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Act (“FTC Act”), 15 U.S.C. § 53(b), to obtain a permanent injunction, rescission or reformation

COMMERCE

9. At all times material to this Complaint, Defendants have maintained a substantial course of trade in or affecting commerce, as “commerce” is defined in Section 4 of the FTC Act, 15 U.S.C. § 44.

DEFENDANTS’ BUSINESS ACTIVITIES

10. At all times material to the Complaint, Defendants have labeled, advertised, promoted, offered for sale, sold, and distributed to retailers and consumers the following products throughout the United States: 1) Accelis since at least January 2006 until April 2008; 2) nanoSLIM since at least February 2007 until March 2009; 3) Cold MD since at least September 2006 until June 2007; 4) Germ MD EZ-Swallow Rapid Tabs since at least August 2007 until April 2008; 5) Germ MD Effervescent Tablets since at least August 2007 through

million. Net sales for Cold MD totaled roughly \$4.1 million for 2006 through 2009. Net sales for Germ MD EZ-Swallow Rapid-Tabs and Germ MD Effervescent Tablets, combined, totaled approximately \$792,000 for 2007 through 2009. Net sales for both for Allergy MD and Allergy

- b. Accelis Advertisement (Ex. B)

She LOST 23 lbs. . . .

* * *

Tunde lost an incredible 24 pounds in just 12 weeks . . .

[Before and after photos of two purported users claiming to have lost 23 pounds in 12 weeks and 47 pounds in 37 weeks.]

CLINICALLY PROVEN KEY INGREDIENT

Doctor-formulated Accelis is a revolutionary scientific breakthrough that fits easily into your hectic routine. . . . Expert researchers believe the clinically proven key ingredient in Accelis produces rapid weight loss by increasing the rate at which your body uses up your blood sugar for energy.

* * *

*In an 8-week study, subjects using the key ingredient in Accelis (3% corosolic acid) lost an average of 10.65 pounds, as compared to subjects using a placebo, who lost an average of only 5.87 pounds. Both groups followed a calorie-reduced diet.

- c. Accelis Advertisement (Ex. C)

Fast, Easy, Proven Results . . .

“Accelis helped me lose 24 lbs. in 12 weeks! It’s really easy.”

- Nicole Reuben

FAST* . . . Thanks to the rapid-release liquid softgel technology and a clinically proven ingredient, you experience accelerated weight loss you can see and feel!

* * *

PROVEN . . .

- d. Section From Accelis Website (Ex. D, p. 1); see also Ex. B, Ex. C.

In an 8-week study, **subjects using the key ingredient in Accelis lost an average of 10.65 pounds** while compared to subjects using the placebo who lost an average of 5.87 pounds. . . . Additionally, the researchers noted that half of the subjects using the key ingredient in Accelis lost

In one 8-week study, participants using the key ingredient in nanoSLIM lost an average of 10.65 lbs., as compared to participants using a placebo, who lost an average of 5.87 lbs.

* * *

[nanoSLIM] may be small, but it's extremely powerful and its technologically advanced formula will help you lose weight fast!

* * *

Enormously Powerful,
Impossibly Small

* * *

Become A Success Story

What's a great way to see how nanoSLIM can work for you? Sign up for your chance at an endorsement contract.

- c. nanoSLIM Website (Ex. F, p. 2)

* * *

nanoSLIM - World's Smallest Weight-Loss Solution

- Nano-Engineered for Rapid Absorption & Maximum Effectiveness
- Proven to Cause Faster, More Dramatic Weight-Loss

- d. nanoSLIM Advertisement (Ex. G)

It's your tiny little secret for faster weight loss!

Lose weight faster . . .

* * *

In fact, in an 8-week study, subjects following a calorie-controlled diet lost an incredible 10.65 lbs. using just the key ingredient in nanoSLIM. Compare that to subjects following the same diet and using a placebo who lost only 5.87 lbs!

