

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLORADO**

FEDERAL TRADE COMMISSION,

Plaintiff,

v.

LEARNINGRX FRANCHISE CORP.,

and

KEN GIBSON, individually and as an officer of  
LEARNINGRX FRANCHISE CORP.,

Defendants.

Civil Action No. 1:16-cv-1159

**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 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.

**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), (c)(1), and (c)(2), 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).

**DEFENDANTS**

6. Defendant LearningRx Franchise Corp. (“LFC”) is a Colorado corporation with its principal office or place of business at 5085 List Drive, Suite 200, Colorado Springs, Colorado 80919. LFC sells LearningRx franchises, and has franchised more than eighty LearningRx centers which provide one-on-one cognitive training to consumers across the United States (collectively, “LearningRx centers”). LFC transacts or has transacted business in this district and throughout the United States through its websites, including LearningRx.com, and its network of franchised LearningRx centers.

7. Defendant Ken Gibson is the CEO, secretary, and sole director of LFC. He is the department manager of LFC's "executive department," which is responsible for overseeing all aspects of LFC. Mr. Gibson signs LearningRx franchise agreements, conducts training for franchisees as part of LFC's Training Program, which includes training on marketing and sales, reviews and approves advertising, and is responsible for LearningRx advertising claim substantiation issues. He has the authority to review and approve all advertising and marketing materials for LearningRx programs, including the materials disseminated to franchisees. At all times material to this Complaint, acting alone or in concert with others, he has formulated, directed, controlled, had the authority to control, or participated in the acts and practices of LFC, including the acts and practices set forth in this Complaint. Defendant Gibson resides in this district and, in connection with the matters alleged herein, 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' COURSE OF CONDUCT**

9. Since at least 2002, LearningRx centers have offered one-on-one cognitive training, purported to correct weak or underdeveloped cognitive learning skills. At present, the centers offer this cognitive training through at least five LearningRx programs. In the ThinkRx program, trainers lead clients through cognitive tasks that allegedly improve processing speed,

attention, memory, auditory and visual processing, and reasoning. The centers also offer programs for accelerated reading (ReadRx), reading comprehension (ComprehendRx), and numerical fluency and number sense (MathRx), as well as a pre-school readiness program called Liftoff.

10. Defendants have widely advertised LearningRx programs on the LearningRx.com website and numerous affiliated websites, including 21inspiringstories.com, drkengibson.com, learningrx.org, learningrx-reviews.com, lifechangingmagazine.com, unlocktheeinsteinside.com, and vitalconnectionsbook.com. Defendants also have promoted LearningRx programs through a blog, Facebook and Twitter posts, radio and print ads, brochures, and direct mail pieces. Defendants also have engaged in an extensive search engine campaign through Google AdWords, purchasing hundreds of keywords related to Attention Deficit Disorder (ADD), autism, memory, dementia, Alzheimer's disease, and traumatic brain injury, in order to induce consumers to click on Defendants' sponsored links to LearningRx webpages. Some of the keyword phrases have included "cure for add," "autism cure," "Asperger cure," "severe traumatic brain injury cure," "tbi cure," "Alzheimers cure," and "is there a cure for dementia."

11. Defendants have disseminated or have caused to be disseminated advertisements for LearningRx programs, including but not necessarily limited to the attached Exhibits A through CC. These advertisements contain the following statements and depictions, among others:

**A. Claims about Increased Income**

- Our programs raise IQ an average of 15 points in 12 weeks, and 20 points in 24 weeks.  
And because higher IQ has been linked to college scholarships, job advancement and higher income for life[], dollars spent at LearningRx can provide impressive financial returns.  
[brochure at centers; Ex. A, p.1]
- [A] study by the US Department of Labor Statistics showed that a gain of even 10 IQ points can result in a \$9,000 to \$18,000 increase in annual earnings. Multiply that by 40 years of employment and the numbers become even more impressive! LearningRx brain training is proven to increase IQ by an average of 15 points or more. That means for every dollar spent on brain training, there's a return of \$127 over a client's lifetime. [brochure at centers and direct mail piece; Ex. C, p.8]
- Did you know that LearningRx brain training raises IQ by an average of 15 points,[] which statistics link to higher salaries? In fact, statistics prove that even a 10-point increase in IQ can result in as much as \$20,000 more in earnings per year! [Excerpt from 2014 Report of Learning Rx Training Results (Expanded Edition); Ex. S, p.4]

