

**UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION**

FEDERAL TRADE COMMISSION,	)	
	)	
Plaintiff,	)	Case No. 11 C 2486
	)	
v.	)	
	)	
THOU LEE, individually and also doing business	)	
as TL ADVERTISING, an unincorporated assumed	)	
business name,	)	
	)	
Defendant.	)	
	)	

**COMPLAINT FOR PERMANENT INJUNCTION  
AND OTHER EQUITABLE RELIEF**

Plaintiff, the Federal Trade Commission (“FTC”), for its Complaint alleges:

1. The FTC brings this action under Section 13(b) of the Federal Trade Commission Act (“FTC Act”), 15 U.S.C. § 53(b), to obtain temporary, preliminary, and permanent injunctive relief, rescission or reformation of contracts, restitution, the refund of monies paid, disgorgement of ill-gotten monies, and other equitable relief for Defendant’s acts or practices in violation of Sections 5(a) and 12 of the FTC Act, 15 U.S.C. §§ 45(a) and 52.

**JURISDICTION AND VENUE**

2. This Court has subject matter jurisdiction pursuant to 28 U.S.C. §§ 1331, 1337(a), and 1345, and 15 U.S.C. §§ 45(a) and 53(b).

3. Venue is proper in this district under 28 U.S.C. § 1391(b) and 15 U.S.C. § 53(b).

**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).

#### **DEFENDANT**

6. Defendant Thou Lee, who also does business as TL Advertising, (“Defendant”) is an individual who resides in Saint Paul, Minnesota. In connection with the matters alleged herein, Defendant 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, Defendant has advertised, marketed, and promoted products, including but not limited to acai berry products, to consumers throughout the United States.

#### **COMMERCE**

7. At all times material to this Complaint, Defendant has 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.

#### **DEFENDANT’S BUSINESS ACTIVITIES**

8. Since at least 2010, Defendant has advertised, marketed, and promoted various products to consumers throughout the United States, including acai berry products, which include but are not limited to Acai Max Cleanse, Acai Optimum, and LeanSpa Acai,

(collectively, the “Acai Berry Products”), and companion products, which include but are not limited to LeanSpa Cleanse, Colothin, Colopure Colon Cleanse, Natures [sic] Colon Rescue, Get Slim Cleanse, and South Beach Java (collectively, the “Companion Products”), all of which Defendant advertises, markets, and promotes with Acai Berry Products.

9. Defendant promotes products through websites designed to look like news reports. The sites use domain names such as consumer6report.com and consumershealth6-reports.com, and include titles such as Consumer News Reporter. The sites often include the names and logos of major broadcast and cable television networks, falsely representing that the reports on the sites have been seen on these networks.

10. The sites purport to provide objective investigative reports authored by reporters or commentators typically pictured on the sites. The supposed authors of the reports claim to have tested the products on themselves and experienced dramatic and positive results. Following the reports are “responses” or “comments” that appear to be independent statements made by ordinary consumers.

11. In fact, Defendant’s news reports are fake. Reporters or commentators pictured on the sites are fictional and never conducted the tests or experienced the results described in the reports. The “responses” and “comments” following the reports are simply additional advertising content, not independent statements from ordinary consumers.

12. The sole purpose of Defendant’s websites is to promote the featured products on behalf of third-party merchants who then sell the products on other websites. Defendant’s promotional websites are designed to entice consumers to click on links that will transfer them to a merchant’s website. Defendant receives 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



17. Misrepresentations or deceptive omissions of material fact constitute deceptive acts or practices prohibited by Section 5(a) of the FTC Act. Section 12 of the FTC Act, 15

- a. Defendant's websites are objective news reports;
- b. Objective news reporters have performed independent tests demonstrating the effectiveness of the products featured, including but not limited to the Acai Berry Products, alone or in combination with the Companion Products; and
- c. The comments following the "articles" on Defendant's websites express the views of independent consumers.

22. In truth and in fact:

- a. Defendant's 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 but not limited to the Acai Berry Products, alone or in combination with the Companion Products; and
- c. The comments following the "articles" on Defendant's websites do not express the views of independent consumers.

23. Therefore, the making of the representations as set forth in Paragraph 21 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)**

24. In numerous instances in connection with the advertising, marketing, promotion, offering for sale, or sale of the Acai Berry Products, the Companion Products, and other products, including through the means described in Paragraphs 8 through 15 of this Complaint,



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), and the Court's own equitable powers, requests that the Court:

A. Award Plaintiff such preliminary injunctive and ancillary relief as may be necessary to avert the likelihood of consumer injury during the pendency of this action and to preserve the possibility of effective final relief, including but not limited to, temporary and preliminary injunctions, an order preserving assets, and an accounting;

B. Enter a permanent injunction to prevent future violations of the FTC Act by Defendant;

C. Award such relief as the Court finds necessary to redress injury to consumers resulting from Defendant's violations of the FTC Act, including but not limited to, rescission or reformation of contracts, restitution, the refund of monies paid, and the disgorgement of ill-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.

Respectfully submitted,

WILLARD K. TOM  
General Counsel

DATED: April 13, 2011

/s/ Matthew H. Wernz