

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF FLORIDA

Case No. 03-80051-CIV-PAINE/JOHNSON

FEDERAL TRADE COMMISSION,

Plaintiff

v.

SLIM DOWN SOLUTION, LLC, SLIM  
DOWN SOLUTION, INC., S.S.T.  
MANAGEMENT, INC., THE KARA  
GROUP, LLC, RONALD ALARCON,  
KATHLEEN ALARCON, MADERIA  
MANAGEMENT, INC.,  
POLYGLUCOSAMINE, LTD., AND  
STEPHEN PIERCE,

Defendants.

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**ORDER AND JUDGMENT FOR PERMANENT INJUNCTION AND OTHER  
EQUITABLE RELIEF AGAINST DEFENDANTS MADERIA MANAGEMENT, INC.,  
POLYGLUCOSAMINE, LTD., AND STEPHEN PIERCE**

Plaintiff, the Federal Trade Commission (“FTC” or “Commission”) filed a Complaint for permanent injunction and other relief against defendants Slim Down Solution, LLC, Slim Down Solution, Inc., S.S.T. Management, Inc., The KARA Group, LLC, Ronald Alarcon, Kathleen Alarcon, Maderia Management, Inc., Polyglucosamine, Ltd., and Stephen Pierce pursuant to Section 13(b) of the Federal Trade Commission Act (“FTC Act”), 15 U.S.C. § 53(b), alleging unfair or deceptive acts or practices and false advertisements in violation of Sections 5(a) and 12 of the FTC Act, 15 U.S.C. §§ 45(a) and 52.

The FTC has filed a motion for summary judgment against Maderia Management, Inc., Polyglucosamine, Ltd., and Stephen Pierce as to Counts Five through Eight of the Complaint.

The Court, having considered the FTC's motion and evidence as well as the defendants' opposition and evidence, hereby GRANTS the FTC's motion for summary judgment.

### **FINDINGS**

1. This Court has jurisdiction over the subject matter of this case and jurisdiction over all parties. Venue in the Southern District of Florida is proper.
2. The Commission has the authority to seek the relief it has requested.
3. The acts and practices of defendants were and are in or affecting commerce, as defined in Section 4 of the FTC Act, 15 U.S.C. § 44.
4. The Complaint states a claim upon which relief may be granted against the defendants under Sections 5(a), 12, and 13(b) of the FTC Act, 15 U.S.C. §§ 45(a), 52, and 53(b).
5. There is no genuine issue as to any material fact concerning the liability of defendants for the illegal acts or practices charged in the Complaint.
6. Defendants Maderia Management, Inc., Polyglucosamine, Ltd., and Stephen Pierce have violated Sections 5(a) and 12 of the FTC Act by making made false or misleading representations to induce the purchase of purported fat-absorption and weight-loss supplements containing D-glucosamine, including Slim Down Solution, including but not limited to the following:
  - a. their D-glucosamine products cause weight loss;
  - b. their D-glucosamine products isolate up to 16-20 grams of dietary fat per dose, then bind it to be carried out of the body as waste.
7. Uncontroverted evidence establishes that defendants violated Sections 5(a) and 12

of the FTC Act, 15 U.S.C. §§ 45(a) and 52.

8. There is a reasonable likelihood that defendants would continue to engage in the activities alleged in the Complaint unless permanently enjoined from such acts and practices.
9. Plaintiff is entitled to judgment as a matter of law pursuant to Rule 56 of the Federal Rules of Civil Procedure.
10. Entry of this Order is in the public interest.
11. Pursuant to Federal Rule of Civil Procedure 65(d), the provisions of this Order are binding upon defendants, and their officers, agents, servants, representatives, employees, and all other persons or entities in active concert or participation with them, who receive actual notice of this Order by personal service or otherwise.
12. This action and relief awarded herein are in addition to, and not in lieu of, any other remedies, civil or criminal, that may be provided by law, including any proceedings the Commission may initiate to enforce this judgment.

**IT IS THEREFORE ORDERED, ADJUDGED, AND DECREED AS FOLLOWS:**

**DEFINITIONS**

For purposes of this Order, the following definitions shall apply:

1. Unless otherwise specified, “defendants” shall mean:
  - A. Maderia Management, Inc. (“Maderia”), a corporation, its divisions and subsidiaries, its successors and assigns, and its officers, agents, servants, representatives, and employees;
  - B. Polyglucosamine, Ltd., a corporation, its divisions and subsidiaries, its



accurate and reliable results.

