

1 JONATHAN E. NUECHTERLEIN
General Counsel

2 MICHAEL J. DAVIS (NY 3049095)
3 mdavis@ftc.gov
4 SHIRA D. MODELL (DC 358757)
smodell@ftc.gov
5 Federal Trade Commission
6 600 Pennsylvania Avenue, NW, Rm. CC-10528
Washington, DC 20580
7 (202) 326-2458, -3116 (voice)
(202) 326-3259 (fax)

8 JOHN D. JACOBS (Local Counsel) (CA 134154)
jjacobs@ftc.gov
9 Federal Trade Commission
10 10877 Wilshire Boulevard, Suite 700
Los Angeles, CA 90024
11 (310) 824-4343 (voice)
(310) 824-4380 (fax)

12 ATTORNEYS FOR PLAINTIFF

13 **UNITED STATES DISTRICT COURT**
14 **CENTRAL DISTRICT OF CALIFORNIA**

15 **FEDERAL TRADE COMMISSION,**

16
17 Plaintiff,

18 v.

19 **LUNADA BIOMEDICAL, INC.,** a
20 corporation;
21 **DONNA KASSEINOVA,** individually and
as an officer of Lunada Biomedical, Inc.;
22 **ROMAN TRUNIN,** individually and as an
officer of Lunada Biomedical, Inc.; and
23 **EMIL ARUTYUNOV,** a/k/a **EMIL**
24 **CHIABERI,** individually and as an officer
of Lunada Biomedical, Inc.,

25
26 Defendants.
27
28

Case No.

**COMPLAINT FOR
PERMANENT INJUNCTION
AND OTHER
EQUITABLE RELIEF**

1 Plaintiff, the Federal Trade Commission (“Commission” or “FTC”), for its
2 Complaint alleges:

3 1. The FTC brings this action under Section 13(b) of the Federal Trade
4 Commission Act (“FTC Act”), 15 U.S.C. § 53(b), to obtain permanent injunctive
5 relief, rescission or reformation of contracts, restitution, the refund of monies
6 paid, disgorgement of ill-gotten monies, and other equitable relief for Defendants’
7 acts or practices in violation of Sections 5(a) and 12 of the FTC Act, 15 U.S.C.
8 §§ 45(a) and 52, in connection with the labeling, advertising, marketing,
9 distribution, and sale of Amberen, a dietary supplement that purportedly causes
10 menopausal and perimenopausal women to lose weight and belly fat.

11 **JURISDICTION AND VENUE**

12 2 This Court has subject matter jurisdiction pursuant to 28 U.S.C. §§
13 1331, 1337(a), and 1345, and 15 U.S.C. §§ 45(a) and 53(b).

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

16 **PLAINTIFF**

17 4. The FTC is an independent agency of the United States Government
18 created by statute. 15 U.S.C. §§ 41-58. The FTC enforces Section 5(a) of the
19 FTC Act, 15 U.S.C. § 45(a), which prohibits unfair or deceptive acts or practices
20 in or affecting commerce. The FTC also enforces Section 12 of the FTC Act, 15
21 U.S.C. § 52, which prohibits false advertisements for food, drugs, devices,
22 services, or cosmetics in or affecting commerce.

23 5. The FTC is authorized to initiate federal district court proceedings,
24 by its own attorneys, to enjoin violations of the FTC Act and to secure such
25 equitable relief as may be appropriate in each case, including rescission or
26 reformation of contracts, restitution, the refund of monies paid, and the
27 disgorgement of ill-gotten monies. 15 U.S.C. § 53(b).

1 **DEFENDANTS**

2 6. Defendant Lunada Biomedical, Inc. (“Lunada”), formerly known as
3 Lifecore, Inc., is a California corporation with its principal place of business at
4 6733 S. Sepulveda Blvd., Los Angeles, CA 90045. Lunada transacts or has
5 transacted business in this district and throughout the United States. At all times
6 material to this Complaint, acting alone or in concert with others, Lunada has
7 labeled, advertised, marketed, distributed, or sold Amberen to consumers
8 throughout the United States.

9 7. Defendant Donna Kasseinova (“Kasseinova”) owns 50 percent of
10 Lunada and is the company’s Chief Financial Officer. She previously served as
11 Lunada’s Chief Financial Officer/Chief Executive Officer (January 2006 through
12 September 2012), and as Chief Financial Officer/co-Chief Executive Officer
13 (September 2012 through September 2013). At all times material to this
14 Complaint, acting alone or in concert with others, she has formulated, directed,
15 controlled, had the authority to control, or participated in the acts and practices set
16 forth in this Complaint. Defendant Kasseinova, in connection with the matters
17 alleged herein, transacts or has transacted business in this district and throughout
18 the United States.

19 8. Defendant Roman Trunin (“Trunin”) owns 50 percent of Lunada and
20 is its Chief Executive Officer. He previously served as Lunada’s Chief Operating
21 Officer (January through September 2012), and Chief Operating Officer/co-Chief
22 Executive Officer (September 2012 through September 2013). At all times
23 material to this Complaint, acting alone or in concert with others, he has
24 formulated, directed, controlled, had the authority to control, or participated in the
25 acts and practices set forth in this Complaint. Defendant Trunin, in connection
26 with the matters alleged herein, transacts or has transacted business in this district
27 and throughout the United States.

1 over age 40 who are perimenopausal or menopausal, and that Amberen is
2 clinically proven to cause substantial weight loss in these women.

3 14. Defendants have also represented, by means of statements such as
4 “To receive a complimentary risk free trial, with a free 30 day supply, just be one
5 of the first 50 callers” and “You can try Amberen absolutely risk FREE and get a
6 one month supply FREE, ” that consumers could obtain a free one-month supply
7 of Amberen, and could try Amberen for a full 30 days without incurring any
8 financial risk or obligation.

9 15. In early December 2009, Lunada entered into a Consulting
10 Agreement with International Marketing Company (“IMC”) and its President,
11 Carol Nicholson (“Nicholson”). Under the terms of the Consulting Agreement,
12 IMC and Nicholson agreed to perform marketing services for Lunada, including,
13 but not limited to, maintaining a blog about menopause-related issues. The
14 Consulting Agreement also provided that Nicholson would appear in Lunada’s
15 television, radio, print, Internet, and other advertising, and that Lunada would pay
16 IMC and Nicholson \$2,000 per month, in addition to daily and hourly fees for
17 participating in promotional activities and reimbursement of other costs.

18 16. In December 2009, Defendants began publishing “Ask Carol: A
19 Menopause Blog,” at www.carolsblog.com (“Carol’s Blog”). The blog appeared
20 to be a personal account of Nicholson’s experiences with menopause, written in
21 the first person and featuring Nicholson’s name and photo. Before posts were
22 published on Carol’s Blog, Defendants Kasseinova and Arutyunov discussed
23 potential blog topics with Nicholson and reviewed posts she drafted.

24 17. In some posts on Carol’s Blog, Nicholson endorsed Amberen, stating
25 that the product provided relief for her menopause symptoms, including weight
26 gain, hot flashes, irritability, and sleeplessness. Referring to Nicholson’s
27 background as a registered nurse, some blog posts also promoted Amberen as a
28

1 safe alternative to hormone replacement therapy. Blog posts referencing Amberen
2 provided a toll-free number and/or a hyperlink to the Amberen website that
3 consumers could use to place an order.

4 18. There was no indication on Carol’s Blog that Lunada had paid IMC
5 and Nicholson to create and maintain the blog for the purpose of promoting
6 Amberen.

7 19. Lunada paid IMC and Nicholson more than \$37,000 under the
8 Consulting Agreement.

