

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF GEORGIA  
ATLANTA DIVISION

\_\_\_\_\_  
FEDERAL TRADE COMMISSION, )  
 )  
 Plaintiff, )  
 )  
 v. )  
 ) CIVIL NO. 1-03-CV-3822  
UNIVERSAL NUTRITION CORPORATION, )  
 )  
 MTM MARKETING AND CONSULTING, INC., )  
 )  
 and ROBERT J. MICHNAL, )  
 )  
 Defendants. )  
\_\_\_\_\_  
 )  
 ) Judge

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

Plaintiff, the Federal Trade Commission (“FTC” or “Commission”), through its undersigned attorneys, for its Complaint alleges:

1. Plaintiff FTC brings this action under Section 13(b) of the Federal Trade Commission Act (“FTC Act”), 15 U.S.C. § 53(b), to secure injunctive relief, consumer redress, disgorgement, and other equitable relief against Defendants for engaging in deceptive acts or practices and false advertising in connection

with the advertising, marketing, and sale of a purported weight loss product in violation of Sections 5(a) and 12 of the FTC Act, 15 U.S.C. §§ 45(a) and 52.

**JURISDICTION AND VENUE**

2. This Court has jurisdiction over this matter pursuant to 15 U.S.C. §§ 45(a), 52, 53(b) and 28 U.S.C. §§ 1331, 1337(a), and 1345.
3. Venue in this District is proper under 15 U.S.C. § 53(b) and 28 U.S.C. § 1391(b) and (c).

**PLAINTIFF**

4. Plaintiff, the Federal Trade Commission, is an independent agency of the United States Government created by statute. 15 U.S.C. §§ 41-58. The Commission 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 Commission 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. The Commission, through its own attorneys, may initiate federal district court proceedings to enjoin violations of the FTC Act and to secure such equitable relief, including consumer redress, as may be appropriate in each case. 15 U.S.C. § 53(b).

## DEFENDANTS

5. Defendant Universal Nutrition Corporation (“UNC”) is a closely held Nevada corporation with its principal office or place of business at 5875 Peachtree Industrial, Norcross, GA 30092-3677. At times relevant to the complaint, acting individually or in concert with others, UNC has advertised, marketed, distributed, and/or sold ThermoSlim to consumers throughout the United States. UNC transacts business in the Northern District of Georgia.

6. Defendant MTM Marketing and Consulting, Inc. (“MTM”), is a closely held Georgia corporation with its principal office or place of business at 5875 Peachtree Industrial, Norcross, GA 30092-3677. At times relevant to the complaint, acting individually or in concert with others, MTM has advertised, marketed, distributed, and/or sold ThermoSlim to consumers throughout the United States. MTM transacts business in the Northern District of Georgia.

7. Defendant Robert J. Michnal is President and Treasurer of UNC and Chief Executive Officer and Chief Financial Officer of MTM. At all times relevant to this Complaint, acting individually or in concert with others, Mr. Michnal has formulated, directed, or controlled the policies, acts, or practices of UNC and MTM, including the acts or practices alleged in this Complaint. He transacts

business in the Northern District of Georgia.

8. Defendants UNC, MTM, and Robert J. Michnal (the "UNC/MTM defendants") have operated a common business enterprise while engaging in the deceptive acts and practices alleged below and are therefore jointly and severally liable for said acts and practices.

### **COMMERCE**

9. The acts and practices of defendants alleged in this Complaint have been in or affecting commerce, as "commerce" is defined in Section 4 of the FTC Act, 15 U.S.C. § 44.

### **DEFENDANTS' COURSE OF BUSINESS**

10. Since at least 1996, the UNC/MTM defendants have manufactured, labeled, advertised, offered for sale, sold, and distributed ThermoSlim, a purported weight loss product, to the public. The UNC/MTM defendants primarily advertise and offer ThermoSlim for sale through a 30-minute, nationally disseminated television infomercial. In addition, the UNC/MTM defendants advertise and offer ThermoSlim for sale through direct mail and the [www.universalnutritioncorp.com](http://www.universalnutritioncorp.com), [www.thermoslim.com](http://www.thermoslim.com), and [www.thermoslim.net](http://www.thermoslim.net) websites.

## **ThermoSlim**

11. ThermoSlim is a tablet containing ephedrine alkaloids. The UNC/MTM defendants charge \$59.95 plus \$8 shipping and handling for a 90 tablet, one-month supply of ThermoSlim and the accompanying Accelerator dietary supplement containing Guarana (together, "ThermoSlim").

12. To induce consumers to purchase ThermoSlim, the UNC/MTM defendants have disseminated or caused to be disseminated, among other things, a 30-minute television infomercial; Internet advertisements on websites including [www.universalnutritioncorp.com](http://www.universalnutritioncorp.com); and a direct mail piece. These advertisements include but are not limited to the attached Exhibits A through C and contain, among other things, the following statements or depictions:

a. **[EXCERPTS FROM INFOMERCIAL]**

FEMALE HOST: What if I told you there is a weight loss product that allows you to lose up to 75 percent of your body fat in just a few weeks, and what if I also told you this product also gives you a 100 percent guarantee of satisfaction?

