

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

FEDERAL TRADE COMMISSION,

Plaintiff,

v.

IMPROVITA HEALTH PRODUCTS, INC.,
an Ohio Corporation; THOMAS B.
KLAMET, individually and in his capacity as
a former officer of Improvita Health
Products, Inc.; and DANIEL P. KOHLER,
individually and in his capacity as a former
officer of Improvita Health Products, Inc.,

Defendants.

Case No. 1:09-cv-00858

JUDGE KATHLEEN M. O'MALLEY

**STIPULATED FINAL JUDGMENT
AND ORDER FOR INJUNCTIVE AND
OTHER EQUITABLE RELIEF AS TO
DEFENDANTS THOMAS B. KLAMET
AND DANIEL P. KOHLER**

Plaintiff, the Federal Trade Commission (FTC or Commission), filed a Complaint for Injunctive and Other Equitable Relief against Defendants Improvita Health Products, Inc., Thomas B. Klamet, and Daniel P. Kohler, pursuant to Section 13(b) of the Federal Trade Commission Act (FTC Act), 15 U.S.C. § 53(b), alleging deceptive acts or practices and false advertisements in violation of Sections 5(a) and 12 of the FTC Act, 15 U.S.C. §§ 45(a) and 52.

The Commission and Defendants Thomas B. Klamet and Daniel P. Kohler (Stipulating Defendants), without Stipulating Defendants admitting or denying liability for any of the conduct alleged in the Complaint, have stipulated to entry of the following agreement for permanent injunction and settlement of claims for monetary relief in settlement of the Commission's allegations against Stipulating Defendants.

The Court, having been presented with this Stipulated Final Judgment and Order for

Injunctive and Other Equitable Relief as to Stipulating Defendants Thomas B. Klamet and Daniel P. Kohler (Order), finds as follows:

FINDINGS

1. This Court has jurisdiction over the subject matter of this case and jurisdiction over Stipulating Defendants. Venue in the Northern District of Ohio is proper.
2. The acts and practices of Stipulating Defendants are in or affecting commerce, as defined in Section 4 of the FTC Act, 15 U.S.C. § 44.
3. The Complaint states a claim upon which relief can be granted under Sections 5(a) and 12 of the FTC Act, 15 U.S.C. §§ 45(a) and 52, and the Commission has the authority to seek the relief it has requested.
4. Stipulating Defendants waive all rights to seek judicial review or otherwise challenge or contest the validity of this Order. Stipulating Defendants also waive any claim that they may have held under the Equal Access to Justice Act, 28 U.S.C. § 2412, concerning the prosecution of this action to the date of this Order.
5. This Order reflects the negotiated agreement of the Commission and Stipulating Defendants, and Stipulating Defendants have entered into this Order freely and without coercion.
6. The Commission and Stipulating Defendants stipulate and agree to entry of this Order under Section 13(b) of the FTC Act, 15 U.S.C. § 53(b), without trial or final adjudication of any issue of fact or law to settle and resolve all matters of dispute arising from the conduct alleged in the Complaint as of the date of this Order. Except as provided in Section IV.F. of this Order, this stipulation is for settlement purposes only and nothing in this Order shall constitute, nor shall it be construed as, an admission of fact, except for jurisdictional facts, or a finding that any law has been violated or of any other wrongdoing by Stipulating Defendants.

7. This action and the relief awarded herein are in addition to, and not in lieu of, other remedies as may be provided by law.

8. Nothing in this Order obviates the obligation of Stipulating Defendants to comply with Sections 5 and 12 of the FTC Act, 15 U.S.C. §§ 45 and 52.

9. The Commission's action against Stipulating Defendants is an exercise of the Commission's police or regulatory power as a governmental unit.

10. The paragraphs of this Order shall be read as the necessary requirements for compliance and not as alternatives for compliance, and no paragraph serves to modify another paragraph unless expressly so stated.

11. Each party shall bear its own costs and attorneys' fees.

12. Entry of this Order is in the public interest.

13. The Plaintiff and Stipulating Defendants, by and through their counsel, have agreed that entry of this Order resolves all matters in dispute between them arising from the facts and circumstances alleged in the Complaint in this action, up to the date of entry of this Order.