9 20. Defendants sell Amberen directly to consumers via telephone and
10 through the Amberen website, www.Amberen.com. At certain times material to
11 this complaint, Defendants charged \$149.97, plus shipping and handling, for a 90-
12 day supply, which consisted of three boxes of Amberen; each box contained
13 enough capsules to last 30 days at regular dosage levels. At other times,
14 Defendants charged \$99.98, plus shipping and handling, for that 90-day supply.
15 Defendants also sold Amberen through medical professionals, who purchased the
16 product at wholesale from them. Amberen revenues totaled nearly \$65 million
17 from 2010 through 2013.

18 21. To induce consumers to purchase Amberen, Defendants have
19 disseminated, or caused to be disseminated, advertisements for Amberen
20 including, but not limited to, the attached Exhibits A through I. Those
21 advertisements contained the following statements and depictions, among others:

22 A. Amberen radio commercial entitled “Once I Hit 40 V2”
23 (Transcript attached as Exhibit A) (emphasis in original)

24 Female Announcer: What you’re about to hear are the real
25 experiences of women over forty who *finally* lost weight by
26 becoming hormonally balanced again:
27
28

1 Female VO's (three different voices):
2 I feel good in my body again.
3 I'm actually slim! Me! Slim!
4 I can fit in my skinny jeans again!
5 I look in the mirror now, and I LOVE what I see!

6 Female Announcer: Their secret is Amberen, the revolutionary
7 formula for women over 40 that balances hormones – naturally.

8 The leading cause of weight gain over 40 is hormonal imbalance.
9 Until you balance your hormones, losing weight can be practically
10 impossible.

11 But Amberen restores hormonal balance naturally, so the weight can
12 just fall right off. Even that stubborn belly fat. Plus, Amberen
13 eliminates other symptoms of hormonal aging, like hot flashes, night
14 sweats, low libido, difficulty concentrating, and more.

15 B. Amberen radio commercial entitled "How Many Pounds: 30"

16 (Transcript attached as Exhibit B) (emphasis in original)

17 FVO: Ladies - How many pounds have *you* gained since you turned
18 forty?

19 If you're like MOST women, probably ten or MORE.

20 But hundreds of THOUSANDS of women have discovered the
21 SECRET to losing weight AFTER FORTY.

22 It's called Amberen. And it's the ONLY product on the market today
23 clinically *proven* to cause sustained *weight loss* for women over
24 forty.

25 AMBEREN balances hormones NATURALLY, so the extra weight
26 can fall right off.

27 You can *try* Amberen absolutely risk FREE and get a one month
28 supply FREE by calling 1800-123-4567. 1800-123-4567.

1 C. Amberen radio commercial entitled “Familiar ” (Transcript
2 attached as Exhibit C)

3 FVO: Ladies, are any of these symptoms familiar?
4 Weight gain. Hot flashes. Rapid heartbeat. Night sweats.
5 How about fatigue? Nausea. Low energy. Or what about
6 Sleeplessness. Low libido.

7 And fat storage, especially around the belly area...

8 If you’re a woman over forty experiencing any of these symptoms,
9 you probably have hormonal imbalance. And until you balance your
10 hormones, it’ll be practically impossible to get rid of these problems.

11 But you’re in luck, because Amberen is the all natural formula
12 clinically shown to cause sustained weight loss in women over forty
– with no big changes in lifestyle.

13 Amberen restores hormonal balance in women over forty, so the
14 extra pounds fall away and the other symptoms simply disappear.

15 To receive a complimentary risk free trial, with a free 30 day supply,
16 just be one of the first 50 callers right now at 1800-123-4567....

17 D. Excerpt from Amberen radio commercial entitled “Dona
18 (Live)” (Transcript attached as Exhibit D) (emphasis in original)

19 DONA: [W]omen are reporting that Amberen works amazingly
20 fast!

21 Best news of all, it works on everything.

22 The hot flashes to feeling more emotionally balanced, to LOSING
23 WEIGHT. I’m even talking, stubborn belly fat.

24 * * *

25 Now in the 5 years since Amberen hit the market, it’s got a 92.6%
26 success rate.

27 No matter what your menopause symptoms are – this is your way to
28 get rid of them.

1 E. Excerpt from Youtube video (Transcript attached as Exhibit E;
2 DVD recording submitted as Exhibit F)

3 ON SCREEN: Over 40 overweight?
4 Stubborn fat around your waist?
5 Failed diet and exercise plans?
6 [video superscripts omitted]

7 UNIDENTIFIED FEMALE: Are you over 40 and overweight? Are
8 you tired of stubborn fat around your waist? Do failed diet and
9 exercise plans only add to your frustration? Your dress size goes up
10 and your confidence goes down. And you just don't love your body
11 anymore.

12 [video superscripts omitted]

13 UNIDENTIFIED FEMALE: . . . When you're over 40, menopause is
14 just around the corner. Your hormones start to fluctuate and your
15 metabolism slows down. Unbalanced hormones may cause food
16 cravings. They also make your body store fat in the abdominal area.

17 ON SCREEN: Diet and Exercise alone may not work!

18 TRY RISK FREE
19 Amberen.com
20 800-820-4010

21 UNIDENTIFIED FEMALE: Without proper hormonal balance, diet
22 and exercise may not work.

23 ON SCREEN: You need a new strategy
24 over 40 overweight?

25 TRY RISK FREE
26 Amberen.com
27 800-820-4010

28 UNIDENTIFIED FEMALE: Your body is changing and so should
your weight loss strategy. Introducing Amberen, a life-changing
solution for women over 40.

1 ON SCREEN: Created by top medical scientists
2 35+ years of research
3 Proprietary ingredients
4 (Small print is illegible)
5 TRY RISK FREE
6 Amberen.com
7 800-820-4010

8 MALE ANNOUNCER: Amberen was created by top medical
9 scientists who spent over 35 years developing unique smart
10 molecules --

11 ON SCREEN: Naturally Balance Hormones
12 Boost Cell Metabolism

13 [video superscripts omitted]

14 MALE ANNOUNCER: -- that help naturally balance hormones and
15 boost cell metabolism, eliminating the two major obstacles for weight
16 loss after 40.

17 ON SCREEN: Revolutionary Ingredients
18 Clinically Tested Natural Solution for women over
19 40

20 [video superscripts omitted]

21 TRY RISK FREE
22 Amberen.com

23 [video superscripts omitted]

24 MALE ANNOUNCER: . . . Amberen also relieves most other
25 symptoms of hormonal aging, such as hot flashes, difficulty sleeping,
26 low libido and more.

27 ON SCREEN: *Andrea used Amberen with diet and exercise and was remunerated.

28 ON SCREEN: Naturally Balance Hormones
Boost Cell Metabolism

1 [video superscripts omitted]

2 ANDREA: You know, when you hit middle age, your body changes.
3 For me I was like, bffff, I blew up. I was eating right and working
4 out, but I kept gaining weight. I felt over-tired, over-stressed,
5 overweight.

6 ON SCREEN: Before and After photos

7 *Individual results may vary. A healthy diet and proper exercise are always
8 recommended for any weight loss efforts. Although weight loss was not clinically evaluated in
9 Amberen clinical trials, some women report varying degrees of weight loss as a result of
10 becoming more hormonally balanced with their use of Amberen.

11 [video superscripts omitted]

12 ANDREA: With Amberen, I'm slim. I feel more feminine, more
13 sexy, more energetic and happier.

14 ON SCREEN: 30 Day Risk-FREE Trial
15 NATURAL BREAKTHROUGH

16 TRY RISK FREE
17 Amberen.com
18 800-820-4010

19 FEMALE ANNOUNCER: We are so confident that Amberen will
20 work for you that we will let you try it for 30 days, completely risk-
21 free.