*[ON SCREEN: Before and after photos of various individuals flashing on screen*

*Size 12 to a 4  
Lost 38 Pounds  
Lost 83 Pounds]*

FEMALE HOST: Well, extensive research has proven the natural ingredients in ThermoSlim can do exactly that for you.

*[ON SCREEN: Before and after photos*

*Lost 100 Pounds]*

UNIDENTIFIED FEMALE: ThermoSlim has changed my life because I'm a totally different person and I love it. I've lost 100 pounds and I've maintained my weight for over a year and I feel wonderful. Look at me now.

\* \* \*

*[ON SCREEN: Dr. Richard Kaplan, D.O.]*

DR. RICHARD KAPLAN: In my opinion as a physician, this is the safest and most effective product available for weight loss.

MALE ANNOUNCER: ThermoSlim has been formulated with a medically proven break-through natural ingredient that targets the fat cells in your body.

*[ON SCREEN: Burns Fat Not Muscle!]*

MALE ANNOUNCER: It speeds up your metabolism to burn fat and not muscle.

*[ON SCREEN: ThermoSlim Results*

*Lose Weight Without:*

*Missing Your Favorite Foods*

*Strenuous Exercise*

*Depriving Yourself]*

MALE ANNOUNCER: The result, you lose weight without missing your favorite foods, without any strenuous exercise and without depriving yourself.

FEMALE HOST: These are just some of the letters we get every day from satisfied customers. Listen to what they say about never feeling hungry and still being able to eat their favorite foods.

*[ON SCREEN: Before and after photos*

*Lost 83 Pounds*

*"I ate what I wanted and kept losing."*

*- Jackie Carrico]*

JACKIE CARRICO: I ate what I wanted and kept losing.

*[ON SCREEN: Before and after photos*

*Lost 64 Pounds*

*"I was never weak or hungry."*

*- Erik Elias]*

ERIK ELIAS: I was never weak or hungry.

[ON SCREEN: *Before and after photos*

*Lost 68 Pounds*

*"ThermoSlim has really helped me control my hunger."*

*- Kathy Sumner]*

KATHY SUMNER: ThermoSlim has really helped me control my hunger.

\* \* \*

PENNY ARIAS: I'll still have my hamburgers, french fries, my milkshakes, and I'm still dropping off the weight. ThermoSlim has been a blessing in my life.

[ON SCREEN: *Kathy Hamby  
South Carolina*]

KATHY HAMBY: Before, I thought I had to starve to death to lose weight and it came right back on. With ThermoSlim, I could eat food, normal food, and the weight was coming off.

[ON SCREEN: *Before and after photos  
Lost 17 Inches  
Lost 32 Pounds*]

KATHY HAMBY: I lost a total of 17 and a half inches with ThermoSlim. I did not have the cravings, I did not go in the back door every afternoon after work and go to the cabinet and pull out a bag of chips. It definitely curbed my appetite.

\* \* \*

[ON SCREEN: *Emily Seidell  
Michigan*]

EMILY SEIDELL: I eat whatever I want with ThermoSlim. I eat pizza, I eat chocolate.

[ON SCREEN: *Before and after photos  
Lost 68 Pounds*]

EMILY SEIDELL: I went from 195, got on the scale this morning and I weigh 127 pounds. I feel incredible. My sister just started on the product. She

said, can I eat whatever I want. I said, yes, eat whatever you want. And she's lost 25 pounds.

DR. RICHARD KAPLAN: ThermoSlim is fantastic in helping people curb their cravings. Absolutely wonderful. As a matter of fact, you'll notice early in the game that your sugar and fat cravings will be reduced by your taking these ThermoSlim products.

\* \* \*

FEMALE ANNOUNCER: How would you like to lose weight, have that figure you've always dreamed of having and still eat your favorite foods?

[ON SCREEN: *ThermoSlim*]

FEMALE ANNOUNCER: Well, now you can thanks to the thermogenic formulation of ThermoSlim which keeps on burning fat and not lean muscle tissue --

[ON SCREEN: *Burns Fat Not Lean Muscle!*]

FEMALE ANNOUNCER: -- even for hours after taking the product.

[ON SCREEN: *www.universalnutritioncorp.com  
1-800-579-7581*]

DR. RICHARD KAPLAN: One of the scientific advantages of ThermoSlim is that after you lose body fat, you won't lose muscle and, therefore, you'll stay lean.

[ON SCREEN: *Before and after photos  
Lost 160 Pounds  
ThermoSlim  
www.universalnutritioncorp.com  
1-800-579-7581*]

UNIDENTIFIED FEMALE: ThermoSlim makes it so easy. I lost a total of 160 pounds. It was like a miracle.

\* \* \*

FEMALE ANNOUNCER: Only ThermoSlim makes you six promises and allows you to try the product risk-free for 90 days.

[ON SCREEN: *Before and after photos  
Lost 83 Pounds*

*ThermoSlim*  
[www.universalnutritioncorp.com](http://www.universalnutritioncorp.com)  
1-800-579-7581]

FEMALE ANNOUNCER: Eat your favorite foods and still lose the weight you want.

