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11 IN THE UNITED STATES DISTRICT COURT  
12 SOUTHERN DISTRICT OF CALIFORNIA

13 FEDERAL TRADE COMMISSION,

14 Plaintiff,

15 v.

16 FIBERTHIN, LLC,  
17 OBESITY RESEARCH INSTITUTE, LLC,  
18 HENNY DEN UIJL,  
19 BRYAN CORLETT,  
20 JAMES AYRES, and  
21 DR. JONATHAN M. KELLEY,  
22 Defendants.

'05 CV 1217  
Case No.

BEN (BLM)

STIPULATED FINAL JUDGMENT  
AND ORDER FOR PERMANENT  
INJUNCTION, MONETARY AND  
OTHER EQUITABLE RELIEF

22 Plaintiff, the Federal Trade Commission ("FTC" or "Commission") filed a Complaint for  
23 Permanent Injunction and Other Equitable Relief ("Complaint") against Defendants FiberThin,  
24 LLC, Obesity Research Institute, LLC, Henny den Uijl, Bryan Corlett, James Ayres, and Dr.  
25 Jonathan M. Kelley (collectively, "Defendants") pursuant to Section 13(b) of the Federal Trade  
26 Commission Act ("FTC Act"), 15 U.S.C. § 53(b). Defendants have denied, and do not admit  
27 liability for, the allegations in the Complaint, except jurisdictional facts, but agree to the entry of  
28 the following Stipulated Final Order for Permanent Injunction, Monetary and Other Equitable

ENTERED ON 6-20-05

8

ORIGINAL

1 Relief (“Order”). The Court, being advised in the premises, finds as follows:

2 FINDINGS

3 1. In its Complaint, the Commission alleged that the Defendants violated Sections 5(a) and  
4 12 of the FTC Act, 15 U.S.C. §§ 45(a) and 52. The Commission sought permanent injunctive  
5 relief for alleged deceptive acts or practices by the Defendants in connection with the marketing  
6 and sale of dietary supplements, FiberThin, MetaboUp, Propolene, and Excelerene.

7 2. This Court has jurisdiction over the subject matter of this case and jurisdiction over all  
8 parties. Venue in the Southern District of California is proper.

9 3. The Complaint states a claim upon which relief can be granted, and the Commission has  
10 the authority to seek the relief it has requested.

11 4. The acts and practices of Defendants were and are in or affecting commerce, as defined in  
12 Section 4 of the FTC Act, 15 U.S.C. § 44.

13 5. Defendants waive all rights to seek judicial review or otherwise challenge or contest the  
14 validity of this Order. Defendants also waive any claims that they may have held under the Equal  
15 Access to Justice Act, 28 U.S.C. § 2412, concerning the prosecution of this action to the date of  
16 this Order.

17 6. The action and the relief awarded herein are in addition to, and not in lieu of, other  
18 remedies as may be provided by law.

19 7. Pursuant to Federal Rule of Civil Procedure 65(d), the provisions of this Order are  
20 binding upon Defendants, and their officers, agents, servants, representatives, employees, and all  
21 other persons or entities in active concert or participation with them, who receive actual notice of  
22 this Order by personal service or otherwise.

23 8. Nothing in this Order obviates Defendants’ obligation to comply with Sections 5 and 12  
24 of the Federal Trade Commission Act, 15 U.S.C. §§ 45, 52.

25 9. This Order was drafted jointly by plaintiff and Defendants and reflects the negotiated  
26 agreement of the parties.

27 10. The paragraphs of this Order shall be read as the necessary requirements for compliance  
28 and not as alternatives for compliance and no paragraph serves to modify another paragraph

1 unless expressly so stated.

2 11. Each party shall bear its own costs and attorneys' fees.

3 12. Entry of this Order is in the public interest.

4  
5 **ORDER**

6 **DEFINITIONS**

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

8 1. Unless otherwise specified, "Defendants" shall mean:

9 A. FiberThin, LLC ("FiberThin"), a limited liability company, its divisions and  
10 subsidiaries, its successors and assigns;

11 B. Obesity Research Institute, LLC ("Obesity Research Institute"), a limited liability  
12 company, its divisions and subsidiaries, its successors and assigns;

13 C. Henny den Uijl, individually and in his capacity as a Managing Member and  
14 owner of FiberThin and Obesity Research Institute;

15 D. Bryan Corlett, individually and in his capacity as a Managing Member and owner  
16 of FiberThin and Obesity Research Institute;

17 E. James Ayres; and

18 F. Dr. Jonathan M. Kelley.

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

23 3. "Weight loss product" shall mean any product, program, or service designed, used, or  
24 purported to produce weight loss, reduction or elimination of fat, slimming, or caloric deficit, or  
25 to prevent weight gain, in a user of the product, program, or service.

26 4. "Substantially similar product" shall mean any product that contains one or more of the  
27 following active ingredients: glucomannan, propol, konjac, konjac root, chromium, green tea,  
28 guarana seed, oolong tea, kola nut, bitter orange, cayenne, platycodon grandiflorum, or any

1 extracts of these ingredients.

2 5. "Food," "drug," and "device" shall mean as "food," "drug," and "device" are defined in  
3 Section 15 of the Federal Trade Commission Act, 15 U.S.C. § 55.

4 6. "Covered product or service" shall mean any weight loss product, dietary supplement,  
5 food, drug, or device.

6 7. "Commerce" shall mean as defined in Section 4 of the Federal Trade Commission Act,  
7 15 U.S.C. § 44.

8 8. "Endorsement" shall mean as defined in 16 C.F.R. § 255.0(b).

9 9. The term "including" in this Order shall mean "without limitation."

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

12  
13 **CONDUCT PROHIBITIONS**

14 **I.**

15 IT IS HEREBY ORDERED that Defendants, directly or through any corporation,  
16 partnership, subsidiary, division, trade name, or other device, and their officers, agents, servants,  
17 representatives, employees, and all persons or entities in active concert or participation with them  
18 who receive actual notice of this Order, by personal service or otherwise, in connection with the  
19 manufacturing, labeling, advertising, promotion, offering for sale, sale, or distribution of  
20 FiberThin, MetaboUp, Propolene, Excelerene, or any substantially similar product, are hereby  
21 permanently restrained and enjoined from making any representation, in any manner, expressly  
22 or by implication, including through the use of a trade name or endorsement, that any such  
23 product:

- 24 A. Causes rapid or substantial weight loss without the need to reduce caloric  
25 intake or increase physical activity;
- 26 B. Enables users to lose as much as 8 pounds or more per month without the  
27 need to reduce caloric intake or increase exercise;
- 28 C. Works for all users; or

- 1 D. Causes substantial weight loss through blocking the absorption of fat or  
2 calories.

3 **II.**

4 IT IS FURTHER ORDERED that Defendants, directly or through any corporation,  
5 partnership, subsidiary, division, trade name, or other device, and their officers, agents, servants,  
6 representatives, employees, and all persons or entities in active concert or participation with them  
7 who receive actual notice of this Order, by personal service or otherwise, in connection with the  
8 manufacturing, labeling, advertising, promotion, offering for sale, sale, or distribution of  
9 FiberThin, MetaboUp, Propolene, Excelerene, or any other covered product or service, are  
10 hereby permanently restrained and enjoined from making any representation, in any manner,  
11 expressly or by implication, including through the use of a trade name or endorsement:

- 12 A. That such product or service causes weight loss;  
13 B. That such product or service enables users to lose weight or fat, or any specific  
14 amount of weight or fat, without the need to reduce caloric intake or increase  
15 physical activity;  
16 C. That such product or service blocks the absorption of fat or calories or increases  
17 metabolism; or  
18 D. About the health-related benefits, performance, efficacy, safety, or side effects of  
19 such product or service,

20 unless the representation is true, non-misleading, and, at the time it is made, Defendants possess  
21 and rely upon competent and reliable scientific evidence that substantiates the representation.

22 *Provided, that*, in addition, for any representation made as an expert endorser, Defendants Ayres  
23 and Kelley must possess and rely upon competent and reliable scientific evidence, and an actual  
24 exercise of each of their represented expertise, in the form of an examination or testing of the  
25 product or service at least as extensive as an expert in the field would normally conduct in order  
26 to support any conclusions presented in their representation.  
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1 **Representations Regarding Tests or Studies**

2 **III.**

3 IT IS FURTHER ORDERED that Defendants, directly or through any partnership,  
4 corporation, subsidiary, division, trade name, or other device, and their officers, agents, servants,  
5 representatives, employees, and all persons or entities in active concert or participation with them  
6 who receive actual notice of this Order, by personal service or otherwise, in connection with the  
7 manufacturing, labeling, advertising, promotion, offering for sale, sale, or distribution of any  
8 covered product or service, in or affecting commerce, shall not misrepresent, in any manner,  
9 directly or by implication, the existence, contents, validity, results, conclusions, or interpretations  
10 of any test or study.