**B. Claims about School Grades and Performance on Standardized Tests**

- BRAIN TRAINING IMPROVES GRADES . . . [direct mail piece; Ex. B]
- LearningRx clients don't just get better grades and greater IQ; they get faster, sharper brains that help them succeed in every area of life over the course of their entire life." [Excerpt from 2014 Report of Learning Rx Training Results (Expanded Edition); Ex. S, p.4]
- "LearningRx graduates get better grades..." [franchisee follow-up letter to parents; Ex. T]

- [Testimonial from Shannon Graham regarding her son Dillon]: “The first thing I noticed was that Dillon wasn’t spending nearly as much time struggling over homework. In fact, he finished his assignments so quickly that I wondered if he was actually doing the work! The only thing that convinced me was the improvement in his grades as C’s and D’s turned into A’s and B’s . . . His final year of school, he was taking the kinds of tough classes he never would have attempted before brain training, including honors chemistry and an advanced calculus class. [brochure at centers and direct mail piece; Ex. C, p.6]
- Don’t just study for your College Entrance Exam, train for it!  
LearningRx is both the short-term solution to preparing for the ACT or SAT and the long-term solution to preparing for life! [newspaper ad; Ex. D]



[Twitter post]

-  **LearningRx** shared **LearningRx Chanhassen's** status. January 28, 2013 🌐  
We are so proud of you, Hailey!  
  
Hailey, a University of North Dakota student climbs from a 1.38 GPA to 4.0! Hailey completed an intensive 12-week brain training regimen last summer at LearningRx and dramatically improved her memory, concentration, and logic and reasoning.

[Twitter post]

○ HOST: Lori & Julia here for LearningRx....Let me tell you about a student named Alex, who came to LearningRx last spring because he was struggling in school and had a tough time paying attention in class....Mom and Dad decided to enroll him at LearningRx....When Alex returned to school in the fall and took a standardized test, his math score jumped 43 percentage points, and his reading score went up 48 points. His teachers were blown away by the change in him. If your child is struggling in school, LearningRx could be a much better alternative to the “same old, same old” of summer school and tutoring.... [radio endorsement from the Lori & Julia Show on myTalk 107.1 FM in Minnesota; Ex. Z]

**C. Claims about Attention Deficit Hyperactivity Disorder (ADHD)**

○ Our programs guarantee improvements for:

\*\*\*

- Kids and adults with ADHD, autism, ... and learning disabilities [brochure at centers; Ex. E]

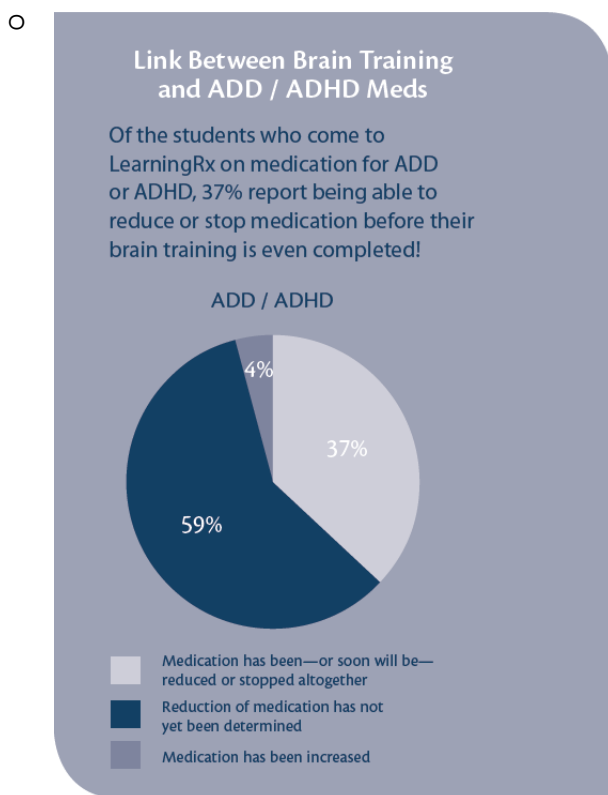
○ Teens with ADHD who have undergone cognitive skills training for one or more of the three types of attention have shed their label and gotten off stimulant medication for good. [press release and in-center handout; Ex. F. p.1]