With nanoSLIM, you get the best of both worlds – accelerated weight loss and complete ease-of-use.

* * *

Lost 32 lbs. FAST

“I lost 32 pounds and I'm ecstatic. My ultimate goal is to compete in a figure contest so I am on my way now to being in that kind of shape.”

- Rebecca Short

16. To induce consumers to purchase **Cold MD**, Defendants have disseminated, or caused to be disseminated, advertisements, including, but not limited to, the attached Exhibits H through M. Among other things, the advertisements contain the following statements or depictions:

- a. Cold MD Packaging (Ex. H)

Front Panel

[Pictures of a woman blowing her nose into a tissue and a man with his eyes closed holding his head right above his nose at his sinuses]

* * *

Cold MD

Clinically Proven Immune System Support for

- 94% Faster Recovery
- Clinically Proven Results!

Increased Immune System Resistance by 312%

Back Panel

- The All-in-One Solution

* * *

Cold MD is an all-in-one formula that delivers clinically proven immune system support. In addition, by supporting your immune system, Cold MD helps you recover an average of 94% faster. In fact, in a rigorous double-blind clinical study reviewed by a medical doctor, the formula that delivers clinically

coated caplets is all that's needed for ongoing clinically proven immune system support. Why continue to suffer unnecessarily? Cold MD is a clinically proven, all-in-one solution that works fast!

Side Panel

* * *

A clinical study was conducted on the key ingredient combination in Cold MD. Subjects were observed for 2 seasons. In this study, subjects

- C Reduced the frequency of episodes by an average of 3.3 vs. 0.8 against placebo (312% greater resistance).
- C Reduced the duration of episodes by an average of 3.3. days vs. 1.7 days against placebo (recover 94% faster).

b. Cold MD Advertisement to Retailers (Ex. I)

**YOUR CUSTOMERS'
ULTIMATE
DEFENSE
Against
Colds & Flu!**

[Photo of five individuals wearing white lab coats and stethoscopes.
Below a caption reads:]
Meet the MDs in new Cold MD

Americans suffer from one billion colds annually, so it's no surprise millions of your customers will be looking to you for cold and flu protection this season. Fortunately these MDs have the solution.

* * *

Cold MD Provides Clinically Proven Immune System Support for:

- **Increased Resistance to Colds & Flu by 312%**
- **94% Faster Recovery from Colds & Flu**
- **Clinically Proven Results**
- **Maximum Support When Used Daily**

**COLDMD: leading the FIGHT against
colds and flu across the nation!**

c. Cold MD Advertisement (Ex. J)

NEW CLINICAL BREAKTHROUGH!

protection.

- e. Cold MD Video Ad Storyboard (Ex. L)

[Split screen shots of man and woman sneezing into tissues.]

[L

SUPER: These statements have not been evaluated by the FDA. This product is not intended to diagnose, treat, cure, or prevent disease.

[Screen shots of Cold MD box with trademarks for various retailers including Wal Mart, CVS/pharmacy, Vitamin Shoppe, Kmart, and Albertsons.]

[LARGE SUPER:] **A Clinical Breakthrough!**

MALE ANNOUNCER: Get yours at coldmdhelp.com, Wal Mart, CVS and fine retailers everywhere.

SUPER: These statements have not been evaluated by the FDA. This product is not intended to diagnose, treat, cure, or prevent disease.

- f. Cold MD Website (Ex. M, p. 1)

COLD MD – THE ULTIMATE IMMUNE SYSTEM SUPPORT FORMULA

* * *

Cold MD is the world’s only immune system support formula that:

- C Increases immune system resistance by 312 percent**
- C Helps you recover 94 percent faster**
- C Has clinically proven results**

* * *

New Cold MD is an immune system support formula that increases your resistance by 312 percent and helps you recover 94 percent faster. In fact, a clinical study on the key ingredient combination in Cold MD™ showed subjects reduced the frequency of episodes by an average of 3.3 vs. 0.8 against the placebo (312 percent greater resistance). In the same study, subjects reduced the duration of episodes by an average of 3.3 days vs. 1.7 days against the placebo (94 percent faster recovery).

17. To induce consumers to purchase **Germ MD EZ-Swallow Rapid-Tabs** and **Germ MD Effervescent Tablets**, Defendants have disseminated, or caused to be disseminated, advertisements, including, but not limited to, the attached Exhibits N through Q. Among other things, the advertisements contained the following statements or depictions:

- a. Germ MD EZ-Swallow Rapid Tabs Packaging (Ex. N)

Front Panel:

[Several multicolored cartoon germs.]

GERM MD

* * *

Helps Support a Healthy Immune System

* * *

USE WHERE YOU NEED IT MOST:
U SCHOOLS U AIRPLANES
U OFFICES U SUBWAYS
U THEATERS U RESTAURANTS
U MALLS U HEALTH CLUBS
 U USE DAILY

* * *

Side Panel:

DIRECTIONS FOR USE

Take 1 serving (2 Rapid-Tabs) of Germ MD every day.
In Addition, GERM MD can also be taken:
Before entering crowded or congested locations, e.g., buses, offices,
restaurants, schools, airplanes, trains or other public places.

Back Panel:

* * *

- The Power of New Germ MD

It is not possible to remove germs from your everyday life, but now you
can be proactive with new Germ MD EZ-Swallow Rapid-Tabs! Germ
MD is your number one immune defense.

- b. Germ MD Effervescent Tablets Packaging (Ex. O); see also Germ MD
Advertisement for Retailers (Ex. P)

Front Panel:

[Several multicolored cartoon germs.]

GERM MD

* * *

Helps Support a Healthy Immune System

* * *

USE IT WHERE YOU NEED IT MOST:
U SCHOOLS
U OFFICES

U THEATERS
U MALLS
U AIRPLANES
U RESTAURANTS
U HEALTH CLUBS
U USE DAILY

Side Panel:

DIRECTIONS FOR USE

Drop 2 Germ MD effervescent tablets (1 serving) of Germ MD in a serving of water, let dissolve, and then drink each morning. Take one additional serving later in the day, prior to entering crowded areas such as airplanes, schools, offices, or wherever you need it most.

Back Panel:

* * *

- The Power of New Germ MD

It is not possible to remove germs from your everyday life – but now you can be proactive with new Germ MD! Germ MD is your number one immune defense.

- c. Website for Germ MD Product “Coming Soon” (Ex. Q)

[Several multicolored cartoon germs superimposed on different images, specifically, one of a cafeteria with people sitting, one of a crowded area with escalators and stairs, and one of a crowded subway station.]

GERM MD

* * *

Helps to support a healthy immune system

- Germ MD Helps Support a Healthy Immune System
- Medical-Doctor Formulated
- Research-Driven; Backed by Science

* * *

Use Daily Where You Need it Most:

U Schools U Airplanes
U Offices U Subways

U Theaters U Restaurants
U Malls U Health Clubs

“GermMD is scientifically formulated to help support your immune system so that you can be proactive.

**Dr. Marvin Heuer, U.S. Licensed MD, FAAFP, MD
Scientific Advisory Board Member, Chief
Scientific Officer, Iomedix**

18. To induce consumers to purchase **Allergy MD**, Defendants have disseminated, or caused to be disseminated, advertisements, including, but not limited to, the attached Exhibits R through V. Among other things, the advertisements contain the following statements or depictions:

- a. Allergy MD Packaging (Ex. R)

Front Panel:

[Picture of a woman blowing the seeds off of a dandelion and the seeds blowing in the wind. Another picture of a man, woman, two children, and a dog lying outside in the grass.]

ALLERGY MD
Clinically Proven Immune System Support
- **FAST POWERFUL**
RESULTS WHEN
YOU NEED IT!

* * *

Back Panel:

[Photo of five individuals in white lab coats; three also have stethoscopes around their necks. A caption above the photo reads:]

The Medical Doctors (MDs) In Allergy MD

[A caption under the photo reads:]

MD Scientific Advisory Board (Medical Doctors left to right). . .

- **The All-in-One Solution**

Medical doctor formulated and approved **Allergy MD** is an all-in-one

formula with a clinically proven compound scientifically designed to support your immune system in a totally new and powerful way! Many of the other products on the market do not provide both fast and long-lasting effects . . . This is where Allergy MD is completely different. By

face.

d. Allergy MD Video Ad Storyboard (Ex. U)

[Five individuals wearing white lab coats and stethoscopes around their necks.]

[LARGE SUPER:] **100% Drug-Free Powerful Results**

DOCTOR: Get fast, powerful, long-lasting effects

[Close-up of Allergy MD package being held by individual in a white lab coat and stethoscope.]

DOCTOR: with new Allergy MD.

[3 panels: Allergy MD box spinning in a field of grass with dandelion seed flowers “whooshing” around.]

SOUND EFFECTS: [Panel 1] Whooshing In, [Panel 2] Spinning In, [Panel 3] Out.

[LARGE SUPER:] [Panels 1 & 2] **So Fast – Releases in Seconds!**

[LARGE SUPER:] [Panel 3] **So Powerful – Long Lasting Results!**

DOCTOR: It actually works to quickly support your immune system. So fast, the key ingredient gets released in seconds. So powerful, you can count on long-lasting results.

o n d s . S o p o w e r f u

Allergy MD is so effective because its key compound inhibits a specific immuno-active group of molecules known as leukotrienes. These leukotrienes mediate the immune system reaction in your body. When leukotrienes are elevated, your body manifests a variety of several undesired reactions as a result of environmental challenges. By inhibiting the immune-system activating effects of these leukotrienes, Allergy MD provides a level of immune system support so you can rise above the seasonal and environmental challenges you face.

- f. Allergy MD Website (Ex. V, p. 3)

* * *

How does Allergy MD work with someone's immune system?

Answer: Allergy MD works with your body's immune system to help you fight back against seasonal and environmental challenges. . . .

19. To induce consumers to purchase **Allergy MD Rapid-Tabs**, Defendants have disseminated, or caused to be disseminated, advertisements, including, but not limited to, the attached Exhibits W and X. Among other things, the advertisements contain the following statements or depictions:

- a. Allergy MD Rapid-Tabs Packaging (

* * *

- Allergy MD is the All-in-One Homeopathic Solution

When your allergies flare up, relief can't come fast enough. That's why we are proud to introduce new doctor-formulated homeopathic Allergy MD. Non-drowsy Allergy MD goes to work to relieve your most stubborn allergy symptoms so you can feel better faster!

- b. Allergy MD Rapid-Tabs Website (Ex. X, pp. 1 - 2)

[Picture of a dandelions with seeds and grass. A man and a woman are standing in the grass smiling.]

* * *

NEW HOMEOPATHIC ALLERGY MD – JUST 1 PER DAY!

Medical doctor formulated Allergy MD uses 100% natural, active ingredients traditionally indicated in homeopathy to give you stimulant-free, non-drowsy, all-season relief from allergy symptoms such as sneezing, runny nose, hay fever, nasal congestion and itchy watery eyes.

* * *

[Graphic: picture of a woman blowing her nose into a handkerchief or tissue]

* * *

Allergy MD is Your All-In-One Solution For Allergy Relief!

Allergy MD is the first, all-season, multi-ingredient allergy product that is medical doctor formulated to address the important needs of allergy sufferers. It's a stimulant-free non-drowsy, indoor-outdoor allergy formula that fuses sound scientific architecture with 100% natural, active ingredients to alleviate the toughest allergy symptoms. Allergy MD is fast-acting, long-lasting and so effective that all you need is just 1 per day!

