122 3287

UNITED STATES OF AMERICA
BEFORE THE FEDERAL TRADE COMMISSION

COMMISSIONERS: **Edith Ramirez, Chairwoman**
Julie Brill
Maureen K. Ohlhausen
Joshua D. Wright
Terrell McSweeny

In the Matter of	)	
JOHN MATTHEW DWYER III, a/k/a Matthew Dwyer,	)	**DOCKET NO. C-4492**
Individually.	)	

COMPLAINT

The Federal Trade Commission, having reason to believe John Matthew Dwyer III, individually ("Respondent"), has violated the provisions of the Federal Trade Commission Act, and it appearing to the Commission that this proceeding is in the public interest, alleges:

1. Respondent John Matthew Dwyer III, a/k/a Matthew Dwyer ("Dwyer"), is the co-founder of HealthyLife Sciences, LLC ("HealthyLife Sciences"). Until September 2011, Dwyer served as company CEO, and he also was a company co-owner until 2013. Individually or in concert with others, he participated in the policies, acts, or practices of the corporation, including the acts or practices alleged in this complaint. His principal office or place of business from 2009 to 2012 was that of the corporation, and his current principal office or place of business is in Atlanta, Georgia.

2. Beginning in 2009, Respondent participated in the advertising, offering for sale, sale, and distribution of the Healthe Trim line of weight-loss dietary supplements to consumers, including Healthe Trim Original Formula and Healthe Trim Powered by Raspberry Ketone (collectively, "the Healthe Trim Products"). These products are "foods" and/or "drugs," within the meaning of Sections 12 and 15 of the Federal Trade Commission Act.

3. The acts and practices of Respondent alleged in this complaint have been in or affecting commerce, as "commerce" is defined in Section 4 of the Federal Trade Commission Act.

Healthe Trim Weight-Loss Products

4. The Healthe Trim Products were sold primarily through HealthyLife Science's website www.healthytrim.com, and were also available in retail stores including CVS, GNC, and Walgreens. The price for a one-month supply of the Healthe Trim Products ranged from approximately $49.95 to $64.95.

5. Respondent participated in the dissemination of or caused to be disseminated advertising, packaging, and promotional materials for the Healthe Trim Products, including, but not necessarily limited to, the attached Exhibits A through E. These materials contain the following statements:

A. MATTHEW DWYER: Fall is here. So it's time for your weight to start falling off. Healthe Trim is the answer to your weight loss struggles. It's a natural supplement that actually works.

Hi, it's Matthew, founder of Healthe Trim, and we've sold over 1.5 million bottles. That should tell you right there that Healthe Trim works. Lose weight easily and quickly today . . . .

***

If you've tried diets, meal plans, clinics, meetings and nothing's worked for you, it doesn't surprise me. You got to give Healthe Trim a try.

Healthe Trim is so easy. Just a couple of capsules in the morning right when you wake up, drink water and go about your day. We guarantee it or your money back.

Make today the day you stop struggling with your weight and give Healthe Trim a try . . . .

(Exhibit A, 60-second radio ad).

B. MATTHEW DWYER: Are you ready for this? We've got something new for you. It's Matthew, founder of Healthe Trim. We've now added Healthe Trim raspberry ketone to our unique proprietary blend of Healthe Trim.

It's a breakthrough. It is awesome. I feel fantastic. Healthe Trim raspberry ketone will change your life. You'll lose weight without dieting. You won't believe how fast the fat will start burning off.

I guarantee it. 30-day, no questions asked money back guarantee. You will be as excited as I am with Healthe Trim, now powered by raspberry ketone. It burns the fat, suppresses your appetite, and will boost your energy. It's natural, it's safe and it is so easy. With our 30-day money back guarantee, you have nothing to lose but the weight. . . .

(Exhibit B, 60-second radio ad).

C. ELVIS DURAN: Hi, it's Elvis. You guys have heard about Healthe Trim and their excellent website HealthyTrim.com. Well, the founder of Healthe Trim and our weight loss expert is back with a 30-day money back guarantee. You have nothing to lose but the weight. Go to Healthytrim.com, start losing weight today. Healthytrim.com.

SKEERY JONES: How's it going? It's Skeery Jones. A lot of people have been asking me over the past year about this all-natural supplement I've been taking, which has allowed me to lose a whole bunch of weight and still eat the foods I like when I want them. It's called Healthe Trim at HealthyTrim.com.

