

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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NUTRIMOST, LLC,

Plaintiff,

-against -

HEALTHY LIVING NUTRITION LLC and PAT  
HALL,

Defendants.  
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Case No. *15 Cv. 10035*

COMPLAINT FOR MONEY DAMAGES

JURY TRIAL DEMANDED

For its complaint against Defendants Healthy Living Nutrition, LLC (“Healthy Living”) and Pat Hall (“Hall”), Plaintiff Nutrimost, LLC (“Nutrimost”) states and avers as follows:

**PARTIES**

1. Nutrimost is a limited liability company organized and existing under the laws of the state of Pennsylvania with its principal place of business at 135 Bella Vista Court, Murrysville, Pennsylvania 15668.

2. Healthy Living is a limited liability company organized and existing under the laws of the state of New York with its principal place of business at 1333A North Avenue, Suite 533, New Rochelle, New York 10804.

3. Healthy Living has adopted the fictitious name of “Can’t Lose Diet.”

4. Hall is a resident of the State of New York and is the registered agent for Healthy Living. Upon information and belief, Hall has a place of business at 550 Mamaroneck Avenue, Suite 103, Harrison, New York 10528.

5. Upon information and belief, Hall is the principal officer of Healthy Living.

**JURISDICTION AND VENUE**

6. This Court has subject matter jurisdiction pursuant to 28 U.S.C. §§1331, 1332 and 1338(a) and (b).

7. This Court has supplemental jurisdiction over Nutrिमost’s pendent state law claims pursuant to 28 U.S.C. §1367 because the state law claims are integrally related with Nutrिमost’s federal claim and arise from a common nucleus operative facts such that the administration of Nutrिमost’s state law claims with its federal claim furthers the interest of judicial economy.

8. This Court has personal jurisdiction over Healthy Living and Hall because they are residents in, transact business in, and have other contacts with, the State of New York and this judicial district.

9. Venue is proper in this judicial district pursuant to 28 U.S.C. §1391 because Healthy Living and Hall are located in this judicial district and a substantial part of the events or omissions giving rise to the claims occurred in this judicial district and have caused damages to Nutrिमost in this judicial district.

**BACKGROUND FACTS**

10. Nutrिमost is the owner of the United States trademark application for the trademark “NUTRIMOST,” having Serial No. 86/421639 for dietary and nutritional supplements used for weight loss and providing weight loss and nutritional program services.

11. Nutrिमost offers its weight loss goods and services under the trademark “NutriMost.”

12. Nutrिमost is the registered owner and operates the website, [www.nutrिमost.com](http://www.nutrिमost.com).

13. Nutrिमost has expanded its services and has developed a franchise model to be used in the operation of the Nutrिमost weight loss program in the United States.

14. Nutrimost promotes its goods and services through a full length video that is approximately 22 minutes in length (the “NutriMost Video”). The transcript of the Nutrimost Video is attached as Exhibit A.

15. Nutrimost has posted a NutriMost Video on its website [www.nutrimost.com](http://www.nutrimost.com).

16. Nutrimost is the owner of the common law copyrights in the NutriMost Video.

**INFRINGEMENT ACTIVITIES OF HEALTHY LIVING AND PAT HALL**

17. Healthy Living and Hall are engaged in the promotion and sale of weight loss goods and services.

18. Upon information and belief, Healthy Living and Hall conduct their business through the website, [www.cantlosediet.com](http://www.cantlosediet.com).

19. Upon information and belief, Healthy Living and Hall began advertising and soliciting sales for their weight loss goods and services in January 2015.

20. Without the permission or consent of Nutrimost, Healthy Living and Hall have adopted, exploited, and altered the NutriMost Video by removing all audio references to “NutriMost” and removing all visual references to “NutriMost” and replacing both the audio and visual references with “Can’t Lose Diet.” This altered video shall be referred to as the “Pirated Video.” The transcript of the Pirated Video is attached as Exhibit B.

21. Without the permission or consent of Nutrimost, Healthy Living and Hall have posted the Pirated Video on the website, [www.cantlosediet.com](http://www.cantlosediet.com).

22. On September 24, 2015, Nutrimost sent Hall a cease and desist letter demanding that: (a) Hall remove the Pirated Video from the website, [www.cantlosediet.com](http://www.cantlosediet.com); (b) cease and desist from using the likeness of Nutrimost’s principal, Dr. Ray Wisniewski; and (c) using Nutrimost’s trade name and trademark.

23. Despite Nutrimost's demand that Healthy Living and Hall cease and desist from the infringing and offending use of the Pirated Video, Healthy Living and Hall have continued to promote and sell weight loss goods and services with the Pirated Video.

24. On October 15, 2015, Nutrimost again sent Hall a letter demanding that Hall remove the Pirated Video from the website, [www.cantlosediet.com](http://www.cantlosediet.com).

25. Instead of removing the Pirated Video from the website, Healthy Living and Hall posted a shortened version of the Pirated Video on the website, [www.cantlosediet.com](http://www.cantlosediet.com).

26. Despite the repeated demands of Nutrimost to cease and desist the use of the Pirated Video to promote Healthy Living's goods and services, Healthy Living and Hall have continued to promote and advertise the sale of their goods and services with the Pirated Video.

**COUNT ONE**  
**Federal Unfair Competition and False Designation of Origin**  
**15 U.S.C. § at 1125(a)/Lanhan Act §43(a)**

27. Nutrimost incorporates by reference each and every averment contained in the above paragraphs as if said averments were fully set forth herein.

28. Healthy Living and Hall have deliberately and willfully traded on Nutrimost's long-standing and hard-earned goodwill in its name and marks and reputation established by Nutrimost in connection with its products and services, as well as in order to confuse consumers as to the origin and sponsorship of Healthy Living and Hall's goods and services and to pass off their goods and services in commerce as those of Nutrimost.

