

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
CHARLESTON DIVISION

FEDERAL TRADE COMMISSION,

Plaintiff,

v.

GETAWAYGREY, LLC, a limited liability
company, and

ROBIN DUNER-FENTER, individually and as an
officer of GETAWAYGREY, LLC,

Defendants.

Case No.2:15-cv-1990-RMG

COMPLAINT FOR
PERMANENT INJUNCTION
AND OTHER EQUITABLE
RELIEF

Plaintiff, the Federal Trade Commission (“Commission” or “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 permanent injunctive relief, rescission or reformation of contracts, restitution, the refund of monies paid, disgorgement of ill-gotten monies, and other equitable relief for Defendants’ acts or practices, in violation of Sections 5(a) and 12 of the FTC Act, 15 U.S.C. §§ 45(a) and 52, in connection with the labeling, advertising, marketing, distribution, and sale of the Get Away Grey dietary supplement that purportedly reverses or prevents the formation of gray hair.

JURISDICTION AND VENUE

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

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

PLAINTIFF

4. Plaintiff 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. Section 13(b) of the FTC Act, 15 U.S.C. § 53(b), authorizes the FTC 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.

DEFENDANTS

6. Defendant GetAwayGrey, LLC is a Delaware limited liability corporation with its principal place of business at 166 Wentworth Street, Charleston, SC 29401. GetAwayGrey, LLC transacts or has transacted business in this district and throughout the United States. At least since March 2012, GetAwayGrey, LLC has labeled, advertised, marketed, distributed or sold the Get Away Grey dietary supplement (“Get Away Grey”) to consumers throughout the United States.

7. Defendant Robin Duner-Fenter (“Duner-Fenter”) is the President and sole

per bottle; they also offer consumers the option of purchasing two bottles of the dietary supplement for \$49.90, and three bottles for \$69.85. Defendants also offer consumers an “auto-refill” option. One bottle of Get Away Grey contains 60 capsules and provides a 30-day supply if taken according to the product label (two capsules daily).

11. Defendants have advertised Get Away Grey through their websites, online ads (including online video postings), product labeling, and other advertising and promotional materials.

12. To induce consumers to purchase Get Away Grey, Defendants have disseminated, or caused to be disseminated, ads for Get Away Grey, including, but not limited to, the attached Exhibits A through G. These ads contain the following statements and depictions, among others:

A. Exhibit A: GetAwayGrey.com website homepage

Not Your Typical Gray Hair Treatment

Get Away Grey doesn't cover gray hair; it's actually a cure for gray hair—it is your new Grey Defence. . . .

. . . As a result of scientific research, the amazing grey hair solution, Get Away Grey, has been developed to restore the catalase enzyme and reverse the grey hair process! . . .

Watch your grey go away! Now, grey hair can be stopped and reversed. You no longer need to use toxic chemicals to cover up your grey because you can stop gray hair naturally! We stop grey hair by using a vitamin
tha004.epic(topr)JTJ

just a few weeks, the gray hairs naturally restore to their previous color. For gray hair remedies to actually work, they need to reverse the process of catalase under-production. The Get Away Grey grey hair cure does

first. The new hair is my natural color. I now no longer have to color my hair, which is great since I imagine the chemicals can't be all that healthy.

Marianne Silvers - Daytona Beach, FLA.

I've been dying my hair since I was 40 years old, but always wanted to find a natural way of getting rid of my gray hair. A friend told me about

Not sure if you want to live with gray hairs for the rest of your life? Are you interested in finding and testing the best gray hair supplements? In this case, discover the real benefits of a magnificent white hair treatment based on science. Get Away Grey is a remarkable gray hair cure that will enable you to stop, prevent or reverse the signs of premature graying fast and effortlessly. . . .

Reverse Your Grays the Easy Way

You may be wondering: could pantothenic acid enable you to get rid of gray hair naturally? Pantothenic acid plays an important part in this equation and it is included in a specially formulated product created to prevent, stop and reverse graying hair.

Get Away Grey is your reliable gray defense based on all the right ingredients that guarantee healthier, smoother, younger-looking hair. The transformation becomes visible over the course of a few weeks. It's true: now you can say goodbye to those ugly silvery locks and go back to fully pigmented hairs. . . .

#1 Proved Effectiveness

The best part is that this innovative remedy is actually scientifically proved. Unlike your homemade oils and other anti gray hair elixirs, this product was designed, tested and improved by a team of experts who have the skills, the equipment and the expertise to calculate and mix the appropriate dosages of active ingredients, combined to come up with a well-balanced formula. . . .

E. Exhibit E: GetAwayGrey.com website "About Us" page

The Get Away Grey Super Premium Vitamin was launched, based on 2009 research findings, made by University of Bradford, on the Catalase enzyme and how it has been proven successful in reversing grey hair. Catalase is naturally produced in our cells and is the primary ingredient of Get Away Grey to combat grey hair. . . .

F. Exhibit F: GetAwayGrey.com website "FAQS" page

. . .Q. Will all my grey hair go away?

A. Again, user experiences will vary, based on the individual and their natural production of the Catalase enzyme and Hydrogen Peroxide levels. Customer feedback has ranged from the vast majority completely getting their natural hair color back to others seeing a significant reversal, but

still some evidence of gray hair, and a minority of incidents were Get Away Grey does not work. . . .

G. Exhibit G: Get Away Grey Product Label

GETAWAYGREY

Naturally Leaves Grey Hair Behind
With Catalase

Will help

- $\frac{3}{4}$ Fight Grey Hair
- $\frac{3}{4}$ Look as Young as you Feel
- $\frac{3}{4}$ Promote Thicker and Healthier Hair

VIOLATIONS OF THE FTC ACT

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

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

15. Section 12 of the FTC Act, 15 U.S.C. § 52, 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.

16. For the purposes of Section 12 of the FTC Act, the Get Away Grey dietary supplement is either a “food” or “drug,” as defined in Section 15(b) and (c) of the FTC Act, 15 U.S.C. § 55(b), (c).

COUNT I

FALSE OR UNSUBSTANTIATED EFFICACY CLAIMS

17. Through the means described in Paragraph 12, Defendants have represented, directly or indirectly, expressly or by implication, that Get Away Grey reverses or prevents

the formation of gray hair.

18. The representation set forth in Paragraph 17 is false or misleading, or was not substantiated at the time the representation was made.

19. Therefore, the making of the representation set forth in Paragraph 17 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 II

FALSE PROOF CLAIMS

20. Through the means described in Paragraphs 12, Defendants have represented, directly or indirectly, expressly or by implication, that Get Away Grey is scientifically proven to reverse or prevent the formation of gray hair.

21. The representation set forth in Paragraph 20 is false.

22. Therefore, the making of the representation set forth in Paragraph 20 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.

CONSUMER INJURY

23. 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,

THIS COURT'S POWER TO GRANT RELIEF

24. 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. The Court, in the exercise of its equitable jurisdiction, may award 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), and the Court's own equitable powers, requests that the Court:

JONATHAN NUECHTERLEIN
General Counsel

ELIZABETH NACH
PHYLLIS H. MARCUS
Attorneys, Division of Advertising
Practices
Bureau of Consumer Protection
Federal Trade Commission
600 Pennsylvania Avenue, N.W.
Mail Drop CC-10528
Washington, DC 20580
Tel: 202-326-2611