

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

FEDERAL TRADE COMMISSION,

Plaintiff,

V.

KEVIN TRUDEAU individually,

Defendant.

Civil Action No

COMPLAINT FOR INJUNCTIVE AND OTHER EQUITABLE RELIEF

Plaintiff, the Federal Trade Commission (“FTC” or “Commission”), for its complaint alleges as follows:

1. The Commission brings this action under section 13(b) of the Federal Trade Commission Act (“FTC Act”), 15 U.S.C. 53(b), to secure preliminary and permanent injunctive relief, rescission of contracts, restitution, disgorgement, and other equitable relief for defendants’ unfair and deceptive acts and practices in violation of Sections 5(a) and 12 of the FTC Act, 15 U.S.C. 45(a) and 52.

JURISDICTION AND VENUE

2. This Court has jurisdiction over this matter under 28 U.S.C. 1331, 1337(a), and 1345, and under 15 U.S.C. 45(a)(1) and 53(b).

3. Venue in the United States District Court for the Northern District of Illinois is proper under 28 U.S.C. 1391(b) and (c) and 15 U.S.C. 53(b).

PLAINTIFF

4. Plaintiff, the Federal Trade Commission, is an independent agency of the United States Government created by statute. 15 U.S.C. 41 et seq. The Commission is charged, inter alia, with enforcement of Sections 5(a) and 12 of the FTC Act, 15 U.S.C. 45(a) and 52. Section 5(a) of the FTC Act prohibits unfair or deceptive acts or practices in or affecting commerce. 15 U.S.C. 45(a). Section 12 of the FTC Act prohibits the dissemination or the causing to be disseminated of any false advertisement in order to induce the purchase of food, drugs, devices, or cosmetics. The Commission is authorized to initiate federal district court proceedings to enjoin violations of the FTC Act in order to secure such equitable relief as may be appropriate in each case, and to obtain consumer redress. 15 U.S.C. 53(b).

DEFENDANT

5. Defendant Kevin Trudeau is a former employee of Mega Systems International, Inc., an infomercial producer, and an independent contractor of Tru-Vantage International, L.L.C., an infomercial producer. Individually or in concert with others, he directed, controlled, formulated and/or participated in the acts and practices of Mega Systems

International, Inc. and Tru-Vantage International, L.L.C., including the acts and practices set forth in this complaint. He resides at 2052 North Lincoln Park West, #1010, Chicago, Illinois 60614.

6. At all times pertinent to this complaint, defendant has resided or transacted business in this district.

COMMERCE

7. At all times relevant to this complaint, defendant Kevin Trudeau has maintained a substantial course of business in the advertisement, sale and distribution of products to the public, including but not limited to, Eden's Secret Nature's Purifying Product, Sable Hair Farming System, Jeanie Eller's Action Reading, Dr. Callahan's Addiction Breaking System, Kevin Trudeau's Mega Memory System, and Howard Berg's Mega Reading in or affecting commerce, as "commerce" is defined in Section 4 of the FTC Act, 15 U.S.C. 44.

DEFENDANT'S COURSE OF BUSINESS

8. Since at least 1992, defendant Kevin Trudeau has advertised, offered to sell, sold and distributed products throughout the United States. Defendant's advertisements include, but are not limited to, program-length radio and television infomercials which run for 30 minutes or less and fit within normal radio and television broadcasting time slots. Defendant's television infomercials were and are broadcast on network, independent and cable television stations throughout the United States. Defendant's radio infomercials were and are broadcast on network and independent radio stations throughout the United States. Defendant Trudeau acted as the host or guest in the radio and television infomercials.

9. Since at least 1993 through 1996, defendant Kevin Trudeau participated in the advertising, offering to sell, selling and distribution of Eden's Secret Nature's Purifying Product by means of infomercials. The infomercial for Eden's Secret Nature's Purifying Product contained the following statements:

Trudeau: "That cleansing my body has had a dramatic impact on my body and life. I feel brighter and more alert for longer periods of time than I have in years, and there's no question that my immune system has dramatically improved."

Wright: "...a body that is cleansed and purified of toxic waste matters, colon waste, fatty arterial deposits, the ph balance of the blood's better, the microflouran of the colon's better, you're simply enhancing the overall integrity of your body."

Trudeau: "... I honestly believe that people try, they can't lose weight. And it is really amazing because I have friends that I see what they eat, and they try to exercise. They try to, and they still can't lose the weight."

Wright: "That's right."

Trudeau: "What's the problem here?"

Wright: "Well, step number one is if you don't cleanse the system out, your body is constantly hungry. Why? It is not getting nutrients. It's not getting fed. The colon wall gets lined with some sort of a type of, it's old fecal matter, it's old gluey plaque like substance. The wall of the colon gets compromised in such manner that a lot of the nutrients that you're eating, the foods that you're eating don't transfer."