29. Healthy Living and Hall's unauthorized and tortious conduct has also deprived and will continue to deprive Nutrimost of the ability to control the consumer perception of its products and services offered under its trademark and trade name, placing the valuable reputation and goodwill of Nutrimost in the hands of Healthy Living and Hall.

30. Healthy Living and Hall's conduct is likely to cause confusion, mistake or deception in to the affiliation, connection or association of Healthy Living and Hall with Nutrimost, and as to the origin, sponsorship or approval of Healthy Living and Hall and their products and services, in violation of Section 43 of the Lanhan Act, 15 U.S.C. §1125(a)(1).

31. As a direct and proximate result of Healthy Living and Hall's unauthorized use of the NutriMost Video and/or Nutrimost's trademark and trade names, consumers are likely to be misled and confused as to the source, sponsorship or affiliation of Healthy Living and Hall's goods and services.

32. Healthy Living and Hall have knowingly and willfully used in commerce, videos that are confusingly similar to and constitute and reproduction of the NutriMost Video and have used the Nutrimost trade name and trademark in connection with the advertising, marketing, promoting, distributing, displaying, retailing, offering for sale and/or sale of goods and services with the intent to cause confusion, to cause mistake and to deceive the purchasing public and in blatant disregard of Nutrimost's rights.

33. Healthy Living and Hall had full knowledge of Nutrimost's prior use of and rights in its trademark and trade name before the acts complained of. The knowing, intentional and willful nature of the acts set forth herein renders this an exceptional case under 15 U.S.C. §1117(a).

34. As a direct and proximate result of Healthy Living and Hall's conduct, Nutrimost has suffered commercial damages in an amount in excess of \$75,000 as well as continuing loss of its good will and reputation. This continuing loss of goodwill cannot be properly calculated and thus constitutes irreparable harm and injury for which Nutrimost has no adequate remedy of

law. Nutrimost will continue to suffer irreparable harm unless and until this Court enjoins Healthy Living and Hall from their knowing, intentional and willful conduct.

**COUNT TWO**  
**Common Law Unfair Competition**

35. Nutrimost incorporates by reference each and every averment contained in the above paragraphs as if said averments were fully set forth herein.

36. Nutrimost is the owner of the NutriMost Video which has acquired a secondary meaning apart from its primary significance and has become distinctive denoting to the public the reputation for excellence and quality that Nutrimost provides.

37. Healthy Living and Hall have engaged in unfair competition by intentionally using the Pirated Video to trade on Nutrimost's long-standing and hard-earned goodwill in its name as well as in order to confuse consumers as to the origin and sponsorship of Healthy Living and Hall's goods and services and to pass their products and services off as those of Nutrimost.

38. Healthy Living and Hall's conduct is likely to cause confusion, mistake or deception as to the affiliation, connection or association of Healthy Living and Hall's goods and services with those goods and services of Nutrimost, as to the origin, sponsorship or approval of Healthy Living and Hall and their products and services. Healthy Living and Hall's unauthorized use of the NutriMost Video constitutes unfair competition and prohibited by common law.

39. As a direct and proximate result of Healthy Living and Hall's conduct, Nutrimost has suffered commercial damages in an amount in excess of \$75,000, as well as a continuing loss of the goodwill and reputation established by Nutrimost in its NutriMost Video. This continuing loss of goodwill cannot properly be calculated and thus constitutes irreparable harm and injury for which Nutrimost has no adequate remedy of law.

40. Unless the unlawful conduct of Healthy Living and Hall are enjoined by this Court, Nutrimost will suffer and will continue to suffer irreparable harm and injury for which it has no adequate remedy of law.

**COUNT THREE**  
**Unlawful Deceptive Acts and Practices**  
**New York General Business Law §349**

41. Nutrimost incorporates by reference each and every averment contained in the above paragraphs as if said averments were fully set forth herein.

42. Healthy Living and Hall have engaged in unfair competition by intentionally using the Pirated Video.

43. Healthy Living and Hall's conduct is likely to cause confusion, mistake or deception as to the affiliation, connection or association of Healthy Living and Hall and their goods and services with Nutrimost.

44. Healthy Living and Hall's unlawful and unfair conduct has led to material diminution of the reputation and goodwill established by Nutrimost.

45. Healthy Living and Hall's conduct described above constitutes deceptive acts or practices in business in violation of New York General Business Law §349.

46. As a direct and proximate result of Healthy Living and Hall's conduct, Nutrimost has suffered commercial damages in an amount in excess of \$75,000, as well as continuing loss of the goodwill and reputation established by Nutrimost. This continuing loss of goodwill cannot be properly calculated and thus constitutes irreparable harm and injury for which Nutrimost has no adequate or remote remedy at law. Unless restrained by this Court, Nutrimost will continue to suffer irreparable harm for which it has no adequate remedy at law.

**COUNT FOUR**  
**False Advertising**

47. Nutrimost incorporates by reference each and every averment contained in the above paragraphs as if said averments were fully set forth herein.

48. Healthy Living and Hall have, with the intent to deceive and mislead the public, used for purposes of communication with consumers and for purposes of trade the Pirated Video after receiving notice of Nutrimost's demands to cease and desist.

49. Healthy Living and Hall's conduct is likely to cause confusion, mistake or deception as to the affiliation, connection or association of Healthy Living and Hall's goods and services with those of Nutrimost.

50. Healthy Living and Hall's unlawful and unfair conduct has led to material diminution of the reputation and goodwill established by Nutrimost.

51. Healthy Living and Hall have willfully and knowingly violated §50, General Business Law of the State of New York.

52. As a direct and proximate result of Healthy Living and Hall's conduct, Nutrimost has suffered commercial damages in an amount in excess of \$75,000, as well as the continuing loss of the goodwill and reputation established by Nutrimost. This continuing loss of goodwill cannot properly be calculated and thus constitutes irreparable harm and injury for which Nutrimost has no adequate remedy of law. Unless enjoined and restrained by this Court, Nutrimost will continue to suffer an injury for which it has no adequate remedy of law.

