



**UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

FEDERAL TRADE COMMISSION,)	
)	
Plaintiff,)	Case No. 07 C 4541
)	
v.)	Judge David H. Coar
)	
SILI NEUTRACEUTICALS, LLC, and)	Magistrate Judge Morton Denlow
)	
BRIAN MCDAID, individually and doing business as KAYCON LTD,)	
)	
Defendants.)	

**DEFAULT JUDGMENT AND ORDER FOR
PERMANENT INJUNCTION AND MONETARY RELIEF AS TO
DEFENDANTS SILI NEUTRACEUTICALS, LLC AND BRIAN MCDAID**

On August 13, 2007, Plaintiff Federal Trade Commission (“Commission” or “FTC”), pursuant to Sections 13(b) and 19 of the Federal Trade Commission Act (“FTC Act”), 15 U.S.C. §§ 53(b) and 57b, and the Controlling the Assault of Non-Solicited Pornography and Marketing Act of 2003 (“CAN-SPAM”), 15 U.S.C. § 7706(a), filed a Complaint for Injunctive and Other Equitable Relief against Defendants Sili Neutraceuticals, LLC (“Sili Neutraceuticals”) and Brian McDaid (“McDaid”). Defendants were properly served with the Complaint and a copy of the summons, and they filed their Answer on October 29, 2007.

On January 8, 2005, pursuant to Rule 55(a) of the Federal Rules of Civil Procedure, the Court entered default against Defendants Sili Neutraceuticals and McDaid. The FTC now has moved for entry of a default judgment on all counts of the Complaint against Defendants pursuant to Rule 55(b)(2) of the Federal Rules of Civil Procedure. The FTC’s Motion for Entry

of Default Judgment Against Defendants is hereby granted, and **IT IS THEREFORE ORDERED, ADJUDGED AND DECREED** as follows:

FINDINGS

1. This Court has jurisdiction over the subject matter of this case and the parties hereto.
2. Venue and service of process are proper.
3. Defendants have engaged in activities in or affecting commerce, as “commerce” is defined in 15 U.S.C. § 44.
4. This action was instituted by the FTC under Sections 5, 12, 13(b) and 19 of the FTC Act, 15 U.S.C. §§ 45, 52, 53(b), 57b and CAN-SPAM, 15 U.S.C. § 7706(a). The Commission seeks permanent injunctive relief and monetary and other equitable relief for deceptive acts or practices by Defendants in connection with the sale of hoodia gordonii and human growth hormone (“HGH”) products and the initiation of commercial e-mail messages in violation of CAN-SPAM. Pursuant to Sections 13(b) and 19, 15 U.S.C. §§ 53(b) and 57b, the FTC has the authority to seek the relief it has requested.
5. The FTC’s Complaint states a claim upon which relief may be granted against Defendants under Sections 5, 12, 13(b) and 19 of the FTC Act, 15 U.S.C. §§ 45, 52, 53(b) and 57b.
6. Defendants were served with the Complaint and Summons as required by Rule 4(e) and 4(h) of the Federal Rules of Civil Procedure. Defendants appeared in this matter through counsel.
7. On August 27, 2004, the Court signed a Stipulated Preliminary Injunction Order With Asset Freeze and Other Equitable Relief. In the Preliminary Injunction, Defendants

stipulated that they “received service of the Complaint, Summons and TRO[.]” Defendants further stipulated that this Court has subject matter jurisdiction and personal jurisdiction over Defendants.

8. On November 6, 2007, the Court adopted the parties’ proposed discovery dates and issued a scheduling order. The Court’s scheduling order required that initial disclosures pursuant to Fed. R. Civ. P. 26(a)(1) be tendered on or before November 6, 2007. On December 10, 2007, Magistrate Judge Denlow granted the FTC’s motion to compel Defendants to tender their initial disclosures, and ordered Defendants to serve their initial disclosures on or before December 19, 2007 or be barred from calling any witnesses or producing any documents in defense of this case. Defendants still have not tendered their initial disclosures.

9. On January 8, 2008, the Court granted the FTC’s motion for entry of default. The FTC is therefore entitled to a default judgment pursuant to Rule 55(b) of the Federal Rules of Civil Procedure.

10. The Court now finds that, in connection with the advertising, marketing and sale of their hoodia products, Defendants violated Sections 5(a) and 12 of the FTC Act, 15 U.S.C. §§ 45(a) and 52, by falsely representing, expressly or by implication, that:

- (A) the hoodia products cause rapid and substantial weight loss, including as much as forty pounds in a month;
- (B) the hoodia products cause users to lose safely three or more pounds per week for multiple weeks;
- (C) the hoodia products cause permanent weight loss; and/or
- (D) scientific research establishes that the hoodia products cause substantial weight loss.

