UNITED STATES DISTRICT FOR THE SOUTHERN DISTRICT Case No		FILED BY:D.C. 2004 DEC -7 PM 5: 09 CLARENCE MADDOX CLERK U.S. DIST. CT. S.D. OF FLFTL.
Plaintiff,	) MAGISTRATE	1 JUDGE
<b>v</b> .	)	
SG INSTITUTE OF HEALTH & EDUCATION, INC., PEDRO SALAS, and VANESSA SALAS,	) ) )	
Defendants.	<b>)</b>	

# COMPLAINT FOR PERMANENT INJUNCTIVE AND OTHER EQUITABLE RELIEF

Plaintiff, the Federal Trade Commission ("FTC" or "Commission"), through its

undersigned attorneys, alleges as follows:

2.

 Plaintiff brings this action under Section 13(b) of the Federal Trade Commission Act ("FTC Act"), 15 U.S.C. § 53(b), to secure a permanent injunction, rescission of contracts, restitution, disgorgement of ill-gotten gains, and other equitable relief against defendants for engaging in deceptive acts or practices and disseminating false advertisements in connection with the advertising and sale of a purported weight loss and cellulite reduction product, in or affecting commerce, in violation of Sections 5(a) and 12 of the FTC Act, 15 U.S.C. §§ 45(a) and 52.

## JURISDICTION AND VENUE

This Court has subject matter 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 the United States District Court for the Southern District of Florida is proper under 15 U.S.C. §§ 45(a), 52, and 53(b) and 28 U.S.C. §§ 1391(b) and (c).

#### THE PARTIES

- Plaintiff, the Federal Trade Commission, is an independent agency of the United States 4. 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 may initiate federal district court proceedings, through its attorneys, to enjoin violations of the FTC Act and to secure such other equitable relief, including rescission of contracts and restitution, and disgorgement of ill-gotten gains, as may be appropriate in each case. 15 U.S.C. § 53(b). Defendant SG Institute of Health & Education, Inc. ("SGI") is a Florida corporation with 5. its principal office or place of business at 7051 West Commercial Blvd., Suite 3A, Tamarac, Florida, 33319. At all times relevant to this complaint, acting individually or in concert with others, SGI has marketed and sold Revopatch Plus, a purported skin patch for weight loss and cellulite reduction. SGI transacts or has transacted business in this district.
- 6. Defendant Pedro Salas is a 50% shareholder and President of SGI. At all times relevant to this complaint, acting individually or in concert with others, Pedro Salas has formulated, directed, controlled, had the authority to control, or participated in the acts and practices of SGI, including the acts or practices set forth in this complaint. His

principal office or place of business is the same as that of defendant SGI. Pedro Salas resides in and transacts or has transacted business in this district.

7. Defendant Vanessa Salas is a 50% shareholder of SGI. At all times relevant to this complaint, acting individually or in concert with others, Vanessa Salas has formulated, directed, controlled, had the authority to control, or participated in the acts and practices of SGI, including the acts or practices set forth in this complaint. Her principal office or place of business is the same as that of defendant SGI. Vanessa Salas resides in and transacts or has transacted business in this district.

#### COMMERCE

8. The acts and practices of defendants alleged in this complaint have been 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 approximately September 2001, defendants have advertised, offered for sale, sold, and distributed skin patches, dietary supplements and other products to consumers nationwide. Defendants' products have included, but are not limited to, Revopatch Plus, a purported skin patch for weight loss and cellulite reduction. According to its label, Revopatch Plus contains 10 mg of fucus vesiculosis (sea kelp), 2mg of guarana extract, 2 mg of chromium picolinate, 2 mg of garcinia extract and 2 mg of menthol. Defendants have offered and sold this product directly to consumers in units of 30, 60 or 90 patches for prices varying from \$60 to \$200, plus shipping and handling. The patches were manufactured by Transdermal Products International Manufacturing Corp. It is estimated that the product generated over \$1 million dollars in sales since September 2001.

