



## **JURISDICTION AND VENUE**

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

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

## **THE PARTIES**

4. Plaintiff, the Federal Trade Commission, is an independent agency of the United States Government created by statute. 15 U.S.C. §§ 41-58. The Commission enforces Section 5(a) of the FTC Act, 15 U.S.C. § 45(a), which prohibits unfair or deceptive acts or practices in or affecting commerce. The Commission also enforces Section 12 of the FTC Act, 15 U.S.C. § 52, which prohibits false advertisements for food, drugs, devices, services or cosmetics in or affecting commerce. The Commission, through its own attorneys, may initiate federal district court proceedings to enjoin violations of the FTC Act and to secure such equitable relief, including rescission of contracts and restitution, and the disgorgement of ill-gotten gains caused by Defendants' law violations, as may be appropriate in each case. 15 U.S.C. § 53(b).

5. Defendant Femina, Inc., ("Femina") is a Florida corporation with offices located at 332 NW 107 Avenue, Pembroke Pines, Florida. Femina transacts or has transacted business in the Southern District of Florida.

6. Defendant Husnain Mirza is the president and director as well as the incorporator and registered agent of Femina. At all times relevant to this Complaint, acting individually or in concert with others, Husnain Mirza has formulated, directed, controlled, or participated in the acts or practices of Femina, including the acts or practices alleged in this Complaint. He resides

in or transacts or has transacted business in the Southern District of Florida.

### **COMMERCE**

7. The acts and practices of Defendants alleged in this Complaint are in or affecting commerce, as “commerce” is defined in Section 4 of the FTC Act, 15 U.S.C. § 44.

### **DEFENDANTS’ COURSE OF CONDUCT**

8. Since at least November 2003, Defendants have advertised, promoted, offered for sale, and sold weight-loss products to the public throughout the United States, including but not limited to three purported weight-loss products called the “1-2-3 Reduce Fat,” “Silhouette Patch,” and “Fat Seltzer Reduce.”

9. 1-2-3 Reduce Fat Kit is a diet kit that includes three products: (1) Xena RX, a diet pill to ingest, (2) Reduce Gel Magic, a gel to put on the body, and (3) a plaster corset to wrap around the body. The Xena RX diet pill purportedly contains green tea extract. The Reduce Gel Magic gel purportedly contains aloe vera and sea algae. The kit costs \$130 plus shipping and handling.

10. The Silhouette Patch is a diet patch that is made from pure sea algae. According to the directions in the company literature, one patch is to be placed on the body daily. A one-month supply of the Silhouette Patch costs \$45 plus shipping and handling.

11. Fat Seltzer Reduce is a weight loss powder meant to be dissolved in water and ingested. The cost for an eight ounce jar is \$89 plus shipping and handling.

12. Defendants advertise and offer weight-loss products, including the 1-2-3 Reduce Fat Kit, the Silhouette Patch, and Fat Seltzer Reduce, for sale in Spanish to Spanish-speaking consumers through various media, including national Spanish-language magazines and the

internet. Consumers can purchase the products either by mail order or by telephone order. In their advertisements, Defendants provide both a toll-free telephone number and a mailing address for ordering.

13. To induce consumers to purchase the 1-2-3 Reduce Fat Kit, Defendants have disseminated, or caused to be disseminated, advertisements, including but not limited to the advertisement in *Tele Revista* magazine, appended as Attachment A. This attachment contains the following statements (an English-language translation follows the quotes):

### **1-2-3 REDUCE FAT**

#### **Kit integral de reduccion de peso y medidas**

Resultados garantizados y comprobados

1-2-3 REDUCE FAT es el novedoso sistema para perder medidas y libras en solo 3 semanas. Utilizado en nuestras clinicas de estetica en Estados Unidos con gran exito. Contiene 3 diferentes productos que combinados integralmente permitira reducir medidas en las zonas donde mas le incomode.

#### **1-2-3 REDUCE FAT CONTIENE:**

**1. XENA RX DIET PILL, SIN EFEDRINA**, Revolucionario quemador de grasa, nunca antes en la historia de suplementos dieteticos ha existido un producto natural para perder peso de esta magnitud. Esta formula termogenica exclusiva contiene extracto verde de te, ingrediente poderoso bloqueara la absorcion de grasa hasta por un 40% sin efectos secundarios que producen generalmente las pastillas que contienen efedrina.

**2. REDUCE GEL MAGIC**, poderoso gel reductor con aloe vera y algas marinas, elimina pulgadas de grasa localizada. Con su tecnica mecanica de masajes penetrara los ingredientes activos ayudando a dar firmeza y mejorar la silueta. Con reduce gel magic tambien reduce la celulitis. Reduce gel magic con un film plastico Para cubrirse las zonas que desee bajar.

