

APPENDIX A

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
JACKSONVILLE DIVISION**

**FEDERAL TRADE COMMISSION and
OFFICE OF ATTORNEY GENERAL,
DEPARTMENT OF LEGAL AFFAIRS,
STATE OF FLORIDA,**

Plaintiffs,

v.

**ALCOHOLISM CURE CORPORATION,
also doing business as Alcoholism Cure
Foundation, and
ROBERT DOUGLAS KROTZER, individually
and as an officer and/or director of Alcoholism
Cure Corporation,**

Defendants.

Case No.

**STIPULATED ORDER FOR
PRELIMINARY INJUNCTION**

Plaintiffs, the Federal Trade Commission ("Commission" or "FTC") and the State of Florida (together, "Plaintiffs"), filed a Complaint for Injunctive and Other Equitable Relief ("Complaint") against Defendants Alcoholism Cure Corporation, also doing business as Alcoholism Cure Foundation ("ACF"), and Robert Douglas Krotzer (together, "Defendants") pursuant to Section 13(b) of the Federal Trade Commission Act ("FTC Act"), 15 U.S.C. § 53(b), and the Florida Deceptive and Unfair Trade Practices Act ("FDUPTA"), Fla. Stat. § 501.201, *et seq.*, alleging deceptive and unfair practices and false advertisements in violation of Sections 5(a) and 12 of the FTC Act, 15 U.S.C. §§ 45(a) and 52, and deceptive acts or practices in violation of Section 501.204(1) of the FDUPTA, Fla. Stat. § 501.204(1).

The Plaintiffs and Defendants, without Defendants admitting or denying liability for any of the conduct alleged in the Complaint, have agreed to entry of the following Stipulated

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Order for Preliminary Injunction.

The Court, having been presented with this Stipulated Order for Preliminary Injunction ("Order"), finds as follows:

FINDINGS

1. This Court has jurisdiction over the subject matter of this case and jurisdiction over all parties. Venue in the Middle District of Florida is proper.
2. The acts and practices of Defendants alleged in the complaint are in or affecting commerce, as defined in Section 4 of the FTC Act, 15 U.S.C. § 44.
3. The Complaint states a claim upon which relief may be granted under Sections 5(a) and 12 of the FTC Act, 15 U.S.C. §§ 45(a) and 52, and under the Florida Deceptive and Unfair Trade Practices Act, Fla Stat. § 501.201 *et seq.* The Plaintiffs have the authority to seek the relief they have requested.
4. Since at least 2005, Defendants have advertised, marketed, and sold the "Permanent Cure" Program to the public. The "Permanent Cure" Program consists of Defendants' "doctors" prescribing individual dietary supplement regimens for consumers and providing purported doctor monitoring and support, ostensibly to cure an individual's alcoholism.
5. Defendants purportedly customize each consumer's dietary supplement regimen and bill consumers for the "Permanent Cure" Program as a monthly subscription with two price levels: Heavy Drinker and Very Heavy Drinker. The price ranges from \$59.96 to \$269.96 per month, and does not include the cost of the prescribed dietary supplements.

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6. Defendants purportedly have represented, among other things, that the "Permanent Cure" Program: cures alcoholism for most alcoholics who sign up; is scientifically proven to cure alcoholism and has been validated by a \$35,000,000 research study; and is virtually free; and that consumers can cancel anytime if not cured. Defendants have further represented, among other things, that Krotzer and other ACF employees have doctorates or licenses in areas related to the treatment of alcoholism, and that they would keep consumers' personal and health information private, confidential, and anonymous.

7. Defendants purportedly have caused charges to be submitted for payment to financial institutions without obtaining the express informed consent of consumers, and have represented that consumers have given authorization for their credit card or PayPal accounts to be charged for Defendants' services and accelerated payments without obtaining the express informed consent of consumers.

8. The Plaintiffs have alleged that these representations and practices are deceptive and unfair under the FTC Act and the FDUTPA.

