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ATTORNEYS FOR PLAINTIFF

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

|                                  |   |                               |
|----------------------------------|---|-------------------------------|
| <u>FEDERAL TRADE COMMISSION,</u> | ) |                               |
|                                  | ) | Hon.                          |
| Plaintiff,                       | ) |                               |
|                                  | ) | Civil Action No.              |
| v.                               | ) |                               |
|                                  | ) | STIPULATED FINAL JUDGMENT     |
| ADVANCED PATCH TECHNOLOGIES,     | ) | AND ORDER FOR PERMANENT       |
| INC., SALOMON BTESH, BUCKHEAD    | ) | INJUNCTION AND MONETARY       |
| MARKETING AND DISTRIBUTION,      | ) | SETTLEMENT AS TO DEFENDANTS   |
| LLC, PAP SYSTEMS, LLC, RALF      | ) | BUCKHEAD MARKETING AND        |
| LESZINSKI, NANCY DUITCH, and     | ) | DISTRIBUTION, LLC, PAP        |
| JESSE STARKMAN,                  | ) | SYSTEMS, LLC, RALF LESZINSKI, |
|                                  | ) | NANCY DUITCH AND RELIEF       |
| Defendants, and                  | ) | DEFENDANT BUCKHEAD MARKETING  |
|                                  | ) | GROUP, LLC                    |
| BERNARD SILVERFARB, and          | ) |                               |
| BUCKHEAD MARKETING GROUP, LLC,   | ) |                               |
|                                  | ) |                               |
| Relief Defendants.               | ) |                               |

**STIPULATED FINAL JUDGMENT AND ORDER FOR  
PERMANENT INJUNCTION AND MONETARY SETTLEMENT**

Plaintiff, the Federal Trade Commission ("FTC" or "Commission") has filed its complaint for Permanent Injunction and Other Equitable Relief ("Complaint") pursuant to Section 13(b) of the Federal Trade Commission Act ("FTC Act"), 15 U.S.C. § 53(b) against Defendants Advanced Patch Technologies, Inc., Salomon Btesh, Buckhead Marketing and Distribution, LLC, PAP Systems, LLC, Ralf Leszinski, Nancy Duitch, and Jesse Starkman, and against Relief Defendants Bernard Silverfarb and Buckhead Marketing Group, LLC;

WHEREAS, the FTC alleges that the Defendants violated Section 5(a) of the FTC Act, 15 U.S.C. § 45(a), and Section 12 of the FTC Act, 15 U.S.C. § 52; and

WHEREAS, the Commission and Defendants Buckhead Marketing and Distribution, LLC ("BMD"), PAP Systems, LLC ("PAP"), Ralf Leszinski ("Leszinski") and Nancy Duitch ("Duitch") (collectively, the "Settling Defendants") and Relief Defendant Buckhead Marketing Group, LLC ("Relief Defendant BMG") have agreed to the entry of this Stipulated Final Judgment and Order for Permanent Injunction and Monetary Settlement ("Order") by this Court to resolve all matters of dispute between the settling parties with respect to the conduct alleged in the Complaint;

**NOW, THEREFORE,** Plaintiff FTC, the Settling Defendants and Relief Defendant BMG having requested the Court to enter this Order,

**IT IS HEREBY ORDERED ADJUDGED, AND DECREED as follows:**

**FINDINGS**

1. The Commission has the authority under Section 13(b) of the FTC Act, 15 U.S.C. § 53(b), to seek the relief it has requested.

2. This Court has jurisdiction over the subject matter of this action and has jurisdiction over the Settling Defendants and Relief Defendant BMG.

3. Venue in the Northern District of Georgia, Atlanta Division, is proper.

4. The Complaint states a claim upon which relief may be granted against the Settling Defendants and Relief Defendant BMG.

5. By entering into this Stipulation, the Settling Defendants and Relief Defendant BMG do not admit to the allegations of the Complaint, other than the jurisdictional facts.

