

**UNITED STATES OF AMERICA  
FEDERAL TRADE COMMISSION**

**COMMISSIONERS:**      **Edith Ramirez, Chairwoman**  
                                 **Julie Brill**  
                                 **Maureen K. Ohlhausen**  
                                 **Joshua D. Wright**  
                                 **Terrell McSweeney**

**In the Matter of**

**NORM THOMPSON OUTFITTERS, INC.**  
**a corporation.**

**FILE NO. 132 3094**

**AGREEMENT CONTAINING  
CONSENT ORDER**

The Federal Trade Commission has conducted an investigation of certain acts and practices of Norm Thompson Outfitters, Inc., a corporation (“Proposed Respondent”). Proposed Respondent, having been represented by counsel, is willing to enter into an agreement containing a consent order resolving the allegations contained in the attached draft complaint. Therefore,

**IT IS HEREBY AGREED** by and between Norm Thompson Outfitters, Inc., by its duly authorized officers, and counsel for the Federal Trade Commission that:

1. Proposed Respondent Norm Thompson Outfitters, Inc., is an Oregon corporation with its principal office or place of business at 3188 NW Alcock Drive, Hillsboro, Oregon 97124.
2. Proposed Respondent admits all the jurisdictional facts set forth in the draft complaint.
3. Proposed Respondent waives:
  - a. Any further procedural steps;
  - b. The requirement that the Commission’s decision contain a statement of findings of fact and conclusions of law; and
  - c. All rights to seek judicial review or otherwise to challenge or contest the validity of the order entered pursuant to this agreement.
4. This agreement shall not become part of the public record of the proceeding unless and until it is accepted by the Commission. If this agreement is accepted by the Commission, it, together with the draft complaint, will be placed on the public record for a period of thirty (30) days and information about it publicly released. The Commission thereafter may either withdraw its acceptance of this agreement and so notify Proposed Respondent, in which event it will take such action as it may consider appropriate, or issue and serve its complaint (in such form as the circumstances may require) and decision in disposition of the proceeding.



6. “Reliably Reported,” for a human clinical test or study (“test”), means a report of the test has been published in a peer-reviewed journal, and such published report provides sufficient information about the test for experts in the relevant field to assess the reliability of the results.

I.

**IT IS ORDERED** that Respondent, directly or through any corporation, partnership, subsidiary, division, trade name, or other device, in connection with the manufacturing, labeling, advertising, promotion, offering for sale, sale, or distribution of any Covered Product, in or affecting commerce, shall not make any representation, in any manner, expressly or by implication, including through the use of a product name, endorsement, depiction, or illustration, that use of such product causes substantial weight or fat loss or a substantial reduction in body size.

II.

**IT IS FURTHER ORDERED** that Respondent, directly or through any corporation, partnership, subsidiary, division, trade name, or other device, in connection with the manufacturing, labeling, advertising, promotion, offering for sale, sale, or distribution of any Covered Product or any drug or cosmetic, in or affecting commerce, shall not make any representation, other than representations covered under Part I of this order, in any manner, expressly or by implication, including through the use of a product name, endorsement, depiction, or illustration, that use of such product causes weight or fat loss or a reduction in body size, unless the representation is non

evidence means tests, analyses, research, or studies (1) that have been conducted and evaluated in an objective manner by qualified persons; (2)

VII.

**IT IS FURTHER ORDERED** that Respondent shall create a fund in the amount of two hundred thirty thousand dollars (\$230,000) to be used for the purpose of providing redress to

estoppel effect for purposes of, Section 523(a)(2)(A) of the Bankruptcy Code, 11 U.S.C. § 523(a)(2)(A). For all other purposes and with respect to all other parties, Respondent's stipulation in this section shall have no effect. It is specifically agreed and acknowledged that this section is not intended to be, nor shall it be, construed as an admission of liability by Respondent with respect to the allegations set forth in the Complaint with respect to any claims or demands by any third parties.

- F. Proceedings instituted under this Part are in addition to, and not in lieu of, any other civil or criminal remedies that may be provided by law, including any other proceedings the Commission may initiate to enforce this order.