Well, I figured to clear a whole lot of rumors up and to answer everyone's question [sic], we'd bring in Matthew Dwyer, the founder of Healthe Trim.

Good morning, Matthew.

MATTHEW DWYER: Skeery, how are you, buddy?

SKEERY JONES: The past year has just been amazing for me.

MATTHEW DWYER: Yeah, see, listen, here's the thing. Healthe Trim's not a diet, you know. It's just an all-natural supplement that you take in the morning and it works. It's not a lifestyle change, and I think that's why we're having so much success with it, because research shows that 95 percent of diets fail because you have to give up the foods that you love. So, you end up gaining the weight back. And that's not the case with Healthe Trim.

SKEERY JONES: Right.

MATTHEW DWYER: Listen, I was a guy that was just desperately trying to lose the weight. So, I started trying all different dietary supplements and they all gave me the crazy jittery feeling until I stumbled upon Healthe Trim. I lost five pounds the first week; I lost 16 pounds in three weeks; I lost 47 pounds in 100 days.

SKEERY JONES: Oh, my God.

MATTHEW DWYER: It's not important what we weigh, Skeery, but it's the visceral fat around our organs, the belly fat, that causes all the health issues.

SKEERY JONES: And, you know, when I started taking Healthe Trim, I realized I was given more energy in the morning when I started taking the Healthe Trim. And then, throughout the day, the energy was sustained. I can eat what I want, but I don't find myself as hungry as I used to be.

MATTHEW DWYER: I think it's important to know there's 17 all-natural ingredients. I couldn't do the meal plans, I couldn't do the shake plans. What I can do is I can wake up in the morning, take two all-natural supplements, drink water and go about my day. I'm now a 32-inch waist. After three years, I haven't gained a pound back. I feel great. I don't have the crazy jittery feeling.

Dr. Oz does specials all the time about how over two-thirds of the supplements out there are scams because they don't have authentic hoodia in here. Hoodia is the cactus plant that the Africans used to live off way back in the day to go five or six days to hunt their prey without food. We have authentic hoodia in Healthe Trim.

SKEERY JONES: And I know that because I've checked your website and I've looked into it and you guys have the documents to back it up, that this is the real deal hoodia.

MATTHEW DWYER: And by no means is Dr. Oz endorsing Healthe Trim, but he says that all 17 ingredients in Healthe Trim are not only safe, they're very, very healthy for you.

SKEERY JONES: What about this Resveratrol I've been reading about?

MATTHEW DWYER: Yeah, Resveratrol is the grape red wine extract, okay? I encourage your listeners to Google the Harvard study on Resveratrol. There's just so many anti-aging benefits and healthy benefits to Resveratrol. Listen, everything that's in one capsule of Healthe Trim, it's just 17 fruits and vegetables. You get great energy from the green tea. There's 175 milligrams from green tea in one capsule, which is equivalent to about a 16-ounce Dunkin Donuts or Starbucks cup of coffee.

SKEERY JONES: Mm-hmm.

MATTHEW DWYER: Do I know that Healthe Trim is the best all-natural supplement in the world? No, I do not. But here's what I do know, Healthe Trim absolutely works and we have a 30-day no questions asked money back guarantee…

(Exhibit C, radio ad).

D. Healthe Trim
GET HIGH SCHOOL SKINNY!

[…]

A REVOLUTIONARY
THERMO-ENERGY
BOOSTER
LOSE WEIGHT! FEEL GREAT!

Our powerful diet supplements are made of only the finest natural ingredients available. They are formulated to provide energy boosts, surpass[sic] cravings and burn fat. Most importantly, they're EASY to add to your day – just take two in the morning!

[...]

Real **People**, Incredible **Results!**

[…]

Emily York
Phoenix, AZ

Lost 137 pounds!

My name is Emily. I'm a twenty-nine-year-old mother of three. After my first daughter, I gained 60 pounds in a year and learned I had thyroid disease, a condition that not only meant I would gain weight it also meant it would be difficult to lose weight. As the years went by, pounds piled on, and as I tried all the diet plans and pills and shakes with no success, my frustration grew.

Then I heard about healthé trim on the radio and the DJ had thyroid disease like me! I decided it would be my last try and if this didn't work maybe I was meant to stay that way. September 13, 2009, the day after my 29th birthday, I started healthé trim and I have since lost 121 pounds! I lost 19 pounds the first week and felt amazing. I have the energy to exercise that I didn't have before and there were no side effects with my thyroid meds.

Thanks to healthé trim I am high school skinny again. I have myself back, my husband has his wife back, and my kids have the mom they deserve! Thank you healthé trim!!

* The weight loss experienced by these individuals actually occurred. We do not have many facts about the circumstances about how this weight loss was achieved, other than the consuming of HealtheTrim, for either us or you to conclude that this should be a generally expected outcome from the use of HealtheTrim. We encourage a reasonable exercise and healthy diet as an important part of your weight loss and maintenance program. A clinical study of 60 participants in 2009 reflected an average weight loss of 2.43 pounds in 30 days when those individuals took HealtheTrim exclusive of a diet and exercise program.

[…]

How to Lose Weight Fast

[…]

Natural Weight Loss Supplements

There are a lot of *weight loss supplements* out there, but not all of them are effective at producing real results. Healthé Trim is clinically proven to help you lose weight. Our *weight loss supplement* is made from natural ingredients that curb your appetite, boost energy, and increase your metabolism for *rapid weight loss*.

Fad diets that promise fast results may be dangerous to your health if they require you to consume too few calories. Healthé Trim lets you continue eating the food you enjoy in smaller portions while giving you extra energy for a more active lifestyle. Our natural weight loss supplement has everything your body needs to achieve *quick* weight loss and better overall health.

[…]

Fat Burner

People who want to lose body fat without sacrificing muscle need an effective *fat burner* as part of their *weight loss* strategy. Healthe Trim has developed a successful weight loss trio consisting of appetite suppressants, metabolism boosters and *fat burners* which work together to keep you healthy and help you burn fat without losing muscle.

Burning Fat and Preserving Muscle

Muscles keep us healthy and strong; they can also help both men and women feel more attractive and confident. We use them every day for a number of different tasks, so it is important to ensure they are not diminished by dieting. When trying out a new diet or *weight loss plan*, it is easy to neglect the nutrients you need to preserve your muscles. Fortunately, Healthe Trim provides a safe and natural solution for losing body fat while minimizing the loss of muscle.

Healthe Trim's Successful Weight Loss Trio

Appetite Suppressants

A major ingredient in Healthe Trim is *Hoodia gordonii*. This supplement acts as an appetite suppressant, keeping you focused and reducing the temptation to overeat. The combination of hoodia and our fat burner can result in losing up to 50 pounds by simply adding our *weight loss pill* to your diet.

Metabolism Boosters

Healthe Trim gives your body a metabolism boost which causes an increased amount of calories to be burned more quickly. Less food plus a faster metabolism means

your body eats away at the fat reserves in order to keep going at its normal pace, resulting in a slimmer you.

Fat Burners

Healthe Trim includes a fat burner ingredient that targets stores of fat without weakening your muscles. Our balance of natural ingredients will ensure that your body uses stored fat reserves as fuel rather than preventing your muscles from getting the nutrition they need to stay strong and continue building.

Muscles burn more energy than other parts of the body, so losing muscle mass actually slows down your overall metabolism. Maintaining or building muscle is an important part of any weight loss plan. To ensure minimal muscle loss, you need a weight loss supplement to manage the energy that fuels your muscles. Healthe Trim's winning combination of *fat burners*, *appetite suppressants* and metabolism boosters will allow you to meet your weight loss goals using time-tested, all natural ingredients.

(Exhibit D, Healthytrim.com website).

E. […]

DR. WENDY WALSH: …But it all begins with one man, who's worked tirelessly to help hundreds of thousands of people lose millions of pounds. He desperately wanted to lose weight himself, but nothing he tried worked. Then he discovered the formula for Healthe Trim and it changed his life forever.

I'm happy to introduce Mr. Matthew Dwyer! Hi, Matthew.

MATTHEW DWYER: Hey, how are you? Thanks so much for having me.

DR. WENDY WALSH: People are losing weight. Matthew, I need to know what's going on.

MATTHEW DWYER: Hundreds of thousands of people have lost millions of pounds on Healthe Trim and they're keeping it off because Healthe Trim is just so darn easy.

DR. WENDY WALSH: Why do they stick to Healthe Trim?

MATTHEW DWYER: Because all you do is wake up in the morning, take two natural supplements, drink water and go about your day, and it is just that simple. You'll be less hungry and you'll be less tired.