**COUNT FIVE**  
**Conversion**

53. Nutrimost incorporates by reference each and every averment contained in the above paragraphs as if said averments were fully set forth herein.



54. Healthy Living and Hall's use of the Pirated Video without Nutrimost's permission or consent constitutes conversion under New York law.

55. As a direct and proximate result of Healthy Living and Hall's theft and conversion of the NutriMost Video, Nutrimost has suffered in damages in excess of \$150,000.

56. As a direct and proximate result of Healthy Living and Hall's conversion of the NutriMost Video, Nutrimost is entitled to the disgorgement of the profits Healthy Living and Hall have earned as a result of that conversion.

57. As a result of Healthy Living and Hall's conduct, Nutrimost has suffered commercial damages in an amount in excess of \$75,000, as well as continuing loss of the goodwill and reputation established by Nutrimost. This continuing loss of goodwill cannot be properly calculated and thus constitutes irreparable harm and injury for which Nutrimost has no adequate remedy at law. Unless restrained by this Court, Nutrimost will continue to suffer the irreparable injury for which it has no adequate remedy at law.

#### **JURY DEMAND**

Nutrimost demands a trial by jury on all issues so triable.

#### **PRAYER FOR RELIEF**

WHEREFORE, Nutrimost requests that the Court enter an Order and Judgment as follows:

1. Enjoining Healthy Living and Hall and any officers, agents, directors, servants, employees, owners, representatives, and any and all other persons, firms or corporations in concert with or active participation with them to be enjoined and restrained from:

(a) using in any manner the Nutrimost mark, or trade name that wholly incorporates the Nutrimost mark or is confusingly similar to or a colorful imitation of the mark;

(b) using or displaying the NutriMost Video on any websites, products or promotional materials in any false/or deceptive manner;

(c) doing any act likely to cause confusion or mistake in the minds of the members of the public or respective customers of Nutrimost as to the source of the products or services offered for sale, distributed, or sold, or likely to deceive members of the public, or respective customers, into believing there is some connection between Nutrimost and Healthy Living and Hall;

(d) committing any acts which will tarnish, blur or dilute or are likely to tarnish, blur or dilute the distinctive quality of the Nutrimost mark and trade name;

(e) making a representation, expressed or implied, that Nutrimost is affiliated with sponsors or approves of Healthy Living and/or Hall's products and services.

2. Ordering Healthy Living and Hall to preserve through trial and then to deliver for destruction all webpages/scripts, articles, packages, wrappers, products, displays, labels, signs, circulars, kits, packaging, letterheads, business cards, promotional items or any other matter in the possession, custody and control of Healthy Living and/or Hall and/or their agents bearing the Nutrimost mark and/or bearing or containing the NutriMost Video or any mark or video that is confusingly similar to or a colorful imitation of those of the mark and/or video.

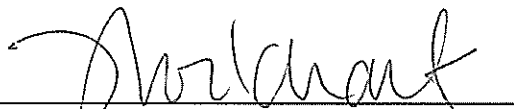
3. Ordering Healthy Living and Hall to retain and disclose all communications with all individuals and entities with whom they had engaged in any transaction relating to or arising from the use of the NutriMost Video;

4. Directing Healthy Living and Hall to provide an accounting of profits made by Healthy Living and Hall as a result of their conduct.

5. Ordering Healthy Living and Hall to pay a judgment in the amount of Nutrimost's actual damages as well as Healthy Living and Hall's profits.
6. Ordering Healthy Living and Hall to pay Nutrimost's reasonable attorneys' fees and costs.
7. Granting Nutrimost such other legal and equitable relief to which it is entitled.

Dated: December 23, 2015  
New York, New York

Respectfully submitted,



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*Attorney for Plaintiff Nutrimost, LLC*

# **EXHIBIT A**

## NUTRIMOST VIDEO TRANSCRIPT

The NutriMost Ultimate Fat Loss System is transforming people's lives. (Woman's voiceover)

"I've been heavy my whole life. My first dieting experience was at age 9. So I have tried everything. So when this came down the pike, I thought okay. I have been on this diet train all my life and I'm hoping that this will work. And I have to tell everybody, this is your last stop on that diet train. This is it. This is your answer." (Woman's testimonial)

"Hi. My name is Joe Verico and I have lost 32 pounds in 3 ½ weeks on the NutriMost System. The first week that I did this I lost 16 pounds. I kept getting on my scale, looking at it, getting off, on, off, and was ain't happening. There is something wrong with the scale. I'd pick it up and move it to a different spot."

"I had been put on Prednisone as an adult for 15 years and all of the doctors had sort of written me off. They said that I would never be able to reverse all of the side effects from the Prednisone including the weight because I had been on it for so long. My name is Ann and I lost 50 pounds with NutriMost. "

Because of advanced NRF technology, you could easily lose 20 to 45 pounds or more in just 40 days without absolutely no hunger and no exercise required. With no prepackaged meals and no drugs, hormones or surgery. A way that's safe and doctor-supervised. A program that's not just about weight loss, but is good for your body and your overall health. It sounds too good to be true. But thanks to breakthrough technology, there is a way and it's called NutriMost. With the NutriMost Ultimate Fat Loss System, it's as simple as ABC. We assess nearly every factor for fat burning, fat storage and fat metabolism. We balance your hormones, neurotransmitters and nutritional needs and we clear your toxins, heavy metals, bacteria, viruses and other microbes resulting in a complete transformation of your body in less than 40 days. (Woman's voiceover)

"NutriMost is unlike anything else. Other programs aren't part of the solution; they're part of the problem. Let's take a look at the obesity trend put out by the United States government. As you can see in 1990, no states had more than 10 to 14 % obesity. Yet by 1993, we had to add another category for those states between 15 and 19% obesity. In 1998, they had to add another category to over 20% obesity. In 2001, they added another category to over 25% obesity, and by 2005 they added another category to over 30% obesity. As you can see, we continue to get more obese. By 2013 for the first time ever, two states, Alabama and Mississippi, were over 40% obesity."(Dr. Ray)