### VIII.

**IT IS FURTHER ORDERED** that, with regard to any human clinical test or study ("test") upon which Respondent relies to substantiate any claim covered by this Order, Respondent shall secure and preserve all underlying or supporting data and documents generally accepted by experts in the field as relevant to an assessment of the test, including, but not necessarily limited to:

- A. All protocols and protocol amendments, reports, articles, write-ups, or other accounts of the results of the test, and drafts of such documents reviewed by the test sponsor or any other person not employed by the research entity;
- B. All documents referring or relating to recruitment; randomization; instructions, including oral instructions, to participants; and participant compliance;
- C. Documents sufficient to identify all test participants, including any participants who did not complete the test, and all communications with any participants relating to the test; all raw data collected from participants enrolled in the test, including any participants who did not complete the test; source documents for such data; any data dictionaries; and any case report forms;
- D. All documents referring or relating to any statistical analysis of any test data, including, but not limited to, any pretest analysis, intent-to-treat analysis, or between-group analysis performed on any test data; and
- E. All documents referring or relating to the sponsorship of the test, including all contracts and communications between any sponsor and the test's researchers.

*Provided, however,* the preceding preservation requirement shall not apply to a Reliably Reported test, unless the test was conducted, controlled, or sponsored, in whole or in part by (1) any Respondent; (2) any other person or entity in active concert or participation with any Respondent; (3) any person or entity affiliated with or acting on behalf of any Respondent; (4) any supplier of any ingredient contained in the product at issue to any of the foregoing or to the product's manufacturer; or (5) the supplier or manufacturer of such product.



or a change in the corporate name or address. *Provided, however,* that, with respect to any proposed change in the corporation about which Respondent learns less than thirty (30) days prior to the date such action is to take place, Respondent shall notify the Commission as soon as is practicable after obtaining such knowledge. Unless otherwise directed by a representative of



*Provided, further,* that if such complaint is dismissed or a federal court rules that the Respondent did not violate any provision of the order, and the dismissal or ruling is either not appealed or upheld on appeal, then the order will terminate according to this Part as though the complaint had never been filed, except that the order will not terminate between the date such complaint is filed and the later of the deadline for appealing such dismissal or ruling and the date such dismissal or ruling is upheld on appeal.

NORM THOMPSON OUTFITTERS, INC.

Date: \_\_\_\_\_

By: \_\_\_\_\_  
Marc J. Sieger, President  
Norm Thompson Outfitters, Inc.

Date: \_\_\_\_\_

\_\_\_\_\_  
D. BRUCE HOFFMAN

Date: \_\_\_\_\_

\_\_\_\_\_  
MELVIN ORLANS  
Hunton & Williams  
2200 Pennsylvania Avenue, NW  
Washington, DC 20037-1701  
Attorneys for Respondent

Date: \_\_\_\_\_

\_\_\_\_\_  
DAVID M. NEWMAN  
ERIC EDMONDSON  
Counsel for the Federal Trade Commission

APPROVED:

\_\_\_\_\_  
THOMAS N. DAHDOUH  
Director  
Western Region

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JESSICA L. RICH  
Director  
Bureau of Consumer Protection

**ATTACHMENT A – EMAIL OR MAIL NOTICE TO CONSUMERS**

Dear Norm Thompson customer:

Our records show that you purchased a Lytess slimming garment from Norm Thompson on or after March 20, 2011.

When we sold you the Lytess garment, we advertised, based on information we received from the manufacturer, that wearing the garments as instructed would reduce the size of your hips by up to 2.1 inches and your thighs by up to one inch and would eliminate or reduce cellulite and that scientific tests proved those results.

The Federal Trade Commission (“FTC”) has charged that we did not have adequate substantiation for these claims. While Norm Thompson neither admits nor denies liability in connection with this matter, we have reached a settlement with the FTC that provides a partial refund to anyone who purchased these garments.

We will be crediting your refund to the credit card that we have on file based on your most recent purchase from Norm Thompson. That credit card ends in XXXX. If that credit card is still active, you do not need to do anything. You will be receiving your refund within XX days.

If that credit card is no longer active, please contact us at XXX-XXX-XXXX within 10 days and provide us with a credit card to which h,(hi)-2(l)-2(e)ord tituerhinythin liabili tse th hosJ 0 i4(at5TJ -32.r)5(o)