[ON SCREEN: *Before and after photos of various individuals flashing on screen*

*Lost 63 Pounds  
Lost 98 Pounds  
Lost 50 Pounds  
Lost 79 Pounds  
Lost 70 Pounds]*

FEMALE ANNOUNCER: Lose fat, not muscle easily and rapidly. You won't feel hungry or deprived. You will keep the weight off. You'll have more energy. You will not feel any harmful side effects.

\* \* \*

KAREN KAUTH: Taking ThermoSlim was so simple and I saw results immediately. I lost 42 pounds in three months. I've been off and on ThermoSlim for eight years now and it always works when I need to lose a couple of pounds.

[ON SCREEN: *Karen Kauth  
Wisconsin*]

KAREN KAUTH: I've recommended ThermoSlim to dozens of people, family, friends, coworkers, and every one of them has lost weight.

\* \* \*

ANN KUKLA: I could have eaten three cheesecakes before I started ThermoSlim. It was like I would just eat non-stop. I would just keep eating and eating and eating and eating.

[ON SCREEN: *Before and after photos  
Lost 60 Pounds  
www.universalnutritioncorp.com  
1-800-579-7581*]

ANN KUKLA: But ThermoSlim curbs your appetite. I still eat the cheesecake and I don't gain any weight. I actually lose weight and it's wonderful. It's great. ThermoSlim is the easiest product that I've taken to lose weight.

\* \* \*

FEMALE HOST: The true test of any weight loss plan is not only if customers can take the weight off, but if they can keep it off.

[ON SCREEN: *Before and after photos*

*Lost 82 Pounds*

*"Best of all, I've maintained my weight loss for three years, thanks to ThermoSlim."*

*- Janelle Langtock]*

JANELLE LANGTOCK: Best of all, I've maintained my weight loss for three years, thanks to ThermoSlim.

[ON SCREEN: *Before and after photos*

*Lost 82 Pounds*

*"I am very happy with ThermoSlim. I have lost over 60 pounds and have kept it off."*

*- Liret Cortas]*

LIRET CORTAS: I am very happy with ThermoSlim. I have lost over 60 pounds and have kept it off.

[ON SCREEN: [www.universalnutritioncorp.com](http://www.universalnutritioncorp.com)

*1-800-579-7581]*

FEMALE HOST: Quite simply, that's why ThermoSlim has been so successful for over 14 years. Customers rave about how simple it is to maintain their weight loss.

[ON SCREEN: *Pam Gish*

*Illinois]*

PAM GISH: Since doing the last show, it's been really, really easy to keep off the weight, and even since then, I've lost about 20 more pounds making it a total of 160 pounds that I've lost.

[ON SCREEN: *Before and after photos*

*Lost 160 Pounds*

*[www.universalnutritioncorp.com](http://www.universalnutritioncorp.com)*

*1-800-579-7581]*

PAM GISH: ThermoSlim makes it so easy for me to keep my weight off and I just feel fabulous. I mean, I just -- I can't even explain it.

[ON SCREEN: *Lori Hillman*  
*Louisiana*]

LORI HILLMAN: I wanted to appear on the ThermoSlim show again to help other people who have struggled with their weight.

[ON SCREEN: *Before and after photos*  
*Lost 116 Pounds*  
*Kept weight off 10 years*  
*www.universalnutritioncorp.com*  
*1-800-579-7581*]

LORI HILLMAN: When I started taking ThermoSlim, I weighed 230 pounds and for the last 10 years, I've maintained my weight at 114. I take ThermoSlim when I feel that I may be gaining any weight back. It's very easy.

[ON SCREEN: *www.universalnutritioncorp.com*  
*1-800-579-7581*]

LORI HILLMAN: It works. It works. It changed my whole life.

[ON SCREEN: *Josie Amador*  
*Arizona*]

JOSIE AMADOR: I wanted to be on the show again to let people know that the ThermoSlim really does work.

[ON SCREEN: *Before and after photos*  
*Lost 75 Pounds*  
*www.universalnutritioncorp.com*  
*1-800-579-7581*]

JOSIE AMADOR: I lost 75 pounds six years ago and today I have still maintained the weight I lost.

\* \* \*

FEMALE HOST: If a weight loss product is going to be successful, you've got to see results fast.

[ON SCREEN: *Before and after photos*  
*Lost 55 Pounds*  
*"I lost 55 pounds... like that."*  
- *Patty Hennessey*]

PATTY HENNESSEY: I lost 55 pounds like that.

[ON SCREEN: *Before and after photos*

*Lost 50 Pounds*

*"I lost 30 pounds in the first month."*

*- Harvell Baker]*

HARVELL BAKER: I lost 30 pounds in the first month.

[ON SCREEN: *Emily Seidell*

*Michigan]*

EMILY SEIDELL: I first heard about ThermoSlim through the infomercial. I was up early one morning and happened to see it and I looked at myself in the mirror and thought, wow, this is bad.

[ON SCREEN: *Before and after photos*

*Lost 68 Pounds*

*Lost 2 Sizes in 2 Weeks*

*www.universalnutritioncorp.com*

*1-800-579-7581]*

EMILY SEIDELL: Within the first two weeks, I dropped from a size 18 into a 16.

