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CLERK U.S. DISTRICT COURT  
JUL 12 2007  
CENTRAL DISTRICT OF CALIFORNIA  
BY DEPUTY

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EASTERN DIVISION BY DEPUTY

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11 ATTORNEYS FOR PLAINTIFF  
12 FEDERAL TRADE COMMISSION

13 UNITED STATES DISTRICT COURT  
14 CENTRAL DISTRICT OF CALIFORNIA  
15 EASTERN DIVISION

15 FEDERAL TRADE COMMISSION,

16 Plaintiff,

17 v.

18 SMART INVENTIONS, INC.; JON  
19 D. NOKES; AND DARRELL  
20 STODDARD,

21 Defendants.

Hon. Stephen G. Larson

CV 04-4431-SGL (Ex)

22 STIPULATED FINAL ORDER  
23 FOR PERMANENT  
24 INJUNCTION AND  
25 SETTLEMENT OF CLAIMS  
26 FOR MONETARY RELIEF AS  
27 TO DEFENDANTS SMART  
28 INVENTIONS, INC. AND JON  
D. NOKES

24 On June 18, 2004, Plaintiff, the Federal Trade Commission ("Commission"  
25 or "FTC"), filed a Complaint for Permanent Injunction and Other Equitable Relief  
26 ("Complaint") against Smart Inventions, Inc. ("Smart Inventions") and Jon D.  
27 Nokes ("Nokes") (together, "Settling Defendants"), and Darrell Stoddard, pursuant  
28 to Section 13(b) of the Federal Trade Commission Act ("FTC Act"), 15 U.S.C.

RECORDED ON CM  
JUL 12 2007  
045

THIS CONSTITUTES NOTICE OF ENTRY  
AS REQUIRED BY FRCP, RULE 77(D).

1 § 53(b), alleging deceptive acts or practices and false advertisements in violation  
2 of Sections 5(a) and 12 of the FTC Act, 15 U.S.C. §§ 45(a) and 52.

3 The Commission, Smart Inventions, and Nokes have now agreed to the  
4 entry of the following Stipulated Final Order for Permanent Injunction and  
5 Settlement of Claims for Monetary Relief as to Defendants Smart Inventions, Inc.  
6 and Jon D. Nokes ("Order") in settlement of the Commission's Complaint against  
7 Smart Inventions and Nokes. Smart Inventions and Nokes expressly deny liability  
8 for any of the matters alleged in the Complaint. The Court, being advised in the  
9 premises, finds:

10  
11 **FINDINGS**

12 1. This Court has jurisdiction over the subject matter of this case, and  
13 over Smart Inventions and Nokes.

14 2. Venue as to Smart Inventions and Nokes in the Central District of  
15 California is proper.

16 3. The Complaint in this matter states a claim upon which relief may be  
17 granted against Smart Inventions and Nokes under 15 U.S.C. §§ 45(a) and 52, and  
18 the Commission has the authority to seek the relief stipulated to in this Order.

19 4. The acts and practices of Smart Inventions and Nokes were and are in  
20 or affecting commerce, as defined in Section 4 of the FTC Act, 15 U.S.C. § 44.

21 5. Smart Inventions and Nokes waive all rights to seek judicial review  
22 or otherwise challenge or contest the validity of this Order. Smart Inventions and  
23 Nokes also waive any claims they may have held under the Equal Access to  
24 Justice Act, 28 U.S.C. § 2412, concerning the prosecution of this action to the date  
25 of this Order.

26 6. Each party shall bear its own costs and attorneys' fees.

27 7. Entry of this Order is in the public interest.  
28

1 8. Nothing in this Order obviates Smart Inventions' or Nokes'  
2 obligation to comply with Sections 5 and 12 of the Federal Trade Commission  
3 Act, 15 U.S.C. §§ 45 and 52.

4 9. This Order was negotiated by the Commission and the Settling  
5 Defendants and reflects the negotiated agreement of the parties.

6 10. The paragraphs of this Order shall be read as the necessary  
7 requirements for compliance and not as alternatives for compliance and no  
8 paragraph serves to modify another paragraph unless expressly so stated.

9 11. Pursuant to Federal Rule of Civil Procedure 65(d), the provisions of  
10 this Order are binding upon Smart Inventions and Nokes, and their officers,  
11 agents, servants, employees and all other persons or entities in active concert or  
12 participation with them, who receive actual notice of this Order by personal  
13 service or otherwise.

#### 14 15 **DEFINITIONS**

16 For the purposes of this Order, the following definitions shall apply:

17 1. "Smart Inventions, Inc." or "Smart Inventions" means Smart  
18 Inventions, Inc., a California corporation, its divisions and subsidiaries, its  
19 successors and assigns, and its officers, agents, representatives, and employees.

20 2. "Jon D. Nokes" or "Nokes" means Jon D. Nokes, individually and in  
21 his capacity as an officer of Smart Inventions.

22 3. "Settling Defendants" means Smart Inventions, Inc. and Jon D.  
23 Nokes, as these parties are defined above in this Order.

24 4. "Advertising" means any written or verbal statement, illustration or  
25 depiction that is designed to effect a sale or create interest in the purchasing of  
26 goods or services, whether it appears in a brochure, newspaper, magazine,  
27 pamphlet, leaflet, circular, mailer, book insert, free standing insert, letter,  
28

1 catalogue, poster, chart, billboard, public transit card, point of purchase display,  
2 packaging, package insert, label, film, slide, radio, television or cable television,  
3 audio program transmitted over a telephone system, program-length commercial  
4 (“infomercial”), the Internet, or in any other medium.

5       5.     “Asset” means any legal or equitable interest in, right to, or claim to,  
6 any real, personal, or intellectual property, including, but not limited to, chattel,  
7 goods, instruments, equipment, fixtures, general intangibles, effects, leaseholds,  
8 mail or other deliveries, inventory, checks, notes, accounts, credits, receivables (as  
9 those terms are defined in the Uniform Commercial Code), shares of stock, and all  
10 cash, wherever located.

11       6.     “Assisting others” means knowingly providing any of the following  
12 services to any person or entity: (a) performing customer service functions for any  
13 person or entity, including, but not limited to, receiving or responding to consumer  
14 complaints; (b) formulating or providing, or arranging for the formulation or  
15 provision of, any telephone sales script or any other advertising or marketing  
16 material for any person or entity; or (c) performing advertising, marketing or  
17 consulting services of any kind for any person or entity.

18       7.     “Commerce” means as defined in Section 4 of the FTC Act, 15 U.S.C.  
19 § 44.

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

25       9.     “Covered product” means any food, drug, device, or dietary  
26 supplement, including but not limited to Biotape or any substantially similar  
27 purported pain-relief product.

1 10. "Endorsement" means as defined in 16 C.F.R. § 255.0(b).

2 11. "Food," "drug," and "device" mean as defined in Section 15 of the  
3 FTC Act, 15 U.S.C. § 55.

4 12. "FTC" or "Commission" means the Federal Trade Commission.

5 13. "Target product" means Biotape or any substantially similar  
6 purported pain-relief product, including but not limited to conductive silver  
7 headache bands, conductive silver socks, conductive silver gloves, conductive  
8 knee supports, conductive elbow supports, conductive back supports, and  
9 conductive wrist supports.

10 14. "Distributor, Reseller, or Sales Agent" means any person other than  
11 Smart Inventions or Nokes who: (a) sells Biotape or any substantially similar  
12 purported pain-relief product through, in accordance with, by permission of, or  
13 with the endorsement of, Smart Inventions or Nokes; or (b) refers the names of  
14 prospective customers to Smart Inventions or Nokes and receives compensation as  
15 a result of Smart Inventions' or Nokes' sale of Biotape or any substantially similar  
16 purported pain-relief product to such customers.

17 15. "Person" or "persons" means all natural persons, corporations,  
18 partnerships, or other business associations and all other legal entities, including  
19 all members, officers, predecessors, assigns, divisions, affiliates and subsidiaries.

20 16. "Promotion" means any written or verbal statement, illustration, or  
21 depiction that is designed to effect a sale or create interest in the purchasing of  
22 goods or services that is not "advertising," including but not limited to video news  
23 releases and press releases.

24 17. A requirement that any defendant "notify," "furnish," "provide," or  
25 "submit" to the Commission means that the defendant shall send the necessary  
26 information via overnight courier, costs prepaid, or facsimile to:  
27  
28

1 Associate Director for Enforcement  
2 Federal Trade Commission  
3 600 Pennsylvania Avenue, N.W.  
4 Washington D.C. 20580  
5 Facsimile: (202) 326-2559  
6 Attn: *FTC v. Smart Inventions, Inc., et al.*, (C.D. Cal.)

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

10 19. The term “including” in this Order means “including without  
11 limitation.”

## 12 **PROHIBITED BUSINESS ACTIVITIES**

### 13 **I.**

14 **IT IS HEREBY ORDERED** that the Settling Defendants, directly or  
15 through any corporation, partnership, subsidiary, division, trade name, or other  
16 entity, and their officers, agents, servants, employees, and all persons and entities  
17 in active concert or participation with either of them who receive actual notice of  
18 this Order by personal service or otherwise, including by facsimile, in connection  
19 with the manufacturing, labeling, advertising, promotion, offering for sale, sale, or  
20 distribution of any target product, in or affecting commerce, are hereby  
21 permanently enjoined from making, or assisting others in making, in any manner,  
22 directly or by implication, including through the use of endorsements or the  
23 product name, any representation that such product:

- 24 A. Provides significant and/or permanent relief from severe pain,  
25 including, but not limited to, debilitating back pain, and pain from  
26 arthritis, frozen shoulder, surgical procedures, sciatica, migraines, and  
27 other conditions; or  
28 B. Is more effective than other products or treatments, such as over-

1 the-counter analgesics and topical creams and ointments, in relieving  
2 or eliminating severe pain.

3  
4 **II.**

5 **IT IS FURTHER ORDERED** that the Settling Defendants, directly or  
6 through any corporation, partnership, subsidiary, division, trade name, or other  
7 entity, and their officers, agents, servants, employees, and all persons and entities  
8 in active concert or participation with either of them who receive actual notice of  
9 this Order by personal service or otherwise, including by facsimile, in connection  
10 with the manufacturing, labeling, advertising, promotion, offering for sale, sale, or  
11 distribution of any product advertised or promoted for the purpose of relieving  
12 pain, in or affecting commerce, are hereby permanently enjoined from making, or  
13 assisting others in making, in any manner, directly or by implication, including  
14 through the use of endorsements or the product name, any representation that such  
15 product can relieve pain or that such product is more effective in relieving pain  
16 than competing products or treatments, unless the representation is true, non-  
17 misleading, and, at the time the representation is made, they possess and rely upon  
18 competent and reliable scientific evidence that substantiates the representation.

19  
20 **III.**

21 **IT IS FURTHER ORDERED** that the Settling Defendants, directly or  
22 through any corporation, partnership, subsidiary, division, trade name, or other  
23 entity, and their officers, agents, servants, employees, and all persons and entities  
24 in active concert or participation with either of them who receive actual notice of  
25 this Order by personal service or otherwise, including by facsimile, in connection  
26 with the manufacturing, labeling, advertising, promotion, offering for sale, sale, or  
27 distribution of any covered product, in or affecting commerce, are hereby

1 permanently enjoined from making, or assisting others in making, in any manner,  
2 directly or by implication, including through the use of endorsements or the  
3 product name, any representation about the health benefits, performance, efficacy,  
4 or safety of that product unless the representation is true, non-misleading, and, at  
5 the time the representation is made, they possess and rely upon competent and  
6 reliable scientific evidence that substantiates the representation.

7  
8 **IV.**

9 **IT IS FURTHER ORDERED** that the Settling Defendants directly or  
10 through any corporation, partnership, subsidiary, division, trade name, or other  
11 entity, and their officers, agents, servants, employees, and all persons and entities  
12 in active concert or participation with either of them who receive actual notice of  
13 this Order by personal service or otherwise, including by facsimile, in connection  
14 with the manufacturing, labeling, advertising, promotion, offering for sale, sale, or  
15 distribution of any covered product, in or affecting commerce, are hereby  
16 permanently enjoined from making, or assisting others in making, in any manner,  
17 directly or by implication, including through the use of endorsements or the  
18 product name, any representation that the issuance of a patent proves the efficacy  
19 or safety of such product; *provided that* the foregoing shall not be construed to  
20 preclude the Settling Defendants from making a truthful statement that a U.S.  
21 Patent has been issued for a product, so long as no additional express or implied  
22 representation is made concerning the meaning or import of the existence or grant  
23 of such Patent.

24  
25 **FDA APPROVED CLAIMS**

26 **V.**

27 **IT IS FURTHER ORDERED** that nothing in this Order shall prohibit the  
28



1 Settling Defendants from making any representation:

- 2       A. For any product that is specifically permitted in labeling for such  
3       product by regulations promulgated by the Food and Drug  
4       Administration pursuant to the Nutrition Labeling and Education Act  
5       of 1990; or  
6       B. For any drug that is permitted in the labeling for such drug under any  
7       tentative final or final standard promulgated by the Food and Drug  
8       Administration, or under any new drug application approved by the  
9       Food and Drug Administration.

10  
11                                   **PACKAGING AND LABELING RECALL**

12   **VI.**

13           **IT IS FURTHER ORDERED** that the Settling Defendants, within five (5)  
14 days of the date of service of this Order, shall recall from any Distributor, Reseller,  
15 or Sales Agent that is offering for sale, selling, or distributing to consumers any  
16 target product, all packaging, package inserts, and labeling for any target product  
17 received from Smart Inventions or Nokes containing, expressly or by implication,  
18 any of the representations set forth in Part I above, *provided, however*, that in lieu  
19 of a recall, the Settling Defendants may immediately repackage and relabel all  
20 offending packages and labels of such target product in such a manner as to ensure  
21 that no representations prohibited by this Order are disseminated.

22  
23                                   **MONETARY JUDGMENT AND CONSUMER REDRESS**

24   **VII.**

25           **IT IS FURTHER ORDERED** that judgment is hereby entered against  
26 Smart Inventions and Nokes, jointly and severally, in the amount of Two Million,  
27 Five Hundred Ten Thousand, Five Hundred and Eleven dollars (\$2,510,511);  
28

1 *provided*, however, that this judgment shall be suspended and shall be deemed to  
2 be fully satisfied upon Smart Inventions' and Nokes' compliance with the  
3 conditions set forth in Part VIII of this Order. If, upon motion by the Commission,  
4 the Court finds that Smart Inventions or Nokes failed to comply with such  
5 conditions, the monetary judgment shall be deemed unsatisfied and the entire  
6 judgment amount shall be immediately due and payable, less any amounts the  
7 Settling Defendants have previously paid. Should this judgment be modified as to  
8 the monetary liability of Smart Inventions or Nokes, this Order in all other  
9 respects shall remain in full force. The Commission shall file with the Court a  
10 Satisfaction of Judgment within thirty (30) days of the Settling Defendants fully  
11 funding the Total Estimated Program Costs as calculated in Part VIII.D of this  
12 Order by complying with the conditions set forth in Parts VIII.E and VIII.F of this  
13 Order. Any proceedings instituted under this Part shall be in addition to and not in  
14 lieu of any other proceedings the Commission may initiate in order to enforce this  
15 Order. Solely for the purposes of reopening this judgment or enforcing this Part  
16 VII or Part VIII, the Settling Defendants waive any right to contest any of the  
17 allegations set forth in the Complaint filed in this matter or the monetary judgment  
18 referenced above.

## 19 20 **REDRESS PROGRAM**

### 21 **VIII.**

22 **IT IS FURTHER ORDERED** that the Settling Defendants shall provide  
23 redress to eligible purchasers of Biotape in accordance with the provisions of this  
24 Part:

25 A. Within ten (10) days after entry of this Order, the Settling Defendants  
26 shall provide to the Commission a searchable electronic file containing the name,  
27 contact information, and payment information of each eligible purchaser of  
28

1 Biotape (the "Consumer Database"). The Settling Defendants shall provide the  
2 Commission with a truthful sworn affidavit attesting to the fact that the Consumer  
3 Database constitutes a complete and accurate copy of the consumer data they  
4 received and utilized in the marketing or selling of Biotape.

5 B. The redress program shall be administered by a Redress  
6 Administrator selected by the FTC. The Settling Defendants shall have no right to  
7 contest the FTC's selection of the Redress Administrator. The Consumer  
8 Database shall be provided by the FTC to the Redress Administrator. The Redress  
9 Administrator, acting under the supervision of the FTC, shall have the discretion  
10 to request additional information from eligible purchasers and to determine the  
11 validity of such purchasers' redress claims. The Settling Defendants shall have no  
12 right to contest the decisions of the Redress Administrator regarding the validity  
13 of purchasers' redress claims or the eligibility of consumers to receive redress.

14 C. The parameters of the refund program are as follows: Redress  
15 Eligibility Notices in the form set forth in Attachment B, containing the Claim  
16 Form set forth in Attachment C, shall be issued to purchasers of Biotape by the  
17 Redress Administrator. Eligible purchasers who return signed Claim Forms within  
18 forty-five (45) days after the date set forth on the Redress Eligibility Notice are  
19 Participating Purchasers who shall be paid a refund based upon their payments for  
20 Biotape in accordance with the provisions of Attachment A hereto.

21 D. Within twenty (20) days after the final date for the return of Claim  
22 Forms by Participating Purchasers as set forth in subpart C of this Part, the FTC  
23 shall calculate the total amount of redress requested, plus the reasonably  
24 anticipated costs of refund administration, and add thirty (30) percent of the  
25 estimated costs (to account for unanticipated cost over-runs) and advise the  
26 Settling Defendants of this total ("the Total Estimated Program Costs").

27 E. To provide for the funding of the redress program, the Settling  
28

1 Defendants shall take the following steps within five (5) days after entry of this  
2 Order:

- 3 1. Pay to the FTC by electronic funds transfer the sum of Eighty-  
4 Five Thousand Thirty-Nine dollars (\$85,039);
- 5 2. Provide the Commission with a dedicated and irrevocable letter  
6 of credit in the amount of \$375,000; and
- 7 3. Grant, individually and on behalf of their respective successors,  
8 assigns and all other related persons and entities reflected on  
9 the title of or otherwise asserting a lien, mortgage, deed of  
10 trust, assignment, pledge, security interest or other interest in  
11 the real and personal property described in Attachment D to  
12 this Final Judgment (collectively, the "Related Parties"), the  
13 Commission a lien in the amount of \$1,700,000 on the property  
14 described in Attachment D to this Final Judgment, and all  
15 proceeds thereof, whether presently existing or hereafter  
16 arising (collectively, the "Collateral").
  - 17 a. The Settling Defendants represent and acknowledge that  
18 the Commission is relying on the material  
19 representations that the Settling Defendants and/or the  
20 Related Parties are the sole owners in fee simple of the  
21 Collateral, that title to the Collateral is marketable, and  
22 that the Collateral currently is not encumbered by any  
23 other lien, mortgage, deed of trust, assignment, pledge,  
24 security interest or other interest, except as set forth in  
25 Attachment D to this Final Judgment.
  - 26 b. The Settling Defendants agree, individually and on  
27 behalf of the Related Parties, to subordinate any liens,  
28

1 mortgages, deeds of trusts, assignments, pledges,  
2 security interests or other interests that the Settling  
3 Defendants, individually or through or on behalf of any  
4 Related Parties, have in the Collateral to the lien granted  
5 herein to the Commission.

