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12 FEDERAL TRADE COMMISSION

13 **UNITED STATES DISTRICT COURT**  
14 **FOR THE CENTRAL DISTRICT OF CALIFORNIA**  
**WESTERN DIVISION**

15 FEDERAL TRADE COMMISSION, )  
16 Plaintiff, )  
17 v. )  
18 VITAL DYNAMICS, INC. d/b/a ISIS, )  
19 GEOFFREY V. KNIGHT, )  
20 MARK D. BERMAN, and )  
21 ALLEN SMITH, )  
22 Defendants. )

Hon.  
Civil Action No.

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

23 Plaintiff, the Federal Trade Commission (“FTC” or “Commission”) through  
24 its undersigned attorneys, for its Complaint alleges:  
25  
26  
27



1 California 91304. VDI sometimes does business as “Isis.” VDI transacts business  
2 in the Central District of California.

3 6. Defendant Geoffrey Knight is President, Treasurer, and a director of  
4 VDI. At all times relevant to the complaint, acting individually or in concert with  
5 others, he has formulated, directed, or controlled the policies, acts, or practices of  
6 VDI, including the acts or practices alleged in this complaint. He resides or  
7 transacts business in this district.

8 7. On September 24, 2002, Defendant Geoffrey V. Knight filed a  
9 voluntary petition for relief under Chapter 7 of the Bankruptcy Code, 11 U.S.C. §§  
10 101 et seq., in the United States Bankruptcy Court for the Central District of  
11 California, Case No. SV 02-18543-KL. Amy L. Goldman was appointed the  
12 Chapter 7 trustee for Defendant Knight. The Commission’s action against  
13 Defendant Knight is not stayed by 11 U.S.C. § 362(a) because it is an exercise of  
14 the Commission’s police or regulatory power as a governmental unit pursuant to 11  
15 U.S.C. § 362(b)(4) and thus falls within an exception to the automatic stay.

16 8. Defendant Mark D. Berman is Vice President, Secretary, and a director  
17 of VDI. At all times relevant to the complaint, acting individually or in concert with  
18 others, he has formulated, directed, or controlled the policies, acts, or practices of  
19 VDI, including the acts or practices alleged in this complaint. He resides or  
20 transacts business in this district.

21 9. Defendant Allen Smith is Vice President of VDI. At all times relevant  
22 to the complaint, acting individually or in concert with others, he has formulated,  
23 directed, or controlled the policies, acts, or practices of VDI, including the acts or  
24 practices alleged in this complaint. He resides or transacts business in this district.

25  
26 **COMMERCE**



1 Dear Flat & Fretful, ISIS is perfect for you. First of all, ISIS gives you  
2 fuller, firmer, shapelier breasts naturally – no surgery, no big medical  
3 bills. Many women see their bust increase by one cup size. It's  
4 natural, and it's backed by a no-risk money back guarantee. Get those  
5 fuller, firmer breasts you've always dreamed of now.

6 –Exhibit A, radio ad

7 b. FEMALE ANNOUNCER: The Isis Breast Enhancement System  
8 can give you a beautiful bustline and a tremendous boost in self-  
9 esteem.

10 ON SCREEN: Before and after photographs.

11 Results are not typical. Your results may vary and you may need to  
12 use the product longer.

13 UNIDENTIFIED FEMALE: I saw results within the first two weeks. I  
14 grew an entire cup size within one month. . . .

15 FEMALE ANNOUNCER: Call the number on your screen right now  
16 to speak to an Isis consultant. It's completely confidential and there is  
17 no obligation. The results from Isis are guaranteed or your money  
18 back. . . .

19 –Exhibit B, infomercial

20 c. **Fuller, Firmer Breasts in as Little as a Few Weeks**

21 **. . . Guaranteed!**

22 More than 50,000 women have traded in their padded bras and chosen  
23 a fuller, firmer bustline with the all-natural ISIS Breast Enhancement  
24 System. And for good reason. ISIS is the original name in all-natural  
25 breast enhancement and the only non-surgical approach that is both  
26 patented and doctor approved. . . . ISIS comes with a complete 90-day  
27 money back guarantee, so you have nothing to lose! . . .

28 . . .  
As prominent Beverly Hill's physician, Dr. F. I. Ghaly says, 'ISIS is  
the safest and most effective method for enhancing the bustline. I have  
witnessed many women increase their breast size and their confidence  
with the ISIS system.'

–Exhibit C, magazine ad

d. **'I went from wearing an 'A' cup to a 'B' Cup - - without  
surgery!'**

– C.H., Santa Cruz, CA.

*Finally . . . the natural alternative for breast enhancement.*

1 I've been self-conscious about my small breasts ever since I was a  
2 teenager. I tried push-up bras and silicone inserts, but they just didn't  
3 look or feel right. I also considered surgery, but wanted something  
4 safer and more affordable.

5 Then I heard a commercial for the ISIS Breast Enhancement System,  
6 developed by a renowned herbalist and scientist. At first I was  
7 skeptical, but I called and spoke with one of the ISIS consultants. She  
8 explained how the natural properties in ISIS help support the mammary  
9 glands and promote the growth of breast tissue. In addition, they firm  
10 and tone the bustline by strengthening connective tissues.