[On Screen Depiction: Before and after photos of Matthew Dwyer, labeled "Lost 47 pounds"]

You'll have great energy. It will motivate you to move around. It will curb your cravings and you'll lose the weight easy and naturally.

[…]

DR. WENDY WALSH: I'd like to introduce now Ann Hudson. Ann is a popular radio disc jockey and TV host in Austin, Texas. Welcome, Ann.

[On Screen Depiction: "Before" photo of Ann labeled "189 pounds" – subscript, "Lost 54 pounds"]

[…]

ANN HUDSON: Everyone around the office when I came back from maternity leave was taking Healthe Trim. It was all the rage. And I was like, what the heck is this? What's going on? When I started taking it, I felt better. I had a lot more energy. I wanted to do stuff. And after six weeks, the weight just started falling off. It was like five pounds, six pounds, eight pounds. It was a huge transition.

DR. WENDY WALSH: How much did you lose total?

ANN HUDSON: Fifty-four.

DR. WENDY WALSH: Fifty-four pounds.

ANN HUDSON: Yeah.

MATTHEW DWYER: So, you went from a 12 in a dress to a two in a dress.

ANN HUDSON: Now I'm a 2.

MATTHEW DWYER: In five months, six months?

ANN HUDSON: Yes.

DR. WENDY WALSH: Five sizes, five months!

[…]

DR. WENDY WALSH: Welcome back. Well, everybody's talking about Healthe Trim and I'm finally beginning to understand why. It's quite simple. It's because Healthe Trim works. There's no extreme dieting, no extreme exercising, no costly meal delivery programs. Just two capsules in the morning and Healthe Trim goes right to work, making you feel less hungry while simultaneously giving you an alert, focused energy. So, you burn more calories than you take in. The result, you lose weight naturally.

MATTHEW DWYER: Most people are out there like me. They're stressed. Jobs, kids, it's difficult to eat a well-balanced meal and it's difficult to watch what you're eating and exercise all the time on a regular basis. It's not very difficult, though, to wake up in the morning, take two natural supplements, drink water and go about your day.

[…]

DR. WENDY WALSH: You've seen and heard great stories about real people just like you who have lost 10 to 20, 40 to 60, even 100 pounds or more with the number one natural weight loss supplement, Healthe Trim. Isn't it finally time for you to take control with Healthe Trim?. . . Just take two capsules a day and you're on your way to a better, healthier, happier life….

(Exhibit E, Healthe Trim infomercial).

Count I
False or Unsubstantiated Efficacy Claims for the Healthe Trim Products

6. In connection with the advertising, promotion, offering for sale, or sale of the Healthe Trim Products, Respondent has represented, directly or indirectly, expressly or by implication, that:

A. The Healthe Trim Products cause substantial weight loss, including as much as 35, 50, 130, and 165 pounds;

B. The Healthe Trim Products cause rapid weight loss, including as much as 19 pounds in the first week, 47 pounds in 100 days, and 54 pounds in five months;

C. The Healthe Trim Products cause weight loss without the need to diet, give up any foods, or make any changes in lifestyle;

D. The Healthe Trim Products burn fat and cause fat loss;

E. The Healthe Trim Products boost metabolism; and

F. The Healthe Trim Products suppress appetite.

7. The representations set forth in Paragraph 6 are false or misleading, or were not substantiated at the time the representations were made.

Count II
False Establishment Claims for the Healthe Trim Products

8. In connection with the advertising, promotion, offering for sale, or sale of the Healthe Trim Products, Respondent has represented, directly or indirectly, expressly or by implication, that scientific studies prove that the Healthe Trim Products cause weight loss.

9. In fact, scientific studies do not prove that the Healthe Trim Products cause weight loss. Among other reasons, two clinical trials showed no statistically significant differences in weight loss between the test groups taking Healthe Trim Original Formula and test groups taking a placebo. Therefore, the representation set forth in Paragraph 8 is false or misleading.

Violations of Sections 5 and 12

10. The acts and practices of Respondent as alleged in this complaint constitute unfair or deceptive acts or practices, and the making of false advertisements, in or affecting commerce in violation of Sections 5(a) and 12 of the Federal Trade Commission Act.

THEREFORE, the Federal Trade Commission this twenty-second day of October, 2014, has issued this Complaint against Respondent.

By the Commission.

Donald S. Clark
Secretary

SEAL: