

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
CHARLESTON DIVISION**

FEDERAL TRADE COMMISSION,

Plaintiff,

v.

GETAWAYGREY, LLC, a limited liability
company, and

ROBIN DUNER-FENTER, individually and as an
officer of GETAWAYGREY, LLC,

Defendants.

Case No. 2:15-cv-1990-RMG

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

Plaintiff, the Federal Trade Commission (“Commission” or “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 the labeling, advertising, marketing, distribution, and sale of the Get Away Grey dietary supplement that purportedly reverses or prevents the formation of gray hair.

JURISDICTION AND VENUE

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

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

PLAINTIFF

4. Plaintiff 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. Section 13(b) of the FTC Act, 15 U.S.C. § 53(b), authorizes the FTC 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.

DEFENDANTS

6. Defendant GetAwayGrey, LLC is a Delaware limited liability corporation with its principal place of business at 166 Wentworth Street, Charleston, SC 29401. GetAwayGrey, LLC transacts or has transacted business in this district and throughout the United States. At least since March 2012, GetAwayGrey, LLC has labeled, advertised, marketed, distributed or sold the Get Away Grey dietary supplement (“Get Away Grey”) to consumers throughout the United States.

7. Defendant Robin Duner-Fenter (“Duner-Fenter”) is the President and sole

owner of GetAwayGrey, LLC. Duner-Fenter manages or managed day-to-day operations and advertising and marketing activities for Defendant GetAwayGrey, LLC. Duner-Fenter participates or participated in the creation and review of advertising and promotional materials for the Get Away Grey dietary supplement. At 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 set forth in this Complaint. Defendant Duner-Fenter 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.

COMMERCE

8. 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

9. Defendants have labeled, advertised, marketed, distributed, and sold Get Away Grey. According to the product label, Get Away Grey contains a blend of vitamins and minerals, as well as catalase, an enzyme used by cells to rapidly catalyze the decomposition of hydrogen peroxide into less-reactive gaseous oxygen and water molecules. Get Away Grey is promoted as effective in reversing or preventing the formation of gray hair.

10. Consumers can purchase Get Away Grey directly from Defendants, including through the Internet site www.getawaygrey.com (also accessible through www.getawaygray.com, www.awaygray.com, and www.awaygrey.com), and via Defendants’ customer service telephone number. Defendants sell Get Away Grey for \$29.95

per bottle; they also offer consumers the option of purchasing two bottles of the dietary supplement for \$49.90, and three bottles for \$69.85. Defendants also offer consumers an “auto-refill” option. One bottle of Get Away Grey contains 60 capsules and provides a 30-day supply if taken according to the product label (two capsules daily).

11. Defendants have advertised Get Away Grey through their websites, online ads (including online video postings), product labeling, and other advertising and promotional materials.

12. To induce consumers to purchase Get Away Grey, Defendants have disseminated, or caused to be disseminated, ads for Get Away Grey, including, but not limited to, the attached Exhibits A through G. These ads contain the following statements and depictions, among others:

A. **Exhibit A: GetAwayGrey.com website homepage**

Not Your Typical Gray Hair Treatment

Get Away Grey doesn't cover gray hair; it's actually a cure for gray hair—it is your new Grey Defence. . . .

. . . As a result of scientific research, the amazing grey hair solution, Get Away Grey, has been developed to restore the catalase enzyme and reverse the grey hair process! . . .

Watch your grey go away! Now, grey hair can be stopped and reversed. You no longer need to use toxic chemicals to cover up your grey because you can stop grey hair naturally! We stop grey hair by using a vitamin that includes the Catalase enzyme. Just two vitamin pills a day can bring back your natural hair color. . . . Get Away Grey treats grey hair causes at their roots—no pun intended! Our gray hair cure is scientifically proven to actually change the chemical makeup of the hair follicle so that it reverts to its natural color. . . .

The Proven Grey Hair Cure

Get Away Grey's all-natural ingredients primarily strengthen the catalase enzyme in the body; lack of catalase causes grey hair. Over a period of

just a few weeks, the gray hairs naturally restore to their previous color. For gray hair remedies to actually work, they need to reverse the process of catalase under-production. The Get Away Grey grey hair cure does precisely that—and additional supplements in the cure work to help reverse the damage caused by previous chemical treatments. The end result is not only hair restored to its natural color, but shiny and healthy-looking hair. You'll positively glow when you see how you appear years younger!

Don't Just Cover Gray Hair

Just get rid of gray hair and vow to no longer cover up the problem. Don't color gray hair—actually reverse grey hair at its roots. Rely on the all-natural Get Away Grey cure for grey hair. No other method of grey hair treatment actually treats the problem at its roots.

B. Exhibit B: GetAwayGrey.com website "Product" page

. . . Based on documented scientific studies from the University of Bradford, in the United Kingdom, the anti-grey Super-Vitamin works by replenishing a naturally occurring enzyme we all have called Catalase that slowly depletes as we age causing hair to gray.

How Catalase Works:

Hydrogen peroxide is naturally produced by the body and Catalase has the unique ability to break it down. If you're not producing enough Catalase, the hydrogen peroxide bleaches your natural color to grey.

The cure for grey hair, Get Away Grey has a super concentration of the catalase enzyme to reverse your grey hair while providing a healthy and natural alternative to the messy toxic chemical home remedies or expensive trips to your hair stylist for artificial dyes. . . .

C. Exhibit C: GetAwayGrey.com website "Testimonials" page

. . . I am really excited about GetAwayGrey. I've just started on my third bottle. Then this week, I mentioned to my husband that if I am going to continue with this solution for my grey hair, I will have to order some more. Right away, he said "yes, do it - I really see improvement". I definitely recommend this supplement."

Marie Gouirand - Brogue, PA

I have been taking your product for the last 6 months. I am delighted to say it is working. It has been a gradual change that I didn't even realize at

first. The new hair is my natural color. I now no longer have to color my hair, which is great since I imagine the chemicals can't be all that healthy.

Marianne Silvers - Daytona Beach, FLA . . .

I've been dying my hair since I was 40 years old, but always wanted to find a natural way of getting rid of my gray hair. A friend told me about these vitamins. I have been taking them for about four months now and most of my gray hair is gone.

Janet Smith - Phoenix, AZ

I just wanted to say thank you for developing such a great product. The gray hair on my head and my beard has virtually disappeared!

Juan Fernandez - Irvine, CA . . .

D. Exhibit D: GetAwayGrey.com website "Blog"

. . . Get Away Grey is a 100% safe, effective gray hair remedy that represents an excellent source of catalase. Catalase is the enzyme that puts the premature whitening process on hold. Since this product comprises only natural, tested ingredients, it doesn't come with a long list of side-effects and it is suitable for a larger category of consumers of all ages. . . .

Stop Gray Hair with a Natural Cure

Need to prevent or cure gray hair in a timely fashion? In this case, use Get Away Grey, a remarkable product based on catalase, to reverse grays from the inside out. This product is based on science and will do wonders for your aging hair and scalp. If letting hair go gray is not an option, order this magnificent remedy and recover your natural pigment the easy way. . . .

Reversing Gray Hair with Get Away Grey

Senior men can look fabulous on a daily basis with minimal effort. Clever hairstyles can mask their hair thinning problems, while a revolutionary greying hair solution can help them get their natural pigment back. Get Away Grey is your trusted gray hair vitamin, based on all the right ingredients required to promote the growth of naturally pigmented, shiny, resistant hairs. . . .

Give it a try and use this anti gray hair miracle to look and feel younger and much more attractive. . . .

Fight Those Grays with a Pill

Not sure if you want to live with gray hairs for the rest of your life? Are you interested in finding and testing the best gray hair supplements? In this case, discover the real benefits of a magnificent white hair treatment based on science. Get Away Grey is a remarkable gray hair cure that will enable you to stop, prevent or reverse the signs of premature graying fast and effortlessly. . . .

Reverse Your Grays the Easy Way

You may be wondering: could pantothenic acid enable you to get rid of gray hair naturally? Pantothenic acid plays an important part in this equation and it is included in a specially formulated product created to prevent, stop and reverse graying hair.

Get Away Grey is your reliable gray defense based on all the right ingredients that guarantee healthier, smoother, younger-looking hair. The transformation becomes visible over the course of a few weeks. It's true: now you can say goodbye to those ugly silvery locks and go back to fully pigmented hairs. . . .

#1 Proved Effectiveness

The best part is that this innovative remedy is actually scientifically proved. Unlike your homemade oils and other anti gray hair elixirs, this product was designed, tested and improved by a team of experts who have the skills, the equipment and the expertise to calculate and mix the appropriate dosages of active ingredients, combined to come up with a well-balanced formula. . . .

E. Exhibit E: GetAwayGrey.com website "About Us" page

The Get Away Grey Super Premium Vitamin was launched, based on 2009 research findings, made by University of Bradford, on the Catalase enzyme and how it has been proven successful in reversing grey hair. Catalase is naturally produced in our cells and is the primary ingredient of Get Away Grey to combat grey hair. . . .

F. Exhibit F: GetAwayGrey.com website "FAQS" page

. . . **Q. Will all my grey hair go away?**

A. Again, user experiences will vary, based on the individual and their natural production of the Catalase enzyme and Hydrogen Peroxide levels. Customer feedback has ranged from the vast majority completely getting their natural hair color back to others seeing a significant reversal, but

still some evidence of gray hair, and a minority of incidents were Get Away Grey does not work. . . .

G. **Exhibit G: Get Away Grey Product Label**

GETAWAYGREY

Naturally Leaves Grey Hair Behind

With Catalase

Will help

- **Fight Grey Hair**
- **Look as Young as you Feel**
- **Promote Thicker and Healthier Hair**

VIOLATIONS OF THE FTC ACT

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

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

15. 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.

16. For the purposes of Section 12 of the FTC Act, the Get Away Grey dietary supplement is either a “food” or “drug,” as defined in Section 15(b) and (c) of the FTC Act, 15 U.S.C. § 55(b), (c).

COUNT I

FALSE OR UNSUBSTANTIATED EFFICACY CLAIMS

17. Through the means described in Paragraph 12, Defendants have represented, directly or indirectly, expressly or by implication, that Get Away Grey reverses or prevents

the formation of gray hair.

18. The representation set forth in Paragraph 17 is false or misleading, or was not substantiated at the time the representation was made.

19. Therefore, the making of the representation set forth in Paragraph 17 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

FALSE PROOF CLAIMS

20. Through the means described in Paragraphs 12, Defendants have represented, directly or indirectly, expressly or by implication, that Get Away Grey is scientifically proven to reverse or prevent the formation of gray hair.

21. The representation set forth in Paragraph 20 is false.

22. Therefore, the making of the representation set forth in Paragraph 20 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.

CONSUMER INJURY

23. 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

24. 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. Award Plaintiff such preliminary injunctive and ancillary relief as may be necessary to avert the likelihood of consumer injury during the pendency of this action and to preserve the possibility of effective final relief, including, but not limited to, a preliminary injunction;

B. Enter a permanent injunction to prevent future violations of the FTC Act by Defendants;

C. 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

D. 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.

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