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Loren Jackson
District Clerk
MPIJX
(6)

FEB - 5 2009

Time: _____
By _____
Harris County, Texas
Deputy

NO. 2008-53616

STATE OF TEXAS,
Plaintiff

v.
MOMENTUM DIRECT, LLC,
ROBERT B. JONES and
CHRISTOPHER M. JONES

Defendants

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IN THE DISTRICT COURT OF

HARRIS COUNTY, TEXAS

113th JUDICIAL DISTRICT

AGREED FINAL JUDGMENT AND PERMANENT INJUNCTION

On this day, came on to be considered the above-entitled and numbered cause in which the STATE OF TEXAS is Plaintiff and MOMENTUM DIRECT, LLC, ROBERT B. JONES and MOMENTUM HEALTH are Defendants. The parties, appearing by and through their attorneys of record, wish to make the following stipulations and agree to the entry of this Final Judgment and Permanent Injunction.

It is stipulated that the parties have compromised and settled all claims stated by Plaintiff in this cause. It is further stipulated that Plaintiff and Defendants agree to and do not contest the entry of this judgment. Defendants deny the allegations made in Plaintiff's Original Petition and any subsequent amended and supplemental petitions and deny that they have engaged in any conduct in violation of the laws of Texas, and enter into this agreed judgment in order to avoid the expense and uncertainty of litigation.

In conformance with, and for the purposes stated in the preceding paragraph, Defendants acknowledge and stipulate to the Court that they are no longer engaged in any of the business

practices except the winding up of the affairs of the businesses Momentum Direct, LLC or Momentum Health.

1. **IT IS THEREFORE ORDERED, ADJUDGED AND DECREED** that, as used in this Injunction, the following terms are defined as follows:

- A. “Consumer” means an individual, partnership, corporation, or entity of any kind, including this state, or a subdivision or agency of this state who seeks or acquires, by purchase or lease, any goods or services;
- B. “Defendant(s)” means **MOMENTUM DIRECT, LLC, MOMENTUM HEALTH and ROBERT B. JONES**, their officers, agents, servants, employees, attorneys, and any other persons in active concert or participation with Defendants in their business of Selling Defendant’s Products over the internet;
- C. “Person” means an individual, sole proprietorship, firm, partnership, corporation, association, joint venture or other group, or business entity, however organized;
- D. “Selling”, “marketing”, “promoting”, “distributing”, “soliciting” or “advertising” means any type of contact with a person, consumer or entity for the purpose of requesting, persuading, or seeking any type of contribution, sponsorship, compensation, or anything of value from said person or entity relating to any of Defendants’ Products.
- E. “Defendants’ Products” includes *2-Day Slim Down, Perma Slim, 20-Minute Face Lift, Amazon Diet*, and any other goods or services offered for sale by Momentum

Direct, LLC, Momentum Direct, LLC d/b/a Momentum or d/b/a Momentum Direct, Robert Jones and Christopher Jones d/b/a Momentum Health & Nutrition, Robert Jones and Christopher Jones d/b/a Momentum Worldwide, Robert Jones d/b/a Momentum Direct, Robert Jones d/b/a Nutrition Express, Robert Jones d/b/a Nutrition Tech, Robert Jones d/b/a 20 Minute Face Lift.com, or Robert Jones d/b/a 2-Day Slim Down.com.

- F. “Services” means work, labor, or service purchased or leased for use, including services furnished in connection with the sale or repair of goods.
- G. “Goods” means tangible chattels or real property purchased or leased for use.
- H. “Advertising” means all representations disseminated in any manner or by any means for the purpose of inducing, or that are likely to induce, directly or indirectly, the purchase of food, drugs, devices, or cosmetics;
- I. “Trade” & “commerce” mean the advertising, offering for sale, sale, lease, or distribution of any good or service, of any property, tangible or intangible, real, personal, or mixed, and any other article, commodity, or thing of value, wherever situated, and shall include any trade or commerce directly or indirectly affecting the people of this state;
- J. “Dietary Supplement” means a product other than tobacco that is intended to supplement the diet and that contains one or more of these dietary ingredients: vitamins or minerals; herbs or botanicals; amino acids; a dietary substance for use

by man to supplement the diet by increasing the total dietary intake; or a concentrate, metabolite, constituent, extract, or combination of any of the above.

K. "Reasonable diligence" means the oral and written request by Defendants that all individuals, entities and who with Defendants' knowledge sells or at the request of Defendants sells any of Defendants' Products submit all advertising of any kind to Defendants prior to publication and dissemination, and the regular review and monitoring by Defendants of the content of the Internet web sites utilized by such person, entity or business.