6. “Covered product or service” shall mean any dietary supplement, food, drug, cosmetic, device, or service.
7. “Endorsement” shall mean as defined in 16 C.F.R. § 255.0(b).
7. “Food,” “drug,” “device,” and “cosmetic,” shall mean “food,” “drug,” “device,” and “cosmetic” as defined in Section 15 of the FTC Act, 15 U.S.C. § 55.
8. “Target product” means Slim Down Solution, any substantially similar product containing D-glucosamine and/or chitosan, or any other product or service purporting to provide weight-loss benefits.
9. A requirement that any defendant “notify the Commission” shall mean that the defendant shall send the necessary information via first-class mail, costs prepaid, to:

Associate Director for Advertising Practices  
Federal Trade Commission  
600 Pennsylvania Ave., NW, Washington, D.C. 20580  
Attn: *FTC v. Slim Down Solution, LLC, et al.*, (S.D. Fla.).

9. The term “including” in this Order shall mean “without limitation.”
10. The terms “and” and “or” in this Order shall be construed conjunctively or disjunctively as necessary, to make the applicable phrase or sentence inclusive rather than exclusive.

## **CONDUCT PROHIBITIONS**

### **I.**

#### **MISREPRESENTATIONS REGARDING TARGET PRODUCTS**

IT IS HEREBY ORDERED that defendants, directly or through any corporation, partnership, subsidiary, division, trade name, or other device, and their officers, agents, servants, representatives, employees, and all persons or entities in active concert or participation with them who receive actual notice of this Order, by personal service or otherwise, in connection with the manufacturing, labeling, advertising, promotion, offering for sale, sale, or distribution of any target product, in or affecting commerce, are hereby permanently restrained and enjoined from making, or assisting others in making, directly or by implication, including through the use of any trade name or endorsement, any misleading representation that:

- A. Any target product, or any ingredient contained therein, causes weight loss; or
- B. Any target product, or any ingredient contained therein, isolates up to 16-20 grams of dietary fat per dose, then binds it to be carried out of the body as waste.

### **II.**

#### **COVERED PRODUCT CLAIMS**

IT IS FURTHER ORDERED that defendants, directly or through any corporation, partnership, subsidiary, division, trade name, or other device, and their officers, agents, servants, representatives, employees, and all persons or entities in active concert or participation with them who receive actual notice of this Order, by personal service or otherwise, in connection with the manufacturing, labeling, advertising, promotion, offering for sale, sale, or distribution of any covered product or service, are hereby permanently restrained and enjoined from making



**IV.**

**FDA APPROVED CLAIMS**

IT IS FURTHER ORDERED that:

A. Nothing in this order shall prohibit defendants from making any representation for any drug that is permitted in labeling for such drug under any tentative final or final standard promulgated by the Food and Drug Administration, or under any new drug application approved by the Food and Drug Administration; and

B. Nothing in this order shall prohibit defendants from making any representation for any product that is specifically permitted in labeling for such product by regulations promulgated by the Food and Drug Administration pursuant to the Nutrition Labeling and Education Act of 1990.

**V.**

**MONETARY JUDGMENT AND CONSUMER REDRESS**

IT IS FURTHER ORDERED that:

A. Judgment is hereby entered in favor of the Commission and against defendants, jointly and severally, in the amount of Thirty Million, One Hundred and Thirty-Five Thousand , Seven Hundred and Eighty-Four dollars (\$30,135,784.00), with post-judgment interest, at the legal rate, for consumer redress.

B. All payments shall be made by certified check or other guaranteed funds payable to and delivered to the Commission, or by wire transfer in accord with instructions provided by the Commission.

C. All funds paid pursuant to this Order shall be deposited into a fund administered





## **VII.**

### **TURNOVER OF ASSETS**

IT IS FURTHER ORDERED that, in order partially to satisfy the monetary judgment set forth in Paragraph V above:

A. Any law firm, financial or brokerage institution, escrow agent, title company, commodity trading company, supplier, distributor, manufacturer, business entity, or person, whether located within the United States or outside the United States, that holds, controls, or maintains accounts or assets of, on behalf of, or for the benefit of, any of the defendants, shall turn over such account or asset to the Commission within ten (10) business days of receiving notice of this Order by any means, including but not limited to via facsimile;

B. Defendant Stephen Pierce shall turn over title to all real and personal property traceable to proceeds of sales of D-glucosamine fat-absorption products, including but not limited to Slim Down Solution, to the Commission within ten (10) business days of entry of this Order.

## **VIII.**

### **ACKNOWLEDGMENT OF RECEIPT OF ORDER**

IT IS FURTHER ORDERED that, within five (5) business days after receipt by defendants of this Order as entered by the Court, defendants shall execute and submit to the Commission a truthful sworn statement in the form shown on Appendix A, that shall acknowledge receipt of this Order.

## **IX.**

### **NOTICE TO RESELLERS AND DISTRIBUTORS**

IT IS FURTHER ORDERED that defendants shall:

A. Send, within twenty (20) days of entry of this Order, by first class mail, postage prepaid and return receipt requested, an exact copy of the notice attached hereto as Appendix B, showing the date of mailing, to each distributor or reseller who purchased the target products between January 1, 2001 and the date of entry of this Order. This mailing shall not include any other document or enclosures.

B. Notify, immediately, each distributor or reseller that defendants will stop doing business with that distributor or reseller if it continues to use any advertisement or promotional material that contains any representation prohibited by this Order, in the event defendants become aware that the distributor or reseller is using or disseminating any such advertisement or promotional material subsequent to receipt of Appendix B.

C. Terminate any distributor or reseller within ten (10) days after it becomes aware that the distributor or reseller has continued to use any advertisement or promotional material that contains any representation prohibited by this Order after receipt of the notice required by Subparagraph B of this Part.

**X.**

**CUSTOMER LISTS**

**IT IS FURTHER ORDERED** that, except as provided in this Order, defendants, and their officers, agents, servants, employees, and attorneys and all other persons or entities who receive actual notice of this Order by personal service or otherwise, are permanently restrained and enjoined from selling, renting, leasing, transferring, or otherwise disclosing the name, address, telephone number, credit card number, bank account number, e-mail address, or other

identifying information of any person who purchased any target product from defendants. *Provided, however,* that defendants may disclose such identifying information to any law enforcement agency, or as required by any law, regulation, or court order.

## **XI.**

### **DISTRIBUTION OF ORDER**

IT IS FURTHER ORDERED that defendants Maderia and Polyglucosamine, Ltd., and any business where (1) defendant Stephen Pierce is the majority owner of the business or directly or indirectly manages or controls the business, and (2) the business is engaged in advertising, marketing, promotion, offering for sale, distribution, or sale of any covered product or service, shall:

A. Within thirty (30) days after service of this Order, deliver a copy of this Order to, and obtain a signed and dated acknowledgment of receipt of same from, each of their current principals, officers, and directors, and to all current managers, employees, representatives, and agents having responsibilities with respect to the subject matter of this Order;

B. For a period of five (5) years from the date of service of this Order, provide a copy of this Order to, and obtain a signed and dated acknowledgment of receipt of same from, each of their future principals, officers, and directors, and to all future managers, employees, representatives, and agents having responsibilities with respect to the subject matter of this Order, within thirty (30) days after the person assumes such responsibilities; and

this Part.

## **XII.**

### **COMPLIANCE MONITORING**

IT IS FURTHER ORDERED that, for the purpose of monitoring and investigating compliance with any provision of this Order:

- A. Within ten (10) days of receipt of written notice from a representative of the

C. Defendants shall permit representatives of the Commission to interview any employer, consultant, independent contractor, representative, agent, or employee who has agreed to such an interview, relating in any way to any conduct subject to this Order. The person interviewed may have counsel present.

### **XIII.**

#### **COMPLIANCE REPORTING**

IT IS FURTHER ORDERED that, in order that compliance with the provisions of this Order may be monitored:

A. Defendant Stephen Pierce, within ten (10) days of service of this Order, shall notify the Commission in writing of (1) his respective residence addresses and mailing addresses; (2) his home telephone number; (3) the name, address, and telephone number of his employer(s); (4) if applicable, the names of his supervisor(s); (5) a description of his employer's activities; and (6) a description of his duties and responsibilities.

B. For a period of five (5) years from the date of entry of this Order,

1. Defendant Stephen Pierce shall notify the Commission of the following:

(a) Any changes in his residence address, mailing address, and/or telephone numbers, within ten (10) days of the date of such change;

(b) Any changes in his employment status (including self-employment) within ten (10) days of the date of such change.

Such notice shall include the name, address, and telephone number of each entity or person that he is affiliated with, employed by, or

perform services for; a statement of the nature of the business; and  
a statement of his duties and responsibilities in connection with the  
business; and

(c) Any changes in his name or use of any aliases or fictitious names,  
within ten (10) days of the date of such change.

2. Defendants Maderia and Polyglucosamine, Ltd. shall notify the  
Commission of any changes in corporate structure that may affect

each of the defendants pursuant to Paragraph XI of this Order.

D. For purposes of the compliance reporting required by this Paragraph, the Commission is authorized to communicate directly with defendants.

#### **XIV.**

#### **RECORD KEEPING PROVISIONS**

IT IS FURTHER ORDERED that, for a period of eight (8) years from the date of entry of this Order, defendants Maderia and Polyglucosamine, Ltd., if engaging or assisting others engaged in the advertising, marketing, promotion, offering for sale, distribution or sale of any covered product or service, in or affecting commerce, and any business where (1) defendant Stephen Pierce is the majority owner or an officer or director of the business, or directly or indirectly manages or controls the business and where (2) the business engages, or assists others engaged in, the advertising, marketing, promotion, offering for sale, distribution or sale of any covered product or service, in or affecting commerce, and their agents, employees, officers, corporations, successors, and assigns, and those persons in active concert or participation with them who receive actual notice of this Order by personal service or otherwise, are hereby restrained and enjoined from failing to create and retain the following records:

A. Accounting records that reflect the cost of goods or services sold, revenues generated, and the disbursement of such revenues;

B. Personnel records accurately reflecting: the name, address, and telephone number of each person employed in any capacity by such business, including as an independent contractor; that person's job title or position; the date upon which the person commenced work; and the date and reason for the person's termination, if applicable;



C. Customer files containing the names, addresses, telephone numbers, dollar amounts paid, quantity of items or services purchased, description of items or services purchased, and any documents, tape recordings, or information related to such purchase, to the extent such information is obtained in the ordinary course of business;

D. Complaints and refund requests (whether received directly, indirectly or through any third party), and any response to those complaints or requests;

E. Copies of all advertisements, promotional materials, sales scripts, training materials, or other marketing materials utilized in the advertising, marketing, promotion, offering for sale, distribution or sale of any covered product or service, to the extent such information is prepared in the ordinary course of business;

F. All materials that were relied upon in making any representations contained in the materials identified in Subparagraph E, including all documents evidencing or referring to the accuracy of any claim therein or to the efficacy of any covered product or service, including, but not limited to, all tests, reports, studies, demonstrations, as well as all evidence that confirms, contradicts, qualifies, or calls into question the accuracy of such claims regarding the efficacy of such product or service; and

G. Records accurately reflecting the name, address, and telephone number of each manufacturer or laboratory engaged in the development or creation of any testing obtained for the purpose of advertising, marketing, promoting, offering for sale, distributing, or selling any covered product or service.

## **XV.**

### **SERVICE OF ORDER BY THE COMMISSION**

IT IS FURTHER ORDERED that copies of this Order and the initial pleadings and papers filed in this matter may be served by employees or agents of the Commission, including without limitation private process servers, and by employees or agents of any other law enforcement agency, upon defendants, any agent or employee of defendants, or any other person, partnership, corporation, or other entity that may be in possession of any records, assets, property, or property right of the defendants, or that may be subject to any provision of this Order.

## **XVI.**

### **SCOPE OF ORDER**

**IT IS FURTHER ORDERED** that this Order resolves only claims against defendants as alleged in the Complaint. This Order does not preclude the Commission from initiating further action or seeking any remedy against any other persons or entities, including without limitation persons or entities who may be subject to portions of this Order by virtue of actions taken in concert or participation with any of the defendants, and persons or entities in any type of indemnification or contractual relationship with any of the defendants.



**APPENDIX A**

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF FLORIDA

Case No. 03-80051-CIV-PAINE/JOHNSON

FEDERAL TRADE COMMISSION,

Plaintiff

v.

SLIM DOWN SOLUTION, LLC, SLIM  
DOWN SOLUTION, INC., S.S.T.  
MANAGEMENT, INC., THE KARA  
GROUP, LLC, RONALD ALARCON,  
KATHLEEN ALARCON, MADERIA  
MANAGEMENT, INC.,  
POLYGLUCOSAMINE, LTD., AND  
STEPHEN PIERCE,

Defendants.

\_\_\_\_\_ /

**AFFIDAVIT OF DEFENDANT** \_\_\_\_\_

\_\_\_\_\_, being duly sworn, hereby states and affirms:

1. My name is \_\_\_\_\_. I am a citizen of the United States and am over the age of eighteen. I have personal knowledge of the matters discussed in this declaration, and if called as a witness, I could and would competently testify as to the matters stated herein. I am a defendant in the above captioned action.

2. My current business address is \_\_\_\_\_. My current business telephone number is \_\_\_\_\_. My current residential address is \_\_\_\_\_. My current residential telephone number is \_\_\_\_\_.