22 ON SCREEN: Visit www.amberen.com today!

23 FEMALE ANNOUNCER: Don't miss this limited time offer.
24 You've got nothing to lose but that stubborn belly fat.

25 F. Website at www.amberen.com (Jan. 11, 2013) [depictions
26 omitted] (Excerpts attached as Exhibit G)
27
28

1 GUARANTEED
2 RELIEF FROM

- 3 • *Hot Flashes* images of 3Amberen boxes
- 4 • *Weight Gain* with callout
- 5 • *Sleeplessness* “Clinically Tested!”
- 6 • *Irritability*
- 7 • *Low Libido & more*

8 OR YOUR MONEY BACK

9 Clinically Tested for Relief of Common Menopausal Symptoms
10 Magical Results in Natural Menopause Treatment

11 Amberen is an effective solution for common menopause symptoms.
12 Amberen is clinically shown to stop menopausal weight gain without
13 significant lifestyle changes. And with the 92.6% satisfaction rate,
14 we are confident it will work for you!”

15 ***

16 [before and after pictures of Andrea Anderson]

17 Amberen is clinically shown to promote weight loss during
18 menopause or perimenopause.

19 ***

20 If you are approaching or already going through menopause and
21 struggling with weight gain, there is no alternative to Amberen. **In a
22 double blind, placebo controlled clinical study, women who
23 received Amberen showed consistent and statistically significant
24 weight loss without significant changes in their lifestyle.**

25 [Emphasis in original]

26 So, is it possible to lose belly fat and stay slim during
27 menopause? *YES!*

28 ***

1 **WOMEN LOVE IT!**

2 I have been working with Amberen for almost a year. I’ve lost
3 weight I am no longer irritable. I feel like I have control now over
4 my life. One of the most important aspects of this treatment is that
5 there are no side effects.

6 Carol Nicholson, RN

7 ***



8 [clicking on this link took consumers
9 to page with the following text]

10 “Order with confidence! 92.6% Satisfaction Rate!!**
11 SPECIAL OFFER: Buy 2 Get 1 FREE

12 30-day money back Guarantee*
13 We guarantee that Amberen will work
14 for you, or your money back!”

15 ***

16 “Risk Free Trial. Money Back Guarantee.” [depictions of three
17 boxes of Amberen (a 90-day supply)]

18 “Our philosophy could be summed up in three words: Make
19 Customers Happy. That’s why our offers are simple and
20 straightforward. For a limited time, you can try Amberen risk-free
21 within 30 days of your purchase and receive a 30-day supply of
22 Amberen free of charge.

23 Learn More”

24 G. Direct email (Exhibit H)

25 ***STOP Weight Gain and Belly Fat After 40***
26 ***3 reasons to try Amberen***

27 ✓ *The only clinically proven solution to promote menopausal*
28 *weight loss*

- ✓ *Naturally restores hormonal balance and relieves hot flashes, night sweats and other menopause symptoms*
- ✓ *93% satisfaction rate*

Amberen is the first and only product clinically proven for hormone-related “menopausal” weight gain. Women over 40 experience continuous and unstoppable weight gain. Amberen STOPS weight gain by balancing your hormones and boosting cell metabolism changing [sic]. In recent clinical trials conducted in California, menopausal women lost weight without additional exercise programs or tough diet plans!

Women Love it.

I started having symptoms of menopause when I was 47 years old. I would have hot flashes night and day. I gained 50 pounds, was irritable, emotional and not myself. I have been taking Amberen for almost a year. My hormones are balanced, along with my weight, and I am no longer irritable. . . .

Carol Nicholson, R.N.
Bozeman, MT

H. www.carolsblog.com (Exhibit I)

Procrastination Central (January 22, 2010)

Hi all! I hope you are all enjoying our bright and shiny New Year! I know I am! I spent the holidays in Montana with my family and I have returned to wonderfully sunny and warm California for a short time. Nothing like being in a place you love!!

I don't know how much I've told you about my horrifying procrastination about taking charge of my menopause symptoms, but I was reminded about this in a call earlier today.

Now remember ladies, I am 50 years old and I am of Hispanic descent. So it's safe to say that I had some horrifying symptoms for almost ten years. That is...before the godsend Amberen came to me.

So occasionally, I would try an herb. I did a brief stint with Bio Identical Hormones, but for all intense [sic] purposes, I DID NOTHING!!!

1 I just kept thinking, “This can’t last forever. ” Well, while I was
2 thinking this, I didn’t understand the relationship to being 50%
3 Hispanic and menopause. It can last from 10 to 20 years!!!!
4 When I found that out, I was devastated.

5 But when I found that out, Amberen had already found me and within
6 two weeks I was “saved.”

7 So as we start out 2010, I will say this LOUD AND CLEAR. ...
8 Amberen is the answer. It resets your hormonal patterns. It changes
9 everything.

10 So if you would like to lose your menopause weight, stop the hot
11 flashes and get rid of your moodiness, than [sic] you know what the
12 answer is, Amberen.

13 22. In 2001, the scientists who had developed the Amberen formula
14 purportedly conducted a clinical trial (“2001 Russian Study”) on both mice and
15 humans. The human trial was randomized, double-blind, and placebo-controlled,
16 and included 70 menopausal women who received either a double dose of the
17 Amberen formula or a placebo for 21 days. The researchers did not measure
18 whether the subjects lost any weight during the course of the clinical trial.
19 Participants were instructed to record certain symptoms (weight loss was not one
20 of them) in a personal journal at least once a week. Several participants in the test
21 group, of their own accord, mentioned weight loss in their journals.

22 23. The results of the 2001 Russian Study were published in a 2005
23 article: A.B. Peskov *et al.*, “Succinate-Based Preparation Alleviates
24 Manifestations of the Climacteric Syndrome in Women,” 140 Bulletin of
25 Experimental Biology and Medicine 312 (2005) (“Peskov 2005”).

26 24. When Lunada acquired the rights to market the Amberen formula in
27 the United States in 2006, it also hired several of the scientists who had been
28 involved in developing and testing Amberen, and who had authored the Peskov

1 2005 article. Lunada thereafter initiated and financially supported the publication
2 of two additional journal articles reporting the results of the 2001 Russian Study:
3 Eugene I. Maevsky *et al.*, “A Succinate-Based Composition ‘Rejuvenates’ Aging
4 Mice And Alleviates Menopausal Symptoms In Women Without Sex Hormone
5 Replacement Therapy,” *www.medline.ru*, Vol. 8, Gerontology, Endocrinology
6 (Sept. 2007) (“Maevsky 2007”); and E. I. Maevsky *et al.*, “A Succinate-Based
7 Composition Reverses Menopausal Symptoms Without Sex Hormone
8 Replacement Therapy,” 21 *Advances in Gerontology* 298 (2008) (“Maevsky
9 2008”).

10 25. In 2010, the Electronic Retailing Self-Regulation Program
11 (“ERSP”) – a self-regulatory program administered by the Council of Better
12 Business Bureaus – examined a wide range of claims in radio and online
13 advertising for Amberen, including the following: “Will Amberen help me lose
14 weight?; In clinical trials, women who were treated with Amberen reported loss
15 of excess weight. Individual results may vary.” ERSP considered whether this
16 claim was supported by the clinical evidence presented in Peskov 2005, Maevsky
17 2007, and Maevsky 2008. In an April 2010 published decision, ERSP concluded
18 that express weight loss claims for Amberen were unsupported because the 2001
19 Russian Study did not examine weight loss, and there was no indication that any
20 weight loss reported by test subjects was, in any way, meaningful. Accordingly,
21 ERSP “recommended that weight loss claims be discontinued or appropriately
22 modified so that consumers understand that although [weight loss] wasn’t
23 clinically evaluated by test administrators, that some women reported varying
24 degrees of menopausal weight loss. ...”

25 26. In September 2011, Lunada hired Medicus Research, LLC to conduct
26 a randomized, placebo-controlled clinical trial on Amberen (“Medicus Study”).
27 The study was completed in 2012.
28

1 **COUNT I**
2 **UNSUBSTANTIATED EFFICACY CLAIMS**

3 33. Through the means described in Paragraph 21, Defendants have
4 represented, directly or indirectly, expressly or by implication, that:

- 5 A. Amberen causes women over 40 who are perimenopausal or
6 menopausal to lose substantial amounts of weight;
7 B. Amberen causes women over 40 who are perimenopausal or
8 menopausal to lose belly fat; and
9 C. Amberen boosts the metabolism of women over 40 who are
10 perimenopausal or menopausal.

11 34. The representations set forth in Paragraph 33 were not substantiated
12 at the time the representations were made. The 2001 Russian Study did not
13 measure weight loss, loss of belly fat, or changes in metabolic rate, and the
14 Medicus Study found no statistically significant differences between the Amberen
15 group and the placebo group with regard to weight loss, loss of belly fat, or
16 metabolism rate.

17 35. Therefore, the making of the representations as set forth in Paragraph
18 33 of this Complaint constitutes a deceptive act or practice and the making of false
19 advertisements, in or affecting commerce, in violation of Sections 5(a) and 12 of
20 the FTC Act, 15 U.S.C. §§ 45(a) and 52.

21 **COUNT II**
22 **FALSE PROOF CLAIM**

23 36. Through the means described in Paragraph 21, Defendants have
24 represented, directly or indirectly, expressly or by implication, that Amberen is
25 clinically proven to cause women over 40 who are perimenopausal or menopausal
26 to lose substantial amounts of weight.
27
28

1 37. The representation set forth in Paragraph 36 is false.

2 38. Therefore, the making of the representation as set forth in Paragraph
3 36 of this Complaint constitutes a deceptive act or practice and the making of false
4 advertisements, in or affecting commerce, in violation of Sections 5(a) and 12 of
5 the FTC Act, 15 U.S.C. §§ 45(a) and 52.

6 **COUNT III**

7 **FALSE CLAIMS CONCERNING AMBEREN'S SUCCESS AND**
8 **CUSTOMER SATISFACTION RATES**
9

10 39. Through the means described in Paragraph 21, Defendants have
11 represented, directly or indirectly, expressly or by implication, that:

12 A. Amberen successfully provides relief of menopause symptoms,
13 and causes weight loss and belly fat reduction, for nearly 93
14 percent of users; and

15 B. Nearly 93 percent of Amberen purchasers are satisfied with the
16 product's results.

17 40. The representations set forth in Paragraph 39 are false or were not
18 substantiated at the time the representations were made.

19 41. Therefore, the making of the representations as set forth in Paragraph
20 39 of this Complaint constitutes a deceptive act or practice and the making of false
21 advertisements, in or affecting commerce, in violation of Sections 5(a) and 12 of
22 the FTC Act, 15 U.S.C. §§ 45(a) and 52.

23 **COUNT IV**

24 **FAILURE TO DISCLOSE MATERIAL CONNECTIONS WITH**
25 **ENDORSERS**

26 42. Through the means described in Paragraph 21, Defendants have
27 represented, directly or indirectly, expressly or by implication, that consumer
28

1 endorsers appearing in Amberen advertising are satisfied Amberen users
2 expressing views about their use of the product.

3 43. In numerous instances in which Defendants have made the
4 representation set forth in Paragraph 42 of this Complaint, they have failed to
5 disclose, or disclose adequately, that certain of the consumer endorsers appearing
6 in their advertising had paid relationships with Lunada or were compensated in
7 connection with their endorsement.

8 44. The information described in Paragraph 43 would be material to
9 consumers in deciding whether to purchase Amberen.

10 45. Defendants' failure to disclose or disclose adequately the material
11 information described in Paragraph 43, above, in light of the representation
12 described in Paragraph 42, above, constitutes a deceptive act or practice in
13 violation of Section 5(a) of the FTC Act, 15 U.S.C. § 45(a).

14 **COUNT V**

15 **FALSE "RISK FREE TRIAL" CLAIM**

16 46. Through the means described in Paragraph 21, Defendants have
17 represented, directly or indirectly, that consumers can try Amberen for 30 days
18 "risk free," without incurring any financial obligation.

19 47. The representation set forth in Paragraph 46 is false. Consumers
20 could not try Amberen for 30 days "risk free," because Defendants required
21 consumers to return unopened boxes of Amberen to them within 30 days of
22 placing their order but did not reimburse consumers for the cost of returning those
23 boxes. In addition, Defendants failed in numerous instances to refund the
24 shipping and handling charges that those consumers had paid when they ordered
25 Amberen.

26 48. Therefore, the making of the representation as set forth in Paragraph
27 46 of this Complaint constitutes a deceptive act or practice, in or affecting
28

1 commerce, in violation of Section 5(a) of the FTC Act, 15 U.S.C. § 45(a).

2 **CONSUMER INJURY**

3 49. Consumers have suffered and will continue to suffer substantial
4 injury as a result of Defendants’ violations of the FTC Act. In addition,
5 Defendants have been unjustly enriched as a result of their unlawful acts or
6 practices. Absent injunctive relief by this Court, Defendants are likely to continue
7 to injure consumers, reap unjust enrichment, and harm the public interest.

8 **THIS COURT’S POWER TO GRANT RELIEF**

9
10 50. Section 13(b) of the FTC Act, 15 U.S.C. § 53(b), empowers this
11 Court to grant injunctive and such other relief as the Court may deem appropriate
12 to halt and redress violations of any provision of law enforced by the FTC. The
13 Court, in the exercise of its equitable jurisdiction, may award ancillary relief,
14 including rescission or reformation of contracts, restitution, the refund of monies
15 paid, and the disgorgement of ill-gotten monies, to prevent and remedy any
16 violation of any provision of law enforced by the FTC.

17 **PRAYER FOR RELIEF**

18 Wherefore, Plaintiff FTC, pursuant to Section 13(b) of the FTC Act, 15
19 U.S.C. §§ 53(b), and the Court’s own equitable powers, requests that the Court:

20 A. Enter permanent injunctions to prevent future violations of the FTC
21 Act by Defendants;

22 B. Award such relief as the Court finds necessary to redress injury to
23 consumers resulting from Defendants’ violations of the FTC Act, including but
24 not limited to, rescission or reformation of contracts, restitution, the refund of
25 monies paid, and the disgorgement of ill-gotten monies; and
26
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1 C. Award Plaintiff the costs of bringing this action, as well as such other
2 and additional relief as the Court may determine to be just and proper.

3 Respectfully submitted,
4 JONATHAN E. NUECHTERLEIN
5 General Counsel

6 Dated: _____

7 _____
8 Michael J. Davis
9 mdavis@ftc.gov
10 Shira D. Modell
11 smodell@ftc.gov
12 600 Pennsylvania Avenue, NW
13 Rm. CC-10528
14 Washington, DC 20580
15 Tel.: 202-326-2458, -3116
16 Fax: 202-326-3259

17 JOHN D. JACOBS (Local Counsel)
18 jjacobs@ftc.gov
19 10877 Wilshire Boulevard, Suite 700
20 Los Angeles, CA 90024
21 Tel: 310-824-4343
22 Fax: 310-824-4380

23 Attorneys for Plaintiff
24 FEDERAL TRADE COMMISSION
25
26
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EXHIBIT A

Product: Amberen
Title: Once I Hit 40 V2
Date: 9/8/11

Female Announcer: What you're about to hear are the real experiences of women over forty who *finally* lost weight by becoming hormonally balanced again:

Female VO's (three different voices):

I feel good in my body again.
I'm actually slim! Me! Slim!
I can fit in my skinny jeans again!
I look in the mirror now, and I LOVE what I see!

Female Announcer: Their secret is Amberen, the revolutionary formula for women over 40 that balances hormones – naturally.

The leading cause of weight gain over 40 is hormonal imbalance. Until you balance your hormones, losing weight can be practically impossible.

But Amberen restores hormonal balance naturally, so the weight can just fall right off. Even that stubborn belly fat. Plus, Amberen eliminates other symptoms of hormonal aging, like hot flashes, night sweats, low libido, difficulty concentrating, and more.

