

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,

Defendants.

Case No. 8:16-cv-1397-JDW-AEP

Hon. Judge James D. Whittemore

**STIPULATED ORDER FOR  
PERMANENT INJUNCTION AND MONETARY JUDGMENT  
AS TO DEFENDANTS TACHHT, INC., TEQQI LLC, AND COLBY FOX**

Plaintiff, the Federal Trade Commission (“Commission” or “FTC”), filed its Complaint For Permanent Injunction and Other Equitable Relief (“Complaint”), pursuant to Sections 13(b) and 19 of the Federal Trade Commission Act (“FTC Act”), 15 U.S.C. §§ 53(b) and 57(b), and Section 7(a) of the Controlling the Assault of Non-Solicited Pornography and Marketing Act of 2003 (the “CAN-SPAM Act”), 15 U.S.C. § 7706(a). The Commission and Defendants Tachht, Inc., Teqqi LLC, and Colby Fox (collectively, “Stipulating Defendants”), stipulate to the entry of this Stipulated Order for Permanent Injunction and Monetary Judgment (“Order”) to resolve all matters in dispute in this action between them.

**THEREFORE, IT IS ORDERED** as follows:

### FINDINGS

1. This Court has jurisdiction over this matter.
2. The Complaint charges that Defendants participated in deceptive and illegal acts or practices that violate Sections 5(a) and 12 of the FTC Act, 15 U.S.C. §§ 45(a) & 52, and Section 5(a) of the CAN-SPAM Act, 15 U.S.C. § 7704(a), in the advertising, marketing, promoting, offering for sale, or selling of dietary supplements online, including through commercial electronic mail messages.
3. Stipulating Defendants neither admit nor deny any of the allegations in the Complaint, except as specifically stated in this Order. Only for purposes of this action, Stipulating Defendants admit the facts necessary to establish jurisdiction.
4. Stipulating Defendants waive any claim that they may have under the Equal Access to Justice Act, 28 U.S.C. § 2412, concerning the prosecution of this action through the date of this Order, and agree to bear their own costs and attorney fees.
5. Stipulating Defendants waive all rights to appeal or otherwise challenge or contest the validity of this Order.

### DEFINITIONS

For the purposes of this Order, the following definitions apply:

1. “**Affiliate**” means any person, including third-party marketers, who participates in an affiliate program.
2. “**Affiliate Network**” means any person who provides another person with affiliates for an affiliate program or whom any person contracts with as an affiliate to promote any product, service, or program.

3. **“Affiliate Program(s)”** means (a) any arrangement under which any marketer or seller of a product, service, or program pays, offers to pay, or provides or offers to provide any form of consideration to any Stipulating Defendant, either directly or through an affiliate network, to (i) provide the marketer or seller with, or refer to the marketer or seller, potential or actual customers; or (ii) otherwise market, advertise, or offer for sale the product or service on behalf of the marketer or seller; or (b) any arrangement under which any Stipulating Defendant pays, offers to pay, or provides or offers to provide any form of consideration to any third party, either directly or through an affiliate network, to (i) provide any Stipulating Defendant with, or refer to any Stipulating Defendant, potential or actual customers; or (ii) otherwise market, advertise, or offer for sale any product, service, or program on behalf of any Stipulating Defendant.

4. **“Clear(ly) and conspicuous(ly)”** means that a required disclosure is difficult to miss (*i.e.*, easily noticeable) and easily understandable by ordinary consumers, including in all of the following ways:

a. In any communication that is solely visual or solely audible, the disclosure must be made through the same means through which the communication is presented. In any communication made through both visual and audible means, such as a television advertisement, the disclosure must be presented simultaneously in both the visual and audible portions of the communication, even if the representation requiring the disclosure is made in only one means.

b. A visual disclosure, by its size, contrast, location, the length of time it appears, and other characteristics, must stand out from any accompanying text or other visual elements so that it is easily noticed, read, and understood.

c. An audible disclosure, including by telephone or streaming video, must be delivered in a volume, speed, and cadence sufficient for ordinary consumers to easily hear and understand it.

d. In any communication using an interactive electronic medium, such as the Internet or software, the disclosure must be unavoidable.

e. The disclosure must use diction and syntax understandable to ordinary consumers and must appear in each language in which the representation that requires the disclosure appears.

f. The disclosure must comply with these requirements in each medium through which it is received, including all electronic devices and face-to-face communications.

g. The disclosure must not be contradicted or mitigated by, or inconsistent with, anything else in the communication.

h. When the representation or sales practice targets a specific audience, such as children, the elderly, or the terminally ill, "ordinary consumers" includes reasonable members of that group.

5. "**Commercial electronic mail message**" (or "**commercial email**") 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).

6. "**Corporate Defendants**" means Tachht Inc., a Florida corporation, and Teqqi LLC, a Florida limited liability company, and their successors and assigns.