○ Brain training often minimizes or eliminates the need for medication

Brain training can be added to any student’s treatment plan. *Does your child currently depend on medication-based treatment only?* Cognitive skills brain training can

supplement, and in many cases mitigate or eliminate, medication. [direct mail piece; Ex. G, p.6]

- “With the right program, most children who have been labeled as having ADHD, ADD or other learning disabilities can improve from three to five grade levels and about half the students no longer require medication.” [press release titled *Beyond Ritalin: An alternative therapy to helping kids with ADHD*, also available at the centers; Ex. H, p.2]
- [Testimonial from Danne Ziegler re daughter, Ariel]: “Homework took less time, and school started making more sense. She also got completely off ADD medications.” [brochure at centers and direct mail piece; Ex. C, p.2]



[brochure at centers and direct mail piece; Ex. C, p.2]




- HOST: ....My friends at LearningRx can help your child in ways that typical tutoring curriculums simply can't touch. LearningRx is a local business in West Des Moines and



Ankeny that takes a different approach to helping students, and helping students during this summer can give them a step ahead on this fall....A mind-boggling statistic says that forty percent of LearningRx clients who begin their program on medication for ADHD were able to reduce their dosage or able to quit taking it altogether by the end of the program.... [radio endorsement from Eddie Hatfield of KJJY-FM in Des Moines, Iowa; Ex. AA]

**D. Claims about Autism**

- Brain training can add a life-changing option to the treatment of Autism, Asperger’s Syndrome, Pervasive Developmental Disorder (PDD), and other learning conditions. [direct mail piece; Ex. G, p.10]
- \*[Testimonial from Phil Parham re son Rhett]: “Doctors had told us there were so many things Rhett [who was diagnosed with autism] could never do. Now he’s in regular classes, he’s reading on grade level, he’s doing well in math like never before. We attended LearningRx two years ago, and we’re still seeing the results of that training. He’s building on the gains that were made during that time.” [brochure at centers and direct mail piece; Ex. C., p.4]

-  **LearningRx**  
@LearningRx 
- Read what these parents did when  
#medications and #counseling didn't help  
their #autistic son. [bit.ly/1hDMOGe](http://bit.ly/1hDMOGe)  
#AutismAwareness
- 
- 1:56 PM - 12 Apr 2014
- [Twitter post]

**E. Claims about Strokes, Concussions, and Traumatic Brain Injury**

- Would a Gridiron Concussion Keep David from Landing His Dream Job?
  - > Concussions from school sports were robbing David of his dreams, in more ways than one! In junior high, David was a wrestler and straight A student. One day during a match, an opponent picked David up and dropped him on his head. From that day, David began struggling in school...David had no idea his dreams were being hindered by those long-ago concussions. “Brain training changed my quality of life in every area of my life,” he says today. [in-center brochure and direct mail piece; testimonial of David Berglund; Ex. I, pp.8-9]
- LearningRx can help overcome the long-term symptoms of TBI. . . .Our personalized brain training programs have proven successful at restoring memory, focus skills, and clear thinking in men and women with mild to severe TBI. [in-center handout; Ex. J, pp.1-2]
- TBI victims experience headaches, learning challenges, slower thinking and decision-making, memory loss, depression and even losses in career and income. The good news is that intense one-on-one brain training offers unprecedented hope for people with TBI. The results are not only dramatic, they’re measureable and permanent. [in-center brochure and direct mail piece; Ex. C, p.7]
- We dramatically improve brain function for clients with traumatic brain injuries; in fact, clinical studies show that, in working memory alone, our clients with TBIs rank an average of 28 percentile points higher (out of 100) after brain training. [in-center brochure and part of media PR packet; Ex. K, p.3]