6. This Order does not constitute, nor shall it be interpreted to constitute, either an admission by the Settling Defendants and Relief Defendant BMG of any wrongdoing or a finding by the Court that the Settling Defendants and Relief

Defendant BMG have engaged in any violations of law.

7. The activities of the Settling Defendants, as alleged in the Complaint, are or were in or affecting commerce, as defined in Section 4 of the FTC Act, 15 U.S.C. § 44.

8. The Settling Defendants and Relief Defendant BMG have waived all rights that may arise under the Equal Access to Justice Act, 28 U.S.C. § 2412, concerning the prosecution of this action to the date of this Order.

9. Settling Defendants and Relief Defendant BMG have waived service of a summons and complaint and have waived all rights to seek judicial review of, or otherwise challenge or contest the validity of, this Order.

10. Each party to this Order shall bear its own costs and attorneys' fees incurred in connection with this action.

11. Entry of this Order is in the public interest.

#### **DEFINITIONS**

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

1. "Commerce" means as defined in Section 4 of the Federal Trade Commission Act, 15 U.S.C. § 44.

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. "Endorsement" means as defined in 16 C.F.R. § 255.0(b).

5. "Food," "drug," "device," and "cosmetic," mean as defined in Section 15 of the FTC Act, 15 U.S.C. § 55.

6. "Pound A Patch" means the Pound A Patch transdermal patch and any substantially similar product containing fucus vesiculosus and/or garcinia cambogia.

7. "Transdermal product" means any product applied to the skin to deliver the product's ingredients into the body.

8. The term "including" in this Order means "including, without limitation."

### **CONDUCT PROHIBITIONS**

#### **PROHIBITED FALSE REPRESENTATIONS**

##### **I.**

**IT IS ORDERED** that the Settling Defendants, their successors and assigns, and their officers, agents, servants, employees, and all persons and entities in active concert or participation with

them who receive actual notice of this 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 Pound A Patch, or any other transdermal product, are hereby permanently enjoined from making any representation, expressly or by implication, including through the use of endorsements, that such product will cause substantial weight loss.

## II.

**IT IS FURTHER ORDERED** that the Settling Defendants, their successors and assigns, and their officers, agents, servants, employees, and all persons and entities in active concert or participation with them who receive actual notice of this 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 Pound A Patch, or any other product, are hereby permanently enjoined from making any representation, expressly or by implication, including through the use of endorsements, that such product causes substantial weight loss in all users.

**PROHIBITED UNSUBSTANTIATED REPRESENTATIONS**

**III.**

**IT IS FURTHER ORDERED** that the Settling Defendants, their successors and assigns, and their officers, agents, servants, employees, and all persons and entities in active concert or participation with them who receive actual notice of this 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 Pound A Patch, or any other covered product or service, in or affecting commerce, are hereby permanently enjoined from 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. 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; or
- I. 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 III.A-G above,

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

**PROHIBITED REPRESENTATIONS ABOUT TESTS, STUDIES, AND RESEARCH**

**IV.**

**IT IS FURTHER ORDERED** that the Settling Defendants, their successors and assigns, and their officers, agents, servants, employees, and all persons and entities in active concert or participation with them who receive actual notice of this 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 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.

**FOOD AND DRUG REGULATIONS**

**V.**

**IT IS FURTHER ORDERED** that:

- A. Nothing in this Order shall prohibit the Settling 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 Order shall prohibit the Settling 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.

MONETARY JUDGMENT AND CONSUMER REDRESS

VI.

**IT IS FURTHER ORDERED** that

- A. Judgment is hereby entered against the Settling Defendants and Relief Defendant BMG (collectively, the "Paying Defendants"), jointly and severally, in the amount of TWENTY FOUR MILLION FOUR HUNDRED THOUSAND DOLLARS (\$24,400,000); **provided, however,** that all of this amount except those amounts set forth hereafter shall be suspended.
- B. The Paying Defendants, jointly and severally, shall pay to the Commission the sum of One Million Dollars (\$1,000,000) in accordance with the following schedule:
1. Four Hundred Thousand Dollars (\$400,000) (the "First Payment") within five (5) days after entry of this Order.
  2. Two Hundred Seventy Five Thousand Dollars (\$275,000) (the "Second Payment") within five (5) days after entry of this Order, or by February 1, 2004, whichever is later.
  3. Three Hundred Twenty Five Thousand Dollars (\$325,000) in five payments of Sixty Five Thousand Dollars (\$65,000) each, (each, an

"Installment Payment") to be paid on the first of each of the five months commencing on March 1, 2004.

