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9  
10 **UNITED STATES DISTRICT COURT**  
11 **NORTHERN DISTRICT OF CALIFORNIA**

12  
13 FEDERAL TRADE COMMISSION,  
14 Plaintiff,

15  
16  
17 OTHER EQUITABLE RELIEF

18  
19 WHEREAS Plaintiff, the Federal Trade Commission  
20 ("Commission" or "FTC"), has commenced this action by filing the  
21 Complaint herein; Defendants Latinos Group Promotions and Jorge  
22 Carpinteyro have waived service of the Summons and Complaint;  
23 and the parties have agreed to settlement of this action  
24 upon the following terms and conditions, without  
25

26  
27 **Stipulated Final Judgment**



1 **DEFINITIONS**

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

4 A. Unless otherwise specified, "Defendants" means  
5 Defendants Latinos Group Promotions ("Latinos Group") and Jorge  
6 Carpinteyro.

7 B. "Commerce" means as defined in Section 4 of the Federal  
8 Trade Commission Act, 15 U.S.C. § 44.

9 C. "Competent and reliable scientific evidence" means  
10 tests, analyses, research, studies, or other evidence based on  
11 the expertise of professionals in the relevant area, that have  
12 been conducted and evaluated in an objective manner by persons  
13 qualified to do so, using procedures generally accepted in the  
14 profession to yield accurate and reliable results.

15 D. "Covered product or service" means any weight loss  
16 product, or any dietary supplement, food, drug, device, or  
17 health-related service or program.

18 E. "Endorsement" means as defined in 16 C.F.R. § 255.0(b).

19 F. "Food," "drug," and "device" mean as "food," "drug," and  
20 "device" are defined in Section 15 of the Federal Trade  
21 Commission Act, 15 U.S.C. § 55.

22 G. "FTC" or "Commission" means the Federal Trade  
23 Commission.

24 H. A requirement that Defendants "notify the Commission"  
25 means that the Defendants shall send the necessary information  
26 via first class mail, costs prepaid, to the Regional Director,

1 Western Region, Federal Trade Commission, 901 Market Street,  
2 Suite 570, San Francisco, CA 94103; Attn: FTC v. Latinos Group  
3 Promotions.

4 I. "Weight loss product" means any product, program, or  
5 service designed, used, or purported to produce weight loss,  
6 reduction or elimination of fat; or to prevent weight gain, in a  
7 user of the product, program, or service.

8 J. The term "including" in this Order means "including,  
9 without limitation."

10 K. The terms "and" and "or" in this Order shall be  
11 construed conjunctively or disjunctively as necessary, to make  
12 the applicable phrase or sentence inclusive rather than  
13 exclusive.

14  
15 I.

16 **CONDUCT PROVISIONS**

17 **IT IS THEREFORE ORDERED** that Defendants, and their officers,  
18 agents, servants, employees, and representatives, and all  
19 persons and entities in active concert or participation with  
20 them who receive actual notice of this Order by personal service  
21 or otherwise, whether acting directly or through any  
22 corporation, subsidiary, division, or other entity, in  
23 connection with the labeling, advertising, promotion, offering  
24 for sale, sale, or distribution of the following products, in or  
25 affecting commerce, are hereby permanently enjoined from  
26 representing, in any manner, expressly or by implication,

1 including through the use of endorsements or trade name, that:

- 2 A. Essiac Formula, or any substantially similar product,  
3 causes rapid and substantial weight loss without the  
4 need to increase exercise or reduce caloric intake; or  
5 B. Essiac Formula, or any substantially similar product,  
6 causes permanent weight loss.

7  
8 **II.**

9 **IT IS FURTHER ORDERED** that Defendants, and their officers,  
10 agents, servants, employees, and representatives, and all  
11 persons and entities in active concert or participation with  
12 them who receive actual notice of this Order by personal service  
13 or otherwise, whether acting directly or through any  
14 corporation, subsidiary, division, or other entity, in  
15 connection with the labeling, advertising, promotion, offering  
16 for sale, sale, or distribution of the following products, in or  
17 affecting commerce, are hereby permanently enjoined from  
18 representing, in any manner, expressly or by implication,  
19 including through the use of endorsements or trade name, that:

- 20 A. Arcomig, or any substantially similar product,  
21 significantly lowers serum cholesterol levels without  
22 any change in the user's diet;  
23 B. Arcomig, or any substantially similar product, treats,  
24 causes remission in, or cures cancer, including but not  
25 limited to, leukemia, bone cancer, lung cancer, stomach  
26 cancer, and tumors;

1 C. Arcomig, or any substantially similar product, treats or  
2 cures diabetes;

3 D. Arcomig, or any substantially similar product, treats or  
4 cures lupus;

5 E. Arcomig, or any substantially similar product, treats or  
6 cures tinnitus; or

7 F. Arcomig, or any substantially similar product, makes  
8 conventional treatments unnecessary for persons with  
9 serious diseases, such as cancer and diabetes;

10 unless the representation is true and, at the time the  
11 representation is made, Defendants possess and rely upon  
12 competent and reliable scientific evidence that substantiates  
13 the representation.

14  
15 **III.**

16 **IT IS FURTHER ORDERED** that Defendants, and their officers,  
17 agents, servants, employees, and representatives, and all  
18 persons and entities in active concert or participation with  
19 them who receive actual notice of this Order by personal service  
20 or otherwise, whether acting directly or through any  
21 corporation, subsidiary, division, or other entity, in  
22 connection with the labeling, advertising, promotion, offering  
23 for sale, sale, or distribution of the following products, in or  
24 affecting commerce, are hereby permanently enjoined from  
25 representing, in any manner, expressly or by implication,  
26 including through the use of endorsements or trade name, that:

1 A. Essiac Formula, or any substantially similar product,  
2 significantly lowers serum cholesterol levels without  
3 any change in the user's diet;

4 B. Essiac Formula, or any substantially similar product,  
5 treats, causes remission in, or cures cancer and tumors;  
6 or

7 C. Essiac Formula, or any substantially similar product,  
8 treats diabetes;

9 unless the representation is true and, at the time the  
10 representation is made, Defendants possess and rely upon  
11 competent and reliable scientific evidence that substantiates  
12 the representation.

13  
14 **IV.**

15 **IT IS FURTHER ORDERED** that Defendants, and their officers,  
16 agents, servants, employees, and representatives, and all  
17 persons and entities in active concert or participation with  
18 them who receive actual notice of this Order by personal service  
19 or otherwise, whether acting directly or through any  
20 corporation, subsidiary, division, or other entity, in  
21 connection with the labeling, advertising, promotion, offering  
22 for sale, sale, or distribution of any covered product or  
23 service in or affecting commerce, are hereby permanently  
24 enjoined from misrepresenting, in any manner, expressly or by  
25 implication, including through the use of endorsements or trade  
26 name, that such product has been approved, endorsed, or

1 recommended by any government agency, including the United  
2 States Food and Drug Administration ("FDA").  
3

4 **V.**

5 **IT IS FURTHER ORDERED** that Defendants, and their officers,  
6 agents, servants, employees, and representatives, and all  
7 persons and entities in active concert or participation with  
8 them who receive actual notice of this Order by personal service  
9 or otherwise, whether acting directly or through any  
10 corporation, subsidiary, division, or other entity, in  
11 connection with the labeling, advertising, promotion, offering  
12 for sale, sale, or distribution of any covered product or  
13 service, in or affecting commerce, shall not misrepresent, in  
14 any manner, expressly or by implication, the existence,  
15 contents, validity, results, conclusions, or interpretations of  
16 any test, study, or research.  
17

18 **VI.**

19 **IT IS FURTHER ORDERED** that Defendants, and their officers,  
20 agents, servants, employees, and representatives, and all  
21 persons and entities in active concert or participation with  
22 them who receive actual notice of this Order by personal service  
23 or otherwise, whether acting directly or through any  
24 corporation, subsidiary, division, or other entity, in  
25 connection with the labeling, advertising, promotion, offering  
26 for sale, sale, or distribution of any covered product or  
27



1 service, in or affecting commerce, are hereby permanently  
2 enjoined from making any representation, expressly or by  
3 implication, including through the use of endorsements or trade  
4 name:

5 A. That such product significantly lowers serum cholesterol  
6 levels without any change in the user's diet;

7 B. That such product alleviates the effects of heavy metal  
8 poisoning, including poisoning from aluminum, lead, or  
9 mercury;

10 C. That such product is effective in the mitigation,  
11 treatment, prevention, or cure of lupus, arthritis,  
12 rheumatism, osteoporosis, uric acid, migraines, cancer,  
13 leukemia, tumors, asthma, tinnitus, depression,  
14 impotence, diabetes, diseases caused by poor blood  
15 circulation, diseases affecting the heart, lungs, liver,  
16 kidney, or digestive system, kidney and urinary tract  
17 stones, indigestion, diarrhea, internal hemorrhaging,  
18 constipation, or any illness which is affected by a  
19 lowered or weakened immune system;

20 D. That such product prevents degenerative diseases;

21 E. That such product makes conventional treatments  
22 unnecessary for persons with serious diseases, such as  
23 cancer and diabetes;

24 F. That such product causes weight loss; or

25 G. About the health benefits, performance, efficacy, safety  
26 or side effects of such product or service;

1 unless, at the time the representation is made, they possess and  
2 rely upon competent and reliable scientific evidence that  
3 substantiates the representation.  
4

5 **VII.**

6 **FOOD AND DRUG REGULATIONS**

7 **IT IS FURTHER ORDERED** that nothing in this Order shall  
8 prohibit Defendants from making any representation for any drug  
9 that is permitted in the labeling for such drug under any  
10 tentative final or final standard promulgated by the FDA, or  
11 under any new drug application approved by the FDA. Nothing in  
12 this Order shall prohibit Defendants from making any  
13 representation for any product that is specifically permitted in  
14 labeling for such product by regulations promulgated by the FDA  
15 pursuant to the Nutrition Labeling and Education Act of 1990.  
16

17 **VIII.**

18 **MONETARY RELIEF**

19 **IT IS FURTHER ORDERED** that:

20 A. Judgment in the amount of nine hundred ninety thousand  
21 and seventeen dollars (\$990,017) is hereby entered in  
22 favor of the Commission against defendants, for  
23 equitable monetary relief; provided, however, that this  
24 judgment shall be suspended subject to the conditions  
25 set forth in Paragraph IX of this Order.

26 B. All funds paid pursuant to this section shall be

1 deposited into a fund administered by the FTC or its  
2 designated agent to be used for equitable relief,  
3 including, but not limited to, restitution and any  
4 attendant expenses for the administration of any  
5 monetary fund. In the event that direct restitution for  
6 consumers is wholly or partially impracticable or funds  
7 remain after restitution is completed, the FTC may apply  
8 any remaining funds for any other equitable relief  
9 (including consumer information remedies) that it

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1 X.

2 NOTIFICATION TO CONSUMERS AND RESELLERS

3 IT IS FURTHER ORDERED that Defendants shall:

- 4 A. Within seven (7) days after service of this Order upon  
5 Defendants, deliver to the Commission a list, in the  
6 form of a sworn affidavit, of all consumers who  
7 purchased an Essiac or Arcomig product from Defendants.  
8 Such list shall include each consumer's name and  
9 address, and, if available, the telephone number and  
10 email address of each consumer and the full purchase  
11 price, including shipping, handling, and taxes, of any  
12 Essiac or Arcomig product purchased from Defendants; and
- 13 B. Within thirty (30) days after service of this Order upon  
14 Defendants, send by first class mail, with postage  
15 prepaid, exact copies of the English and Spanish notices  
16 attached hereto as Attachments A-B, showing the date of  
17 mailing, to each person who purchased Defendants'  
18 Arcomig product. This mailing shall not include any  
19 other document.
- 20 C. Within thirty (30) days after service of this Order upon  
21 Defendants, send by first class mail, with postage  
22 prepaid, exact copies of the English and Spanish notices  
23 attached hereto as Attachments C-D, showing the date of  
24 mailing, to each person who purchased Defendants' Essiac  
25 product. This mailing shall not include any other  
26 document.

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**XI.**

**DISTRIBUTION OF ORDER**

**IT IS FURTHER ORDERED** that, for a period of five (5) years from the date of entry of this Order, Defendants Latinos Group and Jorge Carpinteyro shall deliver copies of the Order as directed below:

A. Defendant Latinos Group must deliver a copy of this Order to all of its principals, officers, directors, and managers. Defendant Latinos Group also must deliver copies of the Order to all of its employees, agents, and representatives who engage in conduct related to the subject matter of the Order. For current personnel, delivery shall be within five (5) days of service of this Order upon Defendant. For new personnel, delivery shall occur prior to them assuming their responsibilities.

B. For any business controlled, directly or indirectly, by Defendant Jorge Carpinteyro, or in which Defendant Jorge Carpinteyro has a majority ownership interest, Defendant Jorge Carpinteyro must deliver a copy of this Order to all principals, officers, directors, and managers of such business. Defendant Jorge Carpinteyro must also deliver copies of this Order to all employees, agents, and representatives of such business who engage in conduct related to the subject matter of the Order. For current personnel, delivery shall be within five (5)

1 days of service of this Order upon Defendant. For new  
2 personnel, delivery shall occur prior to them assuming  
3 their responsibilities.

4 C. For any business where Defendant Jorge Carpinteyro is  
5 not a controlling person of a business but otherwise  
6 engages in conduct related to the subject matter of this  
7 Order, Defendant Jorge Carpinteyro must deliver a copy  
8 of this Order to all principals and managers of such  
9 business before engaging in such conduct.

10 D. Defendant Latinos Group must secure a signed and dated  
11 statement acknowledging receipt of this Order, within  
12 thirty days of delivery, from all persons receiving a  
13 copy of the Order pursuant to this Part.

14  
15 **XII.**

16 **COMPLIANCE MONITORING**

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

19 A. Within ten (10) days of receipt of written notice from a  
20 representative of the Commission, Defendants Latinos  
21 Group and Jorge Carpinteyro each shall submit additional  
22 written reports, sworn to under penalty of perjury;  
23 produce documents for inspection and copying; appear for  
24 deposition; and/or provide entry during normal business  
25 hours to any business location in such Defendants'  
26 possession or direct or indirect control to inspect the

1 business operation;

2 B. The Commission is authorized to monitor compliance with  
3 this Order by all other lawful means, including but not  
4 limited to the following:

5 1. Obtaining discovery from any person, without further  
6 leave of court, using the procedures prescribed by  
7 Fed. R. Civ. P. 30, 31, 33, 34, 36, and 45;

8 2. Posing as consumers and suppliers to Defendants,  
9 Defendants' employees, or any other entity managed or  
10 controlled in whole or in part by Defendants, without  
11 the necessity of identification or prior notice;

12 C. Defendants Latinos Group and Jorge Carpinteyro shall  
13 permit representatives of the Commission to interview  
14 any employer, consultant, independent contractor,  
15 representative, agent, or employee who has agreed to  
16 such an interview, relating in any way to any conduct  
17 subject to this Order. The person interviewed may have  
18 counsel present.

19 *Provided, however,* that nothing in this Order limits the  
20 Commission's lawful use of compulsory process, pursuant to  
21 Sections 9 and 20 of the FTC Act, 15 U.S.C. §§ 49, 57b-1,  
22 to obtain any documentary material, tangible things,  
23 testimony, or information relevant to unfair or deceptive  
24 acts or practices in or affecting commerce (within the  
25 meaning of 15 U.S.C. § 45(a)(1)).





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1 include, but not be limited to:

2 1. For Defendant Jorge Carpinteyro:

3 a. The then-current residence address, mailing  
4 addresses, and telephone numbers of Defendant Jorge  
5 Carpinteyro;

6 b. The then current employment and business addresses  
7 and telephone numbers of Defendant Jorge  
8 Carpinteyro, a description of the business  
9 activities of each such employer or business, and  
10 the title and responsibilities of Defendant Jorge  
11 Carpinteyro, for each such employer or business;  
12 and

13 c. Any other changes required to be reported under  
14 subparagraph A of this Section.

15 2. For Defendants Latinos Group and Jorge Carpinteyro:

16 a. A copy of each acknowledgment of receipt of this  
17 Order, obtained pursuant to Section XI;

18 b. Any other changes required to be reported under  
19 subparagraph A of this Section.

20 C. For the purpo3 fefl this(Order, Defendants Latinos Grou.)TjET1.0000

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1 products, services, or programs purchased, and  
2 description of products, services, or programs  
3 purchased, to the extent such information is obtained in  
4 the ordinary course of business;

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

8 E. Copies of all advertisements, promotional materials,  
9 sales scripts, training materials, or other materials  
10 utilized in the advertising, labeling, promotion,  
11 offering for sale, distribution or sale of any product,  
12 service, or program;

13 F. All other documents evidencing or referring to the  
14 accuracy of any claim contained in the materials  
15 identified in Subpart E or to the safety or efficacy of  
16 any product, service, or program, including, but not  
17 limited to, all tests, reports, studies, demonstrations,  
18 or other evidence that confirm, contradict, qualify, or  
19 call into question the safety or efficacy of any such  
20 product, service, or program; and

21 G. Records accurately reflecting the name, address, and  
22 telephone number of each manufacturer or laboratory  
23 engaged in the development or creation of any testing  
24 obtained for the purpose of advertising, labeling,  
25 promoting, offering for sale, distributing, or selling  
26 any product, service, or program.

1 H. All records and documents necessary to demonstrate full  
2 compliance with each provision of this Order, including,  
3 but not limited to, copies of acknowledgments of  
4 receipt, required by Section XI, and all reports  
5 submitted to the FTC pursuant to Section XIII.

6  
7 **XV.**

8 **ACKNOWLEDGMENT OF RECEIPT OF ORDER**

9 **IT IS FURTHER ORDERED** that Defendants, within five (5)  
10 business days of receipt of this Order as entered by the Court,  
11 must submit to the Commission a truthful sworn statement  
12 acknowledging receipt of this Order.

13  
14 **XVI.**

15 **RETENTION OF JURISDICTION**

16 **IT IS FURTHER ORDERED** that this Court retains jurisdiction of  
17 this matter for purposes of construction, modification, and  
18 enforcement of this Order.

19  
20 **XVII.**

21 **SCOPE OF ORDER**

22 **IT IS FURTHER ORDERED** that this Order resolves only claims  
23 against the named Defendants and does not preclude the  
24 Commission from initiating further action or seeking any remedy  
25 against any other persons or entities, including without  
26 limitation persons or entities who may be subject to portions of

1 this Order by virtue of actions taken in concert or  
2 participation with Defendants, and persons or entities in any  
3 type of indemnification or contractual relationship with  
4 Defendants.

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6  
7 **SO ORDERED:**

8 **JUDGMENT IS THEREFORE ENTERED** in favor of Plaintiff and  
9 against Defendants, pursuant to all the terms and conditions  
10 recited above.

11  
12 Dated this \_\_\_\_\_ day of \_\_\_\_\_, 2005.

13  
14 \_\_\_\_\_  
15 [NAME]  
16 UNITED STATES DISTRICT JUDGE

17 FOR THE PLAINTIFF:

18 WILLIAM BLUMENTHAL  
19 General Counsel

20 JEFFREY A. KLURFELD  
21 Regional Director

FOR THE DEFENDANTS:

22 By: \_\_\_\_\_  
23 JORGE CARPINTEYRO,  
24 Individually and as  
25 President of Latinos  
26 Group Promotions

Dated: March \_\_\_\_\_, 2005







1 company, Latinos Group Promotions, entered with the FTC, visit  
2 ftc.gov.

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Sincerely,

Jorge Carpinteyro  
Latinos Group Promotions

1 ANEXO B

2 CARTA DIRIGIDA A LOS CONSUMIDORES (DISTRIBUIDORES INCLUIDOS) QUE  
3 COMPRARON EL PRODUCTO ARCOMIG A LOS DEMANDADOS EN FECHA PREVIA A  
4 LA DE LA EJECUCIÓN DE LA PRESENTE ORDEN

5  
6 [To be printed on letterhead of Latinos Group Promotions, and  
7 enclosed in an envelope bearing the words, "Important Health  
8 Information Inside"/"Contiene Informacion Importante para su  
9 Salud"]

10 [Name and address of recipient] [Date]

11 [Estimado/a [recipient's name]:

12  
13 Usted compró el producto Arcomig, al cual mi compañía  
14 llamó "bebida saludable". La Comisión Federal de Comercio de los  
15 Estados Unidos (U.S. *Federal Trade Commission*, FTC) dijo que  
16 nuestra publicidad para el producto Arcomig lo engañó, lo cual  
17 es contrario a la ley. He acordado en enviar la presente carta,  
18 pero no he consentido en admitir que he violado la ley.

19 Contrariamente a lo expresado en nuestros anuncios  
20 publicitarios, Arcomig no ha sido "aprobado" por el gobierno de  
21 los Estados Unidos para ningún tipo de uso. En realidad, no se  
22 han realizado estudios científicos que demuestren que Arcomig  
23 sea efectivo para combatir el cáncer ni ninguna otra enfermedad.

24 Si usted padece de una enfermedad grave, como por ejemplo  
25 cáncer, diabetes, lupus, colesterol alto o zumbido en los oídos  
26 -también llamado tinitus- consulte a su médico u otro

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1 treatments or medicines.

2           If you would like more information on the settlement my  
3 company, Latinos Group Promotions, entered with the FTC, visit  
4 ftc.gov.

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Sincerely,

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Jorge Carpinteyro

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Latinos Group Promotions

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1 efectos colaterales.

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3 Si usted tiene cáncer o alguna otra enfermedad grave,  
4 consulte a su médico u otro profesional de atención de la salud  
5 para que le recomiende el tratamiento adecuado. Por favor, si  
6 está tomando algún producto, incluido Essiac Formula,  
7 infórmesele a su médico ya que cada uno de los productos que  
8 usted tome puede afectar su tratamiento o estar contraindicado  
9 con los medicamentos que consuma.

10 Si desea obtener mayor información sobre el acuerdo de  
11 resolución logrado entre mi compañía *Latinos Group Prosolucfst27c.00453é 0*

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