**3. PLASTER CORSET FAJA DE YESO CON 10 CAPAS** que ayudaran a perder centimetros en solo semanas, nuestra faja de yeso, la mas vendida internacionalmente, contiene productos

activos que ayudaran a tener una silueta realmente espectacular.

**Translation:**

**1-2-3 REDUCE FAT**

**Complete weight and inches reduction kit.**

Guaranteed, proven results.

**1-2-3 REDUCE FAT** is the new system for losing pounds and reducing inches in just 3 weeks. Used in our aesthetics clinics in the United States with great success. Contains 3 different products, which, comprehensively combined, will enable you to loss inches in the areas that bother you the most.

**1-2-3 REDUCE FAT CONTAINS:**

**1. XENA RX DIET PILL, EPHEDRINE-FREE,**

Revolutionary fat-burner, never before in the history of diet supplements has there been a natural weight loss product of this magnitude. This exclusive thermogenic formula contains green extract of tea, a powerful ingredient [which] will block fat absorption up to 40% without side effects generally produced by pills containing ephedrine.

**2. REDUCE GEL MAGIC,** powerful reducing gel with aloe vera and sea algae, eliminates inches of localized fat. With its mechanical massage technique it will make the active ingredients penetrate, firming and improving your figure. With Reduce Gel Magic you also reduce cellulite. Reduce Gel Magic comes with a plastic film to cover the areas you want to reduce.

**3. PLASTER CORSET PLASTER CORSET WITH TEN LAYERS**

that will help [you] lose centimeters in just weeks, our plaster corset, international best seller, contains active products that will help [you] have a really spectacular figure.

14. To induce consumers to purchase the Silhouette Patch, Defendants have disseminated, or caused to be disseminated, magazine and website advertisements, including but not limited to the advertisements appended as Attachment B. These advertisements contain the following statements or depictions, among others (an English-language translation follows each quote):

(a) Defendants' magazine advertisement for the Silhouette Patch (Attachment B) states the following:

**SILUETTE PATCH  
PARCHE REDUCTOR  
DE 30 DIAS**  
A base de algas puras  
100% vegetal  
El sistema mas sencillo del mundo  
– sin sustitucion de comidas  
– sin camblos en la allmentacion  
– sin efectos secundarios  
– sin habituacion  
**Un parch diario  
durante un mes  
Para resultados mas  
rapidos y duraderos**

**Translation:**

**SILUETTE PATCH  
30 DAY REDUCING PATCH**  
Based on 100% pure vegetable algae  
The world's simplest system  
– No replacement of meals  
– No dietary changes  
– No side effects  
– Not habit-forming  
**One patch a day for one month  
For faster, long-lasting results**

(b) Defendants' website for the Silhouette Patch (Attachment C) states the following:

PIERDA PESO RAPIDO . . .  
ELIMINE LA CELULITIS . . .  
CONTROLE EL METABOLISMO . . .  
ELIMINE GRASA ACUMULADA . . .

**Translation:**

(1) RAPID WEIGHT LOSS. . .

(2) ELIMINATE CELLULITE. . .

(3) CONTROL METABOLISM . . .

(4) ELIMINATE ACCUMULATED FAT. . .

(c) Defendants' product packaging for the Silhouette Patch (Attachment D) states the following:

Fucus Vesiculosus es una alga natural tradicionalmente usada para perder peso de forma facil y rapida . . . .  
En promedio, la perdida de peso puede variarde 1 a 2 libras por semana. Sin embargo, numerosas personas han reducido su peso de manera mas rapida a traves del tratamiento con Silhouette Patch.

**Translation:**

Fucus vesiculosus is a natural algae traditionally used for easy, quick weight-loss. . . . On average, weight loss may vary between 1 to 2 pounds per week. But, many people have lost weight more quickly as a result of treatment with Silhouette Patch.

15. To induce consumers to purchase Fat Seltzer Reduce, Defendants have disseminated, or caused to be disseminated, magazine and website advertisements, including but not limited to the advertisement appended as Attachments A and E. These advertisements contain the following statements or depictions, among others (an English-language translation follows each quote):

(a) Defendants' magazine advertisement for the Fat Seltzer Reduce (Attachment A) states the following:

**FAT SELTZER** REVOLUCIONARIO TRATAMIENTO PARA  
BAJAR DE PESO

Contiene una formula efervescente compuesta con productos naturales; hara que absorba la grasa de su cuerpo y la elimine con facilidad a traves de la orina.

-Ayuda a controlar el apetito gracias a su principal componente garnicia cambogia

-Desecha la grasa de los alimentos en forma permanente y rapida.

**Translation:**

**FAT SELTZER REVOLUTIONARY TREATMENT FOR WEIGHT LOSS**

Its effervescent formula made out of natural products allows the fat in your body to be absorbed and eliminated fast and easy through the urine.

-Helps us control our appetite thanks to garnicia cambogia

-Lose weight permanently and rapidly.

(b) Defendants' website for the Fat Seltzer Reduce (Attachment E) states the following:

**FAT SELTZER REDUCE**

**THE REVOLUTIONARY TREATMENT TO ELIMINATE WEIGHT**

Its effervescent formula made out of natural products allows the fat in your body to be absorbed and eliminated fast and easy it thru the urine.

1. Advantages:

- Helps us to control our appetite thanks to garnicia cambogia.
- Remove fats which we sometimes consume during the days.

With Fat Seltzer you won't have to maintain or go on a diet or exercise constantly to reduce weight, you will just simply live a normal and healthy life without having to worry about those boring and painful exercises.

## **THE FTC ACT**

16. Section 5(a) of the FTC Act, 15 U.S.C. § 45(a), prohibits unfair or deceptive acts or practices in or affecting commerce. Section 12(a) of the FTC Act, 15 U.S.C. § 52(a), prohibits the dissemination of any false advertisement in or affecting commerce for the purpose of inducing, or which is likely to induce, the purchase of food, drugs, devices, services, or cosmetics. For the purposes of Section 12 of the FTC Act, 15 U.S.C. § 52, the 1-2-3 Reduce Fat Kit, the Silhouette Patch, and Fat Seltzer Reduce are “food,” “drugs,” or “devices” as defined in Sections 15 (b), (c) and (d) of the FTC Act, 15 U.S.C. §§ 55 (b), (c) and (d).” As set forth below, Defendants have engaged and continue to engage in violations of Sections 5(a) and 12 of the FTC Act in connection with the advertising, marketing and sale of weight-loss products, including the 1-2-3 Reduce Fat Kit, the Silhouette Patch, and Fat Seltzer Reduce.

## **COUNT ONE**

17. Through the means described in Paragraph 13, including through the statements and depictions contained in the advertisement appended as Attachment A, Defendants have represented, expressly or by implication, that:

- (a) the 1-2-3 Reduce Fat Kit causes substantial weight loss by blocking the absorption of fat and by eliminating fat;
- (b) green tea extract blocks up to 40% of the absorption of fat; and
- (c) aloe vera and sea algae eliminate inches of fat.

18. In truth and in fact:

- (a) the 1-2-3 Reduce Fat Kit does not cause substantial weight loss by

blocking the absorption of fat and by eliminating fat;

(b) green tea extract does not block up to 40 % of the absorption of fat; and

(c) aloe vera and sea algae do not eliminate inches of fat.

19. Therefore, Defendants' representations as set forth in Paragraph 17 above are false or misleading and constitute a deceptive practice, and the making of false advertisements, in or affecting commerce, in violation of Sections 5(a) and 12 of the FTC Act, 15 U.S.C. §§ 45(a) and 52.

### **COUNT TWO**

20. Through the means described in Paragraph 13, including through the statements contained in the advertisement appended as Attachment A, Defendants have represented, expressly or by implication, that:

(a) the 1-2-3 Reduce Fat Kit causes substantial weight loss by blocking the absorption of fat and by eliminating fat;

(b) green tea extract blocks up to 40% of the absorption of fat; and

(c) aloe vera and sea algae eliminate inches of fat.

21. In truth and in fact, Defendants did not possess and rely upon a reasonable basis that substantiated the representations set forth in Paragraph 20 above at the time the representations were made.

22. Therefore, the making of the representations as set forth in Paragraph 20 above constitutes a deceptive practice, and the making of false advertisements, in or affecting commerce, in violation of Sections 5(a) and 12 of the FTC Act, 15 U.S.C. §§ 45(a) and 52.

### **COUNT THREE**

23. Through the means described in Paragraph 14, including through the statements and depictions contained in the advertisement appended as Attachments B through D,

Defendants have represented, expressly or by implication, that:

- (a) the Silhouette Patch causes substantial weight loss, including as much as 1-2 pounds or more per week; and
- (b) the Silhouette Patch causes rapid weight loss with no dietary changes; eliminates cellulite; controls metabolism; and eliminates accumulated fat.

24. In truth and in fact:

- (a) the Silhouette Patch does not cause substantial weight loss, including as much as 1-2 pounds or more per week; and
- (b) the Silhouette Patch does not cause rapid weight loss with no dietary changes; does not eliminate cellulite; does not control metabolism; and does not eliminate accumulated fat.

25. Therefore, Defendants' representations as set forth in Paragraph 23 above are false or misleading and constitute a deceptive practice, and the making of false advertisements, in or affecting commerce, in violation of Sections 5(a) and 12 of the FTC Act, 15 U.S.C. §§ 45(a) and 52.

#### **COUNT FOUR**

26. Through the means described in Paragraph 14, including through the statements and depictions contained in the advertisement appended as Attachments B through D,

Defendants have represented, expressly or by implication, that:

- (a) the Silhouette Patch causes substantial weight loss, including as much as 1-2

pounds or more per week; and

- (b) the Silhouette Patch causes rapid weight loss with no dietary changes; eliminates cellulite; controls metabolism; and eliminates accumulated fat.

27. In truth and in fact, Defendants did not possess and rely upon a reasonable basis that substantiated the representations set forth in Paragraph 26 above at the time the representations were made.

28. Therefore, the making of the representations as set forth in Paragraph 26 above constitutes a deceptive practice, and the making of false advertisements, in or affecting commerce, in violation of Sections 5(a) and 12 of the FTC Act, 15 U.S.C. §§ 45(a) and 52.

#### **COUNT FIVE**

29. Through the means described in Paragraph 15, including through the statements contained in the advertisement appended as Attachments A and E, Defendants have represented, expressly or by implication, that:

- (a) Fat Seltzer Reduce causes rapid and permanent weight loss;
- (b) Fat Seltzer Reduce causes fat to be absorbed and eliminated fast and easy through the urine; and
- (c) Fat Seltzer Reduce causes weight loss without the need to maintain or go on a diet or to exercise.

30. In truth and in fact:

- (a) Fat Seltzer Reduce does not cause rapid and permanent weight loss;
- (b) Fat Seltzer Reduce does not cause fat to be absorbed and eliminated fast and easy through the urine; and

- (c) Fat Seltzer Reduce does not cause weight loss without the need to maintain or go on a diet or to exercise.

31. Therefore, Defendants' representations as set forth in Paragraph 29 above are false or misleading and constitute a deceptive practice, and the making of false advertisements, in or affecting commerce, in violation of Sections 5(a) and 12 of the FTC Act, 15 U.S.C. §§ 45(a) and 52.

### **COUNT SIX**

32. Through the means described in Paragraph 15, including through the statements and depictions contained in the advertisement appended as Attachments A and E, Defendants have represented, expressly or by implication, that:

- (a) Fat Seltzer Reduce causes rapid and permanent weight loss;
- (b) Fat Seltzer Reduce causes fat to be absorbed and eliminated fast and easy through the urine; and
- (c) Fat Seltzer Reduce causes weight loss without the need to maintain or go on a diet or to exercise.

33. In truth and in fact, Defendants did not possess and rely upon a reasonable basis that substantiated the representations set forth in Paragraph 32 above at the time the representations were made.

34. Therefore, the making of the representations as set forth in Paragraph 32 above constitutes a deceptive practice, and the making of false advertisements, in or affecting commerce, in violation of Sections 5(a) and 12 of the FTC Act, 15 U.S.C. §§ 45(a) and 52.

### **INJURY**

35. Consumers throughout the United States have suffered and continue to suffer substantial monetary loss as a result of Defendants' unlawful acts or practices in the advertising, marketing, and sale of weight-loss products. In addition, the Defendants have been unjustly enriched as a result of their unlawful practices. Absent injunctive relief by this Court, the Defendants are likely to continue to injure consumers, reap unjust enrichment, and harm the public interest.

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

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

### **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 equitable powers, requests that this Court:

- (a) Award the Plaintiff such preliminary injunctive and ancillary relief as may be necessary to avert the likelihood of consumer injury during the pendency of this action and to preserve the possibility of effective final relief, including, but not limited to temporary and preliminary injunctions;
- (b) Permanently enjoin Defendants from violating the FTC Act as alleged herein;
- (c) Award such equitable relief as the Court finds necessary to redress injury to

consumers resulting from Defendants' violations of Sections 5(a) and 12 of the FTC Act, including, but not limited to, rescission of contracts and restitution, and the disgorgement of ill-gotten gains by the Defendants; and

(d) Award the Plaintiff the costs of bringing this action, and such other equitable relief as the Court may determine to be just and proper.

Dated: November 8, 2004

Respectfully Submitted,

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General Counsel

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