11 **FDA Approved Claims**

12 **IV.**

13 IT IS FURTHER ORDERED that:

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- 15 A. Nothing in this Order shall prohibit Defendants from making any representation  
16 for any drug that is permitted in labeling for such drug under any tentative final or  
17 final standard promulgated by the Food and Drug Administration, or under any  
18 new drug application approved by the Food and Drug Administration; and
- 19 B. Nothing in this Order shall prohibit Defendants from making any representation  
20 for any product that is specifically permitted in labeling for such product by  
21 regulations promulgated by the Food and Drug Administration pursuant to the  
22 Nutrition Labeling and Education Act of 1990.
- 23 C. Nothing in this order shall prohibit Defendants from making any representation  
24 for any device that is permitted in labeling for such device under any new medical  
25 device application approved by the Food and Drug Administration.
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1 **Monetary Judgment and Consumer Redress**

2 **V.**

3 IT IS FURTHER ORDERED that

- 4 A. Judgment is hereby entered against Defendants FiberThin, Obesity Research  
5 Institute, Henny Den Uijl, and Bryan Corlett, jointly and severally, in the amount  
6 of ONE MILLION AND FIVE HUNDRED THOUSAND DOLLARS  
7 (\$1,500,000) for consumer redress, which amount shall be paid to the Federal  
8 Trade Commission within ten (10) days after the date of entry of this Order by  
9 wire transfer in accord with directions provided by the Commission not later than  
10 five (5) days after the date of entry of this Order.
- 11 B. All funds paid pursuant to this Order shall be deposited into an account  
12 administered by the Commission or its agent to be used for equitable relief,  
13 including but not limited to consumer redress, and any attendant expenses for the  
14 administration of such equitable relief. In the event that direct redress to  
15 consumers is wholly or partially impracticable or funds remain after redress is  
16 completed, the Commission may apply any remaining funds for such other  
17 equitable relief (including consumer information remedies) as it determines to be  
18 reasonably related to the Defendants' practices alleged in the complaint. Any  
19 funds not used for such equitable relief shall be deposited to the United States  
20 Treasury as disgorgement. Defendants shall have no right to challenge the  
21 Commission's choice of remedies under this Paragraph. Defendants shall have no  
22 right to contest the manner of distribution chosen by the Commission. No portion  
23 of any payments under the judgment herein shall be deemed a payment of any  
24 fine, penalty, or punitive assessment.
- 25 C. Defendants relinquish all dominion, control and title to the funds paid into the  
26 account established pursuant to this Order, and all legal and equitable title to the  
27 funds shall vest in the Treasurer of the United States unless and until such funds  
28 are disbursed to consumers. Defendants shall make no claim to or demand for the

1 return of the funds, directly or indirectly, through counsel or otherwise; and in the  
2 event of bankruptcy of any Defendant, Defendants acknowledge that the funds are  
3 not part of the debtor's estate, nor does the estate have any claim or interest  
4 therein.

5 D. Proceedings instituted under this Paragraph are in addition to, and not in lieu of,  
6 any other civil or criminal remedies that may be provided by law, including any  
7 other proceedings the Commission may initiate to enforce this Order.  
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9 **Right to Reopen**

10 **VI.**

11 **IT IS FURTHER ORDERED** that the Commission's agreement to this Monetary Judgment is  
12 expressly premised on the truthfulness, accuracy, and completeness of the financial statements  
13 submitted to the Commission by Defendants dated September 21, October 12, October 22, and  
14 October 26, 2004, and January 4 and January 5, 2005. Such financial statements contain  
15 material information upon which the Commission relied in negotiating and agreeing to this  
16 Monetary Judgment. If, upon motion by the Commission, the Court finds that such financial  
17 statement of any such Defendant contains any material misrepresentation or omission, the Court  
18 shall enter judgment for consumer redress against such Defendant in favor of the Commission in  
19 the amount of Forty-One Million Dollars (\$41,000,000), which Defendants stipulate is the  
20 amount of gross sales of FiberThin, MetaboUp, Propolene, and Excelerene prior to entry of this  
21 Order. The judgment shall become immediately due and payable by such Defendant, and interest  
22 computed at the rate prescribed under 28 U.S.C. § 1961, as amended, shall immediately begin to  
23 accrue on the unpaid balance; **provided, however, that** in all other respects this Order shall  
24 remain in full force and effect unless otherwise ordered by the Court; and, **provided further,**  
25 **that** proceedings instituted under this provision would be in addition to, and not in lieu of, any  
26 other civil or criminal remedies as may be provided by law, including but not limited to contempt  
27 proceedings, or any other proceedings that the Commission or the United States may initiate to  
28 enforce this Order. For purposes of this Section, and any subsequent proceedings to enforce