6 c. The Settling Defendants further agree, individually and  
7 on behalf of the Related Parties, that as of the date on  
8 which they sign this Final Judgment, they shall refrain  
9 from transferring, converting, encumbering, selling,  
10 assigning, or otherwise disposing of the Collateral,  
11 except with the express prior written permission of  
12 counsel for the Commission.

13 d. The Settling Defendants, individually and on behalf of  
14 the Related Parties, shall cooperate fully with the  
15 Commission and be responsible (at their expense) for  
16 preparing, executing and recording the necessary  
17 instruments and documents, including financing  
18 statements and continuation statements, doing whatever  
19 else the Commission deems necessary or desirable to  
20 perfect, evidence and continue its lien on the Collateral,  
21 and paying all related fees and costs, including attorneys'  
22 fees and filing fees. The Settling Defendants and the  
23 Related Parties shall, at their expense, prepare, execute  
24 and deliver to the Commission mortgages, security  
25 agreements, UCC-1 Financing Statements, and other  
26 documents in form and substance satisfactory to the  
27 Commission, record such documents, and take such other  
28

1 steps as the Commission deems necessary or desirable to  
2 perfect and evidence its lien on the Collateral and to  
3 carry out the purposes of this Final Judgment.

4 F. The redress program shall be funded as follows:

5 1. The FTC or its Redress Administrator shall pay (a) the Eighty-  
6 Five Thousand Thirty-Nine dollars (\$85,039) referenced in Part  
7 VIII.E.1; and (b) the funds remaining after the provision of  
8 consumer redress in the Commission in the matter of *FTC v.*  
9 *Kevin Trudeau, et al.* (approximately \$350,000), into a Redress  
10 Account to be used to pay redress to Participating Purchasers  
11 and the costs for administration of the redress program. If,  
12 after the completion of the claims process in subpart C of this  
13 Part VIII, the amount of complete redress payments to  
14 Participating Purchasers plus the costs of administration for the  
15 redress program is less than the funds in the Redress Account,  
16 then any remaining funds shall be deposited as equitable  
17 disgorgement into the U.S. Treasury.

18 2. In the event that funds in the Redress Account provided  
19 pursuant to subpart F.1 of this Part VIII are insufficient to  
20 cover the Total Estimated Program Costs, the Commission,  
21 after providing written notice to the Settling Defendants as set  
22 forth in subpart D of this Part, shall draw upon the line of credit  
23 referenced in Part VIII.E.2 and transfer into the Redress  
24 Account funds sufficient to cover the Total Estimated Program  
25 Costs.

26 a. Once the Commission has drawn upon the line of credit  
27 and transferred into the Redress Account funds sufficient  
28

1 to cover the Total Estimated Program Costs, or in the  
2 event that no funds from the letter of credit are required  
3 to cover the Total Estimated Program Costs, the  
4 Commission within thirty (30) days shall authorize the  
5 release to the Settling Defendants of any funds remaining  
6 under the letter of credit.

7 3. In the event that funds in the Redress Account provided  
8 pursuant to subparts F.1 and F.2 of this Part VIII are  
9 insufficient to cover the Total Estimated Program Costs, the  
10 Commission shall make a demand upon the Settling  
11 Defendants for an amount sufficient to cover the Total  
12 Estimated Program Costs. If the Settling Defendants do not  
13 provide such funds within two (2) weeks of such demand, the  
14 FTC shall exercise the lien referenced in subpart E.3 to obtain  
15 an amount of funds sufficient to cover the Total Estimated  
16 Program Costs.

17 a. Once the Commission has exercised the lien and  
18 obtained an amount of funds sufficient to cover the Total  
19 Estimated Program Costs, or in the event that the  
20 Commission does not need to exercise the lien to cover  
21 the Total Estimated Program Costs, the Commission  
22 shall release within thirty (30) days any and all  
23 remaining liens granted herein. The Settling Defendants  
24 shall be responsible for preparing and filing any  
25 termination or other statements reasonably required in  
26 connection therewith. The Settling Defendants shall be  
27 responsible for paying all fees and costs relating to the  
28

1 preparation, execution, delivery, filing, recording,  
2 continuation and termination of the lien granted herein,  
3 including filing fees.

4 G. The Settling Defendants relinquish all dominion, control, and title  
5 to the payments made pursuant to this Part. Except as set forth in subpart VIII.I,  
6 below, the Settling Defendants shall make no claim to or demand for return of the  
7 payments, directly or indirectly, through counsel or otherwise; and in the event of  
8 bankruptcy of Smart Inventions or Nokes, the Settling Defendants acknowledge  
9 that the payments are not part of the debtor's estate, nor does the estate have any  
10 claim or interest in the payments.

11 H. The payments made pursuant to this Part represent redress and are  
12 intended to be compensatory in nature, and no portion of such payment shall be  
13 deemed a payment of any fine, penalty, or punitive assessment.

14 I. Should the Commission draw upon the letter of credit as outlined in  
15 subpart F.2 of this Part VIII or exercise the lien as outlined in subpart F.3 of this  
16 Part VIII, the Commission shall, at the completion of the redress program and  
17 payment of all related costs, return to Smart Inventions or Nokes within thirty (30)  
18 days any excess funds remaining in the Redress Account.

19  
20 **COOPERATION WITH COMMISSION COUNSEL**

21 **IX.**

22 **IT IS FURTHER ORDERED** that the Settling Defendants shall, in  
23 connection with this action or any subsequent investigations related to or  
24 associated with the transactions or occurrences that are the subject of the  
25 Commission's Complaint, cooperate in good faith with the Commission's  
26 reasonable requests for documents and testimony. The Settling Defendants shall  
27 appear at such places and times as the Commission shall reasonably request for  
28



1 interviews, conferences, pretrial discovery, review of documents, and for such  
2 other matters, after written notice to the Settling Defendants and their counsel of  
3 record. If requested in writing by the Commission, the Settling Defendants shall  
4 appear and provide truthful testimony in any civil trial, deposition or other  
5 proceeding related to or associated with the transactions or occurrences that are  
6 the subject of the Commission's Complaint, without the service of a civil  
7 investigative demand or subpoena. The Settling Defendants also shall produce  
8 such documents and information related to or associated with the transactions or  
9 occurrences that are the subject of the Commission's Complaint in a manner as  
10 may be reasonably requested by the Commission, after written notice to the  
11 Settling Defendants and to their counsel of record.

12  
13 **NOTICE TO DISTRIBUTORS, RESELLERS, AND SALES AGENTS**

14 **X.**

15 **IT IS FURTHER ORDERED** that the Settling Defendants shall:

16 A. Not disseminate to any Distributor, Reseller, or Sales Agent any  
17 material containing any representations prohibited by this Order.

18 B. Not authorize, directly or indirectly, any Distributor, Reseller, or  
19 Sales Agent to make any representations prohibited by this Order.