Be one of the first 50 callers right now, and they'll send you a complimentary risk free trial with a 30 day supply – FREE. Call 1800-000-0000. That's 1800-000-0000. 1800-000-0000.

EXHIBIT B

Product: Amberen
Title: How Many Pounds :30
Date: 9/20/12

FVO: Ladies - How many pounds have *you* gained since you turned forty?

If you're like MOST women, probably ten or MORE.

But hundreds of THOUSANDS of women have discovered the SECRET to losing weight AFTER FORTY.

It's called Amberen. And it's the ONLY product on the market today clinically *proven* to cause sustained *weight loss* for women over forty.

AMBEREN balances hormones NATURALLY, so the extra weight can fall right off.

You can *try* Amberen absolutely risk FREE and get a one month supply FREE by calling 1800-123-4567. 1800-123-4567.

EXHIBIT C

Product: Amberen

Title: Familiar

Date: 11/1/12

Notes: Testing wide net approach open, with a focus on weight loss in remainder of spot.

FVO: Ladies, are any of these symptoms familiar?

Weight gain. Hot flashes. Rapid heartbeat. Night sweats.

How about fatigue? Nausea. Low energy. Or what about Sleeplessness. Low libido.

And fat storage, especially around the belly area...

If you're a woman over forty experiencing any of these symptoms, you probably have hormonal imbalance. And until you balance your hormones, it'll be practically impossible to get rid of these problems.

But you're in luck, because Amberen is the all natural formula clinically shown to cause sustained weight loss in women over forty – with no big changes in lifestyle.

Amberen restores hormonal balance in women over forty, so the extra pounds fall away and the other symptoms simply disappear.

To receive a complimentary risk free trial, with a free 30 day supply, just be one of the first 50 callers right now at 1800-123-4567. Free supplies are limited so be one of the first callers right now at 1800-123-4567. That's 1800-123-4567.

EXHIBIT D

Product: Amberen
Title: Dona (Live)
Date: 4/7/11

Dona: Wow, do we have an incredible offer for you today on Amberen! You are not going to want to miss out on this opportunity.

Everybody goes through menopause differently, and women are reporting that Amberen works amazingly fast. Best news of all, it works on everything.

The hot flashes, to feeling more emotionally balanced, to LOSING WEIGHT. I'm even talking, stubborn belly fat.

Amberen is THE hormone balancing breakthrough that relieves menopause symptoms 100 percent, naturally.

Now in the 5 years since Amberen hit the market, it's got a 92.6% success rate.

No matter what your menopause symptoms are – this is your way to get rid of them.

None of those scary artificial hormones going into your body.

Amberen makes hot flashes and night sweats disappear.

Alright, here's the deal: Be one of the first 50 callers right now, and they'll send you a complimentary risk free trial with a 30 day supply – FREE. Call # # #.

EXHIBIT E

OFFICIAL TRANSCRIPT PROCEEDING
FEDERAL TRADE COMMISSION

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MATTER NO. 1323067
TITLE LUNADA BIOMEDICAL
DATE RECORDED: JANUARY 10, 2013
TRANSCRIBED: AUGUST 9, 2013
PAGES 1 THROUGH 9

VIDEO #6 AMBEREN YOUTUBE 2013.01.10

For The Record, Inc.

(301) 870-8025 - www.ftrinc.net - (800) 921-5555

FEDERAL TRADE COMMISSION

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RECORDING:

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Amberen YouTube video

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FEDERAL TRADE COMMISSION

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In the Matter of:)
) Matter No. 1323067
LUNADA BIOMEDICAL)
-----)

January 10, 2013

The following transcript was produced from a digital recording provided to For The Record, Inc. on August 2, 2013.

P R O C E E D I N G S

- - - - -

VIDEO #6 AMBEREN YOUTUBE 2013.01.10

ON SCREEN: Over 40 overweight?

Stubborn fat around your waist?

Failed diet and exercise plans?

DRESS SIZE (Up arrow) CONFIDENCE (down arrow)

NATURAL BREAKTHROUGH

TRY RISK FREE

Amberen.com

800-820-4010

UNIDENTIFIED FEMALE: Are you over 40 and overweight? Are you tired of stubborn fat around your waist? Do failed diet and exercise plans only add to your frustration? Your dress size goes up and your confidence goes down and you just don't love your body anymore.

Here's what you need to know.

ON SCREEN: MENOPAUSE 40

Fluctuating hormones

Slowing metabolism

Food cravings

Belly fat

TRY RISK FREE

Amberen.com

1 800-820-4010

2 UNIDENTIFIED FEMALE: When you're over 40,

3 menopause is just around the corner. Your hormones start

4 to fluctuate and your metabolism slows down. Unbalanced

5 hormones may cause food cravings. They also make your

6 body store fat in the abdominal area.

7 ON SCREEN: Diet and Exercise alone may not

8 work!

9 TRY RISK FREE

10 Amberen.com

11 800-820-4010

12 UNIDENTIFIED FEMALE: Without proper hormonal

13 balance, diet and exercise may not work.

14 ON SCREEN: You need new strategy

15 over 40 overweight?

16 TRY RISK FREE

17 Amberen.com

18 800-820-4010

19 UNIDENTIFIED FEMALE: Your body is changing and

20 so should your weight loss strategy. Introducing

21 Amberen, a life-changing solution for women over 40.

22 ON SCREEN: Created by top medical scientists

23 35+ years of research

24 Proprietary ingredients

25 (Small print is illegible)

1 TRY RISK FREE

2 Amberen.com

3 800-820-4010

4 MALE ANNOUNCER: Amberen was created by top
5 medical scientists who spent over 35 years developing
6 unique smart molecules --

7 ON SCREEN: Naturally Balance Hormones
8 Boost Cell Metabolism

9 *These statements have not been evaluated by
10 the FDA. This product is not intended to diagnose,
11 treat, cure or prevent any disease.

12 TRY RISK FREE

13 Amberen.com

14 800-820-4010

15 MALE ANNOUNCER: -- that help naturally balance
16 hormones and boost cell metabolism, eliminating the two
17 major obstacles for weight loss after 40.

18 ON SCREEN: Revolutionary Ingredients
19 Clinically Tested Natural Solution for women
20 over 40

21 *These statements have not been evaluated by
22 the FDA. This product is not intended to diagnose,
23 treat, cure or prevent any disease.

24 TRY RISK FREE

25 Amberen.com

1 800-820-4010

2 MALE ANNOUNCER: Now, these revolutionary
3 ingredients are available to you in small, easy-to-
4 swallow capsules.

5 ON SCREEN: HOT FLASHES

6 DIFFICULTY SLEEPING

7 LOW LIBIDO

8 *These statements have not been evaluated by
9 the FDA. This product is not intended to diagnose,
10 treat, cure or prevent any disease.

11 TRY RISK FREE

12 Amberen.com

13 800-820-4010

14 MALE ANNOUNCER: Amberen also relieves most
15 other symptoms of hormonal aging, such as hot flashes,
16 difficulty sleeping, low libido and more.

17 ON SCREEN: *Andrea used Amberen with diet and
18 exercise and was remunerated.

19 ON SCREEN: Naturally Balance Hormones

20 Boost Cell Metabolism

21 *These statements have not been evaluated by
22 the FDA. This product is not intended to diagnose,
23 treat, cure or prevent any disease.

24 TRY RISK FREE

25 Amberen.com

1 800-820-4010

2 ANDREA: You know, when you hit middle age,
3 your body changes. For me I was like, bffff, I blew up.
4 I was eating right and working out, but I kept gaining
5 weight. I felt over-tired, over-stressed, overweight.

6 ON SCREEN: Before and After photos

7 *Individual results may vary. A healthy diet
8 and proper exercise are always recommended for any
9 weight loss efforts. Although weight loss was not
10 clinically evaluated in Amberen clinical trials, some
11 women report varying degrees of weight loss as a result
12 of becoming more hormonally balanced with their use of
13 Amberen.

14 TRY RISK FREE

15 Amberen.com

16 800-820-4010

17 ANDREA: With Amberen, I'm slim. I feel more
18 feminine, more sexy, more energetic and happier.

19 ON SCREEN: 30 Day Risk-FREE Trial

20 NATURAL BREAKTHROUGH

21 TRY RISK FREE

22 Amberen.com

23 800-820-4010

24 FEMALE ANNOUNCER: We are so confident that
25 Amberen will work for you that we will let you try it for

1 30 days, completely risk-free.

2

3 ON SCREEN: Visit www.amberen.com today!

4 FEMALE ANNOUNCER: Don't miss this limited time
5 offer. You've got nothing to lose but that stubborn
6 belly fat.

7 (The recording was concluded.)

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1 C E R T I F I C A T I O N O F T Y P I S T

2

3 MATTER NUMBER: 1323067

4 CASE TITLE: LUNADA BIOMEDICAL

5 TAPING DATE: JANUARY 10, 2013

6 TRANSCRIPTION DATE: AUGUST 9, 2013

7

8 I HEREBY CERTIFY that the transcript contained
9 herein is a full and accurate transcript of the tapes
10 transcribed by me on the above cause before the FEDERAL
11 TRADE COMMISSION to the best of my knowledge and belief.

12

13 DATED: AUGUST 9, 2013

14

15

16 ELIZABETH M. FARRELL

17

18 C E R T I F I C A T I O N O F P R O O F R E A D E R

19

20 I HEREBY CERTIFY that I proofread the transcript for
21 accuracy in spelling, hyphenation, punctuation and
22 format.

23

24

25 SARA J. VANCE

EXHIBIT F

Michael J. Davis
Federal Trade Commission
600 Pennsylvania Ave., NW
Mail Drop CC-10528
Washington, DC 20580

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

Federal Trade Commission

CASE NUMBER:

PLAINTIFF(S)

v.

Lunada Biomedical, Inc., et al.

NOTICE OF MANUAL FILING
OR LODGING

DEFENDANT(S).

PLEASE TAKE NOTICE:

Pursuant to Local Rule 5-4.2, the following document(s) or item(s) are exempt from electronic filing, and will therefore be manually Filed Lodged: (**List Documents**)

Exhibit F to the Complaint.

Reason:

- Under Seal
- In Camera
- Items not conducive to e-filing (i.e., videotapes, CDROM, large graphic charts)
- Electronic versions are not available to filer
- Per Court order dated: _____
- Administrative Record
- Other:

Date

Michael J. Davis

Attorney Name

Federal Trade Commission, plaintiff

Party Represented

Party Represented

Party Represented

Note: File one Notice of Manual Filing or Lodging in each case, each time you manually submit a document(s).

EXHIBIT G

Menopause

Weight Gain

FAQ

Ingredients

Clinical Trials

Guarantee

Testimonials

Shop Now



GUARANTEED RELIEF FROM

- Hot Flashes
- Weight Gain
- Sleeplessness
- Irritability
- Low Libido & more

OR YOUR MONEY BACK



Clinically Tested for Relief of Common Menopausal Symptoms

Order Now ▶



Magical Results in Natural Menopause Treatment

Amberen is an effective solution for common menopause symptoms. Amberen is clinically shown to stop menopausal weight gain without significant lifestyle changes. And with the 92.6% satisfaction rate, we are confident it will work for you!

[Learn More](#) ▶



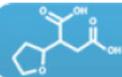
Low Dosage. High Efficiency.

With Amberen you take just 2 capsules a day for 90 days (you may have to take 4 capsules a day if your symptoms are heavy). The capsules are very small and easy to swallow. Results are real and backed by clinical trials.

TRY AMBEREN RISK-FREE ▶

How Amberen Works.

Amberen is not an ordinary supplement. Amberen contains proprietary smart molecules that support the body's hormonal function. These breakthrough ingredients are available only from Lunada Biomedical.



[Click here to see Amberen Ingredients](#)



Your body has a mechanism that regulates hormones. With age, this mechanism wears down, causing loss of hormonal balance. Amberen rejuvenates this regulatory mechanism and alleviates common menopausal symptoms.

Menopause and Weight Loss.

Follow **3 Easy Secrets** and drop those pounds!

Over 90% of women in menopause and perimenopause experience **weight gain**. Amberen comes with an advanced weight management solution for women like you!

Expert Nurse Consultations.



Free!
NURSE AID

NurseAid gives you access to licensed nurses with expertise in menopausal issues.

Risk Free Trial. Money Back Guarantee.



Our philosophy could be summed up in three words: Make Customers Happy. That's why



NO extreme dieting
NO extreme exercise
FREE consultations

LEARN MORE »

- ✓ Free phone consultations, limit 15 min/day.
- ✓ Individual assessment of your progress.
- ✓ Menopause-specific lifestyle and diet advice.

Other companies charge \$60/hr and up for a nurse consultation. But NurseAid is FREE to Amberen customers.

our offers are simple and straightforward. For a limited time, you can try Amberen risk-free within 30 days of your purchase and receive a 30-day supply of Amberen free of charge.

[Learn More ▶](#)

TRY AMBEREN RISK-FREE ▶

Women Love It.



I started having symptoms of menopause when I was 47 years old. For many years the hot flashes and night sweats were almost unbearable. I would have hot flashes all day and all night. I gained 50 pounds, was irritable, emotional and just not myself. I was introduced to Amberen 10 years after my first hot flash. Yes, I was still having menopausal symptoms for 10 years! I still had the weight on and was still irritable. I was skeptical about any 'new' menopause solutions, but I was also very tired of the hot flashes. So I tried Amberen. Within two weeks, the hot flashes stopped! Yes, they stopped. I might have one or two a day, but when you have them several times an hour, one or two in a day is a miracle!! I have been working with Amberen for almost a year. I am not longer irritable. I feel like I have control now over my life. As you ladies know, when you can't predict when a hot flash will come, you feel like your body is in control, not you! One of the most important aspects of this treatment is that there are no side effects. I am convinced that Amberen will revolutionize the way women all over the world work with menopause and overcome its symptoms.

Carol Nicholson, RN
 Bozeman, MT

Your product is great! I have tried all available OTC products that I could find. I even went to Chinatown for some pure natural herbs. Nothing worked until your product. It is the middle of a heat wave here in New York, temperature not less than 95 degrees for the last 10 days and I feel great!

Valerie M.
 New York, NY

I have been using Amberen for over a year and I love it. I started Menopause 3 years ago. I live my life with more confident. When I go to work or go out with friends and even when I am sitting watching TV, I no longer worry about hot flashes. I tell everyone about your product. I no longer need all the fans

Doctors Recommend it.



My name is Dr. Brenda McCool and I am a licensed naturopathic physician in Clackamas, OR. While I have a comprehensive family medical practice, more than half of my practice is working with women experiencing hormone imbalance. My approach to this treatment involves comprehensive testing, looking at all aspects of the hormonal axis including hypothalamus – pituitary – thyroid – adrenal – ovarian function. It is my experience that women feel their best when the entire hormonal axis is evaluated and treated. My patients who experience hormone imbalance range in age from 19 years old to 60 years old. I have found Amberen to be an invaluable addition to the treatment protocols I use for addressing hormone imbalance. Amberen has been the most effective product I've used. I am thrilled to have this "piece of the puzzle" in my protocols and feel it makes a significant difference in my patient's health!

Dr. Brenda McCool
 Sunnyside Natural Medicine



With over 30,000 hours of clinical experience, I've never seen a more safe and effective supplement associated with Menopause... Amberen is the only retail product I sell in my practice. David Stoeber, L.Ac. has been a Licensed Acupuncturist for 24 years. He is a Preferred Acupuncture Provide with Kaiser Permanente and most major insurance carriers.