- C. Paying Defendants shall pay all amounts due under this Order in cash by electronic funds transfer to the Commission, or to such agent as the Commission may direct, pursuant to instructions provided by the Commission.
- D. To secure the Paying Defendants' payment obligations under this Part, the Paying Defendants, individually and on behalf of their respective successors and assigns, hereby grant to the Commission first priority liens on and security interests in the "Airplane," the "401(k) Account" and the "Inventory" (defined below), together with all additions, replacements, accessions, substitutions therefor or thereto and all proceeds thereof, whether presently existing or hereafter arising (collectively, the "Collateral"), as follows:
1. Leszsinki hereby grants to the Commission a first priority lien and security interest in the 1978 Piper airplane more fully described in Appendix A annexed hereto, together with all accessions and parts thereto belonging

(the "Airplane");

2. Leszsinki hereby grants to the Commission a first priority lien and security interest in and for security purposes assigns to the Commission the investment account more fully described in Appendix B annexed hereto, together with all securities and funds therein (the "401(k) Account"); and

3. BMD hereby grants to the Commission a first priority lien and security interest in all inventory wherever located and whether now owned or hereafter acquired by BMD, except for the Pound A Patch (the "Inventory"). BMD represents and acknowledges that the Inventory, as of the date of entry of this Order, consists of the products set forth on Appendix C, and that such Inventory has a value of not less than ONE HUNDRED SIXTY THOUSAND DOLLARS (\$160,000) based on BMD's acquiring cost.

E. Leszsinki and BMD represent and acknowledge that the Commission is relying on the material representations that Leszsinki and BMD are the sole owners in fee

simple of the Collateral, title to the Collateral is marketable, and the Collateral currently is not encumbered by any lien, mortgage, deed of trust, assignment, pledge, security interest or other interest or claim.

- F. Leszinski shall keep the Airplane insured, through agents and in companies approved by the Commission, against loss by collision, fire, theft and such other risks as may be mutually agreed on between the Commission and Leszinski. All policies will contain a loss payable clause in a form acceptable to the Commission, naming the Commission as loss payee, and will be delivered to the Commission and held by the Commission. Leszinski represents and acknowledges that such insurance is currently in place.
- G. Leszinski shall not remove the Airplane from the continental United States without the Commission's express prior written consent.
- H. Leszinski and BMD further represent that, as of the date on which they sign this Order, they are current on all of their obligations with respect to the Collateral, including taxes, permits and insurance, and agree they shall pay, as and when due, all of their

obligations with respect to the Collateral.

- I. Leszinski and BMD agree that they will refrain from transferring, converting, encumbering, pledging, selling, assigning, or otherwise disposing of the Collateral (including withdrawing or trading any of the existing securities or funds in the 401(k) Account), except with the express prior written permission of counsel for the Commission. Leszinski releases and waives in favor of the Commission any statutory, common law, or other exemption that may apply to the Airplane and/or 401(k) Account.
  
- J. Leszinski and BMD agree to cooperate fully with the Commission in preparing, executing and delivering to the Commission (at the Paying Defendants' expense), on or before the date of entry of this Order, and thereafter promptly file (at the Paying Defendants' expense) the necessary instruments and documents in form and substance satisfactory to the Commission (including security agreements, assignments, and financing statements), and do whatever else the Commission deems necessary or desirable to perfect, evidence and continue its liens on and security interests in the Collateral, in accordance with the

Uniform Commercial Code or comparable law of any jurisdiction, and to carry out the purposes of this Order.