Obviously, what we are doing isn't working. In fact, the things that we may think are solutions are actually part of the problem. Just ask yourself, in the past 25 years, have we had more diet foods on the market or less? More gyms and fitness centers or less? We have more diet and low fat foods and yet the problem is worse than ever because all of these disrupt our hormones, our body chemistry and our metabolism. We are in dire need of a solution. Enter NutriMost. An amazing technological breakthrough that focuses on bringing the body into a fat burning state by assessing nearly every factor for fat burning, fat storage and fat metabolism. (Woman's voiceover)

"Nearly every other program focuses almost entirely on the diet which actually turns off fat burning and turns on fat storage, which is why so many people who diet find it so easy to gain back their weight and usually more. While NutriMost focuses on the breakthrough technology to get your body into this amazing fat burning state. You can't get these results this fast and this dramatic any other way without this technology." (Dr. Ray)

People all over the nation are having their lives transformed by this powerful technology. Just listen to what people are saying about their experience with NutriMost. (Woman's voiceover)

"I started losing like a couple pounds it seemed like the first week and then the second week I was like losing like three pounds a day, then four pounds a day and then it slowed up some, but yeah it was coming off like that. And it was noticeable after the second week. Then I felt a lot better too, energy. My name is Joe and so far, I lost about 70 pounds on NutriMost. It does work. It does change. You know. It changes your life. I mean it. You know, I'm going to be around for my family and that is what is important, you know."

"What can I say about the program except do it? You just have to make the commitment and do it. And it starts off from day one, you see the poundage coming down, you see all the numbers, your metabolic age, everything dropping that should be dropping and everything going up that should be going up. And it is immediate. It is not one of these, well in month, you might lose five pounds. It is not that. It is a constant dropping and it encourages you every time you step on that scale. It just makes you want to continue doing the program. And 40 days is nothing. You could do it with your eyes closed. Forty days to have a wonderful life ahead of you, that 40 day commitment is a walk in the park. You have to do it." (Woman's testimonial)

But with NutriMost, it's not just about weight loss. In fact it's as if weight loss is an incredible side benefit of the program. (Woman's voiceover)

"With NutriMost technology, it's far more than weight loss. Because using this amazing technology, we were able to not only find that perfect and exact fat burning zone, but we're also able to balance all the hormones, neurotransmitters, nutritional needs, as well as detoxify the body. So not only will you lose the weight, but it creates an overall health transformation. Take Gene Sheller, here is a guy 270 pounds, fatty liver, diabetic, high blood pressure, high cholesterol, sleep apnea and is on tons of medication. That's before the program. After the program, down 185 pounds, no meds, his metabolic age went from 90 down to just 55 years old. The big thing about Gene was he was going to a liver specialist, one of the top liver specialists in the country for fatty liver, and the thing was that once he did the program and the specialist even put it in his notes, he said that since his weight loss, he has been able to stop his diabetes medication, his blood pressure, cholesterol meds. And the thing was that based on his lab studies, there was no need to restart them. But what the doctor said was this, 'the patient underwent an ultrasound which showed resolution of his fatty liver,' and that's complete resolution. It's not there anymore. In fact even the doctor wrote that he is one of the few patients that he's seen that had radiographic evidence of resolution in his fat. They were so impressed by that that the doctor contacted me and asked how in the world did we do this. I explained what we did; I explained the technology. And the first thing he said was, 'do you realize what you created, this is absolutely amazing.' Almost immediately, he sent us in another patient, almost the exact same thing. Fatty liver, diabetic, high blood pressure, high cholesterol; the only difference it was a woman instead of a man. We put her on the same program. She had the exact same results" (Dr. Ray)

"I needed to get my, um, hormones back in balance. My body was out of whack. I was having hive issues. I was having a lot of health issues. So, that's why I initially did it. The side benefit for me, though, was the additional weight loss. I tell people that if you have an issue with health, not just weight, then this is something you should check out."  
(Woman's testimonial)

"I was to the point where I was willing to try anything and I drug my husband with me. We sat and we watched the testimonials and everything and they were just amazing. So we thought well we can do this. And we did. And it was easy to follow and easy to do. My health started getting better constantly. In the meantime I had a doctor's appointment because I was diabetic. I had high blood pressure and gird. I had my blood work done and at one point my A1C was 11. She said that was the worst she'd ever had. I was her absolute worst patient and my blood work all came back perfect. She was just amazed because everything I'd had was gone. I was no longer diabetic after ten years. I no longer had gird after 15 years and the high blood pressure was gone. My blood sugar, I think, was like 6.7. First time in ten years. It was such a life changer to no longer have to worry about that I didn't have to take any pills and I had nine medications. If someone came in and they weren't sure, I would tell them and tell them

my story immediately that I no longer have to take nine medications. I am energetic. I lost the weight I wanted. I am happy. And it is worth every bit of it. It's not too good to be true. It is true." (Woman's testimonial)

NutriMost utilizes a thorough five component approach to yield these dramatic results. The first step is to hydrate, cleanse and balance your body's pH. Second we focus on nutritional detoxification, both systemically and cellularly. Third, and this is the foundation of the entire program, and what makes it so unique and so different than every other system. We create a program that is completely customized and personalized for you based on breakthrough NRF technology. Fourth, we harness our proprietary system to reset your hypothalamus and weight set point. And the fifth, this program is personalized to your needs and doctor supervised, guaranteeing results. (Woman's voiceover)

Step One, hydrating and cleansing your body with pure alkaline water works to restore your body to healthy levels of acidity. (Woman's voiceover)

"The NutriMost Ultimate Fat Loss System utilizes specialized technology that brings water into the cell. It's strongly antioxidant. It oxygenates and alkalizes the body which energizes the cells and helps bring the body into a healing and fat burning state." (Dr. Ray)

Second, we implement a plan of nutritional detoxification. (Woman's voiceover)

