

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF PENNSYLVANIA

FEDERAL TRADE COMMISSION,

Plaintiff,

v.

NutriMost LLC, also d/b/a NutriMost, NutriMost Pittsburgh, NutriMost System, NutriMost Weight Loss System, and NutriMost Weight Loss Program, a limited liability company,

NutriMost Doctors, LLC, also d/b/a NutriMost, NutriMost Weight Loss System, EZ Practice Growth, and EZ Practice Management System, a limited liability company, and

Raymond Wisniewski, individually and as owner and officer of NutriMost LLC and NutriMost Doctors, LLC,

Defendants.

Case No. _____

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

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

1. The FTC brings this action under Section 13(b) of the Federal Trade Commission Act (FTC Act), 15 U.S.C. § 53(b), to obtain permanent injunctive relief, rescission or reformation of contracts, restitution, the refund of monies paid, disgorgement of ill-gotten monies, and other equitable relief for Defendants' acts or practices in violation of Sections 5(a) and 12 of the FTC Act, 15 U.S.C. §§ 45(a) and 52, in connection with Defendants' deceptive advertising, marketing, and sale of weight loss and health-related systems and products.

JURISDICTION AND VENUE

2. This Court has subject matter jurisdiction pursuant to 28 U.S.C. §§ 1331, 1337(a), and 1345, and 15 U.S.C. §§ 45(a) and 53(b).

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

PLAINTIFF

4. The FTC is an independent agency of the United States Government created by statute. 15 U.S.C. §§ 41-58. The FTC enforces Section 5(a) of the FTC Act, 15 U.S.C. § 45(a), which prohibits unfair or deceptive acts or practices in or affecting commerce. The FTC also enforces Section 12 of the FTC Act, 15 U.S.C. § 52, which prohibits false advertisements for food, drugs, devices, services, or cosmetics in or affecting commerce.

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

DEFENDANTS

6. Defendant NutriMost LLC (“NutriMost”), also doing business under numerous fictitious names including NutriMost, NutriMost Pittsburgh, NutriMost System, NutriMost Weight Loss System, and NutriMost Weight Loss Program, is a Pennsylvania limited liability company organized in 2007, with its principal place of business at 10483 Frankstown Road, Pittsburgh, Pennsylvania, and its registered office at 135 Bella Vista Ct., Murrysville, Pennsylvania. NutriMost operates weight loss centers, and transacts or has transacted business

in this district and throughout the United States. At times material to this Complaint, acting alone or in concert with others, NutriMost has advertised, marketed, distributed, or sold its weight loss system – often referred to as the NutriMost Ultimate Fat Loss System or NutriMost Weight Loss Program (“NutriMost System”) – and weight loss or health-related products to consumers throughout the United States. NutriMost also licensed the NutriMost System nationwide to chiropractic doctors and/or other licensed practitioners, who promoted and sold the NutriMost System to the public through their own centers or practices.

7. Defendant NutriMost Doctors, LLC (“NutriMost Doctors”), also doing business under numerous fictitious names including NutriMost, NutriMost Weight Loss System, EZ Practice Growth, and EZ Practice Management System, is a Pennsylvania limited liability company, organized in April 2014, with its principal place of business at 10483 Frankstown Road, Pittsburgh, Pennsylvania, and its registered office at 135 Bella Vista Ct., Murrysville, Pennsylvania. NutriMost Doctors transacts or has transacted business in this district and throughout the United States. NutriMost Doctors was created at least in part to franchise the NutriMost System. NutriMost Doctors has franchised the NutriMost System nationwide to chiropractors and/or other licensed practitioners, who promote and sell the NutriMost System to the public through their own practices.

8. Defendant Raymond Wisniewski is the owner, president, and sole operator and manager of NutriMost and NutriMost Doctors. Defendant Wisniewski, a licensed chiropractor, created the NutriMost System and endorses it in advertisements appearing nationwide. He participates in the sale of the NutriMost System to consumers, signs licensing and franchise agreements on behalf of NutriMost and NutriMost Doctors, conducts training for licensees and

franchisees, including training on sales, and is responsible for NutriMost and NutriMost Doctors' advertising claim substantiation. Defendant Wisniewski created and/or participated in creating the advertising and marketing materials for the NutriMost System. At all times material to this Complaint, acting alone or in concert with others, he has formulated, directed, controlled, had the authority to control, or participated in the acts and practices of NutriMost and NutriMost Doctors, including the acts and practices set forth in this Complaint. Defendant Wisniewski resides in this district and, in connection with the matters alleged herein, transacts or has transacted business in this district and throughout the United States.

Common Enterprise

9. Starting in approximately April 2014 with the formation of NutriMost Doctors, and continuing thereafter, Defendants NutriMost and NutriMost Doctors (collectively, "Corporate Defendants") have operated as a common enterprise while engaging in the deceptive and unlawful acts and practices alleged below. The Corporate Defendants have conducted the business practices described below through interrelated companies that have common ownership, officers, managers, business functions, employees, and office locations.

10. The Corporate Defendants operate out of the same primary location, are owned and operated by Defendant Wisniewski, and have common employees. Consumers who purchase the NutriMost System from NutriMost sign an agreement with the Corporate Defendants and Defendant Wisniewski. NutriMost owns the intellectual property of the NutriMost System, including the technology, branding, and marketing images and materials that comprise the NutriMost System and/or that are used to market it. NutriMost has granted NutriMost Doctors the right to advertise and franchise the NutriMost System. NutriMost

Doctors uses NutriMost's merchant account when accepting payments for products and supplies from franchisees; and NutriMost Doctors' franchisees are shipped their orders for products and supplies from NutriMost. NutriMost has initiated a private lawsuit to enforce the rights of Defendants under an agreement between a third party and NutriMost Doctors.