10. To induce consumers to purchase Revopatch Plus, defendants have advertised in Spanish throughout the United States through various means including Spanish-language print advertisements in national Hispanic magazines, such as *Conexiones* and *La Guia*, live radio spots on *Recuerdo* radio station in California (KTNQ) and on 93.1 in New York City, and television commercials aired in Florida on *Telemundo*. Consumers have been able to purchase Revopatch Plus by calling a toll-free telephone number that appears in the advertisements.

#### **Revopatch Plus**

- 11. Defendants have disseminated, or caused to be disseminated, advertisements for Revopatch Plus, including, but not necessarily limited to, the print ads, television commercials, and radio spots attached as Exhibits A-F. These advertisements, translated from Spanish, contain the following statements, among others:
  - a. "[Revopatch Plus] reduces your appetite, eliminates fat, regulates your metabolism, dissipates cellulite and returns your body to its most slender shape."
     -Exhibit A, Revopatch Plus Advertisement in *Conexiones* magazine
  - b. VM [unidentified male voice]: Revopatch has arrived from Europe. The revolutionary patch that will help you lose weight and reduce the appearance of cellulite at the same time.

DI [image description]: *Interview of a young woman on the street.* M3 [interview woman 3]: With Revopatch my cellulite has been noticeably reduced. Try it and see the proof.

DI: Footage of young women in bikinis playing volleyball on the beach, followed by a woman in an orage bikini coming out of the water.

VM: Revopatch is a new product that is one hundred per cent natural and that alters your metabolism by adhering to your skin and contributing to diminish excess body fat and to noticeably reduce your appetite. DI: *Interview of a blonde woman*. M4 [interview woman 4]: I began using it when I saw the results it had on my best friend and I have lost twenty pounds in six weeks.

DI: Interview of a young man at the beach.

H1 [interview man 1]: I lost fifteen pounds in only four weeks with Revopatch. It is sensational.

-Exhibit B, Revopatch Television Commercial

"Revopatch Plus has been approved by the FDA ...." -Exhibit C, Revopatch Plus Radio Advertisement

"Revopatch Plus is a modern transdermic treatment . . . that contains 5 natural ingredients that has no side effects and that begins to work in your body from the very first week, regulating your metabolism and helping you lose unnecessary fat at an average of 1½ to 4 lbs. per week....You do not need to follow a rigorous diet..."

-Exhibit D, Revopatch Plus Radio Advertisement

"The natural components of Revopatch Plus, when they come into contact with your body, activate the body's capacity to more rapidly burn calories. All you have to do is peel off the patch, stick it to your skin, and its highly diluted components begin to send signals to the body . . . ."

-Exhibit E, Revopatch Plus Radio Advertisement

"[Revopatch Plus] it takes away the urge to eat and the accumulated fat in the body: and best of all, it is 2 products in 1, because it helps you to lose weight and it helps you dissolve cellulite."

-Exhibit F, Revopatch Plus Radio Advertisement

## **DEFENDANTS' 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. 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 purposes of Section 12 of the FTC Act, Revopatch Plus is a

"drug" or "device" as defined in Section 15 of the FTC Act, 15 U.S.C. §§ 55. As set

d.

e.

f.

c.

forth below, defendants have engaged in such unlawful practices in connection with the marketing and sale of the Revopatch Plus.

## COUNT I:

## **REVOPATCH PLUS: FALSE CLAIMS**

Through the means described in Paragraph 11 above, defendants have represented,
 expressly or by implication, that:

a Revopatch Plus causes substantial weight loss in a short period of time, for example, 15 pounds in 4 weeks and 20 pounds in 6 weeks; and

b. Revopatch Plus has been approved by the FDA.

14. In truth and in fact:

a. Revopatch Plus does not cause substantial weight loss in a short period of time, for example, 15 pounds in 4 weeks and 20 pounds in 6 weeks; and

c. Revopatch Plus has not been approved by the FDA.