Wright: "So what we're doing is cleaning out the digestive tract, the colon and aiming at cleaning and purifying the blood all at the same time. So between the two of these, what we're initiating, Kevin, is a complete biological interwashing. When you assist the body's own eliminative channels, help open them up --

Trudeau: "Right."

Wright: "The body has an ability to restore itself. The integrity of the cells themselves on a cellular level becomes higher because there's not a lot of junk in there. There's not a lot of plaque in the way. They're opening up the transfer of nutrients and oxygen so your cells can live again."

Trudeau: "And one of the things that everybody said, I asked them, I said what is your weight situation, and everyone said they have lost weight."

Wright: "Right."

Trudeau: "They're losing pounds."

Wright: "Right."

Trudeau: "Now this is obviously, we are not claiming to lose weight with the product, but this is cleansing, something is happening here."

Wright: "Your blood stream's impure, the PH balance is off, and it's exactly like a girl who has PMS. The blood stream gets impure before her cycle, it's reabsorbed back into the blood stream, she's experiencing, she goes AHHH!!! She goes crazy, just like my wife used to until we founded this formula. This is the same kind of experience. Your stress level gets nuts."

Trudeau: "So are you telling me that people that have -- women that have a bad PMS syndrome, if they started cleansing their system, that could perhaps be relieved in some -- to some degree?" (Complaint Exhibit A)

10. Since at least 1993 through 1996, defendant Kevin Trudeau participated in the advertising, offering to sell, selling and distribution of Eden's Secret Nature's Purifying Product by means of brochures. These brochures contained the following statements:

This 100% natural, herbal purifying program is designed to cleanse your body quickly and easily of accumulated, harmful toxins. **I guarantee you'll feel energized and revitalized!** And many experts now believe that detoxification may even help you avoid premature aging and ill health.

Worse yet, these man-made toxins eventually overwhelm our bodies' natural cleansing abilities and accumulate in our cells and tissues. As recent medical research indicates, the waste that remains is linked to declining appearance, premature aging and ill health.

Your body's cry for help

Although this news may come as a surprise to you, **your body has probably been trying to tell you for years that it's "toxic"!** Just a few symptoms you may experience include fatigue, indigestion, headaches, being bloated or overweight, irritability, irregularity, depression, arthritis, insomnia and immune suppression. If you suffer from any or all of these conditions, it's time to listen to your body **now**. . . before your health suffers further.

The Nature's Pure Body Program helps your body purify itself, quickly and easily

My exclusive purifying program gives your body the added help it needs to clear out the toxins that rob you of your energy and good health. (Complaint Exhibit B)

11. Since at least 1993 through 1995, defendant Kevin Trudeau participated in the advertising, offering to sell, selling and distribution of Sable Hair Farming System by means of infomercials. The infomercial for Sable Hair Farming System contained the following statements:

Sable: "So I found a combination of herbs that, when mixed with cleansers like witch hazels and alcohols, can deep clean underneath the surface of the scalp, and clean out all the debris that prevents the hair or blocks the hair from reaching the surface."

"And the amazing thing that was happening is that after we cleaned, as we looked at the scalp, hair sprouted out."

"[T]he hair that sprouts out measures five years, for instance, that it's been growing under the scalp, from the blood, from the protein in the blood."

"[W]e had live subjects tested in a laboratory here in south Florida, and they counted the hairs as they came in on every test subject every day that they used the product."

"So we have a wonderful product that cleans the scalp. And if you learn to do that, first of all, you'll never lose your hair."

“I should be in most of the major medical journals in the world in the next few months, which will finally end baldness in the human race. And I’m very proud of that. A hundred percent on my testing. And that will be announced, I would say, before the end of the June.”

“And everyone should have all their hair back in six months to a year, permanently, painlessly, and never have to purchase anything again.”

Trudeau: “And you’re saying that if the follicles were cleaned properly --”

Sable: “They would never lose their hair”

Sable: “[W]e could actually end hair loss in the human race. No one would become bald any more.”

“Well, the doctors that have tested with us, that amazed them. That was the very first thing that amazed them. They said they saw more in five minutes with our product than they did with any other product they’ve ever tested. And that includes the Rogaine and Minoxidil products.”

“You don’t ever have to be bald any more. You don’t ever have to go bald, if you’re a young person who’s just starting to lose their hair. And there’s a lot of help that we can give you. So I hope you do give us a call.” (Complaint Exhibit C)

12. Since at least 1995 through 1996, defendant Kevin Trudeau participated in the advertising, offering to sell, selling and distribution of Jeanie Eller’s Action Reading by means of infomercials. The infomercial for Jeanie Eller’s Action Reading contains the following statements:

Trudeau: “According to my guest, Jennie Eller, every single person -- if they can see, hear and talk -- can learn to read, guaranteed. She also claims that her revolutionary approach to

teaching reading is easy, quick and works 100 percent of the time.”

Eller: “That is the program I took back. We started using it in the Anchorage School District. Every child that went through it learned to read.”

“And when you go through this program, you start at the beginning and you take every logical step right through it. And when you come out, you are a

fluent, independent reader. And I've put my 30 years of teaching credibility on the line. It absolutely is guaranteed to work."

"[B]ut any child that you show them how that code works, you can't stop them from reading. They crack that code. And that code is the key."

Trudeau: "But you're talking about this secret code. The government says -- you were

mentioning to me -- that teaches (sic) certain kids just can't read, and you're saying that's hogwash."

Eller: "It is. It's absolute hogwash. I've been teaching for 30 years and I've never had anyone not learn to read."

Trudeau: "Because I just (sic) watching a show the other day on -- on -- on TV and they were saying, this guy's trying to read. He's tried -- he tried a phonics program himself. He --

he still can't read. He's frustrated. He thinks he's dumb. And they said -- they made the statement, the only way he can read is by hard, hard work, and he still may never learn how to read."

Eller: "No, that is absolutely not true, and I hope he's watching this show, because if he'll get this program, I guarantee you he'll learn to read."

"[I]f you tell them what the words are, they know those words. They speak those words. The people that I taught to read on the Oprah Show, as soon as they could decode, decipher the newspaper, they knew those words. They were articulate people. They spoke the language. They understood the language. They just could not decipher the language."

"Absolutely, because it not only teaches the decoding, the phonics part, it teaches comprehension." (Complaint Exhibit D)

13. Since at least 1995 through 1996, defendant Kevin Trudeau participated in the advertising, offering to sell, selling and distribution of Jeanie Eller's Action Reading by means of telephone scripts. These telephone scripts contained the following statements:

For Adults

Easier and quicker for adults to learn, because most already know the vocabulary - they just need to learn how to "decode" written words and sentences.

1. How can it improve comprehension?

Even though we've heard a lot of words before in conversation, a person who can't read wouldn't recognize them. Action Reading teaches you how to read words for their meaning. (It's like putting a person's face to their name, when you have only spoken to them on the telephone.)

6. Does Jeanie guarantee that she can teach anyone to read?

Action Reading can teach anyone who can see, hear, think and talk to read...
(Complaint Exhibit E)

14. Since at least 1994 through 1995, defendant Kevin Trudeau participated in the advertising, offering to sell, selling and distribution of Dr. Callahan's Addiction Breaking Technique by means of infomercials. The infomercial for Dr. Callahan's Addiction Breaking Technique contains the following statements:

A. Trudeau: "He [Dr. Callahan] has been a best-selling author whose revolutionary treatment for losing weight and quitting smoking takes less than three minutes with 95 percent success. If you smoke and want to quit, or if you want to lose weight once and for all, today's show could be an answer to your prayers."

"[T]he treatments that you discovered, that you invented get rid of addictions like food addictions so people can lose weight easily without trying to diet. They can just lose the weight because they reduce the urge to overeat. You can reduce smoking, alcoholism, any type of compulsion, depression, jealousy.

Callahan: "It's revolutionary because it works with a high success rate that's never before been possible."

Trudeau: "[I]f you have any addiction, whether it be for food, if you're overweight, if you have a smoking addiction, if your children are addicted to drugs -- any compulsion, anything whatsoever, we recommend you call the 800 number..."

Callahan: "What we mean is that their addictive urge, that uncontrollable urge is gone, completely gone, and they feel fine."

"And when we eliminate the anxiety, they don't need the heroin; they don't need the alcohol. The withdrawal is gone." (Complaint Exhibit F)

B. Trudeau: “We’re going to be sharing Dr. Callahan’s revolutionary breakthrough that he had discovered while studying quantum physics. Dr. Callahan came up with a breakthrough that in 60 seconds can eliminate your addictive urge to overeat, to smoke cigarettes, to do any compulsion, any type of addicted behavior, whether it be alcohol, drugs, cigarettes, food, maybe picking your thumb, any type of compulsive behavior, and eliminate all the stress and anxiety in your body. Now this technique will take 60 seconds to apply and works in virtually 100 percent of the time.”

“Dr. Callahan, while studying quantum physics, figured out that he has this technique that in 60 seconds you can break up the stress and anxiety in your body and eliminate totally the addictive urge. Now what will that mean to you? That means you can lose weight easily, effortlessly, because you don’t have any urge to overeat when you’re not hungry. The urge is gone.”

“While I was on another time, a gal called up on the phone. She said, “Kevin, I saw you about a month ago and I bought your program.” This is right on tape. We have this on film. Right on national TV. She said, “I want you to know, I got it a month ago and here’s what happened. I was addicted because of food. I would overeat when I wasn’t hungry. So late at night when I wanted to eat food, I used the technique. It took only 60 seconds. I just used it one time. I relaxed, I felt fantastic. I slept better than I have in years because all the stress was gone.” She goes, “I was just feeling great and the urge was gone. I didn’t eat the food. I didn’t want it.” She goes, “Since then, I’ve lost over 10 pounds, but I’m not trying to lose weight.” She said, “I eat ice cream, I eat cookies, I eat cake, I eat everything I want. But I’m just losing weight.” And I said, “Are you trying to lose weight.” And she says, “No.””

“The best thing about this technique if you’re overweight, you can eat everything you want. You can eat pizza, you can eat ice cream, you can eat anything and everything you want. You’re just not going to want it. The urge is going to be gone. The uncontrollable urge is gone.”

“When I was on Value Vision, the home shopping club, a gal called up and said she does work in an alcohol and drug treatment center with alcoholics, heroin addicts, cocaine addicts. That’s how Dr. Callahan actually started this work. He worked with some of these major addictions. Here’s the interesting thing. Whether your addiction is cocaine, heroin, alcohol or pizza or chocolate or cigarettes, it’s all caused by the exact same thing. The stress and anxiety energy field. She told me that she’s getting this program and for the first time in her life she can actually help people, because in 60 seconds she knocks out the urge, the uncontrollable urge.”

“Another gal called up on the same day on Value Vision and said this. She brought the program 30 days ago. She had lost weight -- and after she used it once, she lost weight. But her husband was an alcoholic. He used the program. He hasn’t had a drink in 30 days. Why? Because it knocked out the addictive urge. Dr. Callahan was in a grocery store in California where he lives. A guy ran up to him and said, “Dr. Callahan?” He said, “Yes.” He said, “I saw you on TV three years ago when you were talking about this technique, and I got your book where it describes it.” He said, “I was an alcoholic my whole life, over 28 years. I used your technique and I haven’t had a drink, Doctor, in three years, and I feel so wonderful.” (Complaint Exhibit G)

15. Since at least 1994 through 1995, defendant Kevin Trudeau participated in the advertising, offering to sell, selling and distribution of Dr. Callahan’s Addiction Breaking Technique by means of telephone scripts. These telephone scripts contained the following statements:

... by placing your order today you’re taking the most important step to eliminate your addiction(s) for the rest of your life.

Dr. Callahan’s addiction breaking system is a video taped program that will instantly teach you how to break any addictive urge you want to eliminate by using a simple and easy to use 15 minute technique.

BENEFITS TO YOUR CUSTOMER:

QUIT SMOKING BREAK ADDICTIVE URGES LOSE WEIGHT

(Complaint Exhibit H)

16. Since at least 1992 through 1996, defendant Kevin Trudeau participated in the advertising, offering to sell, selling and distribution of Kevin Trudeau’s Mega Memory System by means of infomercials. The infomercials for Kevin Trudeau’s Mega Memory System contained the following statements:

Trudeau: “[W]e teach people all around the world how to release the photographic memory that people have right now, or instant recall memory.”

“All these little absent minded things we help people when we develop and release the photographic memory that they have.”

“Every single person has a photographic memory right now lying dormant. It’s an ability that everyone has. You, see, you remember everything that you see, hear and think about. If it comes through the senses it is remembered. The problem though is recalling information.”

“Yeah, that’s one of the things about Mega Memory that’s very unique is that fact that it only takes only a few hours to learn the technology and when you release that photographic memory”

“We took an entire seventh grade class in the beginning of last school year. They went through the Mega Memory system, just took a few days, a couple of hours, very easy and at the end of the school year they had a big problem on their hands. Eight months ahead of their school curriculum, lowest grade point average A minus, and they test the vocabulary levels of the seventh graders and they found to be those of sophomores in college because they could remember all the words and definitions. I can't wait until they take their SAT's. They were three years ahead in Spanish, because foreign languages, if you ever wanna learn foreign languages, it has a lot to do with memory, you know.”

"I then met a fellow who did a research report in 1975 at the Oklahoma School for the Blind in Muskogee, Oklahoma, V. R. Carter was the Superintendent back then, and he took thirty-five blind children and he improved their memory. These kids were blind from birth, by the way, and he improved, in just five days, fifteen percent recall ability to ninety percent in just one week. They were so impressed that they tested the kids six and eight months later to see if it stuck and most of the kids improved to ninety-five and ninety-eight percent recall. So, it stuck. We duplicated the results with retarded kids with IQ's of only fifty and sixty and the results were almost identical, lower memory in the beginning, dramatic improvement in the nineties just a week later and a year later in testing almost a hundred percent recall ability with slow, retarded kids. Obviously we know at this point if we can teach blind and retarded kids it had to be an ability, a powerful memory, that everyone had. So I took that raw data and put together, invented, if you will, over the next year the entire Mega Memory system that we have today, founded the institute and just in the last couple of years over two million people now, uh, Danny, have gone through the Mega Memory home study course to improve their own memory."

"...ADD and we’re getting letters and calls more on this subject than anything else and there are millions of people, children and adults who are afflicted with this problem, and when I started looking at that because it has a lot to do with memory, attention span, So I started doing the research and we tested five thousand kids with ADD. there’s a lot of controversy ?bout this, by the way because the drug Ritalin is the drug of choice to give. And we don’t agree with that as an option, but uh we think through dietary change and we discuss this in Mega Memory, some of the things and options that people can take to dramatically improve.” (Complaint Exhibit I)

17. Since at least 1992 through 1996, defendant Kevin Trudeau participated in the advertising, offering to sell, selling and distribution of Kevin Trudeau’s Mega Memory System by means of telephone scripts and brochures. These materials contained the following statements:

A. Help Sheet - Overcoming Common Objections

4.) Can this work for people with learning disabilities, ADD, dyslexia, or head injuries?

These techniques were perfected with blind and retarded children back in the early 70's. Through research, we've found that everyone can improve their memory with this program (except Alzheimer's patients). (Complaint Exhibit J)

B. Kevin Trudeau's breakthrough techniques were developed while working with blind and mentally handicapped students. Their recall ability increased from 15% to 90% in just 5 days! Because these methods have been proven under the most difficult circumstances, they're guaranteed to work for you! Kevin's breakthrough techniques that you'll learn in this course allow you to release your own perfect photographic memory ... effortlessly. (Complaint Exhibit K)

18. Since at least December 1996, defendant Kevin Trudeau has participated in the advertising, offering to sell, selling and distribution of Howard Berg's Mega Reading by means of infomercials. The infomercial for Howard Berg's Mega Reading contained the following statements:

Berg: "I teach children not just how to read faster but to comprehend, retain and stay focused. . . . So, Mega Reading is a complete accelerated learning system that doesn't just teach you to read quickly.

Trudeau: Right.

Berg: On a skimming level.

Trudeau: Right.

Berg: But to comprehend, apply and use it. Even under test situations.

Berg: I'm working with companies like Pfizer, Mobil Oil, that have high tech reading. And they used it because it was easy to retain complicated information.

Trudeau: So, even the detailed complicated material, people can read quickly and grasp it and comprehend it and recall it.

Berg: Over long periods of time.

Berg: They hired me to train their editors not only in how to speed read but how to make books easier to comprehend, because my program teaches people how to understand text.

Trudeau: Right.

Berg: Not just blur through it.

Trudeau: Folks, if you want more information on Howard's program, Mega Reading program, it's

a home study course that you can go through at your leisure and it will virtually release your own super reading speed, mega reading. You'll be able to read almost as fast as Howard. Virtually quadruple, five, ten times your reading speed right now.

Berg: I have a letter here from a girl who has brain damage.

Trudeau: Right.

Berg: Brain damage. She was in a car accident and half her brain stopped functioning. It was electrically dead.

Trudeau: Right.

Berg: And she writes. It says that on a coffee break in my word shop, she went three to 600 words per minute. This is someone with severe brain damage. So yes, it works for anyone. And you can't get worse than that.

Berg: At the end of the workshop, every child and parent had at least doubled except for one.

Trudeau: Uh-huh.

Berg: That child was reading at five seconds a page and I quizzed her.

Trudeau: Five seconds.

Berg: Five seconds a page. And the vice principal was there.

Trudeau: And they're reading it?

Berg: Comprehending it and retaining it.

Berg: Anybody. In fact, I had a blind student in Huntsville, Alabama.

Trudeau: Yeah.

Berg: I swear to you it's true.

Trudeau: Wait a minute. You can't read if you can't see.

Berg: She was reading in Braille.

Trudeau: Oh, okay.

Berg: And she took the program to learn the memory skills. Because a lot of people when they hear speed reading, they think fast reading. With Mega Reading it's not just fast reading, it's fast learning. Remember what Tommy said, it's a complete accelerated learning program. And what I teach them is storing, retrieving, recalling, focusing. (Complaint Exhibit L)

DEFENDANTS' VIOLATIONS OF THE FTC ACT

19. Under Section 5(a) of the FTC Act, 15 U.S.C. § 45(a), unfair or deceptive practices in or affecting commerce are unlawful.

20. Under Section 12(a)(2) of the FTC Act, 15 U.S.C. § 52(a)(2), the dissemination or the causing to be disseminated of any false advertisement in order to induce the purchase of food, drugs, devices, or cosmetics is unlawful. Under Section 12(b) of the FTC Act, 15 U.S.C. § 52(b), the dissemination of any such false advertisement is an unfair or deceptive act or practice in or affecting commerce within the meaning of Section 5 of the FTC Act. The FTC Act defines "false advertisement" as an advertisement, other than labeling, which is misleading in a material respect. 15 U.S.C. § 55(a)(1). The FTC Act defines "drug" as articles intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease and articles (other than food) intended to affect the structure or any function of the body. 15 U.S.C. § 55(c).

COUNT I

EDEN'S SECRET NATURE'S PURIFYING PRODUCT

21. Paragraphs 1 through 10, 19, and 20 are incorporated by reference.

22. Through the use of the statements referred to in Paragraphs 9 and 10, and others not specifically set forth herein, defendant Kevin Trudeau has represented, expressly or by implication, that:

(a) Eden's Secret Nature's Purifying Product causes significant weight loss.

(b) Eden's Secret Nature's Purifying Product will prevent or cure illnesses, including but not limited to fatigue, headaches, depression, arthritis, insomnia, immune suppression, and premenstrual syndrome.

(c) Eden's Secret Nature's Purifying Product will cleanse the body of harmful toxins.

(d) Eden's Secret Nature's Purifying Product will purify the body's blood supply.

23. In truth and in fact:

(a) Eden's Secret Nature's Purifying Product will not cause significant weight loss.

(b) Eden's Secret Nature's Purifying Product will not prevent or cure illnesses, including but not limited to fatigue, headaches, depression, arthritis, insomnia, immune suppression, and premenstrual syndrome.

(c) Eden's Secret Nature's Purifying Product will not cleanse the body of harmful toxins.

(d) Eden's Secret Nature's Purifying Product will not purify the body's blood supply.

24. Therefore, the representations set forth in Paragraph 22 are false and misleading and constitute deceptive acts or practices in or affecting commerce, in violation of Sections 5(a) and 12(b) of the FTC Act, 15 U.S.C. 45(a) and 52(b).

25. Through the use of the statements referred to in Paragraphs 9 and 10, and others not specifically set forth herein, defendant Kevin Trudeau has represented, expressly or by implication, that he possessed and relied upon a reasonable basis that substantiated the representations set forth in Paragraph 22, at the time the representations were made.

26. In truth and in fact, defendant Kevin Trudeau did not possess and rely upon a reasonable basis that substantiated the representations set forth in Paragraph 22, at the time the representations were made.

27. Therefore, the representation set forth in Paragraph 25 is false and misleading and constitutes deceptive acts or practices in or affecting commerce, in violation of Sections 5(a) and 12(b) of the FTC Act, 15 U.S.C. 45(a) and 52(b).

COUNT II

SABLE HAIR FARMING SYSTEM

28. Paragraphs 1 through 8, 11, 19, and 20 are incorporated by reference.

29. Through the use of the statements referred to in Paragraph 11, and others not specifically set forth herein, defendant Kevin Trudeau has represented, expressly or by implication, that:

(a) Sable Hair Farming System will stop, prevent, cure, relieve, reverse or reduce hair loss.

(b) Sable Hair Farming System will promote the growth of hair where hair has already been lost.

(c) Sable Hair Farming System is superior to Rogaine and Minoxidil in stopping, preventing, curing, relieving, reversing or reducing hair loss.

(d) Scientific studies demonstrate that Sable Hair Farming System is effective in stopping hair loss and promoting hair growth.

30. In truth and in fact:

(a) Sable Hair Farming System will not stop, prevent, cure, relieve, reverse or reduce hair loss.

(b) Sable Hair Farming System will not promote the growth of hair where hair has already been lost.

(c) Sable Hair Farming System is not superior to Rogaine and Minoxidil in stopping, preventing, curing, relieving, reversing or reducing hair loss.

(d) Scientific studies do not demonstrate that Sable Hair Farming System is effective in stopping hair loss and promoting hair growth.

31. Therefore, the representations set forth in Paragraph 29 are false and misleading and constitute deceptive acts or practices in or affecting commerce, in violation of Sections 5(a) and 12(b) of the FTC Act, 15 U.S.C. 45(a) and 52(b).

32. Through the use of the statements referred to in Paragraph 11, and others not specifically set forth herein, defendant Kevin Trudeau has represented, expressly or by implication, that he possessed and relied upon a reasonable basis that substantiated the representations set forth in Paragraph 29 (a) - (c), at the time the representations were made.

33. In truth and in fact, defendant Kevin Trudeau did not possess and rely upon a reasonable basis that substantiated the representations set forth in Paragraph 29 (a) - (c), at the time the representations were made.

34. Therefore, the representation set forth in Paragraph 32 is false and misleading and constitutes deceptive acts or practices in or affecting commerce, in violation of Sections 5(a) and 12(b) of the FTC Act, 15 U.S.C. 45(a) and 52(b).

COUNT III

JEANIE ELLER'S ACTION READING

35. Paragraphs 1 through 8, 12, 13, 19, and 20 are incorporated by reference.

36. Through the use of the statements referred to in Paragraphs 12 and 13, and others not specifically set forth herein, defendant Kevin Trudeau has represented, expressly or by implication, that Jeanie Eller's Action Reading is successful in teaching reading 100% of the time.

37. Through the use of the statements referred to in Paragraphs 12 and 13, and others not specifically set forth herein, defendant Kevin Trudeau has represented, expressly or by implication, that he possessed and relied upon a reasonable basis that substantiated the representation set forth in Paragraph 36, at the time the representation was made.

38. In truth and in fact, defendant Kevin Trudeau did not possess and rely upon a reasonable basis that substantiated the representation set forth in Paragraph 36, at the time the representation was made.

39. Therefore, the representation set forth in Paragraph 37 is false and misleading and constitutes deceptive acts or practices in or affecting commerce, in violation of Section 5(a) of the FTC Act, 15 U.S.C. 45(a).

COUNT IV

DR. CALLAHAN'S ADDICTION BREAKING TECHNIQUE

40. Paragraphs 1 through 8, 14, 15, 19, and 20 are incorporated by reference.

41. Through the use of the statements referred to in Paragraphs 14 and 15, and others not specifically set forth herein, defendant Kevin Trudeau has represented, expressly or by implication, that:

- (a) Dr. Callahan's Addiction Breaking System reduces an individual's compulsive desire to eat, leading to significant weight loss without the need to diet or exercise.

(b) Dr. Callahan's Addiction Breaking System cures addictions and compulsions, including but not limited to, smoking, eating, and using alcohol or heroin.

(c) Testimonials with regard to consumers' use of Dr. Callahan's Addiction Breaking System reflect the typical or ordinary experience of members of the public who use the product.

42. In truth and in fact:

(a) Dr. Callahan's Addiction Breaking System does not reduce an individual's compulsive desire to eat, and as such, Dr. Callahan's Addiction Breaking System does not lead to significant weight loss without the need to diet or exercise.

(b) Dr. Callahan's Addiction Breaking System does not cure addictions and compulsions, including but not limited to, smoking, eating and using alcohol or heroin.

(c) Testimonials with regard to consumers' use of Dr. Callahan's Addiction Breaking System do not reflect the typical or ordinary experience of members of the public who use the product.

43. Therefore, the representations set forth in Paragraph 41 are false and misleading and constitute deceptive acts or practices in or affecting commerce, in violation of Section 5(a) of the FTC Act, 15 U.S.C. § 45(a).

44. Through the use of the statements referred to in Paragraphs 14 and 15, and others not specifically set forth herein, defendant Kevin Trudeau has represented, expressly or by implication, that he possessed and relied upon a reasonable basis that substantiated the representations set forth in Paragraph 41 (a) - (b), at the time the representations were made.

45. In truth and in fact, defendant Kevin Trudeau did not possess and rely upon a reasonable basis that substantiated the representations set forth in Paragraph 41 (a) - (b), at the time the representations were made.

46. Therefore, the representation set forth in Paragraph 44 is false and misleading and constitutes deceptive acts or practices in or affecting commerce, in violation of Section 5(a) of the FTC Act, 15 U.S.C. § 45(a).

COUNT V

KEVIN TRUDEAU'S MEGA MEMORY SYSTEM

47. Paragraphs 1 through 8, 16, 17, 19, and 20 are incorporated by reference.

48. Through the use of the statements referred to in Paragraphs 16 and 17, and others not specifically set forth herein, defendant Kevin Trudeau has represented, expressly or by implication, that:

(a) Kevin Trudeau's Mega Memory System will enable users to achieve a photographic memory.

(b) Scientific studies of Kevin Trudeau's Mega Memory System on seventh-grade students demonstrate that Kevin Trudeau's Mega Memory System will substantially improve their academic performance and grades.

(c) Scientific studies of Kevin Trudeau's Mega Memory System on blind children demonstrate that Kevin Trudeau's Mega Memory System will improve their recall ability to a level of 95% to 98%.

(d) Scientific studies of Kevin Trudeau's Mega Memory System on children with IQ's of fifty to sixty demonstrate that Kevin Trudeau's Mega Memory System will improve their recall ability to a level of almost 100%.

(e) Scientific studies of Kevin Trudeau's Mega Memory System on children with attention deficit disorder demonstrate that Kevin Trudeau's Mega Memory System will substantially improve their memory.

49. In truth and in fact:

(a) Kevin Trudeau's Mega Memory System will not enable users to achieve a photographic memory.

(b) Scientific studies of Kevin Trudeau's Mega Memory System on seventh-grade students do not demonstrate that Kevin Trudeau's Mega Memory System will substantially improve their academic performance and grades.

(c) Scientific studies of Kevin Trudeau's Mega Memory System on blind children do not demonstrate that Kevin Trudeau's Mega Memory System will improve their recall ability to a level of 95% to 98%.

(d) Scientific studies of Kevin Trudeau's Mega Memory System on children with IQ's of fifty to sixty do not demonstrate that Kevin Trudeau's Mega Memory System will improve their recall ability to a level of almost 100%.

(e) Scientific studies of Kevin Trudeau's Mega Memory System on children with attention deficit disorder do not demonstrate that Kevin Trudeau's Mega Memory System will substantially improve their memory.

50. Therefore, the representations set forth in Paragraph 48 are false and misleading and constitute deceptive acts or practices in or affecting commerce, in violation of Section 5(a) of the FTC Act, 15 U.S.C. 45(a).

51. Through the use of the statements referred to in Paragraphs 16 and 17, and others not specifically set forth herein, defendant Kevin Trudeau has represented, directly or by implication, that Kevin Trudeau's Mega Memory System is effective in causing adults or children with learning disabilities or attention deficit disorder to substantially improve their memory.

52. Through the use of the statements referred to in Paragraphs 16 and 17, and others not specifically set forth herein, defendant Kevin Trudeau has represented, expressly or by implication, that he possessed and relied upon a reasonable basis that substantiated the representations set forth in Paragraphs 48(a) and 51, at the time the representations were made.

53. In truth and in fact, defendant Kevin Trudeau did not possess and rely upon a reasonable basis that substantiated the representations set forth in Paragraphs 48(a) and

51, at the time the representations were made.

54. Therefore, the representation set forth in Paragraph 52 is false and misleading and constitutes deceptive acts or practices in or affecting commerce, in violation of Section 5(a) of the FTC Act, 15 U.S.C. § 45(a).

COUNT VI

HOWARD BERG'S MEGA READING

55. Paragraphs 1 through 8, 18, 19, and 20 are incorporated by reference.

56. Through the use of the statements referred to in Paragraph 18, and others not specifically set forth herein, defendant Kevin Trudeau has represented, expressly or by implication that Howard Berg's Mega Reading is successful in teaching anyone, including adults, children and disabled individuals, to significantly increase their reading speed while substantially comprehending and retaining the material.

57. In truth and in fact, Howard Berg's Mega Reading is not successful in teaching anyone, including adults, children and disabled individuals, to significantly increase their reading speed while substantially comprehending and retaining the material.

58. Therefore, the representation set forth in Paragraph 56 is false and misleading and constitutes deceptive acts or practices in or affecting commerce, in violation of Section 5(a) of the FTC Act, 15 U.S.C. § 45(a).

59. Through the use of the statements referred to in Paragraph 18, and others not specifically set forth herein, defendant Kevin Trudeau has represented, expressly or by implication, that he possessed and relied upon a reasonable basis that substantiated the representation set forth in Paragraph 56, at the time the representation was made.

60. In truth and in fact, defendant Kevin Trudeau did not possess and rely upon a reasonable basis that substantiated the representation set forth in Paragraph 56, at the time the representation was made.

61. Therefore, the representation set forth in Paragraph 59 is false and misleading and constitutes deceptive acts or practices in or affecting commerce, in violation of Section 5(a) of the FTC Act, 15 U.S.C. § 45(a).

COUNT VII

DECEPTIVE FORMAT

62. Paragraphs 1 through 9, 11, 12, 14, 16, 19, and 20 are incorporated by reference.

63. Through the advertisement and dissemination of defendant's television infomercials, including, but not limited to, "The Danny Bonaduce Show" (Exhibit I) and "A Closer Look" (Exhibits D, F, and G), and radio infomercials (Exhibits A and C), defendant has represented, directly or by implication, that these commercials are independent television and radio programs and not paid commercial advertising.

64. In truth and in fact, defendant's television and radio infomercials are not independent television and radio programs and are paid commercial advertising.

65. Therefore, the representation set forth in Paragraph 63 is false and misleading and constitutes deceptive acts or practices in or affecting commerce, in violation of Section 5(a) and 12 of the FTC Act, 15 U.S.C. 45(a).

CONSUMER INJURY

66. Consumers throughout the United States have suffered substantial monetary loss as a result of defendants' unfair or deceptive acts or practices. Absent injunctive relief by this Court, defendants are likely to continue to injure consumers and harm the public interest.

THIS COURT'S POWER TO GRANT RELIEF

67. Section 13(b) of the FTC Act, 15 U.S.C. 53(b) empowers this Court to grant injunctive relief and such other relief as the Court may deem appropriate to prevent and remedy violations of any provision of the law enforced by the Federal Trade Commission.

PRAYER FOR RELIEF

WHEREFORE, plaintiff, the Federal Trade Commission, requests that this Court:

1. Award plaintiff such preliminary injunctive and ancillary relief as may be necessary to avert the likelihood of consumer injury during the pendency of this action and to preserve the possibility of effective final relief;
2. Permanently enjoin defendant from violating Sections 5(a) and 12 of the FTC Act, as alleged herein, in connection with the advertising, marketing, and selling of merchandise by infomercials;
3. Award such relief as the Court finds necessary to redress consumers' injury resulting from defendants' violations of the FTC Act, including, but not limited to, rescission of contracts, refund of monies, and the disgorgement of ill-gotten gains; and
4. Award plaintiff the costs of bringing this action, as well as such other and additional relief as this Court may determine to be just and proper.

DATED: _____, 1998

Respectfully submitted,

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