

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

FEDERAL TRADE COMMISSION,

Plaintiff,

v.

TACHHT, INC., a Florida corporation,

TEQQI LLC, a Florida limited liability
company,

COLBY FOX, individually and as owner and
officer of TACHHT INC. and TEQQI LLC,
and

CHRISTOPHER REINHOLD, individually
and as manager of TEQQI LLC,

Defendants.

Case No. _____

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

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

1. The FTC brings this action under Sections 13(b) and 19 of the Federal Trade Commission Act (“FTC Act”), 15 U.S.C. §§ 53(b) and 57b, and Section 7(a) of the Controlling the Assault of Non-Solicited Pornography and Marketing Act of 2003 (“CAN-SPAM Act”), 15 U.S.C. § 7706(a), to obtain preliminary and permanent injunctive relief, restitution, the refund of monies paid, disgorgement of ill-gotten monies, and other equitable relief for Defendants’ acts or practices in violation of Section 5(a) and 12 of the FTC Act, 15 U.S.C. §§ 45(a) and 52, and the CAN-SPAM Act, 15 U.S.C. §§ 7701-7713.

JURISDICTION AND VENUE

2. This Court has subject matter jurisdiction pursuant to 28 U.S.C. §§ 1331, 1337(a), and 1345, and 15 U.S.C. §§ 45(a), 53(b), 57(b), and 7706(a).

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

PLAINTIFF

4. The FTC is an independent agency of the United States Government created by statute. 15 U.S.C. §§ 41-58. The FTC enforces Section 5(a) of the FTC Act, 15 U.S.C. § 45(a), which prohibits unfair or deceptive acts or practices in or affecting commerce. The FTC also enforces Section 12 of the FTC Act, 15 U.S.C. § 52, which prohibits false advertisements for food, drugs, devices, services, or cosmetics in or affecting commerce. The FTC also enforces the CAN-SPAM Act as if statutory violations of the CAN-SPAM Act “were an unfair or deceptive act or practice proscribed under Section 18(a)(1)(B) of the [FTC Act] (15 U.S.C. 57a (a)(1)(B)).” 15 U.S.C. § 7706(a).

5. The FTC is authorized to initiate federal district court proceedings, by its own attorneys, to enjoin violations of the FTC Act and the CAN-SPAM Act and to secure such equitable relief as may be appropriate in each case, including restitution, the refund of monies paid, and the disgorgement of ill-gotten monies. 15 U.S.C. §§ 53(b), 57b, and 7706(a).

DEFENDANTS

6. Defendant Tachht, Inc. (“Tachht”) is a Florida corporation with its registered address at 3017-D West Bay View Avenue, Tampa, Florida 33611. Tachht transacts or has transacted business in this district and throughout the United States. At all times material to this

Complaint, acting alone or in concert with others, Tachht has advertised, marketed, distributed, or sold weight-loss products to consumers throughout the United States.

7. Defendant Teqqi LLC (“Teqqi”) is a Florida limited liability company with its registered address at 312 East Harrison Street, Tampa, Florida, 33602. Teqqi transacts or has transacted business in this district and throughout the United States. At all times material to this Complaint, acting alone or in concert with others, Teqqi has advertised, marketed, distributed, or sold weight-loss products to consumers throughout the United States.

8. Defendant Colby Fox is the owner and an officer of Tachht and Teqqi. At all times material to this Complaint, acting alone or in concert with others, he has formulated, directed, controlled, had the authority to control, or participated in the acts and practices of Tachht and Teqqi, including the acts and practices set forth in this Complaint. Defendant Fox resides in this district and, in connection with the matters alleged herein, transacts or has transacted business in this district and throughout the United States. Among other things, Defendant Fox has controlled the processing of payments from consumers victimized by Defendants’ practices and has controlled payments to third-party marketers who advertise and market Defendants’ weight-loss products, including marketers who initiate unsolicited commercial electronic mail messages advertising Defendants’ weight-loss products.