11. Because these Corporate Defendants have operated as a common enterprise, each of them is jointly and severally liable for the acts and practices alleged below. Defendant Wisniewski has formulated, directed, controlled, had the authority to control, or participated in the acts and practices of the Corporate Defendants that constitute the common enterprise.

COMMERCE

12. 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.

DEFENDANTS' BUSINESS ACTIVITIES

13. Since as early as approximately fall of 2012 and continuing thereafter, Defendants have advertised, marketed, promoted, offered for sale, and sold the NutriMost System, created by Defendant Wisniewski. Defendants offer the NutriMost System from eight locations in the Pittsburgh area and sell the NutriMost System and related weight loss and health products to consumers nationwide. Defendants also have licensed and/or franchised the NutriMost System to chiropractors and/or other licensed professionals nationwide, and Defendants have provided their licensees/franchisees with advertising, promotional materials, and products, among other things, to enable them to advertise, market, promote, offer for sale, and sell the NutriMost System to the public through their own practices.

Defendants' Marketing of the NutriMost System to Consumers

14. Defendants have advertised, marketed, and promoted the NutriMost System through their websites, including NutriMost.com, NutriMostPittsburgh.com and others (“NutriMost Websites”), on social media such as Facebook, on the radio, in newspaper print ads, and in other marketing and promotional materials. Defendants have represented, through express claims, implied claims, and consumer testimonials, that NutriMost System’s “breakthrough technology” causes users to safely lose substantial amounts of weight, typically 20-40 pounds or more, in 40 days. Defendants have also represented, among other things, that the NutriMost System does not involve a restrictive diet, and that it causes permanent weight loss, targeted weight and fat loss, and allows users to burn from 2,000-7,000 calories of fat per day.

15. Defendants have charged consumers \$1,895 for the NutriMost System. To date, Defendants have grossed more than \$12 million in sales of the NutriMost System to consumers.

16. To induce consumers to purchase the NutriMost System, Defendants have disseminated or have caused to be disseminated advertisements, including but not necessarily limited to the attached Exhibits A through E. These advertisements have contained the following statements and depictions, among others:

**a. NutriMost System Website (January 26, 2016), excerpts.
[www.nutrimostpittsburgh.com] (Exhibit A)**

Lose 20 to 40 pounds or more in just 40 days? ... It sounds too good to be true, but it's real.

* * *

The NutriMost Ultimate Fat Loss System is safe, fast, and effective. It's completely different from any diet program you've tried before. You'll clear out harmful toxins and

balance your hormones as you lose fat at an unbelievable pace. And the best part? The results are permanent. Following your 40 days of fat loss, NutriMost will reset your metabolism and weight set point, so you can keep the weight off for good! Imagine yourself being 20 to 40 pounds lighter in just 40 days. It would take you months and months to lose that much weight with other programs, but this safe, doctor-supervised system works in just 6 weeks, guaranteed. [Exhibit A, p. 2.]

* * *

Other weight loss programs mistakenly focus almost entirely on the diet. We focus on the breakthrough technology that enables us to Turn OFF fat storage and Turn ON fat burning. It's not your fault that it has been difficult to lose weight ... Utilizing NRF Technology, and the NutriMost Ultimate Fat Loss scan, we now have the technology to assess nearly every factor of fat burning, fat storage and fat metabolism. [Exhibit A, p. 3.]

* * *

With this scan, we are able to create a personalized and customized plan that will address your body's top organ stressors as well as find the best products to balance those biological stressors. [Exhibit A, p. 3.]

* * *

The NutriMost Ultimate Fat Loss Scan has been programmed to help give your body the nutritional tools that it needs to overcome your specific imbalances and to bring your body into a very narrow hormonal range for optimum fat burning. [Exhibit A, p. 3.]

* * *

Most weight loss programs will tell you that you have to count calories to lose weight. They have this principle at their core. If you lower caloric intake and increase your activity level, you will lose weight. Is this true? Absolutely! The common solution is to either plan a diet with certain foods to restrict your daily calories or provide pre-packaged food from a box. Here is the problem, regardless which path you take to get there: You will gain

your lost weight right back. As you lower your caloric intake, your metabolism begins to slow. It has less work to do. Your body needs calories to fuel it so it will burn fat, muscle, etc. The problem appears after the weight is lost. Eventually you will go back to eating a normal, sustainable amount of food each day. Since your metabolism has nearly bottomed out, however, it can't process all the food you are eating. Those calories get stored right back into your body as fat. Calories are not the key to losing weight. The most effective way to lose fat is balancing hormones and neurotransmitters, detoxifying the body and balancing vitamins and minerals in a way that gets you into an incredible fat burning zone. Because of groundbreaking NRF Technology, we now have a way to lose weight faster, easier, better, and healthier than ever before. The NutriMost system finds your body's specific weaknesses, balances the imbalances, and strengthens your body to reach optimal health. [Exhibit A, pp. 5-6.]

* * *

With NutriMost Resonant Frequency (NRF) Technology we don't treat the diabetes ... instead we help to determine the body's needs after assessing all of the factors concerning how your body can overcome and correct diabetes. This is why we say that NRF Technology is "The MOST Powerful Technology for a BETTER Life". [Exhibit A, p. 20.]

* * *

NRF Technology gives the body a tremendous opportunity to overcome many seemingly recalcitrant conditions that have been difficult to respond to in the past. This blog will often times take the opportunity to explain how NRF Technology can help the body overcome many of these health challenges. Psoriasis is one of those types of conditions. [Exhibit A, p. 21.]