- K. Upon full collection of all monies required under this Part, and at Leszsinki's and BMD's respective written requests, the Commission agrees to release its liens and security interests in the Collateral granted herein and Leszsinki and BMD shall be responsible for preparing and filing (at their expense) any reassignments and termination statements reasonably required in connection therewith, provided that the Commission shall cooperate with Leszsinki and BMD and shall not unreasonably withhold its consent and acknowledgment of the same.
- L. Paying Defendants shall be responsible for paying all fees and costs, including attorneys' fees and filing fees, required in connection with the liens and security interests granted herein and to comply with the requirements of this Part, including the fees and costs relating to the preparation, execution, delivery, filing, recording, continuation and termination of such liens and security interests.
- M. All funds paid pursuant to this Order shall be

deposited into a fund administered by the FTC or its agent to be used for equitable relief, including but not limited to consumer redress and any attendant expenses for the administration of such equitable relief. In the event that direct redress to consumers is wholly or partially impracticable or funds remain after redress is completed, the FTC may apply any remaining funds for such other equitable relief (including consumer information remedies) as it determines to be reasonably related to the Settling Defendants' practices alleged in the Complaint. Any funds not used for such equitable relief shall be deposited to the United States Treasury as disgorgement. The Paying Defendants shall have no right to challenge the FTC's choice of remedies under this Part. The Paying Defendants shall have no right to contest the manner of distribution chosen by the FTC. The judgment entered pursuant to this Part is equitable monetary relief and not a fine, penalty, punitive assessment or forfeiture.

- N. All money paid pursuant to this Order is irrevocably paid to the Commission for purposes of settlement between the Commission and Paying Defendants, and



Paying Defendants relinquish all right, title, and interest to assets held by the Commission in connection with this case.

0. In the event of any default by any Paying Defendant of its obligations set forth in this Part, including any failure to timely and completely fulfill any of the payment obligations or the obligations relating to the Collateral:

1. The suspended judgment entered pursuant to Subpart VI.A of this Order shall become immediately due and payable by the Paying Defendants, jointly and severally, less the sum of any amounts paid to the FTC by the Paying Defendants after the date of this Order, and interest computed at the rate prescribed under 28 U.S.C. § 1961, as amended, shall immediately begin to accrue on the unpaid balance; and
2. The Commission shall be entitled to immediately exercise any and all rights and remedies against the Paying Defendants and their property, including the Collateral, to collect the full judgment amount set forth in

Subpart VI.A and interest thereon, less any payments already made, including but not limited to enforcing and realizing upon its liens and security interests in the Collateral.

- P. Paying Defendants agree that, if they fail to timely fulfill any of their payment obligations required under this Order or any of their obligations relating to the Collateral, the facts as alleged in the Complaint filed in this matter shall be taken as true in any subsequent litigation filed by the Commission to enforce its rights pursuant to this Order, including but not limited to, a nondischargeability complaint in any bankruptcy case.
- Q. Settling Defendants shall provide their complete customer list for Peel Away the Pounds to the Commission within thirty (30) days of the date of entry of this Order. The customer list shall be in a searchable electronic format and shall include the names and addresses of all purchasers of the product, the number of each product purchased, the date of purchase, the number of times each consumer made a repeat purchase, and the date and dollar amount of any

refund to the consumer, to the extent such information is contained in the files. The Settling Defendants shall take all reasonable steps (at their expense) to provide the most recent and accurate data available in an electronically-stored format useable and compatible with the Commission's information system.