20 C. Send, within twenty (20) days of entry of this Order, by first class  
21 mail, postage prepaid and return receipt requested, an exact copy of the notice  
22 attached hereto as Attachment E, showing the date of mailing, to each Distributor,  
23 Reseller, or Sales Agent. This mailing shall notify each Distributor, Reseller, or  
24 Sales Agent that the Settling Defendants will stop doing business with that  
25 Distributor, Reseller, or Sales Agent if it uses any advertisement or promotional  
26 material containing any representation prohibited by this Order, in the event Smart  
27 Inventions or Nokes becomes aware that the Distributor, Reseller, or Sales Agent  
28

1 is using or disseminating any such advertisement or promotional material  
2 subsequent to receipt of Attachment E. The mailing shall not include any other  
3 document or enclosure.

4 D. For a period of five (5) years following the date of entry of this Order,  
5 send by first class mail, postage prepaid and return receipt requested, an exact  
6 copy of the notice attached hereto as Attachment E, showing the date of mailing,  
7 to each Distributor, Reseller, or Sales Agent with whom Smart Inventions or  
8 Nokes first does business after the date of entry of this Order. The Settling  
9 Defendants shall send this notice within ten (10) days after first engaging in any  
10 transaction concerning any covered product. This mailing shall not include any  
11 other document or enclosure.

12 E. The Settling Defendants may, as an alternative to the first class  
13 mailing required in subparts C and D of this Part, send Attachment E by email to  
14 any Distributor, Reseller, or Sales Agent for whom the Settling Defendants have a  
15 valid email address.

16 F. Within thirty (30) days of providing notice pursuant to subparts C, D,  
17 or E of this Part, secure from each Distributor, Reseller or Sales Agent to whom a  
18 notice has been sent a signed and dated statement acknowledging receipt of such  
19 and, as to any Distributor, Reseller, or Sales Agent who has not provided such  
20 statement, shall not sell or distribute any covered product to any such Distributor,  
21 Reseller, or Sales Agent, accept any orders for any covered product submitted by  
22 or on behalf of such Distributor, Reseller, or Sales Agent, pay any commission,  
23 bonus, or other compensation to any such Distributor, Reseller, or Sales Agent, or  
24 endorse any such Distributor, Reseller, or Sales Agent. The Settling Defendants  
25 shall retain the original of each acknowledgment for a period of five (5) years  
26 following the date of entry of this Order.

27 G. Use reasonable efforts to monitor the advertising and promotional  
28

1 activities of Distributors, Resellers, and Sales Agents and terminate any  
2 Distributor, Reseller, or Sales Agent within ten (10) days after Smart Inventions or  
3 Nokes becomes aware that the Distributor, Reseller, or Sales Agent has used any  
4 advertisement or promotional material that contains any representation prohibited  
5 by this Order after receipt of the notice required by subpart C or D of this Part.

6 H. Provide to the Commission by overnight courier or facsimile, within  
7 thirty (30) days of entry of this Order for the notices required by subpart C and  
8 within ten (10) days after such notice has been sent for the notices required by  
9 subpart D, the name and address of each and every Distributor, Reseller and Sales  
10 Agent to whom the notice attached as Attachment E is sent.

11  
12 **ACKNOWLEDGMENT OF RECEIPT OF ORDER BY DEFENDANTS**

13 **XI.**

14 **IT IS FURTHER ORDERED** that within five (5) business days after  
15 receipt of this Order as entered by the Court, Smart Inventions and Nokes,  
16 individually and as an officer of Smart Inventions, shall each submit to the  
17 Commission a truthful sworn statement, substantially in the form set forth in  
18 Attachment F, acknowledging receipt of this Order.

19  
20 **COMPLIANCE MONITORING**

21 **XII.**

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

24 A. Within ten (10) business days of receipt of written notice from a  
25 representative of the Commission, Smart Inventions and Nokes each shall submit  
26 additional written reports, sworn to under penalty of perjury; produce documents  
27 for inspection and copying; appear for deposition; and/or provide entry during  
28

1 normal business hours to any business location in such defendant's possession or  
2 direct or indirect control to inspect the business operation;

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

5 1. obtaining discovery from any person, without further leave of  
6 court, using the procedures prescribed by Fed. R. Civ. P. 30,  
7 31, 33, 34, 36, and 45.

8 2. posing as consumers and suppliers to the Settling Defendants,  
9 their employees, or any other entity managed or controlled in  
10 whole or in part by Smart Inventions or Nokes, without the  
11 necessity of identification or prior notice; and

12 C. The Settling Defendants shall permit representatives of the  
13 Commission to interview any officer, director, employee, employer, consultant,  
14 independent contractor, representative, or agent who has agreed to such an  
15 interview, relating in any way to any conduct subject to this Order. The person  
16 interviewed may have counsel present.

17 *Provided*, however, that nothing in this Order shall limit the Commission's  
18 lawful use of compulsory process, pursuant to Sections 9 and 20 of the FTC Act,  
19 15 U.S.C. §§ 49, 57b-1, to obtain any documentary material, tangible things,  
20 testimony, or information relevant to unfair or deceptive acts or practices in or  
21 affecting commerce (within the meaning of 15 U.S.C. § 45(a)(1)).

## 22 **COMPLIANCE REPORTING**

### 23 **XIII.**

24 **IT IS FURTHER ORDERED** that, in order that compliance with the  
25 provisions of this Order may be monitored:  
26

27 A. For a period of five (5) years from the date of entry of this Order:  
28

- 1           1.    Nokes shall notify the Commission of the following:
- 2           a.    Any change in his residence, mailing address, and
- 3            telephone number, within ten (10) business days of the
- 4            date of such change;
- 5           b.    Any change in his *employment status (including*
- 6            *self-employment)* and any change in his ownership of
- 7            any business entity, within ten (10) business days of such
- 8            change. Such notice shall include the name, address, and
- 9            telephone number of each business that he is affiliated
- 10           with, *employed by, creates or forms, or performs services*
- 11           for; a statement of the nature of the business; and a
- 12           statement of his duties and responsibilities in connection
- 13           with the business or employment; and
- 14           c.    Any change in his names or use of any aliases or
- 15            *fictitious names, within ten (10) days of such change or*
- 16            use; and
- 17           2.    The Settling Defendants shall notify the Commission of any
- 18            changes in the corporate structure of Smart Inventions or any
- 19            business entity that Nokes directly or indirectly controls, or has
- 20            an ownership interest in, that may affect compliance
- 21            obligations arising under this Order, including but not limited
- 22            to a dissolution, assignment, sale, merger, or other action that
- 23            would result in the emergence of a successor entity; the
- 24            creation or dissolution of a subsidiary, parent, or affiliate that
- 25            engages in any acts or practices subject to this Order; the filing
- 26            of a bankruptcy petition; or a change in the corporate name or
- 27            address, at least thirty (30) days prior to such change, *provided*
- 28

1 that, with respect to any proposed change about which the  
2 Settling Defendants learn less than thirty (30) days prior to the  
3 date such action is to take place, the Settling Defendants shall  
4 notify the Commission as soon as is practicable after obtaining  
5 such knowledge.