Dr. David Stoeber
 North County Wellness



We have many female patients who are going through menopause. Amberen has been very effective in helping our patients relieve menopausal symptoms and achieve their overall goals of looking and feeling younger.

Dr. Ella Fedonenko, MD
 Your Laser Skin Care

Order with confidence! 92.6% Satisfaction Rate!™

Special Offer: Buy 2 Get 1 FREE

Your 90-Day Course of Amberen comes with:



90-Day Course

RISK-FREE TRIAL

Complete
90-Day Course
Regular Price: ~~\$149.97~~
Save \$49.99
\$99.98

30-Day Money Back Guarantee*
*Terms and Conditions (click here)

Order Now ▶



30-Day Money Back Guarantee*
We guarantee that Amberen will work for you, or your money back!

MONEY BACK GUARANTEE AND TERMS AND CONDITIONS

Subject to change without notice

Your purchase of a 90-day supply of any of our products is protected by our 30-day Money Back Guarantee. Lunada Biomedical's Money Back Guarantee policy allows you to evaluate your purchases for up to 30 days from the date of purchase. If for any reason you are not completely satisfied with the product during the evaluation period, simply return the two unopened, shrink-wrapped packages (or safety-sealed bottles) postmarked by the **30th day from your date of purchase**. The purchase price (less shipping and handling charges) will be promptly refunded to you. If you decide to return, the 30-day supply (one package/bottle) is yours to keep absolutely FREE with no further obligations. Feel free to share your concerns by calling us at 800-222-3304 (Monday - Friday, 6:00AM to 5:00PM PST).

By keeping the product beyond the 30 day evaluation period, you are agreeing to the Money Back Guarantee and Terms and Conditions. LUNADA BIOMEDICAL'S TERMS AND CONDITIONS CONTAIN AN ARBITRATION AGREEMENT AND CLASS ACTION WAIVER. PLEASE READ THEM CAREFULLY, SINCE THEY AFFECT YOUR LEGAL RIGHTS.

• Return Instructions

Please note that **your return must be postmarked by the 30th day from your DATE OF PURCHASE in order to receive your full refund (less shipping and handling charges)**. NO EXCEPTIONS. Please allow five business days from the date we receive your return for processing. Please ship your return via USPS to: PO Box 45008, Los Angeles, CA 90045. Please use the return shipping label included with your invoice. In order to prevent extra fees for damaged product, please package your return using the original packaging (recommended) or a sturdy box to ensure your return is not damaged in transit. We recommend you use a tracking number, delivery confirmation or some sort of insured mail for returned merchandise, as we cannot be responsible for items that never reach our warehouse, or do not include customer information. If you intend to return late (postmarked after the 30th day from your date of purchase) or incomplete product, please call us at 800-222-3304 (Monday - Friday, 6:00AM to 5:00PM PST) to inquire about the additional fees that will apply. Shipping charges are not refundable. Only one return per person/household will be honored.

• Shipping Terms and Conditions

Lunada Biomedical makes every effort to ensure customer orders are received in a timely fashion.

All orders are shipped within 1-2 business days (Monday through Friday, excluding

Shipping Options	Estimated Delivery Times
USPS Priority Mail	3 to 7 business days

Federal holidays). All FedEx delivery requests must be placed by 12:00 PM Pacific Time, Monday through Friday, to qualify for same-day shipping. Please note, all delivery times are estimates and Lunada Biomedical is not responsible for delays due to weather, delivery carrier factors, customer error, holiday-related delays, or any other unforeseen factors.

FedEx Ground	1 to 6 business days
FedEx 2nd Day	2 business days
FedEx Overnight	1 business day
International (USPS Only)	7 to 10 business days (not including customs holds)

While Lunada Biomedical makes every effort to adhere to these guidelines, these Terms and Conditions are in no way a promise or guarantee of delivery time. FedEx Express options are for Monday through Friday delivery only; Lunada Biomedical does not offer FedEx Saturday or Weekend delivery. Lunada Biomedical is unable to provide estimates for International shipping times, and is not responsible for customs or other fees imposed by the destination country. Shipping charges (including international surcharges) are NOT refundable.

ARBITRATION AGREEMENT AND CLASS ACTION WAIVER

You and Lunada Biomedical agree that this arbitration agreement is made pursuant to a transaction involving interstate commerce and shall be governed by the Federal Arbitration Act ("FAA"), and not by any state law concerning arbitration; and that any dispute between us, including disputes against any agent or affiliate will be resolved exclusively and finally by binding arbitration and the arbitration decision may be enforced and judgment entered thereon in any court of competent jurisdiction.

BY AGREEING TO THIS ARBITRATION AGREEMENT, YOU ARE GIVING UP YOUR RIGHT TO GO TO COURT, INCLUDING YOUR RIGHT TO A JURY TRIAL. In arbitration, a dispute is resolved by a neutral arbitrator or panel of arbitrators, rather than by a judge or jury. Arbitration is more informal, however, an arbitrator can award the same relief that a court can award. The arbitration will be administered by the American Arbitration Association ("AAA"), and conducted under AAA's Commercial Arbitration Rules and the Supplementary Procedures for Consumer Related Disputes (collectively, the "AAA Rules") then in effect at the time of the dispute. **You may obtain copies of the AAA Rules and forms and instructions for initiating arbitration by visiting the AAA website at www.adr.org, or by calling AAA at (800) 788-7879.** If you initiate arbitration, Lunada Biomedical will promptly reimburse you for any standard filing fee which may have been required under AAA's Procedures once you have notified Lunada Biomedical in writing and provided a copy of the arbitration proceedings. The prevailing party in the arbitration may be awarded attorneys' fees, costs and reimbursement of filing fees. If for any reason the AAA is unavailable, the parties shall mutually select another arbitration forum.

There shall be no right or authority for any claim to be arbitrated on a class action basis or in a purported representative capacity. No claim submitted to arbitration is heard by a jury or may be brought as a private attorney general. You do not have the right to act as a class representative or participate as a member of a class of claimants with respect to any claim submitted to arbitration. The arbitrator may not consolidate more than one person's claims against Lunada Biomedical and may not preside over any kind of representative or class proceeding against Lunada Biomedical. You acknowledge that this class action waiver is material and essential to the arbitration of any disputes between the parties and is nonseverable from the agreement to arbitrate claims. If any portion of this class action waiver is limited, voided, or cannot be enforced, then the parties' agreement to arbitrate shall be null and void. **YOU UNDERSTAND THAT BY AGREEING TO THIS CLASS ACTION WAIVER, YOU MAY ONLY BRING CLAIMS AGAINST LUNADA BIOMEDICAL IN AN INDIVIDUAL CAPACITY AND NOT AS A PLAINTIFF OR CLASS MEMBER IN ANY PURPORTED CLASS ACTION OR REPRESENTATIVE PROCEEDING. IF YOU DO NOT AGREE TO THE FOREGOING TERMS, YOU MUST TELL US IN WRITING AND RETURN THE PRODUCT WITHIN 30 DAYS OF PURCHASE, TO GET A FULL REFUND.**



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These statements have not been evaluated by the FDA.
This product is not intended to diagnose, treat, cure or prevent any disease.



Contact Us | Terms & Conditions | Legal | en ESPAÑOL

Menopause

Weight Gain

FAQ

Ingredients

Clinical Trials

Guarantee

Testimonials

Shop Now



GUARANTEED
RELIEF FROM

- Hot Flashes
 - Weight Gain
 - Sleeplessness
 - Irritability
 - Low Libido
- & more



Clinically Proven to Relieve Most Menopausal Symptoms

Order Now 

You are not alone.

Roughly 70% of all women between 40 and 55 experience menopause symptoms. Medical science has identified 35 different symptoms associated with menopause. The most common complaints? Persistent hot flashes, weight gain, mood swings, chronic insomnia, loss of libido and vaginal dryness. Some of these are mild. Others can be utterly debilitating. Yet they all have one thing in common; they're triggered by a progressive change in hormone levels.