ORDER

DEFINITIONS

1. "Advertising" and "promotion" mean any written or verbal statement, illustration, or depiction designed to effect a sale or create interest in the purchasing of goods, whether it appears in a brochure, newspaper, magazine, pamphlet, leaflet, circular, mailer, book insert, free standing insert, letter, catalogue, poster, chart, billboard, public transit card, point of purchase display, packaging, package insert, label, film, slide, radio, television or cable television, audio program transmitted over a telephone system, program-length commercial ("infomercial"), the Internet, email, press release, video news release, or in any other medium.

2. "Commerce" means as defined in Section 4 of the FTC Act, 15 U.S.C. § 44.
3. "Competent and reliable scientific evidence" means tests, analyses, research, studies, or other evidence based on the expertise of professionals in the relevant area, that have been conducted and evaluated in an objective manner by persons qualified to do so, using procedures generally accepted in the profession to yield accurate and reliable results.
4. "Covered Product" means any dietary supplement, food, or drug.
5. "Stipulating Defendants" means Thomas B. Klamet and Daniel P. Kohler.
6. "Endorsement" means as defined in 16 C.F.R. § 255.0(b).
7. "Food" and "drug" mean as defined in Section 15 of the FTC Act, 15 U.S.C. § 55.
8. The terms "and" and "or" in this Order shall be construed conjunctively or disjunctively as necessary, to make the applicable sentence or phrase inclusive rather than exclusive.
9. The term "including" in this Order means "including without limitation."

I.

**PROHIBITED REPRESENTATIONS REGARDING
COVERED PRODUCTS**

IT IS HEREBY ORDERED that Stipulating Defendants, directly or through any corporation, partnership, subsidiary, division, trade name, or other device, and their agents, servants, employees, and all persons or entities in active concert or participation with either of them who receive actual notice of this Order, by personal service or otherwise, in connection with the manufacturing, labeling, advertising, promotion, offering for sale, sale, or distribution of any Covered Product, in or affecting commerce, are hereby permanently restrained and

enjoined from making, or assisting others in making, directly or by implication, including through the use of a product name, endorsement, depiction, or illustration, any representation:

- A. That such product:
1. Reduces the risk of or prevents colds or flu;
 2. Protects against or helps fight germs;
 3. Reduces the severity or duration of colds;
 4. Protects against colds or flu in crowded places such as airplanes, offices, or schools; or
 5. Boosts the body's immune system thereby providing protection against cold and flu viruses;

unless the representation is true, non-misleading, and, at the time it is made, Stipulating Defendants possess and rely upon competent and reliable scientific evidence that substantiates the representation.

B. About the health-related benefits or efficacy of any Covered Product, unless the representation is true, non-misleading, and, at the time it is made, Stipulating Defendants possess and rely upon competent and reliable scientific evidence that substantiates the representation.

For purposes of this Section, "assisting others" means knowingly providing or performing any of the following services for any person or entity: designing, formulating, or providing, or arranging for the design, formulation, or provision of, any advertising, marketing, labeling, packaging or other promotional materials for any Covered Product, in or affecting commerce.

II.

MEANS AND INSTRUMENTALITIES

IT IS FURTHER ORDERED that Stipulating Defendants, directly or through any corporation, partnership, subsidiary, division, trade name, or other device, and their agents, servants, employees, and all persons or entities in active concert or participation with either of them who receive actual notice of this Order, by personal service or otherwise, in connection with the manufacturing, labeling, advertising, promotion, offering for sale, sale, or distribution of any Covered Product, in or affecting commerce, are hereby permanently restrained and enjoined from providing the means and instrumentalities with which to make, directly or by implication, any representation prohibited by Section I above. For purposes of this Order, "means and instrumentalities" mean any information, including but not necessarily limited to any advertising, labeling, promotional, or purported substantiation materials, for use by trade customers in their marketing of any Covered Product in or affecting commerce.

III.

FDA-APPROVED CLAIMS

IT IS FURTHER ORDERED that:

- A. Nothing in this Order shall prohibit Stipulating Defendants from making any representation for any drug that is permitted in labeling for such drug under any tentative or final standard promulgated by the Food and Drug Administration, or under any new drug application approved by the Food and Drug Administration; and

B. Nothing in this Order shall prohibit Stipulating Defendants from making any representation for any product that is specifically permitted in labeling for such product by regulations promulgated by the Food and Drug Administration pursuant to the Nutrition Labeling and Education Act of 1990.

IV.

MONETARY JUDGMENT AND CONSUMER REDRESS

IT IS FURTHER ORDERED that:

A. Judgment is hereby entered in favor of the Commission and against Stipulating Defendant Thomas B. Klamet in the amount of three hundred twenty-five thousand dollars and no cents (\$325,000). At least ten (10) days before this Order is filed with the Court, Stipulating Defendant Thomas B. Klamet shall place \$325,000 into a non-interest bearing trust account at the law firm of his counsel, Ulmer & Berne LLP, which shall be held by his counsel in such trust account and transferred to the Commission within five (5) business days of the date of entry of this Order by electronic funds transfer and in accordance with instructions provided by the Commission.

B. Judgment is hereby entered in favor of the Commission and against Stipulating Defendant Daniel P. Kohler in the amount of two hundred and forty thousand dollars and no cents (\$240,000). At least ten (10) days before this Order is filed with the Court, Stipulating Defendant Daniel P. Kohler shall place \$240,000 into a non-interest bearing trust account at the law firm of his counsel, Porter Wright Morris & Arthur LLP, which shall be held by his counsel in such trust account and transferred to the Commission within five (5) business days of the date of entry of this Order by electronic funds transfer and in accordance with instructions provided by the Commission.

C. In the event of default on any obligation to make payment under this Order, interest, computed pursuant to 28 U.S.C. § 1961(a), shall accrue from the date of default to the date of payment. In the event such default continues for ten (10) calendar days beyond the date that payment is due, the entire amount shall immediately become due and payable.

D. All funds paid to the Commission pursuant to this Order shall be deposited into an account administered by the Commission or its agents to be used for equitable relief, including, but not limited to, consumer redress, and any attendant expenses for the administration of such equitable relief. In the event that direct redress to consumers is wholly or partially impracticable or funds remain after the redress is completed, the Commission may apply any remaining funds for such other equitable relief (including consumer information remedies) as it determines to be reasonably related to Stipulating Defendants' practices alleged in the Complaint. Any funds not used for such equitable relief shall be deposited to the United States Treasury as disgorgement. Stipulating Defendants shall have no right to challenge the Commission's choice of remedies under this Section. Stipulating Defendants shall have no right to contest the manner of distribution chosen by the Commission. No portion of any payment under the judgment herein shall be deemed a payment of any fine, penalty, or punitive assessment.

E. Stipulating Defendants relinquish all dominion, control and title to the funds paid to the fullest extent permitted by law. Stipulating Defendants shall make no claim to or demand for return of the funds, directly or indirectly, through counsel or otherwise.

F. Stipulating Defendants agree that the facts as alleged in the Complaint filed in this action shall be taken as true without further proof in any bankruptcy case or subsequent civil litigation pursued by the Commission to enforce its rights to any payment or money judgment pursuant to this Order, including but not limited to a nondischargeability complaint in any

bankruptcy case. Stipulating Defendants further stipulate and agree that the facts alleged in the Complaint establish all elements necessary to sustain an action pursuant to, and that this Order shall have collateral estoppel effect for purposes of, Section 523(a)(2)(A) of the Bankruptcy Code, 11 U.S. C. § 523(a)(2)(A).

G. In accordance with 31 U.S.C § 7701, Stipulating Defendants are hereby required, unless they have done so already, to furnish to the Commission their respective taxpayer identifying numbers and/or social security numbers, which shall be used for the purposes of collecting and reporting on any delinquent amount arising out of Stipulating Defendants' relationship with the government.

H. Proceedings instituted under this Section are in addition to, and not in lieu of, any other civil or criminal remedies that may be provided by law, including any other proceedings the Commission may initiate to enforce this Order.

V.

COMPLIANCE MONITORING BY STIPULATING DEFENDANTS

IT IS FURTHER ORDERED that for a period of five (5) years after the date of entry of this Order, Stipulating Defendants, in connection with the manufacturing, labeling, advertising, promotion, offering for sale, sale or distribution of any Covered Product, in or affecting commerce, shall take reasonable steps sufficient to monitor and ensure that all of their employees and agents engaged in sales, order verification, or other customer service functions comply with the provisions of this Order. Such steps shall include adequate monitoring of all advertisements, promotions, sales presentations, and other oral and written communications with customers regarding Covered Products. Stipulating Defendants, at a minimum, shall:

A. Conduct periodic monitoring of representations concerning any Covered Product made by persons engaged in sales or other customer service functions, including representations made orally or through electronic communications, on behalf of Stipulating Defendants; and

B. Conduct periodic monitoring of representations made about any Covered Product on all Internet websites operated or maintained by Stipulating Defendants or their agents.

VI.

COMPLIANCE MONITORING BY THE COMMISSION

IT IS FURTHER ORDERED that, for the purpose of monitoring and investigating compliance with any provision of this Order:

A. Within ten (10) days of receipt of written notice from a representative of the Commission, Stipulating Defendants each shall submit additional written reports, which are true and accurate and sworn to under penalty of perjury; produce documents for inspection and copying; appear for deposition; and provide entry during normal business hours to any business location in each Defendant's possession or direct or indirect control to inspect the business operation;

B. In addition, the Commission is authorized to use all other lawful means, including, but not limited to:

I. Obtaining discovery from any person, without further leave of court, using the procedures described by Fed. R. Civ. P. 30, 31, 33, 34, 36, 45, and 69; and

2. Posing as consumers and suppliers to Stipulating Defendants, their employees, or any other entity managed or controlled in whole or in part by any Stipulating Defendant, without the necessity of identification or prior notice; and

C. Stipulating Defendants each shall permit representatives of the Commission to interview any employer, consultant, independent contractor, representative, or agent, or employee who has agreed to such an interview, relating in any way to any conduct subject to this Order. The person interviewed may have counsel present.

Provided, however, that nothing in this Order shall limit the Commission's lawful use of compulsory process, pursuant to Sections 9 and 20 of the FTC Act, 15 U.S.C. §§ 49, 57b-1, to obtain any documentary material, tangible things, testimony, or information relevant to unfair or deceptive acts or practices in or affecting commerce (within the meaning of 15 U.S.C. § 45(a)(1)).

VII.

COMPLIANCE REPORTING

IT IS FURTHER ORDERED that, in order that compliance with the provisions of this Order may be monitored:

- A. For a period of three (3) years from the date of entry of this Order,
 1. Each Stipulating Defendant shall notify the Commission in writing of the following:
 - a. Any changes in Stipulating Defendant's residence, mailing addresses, and telephone numbers, within ten (10) days of such change;

- b. Any changes in Stipulating Defendant's employment status (including self-employment), and any change in Stipulating Defendant's ownership in any business entity, within ten (10) days of such change. Such notice shall include the name and address of each business that Stipulating Defendant is affiliated with, employed by, creates or forms, or performs services for; a detailed description of the nature of the business; and a detailed description of Stipulating Defendant's duties and responsibilities in connection with the business or employment; and
 - c. Any changes in Stipulating Defendant's name or use of any aliases or fictitious names; and
2. Each Stipulating Defendant shall notify the Commission in writing of any changes in structure of any business entity that Stipulating Defendant directly or indirectly controls, or has an ownership interest in, that may affect compliance obligations arising under this Order, including, but not limited to: incorporation or other organization; a dissolution, assignment, sale, merger, or other action; the creation or dissolution of a subsidiary, parent, or affiliate that engages in any acts or practices subject to this Order; or a change in the business name or address, at least thirty (30) days prior to such change, *provided that*, with respect to any proposed change in the business entity about which Stipulating Defendant learns less than thirty (30) days prior to the date such action is to take place, Stipulating Defendant shall notify the Commission as soon as is

practicable after obtaining such knowledge.