11 I was also told that ISIS has an extremely high success rate and comes  
12 with a money-back guarantee in the event I'm not happy with the  
13 results.

14 I figured I had nothing to lose, so I began the program. After a few  
15 weeks, my husband started noticing the results. That's when I  
16 measured myself and discovered my bust had grown two inches! . . .

17 Many women see their bustline increase by one cup size after using the  
18 patent-pending ISIS Breast Enhancement System. . . .

19 – Exhibit D, magazine ad

#### 20 e. **ISIS Breast Enhancement**

##### 21 **How ISIS works for you:**

22 . . . ISIS blends age-old herbs into a patent pending formula that works  
23 internally and externally to deliver the desired results to your breast.  
24 The system works in the following ways:

##### 25 **Completes Your Natural Growth**

26 ISIS awakens estrogen receptor sites which may have been dormant  
27 since puberty. This is the largest cause of underdeveloped breasts.  
28 Many women have never attained their full genetic potential.\*

The mastogenic (breast enlarging) properties in ISIS are like magnets  
which draw growth inducing characteristics to your receptor sites and  
in effect, cleanse the body and allow your growth to continue. This is  
accomplished through the use of phytoestrogens (derived from  
plants).\*

##### **Stimulates Additional Growth**

Once your natural growth cycle is complete, ISIS pushes beyond your  
inherited potential by helping stimulate the pituitary gland which is

1 responsible for the production and release of growth hormones that  
2 help promote the growth of breast cells and tissue.\*

### 3 **Shaping, Toning and Lifting**

4 ISIS assists in firming and toning the breasts by strengthening  
5 connective tissues and encouraging the growth of new cells.  
6 Additionally several of the properties are known to strengthen the  
7 Cooper's Ligaments (connective tissues), which will assist in lifting the  
8 breasts.

9 \* These statements have not been evaluated by the Food and Drug  
10 Administration. This product is not intended to diagnose, treat, cure or  
11 prevent any disease.

### 12 **faq's**

#### 13 **Q: Are there any side effects?**

14 There have been no reported side effects to the active ingredients in  
15 ISIS. Many women report stronger growth of hair and nails in addition  
16 to an improvement in skin tone and complexion.

#### 17 **Q: Do I need to stay on ISIS for the rest of my life?**

18 Most women do not lose any size or shape, but if you experience a  
19 consistent loss after a couple of months, you may need to stay on a  
20 light maintenance program.

### 21 **before & after photo testimonials**

22 [Before and after photos bear these descriptions:]  
23 'Carolyn grew a full cup size!' . . .  
24 'Cherise went from a 34B to a 34C' . . .  
25 'Melissa went from a B cup to a C cup' . . .  
26 'Valentino went from a B cup to a C cup!' . . .  
27 'Melanie went from a B cup to a C cup!' . . .

28 Results are not typical. Your results may vary!

### 29 **testimonials**

#### 30 **1. F. I. Ghaly, M.D.**

31 As a medical doctor, I'm concerned with how popular breast  
32 enlargement has become. . . I don't believe surgery is always the best  
33 solution.

34 Recently, I had been introduced to a product called the ISIS Breast  
35 Enhancement System. . . I have examined the ISIS Breast  
36 Enhancement System thoroughly and find it to be an exceptional  
37 product. . . ISIS has had amazing success in designing a formula that  
38 is specific to enlarging and firming the bustline. . . I have witnessed

1 hundreds of testimonials from women who have increased their breast  
2 size with the ISIS system.

3 **2. J. Michael Ernest (From Interview)**

4 . . .It's absolutely [a] wonderful feeling to know that you've developed  
5 a formula that not only provides the type of results that women really  
6 need and want but it gives them a two-fold process. They get the  
7 larger breast that makes them more beautiful, but it also addresses their  
8 self-esteem. It is the safest the most effective formulation that I know  
9 of on the market.

10 - Exhibit E, Internet site

11 **f. ISIS In the News!**

12 "Hi guys, you remember that old school rhyme, we must, . . .we must  
13 increase our bust. You know the rest of it."

14 Well, one local company says no need for strenuous exercise or even  
15 plastic surgery. They've got an herbal product that will increase the  
16 breast size for 80% of the women who use it by one or two cup sizes.  
17 Sound farfetched? We decided to check it out ourselves. . . .

18 A bigger bust line, it's what millions of women want, including Leara  
19 Marshall. 'And I though[t] of the implants and I was like I don't have  
20 the money for that.'

21 So she used a \$600 breast-building product called ISIS.

22 "Within the first month I'd grown like two inches around."

23 Her bra size jumped from a 34b to a 34c." . . .

24 . . .  
25 This is the man behind ISIS, Michael Ernest. He says small breasts are  
26 the result of a stunted puberty. Using his background in [herbology]  
27 and biology, he developed a formula that releases chemicals called  
28 phytoestrogens or plant-type estrogens into the breast.

'What you do is reawaken those receptor sites, reestablish the  
metabolic processes through the herbs, and the breast will continue to  
develop and finish developing.'

- Exhibit F, transcript of video sidebar  
on Internet site

14. Consumers may order Isis only by calling a toll-free telephone number.

When consumers call the Isis toll-free number, the telemarketing sales

1 representative makes a presentation based upon a prepared script, such as the one  
2 attached as Exhibit G. This script contains, among other things, the following  
3 statements:

4 . . . LET ME EXPLAIN HOW THE SYSTEM IS GOING TO WORK FOR  
5 YOU. THE ISIS SYSTEM CONSISTS OF HERBAL CAPSULES AND  
6 AN HERBAL CREAM. NOW THE RESULTS THAT YOU SAID YOU  
7 WANTED TO ACHIEVE ARE VERY POSSIBLE WITH THE PROGRAM.  
8 MOST WOMEN WHO USE THE PROGRAM REPORT AN AVERAGE  
9 GROWTH OF ONE CUP SIZE... THOUGH SOME WOMEN HAVE  
10 REPORTED AS MUCH AS TWO CUP SIZES. . .

11 WE HAVE AN EXTREMELY HIGH SUCCESS RATE FOR THE  
12 WOMEN WHO HAVE USED THE PROGRAM. BUT, IF YOU'RE  
13 CONCERNED THAT ISIS MIGHT NOT WORK FOR YOU, WE OFFER  
14 A COMPLETE 90-DAY MONEY-BACK GUARANTEE. THAT'S 3-  
15 MONTHS TO TRY ISIS AND SEE IF IT'S RIGHT FOR YOU. WE HAVE  
16 A VERY LOW RETURN RATE, THAT'S WHY WE HAVE THE  
17 CONFIDENCE TO OFFER SUCH A GENEROUS GUARANTEE. . .

18 – Exhibit G, Isis Telemarketing Sales Script

19 15. VDI charges anywhere from \$199 to \$599 for a six-month supply of  
20 Isis. From 1999 to 2002, its gross revenues from sales of Isis, minus refunds, have  
21 exceeded \$ 22 million; however, VDI expended nearly the same amount, in the  
22 ordinary course of business, over that period of time.

23 16. Although VDI offered a complete 90-day risk-free guarantee, it placed  
24 impediments in the path of those seeking to obtain such a refund. For example, VDI  
25 directs consumers seeking a refund to first obtain a return authorization number  
26 from the company; however, many consumers seeking to contact the company for a  
27 return authorization are unable to get through to the company to obtain such an  
28 authorization number. These practices prevent or deter many consumers from  
requesting and/or obtaining a full refund. Many consumers who are able to obtain  
refunds from VDI have done so only after complaining to a Better Business Bureau  
or a state governmental agency.

#### 29 **DEFENDANTS' VIOLATIONS OF THE FTC ACT**



1 time the representations were made. Therefore, the making of the representations  
2 set forth in Paragraph 18, above, constitutes a deceptive practice, and the making of  
3 false advertisements, in or affecting commerce, in violation of Sections 5(a) and 12  
4 of the Federal Trade Commission Act, 15 U.S.C. §§ 45(a) and 52.

5  
6 **COUNT II (False claims regarding side effects)**

7 20. Through the means described in Paragraph 13 and 14, Defendants have  
8 represented, expressly or by implication, that there are no reported side effects for  
9 the Isis system.

10 21. In truth and in fact, there are reported side effects for the Isis system.  
11 Indeed, VDI has received hundreds of reports of negative side effects from use of  
12 Isis, including reports of allergic reactions, nausea and headache. Therefore, the  
13 making of the representations set forth in Paragraph 20, above, constitutes a  
14 deceptive practice, and the making of false advertisements, in or affecting  
15 commerce, in violation of Sections 5(a) and 12 of the Federal Trade Commission  
16 Act, 15 U.S.C. §§ 45(a) and 52.

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21 **COUNT III (False claims regarding refunds)**

22 21. Through the means described in Paragraphs 13 and 14, Defendants  
23 have represented, expressly or by implication, that the Isis guarantee permits  
24 consumers to readily obtain a full refund of all money paid to Defendants if they are  
25 dissatisfied with the product.



1 (1) Enjoin Defendants permanently from violating Sections 5 and 12 of the  
2 FTC Act, in connection with the advertising or sale of food, drugs, devices,  
3 cosmetics or other products, services or programs;

4 (2) Award such equitable relief as the Court finds necessary to redress injury  
5 to consumers resulting from Defendants' violations of the FTC Act, including but  
6 not limited to redress, refund of monies paid, or disgorgement of ill-gotten gains;  
7 and

8 (3) Award plaintiff the costs of bringing this action and any other equitable  
9 relief the Court may determine to be just and proper.

10 Respectfully submitted,

11 WILLIAM E. KOVACIC  
12 General Counsel

13 JANET M. EVANS  
14 Federal Trade Commission

15 RAY MCKOWN  
16 Federal Trade Commission  
17 Attorneys for PLAINTIFF  
18 FEDERAL TRADE COMMISSION  
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