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

10. No security is required of ~~Plaintiffs~~ ^{The Federal Trade Commission} in connection with the issuance of a Preliminary Injunction. Fed. R. Civ. P. 65(c) ¹ ~~of~~ ^{Fla. R. Civ. P. 1.610(b)}.

(MMH)

ORDER DEFINITIONS Additionally, based upon the allegations in the Complaint and the agreements of the parties, the Court determines, in its discretion, that no bond will be required of the state of Florida.

1. "ACF" or "Corporate Defendant" means Alcoholism Cure Corporation, also doing business as Alcoholism Cure Foundation, and its successors and assigns.

2. "Krotzer" or "Individual Defendant" means Robert Douglas Krotzer, of Florida.

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individually and as the President of ACF.

3. "Defendants" means ACF and Krotzer, individually, collectively, or in any combination.

4. "Permanent Cure Program" means any program, product, or service offered to consumers that has been formulated, designed, or recommended by Defendants to treat or cure alcoholism.

5. "Advertising" and "promotion" mean any written or verbal statement, illustration, or depiction designed to effect a sale or create interest in the purchasing of goods, whether it appears in a brochure, newspaper, magazine, pamphlet, leaflet, circular, mailer, book insert, free standing insert, letter, catalogue, poster, chart, billboard, public transit card, point of purchase display, packaging, package insert, label, film, slide, radio, television or cable television, audio program transmitted over a telephone system, program-length commercial ("infomercial"), the Internet, email, press release, video news release, or in any other medium.

6. "Clearly and conspicuously" means:

- a. In print communications, the message shall be presented in a manner that stands out from the accompanying text, so that it is sufficiently prominent, because of its type size, contrast, location, or other characteristics, for an ordinary consumer to notice, read, and comprehend it;
- b. In communications made through an electronic medium (such as television, video, radio, and interactive media such as the Internet,

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online services and software), the message shall be presented simultaneously in both the audio and visual portions of the communication. In any communication presented solely through visual or audio means, the message may be made through the same means in which the communication is presented. In any communication disseminated by means of an interactive electronic medium such as software, the Internet, or online services, a disclosure must be unavoidable and presented prior to the consumer incurring any financial obligation. Any audio message shall be delivered in a volume and cadence sufficient for an ordinary consumer to hear and comprehend it. Any visual message shall be presented in a manner that stands out in the context in which it is presented, so that it is sufficiently prominent, because of its size and shade, contrast to the background against which it appears, length of time it appears on the screen, and its location, for an ordinary consumer to notice, read, and comprehend it; and

c. Regardless of the medium used to disseminate it, the message shall be in understandable language and syntax. Nothing contrary to, inconsistent with, or in mitigation of the message shall be used in any communication.

7. "Commerce" means as defined in Section 4 of the FTC Act, 15 U.S.C. § 44.
8. "Commission" or "FTC" means the Federal Trade Commission.

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9. "Covered product" means any dietary supplement, food, or drug.
10. "Covered service" means any health-related service or program, including, but not limited to, the Permanent Cure Program.
11. "Covered product or service" means any covered product or covered service.
12. "Endorsement" means as defined in 16 C.F.R. § 255.0(b).
13. "FDUTPA" means the Florida Deceptive and Unfair Trade Practices Act, Fla. Stat. § 501.201 *et seq.*
14. "Food" and "drug" mean as defined in Section 15 of the FTC Act, 15 U.S.C. § 55.
15. "Person" means a natural person, an organization or other legal entity, including a corporation, partnership, sole proprietorship, limited liability company, association, cooperative, or any other group or combination acting as an entity.
16. "Personal information" means individually identifiable information from or about an individual consumer including, but not limited to: (a) a first and last name; (b) a home or other physical address, including street name and name of city or town; (c) an email address or other online contact information, such as an instant messaging user identifier or a screen name; (d) a telephone number; (e) a Social Security number; (f) a driver's license number or other government-issued identification number; (g) medical records and other individually identifiable information relating to the past, present, or future physical or mental health or conditions of an individual, the provision of health care to an individual, or the past, present, or future payment for the provision of health care to an individual; (h) a bank account, debit card, or credit card account number; (i) a persistent identifier, such as a

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customer number held in a "cookie" or processor serial number, that is combined with other available data that identifies an individual consumer; or (j) any information that is combined with any of (a) through (i) above.

17. The terms "and" and "or" in this Order shall be construed conjunctively or disjunctively as necessary, to make the applicable sentence or phrase inclusive rather than exclusive.

18. The term "including" in this Order means "including without limitation."

I.

PROHIBITED REPRESENTATIONS: ALCOHOLISM CURE OR TREATMENT

IT IS HEREBY ORDERED that Defendants, directly or through any corporation, partnership, subsidiary, division, trade name, or other device, and their officers, agents, servants, representatives, employees, and all persons or entities in active concert or participation with them who receive actual notice of this Order, by personal service or otherwise, in connection with the manufacturing, labeling, advertising, promotion, offering for sale, sale, or distribution of any covered product or service, in or affecting commerce, are hereby restrained and enjoined from making, or assisting others in making, directly or by implication, including through the use of a product name, endorsement, depiction, or illustration, any representation that a covered product or service:

- A. Cures alcoholism for most alcoholics who use it;
- B. Cures alcoholism while allowing alcoholics to drink socially; or
- C. Is more effective than other treatments for alcoholism.

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II.

PROHIBITED REPRESENTATIONS: HEALTH-RELATED CLAIMS

IT IS HEREBY ORDERED that Defendants, directly or through any corporation, partnership, subsidiary, division, trade name, or other device, and their officers, agents, servants, representatives, employees, and all persons or entities in active concert or participation with them who receive actual notice of this Order, by personal service or otherwise, in connection with the manufacturing, labeling, advertising, promotion, offering for sale, sale, or distribution of any covered product or service, in or affecting commerce, are hereby restrained and enjoined from making, or assisting others in making, directly or by implication, including through the use of a product name, endorsement, depiction, or illustration, any representation about the health benefits, performance, or efficacy of any covered product or service, unless the representation is non-misleading, and, at the time of making such representation, Defendants possess and rely upon competent and reliable scientific evidence that is sufficient in quality and quantity based on standards generally accepted in the relevant scientific fields, when considered in light of the entire body of relevant and reliable scientific evidence, to substantiate that the representation is true. For purposes of this Section, competent and reliable scientific evidence means tests, analyses, research, studies, or other evidence that have been conducted and evaluated in an objective manner by qualified persons, and that are generally accepted in the profession to yield accurate and reliable results.

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III.

PROHIBITED REPRESENTATIONS: TESTS OR STUDIES

IT IS FURTHER ORDERED that Defendants, directly or through any corporation, partnership, subsidiary, division, trade name, or other device, and their officers, agents, servants, representatives, employees, and all persons or entities in active concert or participation with them who receive actual notice of this Order, by personal service or otherwise, in connection with the manufacturing, labeling, advertising, promotion, offering for sale, sale, or distribution of any covered product or service, in or affecting commerce, are hereby restrained and enjoined from misrepresenting, or assisting others in misrepresenting, in any manner, expressly or by implication, including through the use of any product or service name or endorsement, the existence, contents, validity, results, conclusions, or interpretations of any test, study, or research, including, but not limited to, by misrepresenting that the product or service:

- A. Is scientifically proven to cure alcoholism; or
- B. Has been validated by a \$35,000,000 research study.

IV.

