

FILED  
CLERK, U.S. DISTRICT COURT  
11/14/2018  
CENTRAL DISTRICT OF CALIFORNIA  
BY: \_\_\_\_\_ DD \_\_\_\_\_ DEPUTY

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19 **UNITED STATES DISTRICT COURT**  
20 **CENTRAL DISTRICT OF CALIFORNIA**

21 **FEDERAL TRADE COMMISSION,**

22 Plaintiff,

23 v.

24 **APEX CAPITAL GROUP, LLC,** a  
25 Wyoming limited liability company,

26 **CAPSTONE CAPITAL SOLUTIONS**  
27  
28

**FILED UNDER SEAL**

Case No. CV 18-9573-JFW(JPRx)

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

1 **LIMITED**, a United Kingdom limited  
2 company,

3 **CLIK TRIX LIMITED**, a United  
4 Kingdom limited company,

5 **EMPIRE PARTNERS LIMITED**, a  
6 United Kingdom limited company,

7 **INTERZOOM CAPITAL LIMITED**, a  
8 United Kingdom limited company,

9 **LEAD BLAST LIMITED**, a United  
10 Kingdom limited company,

11 **MOUNTAIN VENTURE SOLUTIONS**  
12 **LIMITED**, a United Kingdom limited  
13 company,

14 **NUTRA GLOBAL LIMITED**, a United  
15 Kingdom limited company,

16 **OMNI GROUP LIMITED**, a United  
17 Kingdom limited company,

18 **RENDEZVOUS IT LIMITED**, a United  
19 Kingdom limited company,

20 **SKY BLUE MEDIA LIMITED**, a United  
21 Kingdom limited company,

22 **TACTIC SOLUTIONS LIMITED**, a  
23 United Kingdom limited company,

24 **PHILLIP PEIKOS**, individually, and as an  
25 officer of APEX CAPITAL GROUP, LLC,

26  
27 and  
28

1 **DAVID BARNETT**, individually, and as  
2 an officer of APEX CAPITAL GROUP,  
3 LLC,

4 Defendants.

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

6 1. The FTC brings this action under Sections 13(b) and 19 of the Federal  
7 Trade Commission Act (“FTC Act”), 15 U.S.C. §§ 53(b) and 57b, Section 5 of the  
8 Restore Online Shoppers’ Confidence Act (“ROSCA”), 15 U.S.C. § 8404, and  
9 Section 918(c) of the Electronic Fund Transfer Act (“EFTA”), 15 U.S.C.  
10 § 1693o(c), to obtain temporary, preliminary, and permanent injunctive relief,  
11 rescission or reformation of contracts, restitution, the refund of monies paid,  
12 disgorgement of ill-gotten monies, and other equitable relief for Defendants’ acts  
13 or practices in violation of Section 5(a) of the FTC Act, 15 U.S.C. § 45(a), Section  
14 4 of ROSCA, 15 U.S.C. § 8403, Section 907(a) of EFTA, 15 U.S.C. § 1693e(a),  
15 and Section 1005.10(b) of Regulation E, 12 C.F.R. § 1005.10(b).

16 **JURISDICTION AND VENUE**

17 2. This Court has subject matter jurisdiction pursuant to 28 U.S.C.  
18 §§ 1331, 1337(a) and 1345, 15 U.S.C. §§ 45(a), 53(b), and 57b; and Section 5(a) of  
19 ROSCA, 15 U.S.C. § 8404(a).

20 3. Venue is proper in this district under 28 U.S.C. §§ 1391(b)(1), (b)(2),  
21 (c)(1), and (c)(3), and 15 U.S.C. §§ 53(b) and 57b.

22 **SUMMARY OF THE CASE**

23 4. Since early 2014, Defendants have operated an online subscription  
24 scam, marketing and selling over the Internet more than 50 different products,  
25 mainly personal care products and dietary supplements that allegedly promote  
26 weight loss, hair growth, clear skin, muscle development, sexual performance, and  
27 cognitive abilities. Defendants claim to offer “free” trials of these products for just  
28 the cost of shipping and handling, typically \$4.95. In fact, Defendants charge

1 consumers' credit and debit cards the full price of the products – approximately  
2 \$90 – approximately two weeks after consumers order the trials. Defendants also  
3 enroll consumers, without their knowledge or consent, in continuity programs,  
4 shipping them additional supplies of the products and charging them about \$90 on  
5 a monthly basis. Defendants frequently also charge consumers for supposedly  
6 complementary products and enroll consumers in continuity programs related to  
7 these secondary products, without consumers' knowledge or consent. Defendants  
8 have taken tens of millions of dollars from consumers through this deceptive  
9 conduct.

10 5. To further this scheme, Defendants have used dozens of shell  
11 companies and straw owners (referred to as “nominees” or “signors”) to obtain  
12 merchant accounts needed to accept consumers' credit and debit card payments.  
13 This practice of processing credit card transactions through other companies'  
14 merchant accounts is known as “credit card laundering,” and it is an unlawful  
15 practice used by fraudulent merchants to circumvent credit card associations'  
16 monitoring programs and avoid detection by consumers and law enforcement.

17 **PLAINTIFF**

18 6. The FTC is an independent agency of the United States Government  
19 created by statute. 15 U.S.C. §§ 41-58. The FTC enforces Section 5(a) of the FTC  
20 Act, 15 U.S.C. § 45(a), which prohibits unfair or deceptive acts or practices in or  
21 affecting commerce. The FTC also enforces ROSCA, 15 U.S.C. §§ 8401-8405,  
22 which prohibits merchants from selling goods or services on the Internet through  
23 negative option marketing without meeting certain requirements to protect  
24 consumers. A negative option is an offer in which the seller treats a consumer's  
25 silence as consent to be charged for goods or services. Additionally, the FTC  
26 enforces the EFTA, 15 U.S.C. § 1693 *et seq.*, which regulates the rights, liabilities,  
27 and responsibilities of participants in electronic fund transfer systems.

1           7.     The FTC is authorized to initiate federal district court proceedings by  
2 its own attorneys, to enjoin violations of the FTC Act, ROSCA, and the EFTA, and  
3 to secure such equitable relief as may be appropriate in each case, including  
4 rescission or reformation of contracts, restitution, the refund of monies paid, and  
5 the disgorgement of ill-gotten monies. 15 U.S.C. §§ 53(b), 56(a)(2)(B), 57b, 8404,  
6 and 1693o(c).

7   **DEFENDANTS**

8           8.     Defendant **Apex Capital Group, LLC** (“Apex Capital Group”) is a  
9 Wyoming limited liability company which has had business addresses at 31280  
10 Oak Crest Drive, Suite 5, Westlake Village, California 91361; 690 S Highway 89,  
11 Suite 200, Jackson, Wyoming 83001; 8306 Wilshire Boulevard No. 1669, Beverly  
12 Hills, CA 90211; and 21300 Victory Boulevard, Ste. 740, Woodland Hills, CA  
13 91367. At all times material to this Complaint, acting alone or in concert with  
14 others, Apex Capital Group has advertised, marketed, distributed, or sold products  
15 to consumers throughout the United States. Apex Capital Group transacts or has  
16 transacted business in this district and throughout the United States.

17           9.     **Omni Group Limited** is a United Kingdom limited company. In its  
18 corporate filings, it initially provided as an office address the address of a  
19 residential property located in Bedford, United Kingdom, and later changed its  
20 address to that of a virtual office in London, United Kingdom. Dozens of other  
21 limited companies within the control of Apex Capital Group, Phillip Peikos, and  
22 David Barnett, including all of the companies listed in Paragraphs 10-19, provided  
23 one or both of the same addresses in their corporate filings. When Omni Group  
24 Limited was incorporated on July 28, 2015, its proposed directors and shareholders  
25 were Phillip Peikos and David Barnett. David Barnett transferred his shares to  
26 Phillip Peikos in late 2017, and Peikos is now the sole shareholder of Omni Group  
27 Limited. Omni Group Limited is or has been the sole or controlling shareholder of  
28 at least twenty limited entities, including the companies listed in Paragraphs 10-

1 19. Many of these companies sold products to U.S. consumers and distributed the  
2 sales proceeds to Apex Capital Group, Phillip Peikos, and David Barnett. Omni  
3 Group Limited has also transferred millions of dollars from its own bank account  
4 to Apex Capital Group.