**RIGHT TO REOPEN**

**VII.**

**IT IS FURTHER ORDERED** that the Commission's agreement to this Order, requiring that the Paying Defendants pay less than the full amount of consumer injury, is expressly premised upon the Paying Defendants' financial conditions, as represented in the financial statements and related documents listed in Appendix D. Such financial statements and related documents contain material information upon which the Commission relied in negotiating and agreeing to this Order. If, upon motion by the Commission, the Court finds that any Paying Defendant made a material misrepresentation or omitted material information concerning its financial condition, then this Order shall be reopened for the purpose of requiring payment of the suspended judgment entered pursuant to Subpart VI.A of this Order, which shall become immediately due and payable by the Paying Defendants, jointly and severally, less the sum of any amounts

paid to the FTC by the Paying Defendants after the date of this Order, and interest computed at the rate prescribed under 28 U.S.C. § 1961, as amended, shall immediately begin to accrue on the unpaid balance; **provided, however**, that in all other respects this Order shall remain in full force and effect unless otherwise ordered by the Court; and, provided further, that proceedings instituted under this provision would be in addition to, and not in lieu of, any other civil or criminal remedies as may be provided by law, including but not limited to contempt proceedings, or any other proceedings that the Commission or the United States may initiate to enforce this Order. For purposes of this Part, and any subsequent proceedings to enforce payment, including but not limited to a non-dischargeability complaint filed in a bankruptcy case, Paying Defendants agree not to contest any of the allegations in the Commission's Complaint.

#### **COMPLIANCE MONITORING**

#### **VIII.**

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

- A. Within ten (10) days of receipt of written notice from a representative of the Commission, each of the Settling Defendants 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 Settling Defendant's possession or direct or indirect control to inspect the business operation.

B. In addition, the Commission is authorized to monitor compliance with this 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 Settling Defendants, Settling Defendants' employees, or any other entity managed or controlled in whole or in part by Settling Defendants, without the necessity of identification or prior notice.

Provided that nothing in this 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, 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)).

- C. Settling 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 this Order. The person interviewed may have counsel present.

**COMPLIANCE REPORTING BY SETTling DEFENDANTS**

**IX.**

**IT IS FURTHER ORDERED** that, in order that compliance with the provisions of this Order may be monitored:

- A. For a period of three (3) years from the date of entry of this Order,

1. Defendants Leszinski and Duitch each shall notify the Commission of the following:

- a. Any changes in his or her residence, mailing address, and telephone number, within ten (10) days of the date of such change;
- b. Any changes in his or her employment status (including self-employment) within ten (10) days of the date of such

change. Such notice shall include the name and address of each business that he or she is affiliated with, employed by, or performs services for; a statement of the nature of the business; and a statement of his or her duties and responsibilities in connection with the business; and

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

2. Defendants PAP and BMD shall notify the Commission of any changes in corporate structure that may affect compliance obligations arising under this Order, including but not limited to a dissolution, assignment, sale, merger, or other action that would result in the emergence of a successor corporation; the creation or dissolution of a subsidiary, parent, or affiliate that engages in any acts or practices subject to this 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 Settling Defendant learns less than thirty (30) days prior to the date such action is to take place, the Settling Defendant 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 Order, each Settling Defendant shall provide a written report to the FTC, sworn to under penalty of perjury, setting forth in detail the manner and form in which the Defendant has complied and is complying with this Order. This report shall include, but not be limited to:

1. Any changes required to be reported pursuant to Subpart IX.A above; and
2. A copy of each acknowledgment of receipt of this Order obtained by the Defendant pursuant to Part XI.

C. For the purposes of this Order, the Settling Defendants and Relief Defendant BMG 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. (N.D. Ga.).

- D. For purposes of the compliance reporting required by this Part, the Commission is authorized to communicate directly with Defendants.

**RECORD KEEPING PROVISIONS AS TO SETTLING DEFENDANTS**

**X.**

**IT IS FURTHER ORDERED** that, for a period of six (6) years from the date of entry of this Order, the Settling Defendants and any business where (1) Defendant Duitch or Leszinski is the majority owner or an officer or director of the business, or directly or indirectly manages or controls the business and where (2) the business engages 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 Order by personal service or otherwise, are hereby restrained and enjoined from failing to create and retain, unless otherwise specified:

- A. Accounting records that reflect the cost of goods 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 items or services purchased, and description of items 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 advertisements, promotional materials,

sales scripts, training materials, or other marketing materials utilized in the advertising, marketing, promotion, offering for sale, distribution, or sale of any covered product or service;

- F. All materials that were relied upon in making any representations contained in the materials identified in Subpart X.E;
- G. All other documents evidencing or referring to the accuracy of any claim therein or to the safety or efficacy of any covered 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 covered product or service; and
- H. 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 covered product or service.