2. IT IS THEREFORE ORDERED, ADJUDGED AND DECREED that Defendants Momentum Direct, LLC, Momentum Health and Robert B. Jones, their successors, assigns, officers, agents, servants, employees, attorneys, and any other persons in active concert or participation with them, who receive actual notice of this order by personal service or otherwise shall be restrained from engaging in the following acts or practices:

A. Transferring, concealing, destroying, or removing from the jurisdiction of this Court any books, records, documents, invoices or other written or computer generated materials relating to the existing business of Defendants currently or hereafter in their possession, custody, or control except in response to further orders or subpoenas in this cause, however, nothing in this order is intended to prevent Defendants from keeping digitally formatted copies of any books, records, documents, invoices or other written or computer generated materials relating to the business of Defendants and destroying paper versions of the digital copies ;

B. [Intentionally blank]

C. Automatically shipping and/or billing any new customers for a bottle of Defendants' Products, including but not limited to, *2-Day Slim Down*, *PermaSlim*, *20 Minute Face Lift*, *Amazon Diet*, or any other product, on a monthly basis, unless it is clearly and conspicuous in bold type print disclosed and expressly agreed to by the customer in advance in writing or by clicking "acceptance" over the internet by the consumer.

D. [Intentionally blank].

E. Charging a consumer for any product after Defendants knew that the consumer had canceled the order.

F. Charging a consumer for any product after Defendants knew that the product had been returned by the consumer.

G. Making any unauthorized withdrawals from a consumer's bank accounts after Defendants knew that an order had been canceled or the product had been returned.

H. Distributing, shipping, mailing, delivering, or sending any of Defendants' Products, including but not limited to *2-Day Slim Down*, *Perma Slim*, *20-Minute Face Lift*, *Amazon Diet*, to any person, entity, or business which Defendants know or by the exercise of reasonable diligence should have known, had not requested, purchased or ordered such product.

I. Representing, expressly or by implication, in any advertising of any product, that any of Defendants' Products, including, but not limited to, *2-Day Slim Down*, *Perma Slim*, *20-Minute Face Lift*, *Amazon Diet*, are "FREE" unless such products are actually free, however nothing in this order prevents the Defendants from charging customary shipping and handling on otherwise free products so long as such cost is disclosed conspicuously and on the same page or screen as the word "FREE".

J. Failing to include the following FDA disclaimer statement on all labeling of dietary supplements: “This statement has not been evaluated by the FDA. This product is not intended to diagnose, treat, cure, or prevent any disease;” and

K. Failing to provide a reasonable, complete and accurate means of communication for consumers who wish to contact Defendants, including the current, accurate mailing address, phone number, facsimile number and email address, disclosed on all advertisements and products shipped to consumers.

3. **IT IS FURTHER ORDERED, ADJUDGED AND DECREED** that Defendants shall not, sell or distribute any of Defendants’ Products, including but not limited to, *2-Day Slim Down, Perma Slim, 20-Minute Face Lift, Amazon Diet* to any person, entity or distributor of the Defendants known to Defendants to be engaging in the conduct prohibited in this Order after Defendants ascertain same. Defendants shall provide a copy of this order to all known distributors of their product. If Defendants become aware of facts that should lead them to reasonably believe any distributor of the Defendants is engaging in the type of advertising and sale of Defendants’ Products which are prohibited by this Order, Defendants shall stop shipping or distributing any products to that distributor as soon as practical.

4. **IT IS FURTHER ORDERED** that Plaintiff, the State of Texas, have judgment in the amount of Thirty Thousand and No/100 Dollars (\$30,000.00) for civil fines and penalties from and against **DEFENDANTS MOMENTUM DIRECT, LLC, MOMENTUM HEALTH and ROBERT B. JONES**, jointly and severally, which the Court finds are civil fines and penalties to and for a governmental unit and not for pecuniary compensation and which does not constitute an antecedent debt with respect to this litigation.

5. **IT IS FURTHER ORDERED** that Plaintiff, the State of Texas, have judgment in the amount of One Hundred Forty Five Thousand and No/100 Dollars (\$145,000.00) from and against **DEFENDANTS MOMENTUM DIRECT, LLC, MOMENTUM HEALTH and ROBERT B. JONES**, jointly and severally for reimbursement of the State's attorneys' fees, court costs, and investigative costs incurred in this case, which sum is for the benefit of the State of Texas, a governmental unit, and which is not compensation for any actual or pecuniary loss and does not constitute an antecedent debt with respect to this litigation.

