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14 **UNITED STATES DISTRICT COURT**  
**FOR THE CENTRAL DISTRICT OF CALIFORNIA**  
15 **WESTERN DIVISION**

16 FEDERAL TRADE COMMISSION, )  
17 ) Hon.  
18 Plaintiff, ) Civil Action No.  
19 v. )  
20 J. MICHAEL ERNEST, ) **COMPLAINT FOR PERMANENT**  
21 Defendant. ) **INJUNCTION**  
**AND OTHER EQUITABLE**  
**RELIEF**

22 Plaintiff, the Federal Trade Commission (“FTC” or “Commission”) through  
23 its undersigned attorneys, for its Complaint alleges:

24 1. Plaintiff FTC brings this action under Section 13(b) of the Federal  
25 Trade Commission Act (“FTC Act”), 15 U.S.C. § 53(b), to secure a permanent  
26 injunction, restitution, disgorgement, and other equitable relief against Defendant  
27

1 for engaging in unfair or deceptive acts or practices and false advertising in  
2 connection with the advertising, marketing, and sale of an alleged breast  
3 enhancement product, The Isis System, in violation of Sections 5(a) and 12 of the  
4 FTC Act, 15 U.S.C. §§ 45(a) and 52.

### 5 **JURISDICTION AND VENUE**

6 2. This Court has jurisdiction over this matter pursuant to 15 U.S.C. §§  
7 45(a), 52, 53(b) and 28 U.S.C. §§ 1331, 1337(a) and 1345.

8 3. Venue in this District is proper under 15 U.S.C. § 53(b) and 28  
9 U.S.C. § 1391(b) and (c).

### 10 **THE PARTIES**

11 4. Plaintiff, the Federal Trade Commission, is an independent agency of  
12 the United States Government created by statute. 15 U.S.C. §§ 41-58. The  
13 Commission enforces Section 5(a) of the FTC Act, 15 U.S.C. § 45(a), which  
14 prohibits unfair or deceptive acts or practices in or affecting commerce. The  
15 Commission also enforces Section 12 of the FTC Act, 15 U.S.C. § 52, which  
16 prohibits false advertisements for food, drugs, devices, services, or cosmetics in  
17 or affecting commerce. The Commission may initiate federal district court  
18 proceedings to enjoin violations of the FTC Act and to secure such equitable  
19 relief, including consumer redress, as may be appropriate in each case. 15 U.S.C.  
20 § 53(b).

21 5. Defendant J. Michael Ernest is the developer of the Isis product. He  
22 has appeared in advertising for The Isis System to speak in support of the product.  
23 Michael Ernest resides or transacts business in this district.

1 **COMMERCE**

2 6. The acts and practices of Defendant alleged in this complaint have  
3 been in or affecting commerce, as "commerce" is defined in Section 4 of the  
4 Federal Trade Commission Act.

5 **DEFENDANT'S COURSE OF CONDUCT**

6 7. Defendant is the developer of Isis System, a purported breast  
7 enhancement product, consisting of the Isis Breast Enhancement Herbal Cream  
8 and Isis Breast Enhancement Herbal Supplement. He has received compensation  
9 in connection with sales of the Isis System

10 8. The Isis System contains various herbal oils and extracts as well as  
11 other ingredients. The Isis Breast Enhancement Herbal Supplement is a capsule  
12 containing blessed thistle, hops, wild yam, saw palmetto, chaste tree, fenugreek,  
13 fennel, black cohosh, damiana, dong quai, methylsulfonylmethane, royal jelly,  
14 scullcap, curcubita pepo pumpkin seed and lycium chinese herb extract. The Isis  
15 Breast Enhancement Herbal Cream contains pueraria mirifica, saw palmetto,  
16 chaste tree berry, fenugreek, fennel, comfrey, white willow bark, ma huang, black  
17 cohosh, guarana, passion flower, bilberry, horsetail, cayenne, and other  
18 ingredients.

19 9. Defendant has aided the promotion of The Isis System by providing  
20 endorsements of the product in advertising. The advertisements in which  
21 Defendant appears depict him as possessing an expertise in breast enhancement  
22 superior to that generally acquired by ordinary individuals. These advertisements  
23 contain, among other things, the following statements or depictions:

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a. **ISIS Breast Enhancement**

**How ISIS works for you:**

. . . ISIS blends age-old herbs into a patent pending formula that works internally and externally to deliver the desired results to your breast. The system works in the following ways:

**Completes Your Natural Growth**

ISIS awakens estrogen receptor sites which may have been dormant since puberty. This is the largest cause of underdeveloped breasts. Many women have never attained their full genetic potential.\*

The mastogenic (breast enlarging) properties in ISIS are like magnets which draw growth inducing characteristics to your receptor sites and in effect, cleanse the body and allow your growth to continue. This is accomplished through the use of phytoestrogens (derived from plants).\*

**Stimulates Additional Growth**

Once your natural growth cycle is complete, ISIS pushes beyond your inherited potential by helping stimulate the pituitary gland which is responsible for the production and release of growth hormones that help promote the growth of breast cells and tissue.\*

**testimonials**

. . .

