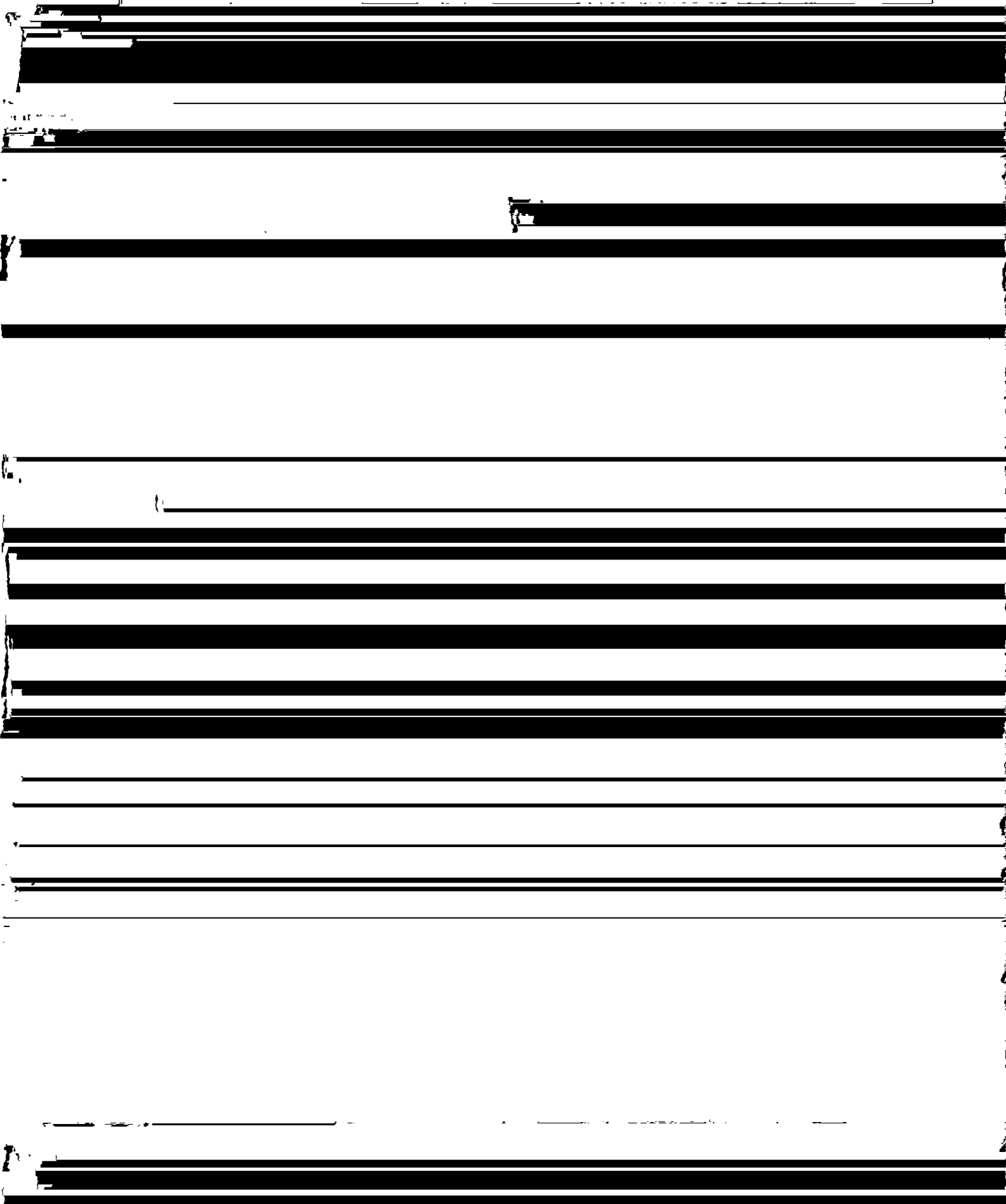


FILED - SOUTHERN DIVISION  
U.S. DISTRICT COURT

1 | 15 U.S.C. §§ 53(b) and 57b, and Section 7(a) of the Controlling the Assault of



1 6. Defendants do not admit any of the allegations set forth in the Complaint  
2 other than jurisdictional facts. No provision of this Order shall be construed as an  
3 admission or denial that Defendants have engaged in violations of the FTC Act or  
4 the CAN-SPAM Act, or any other law or regulation.

