

**UNITED STATES OF AMERICA
FEDERAL TRADE COMMISSION**

In the Matter of

TECHNOBRANDS, INC.,
a corporation, and

CHARLES J. ANTON,
individually and as an officer
of TechnoBrands, Inc.

FILE NO. 992 3034

**AGREEMENT CONTAINING
CONSENT ORDER**

The Federal Trade Commission has conducted an investigation of certain acts and practices of TechnoBrands, Inc. ("TBI"), and Charles J. Anton, individually and as an officer of TBI ("proposed respondents"). Proposed respondents, having been represented by counsel, are willing to enter into an agreement containing a consent order resolving the allegations contained in the attached draft complaint. Therefore,

2. Proposed respondents admit all the jurisdictional facts set forth in the draft complaint.
3. Proposed respondents waive:
 - a. Any further procedural steps;
 - b. The requirement that the Commission's decision contain a statement of findings of fact and conclusions of law; and
 - c. All rights to seek judicial review or otherwise to challenge or contest the validity of the order entered pursuant to this agreement.
4. This agreement shall not become part of the public record of the proceeding unless and until it is

ORDER

DEFINITIONS

For purposes of this order, the following definitions shall apply:

1. "Competent and reliable scientific evidence" shall mean tests, analyses, research, studies, or other evidence based on the expertise of professionals in the relevant area, that has been conducted and evaluated in an objective manner by persons qualified to do so, using procedures generally accepted in the profession to yield accurate and reliable results.
2. Unless otherwise specified, "respondents" shall mean TBI, its successors and assigns and its officers; Anton, individually and as an officer of TBI; and each of the above's agents, representatives, and employees.
3. "Commerce" shall mean as defined in Section 4 of the Federal Trade Commission Act, 15 U.S.C. § 44.

I.

IT IS ORDERED that respondents, directly or through any corporation, subsidiary, division, or other device, in connection with the labeling, advertising, promotion, offering for sale, sale, or distribution of the Hollywood 48-Hour Miracle Diet or any substantially similar product in or affecting commerce, shall not make any representation, in any manner, expressly or by implication, that:

- A. Consumers who use such product can lose 10 lbs. in 48 hours; or
- B. Many celebrities, actors, actresses, and models – including some that star in the television shows E.R. and Friends – have lost substantial weight by using such product;

unless at the time the representation is made, respondents possess and rely upon competent and reliable evidence that substantiates the representation. In the case of the representation set forth in subparagraph A (regarding weight loss) the substantiation must consist of competent and reliable scientific evidence.

II.

IT IS FURTHER ORDERED that respondents, directly or through any corporation, subsidiary, division, or other device, in connection with the labeling, advertising, promotion, offering for sale, sale, or distribution of the Enforma System or any substantially similar product in or affecting commerce, shall not make any representation, in any manner, expressly or by implication, that:

- A. Consumers who use such product can lose substantial weight without the need for a restricted calorie diet or exercise; or
- B. Consumers who use such product can avoid weight gain without the need for a restricted calorie diet or exercise;

unless at the time the representation is made, respondents possess and rely upon competent and reliable scientific evidence that substantiates the representation.

III.

IT IS FURTHER ORDERED that respondents, directly or through any corporation, subsidiary, division, or other device, in connection with the labeling, advertising, promotion, offering for sale, sale, or distribution of the BMI Magnetic Kit or any substantially similar product in or affecting commerce, shall not make any representation, in any manner, expressly or by implication, that:

- A. Such product relieves severe pain, whether chronic or occasional, anywhere in the body, including lower back pain, tennis elbow, carpal tunnel syndrome, hand pain, ankle strains, neck pain, shoulder pain, hip pain, muscle strains, and knee pain;
- B. Such product can relieve pain more effectively than traditional medicine, anti-inflammatory drugs, massage, acupuncture, or chiropractic treatment; or
- C. Such product relieves pain through magnetic field therapy, which enlarges the diameter of veins, arteries and capillaries, increases blood flow, aids circulation, reduces inflammation, and suppresses the body's production of pain-causing chemicals;

unless at the time the representation is made, respondents possess and rely upon competent and reliable scientific evidence that substantiates the representation.

IV.

IT IS FURTHER ORDERED that respondents, directly or through any corporation, subsidiary, division, or other device, in connection with the labeling, advertising, promotion, offering for sale, sale, or distribution of the Nisim New Hair Biofactors System or any substantially similar product in or affecting commerce, shall not make any representation, in any manner, expressly or by implication, that:

- A. Consumers who use such product can stop excessive hair loss in a matter of days; or
- B. Such product is as effective at stimulating hair growth as prescription products, or other heavily advertised restorers (such as Rogaine or Propecia);

unless at the time the representation is made, respondents possess and rely upon competent and reliable scientific evidence that substantiates the representation.

V.

IT IS FURTHER ORDERED that respondents, directly or through any corporation, subsidiary, division, or other device, in connection with the labeling, advertising, promotion, offering for sale, sale, or distribution of the Clarion Ionic Filter Ceiling Fan or any substantially similar product in or affecting commerce, shall not make any representation, in any manner, expressly or by implication, that:

- A. Consumers who use such product will experience relief from allergies and other respiratory problems; or
- B. Such product eliminates dust mites and pet dander from a user's environment;

unless at the time the representation is made, respondents possess and rely upon competent and reliable scientific evidence that substantiates the representation.