6 B. Sixty (60) days after the date of entry of this Order, Smart Inventions  
7 and Nokes each shall provide a written report to the Commission, sworn to under  
8 penalty of perjury, setting forth in detail the manner and form in which they have  
9 complied and are complying with this Order. This report shall include, but not be  
10 limited to:

11 1. For Nokes:

- 12 a. His then-current residence addresses, mailing addresses,  
13 and telephone numbers;  
14 b. His then-current employment and business addresses and  
15 telephone numbers, a description of the business  
16 activities of each such employer or business, and their  
17 titles and responsibilities for each such employer or  
18 business; and  
19 c. Any other changes required to be reported under subpart  
20 A of this Part;

21 2. For Smart Inventions and Nokes:

- 22 a. A copy of each acknowledgment of receipt of this Order,  
23 obtained pursuant to Part XV(D) below;  
24 b. Any other changes required to be reported under subpart  
25 A of this Part; and  
26 c. Copies of all sales scripts, training materials,  
27 advertisements, or other marketing materials relating to  
28

1 the subject matter of this order.

2 C. For purposes of the compliance reporting required by this Order, the  
3 Commission is authorized to communicate directly with Smart Inventions and  
4 Nokes, *provided that the foregoing shall not preclude Smart Inventions or Nokes*  
5 *from referring the Commission to its legal counsel with respect to any*  
6 *communication or response.*

7  
8 **RECORD KEEPING PROVISIONS**

9 **XIV.**

10 **IT IS FURTHER ORDERED** that for a period of eight (8) years from the  
11 date of entry of this Order, the Settling Defendants, and their agents, employees,  
12 officers, corporations, successors, and assigns, and those persons in active concert  
13 or participation with either of them who receive actual notice of this Order by  
14 personal service or otherwise, including by facsimile, in connection with any  
15 business where: (1) Smart Inventions or Nokes owns at least 50% of the business,  
16 or directly or indirectly controls the business, and (2) the business is engaged,  
17 participating, or assisting in any manner whatsoever, directly or indirectly, in the  
18 advertising, marketing, promotion, offering for sale, distribution, or sale of any  
19 covered product, are hereby permanently restrained and enjoined from failing to  
20 create and retain the following records:

- 21 A. Accounting records that reflect the cost of goods or services sold,  
22 revenues generated, and the disbursement of such revenues;  
23 B. Personnel records accurately reflecting: the name, address, and  
24 telephone number of each person employed in any capacity by such  
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1 business, including as an independent contractor; that person's job or  
2 position; the date upon which the person commenced work; and the  
3 date and reason for the person's termination, if applicable;

4 C. Customer files containing the names, addresses, telephone numbers,  
5 dollar amounts paid, quantity of items or services purchased, and  
6 description of items or services purchased, to the extent such  
7 information is obtained in the ordinary course of business;

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

11 E. All documents referring or relating to the advertising, marketing,  
12 promotion, offering for sale, distribution or sale of any covered  
13 product, including but not limited to infomercials, print ads, product  
14 inserts, product labels, sales scripts, and training materials;

15 F. All documents upon which Smart Inventions or Nokes relies to  
16 substantiate any representation covered by Parts II and III above; and

17 G. All records and documents necessary to demonstrate full compliance  
18 with each provision of this Order, including but not limited to, copies  
19 of acknowledgments of receipt of this Order, required by Part XV(D),  
20 and all reports submitted to the FTC pursuant to Part XIII(B).

## 21 **DISTRIBUTION OF ORDER**

### 22 **XV.**

23  
24 **IT IS FURTHER ORDERED** that, for a period of five (5) years from the  
25 date of entry of this Order, the Settling Defendants shall deliver copies of the  
26 Order as directed below:

27 A. Smart Inventions shall deliver copies of this Order to each of its  
28



1 principals, officers, directors, and managers. Smart Inventions also  
2 shall deliver copies of this Order to each of its employees, agents, and  
3 representatives who engage in conduct relating to the subject matter  
4 of the Order (the manufacturing, labeling, advertising, promotion,  
5 offering for sale, sale or distribution of any covered product) or in  
6 recordkeeping within the scope of Part XIV. For current personnel,  
7 delivery shall be within five (5) days of service of this Order upon  
8 Smart Inventions. For new personnel, delivery shall occur prior to  
9 their assuming their responsibilities.

10 B. Nokes as Control Person: For any business that Nokes controls,  
11 directly or indirectly, or in which Nokes has an ownership interest of  
12 at least fifty (50) percent, Nokes shall deliver a copy of this Order to  
13 all principals, officers, directors, and managers of that business.  
14 Nokes shall also deliver copies of this Order to all employees, agents,  
15 and representatives of that business who engage in conduct related to  
16 the subject matter of the Order (the manufacturing, labeling,  
17 advertising, promotion, offering for sale, sale or distribution of any  
18 covered product) or in recordkeeping within the scope of Part XIV.  
19 For current personnel, delivery shall be within (5) days of service of  
20 this Order upon Nokes. For new personnel, delivery shall occur prior  
21 to their assuming their responsibilities.

22 C. Nokes as employee or non-control person: For any business where  
23 Nokes is not a controlling person of a business but he engages in  
24 conduct related to the subject matter of this Order (the manufacturing,  
25 labeling, advertising, promotion, offering for sale, sale or distribution  
26 of any covered product), Nokes shall deliver a copy of this Order to  
27 all principals and managers of such business before engaging in such  
28

1           conduct.

