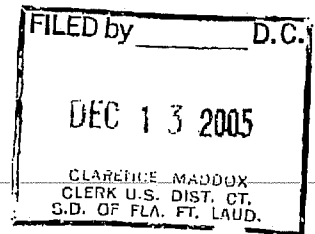


UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

Case No. 04-61627-CIV-ZLOCH



FEDERAL TRADE COMMISSION,

Plaintiff,

vs.

DEFAULT FINAL JUDGMENT
AND PERMANENT INJUNCTION
AGAINST DEFENDANT SG INSTITUTE
OF HEALTH & EDUCATION, INC. ONLY

SG INSTITUTE OF HEALTH &
EDUCATION, INC., PEDRO SALAS,
and VANESSA SALAS,

Defendants.

THIS MATTER is before the Court upon Plaintiff Federal Trade Commission's Motion For Entry Of Default Final Judgment And Order For Permanent Injunction And Other Equitable Relief Against Defendant SG Institute Of Health & Education, Inc. (DE 24). The Court has carefully reviewed said Motion, all Affidavits and Exhibits in support thereof, the entire Court file and is otherwise fully advised in the premises.

I. Procedural History

On December 7, 2004, Plaintiff Federal Trade Commission (hereinafter "Plaintiff," "FTC" or the "Commission") filed a Complaint (DE 1) alleging that Defendants SG Institute of Health & Education, Inc. (hereinafter "Defendant SG Institute"), Pedro Salas and Vanessa Salas (hereinafter, collectively, the "Defendants") violated the Federal Trade Commission Act by engaging in false and unsubstantiated advertising for Revopatch Plus, a purported weight-

2/12

loss and cellulite-reduction skin patch. On January 5, 2005, the parties filed a proposed Stipulated Final Order For Permanent Injunction And Other Equitable Relief (DE 3) in settlement of the action. The proposed Order (DE 3) was signed by Defendant Vanessa Salas in her individual capacity and by Pedro Salas in his individual capacity and as President of Defendant SG Institute. On January 6, 2005, because Defendant SG Institute was not represented by counsel, the Court issued an Order (DE 4) declining to adopt the proposed Stipulated Final Order, without prejudice. In that Order (DE 4) the Court stated that "upon the filing of a notice of appearance on behalf of Defendant SG Institute of Health & Education, Inc., the Court will consider a joint stipulation for permanent injunction."

On May 5, 2005, Plaintiff filed a Motion For Entry of Stipulated Final Order Against Individual Defendants (DE 7). On May 18, 2005, the Court approved, adopted and ratified the Stipulated Final Order against Pedro and Vanessa Salas only. See DE 14. Said Order (DE 14) resolved the above-styled cause in regard to the individual defendants, leaving only Plaintiff's claims against Defendant SG Institute. The Order (DE 14) also directed Plaintiff to file a Status Report advising the Court whether it intended to proceed to prosecute the action as to Defendant SG Institute.

On May 27, 2005, Plaintiff filed a Status Report (DE 15) informing the Court that it intended to pursue the action against Defendant SG Institute. On May 31, 2005, the Court granted Plaintiff's Motion For Extension Of Time To Serve Summons And Complaint Upon Corporate Defendant SG Institute Of Health & Education, Inc. (DE 6) and gave Plaintiff until July 11, 2005 to serve the Complaint and Summons on Defendant SG Institute. See DE 17. Service of process on Defendant SG Institute took place on June 4, 2005 and proof of service was filed with the Court on June 14, 2005. See DE 18. Defendant SG Institute's Answer was due on June 24, 2005, but no answer has been forthcoming as of the date of this Order and Defendant SG Institute has otherwise failed to defend this matter. Consequently, the Clerk of Court entered a Clerk's Default against Defendant SG Institute on July 7, 2005. See DE 21. On July 14, 2005, the Court issued an Order Entering Default (DE 23) approving and ratifying the Clerk's Default (DE 21) and ordering Plaintiff to submit a Motion For Default Judgment as to Defendant SG Institute on or before July 30, 2005. See DE 23. In the instant Motion (DE 24), Plaintiff moves for Default Final Judgment against Defendant SG Institute in the form of a permanent injunction and other equitable relief.

II. Jurisdiction

The Court finds that it has jurisdiction over the subject matter of this case pursuant to 28 U.S.C. §§ 1331, 1337(a) and 1345. The Court further finds that it has jurisdiction over all

parties and that 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).

III. Findings of Fact and Conclusions of Law

As an initial matter, the Court notes that it has the authority to enter a Default Final Judgment against Defendant SG Institute. Rule 55(a) of the Federal Rules of Civil Procedure provides that judgment by default may be entered when a party against whom affirmative relief is sought has failed to plead or otherwise defend as provided by the Federal Rules of Civil Procedure. Rule 55(b) provides that judgment by default may not be entered against an infant or an incompetent person unless represented by a guardian. Here, the Court finds that Defendant SG Institute has neither pled nor otherwise defended this action and, accordingly, default is proper. Additionally, the Court finds that Defendant SG Institute is not an infant, an incompetent person or in the military. See DE 26 at ¶ 9.

Next, the Court notes that this is an action by the FTC instituted under Sections 5(a), 12 and 13(b) of the Federal Trade Commission Act (hereinafter the "Act"), 15 U.S.C. §§ 45(a), 52 and 53(b), seeking a permanent injunction and other equitable relief for alleged unfair or deceptive acts or practices and the dissemination of false advertisements in connection with the advertising sale of Revopatch Plus, a purported weight loss and cellulite reduction patch. Specifically, Section 5(a) of the Act,

15 U.S.C. § 45(a), prohibits unfair or deceptive acts or practices in or affecting commerce. Section 12(a) of the 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. Finally, Section 13(b) of the Act, 15 U.S.C. § 53(b), empowers the Court to grant injunctive and other such relief as the Court may deem appropriate to halt and redress violations of the Act, including, but not limited to, rescission of contracts, restitution and disgorgement. See FTC v. Gem Merchandising Corp., 87 F.3d 466, 468-70 (11th Cir. 1996); FTC v. U.S. Oil & Gas Corp., 748 F.2d 1431, 1433-34 (11th Cir. 1984); FTC v. Slimamerica, 77 F. Supp. 2d 1263, 1275-76 (S.D. Fla. 1999).

The Court further notes that where a Defendant has failed to defend a claim, the Court is required to take the allegations in the Complaint as being established, so long as they are well pled. See Nishimatsu Contr. Co. v. Houston Nat'l Bank, 515 F.2d 1200, 1206 (5th Cir. 1975) ("The defendant, by his default, admits the plaintiff's well-pleaded allegations of fact, is concluded on those facts by the judgment, and is barred from contesting on appeal the facts thus established.").¹ Here, the Complaint (DE 1) alleges that - in violation of Sections 5(a) and 12 of the Act, 15 U.S.C.

¹In Bonner v. City of Prichard, 661 F.2d 1206, 1209 (11th Cir. 1981) (en banc) the Eleventh Circuit adopted as binding all Fifth Circuit decisions handed down prior to October 1, 1981.

Revopatch Plus causes weight loss, eliminates fat, reduces appetite, regulates metabolism and reduces or dissolves cellulite. The Court also finds that Defendant SG Institute did not possess and rely upon a reasonable basis that substantiated these representations at the time the representations were made. The Court finds further that these representations are false and misleading and that they constitute deceptive acts and practices and the making of false advertisements in or affecting commerce in violation of Section 5(a) and 12 of the Act, 15 U.S.C. §§ 45(a) and 52. Finally, the Court finds that these representations are the kind usually relied upon by a reasonably prudent person and are, therefore, material and that Revopatch Plus is a "drug" or "device" as defined by the Act.

a. Injunctive Relief

In an action filed pursuant to Section 13(b) of the Act, 15 U.S.C. 53(b), if the Court finds that the defendants violated Section 5 and 12 of the Act, as the Court has done here, it has the authority to exercise a full spectrum of equitable powers, including permanent injunctive relief and monetary relief, such as rescission of contracts, restitution (often referred to as "consumer redress") and disgorgement. See FTC v. Gem Merchandising Corp., 87 F.3d at 468-70; FTC v. U.S. Oil & Gas Corp., 748 F.2d at 1433-34; FTC v. Slimamerica, 77 F. Supp. 2d at 1275-76. In this matter, Plaintiff first seeks comprehensive injunctive relief.