7. "**Cosmetic**" means:

a. articles to be rubbed, poured, sprinkled, or sprayed on, introduced into, or otherwise applied to the human body or any part thereof intended for cleansing, beautifying, promoting attractiveness, or altering the appearance; and

b. articles intended for use as a component of any such article; except that such term shall not include soap. 15 U.S.C. § 55(e).

8. **“Covered Product”** means any dietary supplement, food, drug, or cosmetic product.

9. **“Defendants”** means all of the Individual Defendants and the Corporate Defendants, individually, collectively, or in any combination.

10. **“Dietary supplement”** means:

a. any product labeled as a dietary supplement or otherwise represented as a dietary supplement; or

b. any pill, tablet, capsule, powder, softgel, gelcap, liquid, or other similar form containing one or more ingredients that is a vitamin, mineral, herb or other botanical, amino acid, probiotic, or other dietary substance to supplement the diet by increasing the total dietary intake, or a concentrate, metabolite, constituent, extract, or combination of any ingredient described above, that is intended to be ingested, and is not represented to be used as a conventional food or as a sole item of a meal or the diet.

11. **“Drug”** means:

a. articles recognized in the official United States Pharmacopoeia, official Homoeopathic Pharmacopoeia of the United States, or official National Formulary, or any supplement to any of them;

b. articles intended for use in the diagnosis, cure, mitigation, treatment, or

prevention of disease in man or other animals;

c. articles (other than food) intended to affect the structure or any function of the body of man or other animals; and

d. articles intended for use as a component of any article specified in subsection (a), (b), or (c); but does not include devices or their components, parts, or accessories. 15 U.S.C. § 55(c).

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. **“Essentially equivalent product”** means a product that contains the identical ingredients, except for inactive ingredients (*e.g.*, binders, colors, fillers, excipients), in the same form and dosage, and with the same route of administration (*e.g.*, orally, sublingually), as the Covered Product; *provided that* the Covered Product may contain additional ingredients if reliable scientific evidence generally accepted by experts in the relevant field indicates that the amount and combination of additional ingredients is unlikely to impede or inhibit the effectiveness of the ingredients in the Essentially Equivalent Product.

15. **“Food”** means:

- a. articles used for food or drink for man or other animals;
- b. chewing gum; and

c. articles used for components of any such article. 15 U.S.C. § 55(b).

16. “**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).

17. “**Individual Defendants**” means Colby Fox and Christopher Reinhold, by whatever names they may be known.

18. “**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).

19. “**Plaintiff**,” “**Commission**,” or “**FTC**” means the Federal Trade Commission.

20. “**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).

21. “**Reliably reported**,” for a human clinical test or study (“test”), means a report of the test has been published in a peer-reviewed journal, and such published report provides sufficient information about the test for experts in the relevant field to assess the reliability of the results.

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

23. “**Stipulating Defendants**” means the Stipulating Individual Defendant and the Corporate Defendants, individually, collectively, or in any combination

24. “**Stipulating Individual Defendant**” means Colby Fox, by whatever names he may be known.

I.

**PROHIBITED WEIGHT-LOSS AND DISEASE TREATMENT CLAIMS**

**IT IS ORDERED** that Stipulating Defendants, Stipulating Defendants’ officers, agents, employees, and attorneys, and all other persons in active concert or participation with any of them, who receive actual notice of this Order, whether acting directly or indirectly, in connection with the manufacturing, labeling, advertising, promotion, offering for sale, sale, or distribution of any Covered Product, are hereby permanently restrained and enjoined from making, or assisting others in making, expressly or by implication, including through the use of a product name, endorsement, depiction, or illustration, any representation that:

A. Such Covered Product causes or assists in causing, weight loss, or any specific amount of weight loss;

B. Such Covered Product causes, or assists in causing, rapid weight loss;

C. Consumers who use the Covered Product can generally expect to achieve the weight loss results represented by an endorser of such product; or

D. Such Covered Product cures, mitigates, or treats any disease;

unless the representation is non-misleading and, at the time of making such representation, Stipulating Defendants possess and rely upon competent and reliable scientific evidence to substantiate that the representation is true. For purposes of this Section, competent and reliable scientific evidence shall consist of human clinical testing of the Covered Product, or of an Essentially Equivalent Product, that is sufficient in quality and quantity based on standards generally accepted by experts in the relevant disease, condition, or function to which the



representation relates, when considered in light of the entire body of relevant and reliable scientific evidence, to substantiate that the representation is true. Such testing shall be: (1) randomized, double-blind, and placebo-controlled; and (2) conducted by researchers qualified by training and experience to conduct such testing. In addition, all underlying or supporting data and documents generally accepted by experts in the relevant field as relevant to an assessment of such testing as described in the Section entitled "Preservation of Records Relating to Competent and Reliable Human Clinical Tests or Studies" must be available for inspection and production to Plaintiffs. Stipulating Defendants shall have the burden of proving that a product satisfies the definition of Essentially Equivalent Product.

## II.

### **PROHIBITED REPRESENTATIONS: OTHER HEALTH-RELATED CLAIMS**

**IT IS FURTHER ORDERED** that Stipulating Defendants, Stipulating Defendants' officers, agents, employees, and attorneys, and all other persons in active concert or participation with any of them, who receive actual notice of this Order, whether acting directly or indirectly, in connection with the manufacturing, labeling, advertising, promotion, offering for sale, sale, or distribution of any Covered Product, are permanently restrained and enjoined from making, or assisting others in making, directly or by implication, including through the use of a product name, endorsement, depiction, or illustration, any representation, other than representations covered under Section I of this Order, about the health benefits, safety, performance, or efficacy of any Covered Product, unless the representation is non-misleading, and, at the time of making such representation, Stipulating Defendants possess and rely upon competent and reliable scientific evidence that is sufficient in quality and quantity based on standards generally accepted by experts in the relevant disease, condition, or function to which the representation relates

(“qualified experts”), when considered in light of the entire body of relevant and reliable scientific evidence, to substantiate that the representation is true.

For purposes of this Section, competent and reliable scientific evidence means tests, analyses, research, or studies (1) that have been conducted and evaluated in an objective manner by qualified experts; (2) that are generally accepted by qualified experts to yield accurate and reliable results; and (3) that are randomized, double-blind, and placebo-controlled human clinical testing of the Covered Product or an Essentially Equivalent Product, when qualified experts would generally require such human clinical testing to substantiate that the representation is true. In addition, when such tests or studies are human clinical tests or studies, all underlying or supporting data and documents generally accepted by experts in the field as relevant to an assessment of such testing as set forth in the Section entitled Preservation of Records Relating to Competent and Reliable Human Clinical Tests or Studies must be available for inspection and production to the Commission.

### III.

#### **PROHIBITED REPRESENTATIONS REGARDING TESTS, STUDIES, OR INGREDIENTS**

**IT IS FURTHER ORDERED** that Stipulating Defendants, Stipulating Defendants’ officers, agents, employees, and attorneys, and all other persons in active concert or participation with any of them, who receive actual notice of this Order, whether acting directly or indirectly, in connection with the manufacturing, labeling, advertising, promotion, offering for sale, sale, or distribution of any Covered Product are permanently restrained and enjoined from misrepresenting, or assisting others in misrepresenting, expressly or by implication, including through the use of any product name, endorsement, depiction, or illustration:

- A. That any Covered Product is clinically proven to cause weight loss;

B. That the performance or benefits of any Covered Product or service are scientifically or clinically proven; or

C. The existence, contents, validity, results, conclusions, or interpretations of any test, study, or research.

**IV.**

**FDA-APPROVED CLAIMS**

**IT IS FURTHER ORDERED** that nothing in this Order shall prohibit Stipulating Defendants from:

A. Making any representation for any drug that is permitted in labeling for such drug under any tentative or final monograph promulgated by the Food and Drug Administration, or under any new drug application approved by the Food and Drug Administration; and

B. Making any representation for any product that is specifically permitted in labeling for such product by regulations promulgated by the Food and Drug Administration pursuant to the Nutrition Labeling and Education Act of 1990 or permitted under Sections 303-304 of the Food and Drug Administration Modernization Act of 1997.

**V.**

**PRESERVATION OF RECORDS RELATING TO COMPETENT AND RELIABLE HUMAN CLINICAL TESTS OR STUDIES**

**IT IS FURTHER ORDERED** that, with regard to any human clinical test or study (“test”) upon which Stipulating Defendants rely to substantiate any claim covered by this Order, Stipulating Defendants shall secure and preserve all underlying or supporting data and documents generally accepted by experts in the field as relevant to an assessment of the test, including, but not necessarily limited to:

A. All protocols and protocol amendments, reports, articles, write-ups, or other

accounts of the results of the test, and drafts of such documents reviewed by the test sponsor or any other person not employed by the research entity;

B. All documents referring or relating to recruitment; randomization; instructions, including oral instructions, to participants; and participant compliance;

C. Documents sufficient to identify all test participants, including any participants who did not complete the test, and all communications with any participants relating to the test; all raw data collected from participants enrolled in the test, including any participants who did not complete the test; source documents for such data; any data dictionaries; and any case report forms;

D. All documents referring or relating to any statistical analysis of any test data, including, but not limited to, any pretest analysis, intent-to-treat analysis, or between-group analysis performed on any test data; and

E. All documents referring or relating to the sponsorship of the test, including all communications and contracts between any sponsor and the test's researchers.

*Provided, however,* the preceding preservation requirement shall not apply to a reliably reported test, unless the test was conducted, controlled, or sponsored, in whole or in part by: (1) any Stipulating Defendant; (2) any Stipulating Defendant's officers, agents, representatives, or employees; (3) any other person or entity in active concert or participation with any Stipulating Defendant; (4) any person or entity affiliated with or acting on behalf of any Stipulating Defendant; (5) any supplier of any ingredient contained in the product at issue to any of the foregoing or to the product's manufacturer; or (6) the supplier or manufacturer of such product.

For any test conducted, controlled, or sponsored, in whole or in part, by Stipulating Defendants, Stipulating Defendants must establish and maintain reasonable procedures to protect the confidentiality, security, and integrity of any personal information collected from or about participants. These procedures shall be documented in writing and shall contain administrative, technical, and physical safeguards appropriate to Stipulating Defendants' size and complexity, the nature and scope of Stipulating Defendants' activities, and the sensitivity of the personal information collected from or about the participants.

**VI.**

**PROHIBITED BUSINESS ACTIVITIES**

**IT IS FURTHER ORDERED** that Stipulating Defendants, Stipulating Defendants' officers, agents, employees, and attorneys, and all other persons in active concert or participation with any of them, who receive actual notice of this Order, whether acting directly or indirectly, in connection with the advertising, marketing, promotion, offering for sale, or sale of any product, service, or program, are permanently restrained and enjoined from:

- A. Misrepresenting, or assisting others in misrepresenting, expressly or by implication, any material fact, including, but not limited to:
1. that any product, service, or program is or has been used, endorsed, or approved by specifically identified individuals, including celebrities such as Oprah Winfrey, Rachel Ray, and any doctor featured on The Doctors television show;
  2. that any consumer testimonial reflects typical consumer experiences with a product, service, or program;
  3. that any website or other publication is an objective news report;
  4. that objective news reporters have performed independent tests of any

product, service, or program, including, but not limited to, any Covered Product;

5. that independent tests demonstrate the effectiveness of any product, service, or program featured in any website or other publication, including, but not limited to, any Covered Product;

6. the total cost to purchase, receive, or use a product, service, or program;

7. any material restrictions, limitations, or conditions to purchase, receive, or use a product, service, or program;

8. any material aspect of the performance, efficacy, nature, or central characteristics of a product, service, or program; and

9. any material aspect of the nature or terms of a refund, cancellation, exchange, or repurchase policy for a product, service, or program.

B. Failing to, in connection with the advertising, promotion, marketing, offering for sale, sale, or provision of any product, service, or program through an Affiliate Program:

1. Require each Affiliate and/or Affiliate Network to provide to Stipulating Defendants the following identifying information:

a. In the case of a natural person, the Affiliate's or Affiliate Network's first and last name, physical address, country, telephone number, email address, and complete bank account information as to where payments are to be made to that person;

b. In the case of a business entity, the Affiliate's or Affiliate Network's name and any and all names under which it does business, state of incorporation, registered agent, and the first and last name, physical address, country, telephone number, and email address for at least one natural person who owns, manages, or controls the Affiliate or

Affiliate Network, and the complete bank account information as to where payments are to be made to the Affiliate or Affiliate Network;

c. If Stipulating Defendants have access to certain Affiliates only through an Affiliate Network, then Stipulating Defendants shall contractually require each Affiliate Network to obtain and maintain from those Affiliates the identifying information set forth in Subsection B.1.a and B.1.b of this Section prior to the Affiliate's or Affiliate Network's participation in any Stipulating Defendant's Affiliate Program.

2. As a condition of doing business with any Affiliate or Affiliate Network or such Affiliate or Affiliate Network's acceptance into any Stipulating Defendant's Affiliate Program: (a) provide each such Affiliate or Affiliate Network a copy of this Order; (b) obtain from each such Affiliate or Affiliate Network a signed and dated statement acknowledging receipt of this Order and expressly agreeing to comply with those provisions of this Order; and (c) clearly and conspicuously disclose in writing that engaging in acts or practices prohibited by this Order will result in immediate termination of any Affiliate or Affiliate Network and forfeiture of all monies owed to such Affiliate or Affiliate Network; *provided, however*, that if Stipulating Defendants have access to certain Affiliates only through an Affiliate Network, then Stipulating Defendants shall contractually require that the Affiliate Network provide the information required by this Subsection to each of those Affiliates and retain proof of the same prior to any such Affiliate being used in any Stipulating Defendant's Affiliate Program; and if Stipulating Defendants should acquire an entity that has an existing program of selling through Affiliates, the entity must complete all steps in this Subsection prior to Stipulating Defendants' acquisition of the entity.

3. Require that each Affiliate or Affiliate Network, prior to the public use or dissemination to consumers of any marketing materials, including, but not limited to, websites, emails, and pop-ups used by any Affiliate or Affiliate Network to advertise, promote, market, offer for sale, or sell any goods or services, provide Stipulating Defendants with the following information: (a) copies of all materially different marketing materials to be used by the Affiliate or Affiliate Network, including text, graphics, video, audio, and photographs; (b) each location the Affiliate or Affiliate Network maintains, or directly or indirectly controls, where the marketing materials will appear, including the URL of any website; and (c) for hyperlinks contained within the marketing materials, each location to which a consumer will be transferred by clicking on the hyperlink, including the URL of any website. Stipulating Defendants shall also require each Affiliate or Affiliate Network to maintain and provide to Stipulating Defendants upon request records of the dates when the marketing materials are publicly used or disseminated to consumers. *Provided, however,* that if Stipulating Defendants have access to certain Affiliates only through an Affiliate Network, then Stipulating Defendants shall contractually require that the Affiliate Network obtain and maintain the same information set forth above from each of those Affiliates who are part of any Stipulating Defendant's Affiliate Program prior to the public use or dissemination to consumers of any such marketing materials, and provide proof to such Stipulating Defendant of having obtained the same.

4. Promptly review the marketing materials specified in Section VI.B.3 above as necessary to ensure compliance with this Order. Stipulating Defendants shall also promptly take steps as necessary to ensure that the marketing materials provided to Stipulating Defendants under Section VI.B.3 above are the marketing materials publicly used or disseminated to consumers by the Affiliate or Affiliate Network. If a Stipulating Defendant



determines that use of any marketing materials does not comply with this Order, such Stipulating Defendant shall inform the Affiliate or Affiliate Network in writing that approval to use such marketing materials is denied and shall not pay any amounts to the Affiliate or Affiliate Network for such marketing, including any payments for leads, “click-throughs,” or sales resulting therefrom. *Provided, however,* that if Stipulating Defendants have access to certain Affiliates only through an Affiliate Network, then Stipulating Defendants shall contractually require that the Affiliate Network comply with the procedures set forth in this Subsection as to those Affiliates.

5. Promptly investigate any complaints that any Stipulating Defendant receives through any source to determine whether any Affiliate or Affiliate Network is engaging in acts or practices prohibited by this Order, either directly or through any Affiliate that is part of any Stipulating Defendant’s Affiliate Program.

6. Upon determining that any Affiliate or Affiliate Network has engaged in, or is engaging in, acts or practices prohibited by this Order, either directly or through any Affiliate that is part of any Stipulating Defendant’s Affiliate Program, immediately:

a. Disable any connection between the Stipulating Defendant’s Affiliate Program and the marketing materials used by the Affiliate or Affiliate Network to engage in such acts or practices prohibited by this Order;

b. Halt all payments to the Affiliate or Affiliate Network resulting from such acts or practices prohibited by this Order; and

c. Terminate the Affiliate or Affiliate Network; *provided, however,* Stipulating Defendants shall not be in violation of this subsection if Stipulating Defendants fail to terminate an Affiliate Network in a case where Stipulating Defendants’ only access to an

Affiliate who has engaged in acts or practices prohibited by this Order is through an Affiliate Network and Stipulating Defendants receive notice that the Affiliate Network immediately terminated the Affiliate violating this Order from any Affiliate Program maintained by any Stipulating Defendant.

**VII.**

**PROHIBITIONS AGAINST  
COMMERCIAL EMAIL MISREPRESENTATIONS**

**IT IS FURTHER ORDERED** that Stipulating Defendants, Stipulating Defendants' officers, agents, employees, and attorneys, and all other persons in active concert or participation with any of them, who receive actual notice of this Order, whether acting directly or indirectly, in connection with the advertising, marketing, promotion, offering for sale, or sale of any product, service, or program, are permanently restrained and enjoined from violating Sections 5 and 6 of the CAN-SPAM Act, 15 U.S.C. §§ 7704 and 7705, of which a copy of the CAN-SPAM Act, 15 U.S.C. §§ 7701-7713, is attached and herein incorporated, by, including but not limited to, initiating, procuring, or transmitting, or assisting others in initiating, procuring, or transmitting, a commercial electronic mail message that:

A. Contains, or is accompanied by, materially false or materially misleading header information, including but not limited to:

1. an originating electronic mail address, domain name, or Internet Protocol address when the access to such originating electronic email address, domain name or Internet Protocol address was obtained by means of false or fraudulent pretenses or representations;

2. a "from" line (the line identifying or purporting to identify the person initiating the message) that does not accurately identify any person who initiated the message; or

3. fails to identify accurately a protected computer used to initiate the message;

B. Contains a subject heading likely to mislead a recipient, acting reasonably under the circumstances, about a material fact regarding the contents or subject matter of the message;

C. Does not include a clear and conspicuous notice of the recipient's opportunity to decline to receive further commercial electronic mail messages from the sender at the recipient's electronic mail address and describes the means by which the recipient can decline to receive future commercial email messages from the sender;

D. Does not include a functioning return electronic mail address or other Internet-based mechanism, clearly and conspicuously displayed, that a recipient can 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 the sender 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;

E. Does not include the sender's valid physical postal address; or

F. Is sent to a recipient's email address, more than 10 business days after the sender receives a request from that email recipient not to receive future commercial electronic mail messages from the sender at the recipient's electronic mail address.