"See your body is incredibly intelligent, it protects itself by storing chemicals and toxins and fat. So in order to release and burn that fat, you have to detoxify the body, both systemically and at the cellular level. See the thing is, when you can get rid of the toxins that allows the body to be able to release the fat to be burned since it is no longer needed to protect the body. One of the most profound causes of weight gain is due to changes in our hormones, our body chemistry and our metabolism. See, all weight gain, all weight gain involves changes in your hormones, your body chemistry and your metabolism. In fact, hormone production begins to decrease one to three percent per year after the age of 30. So in order to have long lasting, healthy and permanent change, we must balance and correct hormones. That's where NutriMost technology comes in. It changes all of this." (Dr. Ray)

Third, and most uniquely, for it is the foundation of our entire process, we personalize and customize a plan for you based on your individual body chemistry and hormones utilizing NutriMost resonant frequency technology. (Woman's voiceover)

"We all gain weight differently due to our hormones. See, some carry weight in their belly, some in their buttocks, others in their arms and their legs. NRF technology is the key to solving your body's specific imbalances. NRF stands for NutriMost resonant



frequency technology. Our NRF scan finds your ultimate fat burning zone by utilizing electro-impedance resonant frequency technology with galvanic skin response. Your NRF scan can determine and create the unique formulas that are specific for your body. These formulas are more unique than your fingerprint. It is so customized and specific that no two people are ever the same. The technology is really amazing which is why I think it is one of the greatest breakthroughs in natural healthcare. Let me explain how this technology works. If you had an allergy to pollen and in the presence of pollen, your cells would have a cellular response. See everything in life has a resonant frequency. If we would take a resonant frequency of pollen and subject that to those same cells, those cells would have the exact same cellular response as it if was pollen. So in other words, without pollen present we could produce the exact same response, the exact same experience. The technology takes a baseline of a frequency of any particular substance of the body then assesses what we need to do to get into fat burning and what we need to avoid that could actually pull us out of fat burning. See what we are able to do with this technology, is assess nearly every single factor for fat burning, fat storage and fat metabolism. We are able to find that perfect and exact fat burning zone, then determine what out of this fat burning zone and more importantly, what we need to do to bring it back into the perfect and exact fat burning range. And for the first time ever, we were able to finally create the perfect formulas. Essentially, we're able to ask the body exactly what it needs to get into that fat burning zone. Your NRF scan will determine the specific organs in your body that cause the highest biological stress for fat burning. Accordingly, we can then identify which fat burning bio markers are outside the fat burning zone and which supplements will be the most effective at bringing those specific bio markers back into the maximum fat burning zone. The foundation of our entire process is the three personalized and customized formulas that are created using NRF technology, which is then dosed for your body. There are three specific formulations to bring your body into that perfect fat burning state. There is an energy formula for hormones, neurotransmitters, vitamins and minerals. There is a detox formula for toxins, heavy metals, bacteria, viruses, nano-bacteria, mycoplasma and candida. And there is the specific weight loss formulation. These formulas bring the body into that perfect fat burning zone and healing zone." (Dr. Ray)

Step Four of the NutriMost approach is our proprietary system to reset your hypothalamus and weight set point so you never gain the weight back. (Woman's voiceover)

"When you combine the NutriMost Ultimate Fat Loss System protocols with NRF technology, you are not only able to get into that optimum fat burning zone but your body is also able to enter into an optimal healing zone, known as autophagy. Autophagy is where your body innately knows to eliminate the bad degenerated cells and replace them with good healthy cells allowing the body to heal and regenerate from a number of

health challenges including acid reflux, thyroid conditions, diabetes, psoriasis, eczema, high blood pressure, high cholesterol, sleep apnea, asthma, fatty liver, lupus and other health and autoimmune challenges. NRF technology allows us to enter that perfect healing zone and fat burning zone allowing us to target your abnormal fat. You have three types of fat. You have your normal fat reserves that are readily used for muscle and for temperature regulation. You also have structural or visceral fat which is to give you shape and form. Then there is abnormal adipose fat. This is fat that is locked in. That's only burned in extreme survival situations. When you lose weight with most diets, you lose structural fat, water and even muscle. Not so with NutriMost. See, we target the abnormal fat so that you lose the weight where you want to lose it. The NutriMost technology allows us to raise and reset the metabolism and reset the weight set point so that you never gain the weight back. The typical results for men are 35 to 45 or more pounds in just 40 short days. For women, lose 27 to 32 pounds or more in only 40 days." (Dr. Ray)

With other programs that do not use NutriMost technology, in order to lose weight this fast, it's usually water weight and muscle. It's not effective or safe and actually teaches your body how to gain weight by putting your body into a starvation mode. When you decrease calories without NRF technology, your body enters a starvation mode which turns fat burning off and fat storage on. Because of NRF technology, we are able to hit the switch to turn fat burning on and fat storage off. In fact, with NutriMost technology, you can burn anywhere from 2000 to 7000 calories of fat per day. This groundbreaking program guides your body into a special fat burning zone based on your hormones so you experience dramatic safe weight loss in a very short period of time. (Woman's voiceover)

"I'm Dr. David Armour and I lost 40 pounds on the first 40 days of the NutriMost program. I lost 97 pounds after the first five months of the program and in the past year, I'm down a total of 109 pounds."

"My name is Rachel and I lost 50 pounds with NutriMost. I was thinking that well even if it works and I can lose the weight, chances are I won't be able to keep it off if I go back to eating any way close to what I used to eat. And I have been able to keep it off now since eight months."