- Traumatic brain injury: The right training can actually bypass the damaged areas of the brain and restore normal or near-normal brain function. [in-center article and PR for media]
- As seen on fMRI scans, our programs, specially adapted for TBI patients, literally rebuild areas of the brain's neural network, enabling TBI and stroke patients to regain lost brain function. [in-center brochure and direct mail piece; Ex. L, p.3]
- The power of brain training is now shortening the recovery time for brain trauma victims, and in many cases providing results that other rehabilitation efforts failed to produce. A recent 34-year-old LearningRx trainee suffering TBI effects from an IED blast in Iraq averaged a 53.1 percentile cognitive skills gain after completing 18 weeks of custom brain training. His largest gains were in the specific skills most problematic in cases of severe TBI: short-term memory (77 points) and working memory (70 points). In this soldier's case, these gains produced virtually full functional restoration. [direct mail piece; Ex. G, p.8]
- We provided brain training for fifteen Fort Lewis soldiers who were struggling significantly as a result of traumatic brain injuries...Most had been able to save their military careers; many had been promoted to even higher positions. . . . In addition to the fifteen Fort Lewis soldiers . . . we . . . worked with over forty soldiers in our Colorado Springs Brain Training Center. Again, the results were astonishing.[] [Excerpt from *Vital Connections* publication; Ex. M, pp.8-9]
- [Testimonial]: Tina Garcia, Attorney & RX client: "I was rear-ended by a negligent driver. The traumatic brain injury was so severe. . . . Over the years the damage manifested

itself by severe impairments to every area of cognitive functioning. . . . About nine months into the [LearningRx] program, there was a second brain scan done. They were astounded that every single area of damage caused by the accident showed the growth of new neurons. And these doctors looked at me and said, ‘What are you doing?’ All I could respond was, ‘I attend LearningRx twice a week.’ The doctors said, ‘It is absolutely documented here that this learning program is creating new neurons.’” [video promoting LearningRx.com; Ex. BB at 6:15-7:27]

- [Testimonial re John Keller]: Immediately following the motorcycle accident that left the 33-year-old vice president and father of two severely brain injured, doctors worked frantically to save John’s life. . . .Before coming to LearningRx, John’s brain was functioning at the level of a four-year old. Training is ongoing, but at this point he’s functioning at the level of a young adult. [in-center brochure and direct mail piece; Ex. C, p.7]

-  LearningRx shared a link.  
October 27 🌐

Our family is so blessed by this amazing place. Our son was in a bad motorcycle wreck and had a 1% chance to live with a traumatic brain injury and we have seen him excel because of Learning Rx and got Student of the Year in 2011 there. We will always tell people about this wonderful place.

[Twitter post]

- HOST: March is Brain Injury Awareness Month, and we’re here with Leanna, a trainer for LearningRx....I didn’t know that you can also help people suffering from the effects of brain injury or concussion. Tell us what you as a trainer have seen at LearningRx when it comes to this.

LEANNA: When somebody experiences a concussion, it can do great damage to the brain, especially in their cognitive skills areas....And what cognitive skills training does is really get them back to normal functioning or even excel and go beyond what they were doing previous to concussion.... [radio endorsement from Lori & Julia Show on myTalk 107.1 FM in Minnesota; Ex. CC]





**F. Claims about Age-Related Memory Decline and Dementia**

- Seniors with age-related cognitive decline have seen incredible results in restoring memory function to delay the onset of dementia. [press release and in-center handout; Ex. N, p.1]
- Senior adults can forestall or even reverse age-related mental and memory decline. [from learningrx.com; Ex. O, p.1]
- Alzheimer's/dementia: ....Brain training increases cognitive reserve, and also helps reverse dementia — even after the symptoms are apparent. [article for media and in-center handout; Ex. L, p.1]
- Seniors. . . . Postpone memory decline. . . . Improve problem solving abilities. . . . Strengthen concentration [in-center brochure; Ex. P, p.1]
- [Virginia Romero Testimonial]: “I Didn’t Let Alzheimer’s Steal My Future. . . . Ever since my stroke, I’d been talking slower and getting confused. I couldn't even remember my address! . . . When a neurologist told me I was in the early stages of Alzheimer’s, I was devastated. . . . I got on the phone and called the LearningRx Brain Training Center in Bossier City, Louisiana where I live. Could brain training help me? I’d soon know. . . . Thinking, reading, talking — even making decisions — got faster and easier. My

neurologist tested my brain function and said it had jumped from 77.1 to 95.9! . . . BETTER MEMORY, ANYONE? Virginia’s short-term memory improved a whopping 33 percentile points!” [in-center brochure and direct mail piece; Ex. I, pp. 4-5]

**G. Claims about Athletic Performance**

○ If you are an athlete, LearningRx brain training can help you ...