5 10. **Capstone Capital Solutions Limited** is a United Kingdom limited  
6 company. In its corporate filings, it initially provided as an office address the  
7 address of a residential property located in Bedford, United Kingdom, and later  
8 changed its address to that of a virtual office in London, United Kingdom. Its  
9 director, as listed in its corporate filings, is a U.S. resident. Its sole shareholder is  
10 Omni Group Limited, which is owned by Phillip Peikos, who resides in the United  
11 States. At times material to this Complaint, Apex Capital Group, Phillip Peikos,  
12 and David Barnett have used Capstone Capital Solutions Limited to sell products  
13 to U.S.-based consumers, to debit U.S. consumers' credit cards and financial  
14 accounts, to open merchant accounts through which these charges are processed,  
15 and to distribute the sales proceeds to Apex Capital Group, Phillip Peikos, and  
16 David Barnett. At least nine merchant accounts have been established at a Latvian  
17 bank in the name of Capstone Capital Solutions Limited to process payments for  
18 online sales of products to consumers in the United States.

19 11. **Clik Trix Limited** is a United Kingdom limited company. In its  
20 corporate filings, it initially provided as an office address the address of a  
21 residential property located in Bedford, United Kingdom, and later changed its  
22 address to that of a different residential property located in London, United  
23 Kingdom. Its controlling shareholder is Omni Group Limited, which is owned by  
24 Phillip Peikos, who resides in the United States. At times material to this  
25 Complaint, Apex Capital Group, Phillip Peikos, and David Barnett have used Clik  
26 Trix Limited to sell products to U.S.-based consumers, to debit U.S. consumers'  
27 credit cards and financial accounts, to open merchant accounts through which these  
28 charges are processed, and to distribute the sales proceeds to Apex Capital Group,

1 Phillip Peikos, and David Barnett. At least one merchant account has been  
2 established at a Latvian bank in the name of Klik Trix Limited to process payments  
3 for online sales of products to consumers in the United States.

4 12. **Empire Partners Limited** is a United Kingdom limited company. In  
5 its corporate filings, it initially provided as an office address the address of a  
6 residential property located in Bedford, United Kingdom, and later changed its  
7 address to that of a different residential property located in London, United  
8 Kingdom. Its director, as listed in its corporate filings, is a U.S. resident. Its  
9 controlling shareholder is Omni Group Limited, which is owned by Phillip Peikos,  
10 who resides in the United States. At times material to this Complaint, Apex  
11 Capital Group, Phillip Peikos, and David Barnett have used Empire Partners  
12 Limited to sell products to U.S.-based consumers, to debit U.S. consumers' credit  
13 cards and financial accounts, to open merchant accounts through which these  
14 charges are processed, and to distribute the sales proceeds to Apex Capital Group,  
15 Phillip Peikos, and David Barnett. At least seven merchant accounts have been  
16 established at a Latvian bank in the name of Empire Partners Limited to process  
17 payments for online sales of products to consumers in the United States.

18 13. **Interzoom Capital Limited** is a United Kingdom limited company.  
19 In its corporate filings, it initially provided as an office address the address of a  
20 residential property located in Bedford, United Kingdom, and later changed its  
21 address to that of a different residential property located in London, United  
22 Kingdom. Its director, as listed in its corporate filings, is a U.S. resident. Its  
23 controlling shareholder is Omni Group Limited, which is owned by Phillip Peikos,  
24 who resides in the United States. At times material to this Complaint, Apex  
25 Capital Group, Phillip Peikos, and David Barnett have used Interzoom Capital  
26 Solutions Limited to sell products to U.S.-based consumers, to debit U.S.  
27 consumers' credit cards and financial accounts, to open merchant accounts through  
28 which these charges are processed, and to distribute the sales proceeds to Apex



1 Capital Group, Phillip Peikos, and David Barnett. At least six merchant accounts  
2 have been established at a Latvian bank in the name of Interzoom Capital Limited  
3 to process payments for online sales of products to consumers in the United States.

4 14. **Lead Blast Limited** is a United Kingdom limited company. In its  
5 corporate filings, it initially provided as an office address the address of a  
6 residential property located in Bedford, United Kingdom, and later changed its  
7 address to that of a virtual office in London, United Kingdom. Its director, as  
8 listed in its corporate filings, is a U.S. resident. Its sole shareholder is Omni Group  
9 Limited, which is owned by Phillip Peikos, who resides in the United States. At  
10 times material to this Complaint, Apex Capital Group, Phillip Peikos, and David  
11 Barnett have used Lead Blast Limited to sell products to U.S.-based consumers, to  
12 debit U.S. consumers' credit cards and financial accounts, to open merchant  
13 accounts through which these charges are processed, and to distribute the sales  
14 proceeds to Apex Capital Group, Phillip Peikos, and David Barnett. At least one  
15 merchant account has been established at a Latvian bank in the name of Lead Blast  
16 Limited to process payments for online sales of products to consumers in the  
17 United States.

18 15. **Mountain Venture Solutions Limited** is a United Kingdom limited  
19 company. In its corporate filings, it initially provided as an office address the  
20 address of a residential property located in Bedford, United Kingdom, and later  
21 changed its address to that of a virtual office in London, United Kingdom. Its  
22 director, as listed in its corporate filings, is a U.S. resident. Its sole shareholder is  
23 Omni Group Limited, which is owned by Phillip Peikos, who resides in the United  
24 States. At times material to this Complaint, Apex Capital Group, Phillip Peikos,  
25 and David Barnett have used Mountain Venture Solutions Limited to sell products  
26 to U.S.-based consumers, to debit U.S. consumers' credit cards and financial  
27 accounts, to open merchant accounts through which these charges are processed,  
28 and to distribute the sales proceeds to Apex Capital Group, Phillip Peikos, and



1 David Barnett. At least eight merchant accounts have been established at a Latvian  
2 bank in the name of Mountain Venture Solutions Limited to process payments for  
3 online sales of products to consumers in the United States.

4 16. **Nutra Global Limited** is a United Kingdom limited company. In its  
5 corporate filings, it initially provided as an office address the address of a  
6 residential property located in Bedford, United Kingdom, and later changed its  
7 address to that of a virtual office in London, United Kingdom. Its director, as  
8 listed in its corporate filings, is a U.S. resident. Its sole shareholder is Omni Group  
9 Limited, which is owned by Phillip Peikos, who resides in the United States. At  
10 times material to this Complaint, Apex Capital Group, Phillip Peikos, and David  
11 Barnett have used Nutra Global Limited to sell products to U.S.-based consumers,  
12 to debit U.S. consumers' credit cards and financial accounts, to open merchant  
13 accounts through which these charges are processed, and to distribute the sales  
14 proceeds to Apex Capital Group, Phillip Peikos, and David Barnett. At least one  
15 merchant account has been established at a Latvian bank in the name of Nutra  
16 Global Limited to process payments for online sales of products to consumers in  
17 the United States.

18 17. **Rendezvous IT Limited** is a United Kingdom limited company. In  
19 its corporate filings, it initially provided as an office address the address of a  
20 residential property located in Bedford, United Kingdom, and later changed its  
21 address to that of a virtual office in London, United Kingdom. Its sole shareholder  
22 is Omni Group Limited, which is owned by Phillip Peikos, who resides in the  
23 United States. At times material to this Complaint, Apex Capital Group, Phillip  
24 Peikos, and David Barnett have used Rendezvous IT Limited to sell products to  
25 U.S.-based consumers, to debit U.S. consumers' credit cards and financial  
26 accounts, to open merchant accounts through which these charges are processed,  
27 and to distribute the sales proceeds to Apex Capital Group, Phillip Peikos, and  
28 David Barnett. At least one merchant account has been established at a Latvian

1 bank in the name of Rendezvous IT Limited to process payments for online sales  
2 of products to consumers in the United States.

3 18. **Sky Blue Media Limited** is a United Kingdom limited company. In  
4 its corporate filings, it initially provided as an office address the address of a  
5 residential property located in Bedford, United Kingdom, and later changed its  
6 address to that of a different residential property located in London, United  
7 Kingdom. Its controlling shareholder is Omni Group Limited, which is owned by  
8 Phillip Peikos who resides in the United States. At times material to this  
9 Complaint, Apex Capital Group, Phillip Peikos, and David Barnett have used Sky  
10 Blue Media Limited to sell products to U.S.-based consumers, to debit U.S.  
11 consumers' credit cards and financial accounts, to open merchant accounts through  
12 which these charges are processed, and to distribute the sales proceeds to Apex  
13 Capital Group, Phillip Peikos, and David Barnett. At least eight merchant accounts  
14 have been established at a Latvian bank in the name of Sky Blue Media Limited to  
15 process payments for online sales of products to consumers in the United States.

16 19. **Tactic Solutions Limited** is a United Kingdom limited company. In  
17 its corporate filings, it initially provided as an office address the address of a  
18 residential property located in Bedford, United Kingdom, and later changed its  
19 address to that of a different residential property located in London, United  
20 Kingdom. Its director, as listed in its corporate filings, is a U.S. resident. Its  
21 controlling shareholder is Omni Group Limited, which is owned by Phillip Peikos,  
22 who resides in the United States. At times material to this Complaint, Apex  
23 Capital Group, Phillip Peikos, and David Barnett have used Tactic Solutions  
24 Limited to sell products to U.S.-based consumers, to debit U.S. consumers' credit  
25 cards and financial accounts, to open merchant accounts through which these  
26 charges are processed, and to distribute the sales proceeds to Apex Capital Group,  
27 Phillip Peikos, and David Barnett. At least eight merchant accounts have been  
28

1 established at a Latvian bank in the name of Tactic Solutions Limited to process  
2 payments for online sales of products to consumers in the United States.

3 20. Capstone Capital Solutions Limited, Klik Trix Limited, Lead Blast  
4 Limited, Empire Partners Limited, Interzoom Capital Limited, Mountain Venture  
5 Solutions Limited, Nutra Global Limited, Rendezvous IT Limited, Sky Blue Media  
6 Limited, and Tactic Solutions Limited, are collectively referred to herein as the  
7 “UK Corporate Defendants.”

8 21. Defendant **Phillip Peikos** (“Peikos”) resides in Westlake Village,  
9 California. He is the Chief Executive Officer and co-owner of Apex Capital  
10 Group and the sole shareholder and director of Omni Group Limited, which is the  
11 sole or controlling shareholder of all of the UK Corporate Defendants. At all times  
12 material to this Complaint, acting alone or in concert with others, he has  
13 formulated, directed, controlled, had the authority to control, or participated in the  
14 acts and practices of Apex Capital Group, Omni Group Limited, and the UK  
15 Corporate Defendants, including the acts and practices set forth in this Complaint.  
16 Defendant Peikos resides in this district and, in connection with the matters alleged  
17 herein, transacts or has transacted business in this district and throughout the  
18 United States.

19 22. Defendant **David Barnett** (“Barnett”) is a California resident. He  
20 was the Chief Operating Officer of Apex Capital Group. He was a co-owner of  
21 Apex Capital Group until at least late 2017. He was also an owner and director of  
22 Omni Group Limited until November 2017, when he transferred his shares to  
23 Peikos. At times material to this Complaint, acting alone or in concert with others,  
24 he formulated, directed, controlled, had the authority to control, or participated in  
25 the acts and practices of Apex Capital Group, Omni Group Limited, and the UK  
26 Corporate Defendants, including the acts and practices set forth in this Complaint.  
27 Defendant Barnett resides in California and, in connection with the matters alleged  
28

1 herein, transacts or has transacted business in this district and throughout the  
2 United States.

3 23. Peikos and Barnett are collectively referred to herein as the  
4 “Individual Defendants.”

5 **COMMON ENTERPRISE**

6 24. Defendant Apex Capital Group, Omni Group Limited, and the UK  
7 Corporate Defendants have operated as a common enterprise while engaging in the  
8 deceptive and unfair acts and practices, and other violations of law, alleged below.  
9 They have conducted the business practices described below through an  
10 interrelated, international network of dozens of shell companies that have common  
11 ownership, officers, managers, business functions and practices, and office  
12 locations (together, the “Apex Operation”). The companies regularly transfer  
13 funds among their corporate bank accounts, ultimately funneling money into a  
14 single, centralized account at Citibank, N.A. (the “Apex Citi Account”), from  
15 which the Apex Operation’s expenses are withdrawn and funds distributed to the  
16 Individual Defendants.

17 25. Because Apex Capital Group, Omni Group Limited, and the UK  
18 Corporate Defendants operate with the other entities in the Apex Operation as a  
19 common enterprise, each of them is jointly and severally liable for the acts and  
20 practices alleged below.

21 26. The Individual Defendants are or have been owners, officers,  
22 organizers, and/or beneficiaries of Apex Capital Group, Omni Group Limited, and  
23 the UK Corporate Defendants.

24 27. The Individual Defendants have formulated, directed, controlled, had  
25 the authority to control, or participated in the acts and practices of Apex Capital  
26 Group, Omni Group Limited, and the UK Corporate Defendants that constitute the  
27 common enterprise.  
28

1 **ALTER EGO**

2 28. As stated in Paragraphs 8-19 and 21-22, there is such a unity of  
3 interest between Omni Group Limited and the UK Corporate Defendants, and  
4 Apex Capital Group, Peikos, and Barnett, that Omni Group Limited and the UK  
5 Corporate Defendants are alter egos of Apex Capital Group, Peikos, and Barnett.  
6 Omni Group Limited and the UK Corporate Defendants are or have been  
7 dominated and controlled by Peikos and Barnett, and were created to facilitate the  
8 Apex Capital Group enterprise.

9 29. Failure to disregard Omni Group Limited and the UK Corporate  
10 Defendants' corporate forms would sanction a deception or injustice by shielding  
11 and safeguarding them from liability for their role in a scheme that has caused tens  
12 of millions of dollars in consumer injury. Omni Group Limited and the UK  
13 Corporate Defendants would be unjustly enriched if permitted to keep money  
14 obtained from consumers through deception and through their participation in the  
15 Apex Capital Group enterprise.

16 30. This Court has personal jurisdiction over Omni Group Limited and the  
17 UK Corporate Defendants because they are alter egos of Apex Capital Group,  
18 Peikos, and Barnett, individually and/or collectively.

19 **COMMERCE**

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

23 **DEFENDANTS' BUSINESS ACTIVITIES**

24 ***I. The Apex Operation's Subscription Scam***

25 ***A. The Corporate Network***

26 32. Through the Apex Operation, Defendants have marketed and sold  
27 more than 50 different products, most of which allegedly promote weight loss, hair  
28 growth, clear skin, muscle development, sexual performance, and cognitive

1 abilities. The Apex Operation began in early 2014, when the Individual  
2 Defendants used Apex Capital Group, the main operating company, and other  
3 entities to receive payments from consumers for these products. Consumer funds  
4 are funneled through other entities' bank accounts into the Apex Citi Account,  
5 Apex Capital Group's main bank account. The Individual Defendants have been  
6 co-signatories on the Apex Citi Account, from which they have received millions  
7 of dollars.

8 33. The Individual Defendants formed, or caused to be formed, at least 32  
9 limited liability companies in Wyoming between August 2013 and March 2016  
10 (the "Wyoming Companies") to obtain merchant accounts in the United States that  
11 would allow them to debit consumers' credit cards and financial accounts. The  
12 Wyoming Companies do not conduct any business and have had no employees.  
13 They are listed in Exhibit A to this Complaint.

14 34. In order to obtain merchant accounts in the name of the Wyoming  
15 Companies, the Individual Defendants caused merchant account applications to be  
16 submitted to payment processing entities that listed individual signors as the  
17 principal owners of the companies. At least thirteen individuals who are California  
18 residents (some of whom were relatives or neighbors of an Apex Capital Group  
19 employee) were used by the Individual Defendants as signors on these merchant  
20 applications. The signors received a monthly "commission" payment of  
21 approximately \$1,000 from the Apex Citi Account. Other than acting as signors on  
22 the merchant applications, these individuals did not engage in any business  
23 functions on behalf of the Wyoming Companies.

24 35. From early 2014 through at least mid-2015, the Individual Defendants  
25 used merchant accounts in the names of certain of the Wyoming Companies to  
26 process consumers' payments for purported weight-loss and skin care products  
27 under brand names such as Authentic Yacon, Original Garcinia, Dermanique,  
28 Lumera, Juveliere, and Rejuvius.

1           36. By the middle of 2015, the Individual Defendants had begun to use  
2 merchant accounts in the names of certain of the Wyoming Companies to process  
3 consumer payments for online sales of purported sexual performance, muscle-  
4 building, hair-growth, and cognitive enhancement products under brand names  
5 such as Evermax, Celexas, Virility X3, TestoXR, Follicure, and NeuroXR.

6           37. The funds from sales processed through certain of the Wyoming  
7 Companies' merchant accounts were deposited into bank accounts in the names of  
8 those companies and then transferred, either directly or through intermediary  
9 accounts, to the Apex Citi Account.

10           38. Beginning in July 2014, the Individual Defendants also formed, or  
11 caused to be formed, at least 37 limited companies in the United Kingdom,  
12 including the UK Corporate Defendants (altogether, the "UK Companies"). These  
13 companies were formed to obtain merchant accounts offshore in order to debit U.S.  
14 consumers' credit cards and financial accounts held in the U.S. and to process  
15 payments made by U.S. consumers for products marketed and sold by the Apex  
16 Operation. The UK Companies are listed in Exhibit B to this Complaint.

17           39. In many instances, the individuals named as directors of the UK  
18 Companies are the same California residents used as signors on merchant account  
19 applications submitted in the name of the Wyoming Companies.

20           40. Apex Capital Group and the Individual Defendants used the UK  
21 Corporate Defendants to open at least thirty merchant accounts at a Latvian bank.  
22 These merchant accounts were used to process payments from U.S. consumers'  
23 credit cards and financial accounts related to their purchases of Defendants'  
24 products, including Biogenic XR, Evermax, and Virility X3.

25           41. From May 2015 through 2017, offshore bank accounts associated with  
26 the UK Corporate Defendants and Omni Group Limited transferred approximately  
27 twelve million dollars to Apex Capital Group.  
28



1           B.     *The Apex Operation's Deceptive Trial Offers*

2           42.     Defendants have registered more than one thousand websites, many of  
3 which they use or have used to market and sell their products. The websites'  
4 addresses have both US and UK domains (*i.e.* .com and .co.uk), including for  
5 instance trybiogenic.com, eliteprosup.com, follicurehair.com, tryneuroxr.com,  
6 healthshop1.com, tryevermax.com, virilitydirect.com, bestcelex.co.uk,  
7 biogenicxricltd.co.uk, and interzoom.co.uk.

8           43.     Many of these websites purport to offer "free" or "risk free" trials of  
9 the products that include a negative option feature that is either not disclosed or is  
10 poorly disclosed in a manner that is neither clear nor conspicuous. Consumers,  
11 without their informed consent, are then charged for products that are shipped to  
12 them each month until they take action to cancel and, sometimes, even after  
13 cancelling. These websites include: biogenicxr.com, celexas.com,  
14 tryevermax.com, and tryneuroxr.com.

15           44.     Defendants obtain consumers' credit or debit card information by  
16 enticing them to sign up for supposedly "free" or "risk-free" trials of the products  
17 with the only charge being a shipping and handling fee (typically \$4.95). At the  
18 initial time of purchase, the consumer is charged \$4.95, and she is shipped a full  
19 month's supply of the product. Approximately two weeks later, if the consumer  
20 has not affirmatively cancelled her order and returned the product, her credit or  
21 debit card is charged the full price of the product (typically about \$90). Each  
22 month thereafter, the consumer is shipped a month's supply of the product, and is  
23 charged about \$90, until she calls to cancel. Cancellation, as described below, is a  
24 difficult and time-consuming process. Some consumers continue to be charged  
25 even after they cancel.

26           45.     Defendants market the products online through a variety of means,  
27 including advertisements hosted on third-party websites, purported Internet surveys  
28 and contests, social media advertisements, email, and search engine

1 advertisements, such as Google Ads. In numerous instances, these advertisements  
2 claim to offer a “FREE BOTTLE” or a “RISK FREE” TRIAL and promise  
3 “SATISFACTION GUARANTEED 100%.”

4 46. For example, the following advertisement for Defendants’ purported  
5 memory-boosting product, NeuroXR, promises consumers a “free one month  
6 supply of NeuroXR” if they click on the prominent link to “GET YOUR FREE  
7 BOTTLE.”



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17 47. Numerous advertisements promoting trial offers of the products fail to  
18 explain the material terms and conditions of the purchase, including that  
19 consumers will be charged for the full cost of the products if they do not cancel  
20 their orders within a short period of time. Similarly, numerous advertisements do  
21 not explain that consumers will be enrolled automatically in autoship programs,  
22 whereby the consumers will continue to receive, and be billed for, additional  
23 supplies of the products on a monthly basis. On the contrary, advertisements for  
24 Defendants’ products claim that they are “free” or “risk free.”

25 *C. The Apex Operations’ Trial Offers Ordering Process*

26 48. After consumers click on links in advertisements for Defendants’  
27 products, they are transferred to webpages on Defendants’ websites called “landing  
28 pages.” Landing pages typically include windows for consumers to enter their

1 contact information. Once consumers enter their contact information, they are  
 2 transferred to other webpages called “order pages,” where they are directed to enter  
 3 their payment information.

4 49. Numerous landing pages contain claims similar to those made in the  
 5 advertisements. For example, a landing page for a sexual performance product  
 6 called Biogenic XR included misrepresentations that the trial would be “free” for  
 7 consumers:



17 50. These landing pages do not typically include clear or conspicuous  
 18 disclosures explaining the terms of the trial offer. For example, a landing page on  
 19 Defendants’ website for NeuroXR does not include any visible disclosures about  
 20 the terms and conditions of the trial offer, such as (1) that consumers would be  
 21 charged the full cost of the product if they did not cancel the trial offer within a  
 22 short period of time; (2) that consumers would be enrolled automatically in  
 23 autoship programs, pursuant to which Defendants would send them additional  
 24 products each month and would charge them accordingly until they took steps to  
 25 cancel the autoship program; or (3) that the trial offer included onerous  
 26 cancellation and refund policies. Instead, on this landing page, the consumer  
 27 enters only his or her contact information and then, after making the determination  
 28 that he or she would like to receive the trial offer, clicks a button that says, “RUSH

1 MY TRIAL.” Only if the consumer scrolls down several page lengths to the  
2 bottom of the landing page will she come across a “Terms & Conditions” link,  
3 appearing in very small font. Only by clicking on that remote link may consumers  
4 view information regarding their enrollment in continuity programs with recurring  
5 charges.

6 51. Numerous order pages where consumers enter their payment  
7 information either (i) contain inadequate disclosures of the terms of the trial offer  
8 that are not clear or conspicuous; or (ii) lack disclosures of the terms of the trial  
9 offer entirely. For example, after clicking the “RUSH MY TRIAL” button on the  
10 NeuroXR landing page, consumers are directed to an order page on the NeuroXR  
11 website where they are required to enter their billing information. On this order  
12 page, there are no visible disclosures regarding the terms of the trial offer. Again,  
13 only by clicking on the “Terms” link could consumers learn about the short trial  
14 period, the fact that they will be charged the full cost of the product at the end of  
15 the trial period, and that if they order the trial they will be enrolled in an autoship  
16 program with recurring shipments and recurring charges. The terms link is in  
17 small print toward the bottom of the webpage, away from the “COMPLETE  
18 CHECKOUT” button, and overshadowed by larger text and graphics on the page:

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[TERMS](#) [PRIVACY](#) [CONTACT](#)

52. Where order pages for Defendants’ products do contain disclosures regarding the terms of the trial offer on the page itself, those disclosures typically are not clear or conspicuous. For example, one order page for Biogenic XR contains a disclosure near the middle of the page regarding enrollment in the autoship program. The disclosure appears in small type and in light-gray font against a white background. This disclosure is overshadowed by the prominent, bold “FREE TRIAL” language that is higher up on the webpage.