92.6%
Satisfaction Rate



Start a new chapter.

Amberen is more than a new product. It's a new chapter in menopause treatment. For decades, scientists have predicted that future treatments will focus on restoring rather than supplementing our internal systems. Amberen finally fulfills this promise. Amberen is clinically tested to promote your body's internal hormone balance thus addressing the very root cause of menopausal symptoms.

How Amberen Works.

Your body has a mechanism that regulates hormones. With age, this mechanism wears down, causing loss of hormonal balance. Amberen rejuvenates this regulatory mechanism and alleviates common menopausal symptoms.

Revolutionary, not evolutionary.

Most products on the market are evolutionary. This means they're either improved versions of the existing products or simply knockoffs. Amberen is revolutionary, because it brings innovation on every level:

- **Novel mechanism of action**
promotes hormonal balance and boosts cell metabolism
- **Unique patent-pending ingredients**
produced **ONLY** by Lunada Biomedical
- **Tiny size for maximum convenience**
Capsules are just 200mg!



- Menopause
- Weight Gain
- FAQ
- Ingredients
- Clinical Trials
- Guarantee
- Testimonials
- Shop Now



Featured Success Story

"I'm slim, I feel more feminine, I feel more sexy, I have energy, and I'm just happy!"

Andrea Anderson
Los Angeles, CA

Order Today
Save
\$49⁹⁹

Complete Course
(3 pack)

Regular Price: ~~\$149⁹⁷~~

Save **\$49⁹⁹**

\$99⁹⁸

30-day Money Back Guarantee*
Terms and Conditions (click here)*



Order Now ▶

Amberen is clinically shown to promote weight loss during menopause or perimenopause.

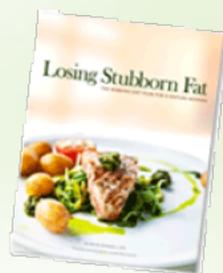
To Maximize Your Results Even Faster Your RISK-FREE TRIAL of Amberen comes with:



Free
30-Day Supply
\$49.99 Value



Free
Weight Loss Guide
Specifically for women over 40



Free
Amberen Diet Menu
For sustained weight loss



Free
Weight Loss Consultations
With expert nurses

If you are approaching or already going through menopause and struggling with weight gain, there is no alternative to Amberen. **In a double blind, placebo controlled clinical study, women who received Amberen showed consistent and statistically significant weight loss without significant changes in their lifestyle.**

Menopause and Weight Gain

During menopause many women gain weight, especially in the abdominal area. But do you know why? The answer is simpler than you think.



How Amberen Works.

Your body has a mechanism that regulates hormones. With age, this mechanism wears down, causing loss of hormonal balance. Amberen rejuvenates this regulatory mechanism and alleviates common menopausal symptoms.

It's About Hormonal Balance

As you enter menopause, your ovaries produce less and less estrogen. Since estrogen is vital to many life-sustaining functions, the body looks for other places to get needed estrogen from. Fat cells can produce estrogen, so the body reprograms itself to convert calories into fat to increase estrogen levels.



So, is it possible to lose belly fat and stay slim during menopause? **YES!**

Try Amberen RISK-FREE ▶

Women Love It.



"I have been working with Amberen for almost a year. I've lost weight, I am no longer irritable. I feel like I have control now over my life. One of the most important aspects of this treatment is that there are no side effects."

Carol Nicholson, RN

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Doctors Recommend It.

Amberen has helped many of our patients going through Perimenopause and Menopause with ease. It is a natural product that fits right into our practice philosophy and it works. Women have said that it helped with their night sweats, hot flashes, loss of libido, weight gain and more."

Dr. Randa Cobey

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These statements have not been evaluated by the FDA.
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EXHIBIT H

From: LifeScript Mailings - Partner <partners@lifescript.com>
Sent: Monday, October 15, 2012 7:02 PM
To: Robert Gregory Jo <robertgregoryjo@lifescript.com>
Subject: Natural Menopause Relief with Amberen – Learn More



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Stop hormone related weight gain for women over 40, learn more today.

AMBEREN
Smart Choice for Menopause

Call to order: 1-800-993-6339

STOP Weight Gain and Belly Fat After 40

3 reasons to try Amberen

- ✓ *The only clinically proven solution to promote menopausal weight loss*
- ✓ *Naturally restores hormonal balance and relieves hot flashes, night sweats and other menopause symptoms*
- ✓ *93% satisfaction rate*

Amberen is the first and only product clinically proven for hormone-related “menopausal” weight gain. Women over 40 experience continuous and unstoppable weight gain. Amberen STOPS weight gain by balancing your hormones and boosting cell metabolism changing. In recent clinical trials conducted in California, menopausal women lost weight without additional exercise programs or tough diet plans!



See Results

3 MONTH SUPPLY

REGULAR
~~\$149~~

NOW ONLY
\$84.⁹⁸

30-DAY MONEY BACK GUARANTEE

Women Love it.

I started having symptoms of menopause when I was 47 years old. I would have hot flashes night and day. I gained 50 pounds, was irritable, emotional and not myself.

I have been taking Amberen for almost a year. My hormones are balanced, along with my weight, and I am no longer irritable. I feel like I have control now over my life. One of the most important aspects of this treatment is that there are no side effects.

Carol Nicholson, R.N.
Bozeman, MT



PLEASE NOTE: If you're currently taking any prescription drugs that are designed to alter your natural levels of hormones, Amberen may not be good for you, as it will attempt to restore your natural hormonal balance. Make sure to consult your doctor, especially if you are a cancer survivor or have a severe thyroid disorder.

If you're not completely satisfied, return your order within 30 days of purchase for a full refund (less S&H)*



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EXHIBIT I



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Procrastination Central

Hi all! I hope you are all enjoying our bright and shiny New Year! I know I am! I spent the holidays in Montana with my family and I have returned to wonderfully sunny and warm California for a short time. Nothing like being in a place you love!!

I don't know how much I've told you about my horrifying procrastination about taking charge of my menopause symptoms, but I was reminded about this in a call earlier today.

Now remember ladies, I am 50 years old and I am of Hispanic descent. So it's safe to say that I had some horrifying symptoms for almost ten years. That is...before the godsend [Amberen](#) came to me.

So occasionally, I would try an herb. I did a brief stint with Bio Identical Hormones, but for all intense purposes, I DID NOTHING!!!

I just kept thinking, "This can't last forever." Well, while I was thinking this, I didn't understand the relationship to being 50% Hispanic and menopause. It can last from 10 to 20 years!!!!

When I found that out, I was devastated.

But when I found that out, [Amberen](#) had already found me and within two weeks I was "saved."

So as we start out 2010, I will say this LOUD AND CLEAR....

[Amberen](#) is the answer. It resets your hormonal patterns. It changes everything.

So if you would like to lose your menopause weight, stop the hot flashes and get rid of your moodiness, than you know what the answer is, [Amberen](#).

This entry was posted on Friday, January 22nd, 2010 at 8:38 am and is filed under [Menopause](#). You can follow any responses to this entry through the [RSS 2.0](#) feed. You can [leave a response](#), or [trackback](#) from your own site.

2 Responses to “Procrastination Central”



Mary Ann Says:

July 27th, 2010 at 3:48 pm

I can't figure how to get a question to you. Is it possible to be in perimenopause with out the hot flases. I seem to have many of the others.



admin Says:

August 2nd, 2010 at 10:34 pm

Yes. While hot flashes are the most common and often dreaded symptom of menopause and perimenopause, they are not the only symptom. Scientific research shows that there are actually 35 different symptoms of menopause and perimenopause. Night sweats, loss of libido, lack of concentration and memory, depression and weight gain are just a few others. [Click here to learn more about each of the 35 symptoms of menopause.](#) If you find yourself suffering from a number of these, even if hot flashes aren't one of them, then you could be in perimenopause. But as always, consult your doctor just to be sure.

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