

UNITED STATES DISTRICT COURT
DISTRICT OF COLUMBIA

FEDERAL TRADE COMMISSION,
600 Pennsylvania Avenue, N.W.
Washington, DC 20580,

Plaintiff,

v.

**GRAVITY DEFYER MEDICAL
TECHNOLOGY CORPORATION,** also d/b/a
GRAVITY DEFYER CORPORATION, a
corporation,
10643 Glenoaks Boulevard
Pacoima, CA 91331, and

ALEXANDER ELNEKAVEH, individually and
as an officer of GRAVITY DEFYER MEDICAL
TECHNOLOGY CORPORATION,
10643 Glenoaks Boulevard
Pacoima, CA 91331,

Defendants.

Case No. _____

**COMPLAINT FOR PERMANENT INJUNCTION,
CIVIL PENALTIES, AND OTHER RELIEF**

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

1. The FTC brings this action under Sections 5(a) and (l) of the FTC Act, 15 U.S.C. §§ 45(a) and (l), which authorize the FTC to seek, and the Court to order, monetary civil penalties and permanent injunctive and other relief for (a) violations of a 2001 order issued by the Commission and (b) Defendants’ acts or practices in violation of Sections 5(a) and 12 of the FTC Act, 15 U.S.C. §§ 45(a) and 52. *See* Exhibit A, pp. 3-6, *In re Esrim Ve Sheva Holding*

Corp., 132 F.T.C. 736, 2001 FTC LEXIS 192 (“Commission Order”). (The Commission Order is also available at <https://www.ftc.gov/sites/default/files/documents/cases/2001/12/evshdo.pdf>.)

SUMMARY OF CASE

2. Defendant Gravity Defyer Medical Technology Corporation (“Gravity Defyer”) labels, advertises, markets, distributes, and sells footwear under the brand name “Gravity Defyer.” Defendant Alexander Elnekaveh owns Gravity Defyer. This action seeks to hold Gravity Defyer and Alexander Elnekaveh accountable for violating the FTC Act by claiming, without substantiation, that Gravity Defyer footwear reduces knee, back, ankle, and foot pain and helps with various conditions, including conditions such as plantar fasciitis, arthritis, joint pain, and heel spurs. This action also seeks to hold Defendants accountable for violating the Commission Order, which prohibits making misrepresentations through user testimonials or about tests, studies, or research.

JURISDICTION AND VENUE

3. This Court has subject matter jurisdiction pursuant to 28 U.S.C. §§ 1331, 1337(a), and 1345.

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

PLAINTIFF

5. The FTC is an independent agency of the United States Government created by the FTC Act, which authorizes the FTC to commence this district court civil action by its own attorneys. 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, and 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. The FTC also enforces Section 5(l) of the FTC Act, 15 U.S.C. §5(l), which makes it unlawful to violate a Commission order after it has become final and while it is in effect.

DEFENDANTS

6. Defendant Gravity Defyer Medical Technology Corporation, also doing business as Gravity Defyer Corporation, is a California corporation with its principal place of business at 10643 Glenoaks Boulevard, Pacoima, CA 91331. Gravity Defyer transacts or has transacted business in this District and throughout the United States. At all times relevant to this Complaint, acting alone or in concert with others, Gravity Defyer has advertised, marketed, distributed, or sold footwear to consumers throughout the United States, including in the District of Columbia.

7. Defendant Alexander Elnekaveh is the founder, chairman, president, secretary, and sole owner of Gravity Defyer. At all times relevant 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 Gravity Defyer, including the acts and practices set forth in this Complaint. Defendant Elnekaveh invented the VersoShock sole contained in Gravity Defyer footwear and has overseen daily operations of the business, including (a) product development, (b) business strategy, and (c) approval of advertising and marketing materials. Defendant Elnekaveh also (a) conceived of, (b) decided to fund, and (c) participated in formulating a protocol for, clinical research on the VersoShock sole that has been cited in Gravity Defyer ads. Defendant Elnekaveh, in connection with the matters alleged herein, transacts or has transacted business in this District and throughout the United States.

COMMERCE

8. At all times relevant 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.

THE COMMISSION ORDER

9. In 2001, the Commission issued an administrative complaint against Etrim Ve Sheva Holding Corporation, sometimes doing business as Gadget Universe (“Gadget Universe”), and Alexander Elnekaveh, individually and as an officer of the corporation. Exhibit A, pp. 1-3, *In re Etrim Ve Sheva Holding Corp., et al.*, 132 F.T.C. 736, 2001 FTC LEXIS 192 (“2001 Complaint”). The 2001 Complaint charged Gadget Universe and Defendant Elnekaveh with engaging in unfair or deceptive acts or practices in violation of Section 5(a) of the FTC Act, 15 U.S.C. § 45(a). *Id.*, p. 3, ¶ 12. It alleged that Defendant Elnekaveh, individually or in concert with others, formulated, directed, or controlled the policies, acts, or practices of Gadget Universe. *Id.*, p. 1, ¶ 1b.

10. According to the 2001 Complaint, Gadget Universe and Defendant Elnekaveh advertised, offered for sale, sold, and distributed to the public Super FuelMAX, an automotive aftermarket fuel-line magnet device. The Commission alleged that Gadget Universe and Defendant Elnekaveh represented that when applied to a motor vehicle fuel line, Super FuelMAX, among other things: (a) reduced fuel consumption; (b) reduced fuel consumption by 27% or up to 27%; (c) reduced harmful emissions or pollutants; and (d) reduced harmful emissions or pollutants by 42% or up to 40%. The Commission asserted that Gadget Universe and Defendant Elnekaveh did not have a reasonable basis that substantiated these representations and that they were therefore false or misleading. *Id.*, p. 2, ¶¶ 5-7.

11. The Commission further alleged that Gadget Universe and Defendant Elnekaveh represented that tests performed at a certified EPA laboratory proved that Super FuelMAX increased mileage by 27% and reduced harmful pollutants by 42%. The Commission asserted, however, that tests performed by a certified EPA laboratory did not prove that Super FuelMAX increased mileage by 27% and reduced harmful pollutants by 42%, thus these representations about the test results also were false or misleading. *Id.*, p. 2, ¶¶ 8-9.

12. Finally, the Commission alleged that Gadget Universe and Defendant Elnekaveh represented that a testimonial by Defendant Elnekaveh appearing in Super FuelMAX's advertisements reflected both Defendant Elnekaveh's actual findings and experience with the product and the typical or ordinary experiences of people who used the product. The Commission asserted, however, that the testimonial did not reflect Defendant Elnekaveh's actual findings and experience with the product and the typical or ordinary experience of people who used the product and, therefore, also was false or misleading. *Id.*, p. 3, ¶¶ 10-11.

13. Gadget Universe and Defendant Elnekaveh settled the 2001 Complaint with the Commission Order. The Commission Order became final in December 2001.

14. Part III of the Commission Order states:

IT IS FURTHER ORDERED THAT [Gadget Universe and Defendant Elnekaveh], directly or through any corporation, subsidiary, division, or other device, in connection with the manufacturing, labeling, advertising, promotion, offering for sale, sale, or distribution of any product in or affecting commerce, shall not misrepresent, in any manner, expressly or by implication, that the experience represented by any user testimonial or endorsement of the product represents the typical or ordinary experience of members of the public who used the product, unless:

A. The representation is true and, at the time it is made, [Gadget Universe and Defendant Elnekaveh] possess and rely upon competent and reliable scientific evidence that substantiates the representation; or

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