OTHER PROHIBITED MISREPRESENTATIONS

IT IS FURTHER ORDERED that Defendants, directly or through any corporation, partnership, subsidiary, division, trade name, or other device, and their officers, agents, servants, representatives, employees, and all persons or entities in active concert or participation with them who receive actual notice of this Order, by personal service or otherwise, in connection with the manufacturing, labeling, advertising, promotion, offering

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for sale, sale, or distribution of any covered product or service, in or affecting commerce, are hereby restrained and enjoined from misrepresenting, or assisting others in misrepresenting, in any manner, expressly or by implication, including through the use of any product or service name or endorsement:

- A. The cost of any product or service;
- B. The terms or conditions of any cancellation policy; and
- C. The expertise, training, education, experience, or qualifications of Defendant Krotzer or any employee or contractor of Defendants, including, but not limited to, that Defendant Krotzer or any employee or contractor of Defendants has a doctorate or license in any area related to the treatment of alcoholism.

V.

REQUIRED DISCLOSURES

IT IS FURTHER ORDERED that Defendants, directly or through any corporation, partnership, subsidiary, division, trade name, or other device, and their officers, agents, servants, representatives, employees, and all persons or entities in active concert or participation with them who receive actual notice of this Order, by personal service or otherwise, in connection with the manufacturing, labeling, advertising, promotion, offering for sale, sale, or distribution of any covered product or service, in or affecting commerce, shall clearly and conspicuously disclose, before consumers are asked to pay money, submit consideration, or reveal billing information: all fees and costs, and all material restrictions, limitations, terms, or conditions applicable to the purchase, receipt, use, or cancellation of the product or service that is the subject of the offer.

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VI.

PROHIBITED MISREPRESENTATIONS: PRIVACY

IT IS FURTHER ORDERED that Defendants, directly or through any corporation, partnership, subsidiary, division, trade name, or other device, and their officers, agents, servants, representatives, employees, and all persons or entities in active concert or participation with them who receive actual notice of this Order, by personal service or otherwise, in connection with the manufacturing, labeling, advertising, promotion, offering for sale, sale, or distribution of any covered product or service, in or affecting commerce, are hereby restrained and enjoined from making, or assisting others in making, directly or by implication, including through the use of any product or service name or endorsement, any misrepresentation about the manner or extent to which any information collected from or about consumers is used, disclosed, maintained, or protected.

VII.

PROHIBITION AGAINST UNAUTHORIZED BILLING

IT IS FURTHER ORDERED that Defendants, directly or through any corporation, partnership, subsidiary, division, trade name, or other device, and their officers, agents, servants, representatives, employees, and all persons or entities in active concert or participation with them who receive actual notice of this Order, by personal service or otherwise, in connection with the manufacturing, labeling, advertising, promotion, offering for sale, sale, or distribution of any covered product or service, in or affecting commerce, are hereby restrained and enjoined from submitting a charge to a consumer's billing account or from otherwise billing a consumer without having previously obtained a consumer's express

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written authorization for any such charge in a document that includes the consumer's signature.

VIII.

REQUIREMENT TO CEASE COLLECTION EFFORTS

IT IS FURTHER ORDERED that Defendants, directly or through any corporation, partnership, subsidiary, division, trade name, or other device, and their officers, agents, servants, representatives, employees, and all persons or entities in active concert or participation with them who receive actual notice of this Order, by personal service or otherwise, shall immediately cease all collection efforts on accounts or claims arising from contracts, agreements, or understandings between Defendants and any person who purchased or registered for, or purportedly purchased or registered for, the Permanent Cure Program prior to the date of entry of this Order (referred to in this Section as "ACF customer"). The cessation of such efforts shall include, but not be limited to:

- A. Ceasing all collection activities regarding such accounts or claims;
- B. Directing all third parties engaged in collection efforts regarding such accounts or claims to cease immediately all such collection efforts;
- C. Ceasing furnishing any negative information relating to any ACF customer to any consumer reporting agency;
- D. Refraining from filing any lawsuit, arbitration, or other action against any ACF customer; and
- E. Refraining from enforcing, or opposing any appeal of, any judgment or award obtained against any ACF customer prior to or after entry of this Order.

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IX.

PRESERVATION OF RECORDS

IT IS FURTHER ORDERED that Defendants, directly or through any corporation, partnership, subsidiary, division, trade name, or other device, and their officers, agents, servants, representatives, employees, and all persons or entities in active concert or participation with them who receive actual notice of this Order, by personal service or otherwise, are hereby preliminarily restrained and enjoined from:

A. Destroying, erasing, mutilating, concealing, altering, transferring, or otherwise disposing of, in any manner, directly or indirectly, any documents or records that relate to the business practices, or business or personal finances, of Defendants, or any other entity directly or indirectly under the control of Defendants;

B. Failing to create and maintain books, records, and accounts which, in reasonable detail, accurately, fairly, and completely reflect the incomes, assets, disbursements, transactions and use of monies by any Defendant or any other entity directly or indirectly under the control of any Defendants;

C. Failing to maintain records of all transactions and communications with consumers, including customer lists, consumer complaints and disputes, and any responses made to those complaints or disputes, whether those complaints or disputes come from the consumer or any intermediary, such as a government agency, Better Business Bureau, or any other source; and

D. Destroying or erasing any websites, web pages or any electronically stored information on websites, web servers, web logs, web pages, and email used by Defendants for

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the advertising, marketing, promotion, offering for sale, or sale of goods over the Internet.

X.

**PROHIBITION AGAINST THE USE, DISCLOSURE, OR RETENTION OF
CONSUMER INFORMATION**

IT IS FURTHER ORDERED that Defendants, directly or through any corporation, partnership, subsidiary, division, trade name, or other device, and their officers, agents, servants, representatives, employees, and all persons or entities in active concert or participation with them who receive actual notice of this Order, by personal service or otherwise, are restrained and enjoined from disclosing, using, or benefitting from the personal information of any person who registered for and/or purchased the Permanent Cure Program prior to entry of this Order.

XI.

NOTICE TO EMPLOYEES AND AGENTS

IT IS FURTHER ORDERED that within ten (10) calendar days following the entry of this Order, Defendants shall provide a copy of this Order to each of their employees, directors, officers, subsidiaries, affiliates, attorneys, independent contractors, paid endorsers, representatives, franchisees, payment processors, and all other persons in active concert or participation with Defendants. Within twenty (20) calendar days following entry of this Order, Defendants shall provide the Plaintiffs with an affidavit identifying the names, titles, addresses, and telephone numbers of the persons and entities that Defendants have served in compliance with this provision.

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XII.

SERVICE OF THIS ORDER

IT IS FURTHER ORDERED that copies of this Order may be served by facsimile, personal or overnight delivery, or U.S. mail, by agents and employees of the Plaintiffs or by private process server, on Defendants or any other person or entity that may be subject to any provision of this Order.

XIII.

CORRESPONDENCE WITH PLAINTIFFS

IT IS FURTHER ORDERED that for the purposes of this Order, all service on and correspondence with the Plaintiffs shall be sent via facsimile, overnight delivery, or email to:

Karen Mandel
Federal Trade Commission
600 Pennsylvania Ave., NW, Room NJ-3212
Washington, DC 20580
Fax: 202-326-3259
kmandel@ftc.gov

and

Kathleen Connors Piechowiak
Office of the Attorney General
1300 Riverplace Blvd., Suite 405
Jacksonville, FL 32207
Fax: 904-858-6918
kathleen.piechowiak@myfloridalegal.com.

XIV.

RETENTION OF JURISDICTION

IT IS FURTHER ORDERED that this Order shall continue in full force and effect until the conclusion of this case or upon further order of this Court. This Court shall retain

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jurisdiction of this matter for purposes of construction, modification, and enforcement of this Order.

SO ORDERED: May 25th, 2010

Dated: ~~May 25~~, 2010
MMH

Marcia Morales Howard
HON. MARCIA MORALES HOWARD
UNITED STATES DISTRICT JUDGE

SO STIPULATED:

[Signature]
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By: Robert Douglas Krotzer, President

[Signature]
ROBERT DOUGLAS KROTZER
Individually, and as President and Owner
of ALCOHOLISM CURE
CORPORATION

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