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ATTORNEYS FOR PLAINTIFF  
FEDERAL TRADE COMMISSION

UNITED STATES DISTRICT COURT  
DISTRICT OF UTAH, CENTRAL DIVISION

FEDERAL TRADE COMMISSION,

Plaintiff,

v.

Kevin Wright; HCG Platinum, LLC, a Utah Limited  
Liability Company; and Right Way Nutrition, LLC, a  
Utah Limited Liability Company,

Defendants, and

Weekes Holdings, LLC, an Arizona Limited Liability  
Company; Primary Colors, LLC, a Utah Limited  
Liability Company; KMATT Holdings, LLC, a Utah  
Limited Liability Company; Nutrisport Holdings, LLC,  
a Utah Limited Liability Company; Ty D. Mattingly;  
Julie Mattingly; and Annette Wright,

Relief Defendants.

CASE NO. 2:14CV0258 CW

~~PROPOSED~~ STIPULATED  
FINAL MONEY JUDGMENT  
AND FINAL ORDER FOR  
PERMANENT INJUNCTION  
AND OTHER EQUITABLE  
RELIEF AS TO DEFENDANTS  
KEVIN WRIGHT, HCG  
PLATINUM, LLC, AND RIGHT  
WAY NUTRITION, LLC

On October 30, 2013, Plaintiff, the Federal Trade Commission (“Commission” or “FTC”), filed in the U.S. District Court for the District of Arizona a Complaint for Permanent Injunction and Other Equitable Relief against Defendants HCG Platinum, LLC, a limited liability company, Right Way Nutrition, LLC, a limited liability company, and Kevin Wright, individually and in his capacity as Chief Executive Officer of HCG Platinum, LLC and Right Way Nutrition, LLC (collectively, “Defendants”), pursuant to Section 13(b) of the Federal Trade Commission Act (“FTC Act”), 15 U.S.C. § 53(b). *See FTC v. Wright*, Case No. 2:14-cv-258 MAP (D. Ariz. Oct. 30, 2013). On April 9, 2014, this case was transferred to the U.S. District Court for the District of Utah.

The Commission and Defendants have stipulated to the entry of this Order in settlement of the Commission’s allegations against Defendants. The parties further stipulate that upon payment of One Million Dollars (\$1,000,000) to the Commission as provided for in the Section entitled Monetary Judgment and Consumer Redress, the parties shall present the Court with an agreed stipulation for dismissal of all Relief Defendants.

The Court, having been presented with this Stipulated Final Money Judgment and Final Order for Permanent Injunction and Other Equitable Relief as to Defendants Kevin Wright, HCG Platinum, LLC, and Right Way Nutrition, LLC (“Final Order”), finds as follows:

### **FINDINGS**

1. This Court has jurisdiction over this matter.
2. The Complaint charges that Defendants participated in deceptive acts or practices in violation of Sections 5(a) and 12 of the FTC Act, 15 U.S.C. §§ 45(a) and 52, in

the labeling, advertising, marketing, distribution, and sale of purported hCG and other weight-loss products.

3. Defendants neither admit nor deny any of the allegations in the Complaint, except as specifically stated in this Final Order. Only for purposes of this action, Defendants admit the facts necessary to establish jurisdiction.
4. Defendants waive any claim that they may have under the Equal Access to Justice Act, 28 U.S.C. § 2412, concerning the prosecution of this action through the date of this Final Order, and agree to bear their own costs and attorneys fees.
5. The parties waive all rights to appeal or otherwise challenge or contest the validity of this Final Order.

### **ORDER**

### **DEFINITIONS**

Unless otherwise specified,

1. “Corporate Defendants” means HCG Platinum, LLC, and Right Way Nutrition, LLC, and their successors and assigns.
2. “Individual Defendant” means Kevin Wright.
3. “Defendants” means Individual Defendant and Corporate Defendants.
4. “Adequate and well-controlled human clinical study” means a human clinical study that is randomized, double-blind, placebo-controlled, and conducted by persons qualified by training and experience to conduct such a study.
5. “Covered Product” means any dietary supplement, food, or drug, including, but

not limited to, any formulation of HCG Platinum.

