

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF GEORGIA
(Atlanta Division)

FEDERAL TRADE COMMISSION,

Plaintiff,

v.

ADVANCED PATCH TECHNOLOGIES,
INC., SALOMON BTESH, BUCKHEAD
MARKETING AND DISTRIBUTION,
LLC, PAP SYSTEMS, LLC, RALF
LESZINSKI, NANCY DUITCH, and
JESSE STARKMAN,

Defendants, and

BERNARD SILVERFARB and
BUCKHEAD MARKETING GROUP, LLC,

Relief Defendants.

Hon.

No. 1:04-CV-0670 (N.D. Ga.
2004)

JOINT MOTION FOR ENTRY OF
MODIFIED STIPULATED FINAL
ORDER AS TO DEFENDANTS
BUCKHEAD MARKETING AND
DISTRIBUTION, LLC AND RALF
LESZINSKI

Plaintiff, the Federal Trade Commission ("Plaintiff" or "Commission") and defendants Buckhead Marketing and Distribution, LLC ("Buckhead"), Worldwide Excellence, Inc. ("Worldwide") and Ralf Leszinski, pursuant to Rule 7(b) of the Federal Rules of Civil Procedure and Part XIII of the Stipulated Final Judgment and Order for Permanent Injunction and Monetary Settlement entered by this Court on March 18, 2004, respectfully move the Court for entry of the attached Modified Stipulated Final Order

as to Defendants Buckhead Marketing and Distribution, LLC and Ralf Leszinski ("Modified Order", attached hereto as Exhibit A), and in support of their motion, state as follows:

1. On March 9, 2004, Plaintiff filed a Complaint for Permanent Injunction and other relief against Advanced Patch Technologies, Inc., Salomon Btresh, Buckhead Marketing and Distribution, LLC, PAP Systems, LLC, Ralf Leszinski, Nancy Duitch, and Jesse Starkman, and Relief Defendants Bernard Silverfarb and Buckhead Marketing Group, LLC, alleging violations of Sections 5(a) and 12(a) of the FTC Act, 15 U.S.C. §§ 45(a) and 52(a).

2. On March 18, 2004, the Court entered Plaintiff's proposed Stipulated Final Judgment and Order for Permanent Injunction and Monetary Settlement as to Defendants Buckhead Marketing and Distribution, LLC, PAP Systems, LLC, Ralf Leszinski, Nancy Duitch and Relief Defendant Buckhead Marketing Group, LLC ("Stipulated Final Order") settling the Complaint allegations and ordering these defendants to pay monetary relief to the Commission. As of the date of this joint motion, these defendants have paid all amounts due and owing to the Commission in accordance with the Stipulated Final Order. In addition to awarding monetary relief, the Stipulated Final Order also enjoins Buckhead, PAP Systems, Leszinski, and Duitch from, among other

things, representing in connection with selling the Pound A Patch transdermal weight loss patch that it causes substantial weight loss or substantial weight loss in all users.

3. Plaintiff alleges that defendants Buckhead, Worldwide, a successor to Buckhead, and Leszinski have violated the Stipulated Final Order by selling Pound A Patch patches with false claims about the efficacy of the product in causing substantial weight loss and substantial weight loss in all users. Defendants Buckhead, Worldwide, and Leszinski dispute that their conduct violated the Stipulated Final Order but have expressed a desire to settle Plaintiff's allegations.

4. Plaintiff and defendants Buckhead, Worldwide, and Leszinski have negotiated the attached Modified Order to settle and resolve all matters in dispute between the Commission and the defendants arising out of their alleged violations of the Stipulated Final Order to the date of entry of the Modified Order. The Modified Order provides for the imposition of monetary relief and modified injunctive relief as to defendants Buckhead, Worldwide, and Leszinski.

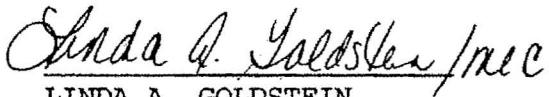
5. Part XIX of the Modified Order provides that this Court retains jurisdiction of this matter for the purposes of "construction, modification, and enforcement" of the Modified Order.

WHEREFORE, the parties jointly request that this Court enter the attached Modified Order as to Defendants Buckhead and Leszinski.