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**COMPLETE YOUR ORDER BELOW**

2. FINISH ORDER

**YOU'RE ALMOST DONE! JUST PAY FOR SHIPPING.**

BiogenicXR 30 Day Supply 14 Day Trial, No Commitments, Cancel Anytime!	<b>FREE TRIAL</b>
Shipping	<b>\$4.95</b>

Your shipment is estimated to arrive on **Sunday, February 25, 2018**

**YOUR TOTAL: \$4.95**

**CLAIM YOUR EXCLUSIVE TRIAL TODAY! >>>**

By submitting, you connect [sic] to having read and agreed to our Terms and Conditions and after your 14 day trial period has expired, being enrolled in our membership program for \$89.78 plus shipping per month. You can cancel anytime by calling 1-844-688-6199.

By submitting, you connect to having read and agreed to our Terms and Conditions and after your 14 day trial period has expired, being enrolled in our membership program for \$89.78 plus shipping per month. You can cancel anytime by calling 1-844-688-6199.

**Final Step: Payment Information**

Card Type:

Card Number:

Exp Month:  Exp Year:

CVV:

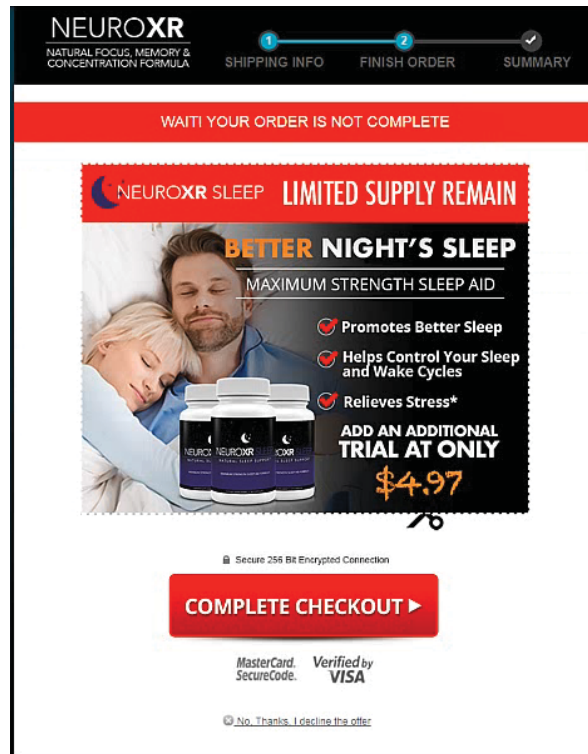
**RUSH MY ORDER**

*D. The Apex Operation's Offers for Upsell or Add-On Products*

53. After consumers enter their credit or debit card information and submit their orders to purchase trials of Defendants' products, they are often directed to webpages that invite them to sign up for a second trial of other, allegedly related products, i.e. upsell or add-on products.

54. For example, Plaintiff purchased online several of Defendants' products in the course of its investigation. After submitting payment information

1 to purchase a trial of one such product called NeuroXR, and clicking the  
2 “COMPLETE CHECKOUT” button, a pop-up offer for a different product called  
3 NeuroXR Sleep appeared on the screen. The pop-up contained what appeared to  
4 be an advertisement with a perforated border in the style of a cut-out coupon;  
5 inside the coupon the advertisement stated, “ADD AN ADDITIONAL TRIAL AT  
6 ONLY \$4.97.” Underneath and outside of that box was a separate button stating  
7 “COMPLETE CHECKOUT.” Below the “COMPLETE CHECKOUT” button, in  
8 small, faint print, Defendants included a hyperlink that consumers could click to  
9 decline the second offer.



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22 55. The format of the website suggested that the “COMPLETE  
23 CHECKOUT” button was the final step in completing the purchase of the original  
24 NeuroXR trial. In fact, Plaintiff’s order was already complete after entering credit  
25 card information on the previous screen. Plaintiff was enrolled in a second trial  
26 program in which Plaintiff was shipped a second product, NeuroXR Sleep, and  
27 was charged \$4.95 twice.  
28



1           56. Numerous consumers who inadvertently purchase an upsell product  
2 are charged \$4.95 for each purported trial, and then about two weeks later are  
3 charged the full price of both products. Numerous consumers are enrolled in  
4 autoship programs for both products, continuing to receive shipments of both  
5 products each month until they take affirmative steps to cancel.

6           57. After consumers place orders for Defendants' products, some receive  
7 no confirmation email whatsoever; others receive a confirmation email that lists  
8 only the \$4.95 shipping and handling charge. The confirmation email thus  
9 reinforces the false impression from the websites that, other than the obligation to  
10 pay shipping and handling, the trial product is free.

11           *E. The Apex Operation's Onerous Cancellation and Refund Practices*

12           58. In numerous instances, consumers who order trials of Defendants'  
13 products report that Defendants charge them without their knowledge or consent  
14 for the full price of these products and sign them up for continuity programs.  
15 Many consumers then attempt to cancel their enrollment in the continuity programs  
16 and to obtain refunds of Defendants' unauthorized charges, but they often have  
17 difficulty cancelling and obtaining refunds.

18           59. Numerous consumers who call Defendants to cancel have a difficult  
19 time reaching customer service representatives, despite calling several times.  
20 Some consumers are placed on hold for more than an hour. Other consumers  
21 report that they were given incorrect customer service numbers. Even if they were  
22 able to reach a customer service representative to request cancellation, numerous  
23 consumers report that they continued to receive and to be charged for shipments of  
24 Defendants' products.

25           60. Consumers also encounter a range of difficulties when they attempt to  
26 obtain refunds from Defendants for the unauthorized charges. Some consumers  
27 who request refunds are told that they cannot get refunds because the requests were  
28 untimely; customer service representatives report that the products' terms and

1 conditions require refund requests to be made within 30 days of ordering. Where  
2 the refund period has not lapsed, some consumers are told they can only get a  
3 refund if the trial product is returned unopened and at the consumer's expense.  
4 Some consumers who have attempted to return products are nonetheless told that  
5 they will not be refunded because the company allegedly never received the  
6 products. In numerous instances, moreover, consumers are provided with a return  
7 address that is not the company's true address.

8 61. Consumers often attempt to get their money back by initiating  
9 "chargebacks" with their credit card companies. Many consumers ultimately  
10 cancel their credit or debit cards to ensure they will not be subjected to additional  
11 unauthorized charges.

## 12 ***II. The Apex Operation's Credit Card Laundering Activities***

### 13 *A. Background on Merchant Accounts and Credit Card Laundering*

14 62. In order to accept credit card payments from consumers, a merchant  
15 must establish a merchant account with a merchant acquiring bank or "acquirer."  
16 A merchant account is a type of account that allows businesses to process  
17 consumer purchases by credit or debit cards.

18 63. Acquirers enter into contracts with entities known as payment  
19 processors that manage the bank's merchant processing program. Payment  
20 processors in turn frequently enter contracts with multiple "independent sales  
21 organizations" ("ISOs") to sign up merchants for merchant accounts with the  
22 acquirer.

23 64. The acquirer has access to the credit card associations ("card  
24 networks"), such as MasterCard and VISA. The card networks require all  
25 participants in their networks, including the acquirers and their registered ISOs, to  
26 comply with detailed rules governing the use of the card networks. These rules  
27 include screening processes and underwriting standards for merchants, to ensure  
28 that they are legitimate, bona fide businesses, and to screen out merchants engaged

1 in potentially fraudulent or illegal practices. The rules also prohibit credit card  
2 laundering, which is the practice of processing credit card transactions through  
3 another company's merchant account.

4 65. Merchants that pose a heightened risk of fraud to the card networks  
5 may be subject to closer scrutiny or may be denied merchant accounts. For  
6 example, the ISO or acquirer may be concerned that the merchant is engaged in  
7 illegal activity or will generate excessive rates of transactions returned by  
8 consumers ("chargebacks").

9 66. Consumers initiate "chargebacks" when they dispute credit card  
10 charges by contacting their "issuing bank," which is the bank that issued the credit  
11 card to the consumer. When a consumer successfully disputes the charge, the  
12 consumer's issuing bank credits the consumer's credit card for the disputed  
13 amount, and then recovers the chargeback amount from the acquirer (the  
14 merchant's bank). The acquirer, in turn, collects the chargeback amount from the  
15 merchant.

16 67. In order to detect and prevent illegal, fraudulent, or unauthorized  
17 merchant activity, the card networks operate various chargeback monitoring and  
18 fraud monitoring programs. For example, if a merchant generates excessive levels  
19 of chargebacks that exceed the thresholds set under VISA's chargeback monitoring  
20 program, the merchant is subject to additional monitoring requirements and, in  
21 some cases, penalties and termination.