6. “Covered Service” means any weight-loss service or program.
7. “Covered Product or Service” means any Covered Product or Covered Service.
8. “Endorsement” means as defined in 16 C.F.R. § 255.0(b).
9. “Essentially Equivalent Product” means a product that contains the identical ingredients, except for inactive ingredients (*e.g.*, binders, colors, fillers, excipients), in the same form and dosage, and with the same route of administration (*e.g.*, orally, sublingually), as the Covered Product; provided that the Covered Product may contain additional ingredients if reliable scientific evidence generally accepted by experts in the relevant field indicates that the amount and combination of additional ingredients is unlikely to impede or inhibit the effectiveness of the ingredients in the Essentially Equivalent Product.

10. “Food” and “drug,” mean as defined in Section 15 of the FTC Act, 15 U.S.C. § 55.

11. “Dietary supplement” means:
  - a. any product labeled as a dietary supplement or otherwise represented as a dietary supplement; or
  - b. any pill, tablet, capsule, powder, softgel, gelcap, liquid, or other similar form containing one or more ingredients that is a vitamin, mineral, herb or other botanical, amino acid, probiotic, or other dietary substance for use by humans to supplement the diet by increasing the total dietary intake, or a concentrate, metabolite, constituent, extract, or combination of any ingredient described above, that is intended to be ingested, and is not represented to be used as a

conventional food or as a sole item of a meal or the diet.

12. “Reliably Reported,” for a human clinical test or study (“test”), means a report of the test has been published in a peer-reviewed journal, and such published report provides sufficient information about the test for experts in the relevant field to assess the reliability of the results.

13. The term “including” in this Final Order means “including without limitation.”

14. The terms “and” and “or” in this Final Order shall be construed conjunctively or disjunctively as necessary, to make the applicable phrase or sentence inclusive rather than exclusive.

## I.

### **BANNED WEIGHT-LOSS CLAIMS**

**IT IS ORDERED** that Defendants, Defendants’ officers, agents, servants, employees, and attorneys, and all other persons in active concert or participation with any of them, who receive actual notice of this Final Order, whether acting directly or indirectly, in connection with the manufacturing, labeling, advertising, promotion, offering for sale, sale, or distribution of any dietary supplement, over-the-counter drug, or patch, cream, wrap, or other product worn on the body or rubbed into the skin, are permanently restrained and enjoined from representing, or assisting others in representing, in any manner, expressly or by implication, including through the use of a product name, endorsement, depiction, or illustration, any representation that such product:

A. Causes weight loss of two pounds or more a week for a month or more without

- diETING or exercise;
- B. Causes substantial weight loss no matter what or how much the consumer eats;
- C. Causes permanent weight loss;
- D. Blocks the absorption of fat or calories to enable consumers to lose substantial weight;
- E. Safely enables consumers to lose more than three pounds per week for more than four weeks;
- F. Causes substantial weight loss for all users; or
- G. Causes substantial weight loss by wearing a product on the body or rubbing it into the skin.

## **II.**

### **PROHIBITED REPRESENTATIONS: OTHER WEIGHT-LOSS CLAIMS**

**IT IS FURTHER ORDERED** that Defendants, Defendants' officers, agents, servants, employees, and attorneys, and all other persons in active concert or participation with any of them, who receive actual notice of this Final Order, whether acting directly or indirectly, in connection with the manufacturing, labeling, advertising, promotion, offering for sale, sale, or distribution of any Covered Product, are hereby permanently restrained and enjoined from making, or assisting others in making, directly or by implication, including through the use of a product name, endorsement, depiction, or illustration, any representation, other than representations banned under Section I of this Final Order, that:

- A. Such Covered Product causes, or assists in causing, weight loss, or any specific

amount of weight loss;

B. Such Covered Product causes, or assists in causing, rapid weight loss; or

C. Consumers who use the Covered Product can generally expect to achieve the weight loss results represented by an endorser of such Covered Product;

unless the representation is non-misleading and, at the time of making such representation, Defendants possess and rely upon competent and reliable scientific evidence that substantiates that the representation is true. For purposes of this Section, competent and reliable scientific evidence shall consist of at least two adequate and well-controlled human clinical studies of the Covered Product, or of an Essentially Equivalent Product, conducted by different experts, independently of each other, that conform to acceptable designs and protocols and whose results, when considered in light of the entire body of relevant and reliable scientific evidence, are sufficient to substantiate that the representation is true. Defendants shall have the burden of proving that a product satisfies the definition of an Essentially Equivalent Product. In addition, all underlying or supporting data and documents generally accepted by experts in weight loss research as relevant to an assessment of such testing as described in the Section entitled Preservation of Records Relating to Competent and Reliable Human Clinical Tests or Studies must be available for inspection and production to the Commission.

