

**UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF NEW YORK**

FEDERAL TRADE COMMISSION

Plaintiff,

v.

**No. 9068-8425 QUEBEC, INC. d/b/a Bio Lab,
Cellu-Fight, and Quick Slim, and**

JEAN-FRANCOIS BROCHU,

Defendants.

Civil Action No.

COMPLAINT FOR PERMANENT INJUNCTION AND OTHER EQUITABLE RELIEF

Plaintiff, the Federal Trade Commission (“FTC” or “Commission”), through its undersigned attorneys, alleges as follows:

1. The FTC brings this action pursuant to Section 13(b) of the Federal Trade Commission Act ("FTC Act"), 15 U.S.C. § 53(b), to secure injunctive relief and other equitable relief against No. 9068-8425 Quebec, Inc., d/b/a Bio Lab, Cellu-Fight, and Quick Slim, and Jean- Francois Brochu, individually and as President and Chief Executive Officer of No. 9068-8425 Quebec, Inc.

(“Defendants”) for engaging in deceptive acts or practices and false advertising in connection with the advertising, marketing and sale of a purported weight-loss and cellulite-treatment product in violation of Sections 5(a) and 12 of the FTC Act, 15 U.S.C. §§ 45(a) and 52.

JURISDICTION AND VENUE

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

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

PLAINTIFF

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

DEFENDANT

5. Defendant No. 9068-8425 Quebec, Inc. is a Canadian corporation doing business as Bio Lab, Cellu-Fight, and Quick Slim, with its principal office or place of business at 1804 Boulevard Le Corbusier, Laval, Quebec, H2S 2N3, Canada. It transacts or has transacted business in this District and throughout the United States under the name of Bio Lab, Cellu-Fight, and Quick Slim

through dissemination of advertisements for its weight loss and cellulite treatment products through U.S. media outlets and the use of postal mail boxes located at 334 Cornelia Street, PMB #289, Plattsburgh, New York, 12901, and 110 Main Street #263, Lake Placid, New York 12946. These mail boxes receive orders from consumers for Quick Slim and Cellu-Fight.

6. Defendant Jean-Francois Brochu is the President and Chief Executive Officer of No. 9068-8425 Quebec, Inc. He resides at 2060 Avenue Dumouchel, Apt. No. 301, Laval, QC H7S 2G9. At all times material to this Complaint, acting alone or in conjunction with others, he has formulated, directed, controlled the policies, acts or practices of No. 9068-8425 Quebec, Inc., including the acts and practices set forth in this Complaint. Mr. Brochu, as President and Chief Executive Officer of No. 9068-8425 Quebec, Inc., transacts or has transacted business in this District by registering a mail box under the name of Bio Lab at 334 Cornelia Street, PMB #289, Plattsburgh, New York 12901, and a second mail box under the name of Body Trim at 110 Main Street #263, Lake Placid, New York 12946.

COMMERCE

7. The acts and practices of Defendants, as alleged herein, are in or affecting commerce, as "commerce" is defined in Section 4 of the FTC Act, 15 U.S.C. § 44.

DEFENDANTS' COURSE OF CONDUCT

QUICK SLIM

8. Since at least December 1999, and continuing thereafter, Defendants have advertised, promoted, offered for sale, sold, and distributed a purported weight-loss product called Quick Slim Fat Blocker ("Quick Slim") to consumers throughout the United States, using advertisements in

newspapers, magazines, and the Internet. The product label states that Quick Slim contains pectin, hydrolysed proteins, sea kelp, lecithin, biological apple cider vinegar, bromelain, cellulose, oyster shell, and vegetal magnesium stearate. Defendants recommend that consumers using the product consume 1 to 3 tablets before each meal. A bottle of 180 Quick Slim caplets (a 20 to 60 day supply) costs consumers \$70.00.

