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13
14 **UNITED STATES DISTRICT COURT**
15 **CENTRAL DISTRICT OF CALIFORNIA**

16 FEDERAL TRADE COMMISSION,

17 Plaintiff,

18 v.

19 WINDOW ROCK ENTERPRISES, INC.,
20 also d/b/a WINDOW ROCK HEALTH
LABORATORIES, also d/b/a
21 CORTISLIM, INFINITY
ADVERTISING, INC., STEPHEN F.
22 CHENG, SHAWN M. TALBOTT, and
GREGORY S. CYNAUMON,

23 Defendants.
24

Civil Number

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

1 Plaintiff, the Federal Trade Commission (“FTC” or “Commission”), through
2 its undersigned attorneys, hereby alleges as follows:

3 1. The FTC brings this action under Section 13(b) of the Federal Trade
4 Commission Act (“FTC Act”), 15 U.S.C. § 53(b), to secure permanent injunctive
5 relief, restitution, disgorgement, and other equitable relief against Defendants for
6 their deceptive acts or practices and false advertisements in connection with the
7 advertising, marketing, and sale of an alleged weight-loss product, “CortiSlim,”
8 and an alleged stress-relief product, “CortiStress,” in violation of Sections 5(a) and
9 12 of the FTC Act, 15 U.S.C. §§ 45(a) and 52.

10 **JURISDICTION AND VENUE**

11 2. This Court has subject matter jurisdiction over this matter pursuant to
12 15 U.S.C. §§ 45(a), 52 and 53(b), and 28 U.S.C. §§ 1331, 1337(a), and 1345.

13 3. Venue in this district is proper under 15 U.S.C. § 53(b) and 28 U.S.C.
14 § 1391(b) and (c).

15 **THE PARTIES**

16 4. Plaintiff, the FTC, is an independent agency of the United States
17 Government created by statute. 15 U.S.C. §§ 41 *et seq.* The Commission
18 enforces Section 5(a) of the FTC Act, 15 U.S.C. § 45(a), which prohibits unfair or
19 deceptive acts or practices in or affecting commerce. The Commission also
20 enforces Section 12 of the FTC Act, 15 U.S.C. § 52, which prohibits false
21 advertisements for foods, drugs, devices, services, or cosmetics in or affecting
22 commerce. The Commission, through its own attorneys, may initiate federal
23 district court proceedings to enjoin violations of the FTC Act and to secure such
24 equitable relief as may be appropriate in each case. 15 U.S.C. § 53(b).

25 5. Defendant Window Rock Enterprises, Inc. is a California corporation
26 with its headquarters and principal place of business at 18032-C Lemon Drive,
27

1 Suite 331, Yorba Linda, California 92886. Defendant Window Rock Enterprises,
2 Inc. transacts or has transacted business under its own name and through various
3 formal and informal “d/b/a” entities, including but not limited to “Window Rock
4 Health Laboratories” and “CortiSlim” (Window Rock Enterprises, Inc. and its
5 formal and informal d/b/a entities collectively, “Window Rock”). In addition,
6 Window Rock is the owner of or has applied for numerous U.S. trademarks,
7 including but not limited to “Breakthroughs with Dr. Greg,” “CortiSlim,”
8 “CortiPlex,” “LeptiPlex,” “Insutrol,” “CortiStress,” “Cortisol Control,” “Cortisol
9 Blocker,” “CortiLean,” “CortiThin,” “CortiSleep,” “CortiSolve,” and “CortiTrim.”
10 Beginning in or about 2003, Window Rock, acting alone or in concert with others,
11 promoted, marketed, offered for sale, and caused to be distributed CortiSlim and
12 CortiStress to consumers throughout the United States. During times relevant to
13 this Complaint, Window Rock has transacted or transacts business in the Central
14 District of California.

15 6. Defendant Infinity Advertising, Inc. is a Nevada corporation
16 registered to do business in California at 8170 Woodsboro Avenue, Anaheim,
17 California, 92807. Defendant Gregory S. Cynaumon is president of and controls
18 Infinity Advertising. According to the Internet website operated on behalf of
19 Cynaumon, www.drgreg.org, Infinity Advertising uses Cynaumon’s “intimate
20 understanding of consumer psychology coupled with his experience as both a
21 radio and television program host” to develop advertising and marketing
22 campaigns. Infinity Advertising developed advertising and marketing campaigns
23 for CortiSlim and CortiStress. Beginning in or about 2003, Infinity Advertising,
24 acting alone or in concert with others, promoted, marketed, offered for sale, and
25 caused to be distributed CortiSlim and CortiStress to consumers throughout the

1 United States. During times relevant to this Complaint, Infinity Advertising has
2 transacted or transacts business in the Central District of California.

3 7. Defendant Stephen F. Cheng (“Cheng”) is President of Defendant
4 Window Rock. Cheng, together with Defendants Cynaumon and Talbott, is part
5 of a joint venture to create, manufacture, market, and sell CortiSlim. Cheng
6 produced and directed at least one CortiSlim infomercial, including a CortiSlim
7 infomercial that was set in his house. Individually or in concert with others,
8 Cheng formulates, directs, controls, or participates in the policies, acts, or
9 practices of Window Rock, including the acts or practices alleged in this
10 Complaint. Cheng resides in the Central District of California and, during times
11 relevant to this Complaint, has transacted business in the Central District of
12 California.

13 8. Defendant Shawn M. Talbott (“Talbott”) is author of the book “The
14 Cortisol Connection: Why Stress Makes You Fat and Ruins Your Health”
15 (“Talbott Book”) and has publicly stated that he formulated CortiSlim and
16 CortiStress. Talbott, together with Defendants Cheng and Cynaumon, is part of a
17 joint venture to create, manufacture, market, and sell CortiSlim. Individually or in
18 concert with others, Talbott has promoted, marketed, offered for sale, and caused
19 to be distributed CortiSlim and CortiStress. Talbott appears in at least three
20 advertisements of approximately 30 minutes in length (“infomercials”) for
21 CortiSlim and at least one infomercial for CortiStress that were broadcast on
22 network and cable television channels, in short-form television advertisements for
23 CortiSlim that were broadcast on network and cable television channels, and also
24 in print advertisements for CortiSlim. Talbott resides in Utah and, during times
25 relevant to this Complaint, has transacted business in the Central District of
26 California.

1 **CortiSlim**

2 12. CortiSlim is marketed as a “cortisol control weight loss formula.”
3 CortiSlim contains three proprietary blends: Cortiplex™, Leptiplex™, and
4 Insutrol™, as well as vitamin C, calcium, and chromium. Cortiplex purportedly
5 “controls cortisol levels within a healthy range to help reduce fat storage and
6 promote fat mobilization – especially fat stored around the midsection in the
7 tough-to-lose abdominal area” and consists of magnolia bark extract (*Magnolia*
8 *officinalis*; 1.5% honokiol), beta-sitoserol, and Suntheanine® (100% L-theanine).
9 Leptiplex purportedly “helps to naturally control appetite, increase energy levels,
10 and stimulate metabolism” and consists of green tea leaf extract (*Camellia*
11 *sinenisis*; 50% epigallocatechin gallate [EGCG]) and bitter orange peel extract
12 (*Citrus aurantium*; 5% synephrine). Insutrol purportedly “balances blood sugar
13 and insulin levels to help reduce cravings and let you stick to your healthy eating
14 plan” and consists of banaba leaf extract (*Lagerstromia speciosa*; 1% corosolic
15 acid) and vanadyl sulfate (vanadium).

16 13. To induce consumers to purchase CortiSlim, Defendants disseminated
17 multiple versions of CortiSlim infomercials on network and cable television
18 channels throughout the United States, including Access Television, Travel
19 Channel, and Discovery Channel.

20 14. The version of the CortiSlim infomercial that first aired on or about
21 August 25, 2003 is presented as a program called “Breakthroughs,” and a
22 “Breakthroughs” logo appears in the lower right-hand corner of the screen
23 throughout the infomercial. The infomercial discusses CortiSlim in a talk show
24 format that features Cynaumon as a “host,” a female “co-host,” and Talbott as a
25 “guest.” In addition, several “callers” are heard during the infomercial, some
26 asking questions about CortiSlim and others purporting to recite their personal
27

1 experiences with CortiSlim. At several points during the infomercial, a toll-free
2 telephone number appears on-screen and viewers are invited to call the number for
3 more information about Dr. Talbott's book or CortiSlim. When the toll-free
4 number appears on-screen, no oral or written disclaimer is given that
5 "Breakthroughs" is in fact a paid advertisement for CortiSlim; the paid
6 advertisement disclaimers appear only at the very beginning and very end of the
7 infomercial. Cynaumon states that viewers who call the toll-free number and
8 mention "Breakthroughs" will receive a special discount from Dr. Talbott. The
9 infomercial does not indicate or reveal that Cynaumon and Talbott are part of a
10 joint venture to create, manufacture, market, and sell CortiSlim. Instead,
11 CortiSlim is presented as being Dr. Talbott's product.

12 15. The version of the CortiSlim infomercial that first aired on or about
13 August 25, 2003, and the version that first aired on or about October 26, 2003,
14 include, among others, the following statements or depictions regarding CortiSlim:

15 **August 25, 2003 CortiSlim Infomercial**

16 a) DR. GREG CYNAUMON: Hello, and welcome to
17 Breakthroughs, the program that introduces you to people who
18 are literally changing lives.

19 **ON SCREEN: Dr. Greg Cynaumon**

20 **"Breakthroughs" Host**

21 DR. GREG CYNAUMON: I'm your host Dr. Greg Cynaumon,
22 and between my radio program and, of course, here on
23 Breakthroughs, I've had the luxury of meeting and interviewing
24 some of the brightest people in the world. I can promise you,
25 without fear of contradiction, that I have never looked more
26 forward to introducing anyone to my audience, and I'll tell you
27

1 why. It's because this doctor has literally changed my life.
2 And if you've ever struggled with your weight, I am sure he is
3 going to change your life as well.

- 4 b) DR. GREG CYNAUMON: . . . And I'll tell you what, I'm
5 going to introduce you to my guest. His name is Dr. Shawn
6 Talbott and he wrote the book on cortisol and how cortisol
7 keeps you fat.

8 **ON SCREEN: Dr. Shawn Talbott**

9 **Dir. of Preventative Medicine**

10 DR. GREG CYNAUMON: He is the pioneer in cortisol
11 hormone research.

- 12 c) DR. GREG CYNAUMON: Now, what do I mean when I say
13 that Dr. Talbott literally changed my life? This [showing
14 photograph of self] was me about 30 pounds ago. What he has
15 shown me has literally led to my losing 30 pounds faster than
16 anything I've ever tried in my life.

- 17 d) DR. GREG CYNAUMON: . . . You and I know each other,
18 I've read all of your material, but tell the audience, how did
19 you get to be such an authority on cortisol.

20 **ON SCREEN: Dr. Shawn Talbott**

21 **Dir. of Preventative Medicine**

22 DR. SHAWN TALBOTT: Sure, Greg. I've been studying
23 cortisol and weight and exercise for about the last 15 years.
24 My Master's Degree is from the University of Massachusetts in
25 Physiology. My Ph.D. is in Nutritional Biochemistry from
26 Rutgers. I'm a fellow of the American Institute of Stress and
27

1 the American College of Sports Medicine, and right now, I'm
2 on the faculty at the University of Utah.

3 e) DR. SHAWN TALBOTT: . . . [W]hat I don't want people to
4 do is excessively worry about their diet or obsess about how
5 much exercise they're doing. I want them to do those things.
6 You have to do diet, you have to do exercise, but control
7 cortisol is what's going to be the answer.

8 f) DR. GREG CYNAUMON: Now, obviously, Dr. Talbott, you
9 have studied this issue of cortisol and stress and how it keeps
10 us fat more than anybody I've ever run into. But that's not
11 exactly why we wanted you on the program today. You have
12 found -- you have discovered the missing piece of the diet
13 puzzle and I want you to talk about that today because this is it.
14 This is what I lost 30 pounds on and I'd like you to tell our
15 viewers why you have discovered what nobody else has
16 discovered before in this product.

17 g) CALLER VALERIE: . . . I've tried every diet out there and
18 when I start to lose the weight I hit a plateau. Also, I gain all
19 the weight back plus more. Can you tell me why this happens?

20 DR. TALBOTT: I sure can. . . . The problem that you're
21 experiencing is that diet has caused your cortisol levels to go
22 through the roof and that cortisol increases appetite, changes
23 metabolism, and gets us to store fat in places we don't want to
24 have it.

25 . . .

1 DR. GREG CYNAUMON: Any doubt in your mind CortiSlim
2 will work?

3 DR. SHAWN TALBOTT: No doubt in my mind. CortiSlim is
4 the solution for her.

5 h) DR. SHAWN TALBOTT: . . . I don't know how many people
6 complain to me that they can't lose that last 20 pounds, so to
7 speak. For women, a lot of times, they call, it their pooch; for
8 men, they call it their love handles. It's that stress fat that we
9 keep around our mid-sections. No amount of exercise, no
10 amount of diet is going to get rid of that. You need the cortisol
11 control, and CortiSlim brings that.

12 i) DR. GREG CYNAUMON: It occurs to me that a lot of you are
13 interested in calling to get more information about Dr. Talbott's
14 wonderful book, his information about CortiSlim, how this can
15 work for you, how it worked for me and that number is up on
16 your screen right now.

17 **ON SCREEN: 1-800-901-7915**

18 DR. GREG CYNAUMON: And when you call, be sure you
19 mention Breakthroughs because I understand Dr. Talbott has
20 graciously given a sizeable discount for our viewers who call in
21 for information or to order his products.

22 j) CALLER JENNY: . . . I'm a single, working mom and I've
23 got two boys and I have a very stressful job, but in the last year
24 I've gained a lot of weight and I have tried every product you
25 can think of. Will your product help me?

1 DR. SHAWN TALBOTT: I think it will. You're a
2 stereotypical case of a high-stress lifestyle. You're trying to
3 raise some kids, you have a stressful job. Those are situations
4 that will increase your cortisol levels. CortiSlim is the way to
5 go. It will control your cortisol levels, you'll feel more in
6 control, your appetite will be controlled and you'll burn more
7 calories.

8 k) DR. GREG CYNAUMON: Okay, Steve [caller] how have you
9 personally done with the weight loss and CortiSlim?

10 STEVE: It's been absolutely amazing. After the first few
11 weeks I lost 15 pounds and the most amazing thing, I've been
12 able to keep it off. I've been able to work out and try to diet
13 before, but I've lost a little weight here and there, but I've never
14 found anything that allows me to lose the weight and keep it
15 off. And not just that, I'm just healthier overall. . . .

16 l) DR. GREG CYNAUMON: Now, Steve lost a lot of weight, 14
17 pounds in two weeks. And I know you always want to say,
18 look, everybody's different. Thirty pounds in a month, I was
19 thrilled with, right? I mean, to me, that's tremendous.

20 JILL BROWN [Co-Host]: Um-hum.

21 DR. GREG CYNAUMON: Steve's pretty typical?

22 DR. SHAWN TALBOTT: He is pretty typical.

23 JILL BROWN: Wow.

24 . . .

25 DR. GREG CYNAUMON: It's amazing. Steve, thanks for the
26 call and congratulations, 15 pounds is significant. Thirty
27

1 pounds in 30 days was great for me. And I know you always
2 want to say – and I want to say as a doctor, too – everybody’s
3 different. You’re all going to find the right level. But this is
4 the first time I have ever seen something work this quickly.
5 CortiSlim for me, 30 pounds; CortiSlim for Steve, 15 pounds
6 very quickly.

7 DR. SHAWN TALBOTT: That’s right. Everybody’s going to
8 be a little bit different with how much weight they lose in a
9 certain amount of time. But the thing that will be the same for
10 everybody is that they’re losing fat. They’re not losing water,
11 they’re not losing muscle, they’re losing fat from around their
12 middle and that’s —

13 DR. GREG CYNAUMON: And inches.

14 DR. SHAWN TALBOTT: And inches, exactly. And that’s
15 very noticeable.

16 m) DR. GREG CYNAUMON: . . . Dr. Talbott, this is all about
17 stress and what you’re really telling us is you do not have to
18 change your lifestyle.

19 DR. SHAWN TALBOTT: That’s right, Greg. It’s very
20 impractical to tell people to avoid stress or to cut stress out of
21 your lives. Our lives are filled with stress. And so, in the
22 context of this stressful 21st Century lifestyle, you need to teach
23 your metabolism to adapt to that, and that’s exactly what
24 CortiSlim does.

25 n) DR. SHAWN TALBOTT: As we age, our bodies don’t use
26 cortisol as appropriately as it should. But a product such as
27

1 CortiSlim teaches our body to use that cortisol and we get back
2 down to that youthful weight where we're supposed to be.

3 o) DR. GREG CYNAUMON: Wow. You know, as a Doctor of
4 Psychology and someone who has personally struggled with
5 this whole weight loss issue in the past, CortiSlim works. And
6 quite frankly, I wouldn't risk my reputation as a doctor on any
7 product that I didn't feel as strongly about and the one that I
8 have used personally to lose the weight that I've lost, and we're
9 hearing from the callers that are losing weight as well. . . .

10 p) DR. SHAWN TALBOTT: Doctors have known about cortisol
11 and the effect that can have on metabolism for a long time.

12 JILL BROWN: Wow.

13 DR. SHAWN TALBOTT: It's only just recently we've been
14 able to crack the code and come up with a solution.

15 q) DR. GREG CYNAUMON: It works. And as both a Doctor of
16 Psychology and someone who has dieted all my life, I couldn't
17 encourage you more to call the number on the screen and order
18 CortiSlim for yourself or for someone you love, someone who
19 struggles with weight loss, whether you want to lose 30 pounds
20 or 15 pounds, it doesn't matter. You figure out what you want
21 to lose, this is the product that can help you do it. Call them
22 right away. The number is on your screen. And be sure --
23 please be sure when you call to find out, whether it's about the
24 book or to order the CortiSlim product, mention Breakthroughs
25 because Dr. Talbott has graciously allowed a huge discount
26 when you call.

1 r) DR. GREG CYNAUMON: . . . I want to go back to what we
2 talked about a little bit earlier because it's essential that people
3 understand weight loss is an issue. But what you've done here,
4 why we're having you on Breakthroughs is that you have
5 combined every weight loss issue that is important to people,
6 metabolism, cortisol control, obviously, and all these other
7 different issues. Please speak to that for a moment.

8 DR. SHAWN TALBOTT: That's right. When people approach
9 weight loss, they really need to do it in more of a holistic
10 manner. They can't just look at appetite control or you can't
11 even look just at cortisol control. You really need to come at it
12 from many systems at the same time. So, we're talking about
13 cortisol control and blood sugar control and appetite regulation
14 and thermogenesis where we're increasing our calorie
15 expenditure.

16 s) DR. GREG CYNAUMON: And this is something that if I've
17 got the cortisol hormone under control, my blood sugar is more
18 in control?

19 DR. SHAWN TALBOTT: That's exactly it. It's like dominos.
20 cortisol is the first piece of the puzzle. Unless you get that
21 cortisol piece under control, the others are not going to be able
22 to normalize.

23 DR. GREG CYNAUMON: That's a huge point.

24 . . .

1 DR. GREG CYNAUMON: It's amazing. You really have
2 formulated so much here for people to think about. It's
3 probably best that they call and ask some questions.

4 DR. SHAWN TALBOTT: The key factor here is that a
5 product like CortiSlim addresses all of the metabolic control
6 points that are the underlying cause of weight gain. Other
7 products, they address the symptoms. They don't address the
8 cause that we're talking about here, CortiSlim.

9 DR. GREG CYNAUMON: And that's the breakthrough part of
10 this because it addresses the thermogenics that you taught us
11 about, and that is that it will help you burn calories and burn fat
12 even while you're not exercising and not worrying about it. It's
13 going to control the cortisol so your stress levels are going to
14 come down. It's going to tell your body, let go of that extra
15 weight you've been hanging on to, right?

16 DR. SHAWN TALBOTT: That's right.

17 t) DR. GREG CYNAUMON: And you know what the biggest
18 piece is? You're looking at people and telling them, it isn't
19 your fault that you're heavy.

20 DR. SHAWN TALBOTT: That's exactly it.

21 DR. GREG CYNAUMON: This has been your body doing this
22 to you.

23 DR. SHAWN TALBOTT: That's exactly it. It's a metabolic
24 factor. It's not something that's your fault, it's metabolism.
25 And there are easy ways that we can control your metabolism
26 and guide it in the right direction.

1 u) DR. GREG CYNAUMON: This is a product -- thank you --
2 that I am going to stay on the rest of my life because it's helped
3 me lose the weight and it helps me control the weight. Thank
4 you so much for that. You know, as both a Doctor of
5 Psychology and as someone who has dieted all my life, I
6 couldn't encourage you more to call the number on your screen
7 and order CortiSlim for yourself or for some loved one who
8 struggles with weight loss. What a great thing you can do for
9 somebody.

10 I've said it before, I wouldn't risk my reputation as a
11 doctor or invite someone on my program that I didn't have
12 ultimate confidence in. Now, add to that the fact that I've
13 personally used CortiSlim and lost 30 pounds and I, literally,
14 could not be more confident that this is a great product and this
15 is an incredible man.

16 v) DR. SHAWN TALBOTT: CortiSlim really is the result of 15
17 years of work. I've looked at this area for 15 years and
18 exercise and nutrition and metabolism, and CortiSlim is the
19 first comprehensive product that addresses all of those different
20 points that will lead people toward weight loss.

21 DR. GREG CYNAUMON: I understand your passion and your
22 research for 15 years has been to come up with this product.
23 You've done it. Congratulations.

24 w) DR. GREG CYNAUMON: . . . Well, sadly, that is all the time
25 we have. So, for all of us here at Breakthroughs, thanks for
26
27
28

1 joining us. Until next time, I'm Dr. Greg Cynaumon saying,
2 we'll see you then.

3 **October 26, 2003 CortiSlim Infomercial**

4 x) UNIDENTIFIED FEMALE VOICE: Since taking CortiSlim
5 for three-and-a-half weeks, I've lost four inches from my waist
6 and my hips.

7 y) DR. SHAWN TALBOTT: . . . Actually, my research career
8 started out looking at this yo-yo effect [weight loss followed by
9 weight gain] and how it can destroy your bones, and what we
10 found was this increase in cortisol. And as we studied cortisol
11 more and more and more, we knew, great, it's bad for your
12 bones, but it's also encouraging this metabolism to become a
13 weight-gaining metabolism instead of a weight maintaining or
14 a weight loss metabolism.

15 z) CALLER JENNY: In the last two years I've gained over 30
16 pounds and I've tried every diet out there and nothing's worked
17 until now. I've been on CortiSlim for about three weeks and
18 I've lost 14 pounds.

19 aa) DR. SHAWN TALBOTT: . . . [W]hat I don't want to do is fool
20 people into thinking their metabolism can do things that it
21 won't do. I'm really just giving them the research so they can
22 use it to have some benefits.

23 DR. GREG CYNAUMON: Absolutely the right way to do it.
24 And it is that research that first made a believer out of me and
25 then, of course, it was losing 30 pounds that proved Dr. Talbott
26 is right.

27 ab) DR. GREG CYNAUMON: . . . In fact, I tell my radio program
28 listeners, no offense to casual dieters, but if you only want to

1 lose five to ten pounds, then non-prescription CortiSlim is
2 probably not for you. CortiSlim is really for people who are
3 absolutely exasperated with dieting and you want to lose
4 between 10 and 50 pounds quickly, safely, and you want to
5 keep it off for life.

6 ac) CALLER STEVE: . . . I first heard about CortiSlim through
7 Dr. Greg's radio show. I've been taking CortiSlim now for
8 four-and-a-half months and I've got to tell you, CortiSlim has
9 changed my life. I have a lot of stress in my life and I used to
10 be such a big stress eater and I just loved eating and I put on 40
11 pounds, and I never really thought that I'd be able to get back
12 to my normal weight. I've got to tell you, I was so ashamed of
13 the way I was eating and putting on weight, but taking
14 CortiSlim, I've lost all that weight, I feel trim again. I've
15 gotten down to my regular weight. I've never felt better in my
16 life and thank you to CortiSlim.

17 ad) DR. GREG CYNAUMON: . . . You know, you said
18 something at the top of the show and you and I talked about
19 this before the program today, you've been studying cortisol
20 for 15 years. That's a lot of time to be studying and focus, but
21 you didn't bring CortiSlim out five years ago or ten years ago
22 or 11 years ago, you're bringing it out now. Has the body of
23 research finally caught up? I mean, help me with that.

24 DR. SHAWN TALBOTT: Right. It's just come to a point
25 where we can do something about it. We've known about this
26 cortisol causing problems for decades, even longer than the 15
27 years that I've been studying it. But now we're at a point
28

1 where we can do something about it and that's why a product
2 like CortiSlim can come out now.

3 ae) DR. SHAWN TALBOTT: . . . CortiSlim doesn't work by
4 suppressing appetite. It works by modulating cortisol levels,
5 which secondarily will help control appetite. It's a very subtle
6 difference, but it's an important difference. What people will
7 see in CortiSlim is a combination of the most effective cortisol
8 controllers, the most effective blood sugar controllers, and the
9 most effective thermogenesis agents that will work with their
10 metabolism to give them the benefits they're looking for
11 without the side effects.

12 af) DR. GREG CYNAUMON: . . . But, first, as an author, a
13 doctor and host of this program, I wouldn't risk my reputation
14 unless I was thoroughly impressed with both my guest, Dr.
15 Talbott, and his research into weight loss, and I suppose losing
16 30 pounds personally convinced me as well.

17 16. To induce consumers to purchase CortiSlim, Defendants also
18 disseminated at least three advertisements of approximately 60 seconds in length
19 on network and cable television channels throughout the United States, including
20 WCBS-TV and the Outdoor Life Network. The short-form advertisements feature
21 Cynaumon and Talbott separately promoting CortiSlim. A toll-free telephone
22 number is given during the short-form advertisements for callers interested in
23 getting more information or purchasing CortiSlim. One such short-form
24 advertisement includes, among others, the following statements or depictions
25 regarding CortiSlim:

26 I'm Dr. Greg Cynaumon . . . CortiSlim is the weight-loss capsules
27 created by my associate, Dr. Talbott, for people who are disgusted
28 with diets and quickly want to lose 15 pounds or more. Dr. Talbott's

1 hormone research has been featured in Ladies Home Journal,
2 Psychology Today, and Redbook. The conclusion? It's not your fault
3 that you're overweight. Stress causes you to overproduce a fat-
4 retaining hormone called cortisol and it directs fat to be stored in cells
5 around your tummy, thighs and stomach. Non-prescription CortiSlim
6 controls cortisol so you release those excess pounds, and CortiSlim
7 stifles your appetite while enhancing your metabolism so you eat less
8 as you burn calories and shed inches. Drop 15 to 50 pounds quickly
9 and keep it off for life with CortiSlim.

10 17. To induce consumers to purchase CortiSlim, Defendants also
11 disseminated at least one 30-second and three 60-second radio ads, including at
12 least two 60-second radio ads on KFI-AM in Los Angeles that feature Cynaumon.
13 Two such radio ads include, among others, the following statements regarding
14 CortiSlim:

15 a) DR. GREG CYNAUMON: I'm Dr. Greg Cynaumon, to tell
16 you about a conversation I had with a listener who also
17 happens to be a physician. She'd heard about CortiSlim and
18 called to ask about the clinical studies. Now, at first I thought
19 she was checking CortiSlim out for her patients, but it became
20 apparent this was about her own weight problem. She said
21 she'd struggled to lose 20, maybe 25 pounds since her daughter
22 was born, but nothing worked. . . . She studied the journals and
23 knew right away that her hormones were causing her weight
24 problem. Now, two months later, she's down 22 pounds, she
25 isn't embarrassed to talk to her patients, and her husband can't
26 believe the difference. Oh, and she tells all her patients about
27 CortiSlim. Results vary, but don't miss the most significant
28 weight loss breakthrough in twenty years. CortiSlim.

1 b) DR. GREG CYNAUMON: I'm Dr. Greg Cynaumon, to
2 introduce you to a renowned heart surgeon who found himself
3 25 pounds overweight, stressed out, and himself a candidate for
4 a stroke or heart attack. The doctor knew that he had to take
5 the weight off quickly and safely, but like so many of us, he
6 failed in his own weight loss wars. Now, obviously, doctors
7 have access to the latest journals and weight loss medications,
8 but non-prescription CortiSlim was his professional choice.
9 Why? Because only CortiSlim is the new science in weight
10 loss, and only CortiSlim blocks the destructive hormones that
11 have been proven to keep you fat. This surgeon recognized
12 that CortiSlim is the missing piece of the weight loss puzzle
13 that you and I have been desperately searching for. Now, 25
14 pounds lighter, the doc recommends all natural CortiSlim to his
15 high risk patients who need to lose weight or face the reality of
16 a heart attack or stroke. And he completely ascribes [sic] to my
17 encouragement to dieters: if you only have one diet left in you,
18 make it CortiSlim.

19 18. Defendants also advertise, promote and market CortiSlim via several
20 Internet websites, including www.cortislim.com (substantially similar content can
21 be accessed at two other Internet websites also operated on behalf of Window
22 Rock, www.cortisol.com and www.cortislim.biz). At times relevant to this
23 Complaint, this Internet website has included, among others, the following
24 statements or depictions regarding CortiSlim:

25 a) If you take CortiSlim everyday, you WILL reach your weight
26 loss goals If you stop taking CortiSlim, but still have
27 stress in your life, your cortisol levels will shoot back up, and
28

1 the whole fat-making process will start again (emphasis
2 original).

3 b) Only CortiSlim has over 15 years of University and private
4 research behind it! Only CortiSlim has been called THE NEW
5 SCIENCE IN WEIGHT LOSS! And only CortiSlim was
6 formulated by Dr. Shawn Talbott – the scientist who literally
7 “wrote the book” on cortisol – the primary stress hormone that
8 can make us fat and ruin our health! . . . ONLY CortiSlim has
9 over 15 years of research and HARD SCIENCE behind it . . .
10 and only CortiSlim uses a proprietary patent-pending blend
11 formulated for maximum cortisol-control and potency by Dr.
12 Shawn Talbott himself! (emphasis original)

13 c) OVER 100 DOCTORS HAVE ALREADY ORDERED
14 CortiSlim! Why have so many doctors and nurses already
15 ordered CortiSlim! Because they understand the science . . .
16 they respect Dr. Shawn Talbott and his findings, and they have
17 access to the latest research on cortisol and its role in weight
18 gain. (emphasis original)

19 d) CortiSlim is an all-natural dietary supplement that works with
20 your body’s metabolism to control cortisol levels within a
21 healthy range and help you lose weight. By modulating
22 cortisol levels, CortiSlim removes one of the primary
23 physiological signals for weight gain. In addition to a powerful
24 effect on controlling cortisol levels, CortiSlim also provides
25 all-natural ingredients to help balance blood-sugar (to reduce
26 cravings), and maximize metabolism (to boost energy
27 expenditure and fat-burning).

28

- 1 e) Who has high cortisol levels? Within our fast-paced modern
2 world, a better question might be “Who doesn’t have elevated
3 levels?” – because elevated levels of cortisol are so
4 widespread.
- 5 f) Anybody who leads a stressful lifestyle and wants to lose
6 weight can benefit from CortiSlim. CortiSlim is formulated to
7 promote weight loss, increase energy levels, and control
8 appetite in the millions of Americans who experience stress on
9 a daily basis. This makes CortiSlim the perfect product for
10 everyone from athletes, to executives, to soccer moms, and
11 everyone in between.
- 12 g) “Success Story”: (The Rev.) Fr. Scott, California – . . . On
13 day seven, I weighed myself, not knowing what to
14 expect. . . and for the first time in two months - I had actually
15 [sic] lost some weight! TEN FULL POUNDS!!!! Is anybody
16 else seeing this kind of amazing result? This product is so
17 amazing that I cannot believe that I am the only one!! During
18 this past week, I made no other changes than adding CortiSlim
19 to my supplement routine! All I can say is "it's a miracle!" -
20 and I've seen a few in my time as a minister! Thanks be to God
21 and Dr. Talbott!!! (emphasis original)

22 19. Defendants also advertise, promote and market CortiSlim by print
23 advertisements in nationally distributed magazines, including but not limited to
24 advertisements that appeared in the January 5, 2004 issue of “First for Women”
25 magazine; the March 2004 issue of “Cosmopolitan” magazine; and the April 20,
26 2004 issue of “Family Circle” magazine. The print advertisements make, among
27 others, the following statements:
28

- 1 a) With CortiSlim you actually lose inches . . . and then pounds.
2 “That’s because CortiSlim acts quickly to release the body’s
3 grip on fat cells from the abdomen, belly, and thighs,” adds Dr.
4 Talbott.
- 5 b) Lose 15, 20, 35 pounds (or more) naturally with CortiSlim!
- 6 c) See results right away! . . . You’ll soon notice your clothes are
7 fitting better as you lose inches . . . followed by pounds. And
8 CortiSlim takes the edge off your appetite and cravings, too.
- 9 d) Lose 15, 20, 35 pounds (or more) with ALL NATURAL
10 CortiSlim! (emphasis original)
- 11 e) “With CortiSlim, I felt less stressed, more positive and had
12 fewer cravings right away. And then, gradually, I started losing
13 inches and pounds.” Eight months, 64 pounds and five dress
14 sizes later, Cindy nervously tried on that [20-year-old] faded
15 prom dress – and it FIT!” (emphasis original)
- 16 f) Dr. Talbott formulated CortiSlim to:
- 17 • **Control** the FAT-STORING cortisol hormone & release
 - 18 fat cells from your abdomen & belly;
 - 19 • **Balance** blood sugars (within normal levels) resulting in
 - 20 fewer cravings & more consistent energy levels;
 - 21 • **Burn** calories more efficiently through thermogenesis;
 - 22 • **Ease** “stress eating” signals and provide a calming effect
 - 23 & heightened sense of well-being;
 - 24 • **Suppress** appetite naturally, so you simply eat less.

25 20. Consumers purchased CortiSlim via the Internet or by calling a toll-
26 free telephone number. Defendants charged \$49.99, plus shipping and handling,
27 for a 60-capsule bottle of CortiSlim; discounts and reduced shipping and handling
28 costs are available with purchases of multiple bottles. Defendants represent that

1 one bottle constitutes a one-month supply of CortiSlim if taken at the
2 recommended dosage of two capsules per day, with the dosage not to exceed six
3 capsules per day. Defendants suggest “advanced dosages” for “individuals who
4 have high levels of stress or have difficulty with losing weight.”

5 CortiStress

6 21. CortiStress is marketed as a “cortisol control stress relief formula.”
7 CortiStress contains Cortiplex™ (one of the three proprietary blends described in
8 Paragraph 12, above), as well as vitamin B1 (thiamin HCl), vitamin B2
9 (riboflavin), vitamin B6 (pyridoxine HCl), vitamin C, pantothenic acid, calcium,
10 and magnesium.

11 22. To induce consumers to purchase CortiStress, Defendants
12 disseminated at least one version of an infomercial on network and cable television
13 channels throughout the United States, including TVN Direct. The version of the
14 CortiStress infomercial that first aired on or about September 29, 2003 is presented
15 as a program called “Breakthroughs.” The infomercial discusses CortiStress in a
16 talk show format that features Cynaumon as a “host” and Talbott as a “guest.” At
17 several points during the infomercial, a toll-free telephone number appears on-
18 screen and viewers are invited to call the number for more information about Dr.
19 Talbott’s book or CortiStress. When the toll-free number appears on-screen, no
20 oral or written disclaimer is given that “Breakthroughs” is in fact a paid
21 advertisement for CortiStress; the paid advertisement disclaimers appear only at the
22 very beginning and very end of the infomercial. Cynaumon states that viewers who
23 call the toll-free number and mention “Breakthroughs” will receive a special
24 discount from Dr. Talbott. The infomercial does not indicate or reveal that
25 Cynaumon and Talbott are part of a joint venture to create, manufacture, market,
26 and sell CortiSlim and have similar common business interests in CortiStress.
27 Instead, CortiStress is presented as being Dr. Talbott’s product.

28

1 23. The version of the CortiStress infomercial that first aired on or about
2 September 29, 2003 includes, among others, the following statements or depictions
3 regarding CortiStress:

4 a) DR. GREG CYNAUMON: Hello, and welcome to
5 Breakthroughs, a program that introduces you to people who
6 are literally changing lives. And today on Breakthroughs, I'm
7 going to introduce you to a doctor and a researcher who has
8 written a book -- literally, written the book on stress. . . .

9 My guest is the author of *The Cortisol Connection*. He
10 has written the book and he is the preeminent researcher on
11 cortisol and stress and how it brings about problems in your
12 life, such as cancer, heart attack, diabetes, other problems you
13 never even thought about. We're going to talk about them
14 today. . . .

15 b) DR. GREG CYNAUMON: I know a lot about your
16 background. In fact, we came and found you at the University,
17 but tell the audience a little bit about yourself.

18 **ON SCREEN: Dr. Shawn Talbott**

19 DR. SHAWN TALBOTT: Well, that's right, Greg. You found
20 me at the University of Utah, where I'm on the faculty of
21 nutrition, I do my research there now . . . and now my research
22 is focused on this area of stress and how it impacts our health.

23 DR. GREG CYNAUMON: So, Dr. Talbott, you've written
24 about it, you've done the research. Is there a connection
25 between stress and disease?

26 DR. SHAWN TALBOTT: There's an absolute link between
27 stress and disease, and this is a link we've known about for
28 decades. Our grandmothers even knew that stress was bad for

1 us. What the research tells us now is that its not so much
2 stress, but a specific stress hormone called cortisol that leads us
3 to these lifestyle diseases.

4 c) DR. GREG CYNAUMON: The viewers at home watching this
5 thinking, how do I know if I have too much cortisol in my
6 system. How do you help them?

7 DR. SHAWN TALBOTT: It's very important that people
8 understand their exposure to cortisol. And to that end, I've
9 developed what I call a cortisol self-test. People can answer
10 some very simple lifestyle questions that will give them a good
11 idea of what their exposure to cortisol might be. So, what I'd
12 like people to do right now is grab a pen, grab a piece of paper
13 and let's score some of these. Answer yes or no to the
14 following questions. We'll go through 10 throughout the
15 course of the program and at the end of the program, we'll score
16 them and you'll find out if you're a Stress Jess or a Strain Jane
17 or a Relaxed Jack, wherever you fall on the scale.

18 d) DR. GREG CYNAUMON: And, again, you're saying there is
19 no doubt in your mind based on the research you've done, the
20 research of others and what you've seen with your clients and
21 patients who come in to see you, that there is a connection
22 between too much stress, over-production of cortisol and
23 diseases that can kill you.

24 DR. SHAWN TALBOTT: There's no doubt. That is what the
25 scientific evidence tells us. Too much stress, too much
26 cortisol, increased risk for these diseases. It's more dangerous
27 for people than inactivity. It's more dangerous than smoking.

28

1 It's more dangerous than high cholesterol. Cortisol is the
2 villain. It's the demon we need to control.

3 e) DR. GREG CYNAUMON: Dr. Talbott, what I like is that you
4 haven't just preached problem, problem, problem, never a
5 solution, you have taken your 15 years of research and how
6 you've studied and lived this subject and you have formulated
7 what I'm holding here which is called CortiStress. Is this the
8 answer to cortisol and too much stress in your life?

9 DR. SHAWN TALBOTT: CortiStress is the answer for people
10 who want to control their cortisol levels within a normal range.
11 You know, as a scientific researcher, we need to study the
12 problems. But as a health educator, I am really excited about
13 bringing a solution to people, and CortiStress is that solution.

14 f) DR. GREG CYNAUMON: Now, I want to share with the
15 audience something that you and I talked about before the
16 program, and that is the scientific evidence that talks about
17 cortisol, that stress hormone, and the connection with cancer.
18 Are we getting people's attention that stress and cortisol can be
19 killers?

20 DR. SHAWN TALBOTT: Well, I think you hit the nail right
21 on the head there, Greg. We are getting people's attention.
22 We're getting people's attention because these are scary
23 diseases. They're very scary diseases. But I don't want to just
24 get people's attention to scare them. I want to get their
25 attention so I can educate them that there are proactive steps
26 that they can take to reduce the risk of some of these diseases.

27 DR. GREG CYNAUMON: And you created a proactive
28 approach to stress and cortisol so you don't get these diseases.

1 DR. SHAWN TALBOTT: It's CortiStress.

2 g) DR. SHAWN TALBOTT: . . . [CortiStress is] a combination
3 of natural products that works with the body's metabolism
4 . . .

5 DR. SHAWN TALBOTT: Anybody who has a stressful
6 lifestyle, anybody who wants to be proactive in controlling
7 their cortisol levels, CortiStress is a product that's made for
8 them.

9 h) **ON SCREEN: 1-800-615-8814**

10 DR. GREG CYNAUMON: All right. For our viewers, I want
11 to make sure that you have the 800 number. In fact, I
12 understand it's on your screen. If you would like to call and get
13 more information about Dr. Talbott's Cortisol Connection
14 book, I would encourage you to do that. It's a tremendous
15 book, it could save your life. I'd also like to take the second
16 encouragement and ask you to call that number on the screen
17 and find out more about CortiStress and how that works in
18 concert with the book and actually helps you be proactive
19 about some of these health problems and terrible risks that
20 we've been talking about today on the program.

21 i) DR. GREG CYNAUMON: . . . Now, I know there are a lot of
22 people out there, as a Doctor of Psychology, who don't know
23 they're under stress. When you get down to it, they're under a
24 tremendous amount of stress. Who out there should not be
25 taking CortiStress? Is there anybody that isn't under stress
26 these days?

27 DR. SHAWN TALBOTT: You know, I can't even think of a
28 single person that would not want to take CortiStress because

1 it's not so much about controlling your feelings of stress. It
2 will certainly do that. It's about controlling normal metabolism
3 of the stress hormone, cortisol, and everybody can benefit from
4 that.

5 . . .

6 DR. SHAWN TALBOTT: . . . And, you know, you brought up
7 a very good point. Sometimes people will not realize the stress
8 they're under. I'll even get clients who say they thrive on
9 stress. And what they do is they thrive on that feeling of
10 adrenaline, which is very short-term. Cortisol comes at the
11 same time that adrenaline does, but it sticks around and cortisol
12 causes the problems. So anybody who has a fast-paced
13 lifestyle, no matter what that means, they can benefit from
14 CortiStress.

15 j) **ON SCREEN: 1-800-615-8814**

16 DR. GREG CYNAUMON: Well, we're talking about stress
17 with my guest Dr. Talbott and how stress can be literally killing
18 you and you don't even know it. I want to encourage you --
19 there's a number up on your screen -- to make a phone call and
20 ask about his research that went into the Cortisol Connection.

21 **ON SCREEN: The Cortisol Connection**

22 **Why Stress Makes You Fat and Ruins Your Health --**
23 **And What You Can Do About It**

24 DR. GREG CYNAUMON: It is all about stress, it is all about
25 how stress creates cortisol. The questions, the answers, the
26 solutions are in this book. Call the number on your screen.

27 Also, I want to make sure that we at least get in here right now,
28 that Dr. Talbott's 15 years of research into this book has also

1 led to 15 years of research into the formulation of a tremendous
2 product, but you're going to understand more how that fits into
3 the stressful lifestyle and helps to control cortisol as we go, and
4 that phone number is on your screen as well.

5 k) DR. GREG CYNAUMON: . . . Dr. Talbott, I know that a lot
6 of the viewers are probably looking at us and saying, fine, I
7 understand the research that's gone into this and 15 years of
8 your life into CortiStress. They want to know how to take it
9 and what is it going to do for them if they take this on an on-
10 going basis.

11 DR. SHAWN TALBOTT: CortiStress is a product that people
12 should be taking every single day, day in and day out, for the
13 specific activity of controlling cortisol levels in that range that
14 they want to be in. We already know from the science that if
15 cortisol levels are high, it leads down the road to increasing
16 your risk for osteoporosis and obesity and diabetes and
17 Alzheimer's and cancer and you name it, cardiovascular
18 disease. Controlling cortisol is a very important aspect,
19 perhaps the most important aspect, of reducing your risk for
20 some of these problems. This product is more important than
21 their multivitamin, than their energy product, than any other
22 dietary supplement that they can take because it gets at the root
23 of many of the problems that we're talking about today, cortisol
24 control.

25 l) DR. GREG CYNAUMON: And this [CortiStress] taken over
26 the course of as long as I want to stay healthy and, hopefully,
27 God willing, cancer free, heart risk free, this is what's going to
28 keep my system non-toxic.

1 DR. SHAWN TALBOTT: That's exactly right. People will
2 sometimes say, well, how long do I take CortiStress for? And
3 I'll go right down the road that you started on, you take that
4 CortiStress for as long as you want to have good health.

5 m) **ON SCREEN: 1-800-615-8814**

6 DR. GREG CYNAUMON: Amazing. All right. I know you
7 want to call. Let me put the number up on the screen. In fact, I
8 understand the number is up on the screen right now. I want
9 you to call and find out more information about the book, the
10 Cortisol Connection by Dr. Talbott. It's his research that
11 backed up a lot of what we're talking about here. He is the
12 leading person in the industry. In fact, University research is
13 now coming out and supporting a lot of what Dr. Talbott's been
14 talking about for some time now and you are on the cutting
15 edge of this. And by all means, you just saw the experiment, so
16 you know exactly what I'm talking about.

17 CortiStress, if you're interested in a healthy health care
18 regimen that's going to keep you safe from some of these things
19 that we're talking about, I really would recommend you make a
20 phone call, find out about it and, of course, we do this for all of
21 our folks who come on our program, ask and mention
22 Breakthroughs when you come on the program and you'll get a
23 significant discount. But you have to call the number on the
24 screen and you need to mention Breakthroughs for that
25 discount. Okay? Make that phone call.

26 n) DR. SHAWN TALBOTT: . . . If you scored three or more
27 ["yes" answers on the cortisol self-test], it's not gloom or doom.
28 This is action time. This is the time where you need to be

1 proactive, you need to do something about it. That something
2 is take CortiStress. CortiStress is going to normalize your
3 cortisol levels. It's going to reduce your risk of some of those
4 problems we talked about and it's the right way to go.

5 DR. GREG CYNAUMON: We are talking about, again, heart
6 attacks, cancer, diabetes, stroke, hypertension. Is there
7 anything we're leaving out?

8 DR. SHAWN TALBOTT: We're talking about every modern
9 lifestyle disease that is associated with this fast-paced 21st
10 century lifestyle. And if you're living in that lifestyle, like
11 everybody is, you have to take CortiStress, you have to control
12 your cortisol.

13 o) **ON SCREEN: The Cortisol Connection**
14 **Why Stress Makes You Fat and Ruins Your Health --**
15 **And What You Can Do About It**
16 **1-800-615-8814**

17 DR. GREG CYNAUMON: If you want to get more
18 information about the Cortisol Connection, Dr. Talbott's book,
19 I would highly recommend you make that phone call. Also,
20 please make a phone call and find out about CortiStress. Call
21 the number on your screen. I recommend you do it. And when
22 you do, mention Breakthroughs and you will get a nice
23 discount. Thank you. We do that for the folks who show up on
24 our program. And I think it will change your life.

25 p) DR. GREG CYNAUMON: So, for all of us here at
26 Breakthroughs, for Dr. Talbott, thank you for sharing your time
27 with us today. Until next time, we'll see you on Breakthroughs.
28

- 1 c) CortiSlim causes users to lose weight specifically from the
- 2 abdomen, stomach, and thighs;
- 3 d) CortiSlim causes rapid and substantial weight loss;
- 4 e) CortiSlim causes long-term or permanent weight loss;
- 5 f) The efficacy of CortiSlim and all its ingredients is
- 6 demonstrated by over 15 years of scientific research; and
- 7 g) CortiSlim causes weight loss.

8 28. The representations set forth in Paragraph 27 are false or were not
9 substantiated at the time the representations were made. Therefore, the making of
10 the representations set forth in Paragraph 27 constitutes a deceptive practice, and
11 the making of false advertisements, in or affecting commerce, in violation of
12 Sections 5(a) and 12 of the FTC Act, 15 U.S.C. §§ 45(a) and 52.

13 **COUNT TWO**

14 **Unlawful Claims Regarding**

15 **Health and Disease Prevention Benefits of CortiStress**

16 29. Through the means described in Paragraphs 21 through 24,
17 Defendants have represented, expressly or by implication, that taking the
18 recommended daily dosage of CortiStress will reduce the risk of or prevent
19 conditions such as osteoporosis, obesity, diabetes, Alzheimers' disease, cancer,
20 and cardiovascular disease.

21 30. The representations set forth in Paragraph 29 are false or were not
22 substantiated at the time the representations were made. Therefore, the making of
23 the representations set forth in Paragraph 29 constitutes a deceptive practice, and
24 the making of false advertisements, in or affecting commerce, in violation of
25 Sections 5(a) and 12 of the FTC Act, 15 U.S.C. §§ 45(a) and 52.

1 **COUNT THREE**

2 **Deceptive Format for CortiSlim and CortiStress Infomercials**

3 31. Through the means described in Paragraphs 13, 14, 15, 22, and 23,
4 Defendants have represented, expressly or by implication, that the August 25,
5 2003 CortiSlim infomercial and the September 29, 2003 CortiStress infomercial
6 referenced herein are independent television programs and not paid commercial
7 advertising.

8 32. In truth and in fact, the August 25, 2003 CortiSlim infomercial and the
9 September 29, 2003 CortiStress infomercial are not independent television
10 programs and are paid commercial advertising. Therefore, the making of the
11 representation set forth in Paragraph 31 constitutes a deceptive practice, in or
12 affecting commerce, in violation of Section 5(a) of the FTC Act, 15 U.S.C. § 45(a).

13 **CONSUMER INJURY**

14 33. Consumers throughout the United States have suffered and continue to
15 suffer substantial monetary loss because of Defendants' violations of the FTC Act.
16 In addition, Defendants have been unjustly enriched as a result of their unlawful
17 acts and practices. Absent injunctive relief by this Court, Defendants are likely to
18 continue to injure consumers, reap unjust enrichment, and harm the public interest.

19 **THIS COURT'S POWER TO GRANT RELIEF**

20 34. Section 13(b) of the FTC Act, 15 U.S.C. § 53(b), empowers this Court
21 to grant injunctive and such other relief as the Court may deem appropriate to halt
22 and redress violations of the FTC Act. The Court, in the exercise of its equitable
23 jurisdiction, may award ancillary or other relief, including, but not limited to,
24 rescission of contracts and restitution, and the disgorgement of ill-gotten gains
25 caused by Defendants' violations of law.

1 **PRAYER FOR RELIEF**

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

5 (a) Permanently enjoin Defendants from violating Sections 5(a) and 12 of
6 the FTC Act, 15 U.S.C. §§ 45(a) and 52, in connection with the offer, sale,
7 advertising, or other promotion or distribution of CortiSlim, CortiStress, weight-
8 loss products, or any foods, drugs, dietary supplements, devices, cosmetics, or
9 other products, services, or programs;

10 (b) Award all temporary and preliminary injunctive and ancillary
11 monetary relief that may be necessary to avert the likelihood of consumer injury
12 during the pendency of this action, and to preserve the possibility of effective final
13 relief, including, but not limited to, temporary and preliminary injunctions;

14 (c) Award such equitable relief as the Court finds necessary to redress
15 injury to consumers resulting from Defendants' violations of the FTC Act,
16 including, but not limited to, rescission of contracts and restitution, and the
17 disgorgement of ill-gotten gains; and

18 (d) Award the Plaintiff the costs of bringing this action, and such other
19 equitable relief as the Court may determine to be just and proper.
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21
22
23
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27
28

1 Dated: September 30, 2004

Respectfully Submitted,

2 WILLIAM E. KOVACIC
3 General Counsel

4 _____
5 PETER B. MILLER
6 KIAL S. YOUNG
7 Federal Trade Commission
8 600 Pennsylvania Ave. NW, Room NJ-3212
9 Washington, DC 20580
10 (202) 326-2629 (Miller)
11 (206) 220-6350 (Young)
12 (202) 326-3259 (fax)

13 _____
14 JEFFREY A. KLURFELD
15 Regional Director

16 _____
17 JOHN D. JACOBS
18 CA Bar No. 134154
19 Federal Trade Commission
20 10877 Wilshire Boulevard, Suite 700
21 Los Angeles, CA 90024
22 (310) 824-4360 (voice)
23 (310) 824-4380 (fax)

24 ATTORNEYS FOR PLAINTIFF
25
26
27
28