

**UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF FLORIDA**

Case No. _____ - CIV _____

FEDERAL TRADE COMMISSION,)
)
Plaintiff,)
)
v.)
)
SG INSTITUTE OF HEALTH & EDUCATION, INC.,)
PEDRO SALAS, and)
VANESSA SALAS,)
)
Defendants.)
)

**STIPULATED FINAL ORDER FOR
PERMANENT INJUNCTION AND OTHER
EQUITABLE RELIEF**

WHEREAS Plaintiff, the Federal Trade Commission ("FTC" or "Commission"), has commenced this action by filing the Complaint herein; defendants SGI Institute of Health & Education, Inc., Pedro Salas, and Vanessa Salas have waived service of the Summons and Complaint; the Plaintiff has been represented by the attorneys whose names appear hereafter, and the Defendants have proceeded pro se; and the parties have agreed to settlement of this action upon the following terms and conditions, without adjudication of any issue of fact or law and without defendants admitting liability for any of the matters alleged in the Complaint;

NOW, THEREFORE, on the stipulation of plaintiff and defendants, it is hereby ORDERED, ADJUDGED, and DECREED as follows:

Corrected page
Defendants' Initials: P.S/V.S
Date: 11/16/04

1. This Court has jurisdiction over the subject matter of this case and jurisdiction over all parties. Venue in 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).

2. The Complaint states a claim upon which relief can be granted against the defendants under Sections 5(a), 12, and 13(b) of the Federal Trade Commission Act (“FTC Act”), 15 U.S.C. §§ 45(a), 52, and 53(b).

3. The acts and practices of defendants were, and are, in or affecting commerce, as defined in Section 4 of the FTC Act, 15 U.S.C. § 44.

4. Defendants waive all rights to seek judicial review or otherwise challenge or contest the validity of this Order. Defendants also waive any claims that they may have held under the Equal Access to Justice Act, 28 U.S.C. § 2412, concerning the prosecution of this action to the date of this Order.

5. Each party shall bear its own costs and attorneys’ fees.

6. Entry of this Order is in the public interest.

DEFINITIONS

For purposes of this Order, the following definitions apply:

1. “Commerce” means as defined in Section 4 of the FTC Act, 15 U.S.C. § 44.

2. “Competent and reliable scientific evidence” means tests, analyses, research, studies, or other evidence based on the expertise of professionals in the relevant area, that has been conducted and evaluated in an objective manner by persons qualified to do so, using procedures generally accepted in the profession to yield accurate and reliable results.

3. “Covered product, service, or program” means any product, service, or program that purportedly provides health benefits, including weight loss, inch loss, fat loss, or exercise or fitness benefits.

4. Unless otherwise specified, “defendants” means SG Institute of Health and Science, Corp. (“SGI”) and its successors and assigns, Pedro Salas, and Vanessa Salas.

5. “Endorsement” means as defined in 16 C.F.R. § 255.0(b).

6. The term “including” in this Order means “including, without limitation.”

7. “Revopatch Plus” means a skin patch containing sea kelp (*fucus vesiculosus*) (10 mg), guarana extract (2 mg), chromium picolinate (2 mg), garcinia extract (2 mg), and menthol (2 mg), or any one or more of any of these ingredients in the same or other amount.

8. “Transdermal product” means any product applied to the skin to deliver the product’s ingredients into the body.

I.

PROHIBITED REPRESENTATIONS

IT IS ORDERED that defendants, and their officers, agents, servants, employees, and attorneys, and all persons and entities in active concert or participation with them who receive actual notice of this Order by personal service or otherwise, whether acting directly or through any corporation, subsidiary, division, or other entity, in connection with the manufacturing, labeling, advertising, promotion, offering for sale, sale, or distribution of Revopatch Plus, or any other transdermal product, in or affecting commerce, are hereby permanently enjoined from representing, in any manner, expressly or by implication, including through the use of endorsements or trade name:

- A. That such product causes substantial weight loss in a short period of time; and
- B. That the Food and Drug Administration has approved sea kelp (*Fucus vesiculosus*) as safe or effective for controlling weight.

II.

PROHIBITED MISREPRESENTATIONS

IT IS FURTHER ORDERED that defendants, and their officers, agents, servants, employees, and attorneys, and all persons and entities in active concert or participation with them who receive actual notice of this Order by personal service or otherwise, whether acting directly or through any corporation, subsidiary, division, or other entity, in connection with the manufacturing, labeling, advertising, promotion, offering for sale, sale, or distribution of any covered product, service, or program, in or affecting commerce, are hereby permanently enjoined from making any misrepresentation, expressly or by implication, including through the use of endorsements, that such product, service, or program has been approved by the Food and Drug Administration.

III.

REPRESENTATIONS PROHIBITED UNLESS TRUE AND SUBSTANTIATED

IT IS FURTHER ORDERED that defendants, and their officers, agents, servants, employees, and attorneys, and all persons and entities in active concert or participation with them who receive actual notice of this Order by personal service or otherwise, whether acting directly or through any corporation, subsidiary, division, or other entity, in connection with the manufacturing, labeling, advertising, promotion, offering for sale, sale, or distribution of any covered product, service or program, in or affecting commerce, are permanently enjoined from

making any representation, expressly or by implication, including through the use of endorsements or trade name:

- A. That any such product, service, or program:
 - 1. Causes weight loss;
 - 2. Eliminates fat;
 - 3. Reduces appetite;
 - 4. Regulates metabolism; and
 - 5. Reduces or dissolves cellulite; and
- B. About the benefits, performance, efficacy, safety, or side effects of any such product, service, or program;

unless, at the time the representation is made, the representation is true, and they possess and rely upon competent and reliable scientific evidence that substantiates the representation.

IV.

FOOD AND DRUG ADMINISTRATION

IT IS FURTHER ORDERED that nothing in this Order prohibits defendants from:

- A. Making any representation for any drug that is permitted in labeling for such drug under any tentative final or final standard 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.

V.

RIGHT TO REOPEN

IT IS FURTHER ORDERED that:

A. The Commission's agreement to this Order is expressly premised on the truthfulness, accuracy, and completeness of defendants' sworn financial statements and supporting documents submitted to the Commission, including:

1. The Financial Statement of Corporate Defendant SG Institute of Health and Education, Inc., dated September 22, 2004;
2. The Financial Statement of Individual Defendant Pedro Salas, dated September 22, 2004; and
3. The Financial Statement of Individual Defendant Vanessa Salas, dated September 22, 2004.

Such financial statements and supporting documents contain material information upon which the Commission relied in negotiating and agreeing to this Order.

B. If, upon motion by the Commission, a Court finds that any defendant has failed to disclose any material asset, or made any other material misrepresentation or omission in the financial statements and supporting documents described in Paragraph V.A. above, the Court shall enter judgment against defendants, jointly and severally, in favor of the Commission, in the amount of \$1,000,000 (one million dollars) in U.S. currency, which amount would be rendered immediately due and payable. Interest computed at the rate prescribed in 28 U.S.C. § 1961 shall immediately begin to accrue on the balance. For the purposes of this

Paragraph and any subsequent proceedings to enforce payment, the Defendants waive any right to contest any of the allegations in the Complaint filed in this action. Provided however, that in all other respects this Stipulated Final Order remains in full force and effect unless otherwise ordered by the Court; and provided further, that proceedings instituted under this Paragraph V are in addition to, and not in lieu of, any other civil or criminal remedies that may be provided by law, including any other proceedings the Commission may initiate to enforce this Order.

VI.

ACKNOWLEDGMENT OF RECEIPT OF ORDER

IT IS FURTHER ORDERED that defendants, within five (5) business days of receipt of this Order as entered by the Court, must each execute and submit to the Commission a truthful sworn statement acknowledging receipt of this Order.

VII.

DISTRIBUTION OF ORDER BY DEFENDANTS

IT IS FURTHER ORDERED that, for a period of three (3) years from the date of entry of this Order, Defendants must deliver copies of this Order as directed below:

- A. **Corporate Defendant:** Defendant SGI must deliver a copy of this Order to all of its principals, officers, directors, and managers. SGI also must deliver copies of this Order to all of its employees, agents, and representatives who engage in conduct related to the subject matter of the Order. For current personnel, delivery

shall be within ten (10) days of the date of entry of this Order. For new personnel, delivery shall occur prior to them assuming their responsibilities.

- B. **Individual Defendants as Control Person:** For any business that defendant Pedro Salas or defendant Vanessa Salas controls, directly or indirectly, or in which Pedro Salas or Vanessa Salas has a majority ownership interest, such defendant must deliver a copy of this Order to all principals, officers, directors, and managers of that business. Defendants Pedro Salas and Vanessa Salas must also deliver copies of this Order to all employees, agents, and representatives of that business who engage in conduct related to the subject matter of the Order. For current personnel, delivery shall be within ten (10) days of the date of entry of this Order. For new personnel, delivery shall occur prior to them assuming their responsibilities.
- C. **Individual Defendants as Employee or Non-Control Person:** For any business where defendant Pedro Salas or defendant Vanessa Salas is not a controlling person but otherwise engages in conduct related to the subject matter of this Order, such defendant must deliver a copy of this Order to all principals and managers of such business before engaging in such conduct.
- D. Defendants SGI, Pedro Salas, and Vanessa Salas must secure a signed and dated statement acknowledging receipt of the Order, within thirty (30) days of delivery, from all persons receiving a copy of the Order pursuant to this Part.