### **III.**

#### **PROHIBITED REPRESENTATIONS: OTHER HEALTH-RELATED CLAIMS**

**IT IS FURTHER ORDERED** that Defendants, Defendants' officers, agents, servants, employees, and attorneys, and all other persons in active concert or participation with any of

them, who receive actual notice of this Final Order, whether acting directly or indirectly, in connection with the manufacturing, labeling, advertising, promotion, offering for sale, sale, or distribution of any Covered Product or Service, are permanently restrained and enjoined from making, or assisting others in making, directly or by implication, including through the use of a product name, endorsement, depiction, or illustration, any representation, other than representations covered under Sections I or II of this Final Order, about the health benefits, safety, performance, or efficacy of any Covered Product or Service, unless the representation is non-misleading, and, at the time of making such representation, Defendants possess and rely upon competent and reliable scientific evidence that is sufficient in quality and quantity based on standards generally accepted in the relevant scientific fields, when considered in light of the entire body of relevant and reliable scientific evidence, to substantiate that the representation is true.

For purposes of this Section, competent and reliable scientific evidence means tests, analyses, research, or studies (1) that have been conducted and evaluated in an objective manner by qualified persons; (2) that are generally accepted in the profession to yield accurate and reliable results; and (3) as to which, when they are human clinical tests or studies, all underlying or supporting data and documents generally accepted by experts in the field as relevant to an assessment of such testing as set forth in the Section entitled Preservation of Records Relating to Competent and Reliable Human Clinical Tests or Studies are available for inspection and production to the Commission.



**IV.**

**PROHIBITED REPRESENTATIONS REGARDING TESTS, STUDIES, OR INGREDIENTS**

**IT IS FURTHER ORDERED** that Defendants, Defendants' officers, agents, servants, employees, and attorneys, and all other persons in active concert or participation with any of them, who receive actual notice of this Final Order, in connection with the manufacturing, labeling, advertising, promotion, offering for sale, sale, or distribution of any Covered Product or Service are hereby permanently restrained and enjoined from misrepresenting, in any manner, expressly or by implication, including through the use of any product name, endorsement, depiction, or illustration:

- A. That any Covered Product or Service is clinically proven to burn fat, reduce weight, or lower cholesterol;
- B. That the benefits of any Covered Product or Service are scientifically proven; or
- C. The existence, contents, validity, results, conclusions, or interpretations of any test, study, or research.

**V.**

**FDA APPROVED CLAIMS**

**IT IS FURTHER ORDERED** that nothing in this Final Order shall prohibit Defendants from:

- A. Making any representation for any drug that is permitted in labeling for such drug under any tentative or final monograph promulgated by the Food and Drug Administration, or under any new drug application approved by the Food and Drug Administration; and

B. Making any representation for any product that is specifically permitted in labeling for such product by regulations promulgated by the Food and Drug Administration pursuant to the Nutrition Labeling and Education Act of 1990 or permitted under Sections 303-304 of the Food and Drug Administration Modernization Act of 1997.

## VI.

### **PRESERVATION OF RECORDS RELATING TO COMPETENT AND RELIABLE HUMAN CLINICAL TESTS OR STUDIES**

**IT IS FURTHER ORDERED** that, with regard to any human clinical test or study (“test”) upon which Defendants rely to substantiate any claim covered by this Final Order, Defendants shall secure and preserve all underlying or supporting data and documents generally accepted by experts in the field as relevant to an assessment of the test, including, but not necessarily limited to:

A. All protocols and protocol amendments, reports, articles, write-ups, or other accounts of the results of the test, and drafts of such documents reviewed by the test sponsor or any other person not employed by the research entity;

B. All documents referring or relating to recruitment; randomization; instructions, including oral instructions, to participants; and participant compliance;

C. Documents sufficient to identify all test participants, including any participants who did not complete the test, and all communications with any participants relating to the test; all raw data collected from participants enrolled in the test, including any participants who did not complete the test; source documents for such data; any data dictionaries; and any case report forms;

D. All documents referring or relating to any statistical analysis of any test data, including, but not limited to, any pretest analysis, intent-to-treat analysis, or between-group analysis performed on any test data; and;

E. All documents referring or relating to the sponsorship of the test, including all communications and contracts between any sponsor and the test's researchers.