9. To induce consumers to purchase Quick Slim, Defendants have disseminated or have caused to be disseminated advertisements for Quick Slim, including but not necessarily limited to the attached Exhibits A through H. These advertisements contain the following statements, among others:

A. Print Ads

- **LOSE UP TO 2 POUNDS DAILY WITHOUT DIET OR EXERCISE**
- **“I LOST 44 POUNDS IN 30 DAYS”**
- **“I LOST 4 INCHES FROM MY OVERALL MEASUREMENT IN 28 DAYS.”**
- **A WINNING COMBINATION WITH APPLE PECTIN TO LOSE WEIGHT FOREVER**
- **THE EFFECTS OF THE APPLE PECTIN FAT BLOCKER ARE POWERFUL**

1. Apple Pectin is an energized enzyme that can ingest up to 900 times it's [sic] own weight in fat. That's why it's a fantastic FAT BLOCKER.
2. Apple Pectin attacks fat 24 hours a day, everyday. It's devoured and expelled through your system day after day to eliminate unsightly bulges.
3. The Quick Slim Fat Blocker is 100% natural. Forget about prescriptions. In no way can Apple Pectin harm your health, there's absolutely no side effects.
4. The Quick Slim Fat Blocker eliminates fat for effortless weight loss.

Same results as:

- Jogging 10 miles per week
 - An hour of aerobics per week
 - 15 hours of swimming or cycling per week
- **“I LOST 30 POUNDS IN 25 DAYS FOR MY WEDDING”**
 - **MELT BODY FAT AND TRIM INCHES IN JUST 48 HOURS**

Exhibits A, B, C, D, E and F (emphasis in original). These advertisements appeared in free standing inserts in the *Philadelphia Inquirer*, the *Dallas Morning News*, the *San Francisco Examiner*, the *Los Angeles Times*, and the *Washington Post*, and in *Glamour* magazine.

B. Internet Ads

THE RESULTS OF CLINICAL TESTING

Here are the actual statistics:

- **80% of patients lost a significant amount of weight**
- **Natural, no side effects**
- **After a month, many lost more than 20 pounds**

In terms of inches lost among the women, the average reductions were:

- **2 inches off their waist**
- **2.3 inches off their hips**
- **2 inches off their thighs**

QUICK SLIM FAQ– Frequently Asked Questions

* * *

6. *How much weight am I expected to lose?*

The average weight loss is about 17 pounds per month. This is without going on a steady diet. We have an 80% success rate with Quick Slim. Meaning that 8 people

out of 10 have experienced desired weight loss.

7. *Once I lose weight do I have to continue using Quick Slim? Will the fat stay off?*
For most people, once the weight is off it stays off. If you continue eating healthy, you shouldn't gain more weight. Some people reorder to maintain their weight, to use once in a while, knowing their eating habits can get out hand.
8. *How does Quick Slim actually work?*
Quick Slim acts as a fat blocker. It traps the fat in the foods you eat. This fat is gathered up and eliminated with normal body waste. Your body, having virtually no NEW fat to burn, will start to feed off your reserves thus resulting in weight loss.
9. *Do I have to follow a diet while using Quick Slim?*
No. We do include a diet plan with the product, but it is optional. The plan includes a list of food that you should avoid. If you cut down a bit on fatty foods and drink more water, you will get wonderful results.

Exhibits G & H (emphasis in original). These statements appeared on Defendants' Web sites

www.quickslimdiet.com and www.quickslimdiets.com.

CELLU-FIGHT

10. Since at least February 2002, and continuing thereafter, Defendants have advertised, promoted, offered for sale, sold, and distributed a purported cellulite treatment product called "Cellu-Fight" to consumers throughout the United States, using the Internet and direct mail brochures. The product label states that Cellu-Fight contains ginkgo biloba extract, sweet clover extract, soya lecithin, freeze dried blueberry, fucus visiculosus, cinnamon oil, and cayenne pepper in a base containing dicalcium phosphate, cellulose and vegetable magnesium stearate. Defendants recommend that consumers take one Cellu-Fight tablet three times a day. A bottle of sixty Cellu-Fight tablets (a 20 day supply) costs consumers \$40.00.

11. To induce consumers to purchase Cellu-Fight, Defendants have disseminated or have

caused to be disseminated advertisements for Cellu-Fight, including but not necessarily

limited to the attached Exhibits G through I. These advertisements contain the following statements:

- **CELLU-FIGHT . . . NEW TABLET FOR A DIRECT ATTACK ON CELLULITE**
- **New Tablet Completely Eliminates Cellulite**
- Cellulite affects 95% of women and 8% of men. **CELLU-FIGHT'S** anti-cellulite formula answers an urgent need. Containing important nutritive elements it attacks cellulite at its source eliminating ugly bumps and craters, smoothing out the skin without massage or laser treatment. **CELLU-FIGHT** is composed of biologically active plant extracts, permitting visible results within a few days. This is neither a laxative nor diuretic but a clinically tested compound that rids the stomach, backside, hips, and thighs of unsightly cellulite bulges.
- **SPECTACULAR RESULTS**
Within two weeks you'll note a difference in your body through sight and touch. Your skin will feel soft and satiny once more.

Recommended treatment is two months in length. Tests have proven that you cannot be disappointed with **CELLU-FIGHT**. You'll see your cellulite vanish without any effort on your part. Good nutrition and exercise make for a healthy body but to rid yourself of cellulite, **CELLU-FIGHT** is indispensable.
- **CELLU-FIGHT ... FOR SLIMMER HIPS, THIGHS, BUTTOCKS AND WAIST TODAY**
- **BANISH CELLULITE**
- **CELLULITE ... GONE FOREVER**
- **LOSE INCHES FOR GOOD, CELLU-FIGHT REMOVES CELLULITE DEPOSITS.**
- **STOMACH**
CELLU-FIGHT has a multi performance action which directly attacks, the fatty masses in the stomach area. Your waistline visibly slims down day after day.
- **BUTTOCKS**

CELLU-FIGHT limits the stock piling phenomenon. In record time it liberates the surplus of fat blocked in the tissues. It favors the elimination of fat deposits in the buttocks.

- **HIPS**
CELLU-FIGHT rejuvenates the skin's natural elasticity and smooths away rough patches due to its firming action. It demolishes those embarrassing saddlebags and redefines your figure.
- **THIGHS**
CELLU-FIGHT'S draining formulation assures lipid elimination in double quick time. It halts the formation of localized deposits and tones the distended tissues in your thighs.
- **ORANGE PEEL SKIN**
CELLU-FIGHT starts to work immediately on fat deposits to provoke elimination of toxins. This rough, lumpy, heavy looking skin disappears in a short period of time.

Exhibits G through I (emphasis in original). These statements appear on Defendants' Web sites

www.quickslimdiet.com and www.quickslimdiets.com, and in their direct mail brochure.

DEFENDANTS' VIOLATIONS OF THE FTC ACT

12. Section 5(a) of the FTC Act, 15 U.S.C. § 45(a), prohibits unfair or deceptive acts or practices in or affecting commerce. Section 12(a) of the FTC 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. For the purposes of Section 12 of the FTC Act, 15 U.S.C. § 52, Quick Slim and Cellu-Fight are either "foods" or "drugs" as defined in Sections 15(b) and (c) of the FTC Act, 15 U.S.C. § 55(b) and (c). As set forth below, Defendants have engaged and are continuing to engage in such unlawful practices in connection with the marketing and sale of Quick Slim and Cellu-Fight.

COUNT ONE

13. Through the means described in Paragraph 9, including through the statements contained in the advertisements attached as Exhibits A through H, Defendants have represented, expressly or by implication, that:

- a. Quick Slim causes rapid and substantial weight loss, without the need to diet or exercise;
- b. Quick Slim enables users to lose as much as 44 pounds in 30 days and 30 pounds in 25 days, without the need to diet or exercise;
- c. Quick Slim enables users to lose up to 2 pounds per day, without diet or exercise; and
- d. Quick Slim causes permanent weight loss.

14. In truth and in fact:

- a. Quick Slim does not cause rapid and substantial weight loss, without the need to diet or exercise;
- b. Quick Slim does not enable users to lose as much as 44 pounds in 30 days and 30 pounds in 25 days, without the need to diet or exercise;
- c. Quick Slim does not enable users to lose up to 2 pounds per day, without diet or exercise; or
- d. Quick Slim does not cause permanent weight loss.

15. Therefore, the making of the representations set forth in Paragraph 13 above constitutes a deceptive practice, and the making of false advertisements, in or affecting commerce, in violation of Sections 5(a) and 12 of the FTC Act, 15 U.S.C. §§ 45(a) and 52.

COUNT TWO

16. Through the means described in Paragraph 9, including through the statements contained in the advertisements attached as Exhibits G through H, Defendants have represented,

expressly or by implication, that Quick Slim is clinically proven to cause rapid and substantial weight loss.

17. In truth and in fact, Quick Slim is not clinically proven to cause rapid and substantial weight loss.

18. Therefore, the making of the representation set forth in Paragraph 16 above constitutes a deceptive practice, and the making of false advertisements, in or affecting commerce, in violation of Sections 5(a) and 12 of the FTC Act, 15 U.S.C. §§ 45(a) and 52.

COUNT THREE

19. Through the means described in Paragraph 9, including through the statements contained in the advertisements attached as Exhibits A through H, Defendants have represented, expressly or by implication, that Quick Slim causes rapid and substantial weight loss without the need to exercise or reduce caloric intake, enabling users to lose up to 2 pounds daily, and that such weight loss is permanent.

20. Defendants did not possess and rely upon a reasonable basis that substantiated the representations set forth in Paragraph 19 above at the time the representations were made.

21. Therefore, the making of the representations set forth in Paragraph 19 above constitutes a deceptive practice, and the making of false advertisements, in or affecting commerce, in violation of Sections 5(a) and 12 of the FTC Act, 15 U.S.C. §§ 45(a) and 52.

COUNT FOUR

22. Through the means described in Paragraph 11, including through statements contained in the advertisements attached as Exhibits G through I, Defendants have represented

expressly or by implication, that Cellu-Fight completely eliminates or substantially reduces cellulite.

23. In truth and in fact, Cellu-Fight does not completely eliminate or substantially reduce cellulite.

24. Therefore, the making of the representations set forth in Paragraph 22 above constitutes a deceptive practice, and the making of false advertisements, in or affecting commerce, in violation of Sections 5(a) and 12 of the FTC Act, 15 U.S.C. §§ 45(a) and 52.

COUNT FIVE

25. Through the means described in Paragraph 11, including through the statements contained in the advertisements attached as Exhibits G through I, Defendants have represented, expressly or by implication, that Cellu-Fight is clinically proven to eliminate cellulite from the stomach, backside, hips, and thighs.

26. In truth and in fact, Cellu-Fight is not clinically proven to eliminate cellulite from the stomach, backside, hips, and thighs.

27. Therefore, the making of the representation set forth in Paragraph 25 above constitutes a deceptive practice, and the making of false advertisements, in or affecting commerce, in violation of Sections 5(a) and 12 of the FTC Act, 15 U.S.C. §§ 45(a) and 52.

COUNT SIX

28. Through the means described in Paragraph 11, including through the statements contained in the advertisements attached as Exhibits G through I, Defendants have represented, expressly or by implication, that Cellu-Fight completely eliminates or substantially reduces cellulite.

29. Defendants did not possess and rely upon a reasonable basis that substantiated the

representations set forth in Paragraph 28 above at the time the representations were made.

30. Therefore, the making of the representations set forth in Paragraph 28 above constitutes a deceptive practice, and the making of false advertisements, in or affecting commerce, in violation of Sections 5(a) and 12 of the FTC Act, 15 U.S.C. §§ 45(a) and 52.

CONSUMER INJURY

31. Defendants' law violations have injured consumers and will continue to injure consumers throughout the United States. In addition, Defendants have been unjustly enriched as a result of their unlawful practices. Absent injunctive relief by this Court, Defendants are likely to continue to injure consumers, reap unjust enrichment, and harm the public interest.

THIS COURT'S POWER TO GRANT RELIEF

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

PRAYER FOR RELIEF

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

(a) Permanently enjoin Defendants from violating Sections 5(a) and 12 of the FTC Act, 15 U.S.C. §§ 45(a) and 52, in connection with the offer, sale, advertising, or other promotion or distribution of weight-loss or cellulite-loss products, or any food, drugs, dietary supplements, devices,

cosmetics, or other products, services, or programs;

(b) Award all temporary and preliminary injunctive and ancillary monetary relief that may be necessary to avert the likelihood of consumer injury during the pendency of this action, and to preserve the possibility of effective final relief, including, but not limited to, temporary and preliminary injunctions and an asset freeze;

(c) Award such equitable relief as the Court finds necessary to redress injury to consumers resulting from Defendants' violations of the FTC Act, including, but not limited to, rescission of contracts and restitution, other forms of redress, and the disgorgement of ill-gotten gains; and

(d) Award the Plaintiff the costs of bringing this action, and such other equitable relief as the Court may determine to be just and proper.

Dated: _____

Respectfully submitted,

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