9. Defendant Christopher Reinhold is a manager of Teqqi. At times material to this Complaint, acting alone or in concert with others, he has formulated, directed, controlled, had the authority to control, or participated in the acts and practices set forth in this Complaint. Defendant Reinhold resides in this district and, in connection with the matters alleged herein, transacts or has transacted business in this district and throughout the United States. Among other things, Defendant Reinhold has formulated, directed, controlled, had the authority to

control, or participated in the advertising and marketing of Defendants' weight-loss products, including the advertising and marketing through unsolicited commercial electronic mail messages.

10. Defendants Tachht and Teqqi (collectively, "Corporate Defendants") have operated as a common enterprise while engaging in the deceptive acts and practices and other violations of law alleged below. Defendants have conducted the business practices described below through interrelated companies that have common ownership, officers, managers, business functions, and office locations, and that commingled funds. Because these Corporate Defendants have operated as a common enterprise, each of them is jointly and severally liable for the acts and practices alleged below. Defendants Fox and Reinhold have formulated, directed, controlled, had the authority to control, or participated in the acts and practices of the Corporate Defendants that constitute the common enterprise.

COMMERCE

11. At all times material to this Complaint, Defendants have maintained a substantial course of trade in or affecting commerce, as "commerce" is defined in Section 4 of the FTC Act, 15 U.S.C. § 44.

DEFINITIONS

12. "**Electronic mail message**" (or "email") means a message sent to a unique electronic mail address. 15 U.S.C. § 7702(6).

13. "**Electronic mail address**" means a destination, commonly expressed as a string of characters, consisting of a unique user name or mailbox (commonly referred to as the "local part") and a reference to an Internet domain (commonly referred to as the "domain part"),

whether or not displayed, to which an electronic mail message can be sent or delivered. 15 U.S.C. § 7702(5).

14. “**Commercial electronic mail message**” means any electronic mail message the primary purpose of which is the commercial advertisement or promotion of a commercial product or service (including the content on an Internet website operated for commercial purposes). 15 U.S.C. § 7702(2).

15. “**Header Information**” means the source, destination, and routing information attached to an electronic mail message, including the originating domain name and originating electronic mail address, and any other information that appears in the line identifying, or purporting to identify, a person initiating the message. 15 U.S.C. § 7702(8).

16. “**Initiate**,” when used with respect to a commercial electronic mail message, means to originate or transmit such message or to procure the origination or transmission of such message. 15 U.S.C. § 7702(9).

17. “**Procure**,” when used with respect to the initiation of a commercial electronic mail message, means intentionally to pay or provide other consideration to, or induce, another person to initiate such a message on one’s behalf. 15 U.S.C. § 7702(12).

18. “**Protected Computer**” means a computer which is used in or affecting interstate or foreign commerce or communication, including a computer located outside the United States that is used in a manner that affects interstate or foreign commerce or communication of the United States. 15 U.S.C. § 7702(13).

19. “**Sender**” means a person who initiates a commercial electronic mail message and whose product, service, or Internet Web site is advertised or promoted by the message. 15 U.S.C. § 7702(16).

DEFENDANTS' BUSINESS ACTIVITIES

Defendants' Affiliate Marketing Practices

20. Since at least 2014, Defendants have advertised, marketed, promoted, and sold various products to consumers throughout the United States, including weight-loss products, which include but are not limited to Original Pure Forskolin, Original White Kidney Bean, and Mango Boost Cleanse (collectively, the "Weight-Loss Products").

21. Defendants have advertised, marketed, promoted and sold the Weight-Loss Products through websites they operate, including originalpureforskolin.com, myforskolinextract.com, ipureforskolin.com, originalpurenutra.com, originalwhitekidneybean.net, and mangoboostcleanse.com.

22. Defendants also advertise, market, and promote their Weight-Loss Products through "affiliate" marketers. These affiliate marketers attract consumers to Defendants' websites through various forms of marketing, including through unsolicited commercial electronic mail messages.

23. Since at least 2014, Defendants also have sent, or have hired affiliate marketers who have sent, unsolicited commercial electronic mail messages to consumers that appear to have been sent by consumers' friends, family members, or other contacts. These messages are in fact paid advertisements promoting Defendants' Weight-Loss Products and contain links that lead consumers to Defendants' websites.

24. Consumers who click on links in these unsolicited commercial electronic mail messages are taken to fake news websites, which are owned and operated by Defendants' affiliate marketers. These fake news websites appear to be objective news reports about Defendants' Weight-Loss Products. In fact, they are paid advertisements that advance false

weight-loss claims and contain links to Defendants' websites, where consumers can purchase Defendants' products.

25. Defendants pay a fee or commission to their affiliate marketer for each consumer who, after having clicked on one of the affiliate marketer's advertisements, purchases a Weight-Loss Product on Defendants' websites.

26. Consumers can receive Defendants' unsolicited commercial electronic mail messages and navigate their linked websites from a desktop or laptop computer or from a mobile device.

Defendants' Spam Email Campaign

27. Since at least July 2014, Defendants have initiated unsolicited commercial electronic mail messages to induce consumers to click on links in the messages.

28. In numerous instances, Defendants have initiated unsolicited commercial electronic mail messages that include header information, including the originating electronic mail address or the sender's name, indicating that the sender of the message is someone who is known to the recipient, such as a friend or family member. The subject headings of these messages also list the purported sender's name, reinforcing the impression that the recipient of the message knows the sender.

29. The body of Defendants' commercial electronic mail messages consists of a brief message accompanied by a hyperlink, such as:

Hi! CNN says this is one of the best [link]

Hi! Have you already seen it? [link]

Hi! [link]

30. The hyperlinks included in these messages, if clicked, take consumers to a fake news website.

31. Defendants are “initiators” of these commercial electronic mail messages, which they either have originated or transmitted themselves, or have procured the origination or transmission of, through payments or other consideration, or inducements.

32. Defendants also are “senders” of these commercial electronic mail messages, which they have initiated and which advertise or promote Defendants’ websites.

33. Defendants’ commercial electronic mail messages are not sent by the persons whose names or electronic mail addresses are listed in the header information and subject heading. These messages are not sent by persons known to the recipients of the messages. Rather, in numerous instances, Defendants have initiated commercial electronic mail messages, described above, containing false or misleading header information—specifically, header information suggesting that the emails were sent by persons known to the recipients. In numerous instances, Defendants have initiated these commercial electronic mail messages from email accounts that have been illegally accessed or to contact lists that have been illegally accessed.

34. Moreover, in numerous instances, Defendants have initiated commercial electronic mail messages that contain subject headers that misrepresent the content or subject matter of the message. In particular, the subject headers of these commercial electronic mail messages misrepresent that the same purported sender who is falsely identified in the email’s header has composed the email. These subject headers state, for example, “From [purported sender].”

35. In numerous instances, Defendants have initiated commercial electronic mail

messages that do not include any notification to recipients of their ability to decline receiving future commercial electronic mail messages from Defendants, and do not include a reply email address or other mechanism that recipients can use to decline receiving future commercial electronic mail messages from Defendants.

36. In numerous instances, Defendants have initiated commercial electronic mail messages that do not include a valid physical postal address of the sender.

Fake News Websites

37. Consumers who click on the hyperlinks in Defendants' commercial electronic mail messages are taken to websites designed to look like news reports about one of the Weight-Loss Products. The websites purport to provide objective investigative reports about one of the Weight-Loss Products. The supposed authors of the reports claim to have tested the products on themselves and experienced dramatic weight loss, such as 36 pounds in 9 weeks.

38. Defendants' unsolicited commercial electronic mail messages contain links to fake news websites with addresses like diet.com-hg86.net and diet.com-sx55.net. These websites include headlines such as "Insider Report: Oprah and Other Celebrities Lose 4 lbs / Week of Belly Fat With This Secret That Our Readers Can Try Now!" The websites often include the names, logos, or images of Oprah Winfrey and the television show "The Doctors," suggesting that the Weight-Loss Products have been reviewed or endorsed by those personalities.

39. Surrounding the reports are what appear to be profiles of ordinary consumers who have tried the Weight-Loss Products, like "Kristy Miami, FL" and "Kenna Shell." These profiles set forth additional claims of significant weight loss, such as "41.7 lbs in 2.5 months," that are supported by "before" and "after" photos showing consumers who appear to have

become noticeably slimmer. The fake news reports have links that lead to Defendants' websites, where consumers can purchase the Weight-Loss Products.

40. In fact, the news reports linked to by Defendants' unsolicited commercial electronic mail messages are fake. Defendants' Weight-Loss Products were never reviewed or endorsed by "The Doctors" or Oprah Winfrey. Reporters or consumers portrayed on the sites are fictional and never conducted the tests or experienced the results described in the reports. The reports and consumers' tales of weight-loss remain the same regardless of which of Defendants' various Weight-Loss Products is being marketed. The websites are not objective news reports but rather are paid advertisements, maintained by Defendants' affiliate marketers for Defendants.

Defendants' Merchant Websites

41. Consumers who click on the links in the fake news reports are taken to websites where Defendants sell their Weight-Loss Products. On their websites, Defendants reinforce the fake news websites' representation that their Weight-Loss Products have been shown on television or otherwise have been reviewed or endorsed by The Doctors or Oprah Winfrey. For example, the Defendants prominently claim:

ATTENTION: Due to recently being featured on T.V. we cannot guarantee supply. As of [date website visited] we currently have product IN STOCK and ship within 24 hours of purchase.

42. Defendants' websites also reinforce the false weight-loss claims. These websites feature prominent weight-loss claims like, "Burn Fat Quicker Without Dieting or Exercise." Defendants' websites also include prominent images of young, thin women who are wearing bikinis or holding tape measures around their waists. Defendants further entice consumers to purchase their products with the bold statement, "CLAIM YOUR FREE BOTTLE TODAY!"

43. Defendants require consumers who wish to order their Weight-Loss Products to enter their contact information, including name, address, telephone number, and email address. Consumers must also click on a button prominently labeled “HURRY! Select My Package: Special Discount Activated!” Upon clicking on the button, Defendants’ websites take consumers to a payment page.

44. Defendants’ payment page prompts consumers to choose the quantity of Defendants’ Weight-Loss Products they wish to order. To purchase Defendants’ Weight-Loss Products, consumers must also enter their credit or debit card payment information. Consumers must then click a button labeled “HURRY! RUSH MY ORDER”.

45. Defendants have disseminated, or caused to be disseminated, advertisements for the Weight-Loss Products. In these advertisements, Defendants have claimed that taking the Weight-Loss Products causes rapid and substantial weight loss.

46. In truth and in fact, the Weight-Loss Products do not cause rapid and substantial weight loss, nor do Defendants possess and rely upon a reasonable basis to substantiate representations that consumers who use the Weight-Loss Products will rapidly lose a substantial amount of weight.

VIOLATIONS OF THE FTC ACT

47. Section 5(a) of the FTC Act, 15 U.S.C. § 45(a), prohibits “unfair or deceptive acts or practices in or affecting commerce.”

48. Misrepresentations or deceptive omissions of material fact constitute deceptive acts or practices prohibited by Section 5(a) of the FTC Act.

49. Section 12 of the FTC Act, 15 U.S.C. § 52, prohibits the dissemination of any false advertisement in or affecting commerce for the purpose of inducing, or which is likely to

induce, the purchase of food, drugs, devices, services, or cosmetics. For the purposes of Section 12 of the FTC Act, 15 U.S.C. § 52, the Weight-Loss Products are either “food[s]” or “drug[s]” as defined in Section 15(b) and (c) of the FTC Act, 15 U.S.C. § 55(b), (c).

Count I

Misrepresentations Concerning Defendants’ Weight-Loss Products

50. Through the means described in Paragraphs 20 through 46, Defendants have represented, directly or indirectly, expressly or by implication, that use of Defendants’ Weight-Loss Products will result in rapid and substantial weight loss without diet or exercise, including losing as much as 36 pounds in 9 weeks.

51. The representations set forth in paragraph 50 are false, misleading, or were not substantiated at the time the representations were made.

52. Therefore, the making of the representations set forth in Paragraph 50 of this Complaint constitutes a deceptive act or practice and the making of false advertisements, in or affecting commerce, in violation of Sections 5(a) and 12 of the FTC Act, 15 U.S.C. §§ 45(a) & 52.

Count II

Misrepresentations (False Endorsements)

53. Through the means described in Paragraphs 20 through 46, Defendants have represented, directly or indirectly, expressly or by implication, that the Weight-Loss Products are used, endorsed, or approved by specifically identified celebrities such as Oprah and The Doctors.

54. The representations set forth in paragraph 53 are false and misleading.

55. Therefore, the making of the representations as set forth in Paragraph 53 of this Complaint constitutes a deceptive act or practice, in or affecting commerce, in violation of Section 5(a) of the FTC Act, 15 U.S.C. § 45(a).

VIOLATIONS OF THE CAN-SPAM ACT

56. The CAN-SPAM Act became effective on January 1, 2004, and has since remained in full force and effect.

57. Section 5(a)(1) of the CAN-SPAM Act, 15 U.S.C. § 7704(a)(1), states:

It is unlawful for any person to initiate the transmission, to a protected computer, of a commercial electronic mail message . . . that contains, or is accompanied by, header information that is materially false or materially misleading.

58. Section 5(a)(6) of the CAN-SPAM Act, 15 U.S.C. § 7704(a)(6), states:

For purposes of [section 5(a)(1)], the term “materially”, when used with respect to false or misleading header information, includes the alteration or concealment of header information in a manner that would impair the ability of an Internet access service processing the message on behalf of a recipient, a person alleging a violation of this section, or a law enforcement agency to identify, locate, or respond to a person who initiated the electronic mail message or to investigate the alleged violation, or the ability of a recipient of the message to respond to a person who initiated the electronic message.

59. Section 5(a)(2) of the CAN-SPAM Act, 15 U.S.C. § 7704(a)(2), states:

It is unlawful for any person to initiate the transmission to a protected computer of a commercial electronic mail message if such person has actual knowledge, or knowledge fairly implied on the basis of objective circumstances, that a subject heading of the message would be likely to mislead a recipient, acting reasonably under the circumstances, about a material fact regarding the content or subject matter of the message (consistent with the criteria used in enforcement of Section 5 of the Federal Trade Commission Act (15 U.S.C. § 45)).

60. Section 7(e) of the CAN-SPAM Act, 15 U.S.C. § 7706(e), states that in any action to enforce compliance through an injunction with Section 5(a)(2) and other specified sections of

the CAN-SPAM Act, the FTC need not allege or prove the state of mind required by such sections.

61. Section 5(a)(3)(A) of the CAN-SPAM Act, 15 U.S.C. § 7704(a)(3)(A), states:

It is unlawful for any person to initiate the transmission to a protected computer of a commercial electronic mail message that does not contain a functioning return electronic mail address or other Internet-based mechanism, clearly and conspicuously displayed, that—

- (i) a recipient may use to submit, in a manner specified in the message, a reply electronic mail message or other form of Internet-based communication requesting not to receive future commercial electronic mail messages from that sender at the electronic mail address where the message was received; and
- (ii) remains capable of receiving such messages or communications for no less than 30 days after the transmission of the original message.

62. Section 5(a)(5)(A) of the CAN-SPAM Act, 15 U.S.C. § 7704(a)(5)(A), states:

It is unlawful for any person to initiate the transmission of any commercial electronic mail message to a protected computer unless the message provides:

- (i) clear and conspicuous identification that the message is an advertisement or solicitation;
- (ii) clear and conspicuous notice of the opportunity under [section 5(a)(3)] to decline to receive further commercial electronic mail messages from the sender; and
- (iii) a valid physical postal address of the sender.

63. Section 7(a) of the CAN-SPAM Act, 15 U.S.C. § 7706(a), states:

[This Act] shall be enforced by the [FTC] as if the violation of this [Act] were an unfair or deceptive act or practice proscribed under section 18a(1)(B) of [the FTC Act] (15 U.S.C. 57a(a)(1)(B)).

Count III

Materially False or Misleading Header Information

64. In numerous instances, Defendants have initiated the transmission, to protected computers, of commercial electronic mail messages that contained, or were accompanied by, header information that is materially false or materially misleading.

65. Defendants' acts or practices, as described in paragraph 64 above, violate 15 U.S.C § 7704(a)(1).

Count IV

Misleading Subject Heading

66. In numerous instances, Defendants have initiated the transmission, to protected computers, of commercial electronic mail messages that contained subject headings that would be likely to mislead a recipient, acting reasonably under the circumstances, about a material fact regarding the contents or subject matter of the message.

67. Defendants' acts or practices, as described in paragraph 66 above, violate 15 U.S.C. § 7704(a)(2).

Count V

Failure to Provide Opt-Out and Notice of Opt-Out

68. In numerous instances, Defendants have initiated the transmission, to protected computers, of commercial electronic mail messages that do not include:

a. a clear and conspicuous notice of the recipient's opportunity to decline to receive further commercial electronic mail messages from Defendants at the recipient's electronic mail address; and/or

b. a functioning return electronic mail address or other Internet-based mechanism, clearly and conspicuously displayed, that a recipient could use to submit a reply electronic mail message or other form of Internet-based communication requesting not to receive future commercial electronic mail messages from Defendants at the electronic mail address where the message was received, and that remains capable of receiving such messages or communications for no less than 30 days after the transmission of the original message.

69. Defendants' acts or practices, as described in Paragraph 68 above, violate 15 U.S.C. § 7704(a)(5)(A)(ii) and § 7704(a)(3).

Count VI

Failure to Include Valid Physical Postal Address

70. In numerous instances, Defendants have initiated the transmission, to protected computers, of commercial electronic mail messages that do not include the sender's valid physical postal address.

71. Defendants' acts or practices, as described in Paragraph 70 above, violate 15 U.S.C. § 7704(a)(5)(A)(iii).

CONSUMER INJURY

72. Consumers have suffered and will continue to suffer substantial injury as a result of Defendants' violations of the FTC Act and the CAN-SPAM Act. In addition, Defendants have been unjustly enriched as a result of their unlawful acts or practices. Absent injunctive relief by this Court, Defendants are likely to continue to injure consumers, reap unjust enrichment, and harm the public interest.

THIS COURT'S POWER TO GRANT RELIEF

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

74. Section 19 of the FTC Act, 15 U.S.C. § 57b, and the CAN-SPAM Act, 15 U.S.C. § 7706, authorizes this Court to grant such relief as the Court finds necessary to redress injury to consumers resulting from Defendants' violations of the CAN-SPAM Act, including the refund of money.

PRAYER FOR RELIEF

Wherefore, Plaintiff FTC, pursuant to Sections 13(b) and 19 of the FTC Act, 15 U.S.C. §§ 53(b) and 57b, and Section 7(a) of the CAN-SPAM Act, 15 U.S.C. § 7706, and the Court's own equitable powers, requests that the Court:

A. 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, including but not limited to, temporary and preliminary injunctions, an order freezing assets, immediate access, and an appointment of a receiver;

B. Enter a permanent injunction to prevent future violations of the FTC Act and the CAN-SPAM Act by Defendants;

C. Award such relief as the Court finds necessary to redress injury to consumers resulting from Defendants' violations of the FTC Act and the CAN-SPAM Act, including but not limited to, restitution, the refund of monies paid, and the disgorgement of ill-gotten monies; and

D. Award Plaintiff the costs of bringing this action, as well as such other and additional relief as the Court may determine to be just and proper.

Respectfully submitted,

David C. Shonka
Acting General Counsel

Dated: June 1, 2016

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