

FOR THE DISTRICT OF MASSACHUSETTS  
BOSTON DIVISION

FEDERAL TRADE COMMISSION,

Plaintiff,

v.

EXCELLENT MARKETING RESULTS, INC., a  
corporation, and

MICHAEL MCGAHEE, individually and as an  
officer of EXCELLENT MARKETING  
RESULTS, INC.,

Defendants.

Case No. 20-10249 TSH

**STIPULATED ORDER FOR  
PERMANENT INJUNCTION AND  
MONETARY JUDGMENT**

Plaintiff, the Federal Trade Commission ("Commission" or "FTC"), filed its Complaint  
for Permanent Injunction and Other Equitable Relief ("Complaint"), for a permanent injunction,



the disclosure must be presented simultaneously in both the visual and audible portions of the communication even if the representation requiring the disclosure is made in only one means.

2. A visual disclosure, by its size, contrast, location, the length of time it appears,

that it is easily noticed, read, and understood.

3. An audible disclosure, including by telephone or streaming video, must be delivered in a volume, speed, and cadence sufficient for ordinary consumers to easily hear and understand it.

4. In any communication using an interactive electronic medium, such as the

Internet or e-mail, the disclosure must be unavoidable

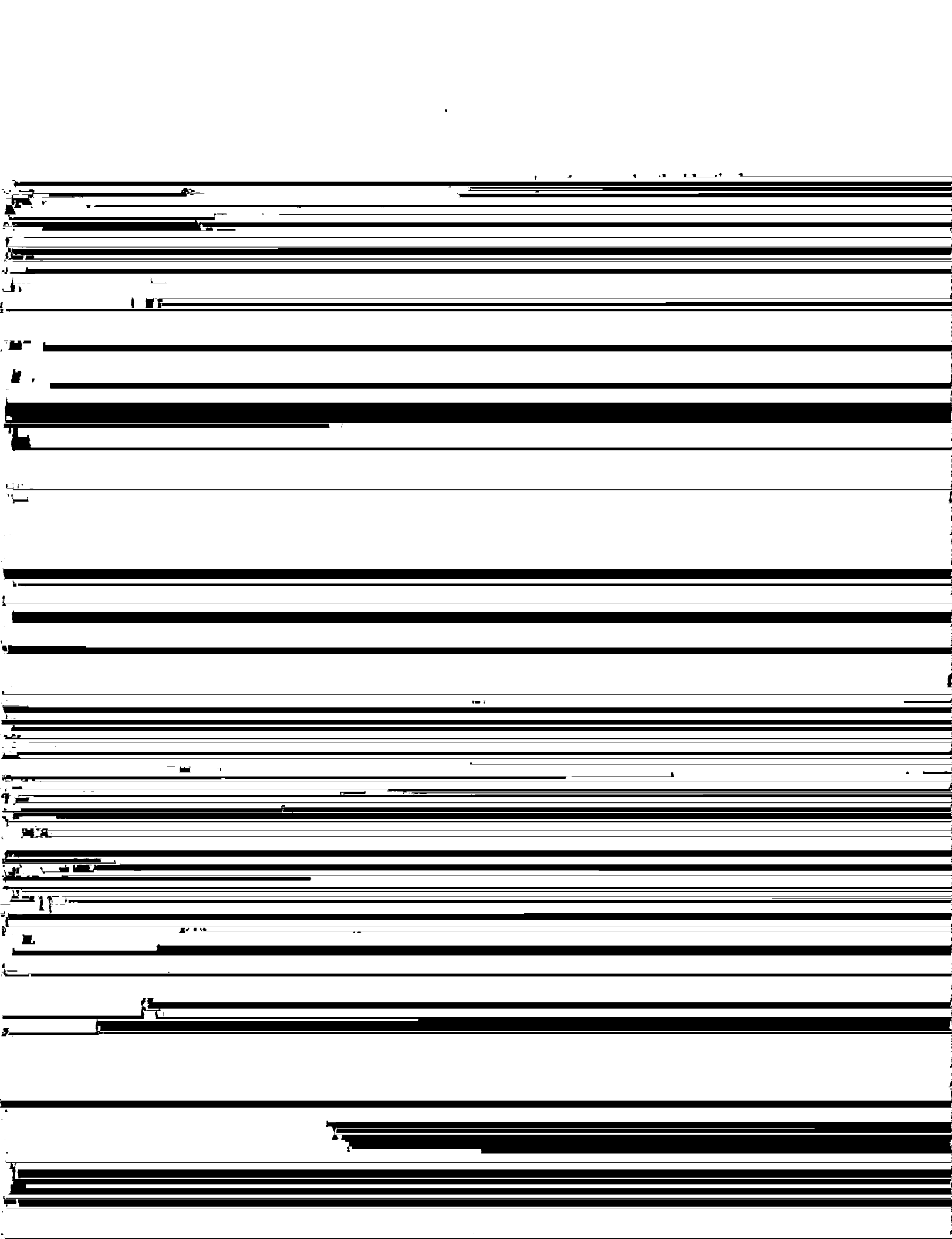
assigns.