- b. NutriMost System Video Appearing on NutriMost Websites, (November 27, 2015), excerpts. [www.nutrimostpittsburgh.com and www.nutrimost.com] (Transcript attached as Exhibit B; DVD recording submitted as Exhibit B.1)**

JOE VARACO: Hi, my name is Joe Varaco and I've lost 32 pounds in three-and-a-half weeks on the NutriMost System... [Exhibit B, p. 4.]

ANN: My name is Ann and I lost 50 pounds with NutriMost. [Exhibit B, pp. 4-5.]

FEMALE ANNOUNCER: Because of advanced NRF technology, you could easily lose 20 to 45 pounds or more in just 40 days, with absolutely no hunger and no exercise required, with no pre-packaged meals and no drugs, hormones or surgery, a way that's safe and doctor supervised, a program that's not just about weight loss but is good for your body and your overall health. It sounds too good to be true. But thanks to breakthrough technology, there is a way and it's called NutriMost. [Exhibit B, p. 5.]

DR. RAY WISNIEWSKI: Nearly every other program focuses almost entirely on the diet, which actually turns off fat burning and turns on fat storage, which is why so many people who diet find it so easy to gain back their weight and usually more. While NutriMost focuses on the breakthrough technology to get your body into this amazing fat-burning state. You can't get these results this fast and this dramatic any other way without this technology. [Exhibit B, pp. 6-7.]

DR. RAY WISNIEWSKI: Take Gene Sheller. Here's a guy 270 pounds, he had fatty liver, diabetic, high blood pressure, high cholesterol, sleep apnea. He was on tons of medications. That's before the program. After the program, down to 185 pounds, no meds, his metabolic age went from 90 down to just 55 years old. The big thing about Gene was he was going to a liver specialist, one of the top liver specialists in the country for fatty liver, and the thing was that once he did the program and the specialist even put it in his notes, he said since his weight loss, he's been able to stop his diabetes medication, his blood

pressure, cholesterol meds.... They were so impressed by that that the doctor contacted me, asked how in the world we do this. I explained what we did, explained the technology, and the first thing he said was, do you realize what you created, this is absolutely amazing. [Exhibit B, pp. 8-9.]

DR. RAY WISNIEWSKI: We all gain weight differently due to our hormones. See, some carry weight in their belly, some in their buttocks, and others in their arms and their legs. NRF technology is the key to solving your body's specific imbalances. NRF stands for NutriMost resonant frequency technology. Our NRF scan finds your ultimate fat-burning zone by utilizing electrical impedance resonant frequency technology with galvanic skin response. Your NRF scan can determine and create unique formulas that are specific for your body. These formulas are more unique than your fingerprint. It is so customized and specific that no two people are ever the same. [Exhibit B, p. 13.]

DR. RAY WISNIEWSKI: The foundation of our entire process is the three personalized and customized formulas that are created using NRF technology which is then dosed for your body.... There is an energy formula for hormones, neurotransmitters, vitamins and minerals. There's a detox formula for toxins, heavy metals, bacteria, viruses, nanobacteria, mycoplasma and candida. And there is the specific weight loss formulation. These formulas bring the body into that perfect fat-burning zone and healing zone. [Exhibit B, pp. 14-15.]

DR. RAY WISNIEWSKI: When you combine the NutriMost Ultimate Fat Loss System protocols with NRF technology, you are not only able to get into that optimum fat-burning zone, but your body is also able to enter into an optimal healing zone, known as autophagy. AUTOPHAGY is where your body innately knows to eliminate the bad, degenerated cells and replace them with good, healthy cells, allowing the body to heal and regenerate from a number of health challenges, including acid reflux, thyroid conditions, diabetes, psoriasis, eczema, high blood pressure, high cholesterol, sleep apnea, asthma, fatty liver, lupus and other health and autoimmune challenges. [Exhibit B, pp. 15-16.]

FEMALE ANNOUNCER: Because of NRF technology, we are able to hit the switch to turn fat burning on and fat storage off. In fact, with NutriMost technology, you can burn anywhere from 2,000 to 7,000 calories of fat per day. This groundbreaking program guides your body into a special fat-burning zone based on your hormones so you experience dramatic, safe weight loss in a very short period of time. [Exhibit B, p. 17.]

RACHEL: My name's Rachel and I lost 50 pounds with NutriMost. So, I was thinking, well, even if it works and I can lose the weight, chances are I won't be able to keep it off if I go back to eating any way close to what I used to eat. And I've been able to keep it off now since – eight months. [Exhibit B, p. 17.]

DR. RAY WISNIEWSKI: Here's a comparison between NutriMost and the three most popular weight loss programs. They don't get you into fat burning; NutriMost does. The time period to lose 30 pounds typically is 20 to 30 weeks. NutriMost is 30 days for men, 40 days for women. They don't target abnormal fat; we do. They don't raise and reset the metabolism; we do. They don't reset the weight set point; we do. They don't utilize NRF technology and they're not personalized and customized. They're not doctor-supervised. They don't guarantee the results and they have a higher cost per pound loss than NutriMost. [Exhibit B, p. 20.]

- c. **NutriMost System Website (January 26, 2016), excerpts.**
[www.nutrimost.com] (Exhibit C)

A Doctor Supervised Weight Loss Program

LOSE 20 to 40+ POUNDS IN 40 DAYS!!!

Lose 1-2 Pounds Per Day - Where You Want To Lose!!

[Exhibit C, p. 5.]