§§ 45(a) and 52 - Defendants falsely claimed that Revopatch Plus causes substantial weight loss in a short period of time, for example, 15 pounds in four weeks and 20 pounds in six weeks, and that it has been approved by the Food and Drug Administration (hereinafter the "FDA"). Said Complaint (DE 1) further alleges that Defendants - in violation of Sections 5(a) and 12 of the Act, 15 U.S.C. §§ 45(a) and 52 - claimed without substantiation that Revopatch Plus causes weight loss, eliminates fat, reduces appetite, regulates metabolism and reduces or dissolves cellulite. The Complaint (DE 1) also alleges that the acts and practices of Defendant SG Institute were, and are, in or affecting commerce as defined in Section 4 of the Act, 15 U.S.C. § 44. Upon review of the Complaint (DE 1), the Court finds that said Complaint (DE 1) states a claim upon which relief can be granted against Defendant SG Institute under the aforementioned statutory provisions.

Accordingly, the Court finds that Plaintiff's Complaint (DE 1) sets forth well-pled allegations which the Court accepts as true. That is, the Court finds that Defendant SG Institute has disseminated, or has caused to be disseminated, advertisements for Revopatch Plus that contain statements that falsely represent that Revopatch Plus causes substantial weight loss in a short period of time and that Revopatch Plus has been approved by the Food and Drug Administration. Also, the Court finds that Defendant SG Institute has disseminated, or has caused to be disseminated, advertisements for Revopatch Plus that contain statements that represent that

Specifically, Plaintiff seeks a permanent injunction prohibiting Defendant SG Institute from falsely claiming that Revopatch Plus or any other transdermal product causes substantial weight loss in a short period of time or that the FDA has approved sea kelp - an ingredient in Revopatch Plus - for controlling weight. Next, Plaintiff requests a permanent injunction prohibiting Defendant SG Institute from misrepresenting that any product, service, or program that purportedly provides health benefits has been approved by the FDA. Third, Plaintiff seeks to have the Court enter an Order requiring Defendant SG Institute to have competent and reliable scientific evidence before making future claims about the benefits, performance, efficacy, safety, or side effects of any health-related product, service, or program, including claims that any such product, service or program causes weight loss, eliminates fat, reduces appetite, regulates metabolism and reduces or dissolves cellulite.

The Court finds that such an injunction is proper and would prohibit the making of certain misrepresentations or representations for which Defendant SG Institute does not have a reasonable basis, practices which are unlawful under Section 5(a) and 12 of the Act, 15 U.S.C. § 45(a) and 52. See FTC v. Slimamerica, Inc., 77 F. Supp. 2d at 1272, 1275-77. Also, such an injunction would bear a reasonable relation to Defendant SG Institute's unlawful practices, yet, such an injunction would be framed broadly enough to prevent Defendant from engaging in similarly illegal practices in the future. See FTC v. Nat'l Lead

Co., 352 U.S. 419, 431 (1957); see also Litton Indus., Inc. v. FTC, 676 F.2d 364, 370 (9th Cir. 1982) (crafting injunction to include reasonable fencing-in provisions to close all roads to the prohibited goal); Slimamerica, 77 F. Supp. 2d at 1275.

Plaintiff also seeks a permanent injunction which contains standard provisions to ensure enforceability, that is, a provision requiring acknowledgment of receipt of the order, an order distribution requirement, a provision permitting the Commission access to Defendant SG Institute, a provision requiring Defendant SG Institute to notify Plaintiff of any changes in corporate structure and a provision requiring maintenance of records for six years after engaging in a covered activity. According to Plaintiff, these record-keeping and monitoring provisions are designed to ensure compliance with the aforementioned permanent injunction provisions.

In light of the above, the Court finds that it is proper to issue a permanent injunction prohibiting Defendant SG Institute: (1) from making false representations in connection with Revopatch Plus and any other transdermal product that any such product causes substantial weight loss in a short period of time and that the Food and Drug Administration has approved sea kelp (*fucus vesiculosus*) as safe or effective for controlling weight, (2) from misrepresenting that any product, service or program that purportedly provides health benefits has been approved by the Food and Drug Administration and (3) from making unsubstantiated claims about the benefits, performance, efficacy, safety or side effects

of any product, service or program that purportedly provides health benefits, including unsubstantiated claims that any such product, service or program causes weight loss, eliminates fat, reduces appetite, regulates metabolism and reduces or dissolves cellulite. The Court further finds that if not enjoined, Defendant SG Institute is likely to continue its deceptive practices in the future. Moreover, the Court also finds it proper to fashion a permanent injunction containing the aforementioned standards and provisions regarding enforceability as set forth above. In light of the aforementioned, the Court finds that the permanent injunction discussed above is clearly in the public interest. Finally, insofar as additional findings are relevant to the instant inquiry, the Court also finds that the equities weigh in favor of a permanent injunction, that consumers are threatened with irreparable harm absent the permanent injunction and that Plaintiff, by virtue of Defendant's SG Institute's default, has effectively succeeded on the merits of its claims. See Sony Music Entertainment, Inc., v. Global Arts Prod., 45 F. Supp. 2d 1345, 1347-48 (S.D. Fla. 1999) (setting forth elements for permanent injunction).

b. Equitable Relief

Plaintiff's Complaint (DE 1) also seeks an award of equitable relief, including rescission of contracts, restitution and the disgorgement of ill-gotten gains to redress injury to consumers resulting from Defendant SG Institute's violations of the Act. Said Complaint (DE 1) alleges - and by default Defendant SG

Institute has conceded that - "Consumers throughout the United States have suffered and continue to suffer substantial injury as a result of [D]efendant's unlawful acts or practices" and Defendants "have been unjustly enriched as a result of their unlawful acts or practices" and that "[a]bsent injunctive relief by this Court, [D]efendants are likely to continue to injure customers, reap unjust enrichment, and harm the public interest." As stated above, Defendant SG Institute has disseminated advertising for Revopatch Plus that contained statements that made material false and unsubstantiated representations that violated the Act and injured customers. It is proper, therefore, to enter a monetary judgement against Defendant SG Institute to redress consumer injury which resulted from its violations of the Act.

Section 13(b) of the Act permits the Court to order consumer redress and disgorgement of ill-gotten gains as equitable monetary remedies. Gem Merchandising Corp., 87 F.3d at 468-70; FTC v. U.S. Oil & Gas Corp., 748 F.2d at 1434; Slimamerica, 77 F. Supp. 2d at 1275. The appropriate measure of consumer redress is the aggregate amount paid by consumers minus paid refunds. Id. at 1276. The appropriate measure of disgorgement is Defendant SG Institute's ill-gotten gains, which is appropriate when it is not possible to distribute money to consumers. Gem Merchandising Corp., 87 F.3d at 470. Thus, to rescind the contracts here, the Court would need to award a judgment totaling the entire net amount of Revopatch Plus sales, of which the same net amount also equals the amount of ill-gotten gains.

No particular procedure need be followed by the Court in considering a proposed default judgment. Federal Rule of Civil Procedure 55(b)(2) provides in part that:

If, in order to enable the Court to enter judgment or to carry it into effect, it is necessary to take into account or to determine the amount of damages or to establish the truth of any averment by evidence or to make an investigation of any other matter, the court may conduct such hearings or order such references as it deems necessary and proper and shall accord a right of trial by jury to the parties when and as required by any statute of the United States.

The Eleventh Circuit Court of Appeals requires a judicial determination of damages absent a factual basis in the record. Anheuser-Busch, Inc. v. Philpot, 317 F.3d 1264, 1266 (11th Cir. 2003). A hearing is necessary only if the amount is not liquidated or capable of mathematical calculation. Adolph Coors Co. v. Movement Against Racism and the Klan, 777 F.2d 1538, 1543-44 (11th Cir. 1985). However, the Court finds that here, as discussed below, a hearing is unnecessary because the aggregate net amount paid by consumers for Revopatch Plus is mathematically calculable as set forth by Affidavit and other evidence. See DE Nos. 26 & 27.

Plaintiff states that the consumer injury in this case is \$1,000,000 based on: (1) a sales log Defendants provided to the FTC in response to Civil Investigative Demands (hereinafter "CID") issued by the Commission on September 29, 2003, (2) the Financial Statement of Defendant SG Institute dated September 22, 2004 and (3) a telephone conversation between Plaintiff's attorney Edwin

Rodriguez and the President of SG Institute, Defendant Pedro Salas, in September 2004.

According to Plaintiff, Specification 14 of the Commission's CID requested "[f]or 2001, 2002 and 2003 to date, all documents that show net and gross profit figures for the sale of Revo Patch." See DE 26 at ¶ 12 and Ex. A thereto at 10. In its certified response to the CIDs, signed by its President, Pedro Salas, Defendant SG Institute stated, in response to Specification 14, that "SG Institute does not have records which separate Revo Patch, nor was SG Institute able to compile any reports for this on the computer." See DE 26 at ¶ 13 and Ex. B thereto at 4. Instead of providing net and gross sales for Revopatch Plus, Defendant SG Institute produced a sales log documenting each sale of Revopatch Plus and other products it sold to customers. See See DE 26 at ¶ 13 and Ex. B at 3-4. Defendant SG Institute stated in the sales log "[t]he product sold can be found in each entry. Any reference to parches [sic] or inicial [sic] [refer to] Revo Patch." Id.

Plaintiff states further that it analyzed each entry in the log and calculated that Defendant SG Institute's gross sales for 2001-2003 were approximately \$1,177,892. See DE 27 at ¶ 8. Additionally, Defendant SG Institute's Financial Statements report year-to-date gross revenue for 2004 (up to September 2004) of \$385,203.50. See DE 26 at ¶ 15 and Ex. C at 9. Product sales by Defendant SG Institute therefore totaled approximately \$1,563,095.50 for the 2001-2004 period. See DE 26 at ¶ 16.

Because Defendant SG Institute sold products other than Revopatch Plus, Plaintiff's counsel, Edwin Rodriguez, contacted the President of Defendant SG Institute, Defendant Pedro Salas, by telephone in September 2004, to determine as part of the investigation whether Defendant Salas had additional sales information relating to Revopatch Plus. See id. at ¶ 17-18. Defendant Pedro Salas indicated that Revopatch Plus sales accounted for 80% of all of Defendant SG Institute sales. See id. Revopatch gross sales, therefore, totaled approximately \$1,250,476.40 (80% of \$1,563,095.50) for the 2001-2004 period. See id. at ¶ 18. Because some of these gross sales resulted in subsequent cancellations and returns, with concomitant refunds and credit card charge-backs, Defendant Pedro Salas stated that \$1,000,000 was an accurate calculation of Revopatch Plus net sales. See id. at ¶¶ 17-18.

Nonetheless, financial statements submitted by Defendants to the FTC establish that Defendants could not afford to pay any consumer redress: See id. at ¶ 19. Plaintiff, therefore, agreed for settlement purposes only to a negotiated Stipulated Final Order (DE 3) that included the \$1,000,000 amount and agreed to seek a judgment in that amount only if, upon motion of Plaintiff, the Court found that Defendants failed to disclose material assets or made misrepresentations in the sworn financial statements they provided to the FTC. See id. In such an occurrence, the Stipulated Final Order provides that the Court shall enter judgment against Defendants, jointly and severally, in favor of Plaintiff, in the amount of \$1,000,000. See id. Defendants Pedro Salas and

Vanessa Salas signed the proposed Stipulated Final Order For Permanent Injunction And Other Equitable Relief (DE 3) in their individual capacities and Defendant Pedro Salas also signed as President of Defendant SG Institute. The Court approved the said proposed Order (DE 3) against individual Defendants Pedro Salas and Vanessa Salas, including the aforementioned provision relating to the \$1,000,000 amount, in an Order (DE 14) dated May 18, 2005.

In the instant Motion (DE 24), Plaintiff seeks a judgment for monetary relief against the only remaining Defendant, Defendant SG Institute, for the \$1,000,000 amount. The Stipulated Final Order (DE 14) did not seek the immediate entry of judgment for \$1,000,000, however, it is a negotiated agreement that does not bind Defendant SG Institute. According to Plaintiff, despite assurances from Defendant Pedro Salas, registered agent and President of Defendant SG Institute, that Defendant SG Institute would retain counsel to sign the proposed Stipulated Final Order, Defendant SG Institute failed to retain an attorney to sign the proposed Stipulated Final Order on its behalf. It has also failed to answer or otherwise plead in this action. As such, the Court finds that an entry of judgment for monetary relief is therefore warranted. According to Plaintiff, any funds collected would be used to redress consumers who purchased Revopatch Plus from Defendant SG Institute or other equitable relief, such as consumer education, that is reasonably related to the challenged practices, with any remaining funds disgorged to the United States Treasury.

In sum, the Court finds that it is proper in this case to enter default judgment against Defendant SG Institute and to issue a permanent injunction prohibiting it from engaging in the above-mentioned unlawful activities. The Court also deems it proper to enter a monetary judgment against Defendant SG Institute to redress consumer injury which resulted from violations of the Act by Defendant SG Institute. Specifically, the Court finds that Defendant SG Institute's net sales were at least \$1,000,000 during the time in question, which, as the amount of money paid by consumers that resulted from the violations of the Act, is the proper measure of consumer injury in the above-styled cause. Redress to consumers is warranted because the challenged representation in connection with Revopatch Plus are of a type generally relied on by consumers and the representations are either false or unsubstantiated. The \$1,000,000 is also the proper measure of ill-gotten gains to be disgorged to the extent money cannot be distributed in a practical manner to injured customers.

Accordingly, after due consideration, it is

ORDERED AND ADJUDGED Plaintiff Federal Trade Commission's Motion For Entry Of Default Final Judgment And Order For Permanent Injunction And Other Equitable Relief Against Defendant SG Institute Of Health & Education, Inc. (DE 24) be and the same is hereby **GRANTED** and judgment is entered in favor of Plaintiff and against Defendant SG Institute as follows:

1. For purposes of this Order, the following definitions apply:

a. "Commerce" shall have the same meaning as defined in Section 4 of the Act, 15 U.S.C. § 44;

b. "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;

c. "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;

d. Unless otherwise specified, "Defendant" means SG Institute of Health and Science, Inc. and its successors and assigns;

e. "Endorsement" shall have the same meaning as defined in 16 C.F.R. § 255.0(b);

f. The term "including" in this Order means "including, without limitation";

g. "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; and

h. "Transdermal product" means any product applied to the skin to deliver the product's ingredients into the body;

2. Defendant SG Institute, and its 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.

IT IS FURTHER ORDERED AND ADJUDGED that Defendant SG Institute, and its 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.

IT IS FURTHER ORDERED AND ADJUDGED that Defendant SG Institute, and its 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:

1. That any such product, service, or program:
 - a. Causes weight loss;
 - b. Eliminates fat;
 - c. Reduces appetite;
 - d. Regulates metabolism;
 - e. Reduces or dissolves cellulite; and

2. 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.

IT IS FURTHER ORDERED AND ADJUDGED that nothing in this Order prohibits Defendant SG Institute from:

1. 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

2. 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.

IT IS FURTHER ORDERED AND ADJUDGED that judgment is hereby entered against Defendant SG Institute and that Plaintiff Federal Trade Commission does have and recover the principal sum of One Million Dollars (\$1,000,000) for equitable monetary relief together with post-judgment interest at the rate of 4.35% per annum from the date of this Default Final Judgment for all of which let execution issue. All amounts that the Commission collects toward this sum shall be contributed to a consumer redress fund which, in accordance with a plan submitted by the Commission or its agents

and approved by the Court, shall be (i) distributed to consumers who purchased Revopatch Plus from Defendant SG Institute; and/or (ii) if, at the sole discretion of the Commission or its agents, redress is determined impractical, then paid over to the U.S. Treasury, as disgorgement in lieu of redress. This equitable monetary relief is solely remedial in nature and is not a fine, penalty, punitive assessment, or forfeiture.