*Provided, however,* the preceding preservation requirement shall not apply to a Reliably Reported test, unless the test was conducted, controlled, or sponsored, in whole or in part (1) by any Defendant, or any person or entity affiliated with or acting on behalf of any Defendant, including officers, agents, representatives, and employees, or by any other person or entity in active concert or participation with any Defendant ("Defendant's affiliates"), (2) by the supplier or manufacturer of the product at issue, or (3) by a supplier to any Defendant, to Defendants' affiliates, or to the product's manufacturer of any ingredient contained in such product.

For any test conducted, controlled, or sponsored, in whole or in part, by Defendants, Defendants must establish and maintain reasonable procedures to protect the confidentiality, security, and integrity of any personal information collected from or about participants. These procedures shall be documented in writing and shall contain administrative, technical, and physical safeguards appropriate to Defendants' size and complexity, the nature and scope of Defendants' activities, and the sensitivity of the personal information collected from or about the participants.

**VII.**

**MONETARY JUDGMENT AND CONSUMER REDRESS**

**IT IS FURTHER ORDERED** that:

A. Judgment is hereby entered in favor of the Commission, and against Defendants, jointly and severally, in the amount of Ten Million Dollars (\$10,000,000.00), as equitable monetary relief;

B. Upon payment of One Million Dollars (\$1,000,000) to the Commission (as specified in Subsection C, below), the remainder of the judgment is suspended, subject to Subsections C through G, below;

C. Defendants have posted Five Hundred Thousand Dollars (\$500,000) with the Court Registry prior to offering this Final Order for approval, pursuant to this Court's Order and in accordance with Local Rule 26-1. Defendants will post an additional Five Hundred Thousand (\$500,000) with the Court Registry on or before September 8, 2014, pursuant to this Court's Order and in accordance with Local Rule 26-1. Upon acceptance of this Final Order by the Court, Defendants shall promptly request from this Court an Order directing disbursement of all funds held in the Court Registry to the FTC, pursuant to Subsection VII.B, above. Such Order shall specify the method of such disbursement; *provided, however*, in no event shall Defendants be required to request such an Order for disbursement prior to September 8, 2014;

D. In the event of default on any obligation to make payments under this Final Order, including, but not limited to, failure to comply with Subsections VII.C, above, interest shall

accrue as computed pursuant to 28 U.S.C. § 1961(a) from the date of default to the date of payments. In the event such default continues for ten (10) calendar days beyond the date any payments are due, the entire judgment amount of Ten Million Dollars (\$10,000,000.00) shall immediately become due and payable. Defendants shall be jointly and severally liable for all payments required by this Subsection and any interest on such payments;

E. The Commission's agreement to the suspension of part of the judgment is expressly premised upon the truthfulness, accuracy, and completeness of Defendants' sworn deposition testimony, financial statements and related documents (collectively, "financial representations") submitted to the Commission, namely:

1. The deposition transcript and exhibits appended thereto, of Individual Defendant Kevin Wright taken on May 14, 2014;

2. The Sworn Financial Statements of Individual Defendant Kevin Wright signed on May 1, 2013, December 30, 2013, and January 16, 2014, including all attachments, as superseded and amended by his deposition testimony of May 14, 2014;

3. The Sworn Financial Statements of Corporate Defendant HCG Platinum, LLC, signed by Kevin Wright as CEO on May 8, 2013, including all attachments, as superseded and amended by his deposition testimony of May 14, 2014;

4. The Sworn Financial Statement of Corporate Defendant Right Way Nutrition, LLC signed by Kevin Wright as CEO on June 12, 2013, including all attachments, as superseded and amended by his deposition testimony of May 14, 2014;

5. The Sworn Financial Statements of Relief Defendant Weekes Holdings, LLC signed by Kevin Wright as Manager on November 14, 2013 and January 16, 2014, including all attachments, as superseded and amended by his deposition testimony of May 14, 2014;

6. The Sworn Financial Statements of Relief Defendant Nutrisport Holdings, LLC signed by Kevin Wright as Manager on November 14, 2013, including all attachments, as superseded and amended by his deposition testimony of May 14, 2014;

7. The Sworn Financial Statements of Relief Defendant KMATT Holdings, LLC signed by Kevin Wright as Manager on November 14, 2013, including all attachments, as superseded and amended by his deposition testimony of May 14, 2014;