VIII.

COMPLIANCE MONITORING

IT IS FURTHER ORDERED that, for the purpose of monitoring and investigating compliance with any provision of this Order:

- A. Within ten (10) days of receipt of written notice from a representative of the Commission, defendants each shall submit additional written reports, sworn to under penalty of perjury; produce documents for inspection and copying; appear for deposition; and/or provide entry during normal business hours to any business location in such defendant's possession or direct or indirect control to inspect the business operation;
- B. In addition, the Commission is authorized to monitor compliance with this Order by all other lawful means, including but not limited to the following:
1. obtaining discovery from any person, without further leave of court, using the procedures prescribed by Fed. R. Civ. P. 30, 31, 33, 34, 36 and 45;
 2. posing as consumers and suppliers to: Defendants' employees, or any other entity managed or controlled in whole or in part by defendants without the necessity of identification or prior notice; and
- C. Defendants shall permit representatives of the Commission to interview any employer, consultant, independent contractor, representative, agent, or employee who has agreed to such an interview, relating in any way to any conduct subject to this Order. The person interviewed may have counsel present.

Provided, however, that nothing in this Order shall limit 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, to obtain any documentary material, tangible things, testimony, or information relevant to unfair or deceptive acts or practices in or affecting commerce (within the meaning of 15 U.S.C. § 45(a)(1)).

IX.

COMPLIANCE REPORTING BY DEFENDANTS

IT IS FURTHER ORDERED that, in order that compliance with the provisions of this Order may be monitored:

- A. For a period of three (3) years from the date of entry of this Order,
 1. Pedro Salas and Vanessa Salas shall notify the Commission of the following:
 - a. Any changes in his or her residence, mailing addresses, and telephone numbers, within ten (10) days of the date of such change;
 - b. Any changes in his or her employment status (including self-employment), and any change in his or her ownership in any business entity, within ten (10) days of the date of such change. Such notice shall include the name and address of each business that the defendant is affiliated with, employed by, creates or forms, or performs services for; a statement of the nature of the business;

and a statement of the defendant's duties and responsibilities in connection with the business or employment; and

c. Any changes in his or her name or use of any aliases or fictitious names; and

2. Defendants shall notify the Commission of any changes in corporate structure or any business entity that Pedro Salas or Vanessa Salas directly or indirectly control(s), or has an ownership interest in, that may affect compliance obligations arising under this Order, including but not limited to a dissolution, assignment, sale, merger, or other action that would result in the emergence of a successor entity; the creation or dissolution of a subsidiary, parent, or affiliate that engages in any acts or practices subject to this Order; the filing of a bankruptcy petition; or a change in the corporate name or address, at least thirty (30) days prior to such change, *provided that*, with respect to any proposed change in the corporation about which the defendant(s) learns less than thirty (30) days prior to the date such action is to take place, defendant(s) shall notify the Commission as soon as is practicable after obtaining such knowledge.

B. Ninety (90) days after the date of entry of this Order, defendants each shall provide a written report to the FTC, sworn to under penalty of perjury, setting forth in detail the manner and form in which they have complied and are complying with this Order. This report shall include, but not be limited to:

1. For Pedro Salas and Vanessa Salas:
 - a. His or her then-current residence address, mailing addresses, and telephone numbers;
 - b. His or her then-current employment and business addresses and telephone numbers, a description of the business activities of each such employer or business, and his or her title and responsibilities for each such employer or business; and
 - c. Any other changes required to be reported under subparagraph A of this Section.
2. For all defendants:
 - a. A copy of each acknowledgment of receipt of this Order, obtained pursuant to Paragraph VII; and
 - b. Any other changes required to be reported under subparagraph A of this Paragraph IX.
- C. For the purposes of this Order, defendants shall, unless otherwise directed by the Commission's authorized representatives, mail all written notifications to the Commission to: Associate Director for Enforcement, Federal Trade Commission, 600 Pennsylvania Avenue, N.W., Washington, DC 20580. Attn: FTC v. SG Institute of Health and Education, Matter No. 0323253.
- D. For purposes of the compliance reporting and monitoring required by this Order, the Commission is authorized to communicate directly with defendants.

