

**UNITED STATES DISTRICT COURT  
FOR THE E**

**PLAINTIFF**

4. The FTC is an independent agency of the United States Government created by statute. 15 U.S.C. §§ 41-58. The FTC enforces Section 5(a) of the FTC Act, 15 U.S.C. § 45(a), which prohibits unfair or deceptive acts or practices in or affecting commerce. The FTC also enforces Section 12 of the FTC Act, 15 U.S.C. § 52, which prohibits false advertisements for food, drugs, devices, services, or cosmetics in or affecting commerce.

5. The FTC is authorized to initiate federal district court proceedings, by its own attorneys, to enjoin violations of the FTC Act and to secure such equitable relief as may be appropriate in each case, including rescission or reformation of contracts, restitution, the refund of monies paid, and the disgorgement of ill-gotten monies. 15 U.S.C. §§ 53(b) and 56(a)(2)(A).

**DEFENDANTS**

6. Defendant Coulomb Media, Inc. (“Coulomb Media”), is a Michigan corporation with its principal place of business at 776 Trombley Road, Grosse Point Park, Michigan 48230. Coulomb Media transacts or has transacted business in this district and throughout the United States. At all times material to this Complaint, acting alone or in concert with others, Coulomb Media has advertised, marketed, and promoted acai berry products, including Acai Ultra Lean, (collectively, the “Acai Berry Products”) to consumers throughout the United States.

7. Defendant Cody Low, also known as Joe Brooks (“Low”), is the managing officer and registered agent of Coulomb Media. At all times material to this Complaint, acting alone or in concert with others, he has formulated, directed, controlled, had the authority to control, or participated in the acts and practices of Coulomb Media, including the acts and practices set forth in this Complaint. Defendant Low resides in this district and, in connection with the

matters alleged herein, transacts or has transacted business in this district and throughout the United States.

**COMMERCE**

8. 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.

13. Defendants also promote products, including the Acai Berry Products, through websites designed to look like personal blogs. These sites use domain names such as stacydietblog.com and lauraweightlossdiary.com and include headings such as “Stacy’s Workout How I Lost 27 Pounds in 1 Month. . .” and “Laura’s Weight Loss Diary: ‘Here’s How I Lost 47 lbs of Stomach Fat in Just 2 Months With 2 Free Diet Products.’” The websites purport to be ordinary, independent consumers’ blogs describing personal experiences using the featured products and the positive results achieved.

14. The sole purpose of Defendants’ websites is to promote the featured products on behalf of third-party merchants who then sell the products on other websites. Defendants’ promotional websites are designed to entice consumers to click on links that will transfer them to a merchant’s website. Defendants receive a commission or other payment for each consumer who clicks on a link and ultimately makes a purchase or signs up for a “free trial” on the merchant’s website. In this context, Defendants commonly are referred to as “affiliate marketers.”

15. Defendants have failed to disclose in a clear and conspicuous manner that they are not objectively evaluating these products and, in fact, are being paid to promote the products. Defendants’ websites either fail entirely to disclose these facts, or fail to do so adequately. The relevant information, if disclosed at all, typically appears in small type at the bottom of the web page, following the fake consumer comments, well below the links to the products being sold.

16. In promoting products through their websites, Defendants also make deceptive claims about the products. Defendants have represented, for example, that the Acai Berry Products, either alone or in combination with a companion product, cause rapid and substantial weight loss. Defendants typically claim on their sites that reporters who tested the Acai Berry



21. The representations set forth in Paragraph 20 of this Complaint are false or were not substantiated at the time the representations were made.

22. Therefore, the making of the representations as set forth in Paragraph 20 of this Complaint constitutes a deceptive act or 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.

## **COUNT TWO**

### **Misrepresentations (Fake News Reports)**

23. Through the means described in Paragraphs 9 through 17 of this Complaint, Defendants have represented, directly or indirectly, expressly or by implication, that:

- a. Defendants' websites are objective news reports;
- b. Objective news reporters have performed independent tests demonstrating the effectiveness of the products featured, including the Acai Berry Products, alone or in combination with a companion product; and
- c. The comments following the "articles" on Defendants' websites express the views of independent consumers.

24. In truth and in fact:

- a. Defendants' websites are advertisements made to appear as objective news reports;
- b. Objective news reporters have not performed independent tests demonstrating the effectiveness of the products featured, including the Acai Berry Products, alone or in combination with a companion product; and

c. The comments following the “articles” on Defendants’ websites do not express the views of independent consumers.

25. Therefore, the making of the representations as set forth in Paragraph 23 of this Complaint constitutes a deceptive act or practice, in or affecting commerce, in violation of Section 5(a) of the FTC Act, 15 U.S.C. § 45(a).

### **COUNT THREE**

#### **Failures to Disclose (Connection to Seller)**

26. In numerous instances in connection with the advertising, marketing, promotion, offering for sale, or sale of the Acai Berry Products and other products, including through the means described in Paragraphs 9 through 17 of this Complaint, Defendants have represented, directly or indirectly





gotten monies; and

D. 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.

of the Court using the ECF system and that I have delivered it to the U.S. Marshall's office for personal service to the following non-ECF participants: Defendant Coulomb Media, Inc., and Defendant Cody Low aka Joe Brooks. Because Defendants are