8. The QuickBooks files for Corporate Defendant Right Way Nutrition, LLC provided to Commission counsel and dated October 15, 2013 and November 27, 2013;

9. The QuickBooks files for Corporate Defendant HCG Platinum, LLC provided to Commission counsel and dated December 30, 2013; and

10. The additional explanatory letters and documentation submitted by letter from Defendants' counsel Leonard L. Gordon, Esq. to Commission counsel James A. Prunty, Esq. on the following dates and with the following Bates ranges:

- a. December 2, 2013, Bates HCG-FTC-001 to HCG-FTC-00113;
  - b. December 30, 2013, Bates HCG-FTC-00114 to HCG-FTC-00127;
  - c. January 17, 2014, Bates HCG-FTC-00128 to HCG-FTC-00412;
- and

d. February 4, 2014, Bates HCG-FTC-00413 to HCG-FTC-00526.

F. The suspension of the judgment will be lifted as to any Defendant if, upon motion by the Commission, the Court finds that such Defendant failed to disclose any material asset, materially misstated the value of any asset, or made any other material misstatement or omission in the financial representations identified in Subsection E, above;

G. If the suspension of the judgment is lifted, this judgment becomes immediately due as to Defendants in the amount specified in Subsection A. above (which the parties stipulate only for purposes of this Section represents the consumer injury alleged in the Complaint), less any payment previously made pursuant to this Section, plus interest computed from the date of entry of this Final Order;

H. All money paid to the Commission pursuant to this Final Order may deposited into a fund administered by the Commission or its designee to be used for equitable relief, including consumer redress and any attendant expenses for the administration of any redress fund. If a representative of the Commission decides that direct redress to consumers is wholly or partially impracticable or money remains after redress is completed, the Commission may apply any remaining money for such other equitable relief (including consumer information remedies) as it determines to be reasonably related to Defendants' practices alleged in the Complaint. Any money not used for such equitable relief is to be deposited to the U.S. Treasury as disgorgement. Defendants have no right to challenge any actions the Commission or its representatives may take pursuant to this Subsection;

I. Defendants relinquish dominion and all legal and equitable right, title, and interest in all assets transferred pursuant to this Final Order and may not seek the return of any assets;

J. The facts alleged in the Complaint will be taken as true, without further proof, in any subsequent civil litigation by or on behalf of the Commission, including in a proceeding to enforce its rights to any payment or monetary judgment pursuant to this Final Order, such as a nondischargeability complaint in any bankruptcy case. The facts alleged in the Complaint establish all elements necessary to sustain an action by the Commission pursuant to Section 523(a)(2)(A) of the Bankruptcy Code, 11 U.S.C. § 523(a)(2)(A), and this Final Order will have collateral estoppel effect for such purposes; and

K. Defendants acknowledge that their Taxpayer Identification Numbers (Social Security Numbers or Employer Identification Numbers), which Defendants must submit to the Commission, may be used for collecting and reporting on any delinquent amount arising out of this Final Order, in accordance with 31 U.S.C. § 7701.

#### **VIII.**

#### **COOPERATION WITH FTC**

**IT IS FURTHER ORDERED** that Defendants must fully cooperate with representatives of the Commission in this case and in any investigation related to or associated with the transactions or the occurrences that are the subject of the Complaint. Defendants must provide truthful and complete information, evidence, and testimony. Individual Defendant must appear and Corporate Defendants must cause their officers, employees, representatives, or agents to appear for interviews, discovery, hearings, trials, and any other proceedings that a Commission



representative may reasonably request upon five (5) days' written notice, or other reasonable notice, at such places and times as a Commission representative may designate, without the service of a subpoena.

**IX.**

**CUSTOMER INFORMATION**

**IT IS FURTHER ORDERED** that Defendants' officers, agents, servants, employees, and attorneys, and all other persons in active concert or participation with any of them, who receive actual notice of this Final Order, are permanently restrained and enjoined from directly or indirectly:

A. Failing to provide sufficient customer information to enable the Commission to efficiently administer consumer redress. If a representative of the Commission requests in writing any information related to redress, Defendants must provide it, in the form prescribed by the Commission, within fourteen (14) days.

B. Disclosing, using, or benefitting from customer information, including the name, address, telephone number, email address, Social Security number, other identifying information, or any data that enables access to a customer's account (including a credit card, bank account, or other financial account), that any Defendant obtained prior to entry of this Final Order in connection with the labeling, advertising, marketing, distribution, or sale of any formulation of HCG Platinum; and

C. Failing to destroy such customer information in all forms in their possession, custody, or control within thirty (30) days after entry of this Final Order.

*Provided, however,* that customer information need not be destroyed, and may be disclosed, to the extent requested by a government agency or required by law, regulation, or court order.

**X.**

**ORDER ACKNOWLEDGMENTS**

**IT IS FURTHER ORDERED** that Defendants obtain acknowledgments of receipt of this Final Order:

A. Each Defendant, within seven (7) days of entry of this Final Order, must submit to the Commission an acknowledgment of receipt of this Final Order sworn under penalty of perjury.

B. For ten (10) years after entry of this Final Order, Individual Defendant for any business involved in the sale or marketing of any Covered Product or Service that such Defendant, individually or collectively with Corporate Defendants, is the majority owner or controls directly or indirectly, and each Corporate Defendant, must deliver a copy of this Final Order to:

- (1) All principals, officers, directors, and LLC managers and members;
- (2) All employees, agents, and representatives who participate in the labeling, advertising, marketing, distribution, or sale of any Covered Product or Service; and
- (3) Any business entity resulting from any change in structure as set forth in the Section titled Compliance Reporting.

Delivery must occur within seven (7) days of entry of this Final Order for current personnel. For

all others, delivery must occur before they assume their responsibilities.

C. From each individual or entity to which a Defendant delivered a copy of this Final Order, that Defendant must obtain, within thirty (30) days, a signed and dated acknowledgment of receipt of this Final Order.

## XI.

### COMPLIANCE REPORTING

**IT IS FURTHER ORDERED** that Defendants make timely submissions to the Commission:

A. Sixty (60) days after entry of this Final Order, each Defendant must submit a compliance report, sworn under penalty of perjury:

1. Each Defendant must: (a) identify the primary physical, postal, and email address and telephone number as designated points of contact, which representatives of the Commission may use to communicate with Defendant; (b) identify all of that Defendant's businesses by all of their names, telephone numbers, and physical, postal, email, and Internet addresses; (c) describe the activities of each business, including the goods and services offered, the means of advertising, marketing, and sales, and the involvement of any other Defendant (which Individual Defendant must describe if he knows or should know due to his own involvement); (d) describe in detail whether and how that Defendant is in compliance with each Section of this Final Order; and (e) provide a copy of each Order Acknowledgment obtained pursuant to this Final Order, unless previously submitted to the Commission.

2. Additionally, Individual Defendant must: (a) identify all telephone

numbers and all physical, postal, email, and Internet addresses, including all residences; (b) identify all business activities, including any business for which such Defendant performs services whether as an employee or otherwise and any entity in which such Defendant has any ownership interest; and (c) describe in detail such Defendant's involvement in each such business, including title, role, responsibilities, participation, authority, control, and any ownership.

B. For twenty (20) years after entry of this Final Order, each Defendant must submit a compliance notice, sworn under penalty of perjury, within fourteen (14) days of any change in the following:

1. Each Defendant must report any change in: (a) any designated point of contact; (b) the structure of any Corporate Defendant or any entity that Defendant has any ownership interest in or controls directly or indirectly that may affect compliance obligations arising under this Final Order, including: creation, merger, sale, or dissolution of the entity or any subsidiary, parent, or affiliate that engages in any acts or practices subject to this Final Order.

2. Additionally, Individual Defendant must report any change in: (a) name, including aliases or fictitious name, or residence address; or (b) title or role in any business activity, including any business for which such Defendant performs services whether as an employee or otherwise and any entity in which such Defendant has any ownership interest, and identify the name, physical address, and any Internet address of the business or entity.

C. For a period of twenty (20) years, each Defendant must submit to the Commission

notice of the filing of any bankruptcy petition, insolvency proceeding, or similar proceeding by or against such Defendant within fourteen (14) days of its filing.

D. Any submission to the Commission required by this Final Order to be sworn under penalty of perjury must be true and accurate and comply with 28 U.S.C. § 1746, such as by concluding: “I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed on: \_\_\_\_\_” and supplying the date, signatory’s full name, title (if applicable), and signature.