X.

RECORD KEEPING PROVISIONS

IT IS FURTHER ORDERED that, for a period of six (6) years from the date of entry of this Order, defendant SGI and its successors and assigns, and defendants Pedro Salas and Vanessa Salas in connection with any business where (1) he or she is the majority owner, an officer, or director of the business, or directly or indirectly manages or controls the business and (2) the business engages in, or assists others engaged in, the manufacturing, advertising, promotion, offering for sale, sale, or distribution of any transdermal product or of any other covered product, service or program in or affecting commerce, and their agents, employees, officers, corporations, and those persons in active concert or participation with them who receive actual notice of this Order by personal service or otherwise, are hereby restrained and enjoined from failing to create and retain the following records:

- A. Accounting records that reflect the cost of goods, services, or programs sold, revenues generated, and the disbursement of such revenues;
- B. Personnel records accurately reflecting: the name, address, and telephone number of each person employed in any capacity by such business, including as an independent contractor; that person's job title or position; the date upon which the person commenced work; and the date and reason for the person's termination, if applicable;
- C. Customer files containing the names, addresses, telephone numbers, dollar amounts paid, quantity of goods, services, or programs purchased, and description

of goods, services, or programs purchased, to the extent such information is obtained in the ordinary course of business;

- D. Complaints and refund requests (whether received directly, indirectly, or through any third party) and any responses to those complaints or requests;
- E. Copies of all sales scripts, training materials, advertisements, promotional materials, or other marketing materials;
- F. All materials that were relied upon in making any representations contained in the materials identified in Part E of this Paragraph;
- G. All other documents evidencing or referring to the accuracy of any claim in the materials identified in Part E of this Paragraph or to the safety or efficacy of any transdermal product or any other covered product, service or program including, but not limited to, all tests, reports, studies, demonstrations, or other evidence that confirm, contradict, qualify, or call into question the safety or efficacy of any such product, service or program;
- H. Records accurately reflecting the name, address, and telephone number of each person or entity engaged in the development or creation of any testing obtained for the purpose of advertising, labeling, promoting, offering for sale, distributing, or selling any transdermal product or any other covered product, service or program;
and
- I. All records and documents necessary to demonstrate full compliance with each provision of this Order, including but not limited to, copies of acknowledgments of

receipt of this Order, required by Paragraphs VI and VII, and all reports submitted to the FTC pursuant to Paragraph IX.

XI.

SCOPE OF ORDER

IT IS FURTHER ORDERED that this Order resolves only claims against the named defendants and does not preclude the Commission from initiating further action or seeking an remedy against any other persons or entities, including without limitation persons or entities who may be subject to portions of this Order by virtue of actions taken in concert or participation with defendants, and persons or entities in any type of indemnification or contractual relationship with defendants.

XII.

RETENTION OF JURISDICTION

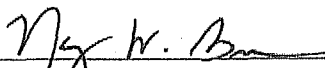
IT IS FURTHER ORDERED that this Court shall retain jurisdiction of this matter for purposes of construction, modification and enforcement of this Order.

SO STIPULATED:

FOR THE FEDERAL TRADE COMMISSION: FOR THE DEFENDANTS:

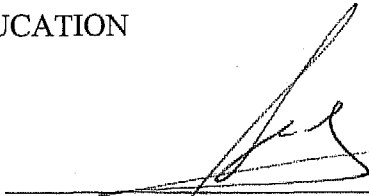
ELAINE D. KOLISH
Associate Director for Enforcement

JONI LUPOVITZ
Assistant Director for Enforcement




EDWIN RODRIGUEZ
NANCY BROWN
Attorneys

SG INSTITUTE OF HEALTH AND
EDUCATION


By: 

PEDRO SALAS, as President of SG Institute of
Health and Education

Federal Trade Commission
600 Pennsylvania Ave.
Washington, D.C. 20580
(202) 326-3147 (ER telephone)
(202) 326-2607 (NB telephone)
(202) 326- 2559 (facsimile)



PEDRO SALAS, Individually and as co-owner
and President of SG Institute of Health and
Education



VANESSA SALAS, Individually and as co-
owner of SG Institute of Health and Education

JUDGMENT IS THEREFORE ENTERED in favor of plaintiff and against defendants,
pursuant to all the terms and conditions recited above.

So ordered this _____ day of _____, 2004

UNITED STATES DISTRICT JUDGE