1 payment, including but not limited to a non-dischargeability complaint filed in a bankruptcy  
2 proceeding, Defendants agree not to contest any of the allegations in the Commission's  
3 Complaint.

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5 **Consumer Lists**

6 **VII.**

7 IT IS FURTHER ORDERED that:

- 8 A. Defendants FiberThin, Obesity Research Institute, Henny den Uijl, and Bryan  
9 Corlett shall within seven (7) calendar days after service of this Order upon  
10 Defendants, deliver to the Commission a searchable electronic file of all  
11 consumers who purchased FiberThin, MetaboUp, Propolene, and/or Excelerene  
12 on or after January 1, 2002 through the date of entry of this Order. Such file shall  
13 include each consumer's name and address, the product(s) purchased, the quantity  
14 and the amount paid, including shipping and handling charges, and if available,  
15 the consumer's telephone number and email address.
- 16 B. Defendants FiberThin, Obesity Research Institute, Henny den Uijl, and Bryan  
17 Corlett, and their officers, agents, servants, employees, and attorneys and all other  
18 persons or entities who receive actual notice of this Order by personal service or  
19 otherwise, are permanently restrained and enjoined from selling, renting, leasing,  
20 transferring, or otherwise disclosing the name, address, telephone number, credit  
21 card number, bank account number, e-mail address, or other identifying  
22 information of any person who paid any money at any time prior to entry of this  
23 Order, in connection with the purchase of FiberThin, MetaboUp, Propolene, or  
24 Excelerene. *Provided, however,* that Defendants FiberThin, Obesity Research  
25 Institute, Henny den Uijl, and Bryan Corlett may disclose such identifying  
26 information as required in Subparagraph A above, to any law enforcement agency,  
27 or as required by any law, regulation, or court order.
- 28

1 **Acknowledgment and Receipt of Order**

2 **VIII.**

3 IT IS FURTHER ORDERED that within five (5) business days of receipt of this Order as  
4 entered by the Court, each Defendant shall execute and submit to the Commission a truthful  
5 sworn statement, in the form shown as Attachment A, acknowledging receipt of this Order.

6 **Distribution of Order**

7 **IX.**

8 IT IS FURTHER ORDERED that, for a period of five (5) years from the date of entry of  
9 this Order, Defendants shall deliver copies of the Order as directed below:

- 10 A. **Corporate Defendants:** Defendants FiberThin and Obesity Research Institute  
11 must deliver a copy of this Order to all principals, officers, directors, and  
12 managers. These corporate Defendants also must deliver copies of this Order to  
13 all of their employees, agents, representatives, consultants, independent  
14 contractors, or other persons who have responsibilities with respect to the subject  
15 matter of this Order. For current personnel, delivery shall be within five (5) days  
16 of service of this Order upon Defendants. For new personnel, delivery shall occur  
17 prior to them assuming their position or responsibilities.
- 18 B. **Individual Defendants as Control Person:** For any business engaged in conduct  
19 related to the subject matter of this Order that Defendants Henny den Uijl or  
20 Bryan Corlett controls, directly or indirectly, or in which such Defendant has a  
21 majority ownership interest, the Defendant must deliver a copy of this Order to all  
22 principals, officers, directors, and managers of that business. Defendants Henny  
23 den Uijl and Bryan Corlett also must deliver copies of this Order to all employees,  
24 agents, and representatives of that business who engage in conduct related to the  
25 subject matter of this Order. For current personnel, delivery shall be within five  
26 (5) days of service of this Order upon Defendant. For new personnel, delivery  
27 shall occur prior to them assuming their position or responsibilities.  
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Individual Defendant's duties and responsibilities in connection with the business or employment; and

c. Any changes in the Individual Defendant's name or use of any aliases or fictitious names; and

2. Individual Defendants Henny den Uijl and Bryan Corlett and Corporate Defendants FiberThin and Obesity Research Institute shall notify the Commission of any changes in corporate structure of the Corporate Defendant(s) or any business entity that an Individual Defendant(s) directly or indirectly control(s), or has an ownership interest in, 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 entity; the creation or dissolution of a subsidiary, parent, or affiliate that engages in any acts or practices subject to this Order; the filing of a bankruptcy petition; or a change in the corporate name or address, at least thirty (30) days prior to such change, *provided that*, with respect to any proposed change in the corporation about which the Defendant(s) learns less than thirty (30) days prior to the date such action is to take place, the Defendant(s) shall notify the Commission as soon as is practicable after obtaining such knowledge.

B. Sixty (60) days after the date of entry of this Order, Defendants FiberThin, Obesity Research Institute, Henny den Uijl, Bryan Corlett, James Ayres, and Dr. Jonathan M. Kelley each shall provide a written report to the Commission, sworn to under penalty of perjury, setting forth in detail the manner and form in which they have complied and are complying with this Order. This report shall include, but not be limited to:

1. For each Individual Defendant:  
a. The then-current residence addresses, mailing addresses, and telephone numbers of the Individual Defendant;

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- b. The then-current employment and business addresses and telephone numbers of the Individual Defendant; a description of the business activities of each such employer or business, and the title and responsibilities of the Individual Defendant, for each such employer or business; and
- c. Any other changes required to be reported under Subparagraph A of this Section.

2. For Defendants FiberThin, Obesity Research Institute, Henny den Uijl, and Bryan Corlett:

- a. A copy of each acknowledgment of receipt of this Order obtained pursuant to Paragraph VIII;
- b. A statement describing the manner in which Defendant has complied and is complying with Paragraphs I through III, including identification of all products that they advertise or sell, and copies of all their current advertising; and
- c. Any other changes required to be reported under Subparagraph A of this Section.

3. For Defendants Ayres and Kelley:

- a. A statement describing the manner in which Defendant has complied and is complying with Paragraphs I through III; and
- b. Any other changes required to be reported under Subparagraph A of this Section.

C. For the purposes of this Order, Defendants shall, unless otherwise directed by the Commission's authorized representatives, mail all written notifications to the Commission to:

Associate Director for Advertising Practices  
Federal Trade Commission  
600 Pennsylvania Ave., NW, Washington, DC 20580  
Attn: FTC v. FiberThin, LLC, et al., (S.D. Cal.)  
Civil Action No. \_\_\_\_\_

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- D. For purposes of the compliance reporting and monitoring required by this Order, the Commission is authorized to communicate directly with Defendants. Defendants may have counsel present.

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**Compliance Monitoring**

**XI.**

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

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- A. Within ten (10) days of receipt of written notice from a representative of the Commission, Defendants FiberThin, Obesity Research Institute, Henny den Uijl, Bryan Corlett, James Ayres, and Dr. Jonathan M. Kelley each shall submit additional written reports, sworn to under penalty of perjury; produce documents for inspection and copying; appear for deposition; and/or provide entry during normal business hours to any business location in such Defendant's possession or direct or indirect control to inspect the business operation;
- B. In addition, the Commission is authorized to monitor compliance with this Order by all other lawful means, including but not limited to the following:
1. obtaining discovery from any person, without further leave of court, using the procedures prescribed by Fed. R. Civ. P. 30, 31, 33, 34, 36, and 45; and
  2. posing as consumers and suppliers to: FiberThin, Obesity Research Institute, Henny den Uijl, and Bryan Corlett, their employees, or any other entity that they manage or control in whole or in part, without the necessity of identification or prior notice; and
  3. Defendants FiberThin, Obesity Research Institute, Henny den Uijl, and Bryan Corlett shall permit representatives of the Commission to interview any employer, consultant, independent contractor, representative, agent, or employee who has agreed to such an interview, relating in any way to any

1                   conduct subject to this Order. The person interviewed may have counsel  
2                   present.