6. **IT IS FURTHER ORDERED** that Plaintiff, the State of Texas, have judgment in the amount of One Hundred Fifty Thousand and No/100 Dollars (\$150,000.00) from and against **DEFENDANTS MOMENTUM DIRECT, LLC, MOMENTUM HEALTH and ROBERT B. JONES**, jointly and severally, to be used for restitution to Texas consumers who transacted business with, and paid monies to, Defendants. The Defendants have already paid at least \$100,000 in restitution to consumers in the form of refunds. Therefore, as of the date of this judgment, the amount due from Defendants for payment of restitution is the balance of \$50,000.00. The State of Texas is Ordered to remit restitution to consumers who file a complaint or claim with either Defendants or Plaintiff within 365 days from the date this judgment is signed, provided it is shown or verified that said consumers purchased products from, and paid monies to, Momentum Direct, L.L.C. The amount of restitution to be paid to such consumers shall equal the amount of money each consumer paid to Momentum Direct, L.L.C. Said remaining restitution shall be paid in the order that such complaint or claim is made or dated until all restitution funds are depleted. In the even there remains undistributed restitution after expiration of the 365 day period referenced herein, then and in that event said

remaining restitution monies shall be revert to the State of Texas as additional civil penalties and be deposited into the State's General Revenue Fund.

7. **IT IS FURTHER ORDERED** that Wells Fargo Bank, First Community Bank and Merrill Lynch shall remit and transfer the following sums of money on deposit in the following bank accounts to the STATE OF TEXAS by cashier's check, payable to the STATE OF TEXAS, and deliver or mail said cashier's check(s) to Office of Attorney General, Consumer Protection and Public Health Division, 808 Travis, Suite 300, Houston, Texas 77002 in order to comply with the foregoing Order of this Court:

Account #	Bank or Financial Institution	Amount
6841559693	Wells Fargo Bank	\$93,000.00
9015280	First Community Bank	\$50,000.00
44312282	Merrill Lynch	\$82,000.00

Said banks shall be entitled to deduct all normal processing and cashier's check fees from the remaining balances in said accounts, or from the amount ordered to be remitted to the State if there is no remaining balance in said account(s). All amounts remaining in such accounts after these specified amounts are remitted and transferred to the State are hereby completely released from any previous order of this Court, including the Temporary Injunction dated September 29, 2008.

8. **IT IS FURTHER ORDERED** that after the payments are made as referenced in paragraph 7 above, the following accounts are lifted from the asset freeze ordered in the temporary injunction on September 29, 2008 and are completely released to Defendants:

- A. Wells Fargo Bank, account # 0871417366
- B. First Community Bank, account # 1031160
- C. Wells Fargo, account # 488-8607500

- D. Wells Fargo, account #488-8607920
- E. Wells Fargo, account #200-2655173
- F. Capital One, account # 3820517384
- G. Paypal account for Wolf Media Solutions, LLC
- H. First Community Bank, account #0011197
- I. Paypal account for Silvertag.com,
- J. Woodforest National Bank, account #5163811
- K. Woodforest National Bank, account #1311321002
- L. Bank of America, account #002664572871
- M. First Victoria Bank, account #807254061
- N. Woodforest National Bank, account #1410002776
- O. Dominion Bank, account #2011104
- P. Capital One, account # 3820594230
- Q. Capital One, account # 3820594362
- R. Woodforest National Bank, account #1311304701
- S. Wells Fargo Bank, account #6841559693
- T. First Community Bank, account #9015280
- U. Merrill Lynch, account, account #44312282

9. **IT IS FURTHER ORDERED** that all amounts due and owing under this judgment having been fully paid, no writs of execution or other process is necessary. Defendants, by their signatures below, hereby acknowledge notice of this Judgment and Permanent Injunction and acceptance of same; therefore, no injunctive writ need be issued. The State of Texas may enforce the Permanent Injunction through any procedure or process available under the laws of the State of Texas.

10. **IT IS FURTHER ORDERED** that all other costs of court expended or incurred in this cause be borne by the party incurring same.

11. All relief not expressly granted herein is hereby denied. This is a final judgment.

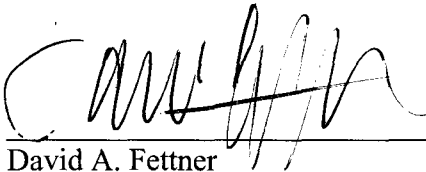
SIGNED this 22nd day of February, 2009.


JUDGE PRESIDING


AGREED:



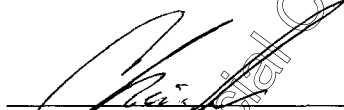
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Christopher Jones**



Robert Jones, Individually, and on behalf of
Momentum Direct, L.L.C. and Momentum Health



Christopher Jones, Individually, and on behalf
of Momentum Health

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