Dated: 9/22/08

Respectfully Submitted,

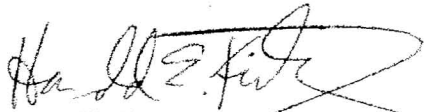
FOR DEFENDANTS BUCKHEAD MARKETING
AND DISTRIBUTION, LLC, WORLDWIDE
EXCELLENCE, INC.,
AND RALF LESZINSKI:



LINDA A. GOLDSTEIN
Manatt, Phelps, and Phillips, LLP
7 Times Square
New York, NY 10036
PHONE: (212) 790-4544
FAX: (212) 790-4545
COUNSEL FOR BUCKHEAD, WORLDWIDE, AND
LESZINSKI

Date: 9/20/08

FOR THE PLAINTIFF
FEDERAL TRADE COMMISSION:



HAROLD E. KIRTZ (Ga. Bar No. 424070)
Federal Trade Commission
225 Peachtree Street, Ste. 1500
Atlanta, G.A. 30303
PHONE: (404) 656-1357
FAX: (404) 656-1379
EMAIL: hkirtz@ftc.gov

Date: 9/15/08

WALTER C. GROSS
MELINDA CLAYBAUGH
Federal Trade Commission
600 Pennsylvania Avenue N.W.
Washington, D.C. 20580
PHONE: (202) 326-3319
FAX: (202) 326-2558
EMAIL: wgross@ftc.gov
mclaybaugh@ftc.gov

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF GEORGIA
(Atlanta Division)

FEDERAL TRADE COMMISSION,

Plaintiff,

v.

ADVANCED PATCH TECHNOLOGIES,
INC., SALOMON BTESH, BUCKHEAD
MARKETING AND DISTRIBUTION,
LLC, PAP SYSTEMS, LLC, RALF
LESZINSKI, NANCY DUITCH, and
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Defendants, and

BERNARD SILVERFARB and
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Relief Defendants.

Hon.

No. 1:04-CV-0670 (N.D. Ga.
2004)

MODIFIED STIPULATED FINAL
ORDER AS TO DEFENDANTS
BUCKHEAD MARKETING AND
DISTRIBUTION, LLC AND RALF
LESZINSKI

On March 9, 2004, Plaintiff, the Federal Trade Commission ("Plaintiff" or "Commission") filed a Complaint for Permanent Injunction and other relief against Defendants Advanced Patch Technologies, Inc., Salomon Btesh, Buckhead Marketing and Distribution, LLC, PAP Systems, LLC, Ralf Leszinski, Nancy Duitch, and Jesse Starkman, and Relief Defendants Bernard Silverfarb and Buckhead Marketing Group, LLC, pursuant to Section 13(b) of the Federal Trade Commission Act ("FTC Act"), 15 U.S.C. § 53(b). The Complaint alleged that the defendants violated Sections 5(a) and 12(a) of the FTC Act, 15 U.S.C. §§ 45(a) and 52(a), by making false and unsubstantiated claims about the efficacy of "Pound A Patch," a transdermal skin patch containing

fucus vesiculosus and garcinia cambogia that the defendants deceptively promoted as part of a weight loss system.

Along with the Complaint, Plaintiff filed a proposed Stipulated Final Judgment and Order for Permanent Injunction and Monetary Settlement as to Defendants Advanced Patch Technologies, Inc., Salomon Btsh, Jesse Starkman, and Relief Defendant Bernard Silverfarb, and a separate proposed Stipulated Final Judgment and Order for Permanent Injunction and Monetary Settlement as to Defendants Buckhead Marketing and Distribution, LLC, PAP Systems, LLC, Ralf Leszinski, Nancy Duitch, and Relief Defendant Buckhead Marketing Group, LLC, ("Stipulated Final Order") settling the Complaint allegations. The Court entered both orders on March 18, 2004.

WHEREAS, Plaintiff alleges that Buckhead Marketing and Distribution, LLC ("Buckhead"), its successor, Worldwide Excellence, Inc. ("Worldwide"), and Ralf Leszinski (together, "Defendants") have violated Parts I and II of the Stipulated Final Order by selling to domestic purchasers for resale in foreign countries Pound A Patch accompanied by brochures titled "Peel Away the Pounds System" containing: false claims about the efficacy of Pound A Patch in causing substantial weight loss (Part I) and false claims about the efficacy of Pound A Patch in causing substantial weight loss in all users (Part II), e.g.:

- a. "With the 'Peel Away the Pounds System' you'll see the

fat melt away, without the struggle, without the pills, without the boredom associated with dieting. Simply apply a patch follow the system and enjoy life";

b. "On this system I lost 77 pounds in 12 weeks. Fact is, I've been losing 5 to 8 pounds a week"; and

c. "Imagine, you'll actually have fun with this revolutionary weight loss system, because you won't have to do a thing, except put on a patch and follow the system."

WHEREAS, Defendants dispute the allegations that their conduct violated the Stipulated Final Order but have expressed a desire to settle Plaintiff's allegations; and

WHEREAS, the Commission and the Defendants stipulate and agree to the entry of this Modified Stipulated Final Order as to Defendants Buckhead and Leszinski ("Modified Final Order") to modify in pertinent part the Stipulated Final Order as to Defendants Buckhead and Leszinski, and to settle and resolve all matters in dispute between the Commission and the Defendants arising out of their alleged violations of Parts I and II of the Stipulated Final Order to the date of entry of the Modified Final Order;

NOW, THEREFORE, Plaintiff and the Defendants having requested the Court to enter this Modified Final Order,

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IT IS HEREBY ADJUDGED AND DECREED as follows:

FINDINGS

1. Worldwide is a successor to Buckhead.
2. The Commission and the Defendants stipulate and agree to this Modified Final Order to modify in certain respects the Stipulated Final Order as to Buckhead and Leszinski, and to settle and resolve all matters in dispute arising from Defendants' alleged violations of Parts I and II of the Stipulated Final Order to the date of entry of the Modified Final Order.
3. The Defendants waive all rights to seek judicial review or otherwise challenge or contest the validity of this Modified Final Order. The Defendants also waive any claims that they may have held under the Equal Access to Justice Act, 28 U.S.C. § 2412.
4. Defendants' consent to entry of this Modified Final Order shall not be interpreted to constitute any admission by them that they have violated the Stipulated Final Order.
5. This Court has jurisdiction over the subject matter of this case and jurisdiction over all parties. Venue in the Northern District of Georgia is proper.
6. The activities of the Defendants are in or affecting commerce as defined in Section 4 of the FTC Act, 15 U.S.C. § 44.
7. Nothing in this Modified Final Order shall be construed

to amend the Stipulated Final Order as to Nancy Duitch, PAP Systems, and Relief Defendant Buckhead Marketing Group.

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

9. Entry of this Modified Final Order is in the public interest.

10. This Modified Final Order resolves only claims against the named Defendants and does not preclude the Commission from initiating further action or seeking any remedy against any other persons or entities.

DEFINITIONS

For purposes of this Modified Final Order, the following definitions shall apply:

1. "Commerce" as defined in Section 4 of the FTC Act means "commerce among the several States or with foreign nations, or in any Territory of the United States or in the District of Columbia, or between any such Territory and another, or between any such Territory and any State or foreign nation, or between the District of Columbia and any State or Territory or foreign nation."

2. "Competent and reliable scientific evidence" means tests, analyses, research, studies, or other evidence based on the expertise of professionals in the relevant area, that has been conducted and evaluated in an objective manner by persons

qualified to do so, using procedures generally accepted in the profession to yield accurate and reliable results.

3. "Covered product or service" means any product, service, or program that purportedly provides health benefits, including weight loss, inch loss, fat loss, or exercise or fitness benefits.

4. "Defendants" means Buckhead Marketing and Distribution, LLC, and its successors and assigns; Worldwide Excellence, Inc., and its successors and assigns; and Ralf Leszinski.

5. "Device" means an instrument, apparatus, implement, machine, contrivance, implant, in vitro reagent, or other similar or related article, including any component, part, or accessory, which is (1) recognized in the official National Formulary, or the United States Pharmacopeia, or any supplement to them, (2) intended for use in the diagnosis of disease or other conditions, or in the cure, mitigation, treatment, or prevention of disease, in man or other animals, or (3) intended to affect the structure or any function of the body of man or other animals, and which does not achieve any of its principal intended purposes through chemical action within or on the body of man or other animals and which is not dependent upon being metabolized for the achievement of any of its principal intended purposes.

6. "Drug" means (1) 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; (2) articles intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in man or other animals; (3) articles (other than food) intended to affect the structure or any function of the body of man or other animals; and (4) articles intended for use as a component of any article specified in clause (1), (2), or (3); but does not include devices or their components, parts, or accessories.

7. "Endorsement" means any advertising message (including verbal statements, demonstrations, or depictions of the name, signature, likeness, or other identifying personal characteristics of an individual or the name or seal of an organization) which message consumers are likely to believe reflects the opinions, beliefs, findings, or experience of a party other than the sponsoring advertiser. The party whose opinions, beliefs, findings, or experience the message appears to reflect will be called the endorser and may be an individual, group, or institution.

8. "Food" means (1) articles used for food or drink for man or other animals; (2) chewing gum; and (3) articles used for components of any such article.

9. "Transdermal weight loss product" means any product, marketed or sold for the promotion of weight loss, which is

applied to the skin to deliver the product's ingredients into the body.