Therefore, defendants' representations set forth in Paragraph 13 above are false and misleading and constitute deceptive acts and practices, 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

#### **REVOPATCH PLUS: UNSUBSTANTIATED CLAIMS**

15. Through the means described in Paragraph 11 above, defendants have represented, expressly or by implication, that:

a. Revopatch Plus causes weight loss;

- b. Revopatch Plus eliminates fat;
- c. Revopatch Plus reduces appetite;
- d. Revopatch Plus regulates metabolism; and
- e. Revopatch Plus reduces or dissolves cellulite.
- 16. Defendants did not possess and rely upon a reasonable basis that substantiated the representations set forth in Paragraph 15 above at the time the representations were made. Therefore, the making of the representations set forth in Paragraph 15 constitutes deceptive acts or practices, and the making of false advertisements, in or affecting commerce, in violation of Sections 5(a) and 12 of the FTC Act, 15 U.S.C. §§ 45(a) and

52.

#### **CONSUMER INJURY**

17. Consumers throughout the United States have suffered and continue to suffer substantial injury as a result of defendants' unlawful acts or practices. 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

18. 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 Federal Trade Commission, pursuant to Section 13(b) of the FTC Act, 15 U.S.C. § 53(b), and the Court's own equitable powers, requests that this Court:

(1) Permanently enjoin defendants from violating Sections 5(a) and 12 of the FTC Act, as alleged herein, including committing such violations in connection with the advertising, offering for sale, sale, or distribution of food, drugs, dietary supplements, devices, cosmetics, or other products, services, or programs;

(2) Award such equitable 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 of contracts and restitution, and the disgorgement of ill-gotten gains; and

(3) Award Plaintiff such other equitable relief as the Court may determine to be just and proper.

Dated: 12-6-04

Respectfully submitted,

WILLIAM E. KOVACIC General Counsel

EDWIN**(ROD**RIGUEZ NANCY W. BROWN Division of Enforcement Bureau of Consumer Protection Federal Trade Commission 600 Pennsylvania Avenue, N.W.

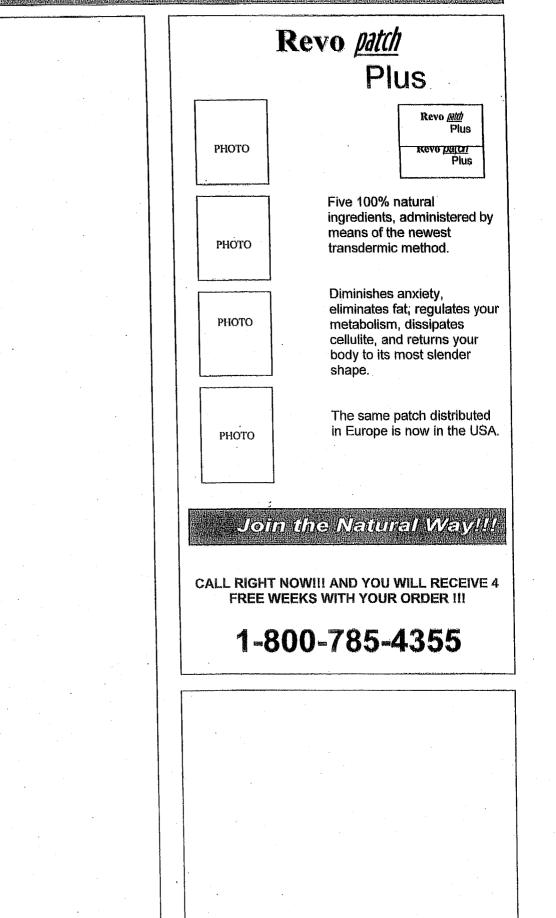
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Washington, D.C. 20580 (202) 326-3147 (ER telephone) (202) 326-2607 (NB telephone) (202) 326-2559 (facsimile) erodriguez@ftc.gov nbrown@ftc.gov A5500818 ("A" Number for Edwin Rodriguez) A5500877 ("A" Number for Nancy Brown) Attorneys for Plaintiff

# **Exhibit A**

Connections

# Tina Traviosa (\$13)495-0951 / Cristina Landa (\$13)



**Exhibit B** 

CERTIFIED TRANSLATION The Language Doctors, Inc.