22 68. Credit card laundering is commonly used by fraudulent merchants  
23 who cannot meet a bank's underwriting criteria or who cannot obtain merchant  
24 accounts under their own names (whether because of excessive chargebacks,  
25 complaints, or other signs of illegal activity).

26 69. Even when fraudulent merchants can qualify for a merchant account,  
27 they may engage in laundering as a way to conceal their true identity from  
28 consumers, the card networks, and law enforcement agencies.

1           70. To conceal their identities, fraudulent merchants may create shell  
2 companies to act as fronts, and apply for merchant accounts under these shell  
3 companies. Once the merchant accounts are approved, the fraudulent merchant  
4 then launders its own transactions through the shell company's merchant accounts.

5           71. Fraudulent merchants may create multiple merchant accounts in order  
6 to maintain continued access to the card networks in the event any of the  
7 merchant's accounts are terminated.

8           *B. Apex Capital Group and the Individual Defendants Caused the*  
9           *Laundering of Transactions Through Numerous Shell Companies' Merchant*  
10           *Accounts*

11           72. Apex Capital Group and the Individual Defendants engaged in a  
12 scheme to apply for a large number of merchant accounts in the name of shell  
13 companies, including the UK Corporate Defendants, through which they could  
14 launder charges to consumers' credit or debit card accounts.

15           73. As part of this scheme, Apex Capital Group and the Individual  
16 Defendants created or caused to be created numerous shell companies, including  
17 Omni Group Limited and the UK Corporate Defendants. The purported directors  
18 of the UK Corporate Defendants are all straw owners who reside in the U.S.; the  
19 UK Corporate Defendants are in fact controlled by Peikos through Omni Group  
20 Limited. Omni Group Limited and the UK Corporate Defendants participated in  
21 the scheme by allowing charges to be laundered through merchant accounts opened  
22 in the names of the UK Corporate Defendants.

23           74. During the period of May 2014 through July 2017, Apex Capital  
24 Group and the Individual Defendants, directly or through agents acting on their  
25 behalf and for their benefit, submitted dozens of deceptive merchant applications  
26 in the name of at least thirteen domestic shell companies to multiple ISOs for their  
27 underwriting approval.  
28

1 75. The thirteen companies include: Apres Vous Media LLC; Based  
2 Capital, LLC; Cascade Canyon, LLC; Confidential Holdings, LLC; Cornice  
3 Group, LLC; Horizon Media, LLC; Interzoom, LLC; Mountain Range Solutions,  
4 LLC; Old West Equity, LLC; Singletrack Solutions, LLC; Sky Media Group, LLC;  
5 Teton Pass, LLC; and Wyoming Freedom Group, LLC. The applications listed at  
6 least ten nominees as the purported principal owners of these shell companies.

7 76. When applying for a merchant account, merchants often submit with  
8 the applications copies of voided checks drawn on their business bank accounts,  
9 with the understanding that credit card sales revenues will be transferred into these  
10 accounts.

11 77. At least ten merchant applications submitted in the name of domestic  
12 shell companies included checks that reflected the existence of business bank  
13 accounts in the name of the shell companies. Each check had been altered to  
14 include the straw owner's name, even though none of the straw owners were  
15 signatories of any of the accounts. Indeed, for multiple merchant account  
16 applications, Defendants attached or caused to be attached the same check number  
17 for the same bank account with different names on it.

18 78. For example, the following check was submitted as part of an  
19 application to open a merchant account for a product called Optimal Pet:

1002

**WELLS FARGO BANK**  
WESTLAKE 3865 E THOUSAND OAKS BLVD THOUSAND OAKS, CA 91320

Date \_\_\_\_\_ DATE \_\_\_\_\_ 1002

To \_\_\_\_\_ 16341230

For \_\_\_\_\_

PAY TO THE ORDER OF \_\_\_\_\_ \$ \_\_\_\_\_

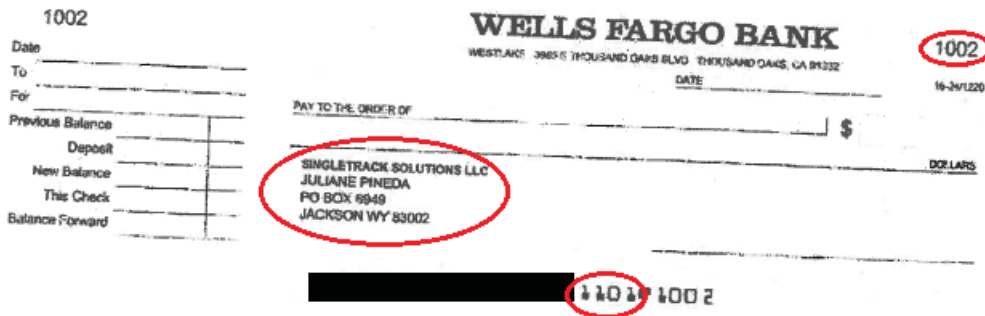
Previous Balance	
Deposit	
New Balance	
This Check	
Balance Forward	

SINGLETRACK SOLUTIONS LLC  
GRACIELA VASQUEZ  
680 S HWY 89 STE 200  
JACKSON WY 83001-6508

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20 While the name of straw owner Graciela Vasquez is listed on the check, a copy of  
21 a check with the same checking account and the same check number was submitted  
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1 as part of a different merchant account application, for a product called Ultra, with  
2 a different straw owner, Juliana Pineda, listed on the check:



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9 79. The two copies of checks attached to the merchant account  
10 applications were doctored. Neither Ms. Vasquez nor Ms. Pineda were signatories  
11 on the Wells Fargo account ending x1101. In fact, Defendant Peikos is a signatory  
12 on that account.

13 80. Multiple ISOs approved the merchant account applications, set up  
14 merchant accounts for each of the thirteen shell companies, and began processing  
15 payments through acquiring banks. When payments for Defendants' products  
16 were processed through the merchant accounts that Defendants secured in the  
17 names of the shell companies, the sales revenues were automatically transferred  
18 into the shell companies' Wells Fargo bank accounts. From there, the shell  
19 companies transferred consumers' money, directly or through intermediary  
20 accounts, into the Apex Citi Account.

21 81. Defendants secured more than forty merchant accounts based on these  
22 false merchant applications; nearly all of them were subsequently closed.  
23 Numerous merchant accounts were closed due to excessive chargeback levels.

24 **VIOLATIONS OF THE FTC ACT**

25 82. Section 5(a) of the FTC Act, 15 U.S.C. § 45(a), prohibits "unfair or  
26 deceptive acts or practices in or affecting commerce."

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

1 84. Acts or practices are unfair under Section 5 of the FTC Act if they  
2 cause or are likely to cause substantial injury to consumers that consumers cannot  
3 reasonably avoid themselves and that is not outweighed by countervailing benefits  
4 to consumers or competition. 15 U.S.C. § 45(n).

5 **COUNT I**

6 ***Misrepresentations of the Price of the Trial Offers***

7 85. In numerous instances, in connection with the advertising, marketing,  
8 promotion, offering for sale, or sale of products, Defendants have represented,  
9 directly or indirectly, expressly or by implication, that Defendants will charge  
10 consumers at most only a shipping and handling fee for a one-time shipment of  
11 Defendants' product.

12 86. In truth and in fact, in numerous instances in which Defendants have  
13 made the representation set forth in Paragraph 85 of this Complaint, Defendants  
14 have charged consumers more than a shipping and handling fee for one or more  
15 shipments of Defendants' product.

16 87. Therefore, Defendants' representation described in Paragraph 85 of  
17 this Complaint is false and misleading, and constitutes a deceptive act or practice  
18 in violation of Section 5(a) of the FTC Act, 15 U.S.C. § 45(a).

19 **COUNT II**

20 ***Misrepresentation that Order is Not Complete***

21 88. In numerous instances, in connection with the advertising, marketing,  
22 promotion, offering for sale, or sale of personal care products to consumers who  
23 have already ordered a trial of one of Defendants' products, Defendants have  
24 represented, directly or indirectly, expressly or by implication, that consumers'  
25 initial orders are not complete and that clicking the "COMPLETE CHECKOUT"  
26 or similar button will merely complete their initial orders.