VI.

IT IS FURTHER ORDERED that respondents, directly or through any corporation, subsidiary, division, or other device, in connection with the labeling, advertising, promotion, offering for sale, sale, or distribution of the Sila Ionic Air Purifier or any substantially similar product in or affecting commerce, shall not make any representation, in any manner, expressly or by implication, that the Sila air purifier eliminates mold, mildew, bacteria, chemicals, and pollutants from a user's environment, unless at the time the representation is made, respondents possess and rely upon competent and reliable scientific evidence that substantiates the representation.

VII.

IT IS FURTHER ORDERED that respondents, directly or through any corporation, subsidiary, division, or other device, in connection with the labeling, advertising, promotion, offering for sale, sale, or distribution of any product or service in or affecting commerce, shall not make any representation, in any manner, expressly or by implication, about the comparative or absolute benefits, performance, or efficacy of such product or service, unless, at the time the representation is made, respondents possess and rely upon competent and reliable evidence, which when appropriate must be competent and reliable scientific evidence, that substantiates the representation.

VIII.

IT IS FURTHER ORDERED that respondents, directly or through any corporation, subsidiary, division, or other device, in connection with the labeling, advertising, promotion, offering for sale, sale, or distribution of any product or service in or affecting commerce, shall not misrepresent, in any manner, expressly or by implication, the existence, contents, validity, results, conclusions, or interpretations of any test, study, or research.

IX.

IT IS FURTHER ORDERED that respondents, directly or through any corporation, subsidiary, division, or other device, in connection with the labeling, advertising, promotion, offering for sale, sale, or distribution of any product or service in or affecting commerce, shall not represent, in any manner, expressly or by implication, that: (A) Any user testimonial or endorsement of the product reflects the actual and current opinions, findings, beliefs, or experiences of the user or (B) the experience represented by any user testimonial or endorsement of the product represents the typical or ordinary experience of members of the public who use the product, unless:

1. the representation is true and, at the time it is made, respondents possess and rely upon competent and reliable scientific evidence that substantiates the representation; or
2. respondents disclose, clearly and prominently, and in close proximity to the endorsement or testimonial, either:
 - a. what the generally expected results would be for users of the product, or

- b. the limited applicability of the endorser's experience to what consumers may generally expect to achieve, that is, that consumers should not expect to experience similar results.

IT IS FURTHER ORDERED that respondent TBI, and its successors and assigns, and respondent Anton shall, for three (3) years after the last date of dissemination of any representation covered by this order, maintain and upon request make available to the Federal Trade Commission for inspection and copying:

- A. All advertisements and promotional materials containing the representation;
- B. All materials that were relied upon in disseminating the representation; and
- C. All tests, reports, studies, surveys, demonstrations, or other evidence in their possession or control that contradict, qualify, or call into question the representation, or the basis relied upon for the representation, including complaints and other communications with consumers or with governmental or consumer protection organizations.

XII.

IT IS FURTHER ORDERED that respondent TBI, and its successors and assigns, and

XIV.

IT IS FURTHER ORDERED that respondent TBI and its successors and assigns shall notify the Commission at least thirty (30) days prior to any change in the corporation that may affect compliance obligations arising under this order, including but not limited to a dissolution, assignment, sale, merger, or other action that would result in the emergence of a successor corporation; the creation or dissolution of a subsidiary, parent, or affiliate that engages in any acts or practices subject to this order; the proposed filing of a bankruptcy petition; or a change in the corporate name or address. Provided, however, that, with respect to any proposed change in the corporation about which respondents learn less than thirty (30) days prior to the date such action is to take place, respondents shall notify the Commission as soon as is practicable after obtaining such knowledge. All notices required by this Part shall be sent by certified mail to the Associate Director, Division of Enforcement, Bureau of Consumer Protection, Federal Trade Commission, 600 Pennsylvania Avenue, N.W., Washington, D.C. 20580.

XV.

IT IS FURTHER ORDERED that respondent Anton, for a period of three (3) years after the date of issuance of this order, shall notify the Commission of the discontinuance of his current business or employment, or of his affiliation with any new business or employment involving the sale of consumer products and/or services. The notice shall include respondent's new business address and telephone number and a description of the nature of the business or employment and his duties and responsibilities. All notices required by this Part shall be sent by certified mail to the Associate Director, Division of Enforcement, Bureau of Consumer Protection, Federal Trade Commission, 600 Pennsylvania Avenue, N.W., Washington, D.C. 20580.

XVI.

IT IS FURTHER ORDERED that respondent TBI, and its successors and assigns, and respondent Anton shall, within sixty (60) days after the date of service of this order, and at such other times as the Federal Trade Commission may require, file with the Commission a report, in writing, setting forth in detail the manner and form in which they have complied with this order.

XVII.

This order will terminate twenty (20) years from the date of its issuance, or twenty (20) years from the most recent date that the United States or the Federal Trade Commission files a complaint

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