2           D.    The Settling Defendants shall secure a signed and dated statement  
3           acknowledging receipt of the Order, within thirty days of delivery,  
4           from each person receiving a copy of the Order pursuant to this Part.  
5

6                           **SERVICE OF THIS ORDER BY THE COMMISSION**

7   **XVI.**

8           **IT IS FURTHER ORDERED** that copies of this Order and the initial  
9           pleadings and papers filed in this matter may be served by agents and employees  
10          of the Commission, including without limitation private process servers, and by  
11          agents or employees of any other law enforcement agency, upon the Settling  
12          Defendants, any agent or employee of Smart Inventions or Nokes, or any other  
13          person, partnership, corporation, or other entity that may be in possession of any  
14          records, assets, property or property rights of Smart Inventions or Nokes, or that  
15          may be subject to any provision of this Order. Service upon any branch or office  
16          of any entity shall effect service upon the entire entity.  
17

18   **SCOPE OF ORDER**

19   **XVII.**

20          **IT IS FURTHER ORDERED** that this Order resolves only claims against  
21          the Settling Defendants as alleged in the Complaint. This Order does not preclude  
22          the Commission from initiating further action or seeking any remedy against any  
23          other persons or entities, including without limitation persons or entities who may  
24          be subject to portions of this Order by virtue of actions taken in concert or  
25          participation with Smart Inventions or Nokes, and persons or entities in any type  
26          of indemnification or contractual relationship with Smart Inventions or Nokes.  
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**RETENTION OF JURISDICTION**


**XVIII.**


**IT IS FURTHER ORDERED** that this Court shall retain jurisdiction of this matter for all purposes.


**SO STIPULATED:**

  
EDWARD GLENNON  
PETER MILLER  
Federal Trade Commission  
600 Pennsylvania Avenue, NW  
NJ-3212  
Washington, DC 20580  
Ph: (202) 326-3126 / 2629  
Fax: (202) 326-3259  
[eglenmon@ftc.gov](mailto:eglenmon@ftc.gov), [pmiller@ftc.gov](mailto:pmiller@ftc.gov)

ATTORNEYS FOR PLAINTIFF

  
SMART INVENTIONS, INC.  
By: Jon D. Nokes, President

  
JON D. NOKES, individually and as an officer or director of Smart Inventions, Inc.

  
STEPHEN R. MICK  
Akin Gump Strauss Hauer & Feld, LLP  
2029 Century Park East, suite 2400  
Los Angeles, CA 90067  
Ph: (310) 229-3818  
Fax: (310) 229-1001  
\*solely in his capacity as  
ATTORNEY FOR DEFENDANTS  
SMART INVENTIONS, INC. AND  
JON D. NOKES

**IT IS SO ORDERED:**



Hon. Stephen G. Larson  
United States District Court Judge

07 / 11 / 2007  
Date

1 **ATTACHMENT A**

2 Participating Purchasers will receive redress for each purchase they made of  
3 each product item as outlined below.

4 <u>Smart Inventions Product Package Code</u>	<u>Product Package Description</u>	<u>Redress Amount</u>
5 BT	Biotape and the book, <i>Pain Free for Life</i> , by Darrell Stoddard	\$19.95
6 BTW	Biotape and the book, <i>Pain Free for Life</i> , by Darrell Stoddard (Website)	\$19.95
7 BT2	Additional Two Piece Biotape	\$19.95
8 BT2M	Additional Two Piece Biotape	\$19.95
9 BTR	Biotape Reorder (Two Piece)	\$27.00
10 BT5	Additional Five Piece Biotape	\$49.95
11 BT6	Additional Six Piece Biotape	\$59.95
12 BT12	Additional Twelve Piece Biotape	\$99.95
13 BT12B	Additional Twelve Piece Biotape	\$99.95
14 PFC1	Continuity Purchase 1	\$19.95
15 PFC2	Continuity Purchase 2	\$19.95
16 PFC3	Continuity Purchase 3	\$19.95
17 PFC4	Continuity Purchase 4	\$19.95
18 PFC5	Continuity Purchase 5	\$19.95

1 ATTACHMENT B

2 **IMPORTANT REFUND INFORMATION: REDRESS ELIGIBILITY**  
3 **NOTICE**

4 Claims Administration Center  
5 [address]

6 [date]  
7 [customer name]  
8 [control number]

9 Dear Customer:

10 As a result of an action brought by the Federal Trade Commission, you are  
11 eligible for a refund of the purchase price for your past purchases of Biotape from  
12 Smart Inventions, Inc. if you have not already received a refund for the total  
13 purchase cost. Information about the refund program is set forth below.

14 The Federal Trade Commission sued Smart Inventions, Inc. and others in  
15 2004, alleging that the defendants made false and deceptive advertising claims  
16 about Biotape. The defendants denied the charges. The FTC and two defendants,  
17 including Smart Inventions, Inc., agreed to a settlement order under which the  
18 settling defendants promised to provide refunds to Biotape purchasers.

19 **To receive a refund payment, you must fill out the information required**  
20 **on the enclosed Claim Form, and return it to the address above no later than**  
21 **[insert date 30 days after mailing]. You are not required to have proof of**  
22 **purchase.** If you request a refund by submitting the enclosed Claim Form, the  
23 claims administrator will mail a refund check to you. The amount of the refund to  
24 which you are entitled will be calculated automatically based on the purchase data  
25 contained in the company's database.

26 If you have any questions about this letter or about the refund program,  
27 please call the Claims Administration Center at the following toll-free number: 1-  
28 800-[insert number].

29 Again, to receive a redress payment, simply fill out the enclosed Claim  
30 Form, sign it, put it in an envelope, place a stamp on the envelope, and mail it to  
31 the address above.

32 Sincerely,  
33 Claims Administration Center

34 **We are the only Claims Administration Center authorized by the FTC to mail**  
35 **notices and claims forms and to process and refund claims in this settlement.**  
36 **You are not required to pay anything to receive a refund. If any other**  
37 **company or individual contacts you and requests that you send them money**  
38 **or information in return for a refund from Smart Inventions, Inc., please call**  
39 **the Claims Administration Center immediately at the phone number above.**

40 **PRIVACY ACT NOTICE:**

1 This information is being collected in order to provide refunds to eligible  
2 consumers in connection with the Stipulated Final Order for Permanent  
3 Injunction and Settlement of Claims for Monetary Relief as to Defendants  
4 Smart Inventions, Inc. and Jon D. Nokes entered in FTC v. Smart Inventions,  
5 Inc., *et al.*, (No. 04-4431-SGL (Ex)), by the U.S. District Court for the Central  
6 District of California pursuant to 15 U.S.C. 53(b). In addition, this  
7 information may be disclosed for other purposes authorized by the Privacy  
8 Act, 15 U.S.C. 552a and 47 Fed. Reg. 32,622, including disclosure to other  
9 government agencies. Providing this information is voluntary. Failure to  
10 provide the requested information could delay processing or, in some cases,  
11 make it impossible for us to process your claim.  
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1 ATTACHMENT C

2 CLAIM FORM FOR ELIGIBLE PURCHASERS

3 [Consumer Name]  
4 [Control Number]  
5 [Mailing address]

6 I purchased a Biotape product and have not received a refund for the purchase  
7 price. Please send me a redress payment in connection with the settlement order  
8 entered in the matter, FTC v. Smart Inventions, Inc., *et al.*, No. 04-4431 SGL (Ex),  
9 (United States District Court for the Central District of California).

10 I declare under the laws of the United States of America that the information in my  
11 request for a refund is true and correct to the best of my knowledge.

12 Signed: \_\_\_\_\_  
13 Print Name: \_\_\_\_\_  
14 Date: \_\_\_\_\_  
15 Daytime Phone: \_\_\_\_\_

16 If the address above is incorrect, please print your correct address below:

17 Street Address: \_\_\_\_\_  
18 Apt. No. \_\_\_\_\_  
19 City, State, Zip: \_\_\_\_\_

20 **PRIVACY ACT NOTICE:**

21 **This information is being collected in order to provide refunds to eligible**  
22 **consumers in connection with the Stipulated Final Order for Permanent**  
23 **Injunction and Settlement of Claims for Monetary Relief as to Defendants**  
24 **Smart Inventions, Inc. and Jon D. Nokes entered in FTC v. Smart Inventions,**  
25 **Inc., *et al.*, (No. 04-4431-SGL (Ex), by the U.S. District Court for the Central**  
26 **District of California pursuant to 15 U.S.C. 53(b). In addition, this**  
27 **information may be disclosed for other purposes authorized by the Privacy**  
28 **Act, 15 U.S.C. 552a and 47 Fed. Reg. 32,622, including disclosure to other**  
**government agencies. Providing this information is voluntary. Failure to**  
**provide the requested information could delay processing or, in some cases,**  
**make it impossible for us to process your claim.**

**ATTACHMENT D**

1  
2 (1) (a) All right, title and interest, in and to the securities account  
3 established by Jon D. Nokes with Lee Financial Corporation, 12222 Merit Drive,  
4 Suite 1500, Dallas, TX 75251 ("Securities Account"), all financial assets credited  
5 to the Securities Account, all securities entitlements with respect to the financial  
6 assets credited to the Securities Account, any and all other investment property or  
7 assets maintained or recorded in the Securities Account, and all substitutions for,  
8 and all proceeds of the sale or other disposition of, any of the foregoing, including  
9 without limitation, cash proceeds; and (b) all substitutions, extensions,  
10 replacements, renewals, and additions thereto, all products and proceeds thereof  
11 and all books, and records, documents, instruments, and writings relating thereto.  
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1 ATTACHMENT E

2 **By FIRST CLASS MAIL, RETURN RECEIPT REQUESTED**

3 [date]

4 Dear [distributor, reseller, or agent]:

5 Our records indicate that you are a distributor, reseller, or sales agent of  
6 Biotape. This letter is to inform you that Smart Inventions, Inc. and Jon Nokes  
7 recently settled a civil dispute with the Federal Trade Commission regarding their  
advertising for Biotape. Among other things, Smart Inventions and Nokes have  
agreed to notify resellers, distributors, and agents of the settlement.

8 In its complaint, the FTC alleged that advertisements for Biotape made a  
9 number of false or unsubstantiated claims. Smart Inventions and Nokes denied the  
10 FTC's allegations and did not admit to any wrongdoing or violation of law.  
11 Nonetheless, in order to resolve this matter, Smart Inventions and Nokes agreed  
12 not to represent in the future that Biotape, or any substantially similar product,  
including conductive silver headache bands, conductive silver socks, conductive  
silver gloves, conductive knee supports, conductive elbow supports, conductive  
back supports, and conductive wrist supports:

- 13 1. Provides significant and/or permanent relief from severe pain,  
14 including, but not limited to, debilitating back pain, and pain from  
arthritis, frozen shoulder, surgical procedures, sciatica, migraines, and  
other conditions; or
- 15 2. Is more effective than other products or treatments, such as over-  
16 the-counter analgesics and topical creams and ointments, in relieving  
or eliminating severe pain.

17 Smart Inventions and Nokes also agreed not to make any representation about the  
18 health benefits, performance, efficacy, or safety of any food, drug, device, or  
19 dietary supplement unless that representation is true, non-misleading, and, at the  
time it is made, they possess and are relying upon competent and reliable scientific  
evidence that substantiates the representation.

20 Smart Inventions and Nokes must request that their resellers, distributors,  
21 and agents not use or distribute advertisements, packaging, or promotional  
22 materials containing any of the representations prohibited by their agreement with  
the FTC. If you do, Smart Inventions and Nokes must terminate their business  
23 relationship with you. Smart Inventions and Nokes also are prohibited from  
conducting any business with you if they fail to receive from you within 30 days  
24 of sending you this letter a signed and dated statement acknowledgment your  
receipt of this letter. To provide such an acknowledgment, you may sign and date  
25 a copy of this letter in the space provided below, and return the signed and dated  
copy to Smart Inventions. Please retain a copy of this letter for your files.  
26  
27  
28

1 If you have any questions or if you want a copy of the FTC order, please  
2 contact [insert name and telephone number of Smart Inventions' and Nokes'  
3 contact].

4 Jon Nokes \_\_\_\_\_

5  
6 ACKNOWLEDGMENT:

7 I have received and read Jon Nokes' letter regarding the settlement into  
8 which he and Smart Inventions, Inc. entered with the Federal Trade Commission.

9  
10 (Signature) \_\_\_\_\_

11  
12 (Print your name, the name of your business, and your title  
13 \_\_\_\_\_

14  
15 (Date) \_\_\_\_\_

1 **ATTACHMENT F**

2 **UNITED STATES DISTRICT COURT**  
3 **CENTRAL DISTRICT OF CALIFORNIA**  
4 **EASTERN DIVISION**

5 FEDERAL TRADE COMMISSION,

6 Plaintiff,

7 v.

8 SMART INVENTIONS, INC.; JON  
9 D. NOKES; AND DARRELL  
STODDARD,

10 Defendants.

Hon. Stephen G. Larson

CV 04-4431-SGL (Ex)

**ACKNOWLEDGMENT OF  
RECEIPT OF ORDER**

11  
12  
13  
14 \_\_\_\_\_, a defendant in *FTC v. Smart Inventions, Inc., et al.*,  
15 Case No. CV 04-4431-SGL (Ex), (United States District Court for the Central  
16 District of California), hereby acknowledges receipt of the Stipulated Final Order  
17 for Permanent Injunction and Settlement of Claims for Monetary Relief as to  
18 Defendants Smart Inventions, Inc. and Jon D. Nokes that was signed and entered  
19 by the Court.

20  
21 I declare under penalty of perjury that the foregoing is true and correct.

22 Executed on \_\_\_\_\_, 20\_\_.

23  
24 [Full name of Defendant] \_\_\_\_\_

25 By:

26  
27 [Name] and [Office] \_\_\_\_\_