DEFENDANTS' VIOLATIONS OF THE FTC ACT

20. Section 5(a) of the FTC Act, 15 U.S.C. § 45(a), prohibits unfair or deceptive acts or practices in or affecting commerce.

21. Section 12(a) of the FTC Act, 15 U.S.C. § 52(a), prohibits the dissemination of any false advertisement in or 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, the Iovate Products are “foods” or “drugs” as “foods” and “drugs” are defined in Section 15(b) and (c) of the FTC Act, 15 U.S.C. § 55(b) and (c).

COUNT ONE

False and Unsubstantiated Weight Loss Claims

22. Through the means described in Paragraphs 14 through 15, including, but not limited to, the statements and depictions contained in the advertisements attached as Exhibits A through G, Defendants have represented, directly or indirectly, expressly or by implication, that:

- a. Accelis causes users to lose substantial amounts of weight, including as much as one to two pounds per week;

- a. Cold MD increases resistance to colds and flu by 312%;
- b. Cold MD reduces the duration of colds and flu by 94%;
- c. Cold MD protects against colds and flu when taken before entering crowded places such as buses, offices, restaurants, schools, airplanes, or trains; and
- d. Cold MD is clinically proven to reduce the frequency and duration of colds and flu.

25. Through the means described in Paragraph 17, including, but not limited to, the statements and depictions contained in the advertisements attached as Exhibits N through Q, Defendants have represented, expressly or by implication, that:

- a. Germ MD EZ-Swallow Rapid-Tabs and Germ MD Effervescent Tablets provide protection against cold and flu germs;
- b. Germ MD EZ-Swallow Rapid-Tabs and Germ MD Effervescent Tablets prevent or reduce infection from cold and flu germs and the incidence of colds or flu; and
- c. Scientific evidence demonstrates that Germ MD EZ-Swallow Rapid-Tabs and Germ MD Effervescent Tablets prevent or reduce infection from germs and the incidence of colds or flu.

26. Through the means described in Paragraph 18, including, but not limited to, the statements and depictions contained in the advertisements attached as Exhibits R through V, Defendants have represented, expressly or by implication, that:

- a. Allergy MD provides fast and long-lasting relief from seasonal and environmental allergies, including those caused by grasses and plants

whose pollen is spread by the wind; and

- b. Allergy MD is clinically proven to provide relief from seasonal and environmental allergies.

27. Through the means described in Paragraph 19, including, but not limited to, the statements and depictions contained in the advertisements attached as Exhibits W and X, Defendants have represented, expressly or by implication, that:

- a. Allergy MD Rapid-Tabs provide relief from hay fever and all-season and environmental allergies, including symptoms such as sneezing, runny nose, itchy and watery eyes, and nasal congestion; and
- b. Allergy MD Rapid-Tabs is a homeopathic product.

28. The representations set forth in Paragraphs 24 through 27 are false or were not substantiated at the time the representations were made. Therefore, the making of the representations in Paragraphs 24 through 27 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.

CONSUMER INJURY

29. Consumers have suffered and will continue to suffer substantial injury as a result of Defendants' violations of the FTC Act. In addition, Defendants have been unjustly enriched as a result of their unlawful acts or 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

30. 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 any provision of law enforced by the FTC Act. The Court, in the exercise of its equitable jurisdiction, may award other ancillary relief, including rescission or reformation of contracts, restitution, the refund of monies paid, and the disgorgement of ill-gotten monies, to prevent and remedy any violation of any provision of law enforced by the FTC.

PRAYER FOR RELIEF

Wherefore, Plaintiff FTC, pursuant to Section 13(b) of the FTC Act, 15 U.S.C. § 53(b),

(c) Award Plaintiff the costs of bringing this action, as well as such other and additional relief as the Court may determine to be just and proper.

Dated:

Respectfully submitted,

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