27 89. In truth and in fact, in numerous instances in which Defendants have  
28 made the representation set forth in Paragraph 88 of this Complaint, consumers'



1 initial orders were complete, and clicking the “COMPLETE CHECKOUT” or  
2 similar button ordered an additional product and enrolled consumers in a continuity  
3 plan for that product.

4 90. Therefore, Defendants’ representation described in Paragraph 88 of  
5 this Complaint is false and misleading, and constitutes a deceptive act or practice  
6 in violation of Section 5(a) of the FTC Act, 15 U.S.C. § 45(a).

7 **COUNT III**

8 ***Failure to Disclose Adequately Material Terms of Trial Offer***

9 91. In numerous instances, in connection with the advertising, marketing,  
10 promotion, offering for sale, or sale of personal care products, Defendants have  
11 represented, directly or indirectly, expressly or by implication, that consumers can  
12 obtain a trial of Defendants’ product for the cost of shipping and handling, or for  
13 free.

14 92. In numerous instances in which Defendants have made the  
15 representation set forth in Paragraph 91 of this Complaint, Defendants have failed  
16 to disclose, or disclose adequately to consumers, material terms and conditions of  
17 their offer, including:

18 (a) The total cost of the product;

19 (b) That Defendants will charge consumers the total cost of the product  
20 upon the expiration of the trial period, typically 14 days;

21 (c) That Defendants will automatically enroll consumers in a continuity  
22 plan with additional charges;

23 (d) The cost of the continuity plan, and the frequency and duration of the  
24 recurring charges; and

25 (e) The terms of Defendants’ refund policies.

26 93. Defendants’ failure to disclose, or disclose adequately, the material  
27 information described in Paragraph 92, above, in light of the representation  
28

1 described in Paragraph 91, above, constitutes a deceptive act or practice in  
2 violation of Section 5(a) of the FTC Act, 15 U.S.C. § 45(a).

3 **COUNT IV**

4 ***Unfairly Charging Consumers Without Authorization***

5 94. In numerous instances, Defendants have charged consumers without  
6 their express informed consent.

7 95. Defendants' actions cause or are likely to cause substantial injury to  
8 consumers that consumers cannot reasonably avoid themselves and that is not  
9 outweighed by countervailing benefits to consumers or competition.

10 96. Therefore, Defendants' practices as described in Paragraph 94, above,  
11 constitute unfair acts or practices in violation of Section 5 of the FTC Act, 15  
12 U.S.C. §§ 45(a) and 45(n).

13 **COUNT V**

14 ***Unfairly Injuring Consumers by Engaging in Credit Card Laundering***

15 97. In numerous instances, in connection with submitting applications to  
16 open merchant accounts to further Defendants' online subscription scam,  
17 Defendants have engaged in credit card laundering by:

18 (a) Falsely representing, directly or through agents acting on their behalf  
19 and for their benefit, that the shell companies listed as the applicants on the  
20 merchant applications were the true merchants who were applying for merchant  
21 accounts; and/or

22 (b) Falsely representing, directly or through agents acting on their behalf  
23 and for their benefit, that the individual signors listed as the principal owners on  
24 the merchant applications were the bona fide principal owners applying for  
25 merchant accounts.

26 98. The Defendants' actions caused or were likely to cause substantial  
27 injury to consumers that was not reasonably avoidably by consumers themselves  
28 and that is not outweighed by countervailing benefits to consumers or competition.

1           99. Therefore, the Defendants’ acts or practices, as described in Paragraph  
2 97 above, constitute unfair acts or practices in violation of Section 5 of the FTC  
3 Act §§ 45(a) and (n).

4                   ***VIOLATIONS OF THE RESTORE ONLINE SHOPPERS’ CONFIDENCE ACT***

5           100. In 2010, Congress passed the Restore Online Shoppers’ Confidence  
6 Act, 15 U.S.C. §§ 8401-05, which became effective on December 29, 2010.

7 Congress passed ROSCA because “[c]onsumer confidence is essential to the  
8 growth of online commerce. To continue its development as a marketplace, the  
9 Internet must provide consumers with clear, accurate information and give sellers  
10 an opportunity to fairly compete with one another for consumers’ business.”

11 Section 2 of ROSCA, 15 U.S.C. § 8401.

12           101. Section 4 of ROSCA, 15 U.S.C. § 8403, generally prohibits charging  
13 consumers for goods or services sold in transactions effected on the Internet  
14 through a negative option feature, as that term is defined in the Commission’s  
15 Telemarketing Sales Rule (“TSR”), 16 C.F.R. § 310.2(w), unless the seller: (a)  
16 clearly and conspicuously discloses all material terms of the transaction before  
17 obtaining the consumer’s billing information; (b) obtains the consumer’s express  
18 informed consent before making the charge; and (c) provides a simple mechanism  
19 to stop recurring charges. *See* 15 U.S.C. § 8403.

20           102. The TSR defines a negative option feature as: “in an offer or  
21 agreement to sell or provide any goods or services, a provision under which the  
22 consumer’s silence or failure to take an affirmative action to reject goods or  
23 services or to cancel the agreement is interpreted by the seller as acceptance of the  
24 offer.” 16 C.F.R. § 310.2(w).

25           103. As described above, Defendants advertise and sell Defendants’  
26 personal care products to consumers through a negative option feature as defined  
27 by the TSR. *See* 16 C.F.R. § 310.2(w).

28

1 104. Under Section 5 of ROSCA, 15 U.S.C. § 8404, a violation of ROSCA  
2 is a violation of a rule promulgated under Section 18 of the FTC Act, 15 U.S.C.  
3 § 57a, and therefore constitutes an unfair or deceptive act or practice in or affecting  
4 commerce in violation of Section 5(a) of the FTC Act, 15 U.S.C. § 45(a).

5 **COUNT VI**

6 ***Violation of ROSCA – Auto-Renewal Continuity Plan***

7 105. In numerous instances, in connection with the selling of their products  
8 on the Internet through a negative option feature, Defendants have failed to:

- 9 a. clearly and conspicuously disclose all material terms of the negative  
10 option feature of the product transaction before obtaining the  
11 consumer’s billing information;
- 12 b. obtain the consumer’s express informed consent to the negative option  
13 feature before charging the consumer’s credit card, debit card, bank  
14 account, or other financial account for the transaction; and/or
- 15 c. provide simple mechanisms for a consumer to stop recurring charges  
16 for products to the consumer’s credit card, debit card, bank account,  
17 or other financial account.

18 106. Defendants’ practices as set forth in Paragraph 105 are a violation of  
19 Section 4 of ROSCA, 15 U.S.C. § 8403, and are therefore a violation of a rule  
20 promulgated under Section 18 of the FTC Act, 15 U.S.C. § 57a, 15 U.S.C.  
21 § 8404(a), and therefore constitute an unfair or deceptive act or practice in or  
22 affecting commerce in violation of Section 5(a) of the FTC Act, 15 U.S.C. § 45(a).

23 ***VIOLATIONS OF THE ELECTRONIC FUND TRANSFER ACT AND REGULATION E***

24 107. Section 907(a) of the EFTA, 15 U.S.C. § 1693e(a), provides that a  
25 “preauthorized” electronic fund transfer from a consumer’s account may be  
26 “authorized by the consumer only in writing, and a copy of such authorization shall  
27 be provided to the consumer when made.”  
28

1           108. Section 903(10) of the EFTA, 15 U.S.C. § 1693a(10), provides that  
2 the term “preauthorized electronic fund transfer” means “an electronic fund  
3 transfer authorized in advance to recur at substantially regular intervals.” Section  
4 1005.10(b) of Regulation E, 12 C.F.R. § 1005.10(b) provides that “[p]reauthorized  
5 electronic fund transfers from a consumer’s account may be authorized only by a  
6 writing signed or similarly authenticated by the consumer. The person that obtains  
7 the authorization shall provide a copy to the consumer.”