3                   *Provided however*, that nothing in this Order shall limit the Commission's lawful use of  
4 compulsory process, pursuant to Sections 9 and 20 of the FTC Act, 15 U.S.C. §§ 49, 57b-1, to  
5 obtain any documentary material, tangible things, testimony, or information relevant to unfair or  
6 deceptive acts or practices in or affecting commerce (within the meaning of 15 U.S.C.  
7 § 45(a)(1)).

8  
9                   **Record Keeping Provisions**

10                   **XII.**

11                   IT IS FURTHER ORDERED that:

12                   A.     For a period of six (6) years from the date of entry of this Order, in connection  
13                   with any business involved in the advertising, marketing, promotion, offer for  
14                   sale, distribution, or sale of any covered product or service operated by  
15                   Defendants FiberThin, Obesity Research Institute, Henny den Uijl, and/or Bryan  
16                   Corlett, or where any such Defendant is a majority owner of the business or  
17                   directly or indirectly manages or controls such a business, such Defendant(s) and  
18                   their agents, employees, officers, corporations, successors, and assigns, and those  
19                   persons in active concert or participation with them who receive actual notice of  
20                   this Order by personal service or otherwise, are hereby restrained and enjoined  
21                   from failing to create and retain the following records:

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

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3. Customer files containing the names, addresses, phone numbers, dollar amounts paid, quantity of items or services purchased, and description of items or services purchased, to the extent such information is obtained in the ordinary course of business;
4. Complaints and refund requests (whether received directly, indirectly or through any third party), including but not limited to reports of adverse incidents claimed to be associated with the use of any covered product or service, and any responses to those complaints or requests;
5. Copies of all advertisements, promotional materials, sales scripts, training materials, Websites, or other marketing materials utilized in the advertising, marketing, promotion, offering for sale, sale, or distribution of any covered product or service;
6. All materials that were relied upon in making any representations contained in the materials identified in Subparagraph A(5) of this Paragraph, including all documents evidencing or referring to the accuracy of any claim therein or to the efficacy of any covered product or service, including, but not limited to, all tests, reports, studies, demonstrations, or other evidence that confirm, contradict, qualify, or call into question the accuracy or efficacy of each such product or service;
7. Records accurately reflecting the name, address, and telephone number of each manufacturer or laboratory engaged in the development or creation of any testing obtained for the purpose of manufacturing, labeling, advertising, marketing, promoting, offering for sale, selling, or distributing any covered product or service;
8. Copies of all contracts concerning the manufacturing, labeling, advertising, marketing, promotion, offering for sale, sale, or distribution of any covered product or service; and
9. All records and documents necessary to demonstrate full compliance with



1 each provision of the Order, including but not limited to, copies of  
2 acknowledgments of receipt of this Order and all reports submitted to the  
3 FTC pursuant to this Order;

4 B. For a period of six (6) years from the date of entry of this Order, in connection  
5 with the advertising, marketing, promotion, offer for sale, distribution, or sale of  
6 any covered product or service endorsed by Defendants Ayres and/or Kelley, such  
7 Defendant(s), and those persons in active concert or participation with them who  
8 receive actual notice of this Order by personal service or otherwise, are hereby  
9 restrained and enjoined from failing to create and retain the following records:

- 10 1. Copies of all advertisements, promotional materials, sales scripts,  
11 training materials, Websites, or other marketing materials utilized in the  
12 advertising, marketing, promotion, offering for sale, sale, or distribution of  
13 any covered product or service and in which Defendants Ayres or  
14 Kelley appear as an endorser of any covered product or service;
- 15 2. All materials that were relied upon by Defendants Ayers or Kelley in  
16 making any representations contained in the materials identified in  
17 Subparagraph B(1) of this Paragraph, including all documents evidencing  
18 or referring to the accuracy of any claim therein or to the efficacy of any  
19 covered product or service, including, but not limited to, all tests, reports,  
20 studies, demonstrations, or other evidence that confirm, contradict,  
21 qualify, or call into question the accuracy or efficacy of each such product  
22 or service;
- 23 3. Copies of all contracts or agreements concerning, referring, or relating to  
24 the endorsement of any covered product or service; and
- 25 4. All records and documents necessary to demonstrate full compliance with  
26 each provision of the Order, including but not limited to, all reports  
27 submitted to the FTC pursuant to this Order.  
28

Retention of Jurisdiction

XIII.

IT IS FURTHER ORDERED that this Court shall retain jurisdiction of this matter for purposes of construction, modification, and enforcement of this Order.