### Federal Trade Commission Bureau of Consumer Protection

Videocassette Code: 0323253-SGI3

#### LABEL:

0323253-SGI3 Revopatch Television Commercial

#### **REFERENCIA / LEGEND:**

VOZ MASCULINA NO IDENTIFICADA EN OFF/UNIDENTIFIED MALE VOICE : VM DESCRIPCIÓN DE LAS IMÁGENES/IMAGE DESCRIPTION: DI MUJER ENTREVISTADA 1/INTERVIEW WOMAN 1: M1 MUJER ENTREVISTADA 2/INTERVIEW WOMAN 2: M2 MUJER ENTREVISTADA 3/INTERVIEW WOMAN 3: M3 MUJER ENTREVISTADA 4/INTERVIEW WOMAN 4: M4 HOMBRE ENTREVISTADO 1/INTERVIEW MAN 1: H1 MUJER ENTREVISTADA 5/INTERVIEW WOMAN 5: M5

1

Transcribed by The Language Doctors, Inc.

CERTIFIED TEATION The Language Doctors, Inc.

	DI	Montaje de varios frascos de productos, seguido por toma de una mujer obesa en la playa, de una mujer obesa sentada en una silla de playa, y de una señora mayor obesa en el mar.	Video montage of various product jars followed by footage of an obese woman at the beach, an obese woman sitting on a lawn chair, and an older obese woman in the ocean.	
		Un número de teléfono aparece durante todo lo largo del anuncio en la parte inferior de la imagen:	A telephone number appears at the bottom of the screen during the entire commercial:	
		1-800-785-4355	1-800-785-4355	
001	VM	Actualmente cientos de productos te ayudan a perder peso, otros a disipar la celulitis.	Today there are hundreds of products to help you lose wait, and there are others to help you eliminate cellulite.	
	DI	Toma de una mujer y un hombre comiendo, seguida por toma de piernas andando y por toma de una mujer obesa patinando.	Footage of a woman and a man eating, followed by footage of legs walking and by footage of an obese woman roller-skating.	
002	VM	¿Porqué poner en peligro tu salud y tu bolsillo? No te arriesgues.	Why endanger your health and your wallet? Don't take the risk.	
• •	DI	Entrevista de mujer joven en la playa.	Interview of a woman at the beach.	
003	M1	Había probado de todo.	I had tried everything.	
	DI	Entrevista de una mujer joven en un centro comercial.	Interview of a young woman at a mall.	
004	M2	Me encanta, me fascina, y te lo recomiendo.	I love it, I am delighted with it, and I recommend it.	
	DI	Imagen de Paris con una toma volante de Revopatch siendo aplicado a la piel, y luego aplicado a una nalga de mujer con bikini azul.	Image of Paris with a flying graphic of Revopatch being applied to the skin, followed by an image of it being applied to the thigh of a woman in a blue bikini.	
005	VM	Desde Europa llegó Revopatch. El revolucionario parche que te ayudará a perder peso y a reducir la celulitis al mismo tiempo.	Revopatch has arrived from Europe. The revolutionary patch that will help you lose weight and reduce the appearance of cellulite at the same time.	
	DI	Entrevista de una mujer joven en la calle.	Interview of a young woman on the street.	
006	M3	Con Revopatch, mi celulitis ha disminuido notablemente. Compruébalo y úsalo.	With Revopatch my cellulite has been noticeably reduced. Try it and see the proof.	
	DI	Toma de mujeres jóvenes jugando voleibol	Footage of young women in bikinis playing	
		en bikini en la playa, seguida por una mujer en bikini naranja saliendo del mar.	volleyball on the beach, followed by a woman in an orange bikini coming out of the water.	
007	VM	Revopatch es un novedoso producto cien por ciento natural que al adherirse a tu piel	Revopatch is a new product that is one hundred per cent natural and that alters your metabolism	
	DI	Montaje gráfico de un parche de Revopatch con texto superpuesto en los márgenes superior, derecho e inferior de la imagen:	Graphic montage of a Revopatch patch with superimposed text on the top, right and lower margins of the screen:	
· •		Componentes de Revopatch Fucus	Revopatch Components Fucus	
		rucus Guarana	Guarana	
		Garcinia	Garcinia	
		Menthol	Menthol	
		Chromium Picolinate	Chromium Picolinate	
. la		1-800-785-4355	1-800-785-4355	
800	VM	actúa sobre tu metabolismo	by adhering to your skin and contributing	

2

Transcribed by The Language Doctors, Inc.

Video: 0323253-SGI3 Revopatch Television Commercial

#### CERTIFIED TRANSLATION The Language Doctors, Inc. contribuyendo así a disminuiros

DI	Tomas de gente joven corriendo, de
	mujeres jóvenes tumbadas en la playa, y
	gente comiendo.
VМ	le gross en evoero de fu cuemo y e

009 VM ...la grasa en exceso de tu cuerpo y a reducir notablemente tu apetito. DI Entrevista de una muier rubia.

DI Entrevista de una mujer rubia.
M4 Yo comencé a usarlo cuando vi los

resultados con mi mejor amiga y he perdido veinte libras en seis semanas.

- DI Entrevista de hombre joven sentado en la playa.
- H1 Yo perdí quince libras en solo cuatro semanas con Revopatch. Es sensacional.
- DI Toma de una pareja andando de noche, seguida por toma de una mujer rubia en bikini azul en la playa y texto intermitente superpuesto en amarillo: Llama ahora![sic.]

Texto constante en el margen inferior de la imagen:

1-800-785-4355 \$79.00 más gastos de manejo y envío I.H.E. P.O. Box 26780 Tamarac, FL 33320 Revopatch: Las primeras veinte llamadas recibirán quince días de tratamiento gratis.

DI Entrevista de una mujer en bikini rojo con un parche de Revopatch en la mano.

*Texto constante en el margen inferior de la imagen:* 

#### 1-800-785-4355

\$79.00 más gastos de manejo y envío I.H.E. P.O. Box 26780 Tamarac, FL 33320 Revopatch: Dos productos en uno.

Disminuye la celulitis y te ayuda a bajar de (voz cortada-inaudible).

DI Toma de una pareja andando en la playa al atardecer.

Texto constante en el margen inferior de la imagen:

1-800-785-4355 \$79.00 más gastos de manejo y envío I.H.E. P.O. Box 26780 Tamarac, FL 33320 Uno ochocientos, siete ochenta y cinco, cuarenta y tres, cincuenta y cinco

//FIN DE LA CINTA DE VÍDEO //

Footage of young people jogging, of young women lying on the beach, and of people eating.

... excess body fat and to noticeably reduce your appetite.

Interview of a blond woman.

I began using it when I saw the results it had on my best friend and I have lost twenty pounds in six weeks.

Interview of a young man at the beach.

I lost fifteen pounds in only four weeks with Revopatch. It is sensational.

Footage of a couple walking at night, followed by footage of a blond woman in a blue bikini at the beach, with superimposed intermittent text in yellow: Call now!

Superimposed static text on the lower margin of the screen:

1-800-785-4355

\$79.00 plus shipping and handling I.H.E. P.O. Box 26780 Tamarac, FL 33320 Revopatch: The first twenty calls will receive a free fifteen day treatment supply. Interview of a woman in a red bikini with a Revopatch patch in her hand.

Superimposed static text on the lower margin of the screen:

#### 1-800-785-4355

\$79.00 plus shipping and handling I.H.E. P.O. Box 26780 Tamarac, FL 33320 Revopatch: Two products in one. It reduces the appearance of cellulite and it helps you lose (interrupted audio-inaudible). Footage of a couple walking on the beach in the evening hours.

Superimposed static text on the lower margin of the screen:

#### 1-800-785-4355

\$79.00 plus shipping and handling I.H.E. P.O. Box 26780 Tamarac, FL 33320 One, eight hundred, seven, eight, five, four, three, five, five. //END OF RECORDING//

013

010

011

012

VM

M5

014

VM

# **Exhibit C**

BARBIE - HELLO, DORISMAR, HOW ARE YOU? YOU LOOK REALLY SWELL (GREAT), HOW DO YOU KEEP YOURSELF LOOKING SO GOOD? TELL ME YOUR SECRET.

DORISMAR- I USE REVOPATCH

BARBIE- OH, REVOPATCH (SHOWS IT). I ALSO USE IT.

DORISMAR- NO, REVOPATCH PLUS (SHOWS IT), AND NOW IT COMES IN A NEW PACKAGE (SHOWS IT-BOX).

BARBIE- OH, THAT'S THE NEW REVOPATCH?

DORISMAR- YES, IT IS MARVELOUS, NATURAL, EASY TO USE, IT TAKES AWAY THE URGE TO EAT AND THE ACCUMULATED FAT IN THE BODY: AND BEST OF ALL, IT IS 2 PRODUCTS IN 1, BECAUSE IT HELPS YOU TO LOSE WEIGHT AND IT HELPS YOU DISSOLVE CELLULITE.

BARBIE-

DORISMAR-

WONDERFUL! ESPECIALLY THAT IT TAKES AWAY THAT INCONTROLLABLE URGE TO EAT AND IT HELPS YOU LOSE WEIGHT NATURALLY. OF COURSE, BECAUSE SINCE IT IS ALL NATURAL IT HAS NO SIDE EFFECTS.

# CLOSING

# DORISMAR-

MAKE THE DECISION TODAY! RAISE YOUR SELF-ESTEEM AND JOIN THE NATURAL WAY WITH REVOPATCH PLUS AND SAY GOOD BYE TO FAT, WE RECOMMEND IT.

# BARBI-

# CALL THE NUMBER APPEARING ON YOUR SCREEN RIGHT NOW.

**Exhibit D** 

These components are all in one single product to help you lose weight and dissolve cellulite with one single treatment. It is a simple, pleasant and easy to use process that will make you look and feel better every day.

## curtain 1800 1800-785-4355 Revopatch, call now! 1800-785-4355. Revopatch has been approved by the FDA, call right now

We are going to mention another advantage of Revopatch. This natural patch acts while you perform your daily routine. With Revopatch all you need is a few seconds to adhere the patch there, where cellulite unfortunately affects us the most, in the back of the legs and under your gluteus.

How does it do it? The natural components of Revopatch, when they come into contact with your body, activate the body's capacity to more rapidly burn calories. Al you have to do is peel off the patch, stick it to your skin, and its highly diluted components begin to send signals to the body by means of your nervous and endocrine systems.

In this way, the signals given by the brain and that transmit the urge to eat will slowly diminish. Your appetite will also *diminish* and you will feel satisfied eating less that what you are used to eating.

#### Curtain 1800

#### 1800-785-4355

Revopatch, call now! 1800-785-4355. Revopatch has been approved by the FDA, call right now Water is essential for this natural treatment offered by Revoptach that will help you lose weight and eliminate cellulite. Why do we mention water? Because it is the natural element that we need to ingest in order for it to act as the channel that your body needs when eliminating or evacuating excess fat through urine.

Exhibit E

# **REVOPATCH PROGRAM 60"**

THAT'S RIGHT ------ REVOPATCH IS A MODERN TRANSDERMIC TREATMENT THAT IS VERY EASY TO USE SINCE IT IS A SMALL PATCH OF 3CM X 3CM THAT CONTAINS 5 NATURAL INGREDIENTS, THAT HAS NO SIDE EFFECTS AND THAT BEGINS TO WORK IN YOUR BODY FROM THE VERY FIRST WEEK, REGULATING YOUR METABOLISM AND HELPING YOU LOSE UNNECESSARY FAT AT AN AVERAGE OF 1 1/2 TO 4 LBS PER WEEK. IN ADDITION, YOU DO NOT NEED TO FOLLOW A RIGOROUS DIET BUT SIMPLY FOLLOW THE INSTRUCTIONS AND THE NUTRITIONAL GUIDES THAT WE INCLUDE WITH THE TREATMENT SO THAT YOU MAY CONTINUE TO EAT, BUT IN A HEALTHY WAY. REVOPATCH ALSO HELPS DIMINISH THE URGE TO EAT EXCESSIVELY SO HERE YOU HAVE A HEALTHY AND QUICK WAY TO LOSE WEIGHT WITH REVOPATCH. SO DON'T WAIT ANY LONGER AND START CALLING 1800-785-4355 1800-785-4355 AND TODAY WE HAVE A SPECIAL OFFER FOR THE FIRST 30 PEOPLE. WITH YOUR ORDER YOU WILL RECEIVE A 25% DISCOUNT AND A SHAPING GIRDLE, CALL RIGHT NOW AT 1800-785-4355