* * *

COMPARISON		
	THE TOP 3 WEIGHT LOSS PROGRAMS	DR. RAY'S NUTRIMOST ULTIMATE FAT LOSS SYSTEM USING ZYTO CERF GSR TECHNOLOGY
FAT BURNING	X NO	✓ YES
TIME PERIOD TO LOSE 30 POUNDS	20-30 WEEKS	40 DAYS
TARGETS ABNORMAL FAT <small>(BELLY FAT, HIPS, THIGHS, "SPARE TIRE")</small>	X NO	✓ YES
RESETS METABOLISM	X NO	✓ YES
RESETS WEIGHT SET POINT	X NO	✓ YES
ELIMINATES HUNGER & CRAVINGS	X NO	✓ YES
ADDRESSES ALL 5 ESSENTIALS OF FAT LOSS	X NO	✓ YES
UTILIZES CERF GSR TECHNOLOGY	X NO	✓ YES
DOCTOR SUPERVISED	X NO	✓ YES
GUARANTEED RESULTS	X NO	✓ YES
COST PER POUND LOST	X HIGHER	✓ LOWER

[Exhibit C, p. 6.]

* * *

There is no longer any need to go another day being overweight! NRF Technology will determine EXACTLY what your body is missing and allow you to lose 20-40 pounds or more in only 40 days. NutriMost Doctor's [sic] use the NRF technology to find out what is going on with each person and then create a balance for them nutritionally. It's very different from other weight loss programs. [Exhibit C, p. 8.]

d. NutriMost System Website (March 21, 2013), excerpts.

[www.weightlossanswer.com] (Exhibit D)

LOSE 20 to 40+ POUNDS IN 40 DAYS!!!
Lose 1-2 Pounds Per Day – Where You Want To Lose!!
and ... KEEP IT OFF!! [Exhibit D, p. 1.]

* * *

My Exclusive Weight Loss System is completely SAFE & has been PROVEN to Work!

It's UNIQUE, it WORKS, it's FAST, & it's SIMPLE as we walk you through so that you can IMMEDIATELY begin to lose 1-2 pounds per day without any radical change in your lifestyle, without surgery and without harmful drugs.

Dr. Ray is one of only 9 Doctors in the world and one of only 2 doctors East of the Mississippi river who are Certified Authors for the (CERF GSR) Comprehensive Electro-Impedance Resonant Frequency Galvanic Skin Response scans. Dr. Ray has authored 4 of the most advanced scans ever developed. However, this ultimate Fat burning scan is unlike anything else ever created, for it helps determine your body's biological preferences to keep your body in the narrow fat burning zone. This scan took 30 years of clinical experience and many months of programming to create this phenomenal technological advancement, to help get you into the OPTIMAL fat burning zone and lose 25 to 45+ pounds in just a mere 40 days!! [Exhibit D, p. 2.]

* * *

Fat Virtually Melts Away

NO Exercise!

NO Strenuous Dieting!

NO Radical Changes in Your Lifestyle

NO Shots!

NO Hormones!

NO Drugs!

NO Surgery!

Simple and Easy-to-Follow!!

PERSONALIZED with the CERF GSR (Comprehensive Electro-Impedance Resonant Frequency Galvanic Skin Response Scan utilizing the NutriMost Fat Loss Program, authored by Dr. Ray Wisniewski, “the Weight Loss Answerman”

Lose the Fat where you want to LOSE ... and KEEP IT OFF ... PERMANENTLY!!

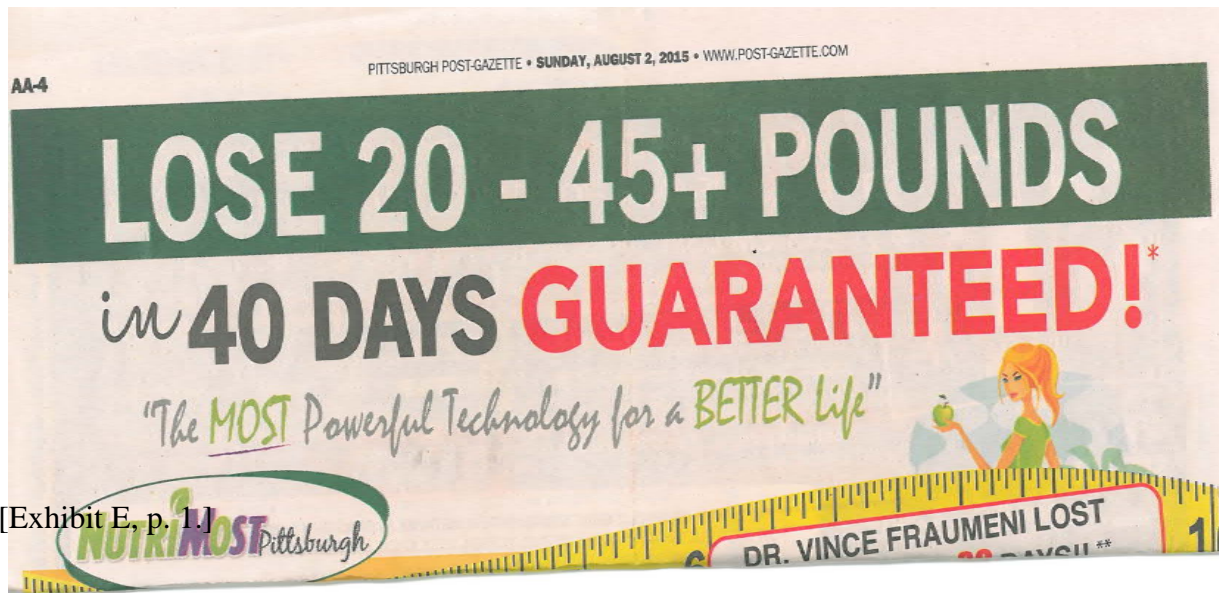
It's GUARANTEED!!