STRENGTHEN THIS...	TO DO THIS...
 <p><b>Basketball</b>                      Processing speed                      Visual processing                      Logic &amp; reasoning</p>	<p>Make better, faster decisions                      Judge movement and speed to determine future location of other players; judge distance to basket                      Recognize defenses</p>
 <p><b>Baseball</b>                      Visual processing &amp; processing speed                      Attention                      Long-term memory</p>	<p>Quickly evaluate the speed and trajectory of a ball in order to hit or intercept                      Shut out visual and auditory distractions to improve hitting accuracy                      Remember opposing team members’ throwing, hitting, and running tendencies</p>
 <p><b>Football</b>                      Attention                      Visual processing                      Processing speed                      Long-term memory</p>	<p>Maintain focus at the line of scrimmage despite distractions and movement                      See defensive movements and potential openings if you’re a runner, and open receivers and defensive coverage if you’re a quarterback                      Quickly read and respond to blocking or coverage clues/movements                      Remember plays and responsibilities</p>
 <p><b>Golf</b>                      Attention                      Visual processing                      Long-term memory                      Logic &amp; reasoning</p>	<p>Block distractions and negative self-talk                      Accurately evaluate direction and distance of your target landing spot, as well as contours of the greens                      Remember the fairway layout (traps, water, hills, out-of-bounds) and green characteristics                      Determine proper club and type of shot, and also assess risks and success probability for each shot</p>
 <p><b>Tennis</b>                      Attention                      Visual processing                      Processing speed</p>	<p>Sustain attention throughout the volley                      Perceive the speed and trajectory of the ball                      React quickly to the speed and flight angle of the opponent’s shot</p>

“Drew got *better at remembering* to bring home books and assignments.  
 He learned to get his *homework done* in less time, and there weren’t as many arguments in regards to starting homework.  
 His tennis coach even commented that he had *more focus* on the courts.”

How well your brain performs can make the difference between frustration, success, or excellence in every aspect of life. Don’t wait. Take your brain from good to great.  
 ...  
 To get started, call the LearningRx Brain Training Center near you and schedule a Cognitive Skills Assessment.

[in-center handout; Ex. Q, p.2]

- Faster mental performance on the athletic field [in-center brochure and direct mail piece; Ex. R, p.2]



[Twitter post]

#### **H. Claims about Academic Tutoring**

- Statistics show that, dollar for dollar, brain training is seven times more effective than tutoring. This is because, while the hourly rate for one-on-one brain training is more than the hourly rate for group tutoring, brain training produces results so quickly that it can cost literally thousands of dollars less than tutoring for the same improvements! [in-center brochure and direct mail piece; Ex. C, p.8]
- LearningRx one-on-one brain training gets 7 times the improvement of tutoring for a fourth of the cost and in less than half the time! [in-center brochure; Ex. U, p.2]
- Brain training gains are transferable to any class, subject or grade throughout your child's entire school career. That means you won't be hiring tutors for a variety of classes, or paying for tutoring year after year. [in-center brochure; Ex. A, p.1]

**I. Claims about Scientific Substantiation and Permanence of Results**

- LearningRx helps children and adults who feel held back in school, work or life. We also help people with ADHD, autism..., even traumatic brain injuries. We get scientifically measurable, clinically proven results that are unmatched by any brain training product or company on the market today. [flyer; Ex. V, p.2]
- LearningRx uses the applied science of neuroplasticity to rewire the brain, strengthening the underlying brain skills that make thinking and learning possible. Our results are clinically proven, scientifically measurable and permanent. [brochure; Ex. W, p.2]
- Results of our clinically proven programs are dramatic and permanent.
  - More success in school
  - Faster mental performance on the athletic field[brochure; Ex. X, p.2]
- Clinically proven. Research based.
  - Our clinically proven programs are based on the latest in brain science research.  
[in-center brochure; Ex. K, p.6]
- Brain training done with a brain trainer...is clinically proven to get dramatic improvements that literally change the way the brain performs in school, work and daily life. [in-center brochure; Ex. Y, p.3]
- Seven things you need to know:
  1. ...
  2. ...
  3. Our programs are researched-based and clinically proven.
  4. Our results are both dramatic and scientifically measurable.



5. ...We also help kids and adults who have experienced concussions or TBIs, or who have been diagnosed with ADHD, ..., autism and more.
6. ...
7. We offer serious brain training that translates into significant and practical improvements in daily living.

[Excerpt from *Vital Connections* publication; Ex. M, p.12]

### **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 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.

15. For the purposes of Section 12 of the FTC Act, the Defendants’ cognitive training programs constitute a service.

### **COUNT I**

#### **False or Unsubstantiated Efficacy Claims**

16. Through the means described in Paragraphs 10 through 11 of this Complaint, Defendants have represented, directly or indirectly, expressly or by implication, that LearningRx cognitive training:

- A. substantially increases one's income over a career;
- B. substantially improves school grades in all subjects and scores on standardized tests, such as state achievement tests, and college entrance exams such as the SAT and ACT;
- C. substantially improves the cognitive function of people with ADHD, often enough that they can stop or reduce their ADHD medication and shed their ADHD diagnosis;
- D. substantially improves the cognitive function of people with autism, leading to practical improvements in daily living, such as attending regular school classes and reading at grade level;
- E. substantially improves the cognitive function of stroke, concussion, and traumatic brain injury victims, and rebuilds their injured brains, leading to practical improvements in daily living, such as improved vision, memory, concentration, organizing thoughts, decision-making, communication, and social skills;
- F. substantially improves the cognitive function of older people, such as by slowing age-related memory decline, postponing dementia, improving problem-solving abilities, strengthening concentration, and reversing the symptoms of Alzheimer's disease;
- G. substantially improves work and athletic performance;
- H. is ten times more effective in terms of results and costs than tutoring; and
- I. that the benefits of LearningRx cognitive training set forth in subparagraphs A through G, above, are lasting and permanent.

17. The representations set forth in Paragraph 16 are false and misleading or were not substantiated at the time the representations were made.

18. Therefore, the making of the representations as set forth in Paragraph 16 of this Complaint 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.

## **COUNT II**

### **False Proof Claim**

19. Through the means described in Paragraphs 10 through 11 of this Complaint, above, Defendants have represented, directly or indirectly, expressly or by implication, that the benefits of LearningRx cognitive training set forth in Paragraph 16.A through G, above, are clinically proven.

20. In truth and in fact, the benefits of LearningRx cognitive training set forth in Paragraph 16.A through G, above, are not clinically proven.

21. Therefore, the making of the representation as set forth in Paragraph 19, 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.

## **COUNT III**

### **Means and Instrumentalities**

22. Through the means described in Paragraphs 6 and 7 of the Complaint, above, Defendants have furnished Defendant LFC's franchisees with marketing and advertising

materials that contain the false, misleading, deceptive, or unsubstantiated representations set forth in Paragraphs 16 and 19, above.

23. By furnishing others with the materials described in Paragraph 22, above, Defendants have provided the means and instrumentalities for the commission of deceptive acts and practices, in violation of Section 5(a) of the FTC Act, 15 U.S.C. § 45(a).

### **CONSUMER INJURY**

24. 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**

25. 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**

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. Enter a permanent injunction to prevent future violations of the FTC by Defendants;
- B. 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
- C. 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,

DAVID C. SHONKA  
Acting General Counsel

Dated: 5/18/2016

/s/ Keith Fentonmiller

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KEITH FENTONMILLER  
EDWIN RODRIGUEZ  
Federal Trade Commission  
Division of Advertising Practices  
600 Pennsylvania Ave., N.W., Suite CC-10528  
Washington, D.C. 20580  
(202) 326-2775 (Fentonmiller)  
[kfentonmiller@ftc.gov](mailto:kfentonmiller@ftc.gov)  
(202) 326-3147 (Rodriguez)  
[erodriguez@ftc.gov](mailto:erodriguez@ftc.gov)  
(202) 326-3259 (Fax)

Attorneys for Plaintiff  
FEDERAL TRADE COMMISSION