

**UNITED STATES OF AMERICA
BEFORE THE FEDERAL TRADE COMMISSION**

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

In the Matter of

NORM THOMPSON OUTFITTERS, INC.
a corporation.

Docket No. C-4495

COMPLAINT

The Federal Trade Commission, having reason to believe that Norm Thompson Outfitters, Inc. (“Respondent”) has violated provisions of the Federal Trade Commission Act, and it appearing to the Commission that this proceeding is in the public interest, alleges:

1. Respondent is an Oregon corporation with its principal office or place of business at 3188 NW Aloclek Drive, Hillsboro, Oregon 97124. Respondent has done business under the names Norm Thompson Outfitters, Sahalie, Solutions, Body Essentials and Body*Belle.
2. Respondent advertises, offers for sale, sells and distributes women’s undergarments under the brand name Lytess®, including bike shorts, tights and leggings (collectively the “Garments”), which incorporate microcapsules containing caffeine and other ingredients into the fabric. The Garments are “devices” and the encapsulated caffeine and other ingredients are a “drug” and/or “cosmetic” 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.
4. The retail price of the Garments ranges from \$49 to \$79, depending on the style. Respondent promotes the Garments as able to slim the body and reduce cellulite.
5. Beginning not later than early 2012, Respondent has disseminated or has caused the dissemination of promotional materials for the Garments, including, but not limited to, online and mail order catalogs excerpted in the attached Exhibits A to H. These promotional materials contain the following statements and depictions:

A. (Exhibit A – Body Essentials catalog; Exhibit B – Solutions catalog)

Lose 2” off hips and 1” off thighs in less than a month. The secret? Lytess® cellulite-slimming shorts.

Dr. Oz loves these. They’re made of patented Lytess®, a unique fabric infused with micronized active ingredients. Caffeine metabolizes and dehydrates fat cells. . . . In less than a month, you’ll be visibly slimmer and firmer.

Recommended by Dr. Oz for fighting cellulite.

B. (Exhibit C – Solutions online catalog)

Lose 2” off hips and 1” off thighs in less than a month....without effort. The secret? Lytess® cellulite-slimming shorts.

No diets or pills. Lose inches just by wearing these cellulite-slimming Lytess® leggings. The unique fabric is infused with caffeine to metabolize fat.

. . . In less than a month, you’ll be visibly slimmer and firmer.

C. (Exhibit D – Norm Thompson online catalog)

Look slimmer while becoming trimmer in our Women’s Slimming Leggings! Take up to 2” off hips and 1” off thighs in just weeks. The shapewear’s secret? Caffeine. Super stretchy, seamless knit nylon/spandex is infused with a microencapsulated formula that stimulates the breakdown of fats. . . .

- Caffeine helps break down fat; botanicals flush out toxins
- Slimming and firming results are visible in under a month

D. (Exhibit E – Body*Belle catalog)

Caffeinated slimmers take 2” off hips and 1” off thighs in just weeks

Made of a micromassaging fabric that holds a microencapsulated formula of powerful natural ingredients, these slimmers work wonders. As it is massaged into skin, caffeine metabolizes fat cells. . . . In under a month, you’ll be visibly slimmer and firmer.

“Say goodbye to the cellulite and the sag.” – Dr. Oz

E. (Exhibit F – Norm Thompson catalog)

Instant curve appeal

Caffeine + botanicals are proven to take off inches now and later!

Take inches off hips, thighs and waist in just weeks...the secret is caffeine.

This is no ordinary shapewear! A unique, seamless knit fabric massages a skin-perfecting microencapsulated formula into skin. Caffeine breaks down fats....In under a month, you'll be visibly slimmer and firmer. For maximum benefit, wear 5 days a week, 8 hours a day for 28 days....

Lose 2" off hips and 1" off thighs.

F. (Exhibit G – Body*Belle catalog)

Effortless slimming cellulite blaster

Innovative fabric is infused with caffeine

Instant trimming when you wear them, plus take 2" off hips and 1" of thighs in 30 days.

Enhanced blood circulation flushes toxins while the active ingredients break down fat. In under a month, you'll be visibly slimmer and firmer.

G. (Exhibit H – Norm Thompson catalog)

Goodbye cellulite! Lose up to 2" off hips and 1" off thighs in 30 days.

We love these shorts and leggings! They're made of innovative Lytess® fabric infused with micronized active ingredients – caffeine metabolizes and dehydrates fat cells. . . . In less than a month, you'll be visibly slimmer and firmer.

Efficacy Claims

6. Through the means described in Paragraph 5, Respondent has represented, expressly or by implication, that

- A. the Garments contain caffeine, which causes a two-inch reduction in a wearer's hip size and a one-inch reduction in a wearer's thigh size in one month or less;
- B. the reductions in hip and thigh size can be achieved without effort;

C. the Garments eliminate or substantially reduce cellulite.

7. Through the means described in Paragraph 5, Respondent has represented, expressly or by implication, that it possessed and relied upon a reasonable basis that substantiated the representations set forth in Paragraph 6 at the time the representations were made.

8. In truth and in fact, Respondent did not possess and rely upon a reasonable basis that substantiated the representations set forth in Paragraph 6, at the time the representations were made. Therefore, the representation set forth in Paragraph 7 was, and is, false or misleading.

Establishment Claims

9. Through the means described in Paragraph 5, Respondent has represented, expressly or by implication, that

A. scientific tests prove that the Garments substantially reduce a wearer's hip and thigh size; and

B. scientific tests prove that wearing the Garments for five days a week, eight hours a day for twenty-eight days will trim two inches from the wearer's hips and one inch from the wearer's thighs.

10. In truth and in fact,

A. scientific tests do not prove that the Garments substantially reduce a wearer's hip and thigh size; and

B. scientific tests do not prove that wearing the Garments for five days a week, eight hours a day for twenty-eight days will trim two inches from the user's hips and one inch from the user's thighs.

Among other things, the evidence relied on by Respondent for its representations concerning the Garments consisted primarily of results from two studies, one of which was unblinded and uncontrolled, and both of which contained significant methodological flaws. Moreover, Respondent exaggerated the results of the studies: the average reported reduction in hip circumference across both studies after 28 days of wearing the products was less than one-sixth of an inch and the average reported reduction in thigh measurement was about one-eighth of an inch. Only one participant out of the 55 in the two tests was reported to have achieved a reduction in hip measurement of two inches and only one participant in the two tests was reported to have achieved a reduction in thigh measurement of one inch. Therefore, the representations set forth in Paragraph 9 were, and are, false and misleading.

Endorsement Claims

11. In many instances, including but not limited to the promotional materials shown in Exhibits A, B and E, Respondent has prominently represented that the Garments are recommended by Dr. Oz.

12. In truth and in fact, the Garments are not recommended by Dr. Oz.

13. Therefore, the representation set forth in Paragraph 11 was, and is, false and misleading.

14. 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 sixth day of November, 2014, has issued this complaint against Respondent.

By the Commission.

Donald S. Clark
Secretary

SEAL: