

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF FLORIDA**

Civil Action No. 9:15cv81567-DMM

FEDERAL TRADE COMMISSION,

Plaintiff,

v.

SUNRISE NUTRACEUTICALS, LLC, and
JOSHUA ERICKSON, individually and as
Managing Member of Sunrise Nutraceuticals,
LLC,

Defendants.

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

Plaintiff, the Federal Trade Commission ("FTC"), ~~formal~~ complaint alleges:sgor

monies, and other equitable relief for Defendants' acts or practices in violation of

(a) and 12 of the FTC Act, 15 U.S.C. §§ 45(a) and 52, in connection with the labeling,

g, marketing, distribution, and sale of Elimidrol Daytime Formula and Elimidrol

Formula, dietary supplements that purportedly increase the likelihood that a person

ete opiate withdrawal successfully and overcome opiate addiction.

JURISDICTION AND VENUE

2. Thism [t hassubject matter jPrisdiction pPrsuant to 28 U.S. [337(a),
and 1345, and 15 U.S. [a) and 53(b).

3. Venue is proper in this district under 28 U.S.C. § 1391(b)(1)(2), (c)(2), and (d), 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. §§ 418. 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 Sunrise Nutraceuticals, LLC, is a Florida limited liability company with its principal office or place of business at 2234 North Federal Highway, Suite 479, Boca Raton, FL 33431. Sunrise Nutraceuticals 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 Sunrise Nutraceuticals has labeled, advertised, marketed, or sold Elimidrol to consumers throughout the United States.

7. Defendant Joshua Erickson is a founder and Managing Member of Defendant Sunrise Nutraceuticals, LLC. Defendant Erickson owns 50% of Sunrise Nutraceuticals and

manages the day-to-day activities of the company. He formulated the Elimidrol products, which are the only products sold by Sunrise Nutraceuticals. He also participated in developing the opiate withdrawal and addiction advertising representations challenged in this Complaint. Among other things, he controls or controlled all the representations on www.elimidrol.com website and Sunrise Google AdWords campaign. Defendant Erickson also participated in marketing Elimidrol by managing a network of affiliate marketers. He has signatory authority on corporate bank accounts and credit cards, has signed corporate tax returns, and contracts with company vendors. At all times material to this Complaint, acting alone or in concert with others, Defendant Erickson has formulated, directed, controlled, had the authority to control, or participated in the acts and practices of Sunrise Nutraceuticals, including the acts and practices set forth in this Complaint. In connection with the matters alleged herewith, Defendant Erickson has authority to control the day-to-day activities of the company.

“proprietary blend” of herb and other compounds. Elimidrol Nighttime Formula is made up of a different “proprietary blend,” without the vitamins and minerals.

10. Defendant markets Elimidrol primarily from the website at www.elimidrol.com and sells the supplement directly from that site.

11. To induce consumers to purchase Elimidrol, Defendant

Elimidrol is a scientifically formulated opiate detox supplement engineered to provide you with the powerful relief you need to overcome opiate withdrawal.

- o Opiate withdrawal is a challenging and complicated problem. It often dominates your life and threatens your future. The intense discomfort caused by withdrawal makes it difficult for many to continue, or even begin, their path to sobriety. Opiate withdrawal is physically and mentally overwhelming and that is why Elimidrol is here to help.

With Elimidrol you are not alone. Elimidrol provides the support you need to begin your journey, regain your life, and take back your future.

It is time to live your life free from the restraints of opiate withdrawal

- o Elimidrol is non-addictive, non-habit forming, and will help you permanently overcome the withdrawal – the first time.
- o The high success rate is due to Elimidrol's potency and ingredient combination, selecting ingredients and dosages that are proven to provide the effectiveness you need during opiate withdrawal. Not only does the formula provide the necessary relief from opiate withdrawal, the effects can be felt from the first dose.
- o Scientifically formulated to be the #1 Opiate Withdrawal Supplement, Elimidrol Daytime Formula™ helps alleviate the intense mental and physical symptoms associated with opiate withdrawal to give you the relief you need to get through your day.
- o Getting Elimidrol was a great decision! I'm a skeptical person so I was hesitant at first because I'd never heard of it and didn't want to waste my money on a product

was, still addicted to ~~it~~ pills, just different pills. I was never able to leave my house without a pill and all I could worry about was what if I lost my bottle or forget it.

stopped. That led to 4 more straight years of heroin and oxycontin abuse. My best friend had some Elimidrol and after I tried it, I couldn't believe how much better I felt. I then ordered the Nighttime and Daytime and the relief it provided me was amazing. I finally could sleep through the night and I was able to go to work during the day. I felt happy finally. I am now proud to say I am 73 days clean and feeling better than I ever have. I give this product a 10 out of 10.

- Jason from New York

B. Excerpt from addictionblog.org (attached as Exhibit B)

- o Elimidrol is different in several ways from any other opiate withdrawal supplement on the market, and is completely non-addictive and non-habit-forming. The 3-110 Tw32.4amazlty

- down the pain, Elimidrol turns up the chances of a successful recovery, boosting the mental and physical strength it takes to make it through the opiate withdrawal phase and leave addiction behind permanently.
- o The high success rate that Elimidrol provides in overcoming opiate withdrawal allows the company to confidently offer a 100% Money Back Guarantee.
 - o It's safe, reliable, and it works. Elimidrol is the difference between just another failed attempt and lifelong success.

VIOLATIONS OF THE FTC ACT

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

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

14. 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. For the purposes of Section 12 of the FTC Act, Defendants' Elimidrol Daytime and Nighttime supplements are either “foods” or “drugs” 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

15. Through the means described in Paragraph 14, Defendants have represented, directly or indirectly, expressly or by implication, that Elimidrol:

- A. significantly alleviates the symptoms of opiate withdrawal, thereby increasing the likelihood that a person will complete opiate withdrawal successfully; and
- B. substantially increases the likelihood of a person overcoming opiate addiction.

16. The representations set forth in Paragraph 15, above, are false or misleading or were not substantiated at the time the representations were made.

17. Therefore, the making of the representations set forth in Paragraph 15, above, constitutes a deceptive act or practice and the making of false advertisements 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

18. 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, Defendants are likely to continue to injure consumers, reap unjust enrichment, and harm the public interest.

THIS COURT'S POWER TO GRANT RELIEF

19. 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

20. 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, a preliminary injunction;
 - B. Enter a permanent injunction to prevent future violations of the ~~FTC~~ by Defendants;
 - C. Award such relief as the Court finds necessary to redress injury to consumers resulting from Defendants' 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 the 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,

JONATHAN E. NUECHTERLEIN
General Counsel

Dated: _____

EDWIN RODRIGUEZ (Special Bar #: A5500818)
EDWARD GLENNON (Special Bar #: A5501778)
Federal Trade Commission

Division of Advertising Practices
600 Pennsylvania Ave., N.W., Suite 10528
Washington, D.C. 20580
(202) 3263147 (Rodriguez)
erodriguez@ftc.gov
(202) 3263126 (Glennon)
eglennon@ftc.gov
(202) 3263259 (Fax)

Attorneys for Plaintiff
FEDERAL TRADE COMMISSION