Not only do we personalize your program utilizing the very best fat burning technology, it's all doctor supervised to assure the absolute best results. And it's all guaranteed. (Woman's voiceover)

"We not only use the very best technology for fat burning, but we also use the best technology to monitor your fat burning progression. We utilize advanced body composition analysis to measure not only weight and BMI but fat mass, fat percentage,

fat free mass, total body water, body water percentage, muscle mass, visceral fat and your metabolic age. We also offer one-on-one professional, doctor supervised support. We walk arm in arm with you on this journey to absolutely assure your success.” (Dr. Ray)

While nearly every other program focuses almost entirely on the food, NutriMost focuses on the technology to get your body into this perfect fat burning zone and to keep you in a fat burning state. That’s why you won’t be hungry, won’t have any cravings, why you’ll feel great and be energized. NRF technology is also able to find the foods that are best for your individual body and the foods to avoid or limit when in fat burning. You will learn which exact foods measure the best for your body while in fat burning. And best of all, unlike other programs, these are normal healthy foods from your local grocery store. NutriMost technology creates the perfect plan that is simple and easy to follow creating a transformed life. (Woman’s voiceover)

“With NRF technology, your life can be completely transformed in only 40 short days. Amazingly, 40 days to be a transformational number. Noah saw 40 days and 40 nights of rain transform the world. Jonah foretold that Nineveh would be overturned or completely transformed in only 40 days. Jesus fasted 40 days and 40 nights before being tested by the devil. Then after his resurrection, Jesus spent 40 days with his disciples. This revealed to us that that 40 days means total and complete transformation. Death of the old and rebirth of the new.” (Dr. Ray)

Amazing things can happen in just 40 short days. Because of groundbreaking NRF technology, we now have a way to lose weight faster, easier, better and healthier than ever before. The NutriMost system finds your body’s perfect and exact fat burning zone while balancing your hormones and all your body’s nutritional needs resulting in not only targeted fat loss but also improved health. We believe that NutriMost is by far the best weight loss program on the planet. No other weight loss program can compare. (Woman’s voiceover)

“Because of NRF technology, we can now do what has never been able to be done prior to this. We can lose weight quicker, better, easier and healthier. You can’t even compare NutriMost to other systems. There is just nothing like NutriMost. Here is a comparison between NutriMost and the three most popular weight loss programs. They don’t get you into fat burning. NutriMost does. The time period to lose 30 pounds typically is 20 to 30 weeks. NutriMost is 30 days for men; 40 days for women. They don’t target abnormal fat, we do. They don’t raise and reset the metabolism, we do. They don’t reset the weight set point, we do. They don’t utilize NRF technology and they’re not personalized and customized. They are not doctor supervised. They don’t guarantee the results and they have a higher cost per pound lost than NutriMost. And regarding the cost, we have to ask ourselves, ‘what’s the cost in not being there for your

kids, your spouse or your family; the cost of having a heart attack or stroke; the cost of not living and fulfilling your dreams; the cost of loss of mobility or being in a nursing home.' See, the amazing thing about this program, is that the cost per pound loss on this program is less than other programs available. So just image, looking great, feeling great, better health, better skin, better hair, better sleep, more energy; you came for a reason. You want to change. You want results. See you already took that first step by watching this video. Now just image what life would be like just 40 short days from now. How would you like to lose 25 or more pounds, have more energy, look great and decrease your risk of diabetes and heart disease all in the next 40 days? And the best part, it's guaranteed. And remember, 90% of success is what, it's showing up. And because you showed up and you're watching this right now, we're giving you a gift. It's normally \$99, but today it's only \$27. You will receive that advanced body composition analysis, along with your weight loss consultation where we review your goals and your analysis, as well as our recommendations for a personalized plan to hit your goals, as well as unlimited email questions to the doctor. All for only \$27." (Dr. Ray)

Register now to start losing weight incredibly fast while also dramatically transforming your health. Take advantage of our special offer and get your consultation and body composition analysis at the hugely reduced rate of only \$27. Go to our home page to sign up for your consultation today. With the NutriMost technology, your transformation over the next 40 days is going to be spectacular. (Woman's voiceover)

# **EXHIBIT B**

## CAN'T LOSE DIET VIDEO TRANSCRIPT

"I've been heavy my whole life. My first dieting experience was at age 9. So I have tried everything. So when this came down the pike, I thought okay. I have been on this diet train all my life and I'm hoping that this will work. And I have to tell everybody, this is your last stop on that diet train. This is it. This is your answer." (Woman's testimonial)

"Hi. My name is Joe Verico and I have lost 32 pounds in 3 ½ weeks. The first week that I did this I lost 16 pounds. I kept getting on my scale, looking at it, getting off, on, off, and was ain't happening. There is something wrong with the scale. I'd pick it up and move it to a different spot."

"I had been put on Prednisone as an adult for 15 years and all of the doctors had sort of written me off. They said that I would never be able to reverse all of the side effects from the Prednisone including the weight because I had been on it for so long. My name is Ann and I lost 50 pounds."

Because of advanced NRF technology, you could easily lose 20 to 45 pounds or more in just 40 days without absolutely no hunger and no exercise required. With no prepackaged meals and no drugs, hormones or surgery. A way that's safe and doctor-supervised. A program that's not just about weight loss, but is good for your body and your overall health. It sounds too good to be true. But thanks to breakthrough technology, there is a way; it's as simple as ABC. We assess nearly every factor for fat burning, fat storage and fat metabolism. We balance your hormones, neurotransmitters and nutritional needs and we clear your toxins, heavy metals, bacteria, viruses and other microbes resulting in a complete transformation of your body in less than 40 days. (Woman's voiceover)

"Let's take a look at the obesity trend put out by the United States government. As you can see in 1990, no states had more than 10 to 14 % obesity. Yet by 1993, we had to add another category for those states between 15 and 19% obesity. In 1998, they had to add another category to over 20% obesity. In 2001, they added another category to over 25% obesity, and by 2005 they added another category to over 30% obesity. As you can see, we continue to get more obese. By 2013 for the first time ever, two states, Alabama and Mississippi, were over 40% obesity."(Dr. Ray)

Obviously, what we are doing isn't working. In fact, the things that we may think are solutions are actually part of the problem. Just ask yourself, in the past 25 years, have we had more diet foods on the market or less? More gyms and fitness centers or less? We have more diet and low fat foods and yet the problem is worse than ever because all of these disrupt our hormones, our body chemistry and our metabolism. We are in

dire need of a solution. An amazing technological breakthrough that focuses on bringing the body into a fat burning state by assessing nearly every factor for fat burning, fat storage and fat metabolism. (Woman's voiceover)