\* \* \*

[ON SCREEN: *Jessica White*

*Washington]*

JESSICA WHITE: Well, I had my third child, couldn't lose any weight, saw the commercial for ThermoSlim, decided what did I have to lose besides pounds.

[ON SCREEN: *Before and after photos*

*Lost 33 Pounds*

*www.universalnutritioncorp.com*

*1-800-579-7581]*

JESSICA WHITE: So, I decided to call the number and order ThermoSlim and start taking it. Within the first week, I had lost a considerable amount of inches and weight.

[ON SCREEN: *www.universalnutritioncorp.com*

*1-800-579-7581]*

JESSICA WHITE: With ThermoSlim, I lost 33 pounds in two

months. Not even two months, it was about six weeks.

FEMALE HOST: How many times have you tried to lose weight and somehow you just don't have the energy? That's one of the reasons diets don't work. Well, with ThermoSlim, the opposite is true. You will feel an incredible energy boost right from the start.

\* \* \*

FEMALE ANNOUNCER: How would you like to lose weight, have that figure you've always dreamed of having and still eat your favorite foods?

[ON SCREEN: *ThermoSlim*]

FEMALE ANNOUNCER: Well, now you can thanks to the thermogenic formulation of ThermoSlim which keeps on burning fat and not lean muscle tissue --

[ON SCREEN: *Burns Fat Not Lean Muscle!*]

FEMALE ANNOUNCER: -- even for hours after taking the product.

[ON SCREEN: [www.universalnutritioncorp.com](http://www.universalnutritioncorp.com)

*1-800-579-7581*]

DR. RICHARD KAPLAN: One of the scientific advantages of ThermoSlim is that after you lose body fat, you won't lose muscle and, therefore, you'll stay lean.

\* \* \*

FEMALE HOST: Another reason many diets don't work is because they require extensive exercise. Who has the time anyway? Now, with ThermoSlim, you don't have to do any strenuous exercise at all to lose weight.

[ON SCREEN: *Dr. Richard Kaplan, D.O.*]

DR. RICHARD KAPLAN: Another advantage of the ThermoSlim program is that special exercise is not necessary to lose weight.

[ON SCREEN: *Jolan Kazmirski  
New York*]

JOLAN KAZMIRSKI: I think ThermoSlim is different than anything else I've ever been on because there's no boundaries in the product.

[ON SCREEN: *Before and after photos  
Lost 80 Pounds*

*www.universalnutritioncorp.com*

*1-800-579-7581]*

JOLAN KAZMIRSKI: You can eat all your favorite foods, you can exercise if you want to, but you will lose weight without the exercising.

*[ON SCREEN: www.universalnutritioncorp.com*

*1-800-579-7581]*

JOLAN KAZMIRSKI: I just found that exercising, I do lose it quicker.

\* \* \*

BARBARA CHARLTON: I've lost a total of about 65 pounds. I haven't had to do any extra exercising or any programs. All I've had to do is just take the ThermoSlim and I've lost the weight.

\* \* \*

*[ON SCREEN: Karen Kauth  
Wisconsin]*

KAREN KAUTH: I found I didn't have to exercise with ThermoSlim to lose weight, but if I did exercise, I lost that much faster.

\* \* \*

FEMALE HOST: You've probably heard about all those so-called miracle diet products that can be harmful to your health. But with ThermoSlim, you just won't find a safer product that's more effective. ThermoSlim is formulated with the highest quality all-natural ingredients.

DR. RICHARD KAPLAN: ThermoSlim, of course, is a product that comes from all botanical sources, which are all-natural. ThermoSlim is a wonderful product because it's so safe and it's so effective.

UNIDENTIFIED FEMALE: What I like about ThermoSlim is that it's all-natural. There's nothing harmful in it and that was a main concern of mine.

UNIDENTIFIED FEMALE: Knowing that ThermoSlim was safe and all-natural was tremendous and it gave me even more encouragement to go ahead and take it, and it does, it makes you feel wonderful, and I've never had

side effects, ever.

\* \* \*

FEMALE HOST: We've all seen dozens of fad diets come and go and sometimes even change their formulation in mid-stream. Well, ThermoSlim's unique, all-natural formula has remained exactly the same for over 14 years. In fact, ThermoSlim's ingredients were scientifically tested for over 10 years before they were even made available to the public, and the results speak for themselves.

[At various points throughout the infomercial, fine-print disclaimers appear at the bottom of the television screen stating: "This result is not typical, you may be less successful."]

- Exhibit A, transcript of infomercial, pp. 3-9, 12-16, 19, 21, 25-28, 31, 35-40

b. [EXCERPTS FROM INTERNET WEBSITE]



**ThermoSlim speeds up your body's ability to burn fat.**

Imagine losing 75% of your body fat in just six weeks! That's what laboratory research showed the amazing "fat burning" substance in ThermoSlim can do.

ThermoSlim burns fat like a laser.

With the medically proven, fat-burning substance in ThermoSlim, you can push your body's calorie-burning ability into high gear:

without missing your favorite foods!

without exercise!

without hunger and deprivations!

Shown to be effective by doctors -- ThermoSlim is not a dangerous drug, unnatural chemical or simple vitamin. The active ingredient in ThermoSlim is a weight loss breakthrough of enormous importance. It has been used by a doctor on people just like you with a 95% success rate!

**Gone forever is your need for daily willpower to watch your diet.** Or the need to spend hours exercising. ThermoSlim does it all for you -- 24 hours a day, burning fat while you eat, sleep, work or relax.

\* \* \*

### **UNC's Unconditional Guarantee**

**"ThermoSlim wants you to succeed. We know you'll lose all the weight you want to, rapidly and without difficulty, diets or exercise. That we promise. But if you are unhappy with ThermoSlim for any reason, return the empty bottles (we'd like you to use the entire supply for every chance of success) within 90 days with proof of payment. We'll refund the full product price"**

\* \* \*



"I saw the commercial for ThermoSlim on television and even though I was skeptical, the money-back guarantee convinced me to give ThermoSlim a try. I'm sure glad I did. Within a week I started seeing results. After one month I had lost 30 pounds and everyone started asking me what I was doing. I told them about ThermoSlim and referred them to this Web Site. And now here I am showing my "Before & After" photos.

"I lost over 100 pounds taking ThermoSlim and I've gone from a size 24 to a size 6. I love it! Before trying ThermoSlim, I had tried everything to lose weight and nothing worked. With ThermoSlim I did not feel nervous or jittery, just full of energy and not as hungry. Taking Thermoslim has changed my life, as you can clearly see from my photos. Thank you, ThermoSlim."

Now take a look at more of the amazing before and after pictures ThermoSlim users have

sent to us. These pictures are untouched -- they were not taken by professional photographers, but by ThermoSlim users themselves, proud and eager to show UNC just how well ThermoSlim helps you to lose weight and keep the weight off pound after pound, year after year.

**To see the remarkable results, simply place your cursor over the BEFORE picture. We think you'll be more than amazed.**

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### **59 pounds gone!**

"I was very happy with your product. I took the product for 4 months and went from 209 to 150 and it was easy.

Thank-you!"

Brian Lloyd McCawley, Louisville, KY

### **104 pounds gone!**

"I lost 104 pounds since I started taking ThermoSlim and have gone down from a size 22 to a size 8/10. I recommend ThermoSlim to everyone. As a result, several of my frined started taking ThermoSlim and all are losing weight as well." **Donna Putnam, South Carolina**

### **83 pounds gone!**

Jackie went from 215 pounds to 132 pounds -- dropping from a size 22 to a slim and sexy size 14.

Jackie Carrion, Florida

### **70 pounds gone!**

"I was 196 pounds. Now I'm 126 pounds. ThermoSlim made it easy!"

Terry DiLeonardo, New Jersey

### **50 pounds gone!**

"I've lost 50 pounds. So you know ThermoSlim is working for me. Great product.

Leonard Fridella, New York

### **55 pounds gone!**

"I lost 55 pounds like that! What's more I did it during the time of the year when you gain weight: labor day through Halloween, Thanksgiving and December holiday parties. I went from a size 16 to a size 10 thanks to ThermoSlim" **Patty Hennessey, New Jersey**

### **48 pounds gone!**

"I lost 48 pounds; my daughter lost 50 pounds and went from a size 18 to a size 9. ThermoSlim is one of the easiest ways to lose. I didn't get hungry, or think about food all

the time. And I have not gained back one pound!

Marilyn Gongwer, Tennessee

### **32 pounds gone!**

"Thank you! I've lost 32 pounds. I was a size 14 when I started ThermoSlim. Now I'm a size 7!"

Karen Kouth, Wisconsin

\* \* \*

ThermoSlim has been the weight loss choice of over 1 million Americans. ThermoSlim helps you lose weight, keep the weight off, look better, feel better, and have more energy.

But don't take our word for it!

Read the inspiring comments from some ThermoSlim users and see for yourself how powerful the ThermoSlim formulation can be. Losing weight is really this easy -- if you use ThermoSlim.

(These comments are unedited, and appear just as we received them from customers -- people just like you who have tried pills and powders and fad diets, only to find that amazing weight loss was just one step away with ThermoSlim.)

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#### **95 pounds gone in 60 days**

"I'm 66 years old & given up on ever losing weight.. ThermoSlim gave me a new lease on life."

*Lauella Sherrill, New York*

#### **43 pounds gone**

"Thanks to ThermoSlim I went from 164 pounds of unhappiness to 121 pounds of excitement: size 16 to a size 7. I eat everything and anything & have not gained back even 1 pound."

*Tina Senoran, California*

#### **62 pounds gone**

"I tried everything to lose weight after my second child. Then I discovered ThermoSlim and lost 62 pounds I feel 100% better and look it."

*Lynda Brust, Oregon*

#### **48 pounds gone**

"I lost 48 pounds; my daughter lost 50 pounds and went from size 18 to size 9. ThermoSlim is one of the easiest ways to lose. I didn't get hungry or think about food all the time. And I have not gained back 1 pound."

*Marilyn Gongwer, Tennessee*

#### **25 pounds gone in 21 days**

"Never seen a product like it and I've tried just about everything! And I don't get nervous or hungry."

*Doris McComas, Ohio*

#### **76 pounds gone**

"I really ate what I wanted and kept losing! What a great feeling to fit into clothes I wore in high school. Losing weight has given me a great outlook on life. Thanks for making me happy again. ThermoSlim is totally amazing."

*Johann Brabham, Vermont*

**Over 3 years later!**  
"I lost 60 pounds in  
60 days and have  
kept it off."  
*Tina Ashline, Texas*

**55 pounds gone**  
"I've used a lot of  
different products:  
nothing worked like  
ThermoSlim."  
*Dave Hopkins, Illinois*

**15 pounds gone in 16  
days**  
"Amazingly I shed  
about one pound-a-day  
over the peak holiday  
party time, Dec. 21  
thru Jan. 6."  
*Donna Humphrey, Arizona*

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\* \* \*

### **Dr. Richard Kaplan answers your questions about ThermoSlim**

\* \* \*

## **ThermoSlim Frequently Asked Questions**

### **Can I still eat the foods I love and lose weight?**

Yes. Dieting, or depriving yourself of your favorite foods, is not necessary. ThermoSlim acts to reduce the cravings and lessen the appetite, so you're not as likely to overeat, nor are you ravenous between meals. You remain satisfied longer and with less food. Also, the research on the active ingredient in ThermoSlim showed that it inhibits the conversion of carbohydrates into fat. So, you wonder why is that important? Well, you know we all like to eat carbohydrates, and we all know that under normal circumstances it's the unused carbohydrates that are directly converted into and stored as body fat. So with ThermoSlim you are effectively blocking the conversion of these carbohydrates into body fat.

Short answer: you can eat the foods you love, and you'll be less likely to binge or eat the wrong foods between meals.

\* \* \*

### **Can I lose weight with ThermoSlim without having to exercise?**

Yes, you can. ThermoSlim actually elevates the body's metabolic rate by increasing the body's thermogenic output. Thermogenesis is a very important way the body has of burning calories. It's what scientists refer to as the body's level of energy expenditure. So it's important especially for weight loss, to keep your thermogenic output at a high level.

And, ThermoSlim keeps your thermogenic calorie burning output high with or without exercise. I like to call ThermoSlim, exercise in a bottle. In fact, if you take it just three times a day before meals, ThermoSlim will stimulate the thermogenic response to the point where the thermogenic response is burning about the same number of calories as the person would burn by running up to three miles a day. So basically, what you're doing is getting the

equivalent calorie burning benefit of exercise just by taking ThermoSlim.

Of course, I don't want to be accused of discouraging anybody from exercise. Exercise is very beneficial for weight loss and has many other health benefits, which have been well documented as well. But for people who can't exercise because of physical disability or for whatever reason, ThermoSlim certainly provides much of the same benefit in an easy to take tablet form.

\* \* \*

**How much research did ThermoSlim do before they offered it to the public?**

The ingredients in ThermoSlim had been shown to be safe and effective for weight loss dating back to the early 80's. As a matter of fact, the first groundbreaking study that showed significant weight loss using the ingredients in ThermoSlim was actually published in the International Journal of Obesity back in 1981. So the ingredients in ThermoSlim have a long and well-documented scientific history of being safe and effective for weight loss.

\* \* \*

**You say that ThermoSlim is more than just a diet, and it results in figure transformation. Can you elaborate?**

Yes, to cite a recent medical study that showed when compared to dieting, the ingredients in ThermoSlim increased fat loss by 100%, and decreased muscle breakdown by 72%. So the women in this study taking the ingredients in ThermoSlim lost twice as much body fat as the women who lost weight by dieting. Also, these women taking the ThermoSlim ingredients retained 72% more of their muscle than did the women who dieted. The bottom line is in all of this is ThermoSlim causes you to burn the fat and keep the muscle, and that as every woman knows is the essence of healthy figure transformation.

\* \* \*

**Remember – Your purchase price is fully guaranteed.** If you are not satisfied with ThermoSlim for any reason, just return the empty containers (we would like you to use the entire supply to give yourself every chance for success) within 90 days with proof of payment. The full product price will be refunded.

\* \* \*

Please complete the following information, and we'll rush your order to you. If you prefer, you can order immediately by calling UNC – please have your credit card information ready.

\* \* \*

**An \$8.00 shipping fee is added to each order.**

**All U.S. orders are sent via Priority Mail. You should receive your purchase within 7-10 business days.**

\* \* \*

- Exhibit B, pp. 1, 2, 5-14, 16, 17 of website

c. [EXCERPTS FROM DIRECT MAIL PIECE]

**DR. RICHARD KAPLAN, D.O.**

**Nutritional Medicine, Weight Loss, Food Allergies**

(Licensed to practice and resides in the State of New Jersey)

From: Dr. Richard Kaplan  
Thursday, 3:30 P.M.

Re: Nationwide Campaign  
**Learn How You can Burn Off Body Fat Hour-By-Hour**  
(and receive a FREE GIFT)

Dear Friend:

Have you been invited recently to participate in the most incredible weight loss campaign?

Participation is by referral only, so please read this letter carefully, very carefully. You may not get another chance. Here's why . . .

**If you would like to lose up to 10 pounds in the first 72 hours, dissolve up to 15 pounds in the first week, easily drop 30 pounds in the first month and then continue losing 50, 60, even 100 pounds or more, participation in this campaign is for you.**

And you will receive a FREE GIFT worth \$34.95 for your help. Why?

Well, I heard about a new and extremely powerful weight loss formula from some friends and colleagues. One of the doctors reported that 95% of his patients using this formula experienced outstanding weight loss. During a twelve week program, they lost an average of 24 pounds. One patient lost 40 pounds and all this in spite of the fact that these patients had a long history of obesity.

So, after reading the research on this powerful formula, I have decided to join forces in a campaign that will prove without a doubt, that this amazing formula is just what is needed to help solve the problem of being overweight. And listen to this . . .

**In the past eighteen months 136,464 people have decided to participate in this extremely effective campaign. A sample of over 100 letters from participants who used this powerful weight**

**loss formula indicated an average weight loss of 22.7 pounds in only a 2 to 4 week period. One woman reported losing 106 pounds in only 2-1/2 months. And there was no mention of exercising in order to achieve these successes.**

I can understand a certain amount of reluctance in believing such incredible results. That's why, unlike many advertised weight loss products, we enlisted the support of physicians, real doctors with their own license to practice medicine. Therefore, it would be absurd to give this formula such praise, unless all these claims were absolutely true.

So, how did these people achieve such remarkable results? Easy, with the amazing formula available in a proven product called ThermoSlim. The ingredients in ThermoSlim aid a person in super high speed weight loss by creating a condition called thermogenesis.

Thermogenesis according to the most highly respected sources in the world, is the process of igniting your internal body heat at a tremendous rate. This heat will push your body's calorie and fat burning ability into high gear, very high gear, without forcing you to suffer through terrible and unwanted hunger pangs. So you lose weight naturally, safely, and biologically.

**Can you imagine the excitement and joy of having a slimmer, more attractive figure than you have had in years? Well now you can achieve those results in just a few short weeks.**

And there's more good news. While ThermoSlim contains the most effective formula available to speed up thermogenesis, it is available without a prescription. Also medical research has shown that the ingredients in ThermoSlim can:

- \* Stimulate the rapid-fire burning of millions of fat cells
- \* Are especially effective for stubborn weight problems
- \* Feature long-term effectiveness and fat-burning
- \* Helps reduce body fat, not lean muscle
- \* Lets you eat and live normally while you lost weight

**M.B. of Visalia, CA, reported that "within a month's time I've dropped 30 pounds. I'm also 2 dress sizes smaller. I actually could feel at times my fat falling off me."**

So, if you've repeatedly tried to lose weight but have been

unsuccessful, it may be because like most people, your body lacks the ability to burn fat properly. In fact, severe dieting can even hinder the fat-burning process. Because when you diet, your body thinks it's starving, so it actually starts to conserve fat and store it. And that may be why you can't lose weight.

ThermoSlim contains ingredients that enable your cells to burn calories more quickly, and more efficiently. As a result, you will shed years of accumulated body fat effortlessly.

With ThermoSlim, severe dieting restrictions or prolonged heavy exercise is not necessary. In fact, it's not even recommended. Further good news is that body fat was rapidly lost even by obese patients who did not reduce their normal intake of food. One patient...

**Mary B. of California reports, "I lost 16 pounds. I even lost weight through Thanksgiving and Christmas. I ate everything I wanted."**

And several other participants lost 30 pounds (an average of 7-1/2 pounds per week) in just 4 weeks... without severe dieting and without exercising.

Naturally you may be concerned about the effects of such rapid and dramatic weight loss, and you should be. Well let me assure you that one of the doctors not only used ThermoSlim on himself, but he continued using it. And furthermore, he had years of success with his patients taking ThermoSlim, even before we began our nationwide awareness campaign.

So now, after years of doctor endorsements, and months of further successful nationwide involvement, it is time for us to prove to everyone in this country, that ThermoSlim is without a doubt the best way to lose weight. Remember, you don't need a prescription, there's no severe dieting or exercising, it's fully automatic, and has been extensively used safely and effectively by thousands of people.

**ThermoSlim is available by referral only. It is not, I repeat not, available in any drug store, supermarket, or health food store. It is not available through any T.V., radio, magazine, or newspaper ad.**

So if you, or any of your friends or relatives would like to participate in helping gather thousands more testimonials, from people losing millions of pounds, keep reading.

...

Also remember that well over 411,289 people have safely tried ThermoSlim. And in one physician's practice 95% of all patients experienced success. But success is guaranteed 100% of the time. So...

Use ThermoSlim as directed, and if you don't lose weight quicker than you ever dreamed possible, just return the empty containers (use the entire supply to give yourself every chance for success) within 60 days with proof of payment. The full product price will be refunded. No questions asked and no hard feelings. And keep your \$34.95 gift as our way of saying thanks for giving ThermoSlim a try.