E. Unless otherwise directed by a Commission representative in writing, all submissions to the Commission pursuant to this Final Order must be emailed to DEBrief@ftc.gov or sent by overnight courier (not the U.S. Postal Service) to: Associate Director for Enforcement, Bureau of Consumer Protection, Federal Trade Commission, 600 Pennsylvania Avenue, N.W., Washington, D.C. 20580. The subject line must begin: *FTC v. HCG Platinum*, and the number X122-3193.

## **XII.**

### **RECORDKEEPING**

**IT IS FURTHER ORDERED** that in connection with the sale of any Covered Product or Service, Defendants must create certain records for twenty (20) years after entry of the Final Order, and retain each such record for five (5) years. Specifically, Corporate Defendants and Individual Defendant for any business that such Defendant, individually or collectively with any other Defendants, is a majority owner or controls directly or indirectly, must create and retain the following records:

- A. Accounting records showing the revenues from all goods or services sold, all costs incurred in generating those revenues, and the resulting net profit or loss;
- B. Personnel records showing, for each person providing services, whether as an employee or otherwise, that person's: name; address; telephone numbers; job title or position; dates of service; and (if applicable) the reason for termination;
- C. Complaints and refund requests, whether received directly or indirectly, such as through a third party, and any response;
- D. All records necessary to demonstrate full compliance with each provision of this Final Order, including all submissions to the Commission; and
- E. A copy of each unique advertisement or other marketing material.

### **XIII.**

#### **COMPLIANCE MONITORING**

**IT IS FURTHER ORDERED** that, for the purpose of monitoring Defendants' compliance with this Final Order, including the financial representations upon which part of the judgment was suspended, and any failure to transfer any assets as required by this Final Order:

- A. Within fourteen (14) days of receipt of a written request from a representative of the Commission, each Defendant must: submit additional compliance reports or other requested information, which must be sworn under penalty of perjury; appear for depositions; and produce documents for inspection and copying. The Commission is also authorized to obtain discovery, without further leave of court, using any of the procedures prescribed by Federal Rules of Civil Procedure 29, 30 (including telephonic depositions), 31, 33, 34, 36, 45, and 69.

B. For matters concerning this Final Order, the Commission is authorized to communicate directly with each Defendant. Defendants must permit representatives of the Commission to interview any employee or other person affiliated with any Defendant who has agreed to such an interview. The person interviewed may have counsel present.

C. The Commission may use all other lawful means, including posing, through its representatives, as consumers, suppliers, or other individuals or entities, to Defendants or any individual or entity affiliated with Defendants, without the necessity of identification or prior notice. Nothing in this Final Order limits the Commission's lawful use of compulsory process, pursuant to Sections 9 and 20 of the FTC Act, 15 U.S.C. §§ 49, 57b-1.


**XIV.**

**RETENTION OF JURISDICTION**

**IT IS FURTHER ORDERED** that this Court shall retain jurisdiction of this matter for purposes of construction, modification, and enforcement of this Final Order.

**IT IS SO ORDERED:**

**DATED**, this 8th day of December 2014.

  
HONORABLE CLARK WADDOUP  
United States District Judge

**IT IS SO STIPULATED:**

COUNSEL FOR PLAINTIFF FEDERAL TRADE COMMISSION:

Jonathan E. Nuechterlein  
General Counsel

/s James A. Prunty  
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DEFENDANTS

\_\_\_\_\_  
Kevin Wright  
Individually and on behalf of  
HCG Platinum, LLC and Right Way Nutrition, LLC

COUNSEL FOR DEFENDANTS KEVIN WRIGHT, HCG PLATINUM, LLC, AND RIGHT WAY NUTRITION, LLC:

\_\_\_\_\_  
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(202) 370-6252 (voice)  
[lgordon@Venable.com](mailto:lgordon@Venable.com)



**IT IS SO STIPULATED:**

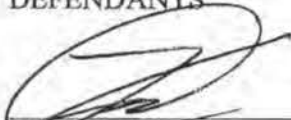
COUNSEL FOR PLAINTIFF FEDERAL TRADE COMMISSION:

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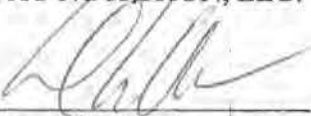
DEFENDANTS



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Kevin Wright  
Individually and on behalf of  
HCG Platinum, LLC and Right Way Nutrition, LLC

COUNSEL FOR DEFENDANTS KEVIN WRIGHT, HCG PLATINUM, LLC, AND RIGHT WAY NUTRITION, LLC:



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