10. The term "including" in this Modified Final Order means "including, without limitation."

CONDUCT PROHIBITIONS

(1) Part I of the Stipulated Final Order (Prohibited False Representations) shall be amended as to Defendants Buckhead and Leszinski to state as follows:

I.

PROHIBITED SALES

IT IS ORDERED that the Defendants are hereby permanently restrained and enjoined from engaging in, participating in, or assisting others to engage or participate in, the manufacturing, labeling, advertising, promotion, offering for sale, sale, or distribution of any transdermal weight loss product either directly or through any corporation, subsidiary, division, or other entity.

(2) Part II of the Stipulated Final Order shall be amended as to Defendants Buckhead and Leszinski to state as follows:

II.

PROHIBITED FALSE REPRESENTATIONS

IT IS FURTHER ORDERED that the Defendants, and their officers, agents, servants, and employees, and all persons and entities in active concert or participation with them who receive actual notice of this Modified Final Order by personal service or otherwise, whether acting directly or through any corporation, subsidiary, division, trade name, or other entity, in connection

with the manufacturing, labeling, advertising, promotion, offering for sale, sale, or distribution of any product, in or affecting commerce, are hereby permanently restrained and enjoined from making, or assisting others in making, any representation, expressly or by implication, including through the use of endorsements, that any such product causes substantial weight loss in all users.

(3) Part III of the Stipulated Final Order (Prohibited Unsubstantiated Representations) shall be amended as to Defendants Buckhead and Leszinski to state as follows:

III.

PROHIBITED UNSUBSTANTIATED REPRESENTATIONS

IT IS FURTHER ORDERED that the Defendants, and their officers, agents, servants, and employees, and all persons and entities in active concert or participation with them who receive actual notice of this Modified Final Order by personal service or otherwise, whether acting directly or through any corporation, subsidiary, division, trade name, or other entity, in connection with the manufacturing, labeling, advertising, promotion, offering for sale, sale, or distribution of any covered product or service, in or affecting commerce, are hereby permanently enjoined from making, or assisting others in making, any representation, expressly or by implication, including through the use of endorsements:

- A. That any such product or service causes weight loss;
- B. That any such product or service causes fat loss;

- C. That any such product or service delivers its active ingredients into the bloodstream more quickly and efficiently than other products;
- D. That any such product or service causes users to burn calories;
- E. That any such product or service boosts metabolism;
- F. That any such product or service suppresses appetite;
- G. That any such product or service reduces fat cell production;
- H. That any such product or service makes a material contribution to any system, program, or plan that produces any of the results referenced in subparts A-G above; or
- I. About the efficacy, safety, side effects, or the health performance or benefits, including weight loss, inch loss, fat loss, or exercise or fitness benefits, of such product or service,

unless, at the time the representation is made, they possess and rely upon competent and reliable scientific evidence that substantiates the representation.

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(4) Part IV of the Stipulated Final Order (Prohibited Representations about Tests, Studies, or Research) shall be amended as to Defendants Buckhead and Leszinski to state as follows:

IV.

PROHIBITED REPRESENTATIONS ABOUT
TESTS, STUDIES, AND RESEARCH

IT IS FURTHER ORDERED that the Defendants, and their officers, agents, servants, employees, and attorneys, and all persons and entities in active concert or participation with them who receive actual notice of this Modified Final Order by personal service or otherwise, whether acting directly or through any corporation, subsidiary, division, trade name, or other entity, in connection with the manufacturing, labeling, advertising, promotion, offering for sale, sale, or distribution of any covered product or service, in or affecting commerce, are hereby permanently enjoined from making, or assisting others in making, any misrepresentations, expressly or by implication, including through the use of endorsements, about the existence, contents, validity, results, conclusions, or interpretations of any test, study, or research.

(5) Part V of the Stipulated Final Order (Food and Drug Regulations) shall be amended as to Defendants Buckhead and Leszinski to state as follows:

V.

FOOD AND DRUG REGULATIONS

IT IS FURTHER ORDERED that, except for the provision specifically pertaining to transdermal weight loss products contained in Part I (Prohibited Sales):

A. Nothing in this Modified Final Order shall prohibit the Defendants from making any representation for any drug that is permitted in the labeling for such drug under any tentative final or final standard promulgated by the Food and Drug Administration, or under any new drug application approved by the Food and Drug Administration; and

B. Nothing in this Modified Final Order shall prohibit the Defendants from 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.

(6) Part VI of the Stipulated Final Order (Monetary Judgment and Consumer Redress) is unchanged and remains in effect.

