

**UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

FEDERAL TRADE COMMISSION,

Plaintiff,

v.

SILI NEUTRACEUTICALS, LLC, and

BRIAN MCDAID, individually and doing
business as KAYCON LTD.,

Defendants.

07CV4541

JUDGE COAR

MAG. JUDGE DENLOW

FILED

AUG 13 2007

**MICHAEL W. DOBBINS
CLERK, U.S. DISTRICT COURT**

COMPLAINT FOR INJUNCTIVE AND OTHER EQUITABLE RELIEF

Plaintiff, the Federal Trade Commission ("FTC" or "Commission"), for its Complaint alleges as follows:

1. The FTC brings this action under Sections 13(b) and 19 of the Federal Trade Commission Act ("FTC Act"), 15 U.S.C. §§ 53(b) and 57b, and under Section 7(a) of the Controlling the Assault of Non-Solicited Pornography and Marketing Act of 2003 ("CAN-SPAM"), 15 U.S.C. § 7706(a), to obtain injunctive relief and other equitable relief for Defendants' deceptive and unfair acts or practices and the making of false advertisements in violation of Sections 5 and 12 of the FTC Act, 15 U.S.C. §§ 45 and 52, and for violations of CAN-SPAM, 15 U.S.C. § 7701 *et seq.*

JURISDICTION AND VENUE

2. This Court has jurisdiction over this matter pursuant to 15 U.S.C. §§ 45(a), 52, 53(b), 57b, 7706(a) and 28 U.S.C. §§ 1331, 1337(a) and 1345.
3. Venue in the United States District Court for the Northern District of Illinois is proper under 15 U.S.C. § 53(b) and 28 U.S.C. § 1391 (b) and (c).

PLAINTIFF

4. Plaintiff FTC is an independent agency of the United States Government created by statute. 15 U.S.C. §§ 41-58. The Commission enforces Sections 5(a) and 12 of the FTC Act, 15 U.S.C. §§ 45(a) and 52, which prohibit, respectively, deceptive or unfair acts or practices and false advertisements for food, drugs, devices, services, or cosmetics, in or affecting commerce. The FTC is also charged with enforcing CAN-SPAM as if statutory violations of CAN-SPAM “were an unfair or deceptive act or practice proscribed under Section 18(a)(1)(B) of the [FTC Act] (15 U.S.C. 57a(a)(1)(B)).” 15 U.S.C. § 7706(a).
5. Sections 13(b) and 19 of the FTC Act authorize the FTC to initiate federal district court proceedings, in its own name by its designated attorneys, to enjoin violations of any provision of law enforced by the FTC, and to secure such equitable relief as may be appropriate in each case. 15 U.S.C. §§ 53(b), 57b.

DEFENDANTS

6. Defendant Sili Neutraceuticals, LLC is a limited liability company registered in Nevada. Sili Neutraceuticals has a registered office at 101 Convention Center Drive, #700, Las Vegas, Nevada 89109.

7. Defendant Brian McDaid is the sole member of Sili Neutraceuticals, LLC. McDaid has formulated, directed, controlled, or participated in the acts or practices of Sili Neutraceuticals, LLC set forth in this Complaint. McDaid also does business as Kaycon, Ltd.
8. "Defendants" means Sili Neutraceuticals, LLC and Brian McDaid. Defendants have transacted business in the Northern District of Illinois within the meaning of 15 U.S.C. § 53(b).

COMMERCE

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

DEFINITIONS

10. "**Electronic mail message**" (or "email") means a message sent to a unique electronic mail address. 15 U.S.C. § 7702(6).
11. "**Electronic mail address**" means a destination, commonly expressed as a string of characters, consisting of a unique user name or mailbox (commonly referred to as the "local part") and a reference to an Internet domain (commonly referred to as the "domain part"), whether or not displayed, to which an electronic mail message can be sent or delivered. 15 U.S.C. § 7702(5).
12. "**Commercial electronic mail message**" means any electronic mail message the primary purpose of which is the commercial advertisement or promotion of a commercial product

or service (including the content on an Internet website operated for commercial purposes). 15 U.S.C. § 7702(2).

13. **“Header information”** means the source, destination, and routing information attached to an electronic mail message, including the originating domain name and originating electronic mail address, and any other information that appears in the line identifying, or purporting to identify, a person initiating the message. 15 U.S.C. § 7702(8).
14. **“Initiate,”** when used with respect to a commercial email message, means to originate or transmit such message or to procure the origination or transmission of such message. 15 U.S.C. § 7702(9).
15. **“Procure,”** when used with respect to the initiation of a commercial email message, means intentionally to pay or provide other consideration to, or induce, another person to initiate such a message on one’s behalf. 15 U.S.C. § 7702(12).
16. **“Protected Computer”** means a computer which is used in interstate or foreign commerce or communication, including a computer located outside the United States that is used in a manner that affects interstate or foreign commerce or communication of the United States. 15 U.S.C. 7702(13).
17. **“Sender”** means a person who initiates a commercial email message and whose product, service, or Internet Web site is advertised or promoted by the message. 15 U.S.C. § 7702(16).

DEFENDANTS’ BUSINESS ACTIVITIES

18. Since at least August 2004, and continuing to the present, Defendants have marketed and sold a variety of herbal or “natural” supplement products. One line of products marketed

by Defendants under a variety of different names such as HoodiaHerbal and Hoodia Maximum Strength purports to contain hoodia gordonii and cause substantial weight loss by suppressing appetite (the "Hoodia Products"). Defendants also have marketed "natural" products they claim cause the body to produce human growth hormone, using a variety of different names such as Dr-HGH and Perfect HGH (the "HGH Products"). The Hoodia and HGH Products were each sold for \$79.95.

19. Defendants have marketed their products by initiating commercial email messages. The primary purpose of these commercial email messages has been the commercial advertisement or promotion of Internet Web sites operated for a commercial purpose by Defendants. Particularly, the text of the commercial email messages contains hyperlinks to Web sites at which consumers can order Defendants' products.
20. Defendants have advertised, offered for sale, sold and/or distributed their products throughout the United States via dozens of Internet Web sites. Some of the Web sites Defendants have used to market their products are: www.kg-hood.com, www.forbefore.com, and www.iveboughtthisandamhappy.com. Consumers may purchase Defendants' products by credit card from Defendants' Web sites.
21. To induce consumers to purchase HoodiaHerbal, Defendants' Web sites make the following statements, among others:

DIET PILL BREAKTHROUGH!

What if you could actually shed 10, 15, or even 25 pounds quickly and safely in less than 30 days? Now you can...

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