8           109. Section 1005.10 of the Consumer Financial Protection Bureau’s  
9 Official Staff Commentary to Regulation E, 12 C.F.R. § 1005.10(b), cmt. 5, Supp.  
10 I, provides that “[t]he authorization process should evidence the consumer’s  
11 identity and assent to the authorization.” The Official Staff Commentary to  
12 Regulation E further provides that “[a]n authorization is valid if it is readily  
13 identifiable as such and the terms of the preauthorized transfer are clear and readily  
14 understandable.” 12 C.F.R. § 1005.10(b), cmt. 6, Supp. I.

15   **COUNT VII**

16   ***Unauthorized Debiting from Consumers’ Accounts***

17           110. In numerous instances, Defendants debit consumers’ bank accounts  
18 on a recurring basis without obtaining a written authorization signed or similarly  
19 authenticated from consumers for preauthorized electronic fund transfers from  
20 their accounts, thereby violating Section 907(a) of the EFTA, 15 U.S.C.  
21 § 1693e(a), and Section 1005.10(b) of Regulation E, 12 C.F.R. § 1005.10(b).

22           111. Further, in numerous instances, Defendants debit consumers’ bank  
23 accounts on a recurring basis without providing a copy of a written authorization  
24 signed or similarly authenticated by the consumer for preauthorized electronic fund  
25 transfers from the consumer’s account, thereby violating Section 907(a) of the  
26 EFTA, 15 U.S.C. § 1693e(a), and Section 1005.10(b) of Regulation E, 12 C.F.R.  
27 § 1005.10(b).  
28

1 112. Under Section 918(c) of the EFTA, 15 U.S.C. § 1693o(c), a violation  
2 of the EFTA and Regulation E constitutes a violation of the FTC Act.

3 113. Accordingly, by engaging in violations of the EFTA and Regulation E  
4 as alleged in Paragraphs 110-111 of this Complaint, Defendants have engaged in  
5 violations of the FTC Act. 15 U.S.C. § 1693o(c).

6 **CONSUMER INJURY**

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

12 **THE COURT'S POWER TO GRANT RELIEF**

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

20 116. Section 19 of the FTC Act, 15 U.S.C. § 57b, Section 5 of ROSCA, 15  
21 U.S.C. § 8404, and Section 917(c) of the EFTA, 15 U.S.C. § 1693o(c), authorize  
22 this Court to grant such relief as the Court finds necessary to redress injury to  
23 consumers resulting from Defendants' violations of the FTC Act, ROSCA, and the  
24 EFTA, including the rescission or reformation of contracts and the refund of  
25 money.

26 **PRAYER FOR RELIEF**

27 117. Wherefore, Plaintiff FTC, pursuant to Sections 13(b) and 19 of the  
28 FTC Act, 15 U.S.C. § 53(b) and 57b, Section 5 of ROSCA, 15 U.S.C. § 8404,

1 Section 917(c) of the EFTA, 15 U.S.C. § 1693o(c), and the Court's own equitable  
2 powers, requests that the Court:

3 A. Award Plaintiff such temporary and preliminary injunctive and  
4 ancillary relief as may be necessary to avert the likelihood of consumer injury  
5 during the pendency of this action and to preserve the possibility of effective final  
6 relief, including but not limited to temporary and preliminary injunctions, an order  
7 freezing assets, immediate access, and appointment of a receiver;

8 B. Enter a permanent injunction to prevent future violations of the FTC  
9 Act, ROSCA, and the EFTA by Defendants;

10 C. Award such relief as the Court finds necessary to redress injury to  
11 consumers resulting from Defendants' violations of the FTC Act, ROSCA, and the  
12 EFTA, including but not limited to, rescission or reformation of contracts,  
13 restitution, the refund of monies paid, and the disgorgement of ill-gotten monies;  
14 and


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

17  
18 Respectfully submitted,

19 ALDEN F. ABBOTT  
20 General Counsel

21 WILLIAM H. EFRON  
22 Regional Director

23  
24 Dated: Nov. 13, 2018

  
25 LAURA A. ZUCKERWISE  
26 BRIAN N. LASKY  
27 DARREN LUBETZKY  
28 Federal Trade Commission  
One Bowling Green, Suite 318  
New York, NY 10004



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Attorneys for Plaintiff  
FEDERAL TRADE COMMISSION

**EXHIBIT A**

<i>COMPANY</i>	<i>DATE OF ORGANIZATION</i>	<i>DATE OF ARTICLES OF DISSOLUTION</i>
Alpha Group LLC	4/30/2014	5/9/2015
Apres Vous Media, LLC	9/9/2015	
Based Capital LLC	9/17/2013	5/9/2015
Bold Media LLC	3/7/2014	5/9/2015
Capstone Capital, LLC	8/13/2013	7/29/2015
Cascade Canyon LLC	8/6/2014	
Confidential Holdings, LLC	9/9/2015	
Cornice Group LLC	8/6/2014	
Crest Capital, LLC	8/13/2013	7/29/2015
Fortune Ventures LLC	9/17/2013	5/9/2015
Future Holdings LLC	9/17/2013	5/9/2015
Grand Assets, LLC	9/17/2013	5/9/2015
Horizon Media, LLC	8/14/2015	
Interzoom, LLC	8/14/2015	
Lead Blast LLC	9/17/2013	5/9/2015
Lion Capital LLC	4/28/2014	5/9/2015
Macro Group LLC	4/28/2014	5/9/2015
Mountain Range Ventures LLC	11/18/2014	
Mountain Solutions, LLC	8/13/2013	5/9/2015
Nutra First LLC	9/17/2013	5/9/2015
Nutra Global LLC	9/17/2013	5/9/2015
Old West Equity LLC	8/6/2014	
Omega Assets LLC	4/28/2014	5/9/2015
Rendezvous IT, LLC	12/30/2013	5/9/2015
Shadow Peak, LLC	9/9/2015	
Singletrack Solutions LLC	11/18/2014	
Sky Media Group, LLC	8/14/2015	
Teton Pass LLC	11/18/2014	
Virtual Media LLC	3/7/2014	5/9/2015
Wonder Leads LLC	9/17/2013	5/9/2015
Wyoming Freedom Group LLC	11/18/2014	
Zoom Media LLC	4/28/2014	5/9/2015

**EXHIBIT B**

<i>COMPANY</i>	<i>DATE OF ORGANIZATION</i>	<i>DATE OF DISSOLUTION</i>
Ace Media Group Ltd	8/14/2015	
Alpha Corporate Ventures Ltd	7/29/2014	3/8/2016
Apres Vous Media Ltd	2/11/2016	7/18/2017
Based Capital Ltd	7/22/2014	1/19/2016
Capstone Capital Solutions Ltd	2/9/2015	
Clik Trix Ltd	8/14/2015	
Crest Capital Ventures Ltd	2/9/2015	7/26/2016
Digital X Solutions Ltd	8/14/2015	9/26/2017
Empire Partners Ltd	8/14/2015	
Energy Tomorrow Ltd	2/6/2015	7/19/2016
Exclusive Media Group Ltd	2/12/2016	7/18/2017
Fortune Ventures Ltd	7/22/2014	3/1/2016
Future Hold Ventures Ltd	11/24/2014	5/10/2016
Future Precision Ltd	2/2/2017	
G Force Max Ltd	2/3/2017	
Grand Assets Ventures Ltd	11/24/2014	5/10/2016
Horizon Media Partners Ltd	8/14/2015	
Interzoom Capital Ltd	8/14/2015	
Lead Blast Ltd	11/24/2014	
Lion Capital Solutions Ltd	2/13/2015	7/26/2016
Maverick Pro Ltd	3/31/2017	
Mountain Venture Solutions Ltd	2/9/2015	
New Idea Group Ltd	7/28/2017	
Nutra First Ltd	7/22/2014	1/2/2018
Nutra Global Ltd	7/22/2014	
Omega Assets Ltd	11/24/2014	5/10/2016
Online Product Group Ltd	4/3/2017	
Precision Tactic Group Ltd	2/3/2017	
Rendezvous IT Ltd	2/9/2015	
Sky Blue Media Ltd	8/14/2015	
Snowdrift Solutions Ltd	3/9/2017	
Tactic Solutions Ltd	8/14/2015	
Top Quality Group Ltd	7/27/2017	
Virtual Media Solutions Ltd	11/24/2014	5/10/2016
Visitron Capital Ltd	8/14/2015	9/26/2017
Web Media Depot Ltd	8/14/2015	9/26/2017
Zoom Media Ltd	7/24/2014	