**DISTRIBUTION OF ORDER BY DEFENDANTS**

**XI.**

**IT IS FURTHER ORDERED** that, for a period of five (5) years

from the date of entry of this Order, the Settling Defendants shall deliver copies of the Order as directed below:

A. **Settling Defendants PAP and BMD:**

1. Settling Defendants PAP and BMD shall deliver a copy of the Order to all of their principals, officers, directors, and managers. For current principals, officers, directors and managers, delivery shall be within thirty (30) days of service of this Order upon PAP or BMD, as the case may be. For new officers, directors, and managers, delivery shall occur within thirty (30) days after the commencement of the officer, director or manager relationship.
2. Settling Defendants PAP and BMD shall also deliver a copy of the Order to all of their employees, agents, and representatives who engage in conduct related to the subject matter of the Order, **provided, however,** that for Orders distributed pursuant to this Subpart XI.A.2, PAP and BMD shall have the right to distribute the Order with Parts VI, VII, IX, and XI-XIV redacted from the Order

(a "Redacted Order"). For current employees, agents and representatives, delivery shall be within thirty (30) days of service of this Order upon PAP or BMD, as the case may be. For new employees, agents and representatives, delivery shall occur within thirty (30) days after the commencement of the employee, agency or representative relationship.

**B. Settling Defendants Leszinski or Duitch as Control**

**Person:**

1. For any business that Leszinski or Duitch controls, directly or indirectly, or in which Leszinski or Duitch has a majority ownership interest, Leszinski or Duitch, as the case may be, shall deliver a copy of the Order to all principals, officers, directors, and managers of that business, **provided, however,** that with respect to Orders distributed pursuant to this Subpart XI.B.1, Leszinski or Duitch, as the case may be, shall have the right to distribute a Redacted Order. For current principals, officers, directors and

managers, delivery shall be within thirty (30) days of service of this Order upon PAP or BMD, as the case may be. For new officers, directors, and managers, delivery shall occur within thirty (30) days after the commencement of the officer, director or manager relationship.

2. Leszinski and Duitch shall also deliver copies of the Order to all employees, agents, and representatives of that business who engage in conduct related to the subject matter of the Order, **provided, however,** that for Orders distributed pursuant to this Subpart XI.B.2, Leszinski and Duitch, shall have the right to distribute a Redacted Order. For current employees, agents and representatives of that business, delivery shall be within (30) days of service of this Order upon Leszinski or Duitch, as the case may be. For new employees, agents and representatives, delivery shall occur within thirty (30) days after the commencement of the employment, agency or representative

relationship.

- C. **Defendants Leszinski and Duitch as employee or non-control person:** For any business where Leszinski or Duitch is not a controlling person of a business but otherwise engages in conduct related to the subject matter of this Order, Defendant Leszinski or Duitch, as the case may be, shall deliver a copy of the Order to all principals and managers of such business within thirty (30) days of engaging in such conduct, **provided, however,** that for Orders distributed pursuant to this Subpart XI.C., Leszinski or Duitch, as the case may be shall have the right to distribute a Redacted Order.
- D. The Settling Defendants must secure, within thirty (30) days of delivery, a signed and dated statement acknowledging receipt from all persons receiving a copy of the Order or Redacted Order, as applicable, pursuant to this Part.

**ACKNOWLEDGMENT OF RECEIPT OF ORDER BY DEFENDANTS**

**XII.**

**IT IS FURTHER ORDERED** that each Settling Defendant and Relief Defendant BMG, within five (5) business days of receipt of this Order as entered by the Court, must submit to the Commission

a truthful sworn statement acknowledging receipt of this Order in the form attached as Appendix E.

**RETENTION OF JURISDICTION**

**XIII.**

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

**SCOPE OF ORDER**

**XIV.**

**IT IS FURTHER ORDERED** that this Order resolves only claims against the Settling Defendants and Relief Defendant BMG and does not preclude the FTC from initiating further action or seeking any remedy against any other persons or entities, including without limitation persons or entities who may be subject to portions of this Order by virtue of actions taken in concert or participation with Settling Defendants or Relief Defendant BMG, and persons or entities in any type of indemnification or contractual relationship with Settling Defendants or Relief Defendant BMG.



SO STIPULATED:

\_\_\_\_\_  
LAUREEN KAPIN  
LAURA KOSS  
YAEL WEINMAN

Federal Trade Commission  
600 Pennsylvania Ave.  
Washington, D.C. 20580  
(202) 326-3237 (voice)  
(202) 326-2558 (fax)

\_\_\_\_\_  
JAMES T. ROHRER  
GA Bar No. 613524  
Federal Trade Commission  
225 Peachtree Street, N.E.,  
Suite 1500  
Atlanta, GA 30303  
(404) 656-1361 (voice)  
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Attorneys for Plaintiff  
FEDERAL TRADE COMMISSION

\_\_\_\_\_  
BUCKHEAD MARKETING AND  
DISTRIBUTION, LLC,  
By: Ralf Leszinski, CEO/Member

\_\_\_\_\_  
BUCKHEAD MARKETING GROUP, LLC  
By: Ralf Leszinski, Member

\_\_\_\_\_  
PAP Systems, LLC  
By: Ralf Leszinski, Member

\_\_\_\_\_  
RALF LESZINSKI, individually

\_\_\_\_\_  
NANCY DUITCH, individually

\_\_\_\_\_  
LINDA A. GOLDSTEIN  
MANATT, PHELPS & PHILLIPS, LLP  
1675 Broadway, 27<sup>th</sup> Floor  
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(212) 373-5205 (voice)  
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Attorney for Buckhead Marketing  
and Distribution, LLC, Buckhead  
Marketing Group, LLC, PAP  
Systems, LLC, Ralf Leszinski and  
Nancy Duitch

IT IS SO ORDERED.

This \_\_\_\_\_ day of \_\_\_\_\_,

\_\_\_\_\_.

\_\_\_\_\_  
UNITED STATES DISTRICT JUDGE

**APPENDIX A**

**Airplane**

Manufacturer: Piper

Model/Series: PA-31-310

Year: 1978

Type: Fixed Wing Multi-Engine

Serial Number: 31-7812059

Registration Mark (N-Number): 975DC

Engine Manufacturer: Lycoming

Engine Model: TI0-540 SER

Number of Engines: 2

Engine Type: Reciprocating

Horsepower: 310

**APPENDIX B**

**401(k) Account**

The account in the name of Ralf Leszinski (employment start date of 7/01/98, residing at 815 Fairfield Road, NW, Atlanta, GA 30327) held at Putnam Investments, as part of the Provant Inc. 401(k) Savings & Retirement Plan.

## APPENDIX C

### Inventory

|   | Inventory<br>value |
|---|--------------------|
| PERFECT LIFT ACTIVATOR                    | \$6,577.65         |
| PERFECT LIFT POWDER                       | \$5,301.45         |
| TIME RESTORE SERUM                        | \$12,261.08        |
| TIME RESTORE NUTRITION VITA               | \$26,288.64        |
| MAXIMUM MOISTURIZING COMPLE               | \$4,165.80         |
| PERFECT LIFT NUTRI-C MOISTU               | \$23,266.23        |
| ULTIMATE COVER                            | \$1,447.74         |
| LIP RESTORE                               | \$348.25           |
| 2 WEEK SUPPLY ULTIMATE COVE               | \$4,120.26         |
| EYE GEL                                   | \$249.60           |
| 7 X 5 X 4 SHIPPER BOX                     | \$786.41           |
| ULTIMATE COVER WITH THE LIP               | \$769.23           |
| ALOETTE LIPSLICK FUCHSIA BL               | \$1,700.14         |
| NATRAFLEX MENTOR RIGHT SMALL GOLF GLOVE   | \$1,657.18         |
| NATRAFLEX MENTOR RIGHT LARGE GOLF GLOVE   | \$8,299.20         |
| NATRAFLEX MENTOR LEFT LARGE GOLF GLOVE    | \$4,285.26         |
| PERFECT GRIP RIGHT MED/LRG MR1/LR1        | \$8,464.50         |
| RIGHT LARGE GLOVE INSERT                  | \$2,907.30         |
| RIGHT SMALL GLOVE INSERT                  | \$1,293.60         |
| INSTRUCTION VIDEO                         | \$6,540.00         |
| SHIPPER BOX 11x6.5x2.75                   | \$96.04            |
| PERFECT GRIP LEFT MEDIUM ML               | \$20,757.00        |
| PERFECT GRIP RIGHT SMALL SR 1/IR1/JR1/XS1 | \$13,260.50        |
| SIMPLE SKILLS GOLF TIPS VIDEO             | \$1,947.00         |
| VALLEY FORGE LEFT LARGE GOLF GLOVE        | \$4,911.50         |
| VALLEY FORGE RIGHT SMALL GOLF GLOVE       | \$44.00            |
| VALLEY FORGE RIGHT LARGE GOLF GLOVE       | \$143.00           |
|   | \$161,888.56       |

**APPENDIX D**

**Financial Statements and Supporting Documents**

**Ralf Leszinski**

1. Financial Statement of Ralf Leszinski dated November 15, 2003 submitted to the Commission.
2. The U.S. Income Tax Return for 2002 of Ralf Leszinski.
3. Ralf Leszinski's declaration dated December 10, 2003 submitted to the Commission and all attachments thereto.

**Buckhead Marketing and Distribution, LLC**

4. The Financial Statement of Buckhead Marketing and Distribution, LLC, dated June 1, 2003, including the profit and loss statements, the U.S. Income Tax Returns for 2002 and 2001 and other attachments thereto.

**Buckhead Marketing Group, LLC**

5. The Financial Statement of Buckhead Marketing Group, LLC, dated December 8, 2003, including the U.S. Income Tax Returns for 2002 and 2001 and other attachments thereto.

**PAP Systems, LLC**

6. The Financial Statement of PAP Systems, LLC, dated May 31, 2003, the 2002 U.S. Tax Return of United Cookie Corporation and

other attachments thereto.

**Nancy Duitch**

7. The Financial Statement of Nancy Duitch dated November 18, 2003.

8. The 2002 U.S. Income Tax Return of Nancy Duitch (and Dennis Duitch).

**APPENDIX E**

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

|                                |   |                  |
|--------------------------------|---|------------------|
| FEDERAL TRADE COMMISSION,      | ) |                  |
|                                | ) | Hon.             |
| Plaintiff,                     | ) |                  |
|                                | ) | Civil Action No. |
| 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.             | ) |                  |
|                                |   |                  |

\_\_\_\_\_  
[Name of defendant/relief defendant], being duly sworn,

hereby states and affirms as follows:

1. My name is \_\_\_\_\_ . My current residence address is \_\_\_\_\_ .

I am a citizen of the United States and am over the age of eighteen. I have personal knowledge of the facts set forth in

this Affidavit.

2. I am a defendant (or relief defendant with respect to Relief Defendant BMG) in FTC v. Advanced Patch Technologies, Inc., et al. (United States District Court for the Northern District of Georgia, Atlanta Division).

3. On [date], I received a copy of the **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** which was signed by the Honorable \_\_\_\_\_ and entered by the Court on [date of entry of Order]. A true and correct copy of the Order I received is appended to this Affidavit.

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct. Executed on [date], at [city and state].

\_\_\_\_\_  
[Full name of defendant/or relief defendant]



State of \_\_\_\_\_, City of \_\_\_\_\_

Subscribed and sworn to before me

this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

(month) (year)

\_\_\_\_\_

Notary Public

My Commission Expires: