

**UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS**

FEDERAL TRADE COMMISSION,
Plaintiff,

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THE PARTIES

4. Plaintiff, the Federal Trade Commission, is an independent agency of the United

use of a nationally disseminated infomercial. Barrett directs, controls, formulates, or participates in the acts and practices of DMC and ITV, including the acts and practices complained of below. Barrett resides and transacts or has transacted business in the District of Massachusetts. Barrett also appears in an infomercial for the Weight Loss Cure.

8. Defendant Robert Maihos (“Maihos”) is an officer, director, and 50% owner of DMC and ITV. Since at least January 2007, Maihos, acting individually, or in concert with others, has promoted, marketed, offered for sale, sold, and/or distributed the Weight Loss Cure book to consumers throughout the United States. Maihos directs, controls, formulates, or participates in the acts and practices of DMC and ITV, including the acts and practices complained of below. Maihos resides and transacts or has transacted business in the District of Massachusetts.

COMMERCE

9. The acts and practices of DMC, ITV, Barrett, and Maihos (collectively, “Defendants”) alleged in this Complaint are or have been in or affecting commerce, as “commerce” is defined in Section 4 of the FTC Act, 15 U.S.C. § 44.

DEFENDANTS’ COURSE OF CONDUCT

10. Since at least January 2007, Defendants DMC, ITV, Barrett, and Maihos, have advertised, offered for sale, sold, and/or distributed the Weight Loss Cure book to the public throughout the United States. Through their actions, the Defendants have promoted the Weight Loss Cure book as containing a simple, easy-to-follow program that can be done at home.

11. The Defendants charge \$29.95 for the Weight Loss Cure book, plus shipping and handling.

12. The Defendants have advertised the Weight Loss Cure book by means of a

DONALD BARRETT: Can anybody do it?

lose a pound. What happened was her body reshaped.

Exhibit 2 at p. 27, lines 14-20 (infomercial transcript)

- G. KEVIN TRUDEAU: . . . You're not hungry, there's no deprivation, you can do it at home. I give you all the instructions. The original manuscripts are available as well. The book's an easy read. It gives you everything to do the protocol easily.

I did it. When I went there, I researched it and I came back and I continued to do it at home, so I know it can be done.

Exhibit 2 at p. 28, lines 12-19 (infomercial transcript).

- H. KEVIN TRUDEAU: And when you're done with the protocol, eat whatever you want and you don't gain the weight back.

Exhibit 2 at p. 30, lines 8-10 (infomercial transcript)

- I. DONALD BARRETT: -- you really believe this is the answer.

KEVIN TRUDEAU: I'll tell you, I believe it's the answer because I've tried everything and immediately if I lost weight, I would -- my hunger was ravenous, I couldn't stop eating and I'd gain the weight right back because my metabolism was low and my appetite was high.

When I finished this protocol, Don, my appetite is now normal, which is here. When I eat a little food, I get full. It's normal. I'm eating anything I want. I had ice cream last night, a big hot fudge sundae, but guess what? I couldn't eat it all.

DONALD BARRETT: You can't eat it all, but you don't have to worry about gaining the weight back.

KEVIN TRUDEAU: There's no -- there's no deprivation, okay? I went to my mother's house, we had big pasta. So, what can you eat? How about pizza, pasta, fettuccine alfredo. Real stuff, not diet crap. I'm talking real food.

DONALD BARRETT: Yeah.

KEVIN TRUDEAU: You want to drink beer, wine, alcohol, you like bread, toast, butter, jam, roast beef. I love pot roast. I made mashed potatoes on Sunday, a big bowl of mashed potatoes loaded with butter and cream, real cream. Not lowfat cream, real cream, butter, mashed potatoes, real mashed potatoes. Gravy, tons of gravy, tons of fat. Delicious. Prime rib.

Exhibit 2 at p. 30, line 23 - page 31, line 24 (infomercial transcript).

14. The protocol set forth in the Weight Loss Cure book has 4 phases, and it:
- A. Requires (in Phase 2) three to six weeks of:
 - i. Daily injections – under the supervision of a licensed health care practitioner – of a prescription drug called human chorionic gonadotropin (“HCG”) that is not approved by FDA as safe and effective for weight loss; and
 - ii. Consumption of only 500 calories per day;
 - B. For the three weeks (Phase 3) following the three to six weeks of HCG injections:
 - i. Requires that only 100% organic food be eaten;
 - ii. Prohibits consumption of any sweeteners (both natural and artificial), starches (including bread, pasta, potatoes, white rice, or white flour), trans fat, nitrates, or bottled, canned, or carton juice; and
 - iii. “Strongly suggests,” among other things, limiting exposure to air conditioning and florescent lighting, and not watching, listening to, or reading advertisements for food or restaurants;
 - C. Provides that during Phase 4, which according to the Weight Loss Cure book “is for the rest of your life”:
 - i. Only 100% organic food (including only organic raw dairy products) can be eaten, and that consumers must eat 6 times a day, eat organic apples each day, eat organic grapefruits often, and use only organic sweeteners; and

- ii. Prohibits the consumption of fast food, chain restaurant food, artificial sweeteners, and highly refined sugars; and
- iii. Requires a liver cleanse, a colon cleanse, and a parasite cleanse,

DECEPTIVE ACTS OR PRACTICES IN VIOLATION OF THE FTC ACT

COUNT I

Unlawful Claims That the Weight Loss Program Described in the Weight Loss Cure Book Is Easy to Do and Can Be Done at Home

16. Through the means described in Paragraph 13, including, but not limited to, through the statements contained in the advertisements attached as Exhibits 1 and 2, the Defendants have represented, expressly or by implication, that the weight loss cure protocol described in Trudeau's book is easy to do and can be done at home.

17. In truth and in fact, the protocol set forth in the Weight Loss Cure book is not easy to do because it requires, among other things, three to six weeks of: (a) extreme dieting (consumption of only 500 calories per day) and (b) daily injections of a prescription drug that has not been approved by the U.S. Food and Drug Administration as safe and effective for weight loss. Moreover, the protocol cannot be done at home because the required three to six weeks of dieting and injections must be done under the supervision of a licensed health care practitioner. Therefore, the representation set forth in Paragraph 16 is false and misleading, and the making of that representation constitutes a deceptive practice, in or affecting commerce, in violation of Section 5(a) of the FTC Act, 15 U.S.C. § 45(a).

COUNT II

Unlawful Claim That After Finishing the Weight Loss Program Described in the Weight Loss Cure Book, Consumers Do Not Have to Follow Any Dietary Restrictions

18. Through the means described in Paragraph 13, including, but not limited to, through the statements contained in the advertisements attached as Exhibits 1 and 2, the Defendants have represented, expressly or by implication, that after consumers finish the weight loss cure protocol described in the Weight Loss Cure book, they can eat what they want without

regaining weight.

19. In truth and in fact, consumers never actually finish the weight loss cure protocol because Phase 4 of the protocol “is for the rest of your life.” Moreover, consumers cannot eat whatever they want in Phase 4 because the Weight Loss Cure book spells out specific dietary mandates (*e.g.*, dairy products must be organic and unpasteurized) and prohibitions (*e.g.*, no fast food, chain restaurant food, artificial sweeteners, or highly refined sugars) for this Phase. Therefore, the representation set forth in Paragraph 18 is false and misleading, and the making of that representation constitutes a deceptive practice, in or affecting commerce, in violation of Section 5(a) of the FTC Act, 15 U.S.C. § 45(a).

CONSUMER INJURY

20. Consumers throughout the United States have suffered and continue to suffer substantial monetary loss and possible injury to their health because of Defendants’ violations of the FTC Act. In addition, Defendants have been unjustly enriched as a result of their unlawful acts and practices. Absent injunctive relief by this Court, Defendants are likely to continue to injure consumers, reap unjust enrichment, and harm the public interest.

THIS COURT’S POWER TO GRANT RELIEF

21. 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 ancillary or other relief, including, but not limited to, rescission of contracts and restitution, and the disgorgement of ill-gotten gains 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) Enter a permanent injunction to prevent future violations of the FTC Act;
- (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, temporary and preliminary injunctive relief, rescission of contracts and restitution, other forms of redress, and the disgorgement of unlawfully obtained monies from Defendants; and
- (3) Award Plaintiff the costs of bringing this action as well as such additional equitable relief as the Court may determine to be just and proper.

Dated: _____, 2007

Respectfully submitted,

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