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1 studies that have been conducted and evaluated in an objective manner by qualified persons and are
2 generally accepted in the profession to yield accurate and reliable results.

3 5. **“Covered Product”** means any dietary supplement, food, or drug, including, but not
4 limited to, Acai Berry Products.

5 6. **“Defendant”** means Tanner Garret Vaughn, individually and doing business as
6 Lead Expose, Inc., and Uptown Media, Inc.

7 7. **“Document” or “Documents”** means any materials listed in Federal Rule of Civil
8 Procedure 34(a) and includes writings, drawings, graphs, charts, photographs, audio and video recordings,
9 computer records, and other data compilations from which information can be obtained and translated, if
10 necessary, into reasonably usable form through detection devices. A draft or nonidentical copy is a
11 separate Document within the meaning of the term.

12 8. **“Material”** means likely to affect a person’s choice of, or conduct regarding, goods or
13 services.

14 9. **“Material connection”** means any relationship that materially affects the weight or
15 credibility of any endorsement and that would not be reasonably expected by consumers.

16 10. **“Person”** means a natural person, an organization or other legal entity, including a
17 corporation, partnership, sole proprietorship, limited liability company, association, cooperative, or any
18 other group or combination acting as an entity.

19 11. **“Plaintiff”** means the Federal Trade Commission (“Commission” or “FTC”).

20 **CONDUCT PROVISIONS**

21 **I. PROHIBITED BUSINESS ACTIVITIES**

22 **IT IS THEREFORE ORDERED** that Defendant, and his officers, agents, servants, employees
23 and attorneys, and all other persons in active concert or participation with any of them, who receive actual
24 notice of this Order by personal service or otherwise, whether acting directly or through any trust,
25 corporation, subsidiary, division, or other device, or any of them, in connection with the advertising,
26 marketing, promotion, offering for sale, or sale of any product, service, or program, are hereby temporarily
27 restrained and enjoined from:

28 A. Misrepresenting, or assisting others in misrepresenting, any material fact, expressly or

1 by implication, including, but not limited to, that:

2 1. Any website or other publication is an objective news report;

3 2. Objective news reporters have performed independent tests of any product,
4 service, or program, including, but not limited to, a Covered Product;

5 3. Independent tests demonstrate the effectiveness of any product, service, or
6 program featured in any website or other publication, including, but not limited to, a Covered
7 Product; and

8 4. Comments posted on websites express the views of independent consumers;

9 B. Failing to disclose, or disclose adequately:

10 1. Any material connection, when one exists, between any user or endorser of any
11 product, service, or program and Defendant or any other person manufacturing, advertising,
12 labeling, promoting, offering for sale, selling or distributing such product, service, or program; and

13 2. If applicable, that the content of any website or other publication has not been
14 authored by an objective journalist but is in fact an advertisement placed for compensation.

15 **II. PROHIBITED REPRESENTATIONS REGARDING COVERED PRODUCTS**

16 **IT IS FURTHER ORDERED** that Defendant, and all other persons in active concert or
17 participation with him who receive actual notice of this Order by personal service or otherwise,
18 whether acting directly or through any trust, corporation, subsidiary, division, or other device, or any
19 of them, in connection with the advertising, marketing, promotion, offering for sale, or sale of any
20 Covered Product, are hereby temporarily restrained and enjoined from making, or assisting others in
21 making, expressly or by implication, including through the use of a product name, endorsement,
22 depiction, or illustration, any representation that such product causes weight loss or rapid weight loss
23 and any other representation about the health benefits, performance, or efficacy of such product, unless
24 the representation is non-misleading and, at the time of making such representation, Defendant
25 possesses and relies upon competent and reliable scientific evidence, as that term is defined above, that
26 is sufficient in quality and quantity based on standards generally accepted in the scientific fields, when
27 considered in light of the entire body of relevant and reliable scientific evidence, to substantiate the
28 representation is true.

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1 Defendant's business transactions of Defendant; the location of any premises where Defendant,
2 directly or through any third party, conducts business operations; the Defendant's whereabouts; and/or
3 the applicability of any evidentiary privileges to this action.

4 Three (3) days notice shall be deemed sufficient for any such deposition, five (5) days notice
5 shall be deemed sufficient for the production of any such documents, and twenty-four (24) hours
6 notice shall be deemed sufficient for the production of any such documents that are maintained or
7 stored only as electronic data. The provisions of this Section shall apply both to parties to this case
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IX. DISTRIBUTION OF ORDER BY DEFENDANT

IT IS FURTHER ORDERED that Defendant shall immediately provide a copy of this Order to each of his affiliates, divisions, directors, officers, agents, partners, successors, assigns, employees, attorneys, agents, representatives, sales entities, sales persons, independent contractors, and any other persons in active concert or participation with him. Within ten (10) calendar days from the date of entry of this Order, Defendant shall serve on the Commission an affidavit identifying the name, title, address, telephone number, date of service, and manner of service of each person or entity Defendant served with a copy of this Order in compliance with this provision.

X. ACKNOWLEDGMENT OF RECEIPT OF ORDER

IT IS FURTHER ORDERED that, within five (5) business days of receipt of this Order as entered by the Court, Defendant or his attorney must submit to counsel for the Commission a truthful sworn statement acknowledging receipt of this Order.

XI. CONSUMER REPORTING AGENCIES

IT IS FURTHER ORDERED that, pursuant to Section 604(a)(1) of the Fair Credit Reporting Act, 15 U.S.C. § 1681b(a)(1), any consumer reporting agency may furnish a consumer or credit report concerning Defendant to the Commission.

XII. DURATION OF THIS ORDER

IT IS FURTHER ORDERED that the preliminary injunction granted herein shall not expire until a final order resolving all claims in this matter is entered by this Court.

XIII. RETENTION OF JURISDICTION

IT IS FURTHER ORDERED that this Court shall retain jurisdiction of this matter for all purposes.

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ORDER

IT IS SO ORDERED. The clerk is directed to terminate Plaintiff's motion (Dkt. # 2).

Dated this 25th day of April, 2011.

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The Honorable Richard A. Jones
United States District Judge

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