C. **“Covered Product”** means any Dietary Supplement, Food, or Drug, including but not limited to StimTein.

D. **“Defendants”** means the Individual Defendant and Corporate Defendant, individually, collectively, or in any combination.

E. **“Dietary Supplement”** means: (1) any product labeled as a dietary supplement or otherwise represented as a dietary supplement; or (2) any pill, tablet, capsule, powder, softgel, gelcap, liquid, or other similar form containing one or more ingredients that are a vitamin,

mineral, herb, or other botanical, amino acid, probiotic, or other dietary substance for use by



**B. Grows cartilage;**

**C. Provides rapid, substantial, or long-lasting relief from joint pain, including chronic or severe pain caused by arthritis, bursitis, and stenosis; or**

**D. Cures, mitigates, or treats any disease**

unless the representation is non-misleading, and, at the time of making such representation, they possess and rely upon competent and reliable scientific evidence substantiating that the representation is true. For purposes of this Section, competent and reliable scientific evidence must consist of human clinical testing of the Covered Product, or of an Essentially Equivalent Product, that is sufficient in quality and quantity based on standards generally accepted by experts in the relevant

entire body of relevant and reliable scientific evidence, to substantiate that the representation is true.

Such testing must be: (1) randomized, double-blind, and placebo-controlled; and (2) conducted by

**II.**  
**PROHIBITED REPRESENTATIONS:**  
**OTHER HEALTH RELATED CLAIMS**

...with any of them who receive





C. The existence, contents, validity, results, conclusions, or interpretations of any test, study, or other research.

IV.

**PROHIBITED MISREPRESENTATIONS  
REGARDING ENDORSEMENTS**

**IT IS FURTHER ORDERED** that Defendants, their officers, agents, employees, and attorneys, and all other persons in active concert or participation with any of them, who receive actual notice of this Order, whether acting directly or indirectly, in connection with the manufacturing, labeling, advertising, promotion, offering for sale, sale, or distribution of any good or service, are permanently restrained and enjoined from misrepresenting, in any manner,

\_\_\_\_\_ providing an endorsement is describing their opinions

\_\_\_\_\_

\_\_\_\_\_ including that the opinions

other individual or entity affiliated with the good or service. For the purposes of this provision,

or credibility of the testimonial or endorsement and that would not reasonably be expected by consumers.

**VI.**

**FDA-APPROVED CLAIMS**

**IT IS FURTHER ORDERED** that nothing in this Order prohibits Defendants, Defendants' officers, agents, employees, and attorneys, or all other persons in active concert or participation with any of them from:

From making a representation that is approved in labeling for such Drug

**VII.**

**PRESERVATION OF RECORDS RELATING TO COMPETENT AND  
RELIABLE HUMAN CLINICAL TESTS OR STUDIES**

**IT IS FURTHER ORDERED** that, with regard to any human clinical test or study ("test")

~~that is the subject of a lawsuit or other proceeding covered by this Order, Defendants 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:

- 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

*Provided, however,* the preceding preservation requirement does not apply to a reliably reported test, unless the test was conducted, controlled, or sponsored, in whole or in part by: (1) any Defendant; (2) any Defendant's officers, agents, representatives, or employees; (3) any other person or entity in active concert or participation with any Defendant; (4) any person or entity affiliated with or acting on behalf of any Defendant; (5) any supplier of any ingredient contained in the product at issue to any of the foregoing or to the product's manufacturer; or (6) the supplier or manufacturer of such product.

For purposes of this Section, "reliably reported 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.

~~For any test conducted, controlled, or sponsored, in whole or in part, by Defendants,~~

Defendants must establish and maintain reasonable procedures to protect the confidentiality, security, and integrity of any personal information collected from or about participants. These procedures must be documented in writing and must contain administrative, technical, and physical safeguards

~~that are commensurate with Defendants' size and complexity, the nature and scope of the Defendants'~~

**B. Defendants are ordered to pay to the Commission One Hundred Forty-Five Thousand**

**\_\_\_\_\_ Dollars shall hold in an interest-bearing escrow account for no**

**purpose other than payment to the Commission. Such payment must be made within 7 days of entry of this Order by electronic fund transfer in accordance with instructions previously provided by a representative of the Commission. Upon such payment, the remainder of the**

**\_\_\_\_\_ Dollars shall be held, subject to the Subsections below**

7 [REDACTED] information submitted by email from Defendant McGhee

to Commission counsel Mary Johnson dated October 8, 2019.

D. The suspension of the judgment will be lifted as to any Defendant if, upon motion

[REDACTED]

C. The facts alleged in the Complaint establish all elements necessary to sustain an action by the Commission pursuant to Section 523(a)(2)(A) of the Bankruptcy Code, 11 U.S.C.

§ 523(a)(2)(A), and this Order will have collateral estoppel effect for such purposes.

[REDACTED] (Social Security

[REDACTED] (Tax Identification Numbers) which Defendants previously submitted to the

A. Failing to provide sufficient customer information to enable the Commission to efficiently administer consumer redress. If a representative of the Commission requests in writing

Defendants must provide it in the form prescribed by the

Defendants must provide customer information including the name



other reasonable notice, at such places and times as a Commission representative may designate, without the service of a subpoena.

**XII.**

**NOTICE TO CUSTOMERS**

~~IT IS FURTHER ORDERED~~ that within 30 days of the entry of this Order:

A. Corporate Defendant shall send by first-class mail an exact copy of the notice attached as Attachment A, showing the date of the mailing, to any consumer who, as of the date of entry of this Order, purchased StimTein on or after January 1, 2016.

B. Corporate Defendant's name and return address, for any mailing, must appear on the front of the envelope, and the customer's name and address must be printed on the front of the envelope or be visible through a window in the envelope. The notice required by this Section shall

not include any other document or enclosures.

**XIII.**

**ORDER ACKNOWLEDGMENTS**

**IT IS FURTHER ORDERED** that Defendants obtain acknowledgments of receipt of this

Order:

and representatives who participate in conduct related to the subject matter of the Order; and (3) any business entity resulting from any change in structure as set forth in the Section titled Compliance

Reporting. Delivery must occur within 7 days of entry of this Order for current personnel. For all

From each individual or entity to which a Defendant delivered a copy of this Order.

2. Additionally, Individual Defendant must: (a) identify all telephone numbers and all physical, postal, email and Internet addresses, including all residences; (b) identify all



E. All records necessary to demonstrate full compliance with each provision of this Order, including all submissions to the Commission.

VVI

**COMPLIANCE MONITORING**

**IT IS FURTHER ORDERED** that, for the purpose of monitoring Defendants' compliance with this Order:

[REDACTED]

D. Upon written request from a representative of the Commission, any consumer reporting agency must furnish consumer reports concerning Individual Defendant, pursuant to Section 604(1) of the Fair Credit Reporting Act, 15 U.S.C. § 1681b(a)(1).

**XVII.**

**RETENTION OF JURISDICTION**

IT IS FURTHER ORDERED that the Court retains jurisdiction of this matter for purposes

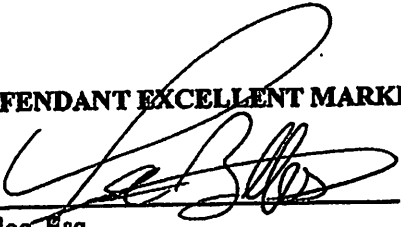
of construction, modification, and enforcement of this Order.

SO ORDERED this day of Feb 19, 2020.

  
UNITED STATES DISTRICT JUDGE

SO STIPULATED AND AGREED:

**FOR DEFENDANT EXCELLENT MARKETING RESULTS, INC.:**

  
Yasir Biloo, Esq.  
International Law Partners  
2122 Hollywood Blvd  
Hollywood, FL 33020

Date: 11/4/19

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Phone: 954-374-7722

Fax: 954-212-0170

Email: [ybiloo@ilp.law](mailto:ybiloo@ilp.law)

COUNSEL FOR EXCELLENT MARKETING RESULTS, INC.

**DEFENDANTS:**

  
Date: 10-31-19  
MICHAEL McGAHEE, INDIVIDUALLY  
AND AS AN OFFICER OF EXCELLENT MARKETING RESULTS, INC.

**ATTACHMENT A**

[On EMR letterhead]

[on envelope]

**IMPORTANT NOTICE ABOUT STIMTEIN COURT SETTLEMENT**

[content of letter, 16-point font]

Dear [Recipient]:

We're writing because you bought StimTein pills that we claimed had many health benefits. The Federal Trade Commission (FTC), the nation's consumer protection agency, sued us for deceptive advertising.

...and to stop making claims that the product grows