**J. Michael Ernest (From Interview)**

. . .It's absolutely [a] wonderful feeling to know that you've developed a formula that not only provides the type of results that women really need and want but it gives them a two-fold process. They get the larger breast that makes them more beautiful, but it also addresses their self-esteem. It is the safest the most effective formulation that I know of on the market.

-- Exhibit A, Internet site, [www.4isis.com](http://www.4isis.com)

b. . . .

This is the man behind ISIS, Michael Ernest. He says small breasts are the result of a stunted puberty. Using his background in [herbology] and biology, he developed a formula that releases chemicals called phytoestrogens or plant-type estrogens into the breast.

1 'What you do is reawaken those receptor sites, reestablish the  
2 metabolic processes through the herbs, and the breast will continue  
3 to develop and finish developing.'

4 -- Exhibit B, transcript of video sidebar on  
5 Internet site

### 6 **DEFENDANT'S VIOLATIONS OF THE FTC ACT**

7 10. Section 5(a) of the FTC Act, 15 U.S.C. § 45(a), prohibits unfair or  
8 deceptive acts or practices in or affecting commerce. Section 12(a) of the FTC  
9 Act, 15 U.S.C. § 52(a), prohibits the dissemination of any false advertisement in  
10 or affecting commerce for the purpose of inducing, or which is likely to induce,  
11 the purchase of food, drugs, devices, services, or cosmetics. For the purposes of  
12 Section 12 of the FTC Act, 15 U.S.C. § 52, Isis is either a "food" or a "drug"  
13 pursuant to Section 15(b) and (c) of the FTC Act, 15 U.S.C. § 55(b) and (c). As  
14 set forth below, the Defendant has engaged and is continuing to engage in such  
15 unlawful practices in connection with the marketing and sale of the Isis system.

### 16 **COUNT I**

17 11. Through the use of the statements set forth in Paragraph 9, Defendant  
18 Ernest has represented, directly or by implication, that:

- 19 a. Isis significantly increases breast size;
- 20 b. Isis works by stimulating breast cells to regenerate the growth  
21 process; and
- 22 c. Isis is safe.

23 12. Defendant Ernest did not possess and rely upon a reasonable basis  
24 that substantiated the representations set forth in Paragraph 11 at the time the  
25 representations were made. Moreover, Defendant Ernest did not exercise his  
26 purported expertise in breast enhancement, in the form of an examination or  
27 testing of the Isis products at least as extensive as an expert in that field would  
28 normally conduct, in order to support the conclusions presented in the

1 endorsements. Therefore, the making of the representations set forth in  
2 Paragraph 11, above, constitutes a deceptive practice, and the making of false  
3 advertisements, in or affecting commerce, in violation of Sections 5(a) and 12 of  
4 the Federal Trade Commission Act, 15 U.S.C. §§ 45(a) and 52.

### 5 **INJURY**

6 13. Consumers throughout the United States have suffered and continue  
7 to suffer substantial monetary loss as a result of Defendant's unlawful acts or  
8 practices. In addition, Defendant has been unjustly enriched as a result of his  
9 unlawful practices. Absent injunctive relief by this Court, Defendant is likely to  
10 continue to injure consumers, reap unjust enrichment, and harm the public  
11 interest.

### 12 **THIS COURT'S POWER TO GRANT RELIEF**

13 14. Section 13(b) of the FTC Act, 15 U.S.C. § 53(b), empowers this  
14 Court to grant injunctive and such other relief as the Court may deem appropriate  
15 to halt and redress violations of the FTC Act. The Court, in the exercise of its  
16 equitable jurisdiction, may award other ancillary relief, including consumer  
17 redress, disgorgement, and restitution, to prevent and remedy injury caused by  
18 Defendant's law violations.

### 19 **PRAYER FOR RELIEF**

20 Wherefore, Plaintiff requests that this Court, as authorized by Section  
21 13(b) of the FTC Act, 15 U.S.C. § 53(b), and pursuant to its own equitable  
22 powers:

23 (1) Enjoin Defendant permanently from violating Sections 5 and 12 of the  
24 FTC Act, in connection with the advertising or sale of food, drugs, devices,  
25 cosmetics or other products, services or programs;

26 (2) Award such equitable relief as the Court finds necessary to redress  
27 injury to consumers resulting from Defendant's violations of the FTC Act,

1 including but not limited to redress, refund of monies paid, or disgorgement of  
2 ill-gotten gains; and

3 (3) Award plaintiff the costs of bringing this action and any other equitable  
4 relief the Court may determine to be just and proper.

5 Respectfully submitted,

6 WILLIAM E. KOVACIC  
7 General Counsel

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10 Federal Trade Commission

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