B. Sixty (60) days after the date of entry of this Order, and annually thereafter for a period of three (3) years, Stipulating Defendants each shall provide a written report to the FTC, which is true and accurate and sworn to under penalty of perjury, setting forth in detail the manner and form in which he has complied and is complying with this Order. This report shall include, but not be limited to:

1. Stipulating Defendant's then-current residence address, mailing addresses, and telephone numbers;
2. Stipulating Defendant's then-current employment status (including self-employment), including the name, addresses and telephone numbers of each business that Stipulating Defendant is affiliated with, employed by, or performs services for; a detailed description of the nature of the business; and a detailed description of Stipulating Defendant's duties and responsibilities in connection with the business or employment;
3. Any other changes required to be reported under Subsection A of this Section; and
4. A copy of each acknowledgment of receipt of this Order obtained pursuant to Section IX titled "Distribution of Order."

C. For a period of three (3) years from the date of entry of this Order, each Stipulating Defendant shall notify the Commission of the filing of a bankruptcy petition by that Stipulating Defendant within fifteen (15) days of filing.

D. For purposes of this Order, Stipulating Defendants shall, unless otherwise directed by the Commission's authorized representatives, send by overnight courier all reports

and notifications required by this Order to the Commission, to the following address:

Associate Director for Enforcement
Federal Trade Commission
600 Pennsylvania Avenue, NW, Room NJ-2122
Washington, DC 20580
Re: *FTC v. Improvita Health Products, Inc. et al.* (N.D. Ohio),
Case No. 1:09-cv-00858

Provided that, in lieu of overnight courier, Stipulating Defendants may send such reports or notifications by first-class mail, but only if Stipulating Defendants contemporaneously send an electronic version of such report or notification to the Commission at: DEBrief@ftc.gov.

E. For purposes of compliance reporting and monitoring required by this Order, the Commission is authorized to communicate directly with each Stipulating Defendant, unless or until a Stipulating Defendant directs the Commission to communicate with him through legal counsel and identifies the name and contact information for said counsel.

VIII.

RECORD-KEEPING PROVISIONS

IT IS FURTHER ORDERED that, for a period of six (6) years from the date of entry of this Order, each Stipulating Defendant, and his agents, employees, and those persons in active concert or participation with him who receive actual notice of this Order by personal service or otherwise, in connection with any business (1) in which the Stipulating Defendant is the majority owner or otherwise controls the business and (2) that is engaged in conduct subject to Sections I and II of this Order, is hereby restrained and enjoined from failing to create and retain the following records:

A. Accounting records that reflect the cost of Covered Products sold, revenues generated, and the disbursement of such revenues;

B. Personnel records accurately reflecting the name, address, and telephone number of each person employed in any capacity by such business, including as an independent contractor; that person's job title or position; the date upon which the person commenced work; and the date and reason for the person's termination, if applicable;

C. Customer files containing the names, addresses, telephone numbers, dollar amounts paid, quantity of Covered Products purchased, and description of Covered Products purchased, to the extent such information is obtained in the ordinary course of business;

D. Complaint and refund requests (whether received directly, indirectly, or through any third party) for any Covered Product, including, but not limited to, reports of adverse incidents claimed to be associated with the use of a Covered Product, and any responses to those complaints or requests;

E. Copies of all advertisements, promotional materials, sales scripts, training materials, websites, or other marketing materials utilized in the advertising, marketing, promotion, offering for sale, sale, or distribution of any Covered Product;

F. All materials that were relied upon in making any representations contained in the materials identified in Subsection E of this Section, including all documents evidencing or referring to the accuracy of any claim therein or to the efficacy of any Covered Product, including, but not limited to, all tests, reports, studies, demonstrations, or other evidence that confirms, contradicts, qualifies, or calls into question the efficacy of each such product, including complaints and other communications with consumers or with governmental or consumer protection agencies;

G. Records accurately reflecting the name, address, and telephone number of each manufacturer or laboratory engaged in the development or creation of any testing obtained for

the purpose of manufacturing, labeling, advertising, marketing, promoting, offering for sale, selling, or distributing any Covered Product;

H. Copies of all contracts concerning the manufacturing, labeling, advertising, marketing, promotion, offering for sale, sale, or distribution of any Covered Product; and

I. All records and documents necessary to demonstrate full compliance with each provision of this Order, including, but not limited to, copies of acknowledgments of receipt of this Order required by Section IX titled "Distribution of Order" and Section XI titled "Acknowledgment of Receipt of Order," and all reports submitted to the Commission pursuant to Section VII titled "Compliance Reporting."

IX.

DISTRIBUTION OF ORDER

IT IS FURTHER ORDERED that, for a period of three (3) years from the date of entry of this Order, each Stipulating Defendant shall deliver copies of this Order as directed below:

A. For any business that the Stipulating Defendant controls, directly or indirectly, or in which the Stipulating Defendant has a majority ownership interest, such Stipulating Defendant shall deliver a copy of this Order to (1) all principals, officers, directors, and managers of that business; (2) all employees, agents, and representatives of that business who engage in conduct related to the subject matter of this Order; and (3) any business entity resulting from any change in structure set forth in Subsection A.2 of Section VII titled "Compliance Reporting." For current personnel, delivery shall be within five (5) days of service of this Order upon the Stipulating Defendant. For new personnel, delivery shall occur prior to them assuming their responsibilities or engaging in conduct related to the subject matter of this Order. For any business entity resulting from any change in structure set forth in Subsection A.2 of Section VII

titled "Compliance Reporting," delivery shall be at least ten (10) days prior to the change in structure; *provided that*, with respect to any business entity resulting from a change about which the Stipulating Defendant learns less than ten (10) days prior to such change, delivery shall be within ten (10) days after the Stipulating Defendant obtains such knowledge.

B. For any business in which the Stipulating Defendant is not a controlling person of the business but otherwise engages in conduct related to Sections I and II of this Order, such Stipulating Defendant shall deliver a copy of this Order to all principals and managers of such business before engaging in such conduct.

C. The Stipulating Defendant shall obtain a signed and dated statement acknowledging receipt of this Order, within thirty (30) days of delivery, from all persons receiving a copy of this Order pursuant to this Section.

X.

COOPERATION WITH FTC COUNSEL

IT IS FURTHER ORDERED that Stipulating Defendants shall, in connection with this action or any subsequent investigations related to or associated with the transactions or the occurrences that are the subject of the FTC's Complaint, cooperate in good faith with the FTC and appear at such places and times as the FTC shall reasonably request, after written notice, for interviews, conferences, pretrial discovery, review of documents, and for such other matters as may be reasonably requested by the FTC. If requested in writing by the FTC, Stipulating Defendants shall appear and provide truthful testimony in any trial, deposition, or other proceeding related to or associated with the transactions or the occurrences that are the subject of the Complaint, without the service of a subpoena.

XI.

ACKNOWLEDGMENT OF RECEIPT OF ORDER

IT IS FURTHER ORDERED that each Stipulating Defendant, within seven (7) business days of receipt of this Order as entered by the Court, shall submit to the Commission a truthful sworn statement acknowledging receipt of this Order.

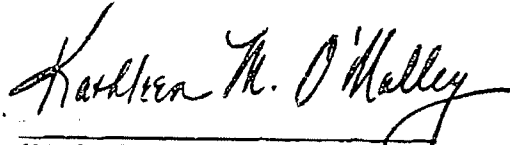
XII.

RETENTION OF JURISDICTION

IT IS FURTHER ORDERED that this Court shall retain jurisdiction of this matter for purposes of construction, modification, and enforcement of this Order.

SO ORDERED:

Dated: 1-8-10


KATHLEEN M. O'MALLEY
UNITED STATES DISTRICT JUDGE

SO STIPULATED:

FOR PLAINTIFF FTC



GREGORY W. FORTSCH
CAROL J. JENNINGS
KAREN MANDEL
Trial Counsel
Federal Trade Commission
600 Pennsylvania Avenue NW, NJ-3212
Washington, DC 20580
Telephone: 202-326-3617 (Fortsch), -3010
(Jennings), -2491 (Mandel)
Fax: 202-326-3259
gfortsch@ftc.gov
cjennings@ftc.gov
kmandel@ftc.gov

FOR STIPULATING DEFENDANTS:

DANIEL P. KOHLER
Individually

MARGARET M. KOESEL
NICOLE J. QUATHAMER
Porter Wright Morris & Arthur LLP
925 Euclid Avenue, Suite 1700
Cleveland, Ohio 44115-1483
Telephone: 216-443-9000
Fax: 216-443-9011
mkoesel@porterwright.com
nquathamer@porterwright.com

Attorneys for Defendant
Daniel P. Kohler

THOMAS B. KLAMET
individually

KENNETH A. BRAVO
Ulmer & Berne LLP
1660 West 2nd Street, Suite 1100
Cleveland, Ohio 44113-1448
Telephone: 216-583-7000
Fax: 216-583-7001
kbravo@ulmer.com

Attorney for Defendant
Thomas B. Klamet

SO STIPULATED:

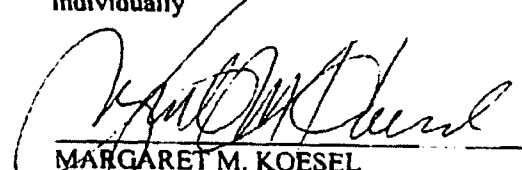
FOR PLAINTIFF FTC

GREGORY W. FORTSCH
CAROL J. JENNINGS
KAREN MANDEL
Trial Counsel
Federal Trade Commission
600 Pennsylvania Avenue NW, NJ-3212
Washington, DC 20580
Telephone: 202-326-3617 (Fortsch), -3010
(Jennings), -2491 (Mandel)
Fax: 202-326-3259
gfortsch@ftc.gov
cjennings@ftc.gov
kmandel@ftc.gov

FOR STIPULATING DEFENDANTS:



DANIEL P. KOHLER
Individually



MARGARET M. KOESEL
NICOLE J. QUATHAMER
Porter Wright Morris & Arthur LLP
925 Euclid Avenue, Suite 1700
Cleveland, Ohio 44115-1483
Telephone: 216-443-9000
Fax: 216-443-9011
mkoesel@porterwright.com
nquathamer@porterwright.com

Attorneys for Defendant
Daniel P. Kohler

THOMAS B. KLAMET
individually

KENNETH A. BRAVO
Ulmer & Berne LLP
1660 West 2nd Street, Suite 1100
Cleveland, Ohio 44113-1448
Telephone: 216-583-7000
Fax: 216-583-7001
kbravo@ulmer.com

Attorney for Defendant
Thomas B. Klamet

SO STIPULATED:

FOR PLAINTIFF FTC

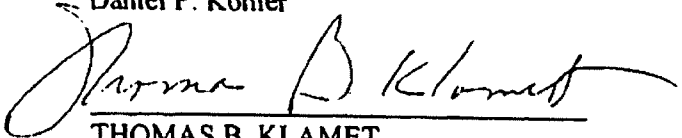
GREGORY W. FORTSCH
CAROL J. JENNINGS
KAREN MANDEL
Trial Counsel
Federal Trade Commission
600 Pennsylvania Avenue NW, NJ-3212
Washington, DC 20580
Telephone: 202-326-3617 (Fortsch), -3010
(Jennings), -2491 (Mandel)
Fax: 202-326-3259
gfortsch@ftc.gov
cjennings@ftc.gov
kmandel@ftc.gov

FOR STIPULATING DEFENDANTS:

DANIEL P. KOHLER
Individually

MARGARET M. KOESEL
NICOLE J. QUATHAMER
Porter Wright Morris & Arthur LLP
925 Euclid Avenue, Suite 1700
Cleveland, Ohio 44115-1483
Telephone: 216-443-9000
Fax: 216-443-9011
mkoesel@porterwright.com
nquathamer@porterwright.com

Attorneys for Defendant
Daniel P. Kohler



THOMAS B. KLAMET
individually



KENNETH A. BRAVO
Ulmer & Berne LLP
1660 West 2nd Street, Suite 1100
Cleveland, Ohio 44113-1448
Telephone: 216-583-7000
Fax: 216-583-7001
kbravo@ulmer.com

Attorney for Defendant
Thomas B. Klamet