SO STIPULATED.

MATTHEW DAYNARD  
RONA KELNER  
600 Pennsylvania Avenue, N.W.  
Rooms NJ-3213, NJ 3255  
Washington, D.C. 20580  
Attorneys for Plaintiffs  
Tel.: (202) 326-2125, -2162  
Fax: (202) 326-3259

FiberThin, LLC  
by: HENNY DEN UIJL

OBESITY RESEARCH INSTITUTE, LLC  
by: HENNY DEN UIJL

HENNY DEN UIJL, individually and as an officer or director of FiberThin, LLC and Obesity Research Institute, LLC

Local Counsel:

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BRYAN CORLETT, individually and as an officer or director of FiberThin, LLC and Obesity Research Institute, LLC

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Tel.: (310) 314-4025  
Fax: (310) 314-4026

JAMES AYRES

JONATHAN M. KELLEY, M.D.

IT SO ORDERED:

DATED:

JUDGE OF THE DISTRICT COURT

**Retention of Jurisdiction**

**XIII.**

IT IS FURTHER ORDERED that this Court shall retain jurisdiction of this matter for purposes of construction, modification, and enforcement of this Order.

SO STIPULATED.

*Matthew Daynard*

MATTHEW DAYNARD  
RONA KELNER  
600 Pennsylvania Avenue, N.W.  
Rooms NJ-3213, NJ 3255  
Washington, D.C. 20580  
Attorneys for Plaintiffs  
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FiberThin, LLC  
by: HENNY DEN UIJL

OBESITY RESEARCH INSTITUTE, LLC  
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*James Ayres*  
JAMES AYRES

JONATHAN M. KELLEY, M.D.

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FiberThin, LLC  
by: HENNY DEN UIJL

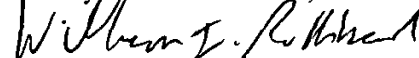
OBESITY RESEARCH INSTITUTE, LLC  
by: HENNY DEN UIJL

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JAMES AYRES

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by: HENNY DEN UIJL

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**Local Counsel:**

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**JAMES AYRES**

*Jonathan M. Kelley MD*  
JONATHAN M. KELLEY, M.D.

**IT SO ORDERED:**

DATED: *6/17/05*

*[Signature]*  
JUDGE OF THE DISTRICT COURT

ATTACHMENT A

IN THE UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF CALIFORNIA

FEDERAL TRADE COMMISSION,

Plaintiff,

v.

FiberThin, LLC,  
OBESITY RESEARCH INSTITUTE, LLC,  
HENNY DEN UIJL,  
BRYAN CORLETT,  
JAMES AYRES, and  
DR. JONATHAN M. KELLEY,

Defendants.

Case No. \_\_\_\_\_

Judge \_\_\_\_\_

**AFFIDAVIT OF DEFENDANT** \_\_\_\_\_

\_\_\_\_\_, being duly sworn, hereby states and affirms:

1. My name is \_\_\_\_\_ . My current residence address is

\_\_\_\_\_. I am a citizen of the United

States and am over the age of eighteen. I have personal knowledge of the facts set forth in this

Affidavit.

2. I am a defendant in FTC v. FiberThin, LLC, et al. (United States District Court for the Southern District of California.)

3. On (date) \_\_\_\_\_, 2005 I received a copy of the Stipulated Final Judgment and Order for Permanent Injunction, Monetary and Other Equitable Relief, which was signed by the Honorable \_\_\_\_\_, United States District Court Judge for the Southern District of California. A true and correct copy of the Order I received is appended to this Affidavit.

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct. Executed on [date], at [city and state].

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\_\_\_\_\_  
(Defendant's full name)

STATE OF \_\_\_\_\_  
COUNTY OF \_\_\_\_\_

BEFORE ME this day personally appeared \_\_\_\_\_, who being first duly sworn, deposes and says that s/he has read and understands the foregoing statement and that s/he has executed the same for the purposes contained therein.

SUBSCRIBED AND SWORN TO before me this \_\_\_\_\_ day of \_\_\_\_\_, 2005 by \_\_\_\_\_ S/he is personally known to me or has presented (state identification) \_\_\_\_\_ as identification.

\_\_\_\_\_  
(print name)  
NOTARY PUBLIC  
Commission Number  
Affix Seal