This program actually TARGETS the difficult to lose fat such as the belly, hips, buttocks, gut and “love handles”

* * *

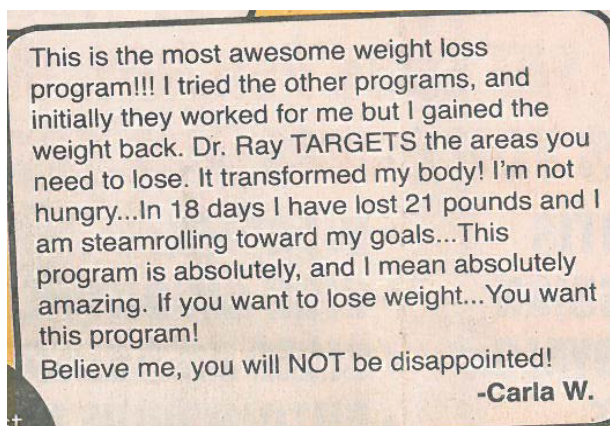
You may think that losing this much weight this fast is unsafe, and in nearly all cases I would agree with you; however, using this amazing technology & protocol, not only is it safe and easy, but typically you will also discover that ... you won't be hungry ... [and] your weight loss will be targeted to those most undesirable fat areas...
[Exhibit D, pp. 2-3.]

e. **Print Advertisement**
[Pittsburgh Post-Gazette, August 2, 2015] (Exhibit E)



[Exhibit E, p. 1.]

* * *




[Exhibit E, p. 2.]

* * *

"I OVERCAME DIABETES, FATTY LIVER, HIGH BLOOD PRESSURE AND CHOLESTEROL WITH DR. RAY'S AMAZING SYSTEM USING RESONANT FREQUENCY TECHNOLOGY"

Because of this amazing Technology... Gene's body was able to Overcome Fatty Liver, DIABETES, High Blood Pressure, Cholesterol and Sleep Apnea, and AMAZED His Liver Doctors who now refer patients to Dr. Ray...

Gene lives in West Alexander but decided to come to Dr. Ray after the recommendation from a lady in his church that had great success with Dr. Ray's program. Although he came in looking to lose weight... which he did... at 70 years old, GENE LOST almost 100 pounds!!! But although that is SPECTACULAR, it doesn't come close to some of the other great things that Gene experienced... All because of NRF technology with the NutriMost scan... This is Gene's Liver doctor's assessment (his doctor is a very well respected Liver Doctor).



BEFORE **AFTER**

GENE SHELLER

Gene's Doctors were Absolutely Amazed at his results!! And now his doctors along with many other doctors in the area are referring patients to Dr. Ray for this Amazing Resonant Frequency Technology using the NutriMost Scans, as they watch their patients' lives become transformed!!!

GENE IS A 71-YEAR OLD GENTELMAN WITH A METABOLIC SYNDROME WHO WAS SENT TO ME FOR MILD ELEVATION IN HIS LIVER FUNCTION TEST AND IMAGING SUGGESTIVE OF FATTY LIVER.

1. Gene has made a truly remarkable turn around over the last year to lose 75 pounds at his age. He attributes most of this to his weight loss program.
2. Since his weight loss, he has been able to stop his diabetes, blood pressure and cholesterol medications, and based on his laboratory studies today, I do not see any need for him to restart them.
3. Equally impressively, the patient underwent an ultrasound today, which showed resolution of his fatty liver.
4. Gene is a true model I think of what can be done in patients with fatty liver. He is one of the few patients I have seen who has had radiographic evidence of resolution in his fat.

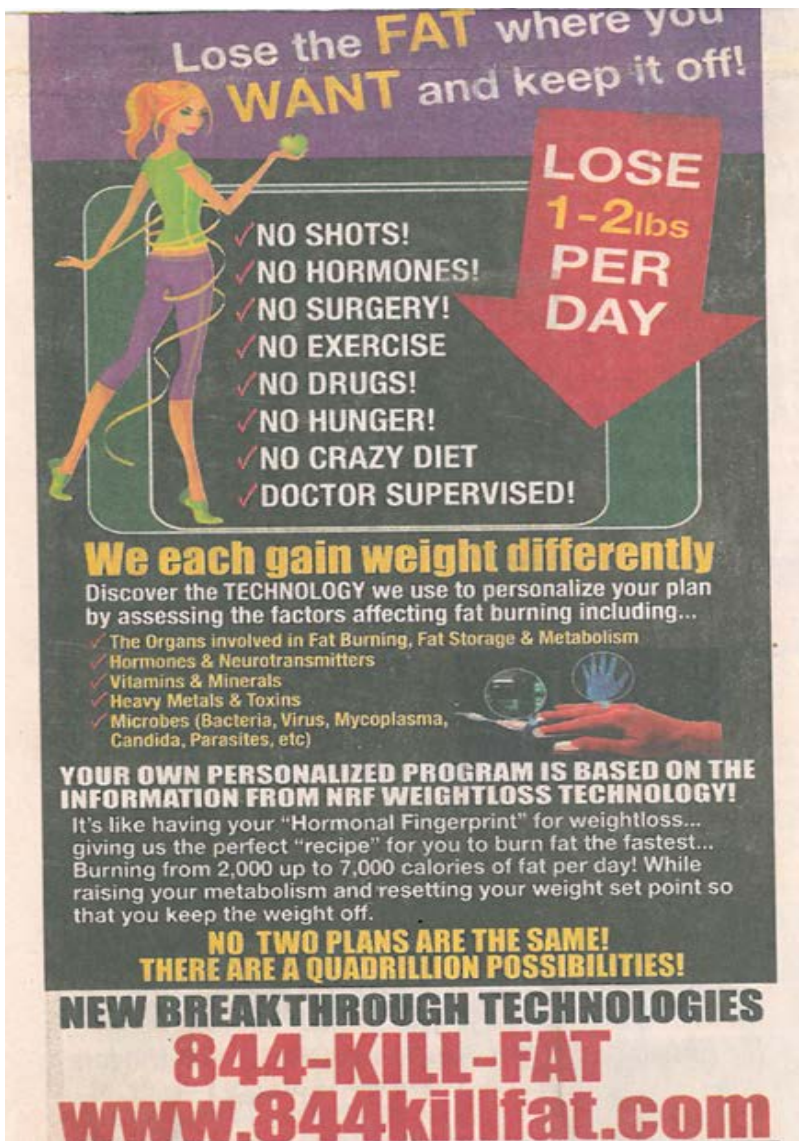
-Gene Sheller

NUTRIMOST Pittsburgh

GET A FREE IN OFFICE REVIEW OF THIS ABSOLUTELY LIFE CHANGING TECHNOLOGY!! CALL 844-KILL-FAT

[Exhibit E, p. 4.]

* * *



Lose the **FAT** where you **WANT** and keep it off!

LOSE 1-2lbs PER DAY

- ✓ NO SHOTS!
- ✓ NO HORMONES!
- ✓ NO SURGERY!
- ✓ NO EXERCISE
- ✓ NO DRUGS!
- ✓ NO HUNGER!
- ✓ NO CRAZY DIET
- ✓ DOCTOR SUPERVISED!

We each gain weight differently
Discover the **TECHNOLOGY** we use to personalize your plan by assessing the factors affecting fat burning including...

- ✓ The Organs involved in Fat Burning, Fat Storage & Metabolism
- ✓ Hormones & Neurotransmitters
- ✓ Vitamins & Minerals
- ✓ Heavy Metals & Toxins
- ✓ Microbes (Bacteria, Virus, Mycoplasma, Candida, Parasites, etc)

YOUR OWN PERSONALIZED PROGRAM IS BASED ON THE INFORMATION FROM NRF WEIGHTLOSS TECHNOLOGY!
It's like having your "Hormonal Fingerprint" for weightloss... giving us the perfect "recipe" for you to burn fat the fastest... Burning from 2,000 up to 7,000 calories of fat per day! While raising your metabolism and resetting your weight set point so that you keep the weight off.

**NO TWO PLANS ARE THE SAME!
THERE ARE A QUADRILLION POSSIBILITIES!**

NEW BREAKTHROUGH TECHNOLOGIES
844-KILL-FAT
www.844killfat.com

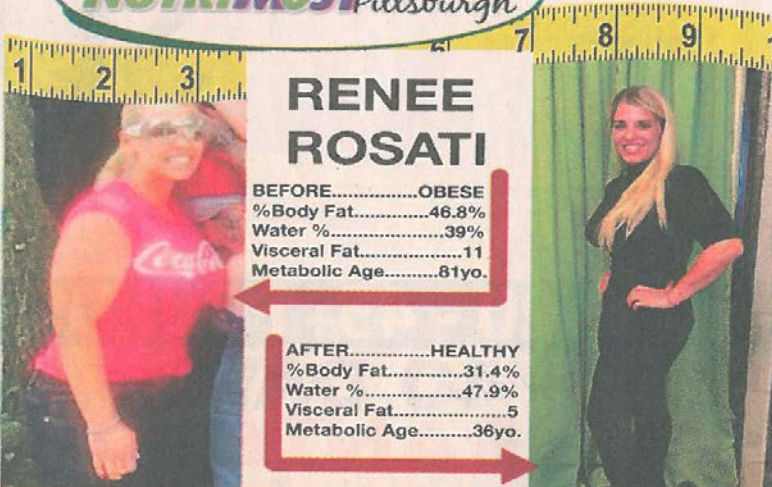
[Exhibit E, p. 5.]

* * *

AA-2

LOSE 20 - 45+ POUNDS
in **40 DAYS**
GUARANTEED!*
"The MOST Powerful Technology for a BETTER Life"

NUTRIMOST Pittsburgh



RENEE ROSATI

BEFORE.....	OBESE
%Body Fat.....	46.8%
Water %.....	39%
Visceral Fat.....	11
Metabolic Age.....	81yo.

AFTER.....

HEALTHY	
%Body Fat.....	31.4%
Water %.....	47.9%
Visceral Fat.....	5
Metabolic Age.....	36yo.

**Using NRF Technology...
We Target Your Hormone Imbalance &
Solve Your Weight Loss Challenges!**

[Exhibit E, p. 6.]

* * *



**Before and After: Woman [sic] average 27-32 pounds and Men average 35-45 pounds in weight loss within 40 days. These are typical results.

[Exhibit E, pp. 7-8.]

* * *

IMMEDIATE & LASTING RESULTS

My exclusive fat loss system utilizes technology that is not available anywhere else ... I know because I created the **NutriMost Ultimate Fat Loss Scan** that is used with the most advanced biocommunication instrument to help you lose that stubborn weight, naturally, quickly, easily and keep it off permanently.

This incredible tool will help you bring your body in the optimum fat burning zone, delivering immediate and lasting results **THAT ARE GUARANTEED!!**

Not only will you lose weight, but you will also improve your appearance, complexion, and even your body structure.

In addition to weight loss, **I have witnessed numerous health issues such as: diabetes, high cholesterol, thyroid issues, high blood pressure, sleep apnea and liver disease become eliminated, just by following this system.**

WHAT SETS US APART FROM EVERY OTHER WEIGHT LOSS PROGRAM?

In addition to customizing your weight loss program, Dr. Ray Wisniewski utilizes his 30 years of clinical experience being on the forefront of hormones and weight loss and has incorporated the use of the **NutriMost Ultimate Fat Loss Scan** through the NRF (Comprehensive Electro-Impedance Resonant Frequency) Instrument & technology.

Dr. Ray is the creator and programmer of this remarkable Scan using NRF Technology. The **NutriMost Fat Loss Scan is designed specifically for your body to keep it in this optimal FAT BURNING ZONE** by determining the specific remedies for your toxic load that can be preventing optimal fat burning, as well as specific nutrients and remedies to promote optimal hormones and neurotransmitters for Fat Loss. [Exhibit E, p. 9.]

17. As shown in Paragraph 16, above, Defendants' advertisements have included testimonials from individuals who purportedly followed the NutriMost System, and who attribute their significant weight loss and improved health to it. Defendants' print advertisements have often included before-and-after photos, and Defendants' websites and videos have included clips of consumers stating their views about and experiences with the NutriMost System. Defendants have represented, both expressly and by implication, that these consumers' experiences represent what consumers can expect to achieve with Defendants' NutriMost System.

18. In fact, in some instances, the testimonials are from consumers who did not follow Defendants' NutriMost System being advertised – for example, Gene Sheller (*see, e.g.*, Exhibit B and Exhibit E) and “Carla W.” (*see, e.g.*, Exhibit E). Other consumer testimonials are of NutriMost licensees or franchisees (such as “Vince”), their relatives (such as “Rachel,” who is married to a NutriMost franchisee) (*see, e.g.*, Exhibit B), or their employees (such as “Renee”) (*see, e.g.*, Exhibit E), facts which are not disclosed in Defendants' advertisements.

19. Defendants have conducted no scientific studies to support the claims they have made regarding the NutriMost System, including the claims Defendants have made about the NutriMost System's technology, embedding NutriMost Resonant Frequencies, scans, supplements, and weight loss and health-related results.

20. Starting in approximately October 2014, Defendants have required consumers who purchase the NutriMost System to sign an agreement that includes a “non-disparagement” clause in its terms and conditions section. The non-disparagement clause purports to prohibit consumers from making any statement or comment through any online media, and specifically to the Better Business Bureau, regardless of truthfulness, “that disparages, criticizes or otherwise casts in a negative light,” the “effectiveness, results or credibility” of the NutriMost System, any of its services or products, its business practices, or any aspect of services received from NutriMost or any employee, officer, or manager. It provides that if the consumer violates the non-disparagement clause, then the consumer agrees to pay Defendants \$35,999 in liquidated damages.

21. Although Defendants have represented that the NutriMost System does not focus on diet or calories, in fact, after consumers purchase the NutriMost System, Defendants provide

them with a Manual and a Journal that explain that the NutriMost System requires users to follow a very low-calorie diet of about 500 calories a day for more than 40 days, and requires users to follow certain rules about the types of foods they can consume, and when such foods can and cannot be consumed.

Defendants' Licensing and Franchising of the NutriMost System

22. Defendants' licensees and/or franchisees sell the NutriMost System to consumers through their own clinics. Defendant NutriMost began licensing the NutriMost System in 2013, and stopped granting new licenses in approximately mid-2014, when Defendants began to franchise the NutriMost System instead. However, after mid-2014, Defendants continued servicing existing licensees by fulfilling licensees' orders for NutriMost System materials and products, and by accepting licensees' royalty payments pursuant to their license agreement.

23. Defendants have authorized their licensees and/or franchisees to use the NutriMost System, including its technology, supplements, products, and materials provided to purchasers; provided them with training and support; and allowed them to use the NutriMost System standardized marketing and advertising materials containing the claims in Paragraphs 16 and 17, above. Defendants also have provided their franchisees with sales and refund agreements to use with consumers that contain the non-disparagement clause described in Paragraph 20, above.

24. The NutriMost System has been marketed and sold nationwide in more than 160 locations in approximately 30 states. As of August 2015, Defendants generated gross revenues of at least \$19 million in fees to franchisees alone.

VIOLATIONS OF THE FTC ACT

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

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

27. Section 12 of the FTC Act, 15 U.S.C. § 52, prohibits the dissemination of any false advertisement in or affecting commerce for the purpose of inducing, or which is likely to induce, the purchase of food, drugs, devices, services, or cosmetics. For purposes of Section 12 of the FTC Act, 15 U.S.C. § 52, NutriMost System weight loss and health-related products are “foods” or “drugs” as “foods” and “drugs” are defined in Section 15(b) and (c) of the FTC Act, 15 U.S.C. § 55(b) and (c).

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

COUNT I

DECEPTIVE WEIGHT LOSS AND DISEASE CLAIMS

29. Through the means described in Paragraphs 16 and 17, above, Defendants have represented, directly or indirectly, expressly or by implication, that the NutriMost System:

- a. consists of technology and personalized supplements that enable users to lose substantial amounts of weight quickly, including 20-40 pounds in 40 days;
- b. does not require consumers to follow a restrictive diet;

- c. is safe for all users;
- d. enables the user to achieve permanent weight loss;
- e. enables the user to burn 2,000-7,000 calories of fat per day;
- f. targets abnormal fat;
- g. allows the user to achieve targeted weight loss; and
- h. is effective in the treatment and/or cure of multiple diseases, including diabetes or psoriasis.

30. The representations set forth in Paragraph 29 are false or misleading, or were not substantiated at the time the representations were made.

31. Therefore, the making of the representations as set forth in Paragraph 29 of this Complaint constitutes a deceptive act or practice and the making of false advertisements, in or affecting commerce, in violation of Sections 5(a) and 12 of the FTC Act, 15 U.S.C. §§ 45(a) and 52.

COUNT II

FAILURE TO DISCLOSE VERY LOW CALORIE DIET

32. Through the means described in Paragraphs 16 and 17, above, Defendants have represented, directly or indirectly, expressly or by implication, that the NutriMost System consists of “technology” and supplements.

33. In numerous instances in which Defendants have made the representation set forth in Paragraph 32, they have failed to disclose or disclose adequately that the NutriMost System requires users to follow a very low calorie diet of approximately 500 calories a day. This fact would have been material to consumers in deciding whether to purchase the NutriMost System.

34. Defendants' failure to disclose or disclose adequately the material information described in Paragraph 33, in light of the representation described in Paragraph 32, constitutes a deceptive act or practice and the making of false advertisements, in or affecting commerce, in violation of Sections 5(a) and 12 of the FTC Act, 15 U.S.C. §§ 45(a) and 52.

COUNT III

FALSE OR MISLEADING CONSUMER TESTIMONIALS

35. Through the means described in Paragraphs 16 and 17, above, Defendants have represented, directly or indirectly, expressly or by implication, that consumer endorsers appearing in advertisements for the NutriMost System are describing their experiences with the program Defendants are promoting in the advertisement.

36. In truth and in fact, in numerous instances, consumer endorsers appearing in advertisements for the NutriMost System are not describing their experiences with the program Defendants are promoting in the advertisement.

37. Therefore, the making of the representation as set forth in Paragraph 35 of this Complaint constitutes a deceptive act or practice and the making of false advertisements, in or affecting commerce, in violation of Sections 5(a) and 12 of the FTC Act, 15 U.S.C. §§ 45(a) and 52.

COUNT IV

FAILURE TO DISCLOSE MATERIAL CONNECTIONS

38. Through the means described in Paragraphs 16 and 17, above, Defendants have represented, directly or indirectly, expressly or by implication, that consumers appearing in advertisements for the NutriMost System are endorsers of the NutriMost System.

39. In numerous instances in which Defendants have made the representation set forth in Paragraph 38, they have failed to disclose or disclose adequately that certain of the consumers appearing in their advertisements operate a NutriMost System franchise or otherwise sell the NutriMost System, and/or that they are employees or relatives of franchisees or licensees. These facts would have been material to consumers in deciding whether to purchase the NutriMost System.

40. Defendants' failure to disclose or disclose adequately the material information described in Paragraph 39, in light of the representation described in Paragraph 38, constitutes a deceptive act or practice and the making of false advertisements, in or affecting commerce, in violation of Sections 5(a) and 12 of the FTC Act, 15 U.S.C. §§ 45(a) and 52.

COUNT V

UNFAIR USE OF NON-DISPARAGEMENT PROVISION

41. As described in Paragraph 20, in numerous instances, Defendants have used in the sale of the NutriMost System, and purported to bind purchasers to, a contractual provision that prohibits purchasers from publishing truthful or non-defamatory negative comments or reviews about the Defendants, their products, or their employees.

42. Defendants' practice as described in Paragraph 41 has caused or is likely to cause substantial injury to consumers that is not reasonably avoidable by consumers and that is not outweighed by countervailing benefits to consumers or competition.

43. Defendants' practice as described in Paragraph 41 therefore constitutes an unfair act or practice in violation of Section 5 of the FTC Act, 15 U.S.C. § 45(a) and (n).

COUNT VI

MEANS AND INSTRUMENTALITIES TO LICENSEES AND FRANCHISEES

44. Through the means described in Paragraphs 6 through 11, 13, 14, 16, 17, and 20 through 23, above, Defendants have provided licensees and/or franchisees with training, support, marketing, and advertising materials that contain the false, misleading, deceptive, or unsubstantiated representations set forth in Paragraphs 29, 32, 35, and 38, above, and with contracts to use with consumers that include the unfair provision set forth in Paragraph 41, above.

45. By furnishing others with training, support, and materials described in Paragraph 44, Defendants have provided the means and instrumentalities for the commission of deceptive and unfair acts and practices, in violation of Section 5 of the FTC Act, 15 U.S.C. § 45(a) and (n).

CONSUMER INJURY

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

THIS COURT'S POWER TO GRANT RELIEF

47. Section 13(b) of the FTC Act, 15 U.S.C. § 53(b), empowers this Court to grant injunctive and such other relief as the Court may deem appropriate to halt and redress violations of any provision of law enforced by the FTC. The Court, in the exercise of its equitable jurisdiction, may award ancillary relief, including rescission or reformation of contracts,

restitution, the refund of monies paid, and the disgorgement of ill-gotten monies, to prevent and remedy any violation of any provision of law enforced by the FTC.

PRAYER FOR RELIEF

Wherefore, Plaintiff FTC, pursuant to Section 13(b) of the FTC Act, 15 U.S.C. § 53(b), and the Court's own equitable powers, requests that the Court:

- A. Enter a permanent injunction to prevent future violations of the FTC Act by Defendants;
- B. Award such relief as the Court finds necessary to redress injury to consumers resulting from Defendants' violations of the FTC Act, including but not limited to, rescission or reformation of contracts, restitution, the refund of monies paid, and the disgorgement of ill-gotten monies; and
- C. Award Plaintiff the costs of bringing this action, as well as such other and additional relief as the Court may determine to be just and proper.

Respectfully submitted,

David Shonka
Acting General Counsel

Dated: April 20, 2017

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