. . .  
Sincerely,  
(signature)

PRL/KAP

Dr. Richard Kaplan, D.O.

P.S. Since your trying ThermoSlim is so very important to us, everyone who tries it will receive a \$34.95 FREE gift, and an additional \$19.95 FREE gift for sending in your comments. Please read the enclosed color brochure now for further proof of ThermoSlim's effectiveness, and see what you will get just for giving ThermoSlim a try.

This letter is only a product endorsement and is not intended as medical advice for which you should always consult your own physician.

- Exhibit C, Letter from Dr. Richard Kaplan, D.O. dated "Thursday, 3:30 P.M."

(Note: Formatting of type and layout of excerpts above differs from original; some images omitted; for exact formatting see exhibits.)

### 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. Section 12(a) of the FTC Act, 15 U.S.C. § 52(a), 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, 15 U.S.C. § 52, ThermoSlim 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). As set forth below, the defendants have engaged and are continuing to engage in such unlawful practices in connection with the advertising, marketing and sale of ThermoSlim.

**UNFAIR OR DECEPTIVE ACTS OR PRACTICES  
IN VIOLATION OF THE FTC ACT**

**COUNT I  
False Claims for ThermoSlim**

14. Through the means described in Paragraph 12, including through the statements contained in the advertisements attached as Exhibits A through D, the UNC/MTM defendants have represented, expressly or by implication, that:
- a. ThermoSlim causes rapid and substantial weight loss, without the need to increase exercise or reduce caloric intake;
  - b. ThermoSlim users can eat all they want, including hamburgers, french fries, milkshakes, and cheesecake, and still lose substantial weight;
  - c. ThermoSlim enables users to lose as much as 30 pounds in 30 days, or 60 to 95 pounds in 60 days;

- d. ThermoSlim causes permanent weight loss;
  - e. Medical research proves that ThermoSlim causes rapid and substantial weight loss, without the need to increase exercise or reduce caloric intake;
  - f. Extensive laboratory research demonstrates that ThermoSlim allows users to lose up to 75 percent of their body fat in just six weeks; and
  - g. Scientific studies prove that ThermoSlim is safe for weight loss.
15. In truth and in fact:
- a. ThermoSlim does not cause rapid and substantial weight loss, without the need to increase exercise or reduce caloric intake;
  - b. ThermoSlim users cannot eat all they want, including hamburgers, french fries, milkshakes, and cheesecake, and still lose substantial weight;
  - c. ThermoSlim does not enable users to lose as much as 30 pounds in 30 days, or 60 to 95 pounds in 60 days;
  - d. ThermoSlim does not cause permanent weight loss;
  - e. Medical research does not prove that ThermoSlim causes rapid and substantial weight loss, without the need to increase exercise

- or reduce caloric intake;
- f. Laboratory research does not demonstrate that ThermoSlim allows users to lose up to 75 percent of their body fat in just six weeks; and
- g. Scientific studies do not prove that ThermoSlim is safe for weight loss.

Therefore, defendants' representations as set forth in Paragraph 14 above are false or misleading and constitute 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**  
**Unsubstantiated Claims for ThermoSlim**

16. Through the means described in Paragraph 12, above, the UNC/MTM defendants have represented, expressly or by implication, that ThermoSlim is safe.
17. The UNC/MTM defendants did not possess and rely upon a reasonable basis that substantiated the representations set forth in Paragraphs 14(a)-(d) and 16, above, at the time the representations were made. Among other reasons, use of products containing ephedrine alkaloids has been associated with certain health risks. In fact, well-controlled human studies do not establish that

ephedrine alkaloids, the active ingredient in ThermoSlim, are safe, or cause rapid or substantial weight loss without the need to increase exercise or reduce caloric intake. Therefore, the making of the representations set forth in Paragraphs 14(a)-(d) and 16, above, constitutes a deceptive 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.

### **INJURY**

18. Consumers throughout the United States have suffered and continue to suffer substantial monetary loss as a result of defendants' unlawful acts or practices. In addition, the defendants have been unjustly enriched as a result of their unlawful practices. Absent injunctive relief by this Court, the 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 the FTC Act. The Court, in the exercise of its equitable jurisdiction, may award other ancillary relief, including consumer redress, consumer education, disgorgement, and restitution, to prevent and remedy injury caused by defendants' law violations.

**PRAYER FOR RELIEF**

WHEREFORE, plaintiff requests that this Court, as authorized by Section 13(b) of the FTC Act, 15 U.S.C. § 53(b), and pursuant to its own equitable powers:

- (1) Enjoin defendants permanently from violating Sections 5 and 12 of the FTC Act, in connection with the advertising or sale of food, drugs, devices, cosmetics, or other products, services or programs;
- (2) Award such equitable relief as the Court finds necessary to redress injury to consumers resulting from defendants' violations of the FTC Act, including but not limited to redress, refund of monies paid, or disgorgement of ill-gotten gains; and
- (3) Award plaintiff the costs of bringing this action and any other equitable relief the Court may determine to be just and proper.

Dated:

Respectfully submitted,  
WILLIAM E. KOVACIC  
General Counsel

Local Counsel:

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