5 7. The undersigned, individually and by and through their counsel, have  
6 agreed that entry of this Order resolves all matters of dispute between them arising

7 ~~from the Complaint, this Order, and the terms and conditions of this Order.~~

1 | receivables, shares of stock, funds, monies, and all cash, wherever located,  
2 | including both within and outside the territorial United States.

3 | 3. **“Assisting others”** includes, but is not limited to, the following:

4 | (1) performing customer service functions including, but not limited to, receiving  
5 | or responding to consumer complaints, receiving and identifying financial  
6 | information from consumers, and communicating with consumers; (2) developing,  
7 | providing, or arranging for the development or provision of marketing materials,  
8 | including, but not limited to, Web site and commercial electronic message content;  
9 | (3) providing or arranging for the provision of names or addresses including

1 6. "Covered product or service" means any dietary supplement, food, drug,  
2 device, or service purporting to provide health-related benefits.

3 7. "Customer" means any person who has paid, or may be required to pay, for  
4 goods or services offered for sale or sold by Defendants.

5 8. "Document" is synonymous in meaning and equal in scope to the usage of

1 | address, and any other information that appears in the line identifying, or

2 | purporting to identify a person initiating the message

ORDER

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I. PROHIBITIONS AGAINST PRODUCT MISREPRESENTATIONS

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or act as a solution to osteoporosis; (v) eliminate joint pains;

2

(vi) lower cholesterol; (vii) lower or normalize blood pressure;

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(viii) improve cardiovascular and respiratory functions and

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and the improvement of functions of the body.



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A. Contains, or is accompanied by, materially false or misleading header information, including, but not limited to:

1. an originating email address, domain name, or Internet Protocol address, the access to which for purposes of initiating the message was obtained by means of false or fraudulent pretenses or representations; or
2. a "from" line (the line identifying or purporting to identify the person or email account initiating the message) that does not

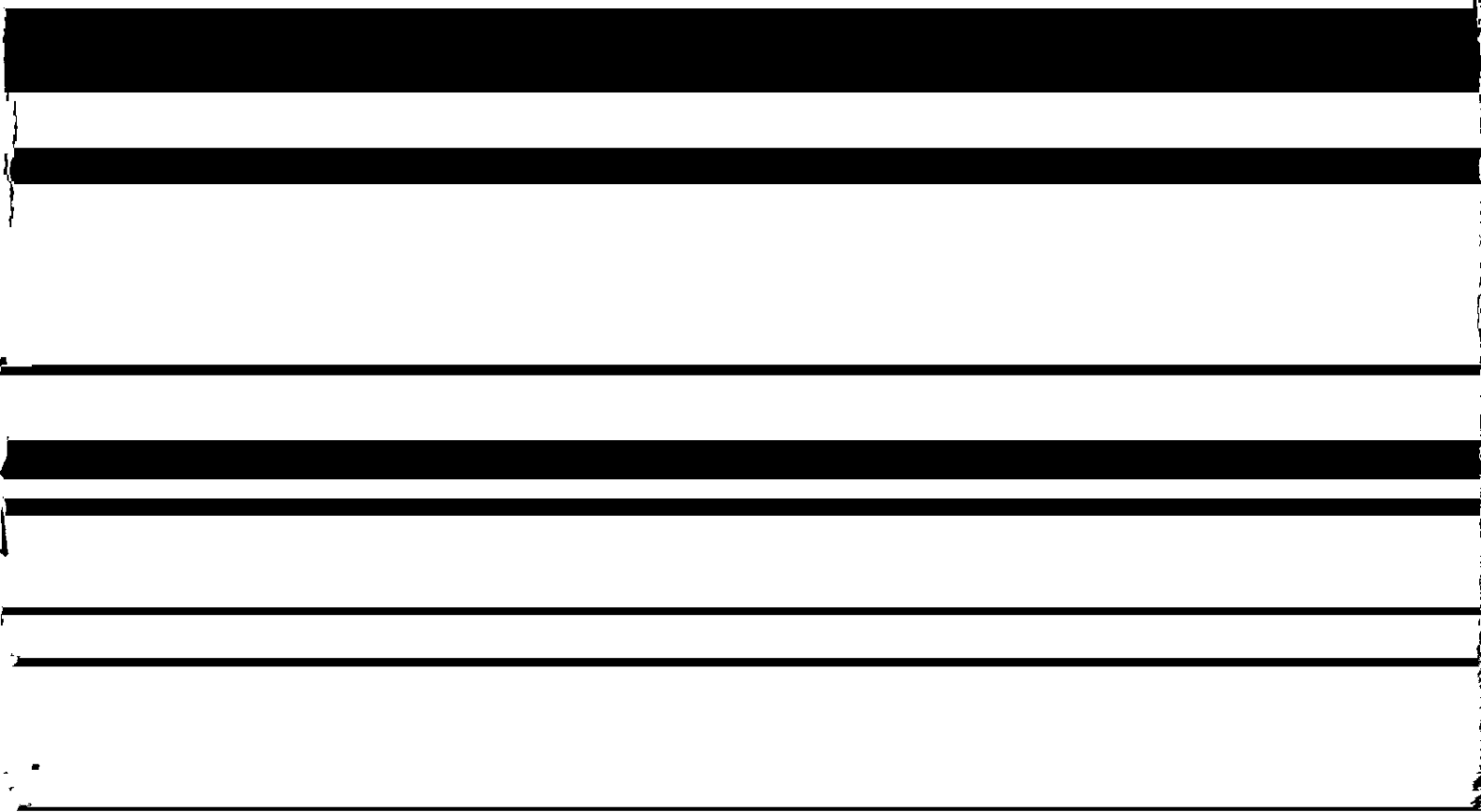
1 F. Does not provide clear and conspicuous identification that the  
2 message is an advertisement or solicitation; or

3 G. Does not include a clear and conspicuous display of an accurate and  
4 valid physical postal address of the sender.

5 **III. DISCLOSURE OF CUSTOMER LISTS**

6 **IT IS FURTHER ORDERED** that Defendants and their officers, agents,  
7 servants, employees, and all other persons or entities in active concert or  
8 participation with them who receive actual notice of this Order by personal  
9 service, facsimile or otherwise, are hereby permanently restrained and enjoined  
10 from selling, renting, leasing, transferring, or otherwise disclosing the name,  
11 address, telephone number, credit card number, bank account number, email

12 address, or other identifying information of any person who said defendant to



10

A. Prior to a person's participation in Defendants' affiliate courses

1

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

1 C. Prior to a person's participation in Defendants' affiliate program,  
2 Defendants shall provide each prospective participant with a copy of this Order;

3 D. Prior to a person's participation in Defendants' affiliate program

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

1 | immediate steps to ensure that such email campaign is not initiated on the  
2 | Defendants' behalf;

3 | G. Defendants shall establish, implement, and maintain a functioning  
4 | email address or other Internet based mechanism that recipients of commercial

[REDACTED]

[REDACTED]

[REDACTED]

1 on Defendants' behalf a functioning hyperlink or other Internet-based mechanism,  
2 clearly and conspicuously disclosed, that recipients can use to access the email  
3 address or other Internet-based mechanism established by Defendants pursuant to  
4 Paragraph J of this Section;

5 L. Defendants shall establish, implement, and maintain a procedure to  
6 ascertain the number and nature of consumer complaints received each month for

1 B. If any funds are paid pursuant to this section and Section VI (Right to  
2 Reopen), those funds shall be deposited into a fund administered by the  
3 Commission or its designated agent to be used for equitable relief, including, but  
4 not limited to, consumer restitution and any attendant expenses for the  
5 administration of any monetary fund. In the event that direct restitution to

1 **VI. RIGHT TO REOPEN**

2 **IT IS FURTHER ORDERED** that suspension of the judgment against  
3 Defendants is conditioned on the following:

4 A. By agreeing to this Order, Defendants reaffirm and attest to the  
5 truthfulness, accuracy, and completeness of the financial statements and amended  
6 financial statements that Defendants prepared and transmitted to the Commission  
7 on October 14 and December 27, 2005 (hereafter, the "Financial Statements").  
8 Plaintiff's agreement to this Order is expressly premised upon the truthfulness,  
9 accuracy, and completeness of the representations of Defendants' financial  
10 condition in the Financial Statements referenced above, which contain material  
11 information upon which Plaintiff relied in negotiating and agreeing to the terms of  
12 this Order.

13 B. If, upon motion by Plaintiff, this Court finds that either Defendant  
14 failed to disclose any material asset, or materially misrepresented the value of any  
15 asset, or made any other material misrepresentation in or omission from the  
16 Financial Statements, the entire amount of \$762,000 shall become immediately  
17 due and payable. *Provided, however, that in all other respects this Order shall*



1 **VIII. ACKNOWLEDGMENT OF RECEIPT OF ORDER**  
2 **BY DEFENDANTS**

3 **IT IS FURTHER ORDERED** that each Defendant, within ten (10)  
4 business days of receipt of this Order as entered by the Court, must submit to the  
5 Commission a truthful sworn statement acknowledging receipt of this Order.  
6  
-

~~IX. DISTRIBUTION OF ORDER BY DEFENDANTS~~

1 covered product or service over the Internet, Defendant Brackett must deliver a  
2 copy of this Order to all principals and managers of such business before engaging  
3 in such conduct.

4          D. The Defendants must secure a signed and dated statement

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

11. D. Complaints and refund requests (whether received directly indirectly. 1

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duties and responsibilities in connection with the  
business or employment; and

c. Any changes in the Defendant's name or use of any  
aliases or fictitious names.

t

1 | penalty of perjury, setting forth in detail the manner and form in which they have

1

C. For the purposes of this Order, Defendants shall, unless otherwise

[REDACTED]

1 Defendants, without the necessity of identification or prior  
2 notice; and

- 3  
4 3. Interviewing, with respect to matters relating in any way to any  
5 conduct subject to this Order, and without interference by  
6 Defendants, any employer, consultant, independent contractor,  
7 representative, agent, or employee of Defendants who agrees to  
8 such an interview, *provided* that the person interviewed is  
9 allowed to have counsel present;

10  
11 C. Nothing in this Order shall limit the Commission's lawful use of  
12 compulsory process, pursuant to Sections 9 and 20 of the FTC Act, 15 U.S.C.  
13 §§ 49 and 57b-1, to obtain any documentary material, tangible things, testimony,  
14 or information relevant to unfair or deceptive acts or practices in or affecting  
15 commerce within the meaning of 15 U.S.C. § 45(a)(1).

16  
17 **XIII. COOPERATION WITH FTC COUNSEL**

18 **IT IS FURTHER ORDERED** that Defendants shall, in connection with  
19 this action or any subsequent investigations related to or associated with the  
20 transactions or the occurrences that are the subject of the FTC's Complaint,  
21 cooperate in good faith with the FTC and appear, or, in the case of PHS, cause its  
22 officers, employees, representatives, or agents to appear, at such places and times  
23 as the FTC shall reasonably request, after written notice, for interviews,  
24 conferences, pretrial discovery, review of documents, and for such other matters as

Nov-11-2006 12:08am From: LIPON & HARRIS  
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1 || deposition or other proceeding related to or associated with the transactions or the

[REDACTED]