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

IT IS FURTHER ORDERED AND ADJUDGED that, for a period of three (3) years from the date of entry of this Order, Defendant SG Institute must:

1. Deliver a copy of this Order to all of its principals, officers, directors, and managers. Defendant SG 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; and

2. 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.

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

1. Within ten (10) days of receipt of written notice from a representative of the Commission, Defendant SG Institute 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 its possession or direct or indirect control to inspect the business operation; and

2. In addition, the Commission is authorized to monitor compliance with this Order by all other lawful means, including but not limited to the following:

a. obtaining discovery from any person, without further leave of court, using the procedures prescribed by Federal Rule of Civil Procedure 30, 31, 33, 34, 36 and 45;

b. posing as consumers and suppliers to: Defendant SG Institute's employees, or any other entity managed or controlled in whole or in part by Defendant SG Institute without the necessity of identification or prior notice; and

c. Defendant SG Institute 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)).

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

1. For a period of three (3) years from the date of entry of this Order,

a. Defendant SG Institute shall notify the Commission of any changes in corporate structure 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

Defendant SG Institute learns less than thirty (30) days prior to the date such action is to take place, Defendant SG Institute shall notify the Commission as soon as is practicable after obtaining such knowledge; and

2. Ninety (90) days after the date of entry of this Order, Defendant SG Institute 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:

a. A copy of each acknowledgment of receipt of this Order; and

b. Any other changes required to be reported by the terms of this Order; and

3. For the purposes of this Order, Defendant SG Institute 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, Case No. 04-61627-CIV-ZLOCH (S.D. Fla. 2004); and

4. For purposes of the compliance reporting and monitoring required by this Order, the Commission is authorized to communicate directly with Defendant SG Institute.

IT IS FURTHER ORDERED AND ADJUDGED that, for a period of six (6) years from the date of entry of this Order, Defendant SG

Institute and its successors and assigns, in connection with any ~~business where 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 ordered and directed to keep and maintain records showing at least the following information:

1. Accounting records that reflect the cost of goods, services, or programs sold, revenues generated, and the disbursement of such revenues;

2. 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;

3. 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;

4. Complaints and refund requests (whether received directly, indirectly, or through any third party) and any responses to those complaints or requests;

5. Copies of all sales scripts, training materials, advertisements, promotional materials, or other marketing materials;

6. All materials that were relied upon in making any representations contained in the materials identified in Number 5 of this Paragraph;

7. All other documents evidencing or referring to the accuracy of any claim in the materials identified in Number 5 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;

8. 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

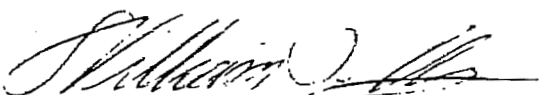
9. All records and documents necessary to demonstrate full compliance with each provision of this Order, including but not limited to, copies of acknowledgments of receipt of this Order, and all reports submitted to the FTC pursuant to the terms of this Order.

IT IS FURTHER ORDERED AND ADJUDGED that this Order resolves only claims against Defendant SG Institute and does not preclude the Commission from initiating further action or seeking a 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 Defendant SG Institute, and persons or entities in any type of indemnification or contractual relationship with Defendant SG Institute.

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

IT IS FURTHER ORDERED AND ADJUDGED that to the extent not otherwise disposed of herein, ~~all pending Motions are hereby DENIED~~ as moot.

DONE AND ORDERED in Chambers at Fort Lauderdale, Broward County, Florida, this 13th day of DECEMBER, 2005.



WILLIAM J. ZLOCH
Chief United States District Judge

Copies furnished:

Edwin Rodriguez, Esq.
For Plaintiff

SG Institute of Health & Education, Inc.
C/o Pedro Salas, Officer and Agent
of Health & Education, inc.
P.O. Box 26058
Tamarac, FL 33320
Defendant

Pedro Salas
4200 Inverrary Road
Apt. 3705
Lauderhill, FL 33319
President and Registered Agent of
Defendant SG Institute