2 to 4 week period. One woman reported losing 106 pounds in only 2-1/2 months. And there was no mention of exercising in order to achieve these successes.

I can understand a certain amount of reluctance in believing such incredible results. That's why, unlike many advertised weight loss products, we enlisted the support of physicians, real doctors with their own license to practice medicine. Therefore, it would be absurd to give this formula such praise, unless all these claims were absolutely true.

So, how did these people achieve such remarkable results? Easy, with the amazing formula available in a proven product called ThermoSlim. The ingredients in ThermoSlim aid a person in super high speed weight loss by creating a condition called thermogenesis.

Thermogenesis according to the most highly respected sources in the world, is the process of igniting your internal body heat at a tremendous rate. This heat will push your body's calorie and fat burning ability into high gear, very high gear, without forcing you to suffer through terrible and unwanted hunger pangs. So you lose weight naturally, safely, and biologically.

**Can you imagine the excitement and joy of having a slimmer, more attractive figure than you have had in years? Well now you can achieve those results in just a few short weeks.**

And there's more good news. While ThermoSlim contains the most effective formula available to speed up thermogenesis, it is available without a prescription. Also medical research has shown that the ingredients in ThermoSlim can:

- \* Stimulate the rapid-fire burning of millions of fat cells
- \* Are especially effective for stubborn weight problems
- \* Feature long-term effectiveness and fat-burning
- \* Helps reduce body fat, not lean muscle
- \* Lets you eat and live normally while you lost weight

**M.B. of Visalia, CA, reported that "within a month's time I've dropped 30 pounds. I'm also 2 dress sizes smaller. I actually could feel at times my fat falling off me."**

So, if you've repeatedly tried to lose weight but have been

unsuccessful, it may be because like most people, your body lacks the ability to burn fat properly. In fact, severe dieting can even hinder the fat-burning process. Because when you diet, your body thinks it's starving, so it actually starts to conserve fat and store it. And that may be why you can't lose weight.

ThermoSlim contains ingredients that enable your cells to burn calories more quickly, and more efficiently. As a result, you will shed years of accumulated body fat effortlessly.

With ThermoSlim, severe dieting restrictions or prolonged heavy exercise is not necessary. In fact, it's not even recommended. Further good news is that body fat was rapidly lost even by obese patients who did not reduce their normal intake of food. One patient...

**Mary B. of California reports, "I lost 16 pounds. I even lost weight through Thanksgiving and Christmas. I ate everything I wanted."**

Use ThermoSlim as directed, and if you don't lose weight quicker than you ever dreamed possible, just return the empty containers (use the entire supply to give yourself every chance for success) within 60 days with proof of payment. The full product price will be refunded. No questions asked and no hard feelings. And keep your \$34.95 gift as our way of saying thanks for giving ThermoSlim a try.



affecting commerce for the purpose of inducing, or which is likely to induce, the purchase of food, drugs, devices, services, or cosmetics. For the purposes of Section 12 of the FTC Act, 15 U.S.C. § 52, ThermoSlim is either a “food” or “drug” as defined in Section 15(b) and (c) of the FTC Act, 15 U.S.C. §§ 55(b), (c). As set forth below, the defendants have engaged and are continuing to engage in such unlawful practices in connection with the advertising, marketing and sale of ThermoSlim.

**UNFAIR OR DECEPTIVE ACTS OR PRACTICES**  
**IN VIOLATION OF THE FTC ACT**

**COUNT I**  
**False Claims for ThermoSlim**

14. Through the means described in Paragraph 12, including through the statements contained in the advertisements attached as Exhibits A through D, the UNC/MTM defendants have represented, expressly or by implication, that:

- a. ThermoSlim causes rapid and substantial weight loss, without the need to increase exercise or reduce caloric intake;
- b. ThermoSlim users can eat all they want, including hamburgers, french fries, milkshakes, and cheesecake, and still lose substantial weight;
- c. ThermoSlim enables users to lose as much as 30 pounds in 30 days, or 60 to 95 pounds in 60 days;

- d. ThermoSlim causes permanent weight loss;
  - e. Medical research proves that ThermoSlim causes rapid and substantial weight loss, without the need to increase exercise or reduce caloric intake;
  - f. Extensive laboratory research demonstrates that ThermoSlim allows users to lose up to 75 percent of their body fat in just six weeks; and
  - g. Scientific studies prove that ThermoSlim is safe for weight loss.
15. In truth and in fact:
- a. ThermoSlim does not cause rapid and substantial weight loss, without the need to increase exercise or reduce caloric intake;
  - b. ThermoSlim users cannot eat all they want, including hamburgers, french fries, milkshakes, and cheesecake, and still lose substantial weight;
  - c. ThermoSlim does not enable users to lose as much as 30 pounds in 30 days, or 60 to 95 pounds in 60 days;
  - d. ThermoSlim does not cause permanent weight loss;
  - e. Medical research does not prove that ThermoSlim causes rapid and substantial weight loss, without the need to increase exercise

or reduce caloric intake;

- f. Laboratory research does not demonstrate that ThermoSlim allows users to lose up to 75 percent of their body fat in just six weeks; and
- g. Scientific studies do not prove that ThermoSlim is safe for weight loss.

Therefore, defendants' representations as set forth in Paragraph 14 above are false or misleading and constitute a deceptive act or practice, and the making of false advertisements in or affecting commerce, in violation of Sections 5(a) and 12 of the FTC Act, 15 U.S.C. §§ 45(a) and 52.

**COUNT II**  
**Unsubstantiated Claims for ThermoSlim**

16. Through the means described in Paragraph 12, above, the UNC/MTM defendants have represented, expressly or by implication, that ThermoSlim is safe.

17. The UNC/MTM defendants did not possess and rely upon a reasonable basis that substantiated the representations set forth in Paragraphs 14(a)-(d) and 16, above, at the time the representations were made. Among other reasons, use of products containing ephedrine alkaloids has been associated with certain health risks. In fact, well-controlled human studies do not establish that

ephedrine alkaloids, the active ingredient in ThermoSlim, are safe, or cause rapid or substantial weight loss without the need to increase exercise or reduce caloric intake. Therefore, the making of the representations set forth in Paragraphs 14(a)-(d) and 16, above, constitutes a deceptive practice, and the making of false advertisements, in or affecting commerce, in violation of Sections 5(a) and 12 of the FTC Act, 15 U.S.C. §§ 45(a) and 52.

### **INJURY**

18. Consumers throughout the United States have suffered and continue to suffer substantial monetary loss as a result of defendants' unlawful acts or practices. In addition, the defendants have been unjustly enriched as a result of their unlawful practices. Absent injunctive relief by this Court, the defendants are likely to continue to injure consumers, reap unjust enrichment, and harm the public interest.

### **THIS COURT'S POWER TO GRANT RELIEF**

19. Section 13(b) of the FTC Act, 15 U.S.C. § 53(b), empowers this Court to grant injunctive and such other relief as the Court may deem appropriate to halt and redress violations of the FTC Act. The Court, in the exercise of its equitable jurisdiction, may award other ancillary relief, including consumer redress, consumer education, disgorgement, and restitution, to prevent and remedy injury caused by defendants' law violations.

**PRAYER FOR RELIEF**

WHEREFORE, plaintiff requests that this Court, as authorized by Section 13(b) of the FTC Act, 15 U.S.C. § 53(b), and pursuant to its own equitable powers:

(1) Enjoin defendants permanently from violating Sections 5 and 12 of the FTC Act, in connection with the advertising or sale of food, drugs, devices, cosmetics, or other products, services or programs;

(2) Award such equitable relief as the Court finds necessary to redress injury to consumers resulting from defendants' violations of the FTC Act, including but not limited to redress, refund of monies paid, or disgorgement of ill-gotten gains; and

(3) Award plaintiff the costs of bringing this action and any other equitable relief the Court may determine to be just and proper.

Dated:

Respectfully submitted,  
WILLIAM E. KOVACIC  
General Counsel

Local Counsel:

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CINDY A. LIEBES  
Georgia Bar No. 451976  
FEDERAL TRADE COMMISSION  
225 Peachtree Street, N.E., Suite 1500  
Atlanta, GA 30303  
Tel: (404) 656-1359  
Fax: (404) 656-1379

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MATTHEW DAYNARD  
SYDNEY KNIGHT  
FEDERAL TRADE COMMISSION  
601 New Jersey Avenue, NW, Room  
NJ-3126  
Washington, D.C. 20580  
Tel: (202) 326-3291 - MD  
Tel: (202) 326-2162 - SK  
Fax: (202) 326-3259  
Attorneys for Plaintiff