#### VIII.

#### MONETARY JUDGMENT AND PARTIAL SUSPENSION

**IT IS FURTHER ORDERED** that:

A. Judgment in the amount of One Million, Three Hundred Three Thousand, Eight Hundred Twenty-Two Dollars and Ninety-Eight Cents (\$1,303,822.98) is entered in favor of the

Commission against Stipulating Individual Defendant and Corporate Defendants, jointly and severally, as equitable monetary relief.

B. Stipulating Defendants are ordered to pay to the Commission Five Hundred Thousand Dollars (\$500,000.00), which, as Stipulating Defendants stipulate, their undersigned counsel holds in escrow for no purpose other than payment to the Commission. Such payment must be made within 7 days of entry of this Order by electronic fund transfer in accordance with instructions previously provided by a representative of the Commission. Upon such payment, the remainder of the judgment is suspended, subject to the Subsections below.

C. The Commission's agreement to the suspension of part of the judgment is expressly premised upon the truthfulness, accuracy, and completeness of Stipulating Defendants' sworn financial statements and related documents (collectively, "financial representations") submitted to the Commission, namely:

1. the Financial Statement of Individual Defendant Colby Fox, signed on December 16, 2016, including the attachments;
2. the Declaration of Colby Fox, signed on December 16, 2016, including the attachments;
3. the Financial Statement of Corporate Defendant Tachht, Inc., signed by Colby Fox, CEO, on December 16, 2016, including the attachments; and
4. the Financial Statement of Corporate Defendant Teqqi LLC, signed by Colby Fox, CEO, on December 16, 2016, including the attachments.

D. The suspension of the judgment will be lifted as to any Stipulating Defendant if, upon motion by the Commission, the Court finds that Stipulating Defendant failed to disclose

any material asset, materially misstated the value of any asset, or made any other material misstatement or omission in the financial representations identified above.

E. If the suspension of the judgment is lifted, the judgment becomes immediately due as to that Stipulating Defendant in the amount specified in Subsection A. above (which the parties stipulate only for purposes of this Section represents the consumer injury alleged in the Complaint), less any payment previously made pursuant to this Section, plus interest computed from the date of entry of this Order.

F. Stipulating Defendants relinquish dominion and all legal and equitable right, title, and interest in all assets transferred pursuant to this Order and may not seek the return of any assets.

G. The facts alleged in the Complaint will be taken as true, without further proof, in any subsequent civil litigation by or on behalf of the Commission, including in a proceeding to enforce its rights to any payment or monetary judgment pursuant to this Order, such as a nondischargeability complaint in any bankruptcy case.

H. The facts alleged in the Complaint establish all elements necessary to sustain an action by the Commission pursuant to Section 523(a)(2)(A) of the Bankruptcy Code, 11 U.S.C. § 523(a)(2)(A), and this Order will have collateral estoppel effect for such purposes.

I. Stipulating Defendants acknowledge that their Taxpayer Identification Numbers (Social Security Numbers or Employer Identification Numbers), which Stipulating Defendants previously submitted to the Commission, may be used for collecting and reporting on any delinquent amount arising out of this Order, in accordance with 31 U.S.C. § 7701.

J. All money paid to the Commission pursuant to this Order may be deposited into a fund administered by the Commission or its designee to be used for equitable relief, including

consumer redress and any attendant expenses for the administration of any redress fund. If a representative of the Commission decides that direct redress to consumers is wholly or partially impracticable or money remains after redress is completed, the Commission may apply any remaining money for such other equitable relief (including consumer information remedies) as it determines to be reasonably related to Stipulating Defendants' practices alleged in the Complaint or deposit funds not used for such equitable relief to the U.S. Treasury as disgorgement. Stipulating Defendants have no right to challenge any actions the Commission or its representatives may take pursuant to this Subsection.

**IX.**

**CUSTOMER INFORMATION**

**IT IS FURTHER ORDERED** that Stipulating Defendants, Stipulating Defendants' officers, agents, employees, and attorneys, and all other persons in active concert or participation with any of them who receive actual notice of this Order, whether acting directly or indirectly, are permanently restrained and enjoined from directly or indirectly:

A. Failing to provide sufficient customer information to enable the Commission to efficiently administer consumer redress. Stipulating Defendants represent that they have provided customer information in their possession, custody, or control to the Commission. If a representative of the Commission requests in writing any information related to redress, Stipulating Defendants must provide it, in the form prescribed by the Commission, within 14 days.

B. Disclosing, using, or benefitting from customer information, including the name, address, telephone number, email address, social security number, other identifying information, or any data that enables access to a customer's account (including a credit card, bank account, or

other financial account), that any Defendant obtained prior to entry of this Order in connection with the sale or marketing of weight-loss products; and

C. Failing to destroy such customer information in all forms in their possession, custody, or control within 30 days after receipt of written direction to do so from a representative of the Commission.

*Provided, however,* that customer information need not be disposed of, and may be disclosed, to the extent requested by a government agency or required by law, regulation, or court order.

**X.**

**COOPERATION**

**IT IS FURTHER ORDERED** that Stipulating Defendants must fully cooperate with representatives of the Commission in this case and in any investigation related to or associated with the transactions or the occurrences that are the subject of the Complaint. Stipulating Defendants must provide truthful and complete information, evidence, and testimony. Stipulating Individual Defendant must appear and Corporate Defendants must cause their officers, employees, representatives, or agents to appear for interviews, discovery, hearings, trials, and any other proceedings that a Commission representative may reasonably request upon 5 days written notice, or other reasonable notice, at such places and times as a Commission representative may designate, without the service of a subpoena.

**XI.**

**ORDER ACKNOWLEDGMENTS**

**IT IS FURTHER ORDERED** that Stipulating Defendants obtain acknowledgments of receipt of this Order:

A. Each Stipulating Defendant, within 7 days of entry of this Order, must submit to the Commission an acknowledgment of receipt of this Order sworn under penalty of perjury.

B. For 3 years after entry of this Order, Stipulating Individual Defendant for any business that such Defendant, individually or collectively with any other Defendant, is the majority owner or controls directly or indirectly, and each Corporate Defendant, must deliver a copy of this Order to: (1) all principals, officers, directors, and LLC managers and members; (2) all employees, agents, and representatives who participate in conduct related to the subject matter of the Order; and (3) any business entity resulting from any change in structure as set forth in the Section titled Compliance Reporting. Delivery must occur within 7 days of entry of this Order for current personnel. For all others, delivery must occur before they assume their responsibilities.

C. From each individual or entity to which a Stipulating Defendant delivered a copy of this Order, that Stipulating Defendant must obtain, within 30 days, a signed and dated acknowledgment of receipt of this Order.

## **XII.**

### **COMPLIANCE REPORTING**

**IT IS FURTHER ORDERED** that Stipulating Defendants make timely submissions to the Commission:

A. One year after entry of this Order, each Stipulating Defendant must submit a compliance report, sworn under penalty of perjury:

1. Each Stipulating Defendant must: (a) identify the primary physical, postal, and email address and telephone number, as designated points of contact, which representatives of the Commission may use to communicate with Stipulating Defendant;



(b) identify all of that Stipulating Defendant's businesses by all of their names, telephone numbers, and physical, postal, email, and Internet addresses; (c) describe the activities of each business, including the goods and services offered, the means of advertising, marketing, and sales, and the involvement of any other Defendant (which Stipulating Individual Defendant must describe if they know or should know due to their own involvement); (d) describe in detail whether and how that Stipulating Defendant is in compliance with each Section of this Order; and (e) provide a copy of each Order Acknowledgment obtained pursuant to this Order, unless previously submitted to the Commission.

2. Additionally, Stipulating Individual Defendant must: (a) identify all telephone numbers and all physical, postal, email and Internet addresses, including all residences; (b) identify all business activities, including any business for which such Defendant performs services whether as an employee or otherwise and any entity in which such Defendant has any ownership interest; and (c) describe in detail such Defendant's involvement in each such business, including title, role, responsibilities, participation, authority, control, and any ownership.

B. For 10 years after entry of this Order, each Stipulating Defendant must submit a compliance notice, sworn under penalty of perjury, within 14 days of any change in the following:

1. Each Stipulating Defendant must report any change in: (a) any designated point of contact; or (b) the structure of any Corporate Defendant or any entity that Stipulating Defendant has any ownership interest in or controls directly or indirectly that may affect compliance obligations arising under this Order, including: creation, merger, sale, or dissolution

of the entity or any subsidiary, parent, or affiliate that engages in any acts or practices subject to this Order.

2. Additionally, Stipulating Individual Defendant must report any change in: (a) name, including aliases or fictitious name, or residence address; or (b) title or role in any business activity, including any business for which such Defendant performs services whether as an employee or otherwise and any entity in which such Defendant has any ownership interest, and identify the name, physical address, and any Internet address of the business or entity.

C. Each Stipulating Defendant must submit to the Commission notice of the filing of any bankruptcy petition, insolvency proceeding, or similar proceeding by or against such Stipulating Defendant within 14 days of its filing.

D. Any submission to the Commission required by this Order to be sworn under penalty of perjury must be true and accurate and comply with 28 U.S.C. § 1746, such as by concluding: "I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed on: \_\_\_\_\_" and supplying the date, signatory's full name, title (if applicable), and signature.

E. Unless otherwise directed by a Commission representative in writing, all submissions to the Commission pursuant to this Order must be emailed to DEbrief@ftc.gov or sent by overnight courier (not the U.S. Postal Service) to: Associate Director for Enforcement, Bureau of Consumer Protection, Federal Trade Commission, 600 Pennsylvania Avenue NW, Washington, DC 20580. The subject line must begin: *FTC v. Tachht, Inc.*, Matter No. X160040.

