

**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”), 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 preliminary and 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 Elimidrol Daytime Formula and Elimidrol Nighttime Formula, dietary supplements that purportedly increase the likelihood that a person will complete opiate withdrawal successfully and overcome opiate addiction.

JURISDICTION AND VENUE

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

3. Venue is proper in this district under 28 U.S.C. § 1391(b)(1), (b)(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. §§ 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. 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 the 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 herein, Defendant Erickson transacts or has transacted business in this district.

COMMERCE

8. At all times material to this Complaint, Defendants have maintained a substantial course of trade in or affecting commerce, as “commerce” is defined in Section 4 of the FTC Act, 15 U.S.C. § 44.

DEFENDANTS’ BUSINESS ACTIVITIES

9. Defendants market Elimidrol to opiate-dependent people in two formulations: Elimidrol Daytime Formula and Elimidrol Nighttime Formula. Elimidrol Daytime Formula comprises a combination of vitamins and minerals, and what product labeling identifies as a

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

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

11. To induce consumers to purchase Elimidrol, Defendants have disseminated or have caused to be disseminated advertisements for Elimidrol, including, but not limited to, the attached Exhibits A through D. These advertisements contain the following statements and depictions, among others:

A. Excerpts from www.elimidrol.com (attached as Exhibit A)

- #1 OPIATE WITHDRAWAL SUPPLEMENT
- The Elimidrol Difference

Elimidrol is the only opiate withdrawal product guaranteed to work. Elimidrol provides a one of a kind effectiveness and potency that is unmatched by any product in the industry and backed by a 100% money-back guarantee.

- Opiate Withdrawal Supplement

America’s #1 scientifically formulated detox support supplement that will provide you with the strength and comfort to successfully overcome opiate withdrawal by alleviating the intense mental and physical discomfort during the process. Now available worldwide.

Elimidrol® was designed for effectiveness and simplicity to make this process as easy as possible for you while alleviating the negative symptoms and promoting a positive mood throughout the entire process. Experience the Elimidrol® difference today and feel the effects after just one dose!

Powerful relief for all opiate withdrawals including prescription opiates, heroin, methadone, and suboxone.

- With You From Day One

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

- 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.

- Elimidrol is non-addictive, non-habit forming, and will help you permanently overcome the withdrawal – the first time.
- 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.**
- 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.
- 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 that wasn't going to work. But this product works... When I thought stopping was too much to handle Elimidrol took away a lot of my pain and motivated me to continue fighting.

- Bill from Tennessee

- I was prescribed oxycodone by my doctor in 2002 after breaking both of my legs in a car accident. At first everything was fine, or so I believed, until about a year after the surgery I realized I was still taking the medications and started buying them on the street because I wanted more. I was arrested, spent a night in jail, and that is when the withdrawal began. The doctor was notified of the accident due to his name being on the pill bottle and immediately cut me off and switched me to methadone. This is when things became even worse, I thought the methadone was helping but in reality it was just a change of addiction from oxycodone to methadone. Now here I

was, still addicted to 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. This is when I was introduced to Elimidrol and it saved my life. This is not an exaggeration, it SAVED my life. I started taking Elimidrol and noticed within 30 minutes of the first dose that I was actually feeling pretty comfortable and I had a new sense of "clarity" in me (not sure how else to describe it). I almost cried in happiness that this worked. It was the biggest relief of my entire life to know that not only was I now completely free, I was also my old self again. I have not taken Elimidrol nor any sort of drug for the past few weeks now and feel incredible. Life is colorful again, I don't feel hopeless depression and I honestly do not think I could have done it without Elimidrol. It is sad to admit but sometimes things are just too powerful no matter how much willpower you have or think you have. I love this product.

- Elizabeth from South Carolina

- o Thank you Elimidrol! I was in the worst possible place and was taking over 10 pills a day with no end in sight. I worried everyday that I was stuck here and would never know what it felt like to live again. Elimidrol changed that. It worked so well that I'm now off them and proud of where my life is today.

- Samantha from New York

- o Elimidrol made what my wife and I thought was going to impossible, very doable. I started taking low doses of Vicodin for medical purposes, which then led to high doses of oxycodone, which then eventually led to Dilaudid. My wife then started taking oxycodone and before we realized it, everything became out of control. I lost my job, we lost our house, we were broke, and we still couldn't get ourselves to stop. My wife and I took Elimidrol for the first time together and we were ecstatic. I mean truly delighted that it actually worked. We felt this sense of normalcy and like we can do this. That was over a month ago and neither of us has touched a single drug since. Thank you Elimidrol.

- Bruce and Cheryl from Tennessee

- o Your product is a miracle. Please feel free to use this letter for your testimonial or whatever other purposes as I hope others can get the help I received from Elimidrol. I felt hopeless and like I would never return to normal after using opiates on and off for over 12 years. The depression, anxiety, vomiting, restlessness, it was all just becoming way too much to handle. I first used methadone to try and quit but the methadone withdrawal was horrible. It was so bad that I went back on oxycodone just to make it stop. Then my doctor gave me Suboxone and that was a little better but still extremely excruciating when trying to quit. I felt like the withdrawal never

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)

- 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 differences start with Elimidrol's very high success rate, which we've made possible through a carefully selected combination of potent ingredients in optimal dosage amounts that can deliver the effectiveness that's crucial to successful opiate withdrawal.

C. Excerpts from Coupondipity blog (attached as Exhibit C)

- It is time to live your life free from the restraints of opiate addiction. You don't have to keep suffering! You can stop the suffering and get your life back.

Elimidrol is a scientifically formulated detox support supplement that will provide you with not only the comfort, but the strength that is so vitally necessary to overcome the insidious addiction to opiates. It alleviates the intense physical and mental discomfort that addicts go through just to start their journey to health. Elimidrol® was designed for effectiveness and simplicity to make this process as easy as possible for you while alleviating the negative symptoms and promoting a positive mood throughout the entire process. Experience the Elimidrol® difference today and feel the effect after just one dose!

Elimidrol offers powerful relief for all opiate withdrawals including prescription opiates, heroin, methadone, and suboxone.

- Many opiate withdrawal treatments on the market today come with the risk of further addiction. Elimidrol is non-addictive, non-habit forming, and will help you permanently overcome the addiction – the first time.

D. Excerpts from PRWeb press release (attached as Exhibit D)

- As anyone who has been through the experience knows, the path to addiction recovery can be an unbelievably rocky one. By smoothing that path and turning

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.

- The high success rate that Elimidrol provides in overcoming opiate withdrawal allows the company to confidently offer a 100% Money-Back Guarantee.
- 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 11, 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 Paragraphs 15, above, are false or misleading or were not substantiated at the time the representations were made.

17. Therefore, the making of the representations as set forth in Paragraph 15, above, 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

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 Act 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 ill-gotten 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: _____

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