(7) Part VII of the Stipulated Final Order (Right to Reopen) is unchanged and remains in effect.

(8) Part VIII of the Stipulated Final Order (Compliance Monitoring) shall be amended as to Defendants Buckhead and Leszinski to state as follows:

VIII.

COMPLIANCE MONITORING

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

A. Within ten (10) days of receipt of written notice from a representative of the Commission, each Defendant shall submit additional written reports, sworn to under penalty of perjury; produce documents for inspection and copying; appear for

deposition; and/or provide entry during normal business hours to any business location in such Defendant's possession or direct or indirect control to inspect the business operation.

B. In addition, the Commission is authorized to monitor compliance with the Stipulated Final Order and this Modified Final Order by all other lawful means, including but not limited to the following:

1. obtaining discovery from any person, without further leave of court, using the procedures prescribed by Fed. R. Civ. P. 30, 31, 33, 34, 36, and 45; and

2. posing as consumers and suppliers to Defendants, Defendants' employees, or any other entity managed or controlled in whole or in part by Defendants, without the necessity of identification or prior notice.

C. Defendants shall permit representatives of the Commission to interview any employer, consultant, independent contractor, representative, agent, or employee who has agreed to such an interview, relating in any way to any conduct subject to either the Stipulated Final Order or this Modified Final Order. The person interviewed may have counsel present.

Provided, however, that nothing in the Stipulated Final Order or this Modified Final Order shall limit the Commission's lawful use of compulsory process, pursuant to Sections 9 and 20 of the FTC Act, 15 U.S.C. §§ 49 and 57b-1, to obtain any documentary

material, tangible things, testimony, or information relevant to unfair or deceptive acts or practices in or affecting commerce (within the meaning of 15 U.S.C. § 45(a)(1)).

(9) Part IX of the Stipulated Final Order (Compliance Reporting by Settling Defendants) shall be amended as to Defendants Buckhead and Leszinski to state as follows:

IX.

COMPLIANCE REPORTING BY DEFENDANTS

IT IS FURTHER ORDERED that, in order that compliance with the provisions of the Stipulated Final Order and this Modified Final Order may be monitored:

A. For a period of five (5) years from the date of entry of this Modified Final Order,

1. Defendant Leszinski shall notify the Commission of the following:

a. Any changes in his residence, mailing address, and telephone numbers, within ten (10) days of the date of such change;

b. Any changes in his employment status (including self-employment) and any change in his ownership in any business entity, within ten (10) days of the date of such change. Such notice shall include the name and address of each business that he is affiliated with, employed by, creates or forms, or performs services for; a statement of the nature of the business; and a statement of his duties and responsibilities in connection with the business or employment; and

c. Any changes in his name or use of any aliases or fictitious names; and

2. Defendants shall notify the Commission of any changes in corporate structure of Buckhead or Worldwide or any business entity that Defendant Leszinski directly or indirectly controls, or has an ownership interest in, that may affect compliance obligations arising under either the Stipulated Final Order or this Modified Final Order, including but not limited to a dissolution, assignment, sale, merger, or other action that would result in the emergence of a successor entity; the creation or dissolution of a subsidiary, parent, or affiliate that engages in any acts or practices subject to either the Stipulated Final Order or this Modified Final Order; the filing of a bankruptcy petition; or a change in the corporate name or address, at least thirty (30) days prior to such change, *provided* that, with respect to any proposed change in the corporation about which the Defendants learn less than thirty (30) days prior to the date such action is to take place, the Defendants shall notify the Commission as soon as is practicable after obtaining such knowledge.

B. One hundred eighty (180) days after the date of entry of this Modified Final Order, Defendants shall each provide a written report to the Commission, sworn to under penalty of perjury, setting forth in detail the manner and form in which they have complied and are complying with this Modified Final Order. This

report shall include, but not be limited to:

1. For Defendant Leszinski:

a. His then-current residence addresses, mailing addresses, and telephone numbers;

b. His then-current employment and business addresses and telephone numbers, a description of the business activities of each such employer or business, and his title and responsibilities, for each such employer or business; and

c. Any other changes required to be reported under subpart (A) of this Part.

2. For Defendants:

a. A copy of each acknowledgment of receipt of this Modified Final Order obtained pursuant to Part XVIII.

b. Any other changes required to be reported under subpart (A) of this Part.

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

Associate Director for Enforcement

Federal Trade Commission

600 Pennsylvania Avenue, N.W.

Washington, D.C. 20580

Re: FTC v. Advanced Patch Technologies, Inc., et al.

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D. For purposes of the compliance reporting and monitoring required by this Modified Final Order, the Commission is authorized to communicate directly with either the Defendants or the counsel of record who have signed this agreement for Defendants.

(10) Part X of the Stipulated Final Order (Record Keeping Provisions as to Settling Defendants) shall be amended as to Defendants Buckhead and Leszinski to state as follows:

X.

RECORD KEEPING PROVISIONS

IT IS FURTHER ORDERED that, for a period of eight (8) years from the date of entry of this Modified Final Order, Defendants, and any business where (1) Defendant Leszinski is the majority owner or an officer or director of the business, or directly or indirectly manages or controls the business, and (2) the business engages in, or assists others engaged in, the advertising, marketing, promotion, offering for sale, distribution or sale of any covered product or service, and their agents, employees, officers, corporations, successors, and assigns, and those persons in active concert or participation with them who receive actual notice of this Modified Final Order by personal service or otherwise, are hereby restrained and enjoined from failing to create and retain the following records:

A. Accounting records that reflect the cost of products or services sold, revenues generated, and the disbursement of such revenues;

B. Personnel records accurately reflecting: the name, address, and telephone number of each person employed in any capacity by such business, including as an independent contractor; that person's job title or position; the date upon which the person commenced work; and the date and reason for the person's termination, if applicable;

C. Customer files containing the names, addresses, phone numbers, dollar amounts paid, quantity of products or services purchased, and description of products or services purchased, to the extent such information is obtained in the ordinary course of business;

D. Complaints and refund requests (whether received directly, indirectly or through any third party) and any responses to those complaints or requests;

E. Copies of all sales scripts, training materials, advertisements, promotional materials, or other marketing materials utilized in the advertising, marketing, promotion, offering for sale, distribution, or sale of any product or service;

F. All materials that were relied upon in making any representations contained in the materials identified in subpart E;

G. All other documents evidencing or referring to the accuracy of any claim therein or to the safety or efficacy of any

product or service, including, but not limited to, all tests, reports, studies, demonstrations, or other evidence that confirm, contradict, qualify, or call into question the safety or efficacy of such product or service;

H. All records accurately reflecting the name, address, and telephone number of each manufacturer, laboratory, or other entity engaged in the development or creation of any testing obtained for the purpose of advertising, marketing, promoting, offering for sale, distributing, or selling any product or service; and

I. All records and documents necessary to demonstrate full compliance with each provision of the Stipulated Final Order and this Modified Final Order, including but not limited to, copies of acknowledgments of receipt of the Stipulated Final Order and this Modified Final Order required by Part XI of the Stipulated Final Order and Part XVII of this Modified Final Order, and all reports submitted to the Commission pursuant to Parts VIII and IX of each such order.

(11) Part XI of the Stipulated Final Order (Distribution of Order by Defendants) is unchanged and remains in effect.

(12) Part XII of the Stipulated Final Order (Acknowledgment of Receipt of Order by Defendants) is unchanged and remains in effect.

(13) Part XIII of the Stipulated Final Order (Retention of Jurisdiction) is unchanged and remains in effect.

(14) Part XIV of the Stipulated Final Order (Scope of Order) is unchanged and remains in effect.

(15) Part XV is new to this Modified Final Order and states as follows:

XV.

MONETARY RELIEF

IT IS FURTHER ORDERED that, in addition to and not in lieu of the monetary relief entered pursuant to Part VI of the Stipulated Final Order:

A. Judgment is hereby entered against Defendants, jointly and severally, in the amount of Forty-Three Thousand, Sixty-Eight Dollars (\$43,068).

B. The Defendants shall pay the total amount of this judgment by wire transfer or certified or cashier's check made payable to the Federal Trade Commission within five (5) business days of the date of entry of this Modified Final Order.

C. In the event of any default in payment, the amount due, together with interest, as computed pursuant to 28 U.S.C. § 1961 from the date of default to the date of payment, shall immediately become due and payable.

D. All funds paid pursuant to this Modified Final Order shall be deposited into a fund administered by the Commission or its agent to be used for relief for retail purchasers of Pound A Patch, including but not limited to consumer redress and any attendant expenses for the administration of any redress fund. In the event that direct redress to consumers is wholly or partially impracticable or funds remain after redress is completed, the Commission may apply any remaining funds for such other relief

(including consumer information remedies) as it determines to be reasonably related to Defendants' practices in alleged violation of the Stipulated Final Order. Any funds not used for such relief shall be paid to the United States Treasury.

E. The Defendants shall have no right to contest the manner of distribution chosen by the Commission. Defendants relinquish all dominion, control, and title to the funds paid, and all legal and equitable title to the funds vests in the Treasurer of the United States and in the designated consumers. Defendants shall make no claim to or demand for return of the funds, directly or indirectly, through counsel or otherwise; and in the event of bankruptcy of any Defendant, Defendants acknowledge that the funds are not part of the debtor's estate, nor does the estate have any claim or interest therein.

F. The judgment entered pursuant to this Part is not a fine, penalty, punitive assessment, or forfeiture.

G. Defendants agree that the facts as alleged in the findings and the first WHEREAS clause of this Order shall be taken as true without further proof in any bankruptcy case or subsequent civil litigation pursued by the Commission to enforce its rights pursuant to this Modified Final Order, including but not limited to a nondischargeability complaint in any bankruptcy case. Defendants further stipulate and agree that the facts alleged in the findings and the first WHEREAS clause establish all elements

necessary to sustain an action pursuant to Section 523(a)(2)(A) of the Bankruptcy Code, 11 U.S.C. § 523(a)(2)(A). Except for the purposes set forth in this paragraph, this provision does not constitute and shall not be interpreted to constitute an admission by any of the Defendants of the truth of the allegations set forth in the findings or the first WHEREAS clause of this Order.

H. Pursuant to Section 604(1) of the Fair Credit Reporting Act, 15 U.S.C. § 1681b(1), any consumer reporting agency may furnish a consumer report concerning any Defendant to the FTC, which shall be used for purposes of collecting and reporting on any delinquent amount arising out of this Order.

(16) Part XVI (Cooperation) is new to this Modified Final Order and states as follows:

XVI.
COOPERATION

IT IS FURTHER ORDERED that Defendants shall, in connection with this action or any subsequent investigations related to or associated with the transactions or the occurrences that are the subject of the FTC's allegations that Defendants have violated the Stipulated Final Order, cooperate in good faith with the FTC and appear or, in the case of Defendants Buckhead or Worldwide, cause their officers, employees, representatives, or agents to appear at such places and times as the FTC shall reasonably request, after written notice, for interviews, conferences, pretrial discovery, review of documents, and for such other matters as may be

reasonably requested by the FTC. If requested in writing by the FTC, Defendant Leszinski shall appear or, in the case of Defendants Buckhead or Worldwide, cause their officers, employees, representatives or agents to appear and provide truthful testimony in any trial, deposition, or other proceeding related to or associated with the transactions or the occurrences that are the subject of the FTC's allegations that Defendants have violated the Stipulated Final Order, without service of a subpoena.

(17) Part XVII (Distribution of Order by Defendants) is new to this Modified Final Order and states as follows:

XVII.

DISTRIBUTION OF ORDER BY DEFENDANTS

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

A. **Defendants Buckhead and Worldwide:** Defendants Buckhead and Worldwide must deliver a copy of this Modified Final Order to all of their principals, officers, directors, and managers. Defendants Buckhead and Worldwide also must deliver copies of the Stipulated Final Order and this Modified Final Order to all of their employees, agents, and representatives who engage in conduct related to the subject matter of either the Stipulated Final Order or the Modified Final Order. For current personnel, delivery shall be within five (5) days of service of this Modified Final Order upon Buckhead or Worldwide. For new personnel, delivery

shall occur prior to them assuming their responsibilities.

B. **Defendant Leszinski as Control Person:** For any business that Defendant Leszinski controls, directly or indirectly, or in which he has a majority ownership interest, Leszinski must deliver a copy of the Stipulated Final Order and this Modified Final Order to all principals, officers, directors, and managers of that business. Leszinski must also deliver copies of the Stipulated Final Order and this Modified Final Order to all employees, agents, and representatives of that business who engage in conduct related to the subject matter of either the Stipulated Final Order or this Modified Final Order. For current personnel, delivery shall be within five (5) days of service of this Modified Final Order upon Leszinski. For new personnel, delivery shall occur prior to them assuming their responsibilities.

C. **Defendant Leszinski as employee or non-control person:** For any business where Defendant Leszinski is not a controlling person of a business but otherwise engages in conduct related to the subject matter of this Modified Final Order, he must deliver a copy of the Stipulated Final Order and this Modified Final Order to all principals and managers of such business before engaging in such conduct.

D. The Defendants must secure a signed and dated statement acknowledging receipt of the Stipulated Final Order and this Modified Final Order, within thirty (30) days of delivery, from

all persons receiving a copy of the Stipulated Final Order and this Modified Final Order pursuant to this Part.