**XIII.**

**RECORDKEEPING**

**IT IS FURTHER ORDERED** that Stipulating Defendants must create certain records for 10 years after entry of the Order, and retain each such record for 5 years. Specifically, Corporate Defendants and Stipulating Individual Defendant for any business that such Defendant, individually or collectively with any other Defendant, is a majority owner or controls directly or indirectly, must create and retain the following records:

- A. accounting records showing the revenues from all goods or services sold;
- B. personnel records showing, for each person providing services, whether as an employee or otherwise, that person's: name; addresses; telephone numbers; job title or position; dates of service; and (if applicable) the reason for termination;
- C. records relating to Affiliates or Affiliate Networks, including all names, addresses, and telephone numbers; dollar amounts paid or received; and information used in calculating such payments;
- D. records of all consumer complaints and refund requests, whether received directly or indirectly, such as through a third party, and any response;
- E. all records necessary to demonstrate full compliance with each provision of this Order, including all submissions to the Commission;
- F. Copies of all marketing materials, documents, and information received pursuant to Subsection VI.B.3 of this Order; and all written approvals or denials of marketing materials made pursuant to Subsection VI.B.4 of this Order.
- G. a copy of each unique advertisement or other marketing material.

**XIV.**

**COMPLIANCE MONITORING**

**IT IS FURTHER ORDERED** that, for the purpose of monitoring Stipulating Defendants' compliance with this Order, including the financial representations upon which part of the judgment was suspended and any failure to transfer any assets as required by this Order:

A. Within 14 days of receipt of a written request from a representative of the Commission, each Stipulating Defendant must: submit additional compliance reports or other requested information, which must be sworn under penalty of perjury; appear for depositions; and produce documents for inspection and copying. The Commission is also authorized to obtain discovery, without further leave of court, using any of the procedures prescribed by Federal Rules of Civil Procedure 29, 30 (including telephonic depositions), 31, 33, 34, 36, 45, and 69.

B. For matters concerning this Order, the Commission is authorized to communicate directly with each Stipulating Defendant. Stipulating Defendants must permit representatives of the Commission to interview any employee or other person affiliated with any Stipulating Defendant who has agreed to such an interview. The person interviewed may have counsel present.

C. The Commission may use all other lawful means, including posing, through its representatives as consumers, suppliers, or other individuals or entities, to Stipulating Defendants or any individual or entity affiliated with Stipulating Defendants, without the necessity of identification or prior notice. Nothing in this Order limits the Commission's lawful use of compulsory process, pursuant to Sections 9 and 20 of the FTC Act, 15 U.S.C. §§ 49, 57b-1.

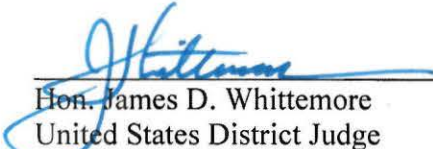
D. Upon written request from a representative of the Commission, any consumer reporting agency must furnish consumer reports concerning Stipulating Individual Defendant, pursuant to Section 604(1) of the Fair Credit Reporting Act, 15 U.S.C. §1681b(a)(1).

XV.

**RETENTION OF JURISDICTION**

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

IT IS SO ORDERED, this 3<sup>rd</sup> day of March, 2017.

  
\_\_\_\_\_  
Hon. James D. Whittemore  
United States District Judge

**SO STIPULATED AND AGREED:**

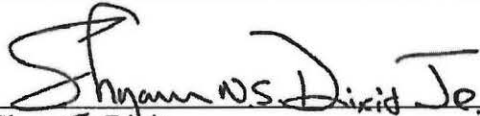
**FOR PLAINTIFF:**



Date: Jan. 30, 2017

\_\_\_\_\_  
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Samuel A.A. Levine  
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*Attorneys for Plaintiff Federal Trade Commission*

**FOR STIPULATING DEFENDANTS TACHHT INC., TEQQI LLC, AND COLBY FOX:**




Date: 12/16/2016

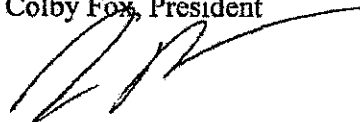
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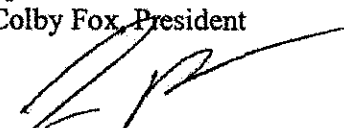
*Attorney for Stipulating Defendants Tachht Inc., Teqqi LLC, and Colby Fox*

  
\_\_\_\_\_  
Tachht, Inc.  
by Colby Fox, President

Date: 12-16-16

  
\_\_\_\_\_  
Teqqi LLC  
by Colby Fox, President

Date: 12-16-16

  
\_\_\_\_\_  
Colby Fox

Date: 12-16-16