(18) Part XVIII (Acknowledgment of Receipt of Order by Defendants) is new to this Modified Final Order and states as follows:

XVIII.

ACKNOWLEDGMENT OF RECEIPT OF ORDER BY DEFENDANTS

IT IS FURTHER ORDERED that each Defendant, within five (5) business days of receipt of this Modified Final Order as entered by the Court, must submit to the Commission a truthful, sworn statement acknowledging receipt of this Modified Final Order.

(19) Part XIX (Retention of Jurisdiction) is new to this Modified Final Order and states as follows:

XIX.

RETENTION OF JURISDICTION

IT IS FURTHER ORDERED that this Court shall retain jurisdiction of this matter for purposes of construction,

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modification, and enforcement of this Modified Final Order.

SO STIPULATED AND AGREED:

IT IS SO ORDERED. This ___ day of _____, _____
(Month) (Year)

UNITED STATES DISTRICT JUDGE

FOR DEFENDANTS BUCKHEAD MARKETING
AND DISTRIBUTION, LLC, WORLDWIDE
EXCELLENCE, INC.,
AND RALF LESZINSKI:

Linda A. Goldstein/mec
LINDA A. GOLDSTEIN
Manatt, Phelps, and Phillips, LLP
7 Times Square
New York, NY 10036
PHONE: (212) 790-4544
FAX: (212) 790-4545

Date: *5/21/08*

FOR DEFENDANT BUCKHEAD MARKETING AND
DISTRIBUTION, LLC AND WORLDWIDE
EXCELLENCE, INC.



NANCY DUITCH

16000 Ventura Blvd, Ste. 301

Encino, CA 91436

PHONE: (818) 926-4900

FAX: (818) 926-4885

CHIEF EXECUTIVE OFFICER

DATE: 3-27-08

FOR DEFENDANT RALF LESZINSKI

RALF LESZINSKI

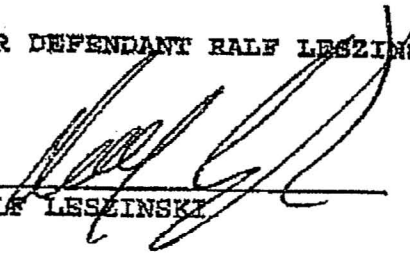
DATE: _____

FOR THE PLAINTIFF
FEDERAL TRADE COMMISSION

WALTER C. GROSS
MELINDA CLAYBAUGH
Federal Trade Commission
600 Pennsylvania Ave. N.W.
Washington, D.C. 20580
PHONE: (202) 326-3319
FAX: (202) 326-2558
EMAIL: wgross@ftc.gov
Mclaybaugh@ftc.gov


DATE: _____

FOR DEFENDANT RALF LESZINSKI:


RALF LESZINSKI

Date: 7th May 2008

FOR THE PLAINTIFF
FEDERAL TRADE COMMISSION:


WALTER C. GROSS
MELINDA CLAYBAUGH
Federal Trade Commission
600 Pennsylvania Avenue N.W.
Washington, D.C. 20580
PHONE: (202) 326-3319
FAX: (202) 326-2558
EMAIL: wrgross@ftc.gov
mclaybaugh@ftc.gov

Date: 9/16/08



Harold E. Kirtz

Date: 9/15/08

HAROLD E. KIRTZ (Ga. Bar No. 424070)
Federal Trade Commission
225 Peachtree Street, Ste. 1500
Atlanta, G.A. 30303
PHONE: (404) 656-1357
FAX: (404) 656-1379
EMAIL: hkirtz@ftc.gov

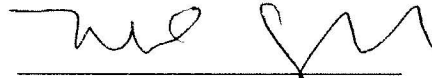
CERTIFICATE OF SERVICE

I certify that on September 22, 2008, I caused the foregoing documents filed with this Court to be mailed via first-class U.S. Mail to the following:

Linda A. Goldstein
Manatt, Phelps, and Phillips, LLP
7 Times Squar
New York, NY 10036
*Attorney for Defendants Buckhead Marketing and
Distribution, LLC, Worldwide Excellence, Inc.,
and Ralf Leszinski*

Barry J. Cutler
Baker & Hostetler, LLP
Washington Square, Suite 1100
1050 Connecticut Ave, N.W.
Washington, D.C. 20036-5304
Attorney for Defendant Solomon Btesh

Michael B. Chesal
Kluger, Peretz, Kaplan & Berlin, P.A.
201 So. Biscayne Boulevard, Suite 700
Miami, FL 33131
Attorney for Defendant Advanced Patch Technologies



Melinda A. Claybaugh