"Nearly every other program focuses almost entirely on the diet which actually turns off fat burning and turns on fat storage, which is why so many people who diet find it so easy to gain back their weight and usually more. You can't get these results this fast and this dramatic any other way without this technology." (Dr. Ray)

People all over the nation are having their lives transformed by this powerful technology. Just listen to what people are saying about their experience. (Woman's voiceover)

"I started losing like a couple pounds it seemed like the first week and then the second week I was like losing like three pounds a day, then four pounds a day and then it slowed up some, but yeah it was coming off like that. And it was noticeable after the second week. Then I felt a lot better too, energy. My name is Joe and so far, I lost about 70 pounds. It does work. It does change. It changes your life. I mean it. You know, I'm going to be around for my family and that is what is important, you know."

"What can I say about the program except do it? You just have to make the commitment and do it. And it starts off from day one, you see the poundage coming down, you see all the numbers, your metabolic age, everything dropping that should be dropping and everything going up that should be going up. And it is immediate. It is not one of these, well in month, you might lose five pounds. It is not that. It is a constant dropping and it encourages you every time you step on that scale. It just makes you want to continue doing the program. And 40 days is nothing. You could do it with your eyes closed. Forty days to have a wonderful life ahead of you, that 40 day commitment is a walk in the park. You have to do it." (Woman's testimonial)

It's not just about weight loss. In fact it's as if weight loss is an incredible side benefit of the program. (Woman's voiceover)

"It's far more than weight loss. Because using this amazing technology, we were able to not only find that perfect and exact fat burning zone, but we're also able to balance all the hormones, neurotransmitters, nutritional needs, as well as detoxify the body. So not only will you lose the weight, but it creates an overall health transformation. Take Gene Sheller, here is a guy 270 pounds, fatty liver, diabetic, high blood pressure, high cholesterol, sleep apnea and is on tons of medication. That's before the program. After the program, down 185 pounds, no meds, his metabolic age went from 90 down to just 55 years old. The big thing about Gene was he was going to a liver specialist, one of the top liver specialists in the country for fatty liver, and the thing was that once he did the program and the specialist even put it in his notes, he said that since his weight loss, he has been able to stop his diabetes medication, his blood pressure, cholesterol meds.

And the thing was that based on his lab studies, there was no need to restart them. But what the doctor said was this, 'the patient underwent an ultrasound which showed resolution of his fatty liver,' and that's complete resolution. It's not there anymore. In fact even the doctor wrote that he is one of the few patients that he's seen that had radiographic evidence of resolution in his fat. They were so impressed by that that the doctor contacted me and asked how in the world did we do this. I explained what we did; I explained the technology. And the first thing he said was, 'do you realize what you created, this is absolutely amazing.' Almost immediately, he sent us in another patient, almost the exact same thing. Fatty liver, diabetic, high blood pressure, high cholesterol; the only difference it was a woman instead of a man. We put her on the same program. She had the exact same results" (Dr. Ray)

"I needed to get my, um, hormones back in balance. My body was out of whack. I was having hive issues. I was having a lot of health issues. So, that's why I initially did it. The side benefit for me, though, was the additional weight loss. I tell people that if you have an issue with health, not just weight, then this is something you should check out."  
(Woman's testimonial)

"I was to the point where I was willing to try anything and I drug my husband with me. We sat and we watched the testimonials and everything and they were just amazing. So we thought well we can do this. And we did. And it was easy to follow and easy to do. My health started getting better constantly. In the meantime I had a doctor's appointment because I was diabetic. I had high blood pressure and gird. I had my blood work done and at one point my A1C was 11. She said that was the worst she'd ever had. I was her absolute worst patient and my blood work all came back perfect. She was just amazed because everything I'd had was gone. I was no longer diabetic after ten years. I no longer had gird after 15 years and the high blood pressure was gone. My blood sugar, I think, was like 6.7. First time in ten years. It was such a life changer to no longer have to worry about that I didn't have to take any pills and I had nine medications. If someone came in and they weren't sure, I would tell them and tell them my story immediately that I no longer have to take nine medications. I am energetic. I lost the weight I wanted. I am happy. And it is worth every bit of it. It's not too good to be true. It is true." (Woman's testimonial)

Five component approach to yield these dramatic results. The first step is to hydrate, cleanse and balance your body's pH. Second we focus on nutritional detoxification, both systemically and cellularly. Third, and this is the foundation of the entire program, and what makes it so unique and so different than every other system. We create a program that is completely customized and personalized for you based on breakthrough NRF technology. Fourth, we harness our proprietary system to reset your hypothalamus and weight set point. And the fifth, this program is personalized to your needs and doctor supervised, guaranteeing results. (Woman's voiceover)



Step One, hydrating and cleansing your body with pure alkaline water works to restore

Second, we implement a plan of nutritional detoxification. (Woman's voiceover)

"See your body is incredibly intelligent, it protects itself by storing chemicals and toxins and fat. So in order to release and burn that fat, you have to detoxify the body, both systemically and at the cellular level. See the thing is, when you can get rid of the toxins that allows the body to be able to release the fat to be burned since it is no longer needed to protect the body. One of the most profound causes of weight gain is due to changes in our hormones, our body chemistry and our metabolism. See, all weight gain, all weight gain involves changes in your hormones, your body chemistry and your metabolism. In fact, hormone production begins to decrease one to three percent per year after the age of 30. So in order to have long lasting, healthy and permanent change, we must balance and correct hormones. It changes all of this." (Dr. Ray)

Third, and most uniquely, for it is the foundation of our entire process, we personalize and customize a plan for you based on your individual body chemistry and hormones. (Woman's voiceover)

"We all gain weight differently due to our hormones. See, some carry weight in their belly, some in their buttocks, others in their arms and their legs. NRF technology is the key to solving your body's specific imbalances. Our NRF scan finds your ultimate fat burning zone by utilizing electro-impedance resonant frequency technology with galvanic skin response. Your NRF scan can determine and create the unique formulas that are specific for your body. These formulas are more unique than your fingerprint. It is so customized and specific that no two people are ever the same. The technology is really amazing which is why I think it is one of the greatest breakthroughs in natural healthcare. Let me explain how this technology works. If you had an allergy to pollen and in the presence of pollen, your cells would have a cellular response. See everything in life has a resonant frequency. If we would take a resonant frequency of pollen and subject that to those same cells, those cells would have the exact same cellular response as it if was pollen. So in other words, without pollen present we could produce the exact same response, the exact same experience. The technology takes a baseline of a frequency of any particular substance of the body then assesses what we need to do to get into fat burning and what we need to avoid that could actually pull us out of fat burning. See what we are able to do with this technology, is assess nearly every single factor for fat burning, fat storage and fat metabolism. We are able to find that perfect and exact fat burning zone, then determine what out of this fat burning zone and more importantly, what we need to do to bring it back into the perfect and exact fat burning range. And for the first time ever, we were able to finally create the perfect formulas. Essentially, we're able to ask the body exactly what it needs to get into that fat burning zone. Your NRF scan will determine the specific organs in your body that cause the

highest biological stress for fat burning. Accordingly, we can then identify which fat burning bio markers are outside the fat burning zone and which supplements will be the most effective at bringing those specific bio markers back into the maximum fat burning zone. The foundation of our entire process is the three personalized and customized formulas that are created using NRF technology, which is then dosed for your body. There are three specific formulations to bring your body into that perfect fat burning state. There is an energy formula for hormones, neurotransmitters, vitamins and minerals. There is a detox formula for toxins, heavy metals, bacteria, viruses, nano-bacteria, mycoplasma and candida. And there is the specific weight loss formulation. These formulas bring the body into that perfect fat burning zone and healing zone.” (Dr. Ray)

Step Four is our proprietary system to reset your hypothalamus and weight set point so you never gain the weight back. (Woman’s voiceover)

“You are not only able to get into that optimum fat burning zone but your body is also able to enter into an optimal healing zone, known as autophagy. Autophagy is where your body innately knows to eliminate the bad degenerated cells and replace them with good healthy cells allowing the body to heal and regenerate from a number of health challenges including acid reflux, thyroid conditions, diabetes, psoriasis, eczema, high blood pressure, high cholesterol, sleep apnea, asthma, fatty liver, lupus and other health and autoimmune challenges. NRF technology allows us to enter that perfect healing zone and fat burning zone allowing us to target your abnormal fat. You have three types of fat. You have your normal fat reserves that are readily used for muscle and for temperature regulation. You also have structural or visceral fat which is to give you shape and form. Then there is abnormal adipose fat. This is fat that is locked in. That’s only burned in extreme survival situations. When you lose weight with most diets, you lose structural fat, water and even muscle. See, we target the abnormal fat so that you lose the weight where you want to lose it. The typical results for men are 35 to 45 or more pounds in just 40 short days. For women, lose 27 to 32 pounds or more in only 40 days.” (Dr. Ray)

With other programs that do not use technology, in order to lose weight this fast, it’s usually water weight and muscle. It’s not effective or safe and actually teaches your body how to gain weight by putting your body into a starvation mode. When you decrease calories without NRF technology, your body enters a starvation mode which turns fat burning off and fat storage on. Because of NRF technology, we are able to hit the switch to turn fat burning on and fat storage off. You can burn anywhere from 2000 to 7000 calories of fat per day. This groundbreaking program guides your body into a special fat burning zone based on your hormones so you experience dramatic safe weight loss in a very short period of time. (Woman’s voiceover)

"I'm Dr. David Armour and I lost 40 pounds. On the first 40 days I lost 97 pounds after the first five months of the program and in the past year, I'm down a total of 109 pounds."

"My name is Rachel and I lost 50 pounds. I was thinking that well even if it works and I can lose the weight, chances are I won't be able to keep it off if I go back to eating any way close to what I used to eat. And I have been able to keep it off now since eight months."

Not only do we personalize your program utilizing the very best fat burning technology, it's all doctor supervised to assure the absolute best results. And it's all guaranteed.  
(Woman's voiceover)

"We not only use the very best technology for fat burning, but we also use the best technology to monitor your fat burning progression. We utilize advanced body composition analysis to measure not only weight and BMI but fat mass, fat percentage, fat free mass, total body water, body water percentage, muscle mass, visceral fat and your metabolic age. We also offer one-on-one professional, doctor supervised support. We walk arm in arm with you on this journey to absolutely assure your success." (Dr. Ray)

While nearly every other program focuses almost entirely on the food, focuses on the technology to get your body into this fat burning zone and to keep you in a fat burning state. That's why you won't be hungry, won't have any cravings, why you'll feel great and be energized. NRF technology is also able to find the foods that are best for your individual body and the foods to avoid or limit when in fat burning. You will learn which exact foods measure the best for your body while in fat burning. And best of all, unlike other programs, these are normal healthy foods from your local grocery store. Technology creates the perfect plan that is simple and easy to follow creating a transformed life. (Woman's voiceover)

"With NRF technology, your life can be completely transformed in only 40 short days."  
(Dr. Ray)

Amazing things can happen in just 40 short days. Because of groundbreaking NRF technology, we now have a way to lose weight faster, easier, better and healthier than ever before. System finds your body's perfect and exact fat burning zone while balancing your hormones and all your body's nutritional needs resulting in not only targeted fat loss but also improved health. No other weight loss program can compare.  
(Woman's voiceover)

"Because of NRF technology, we can now do what has never been able to be done prior to this. We can lose weight quicker, better, easier and healthier. Here is a

comparison. They don't get you into fat burning. We do. The time period to lose 30 pounds typically is 20 to 30 weeks. 30 days for men; 40 days for women. They don't target abnormal fat, we do. They don't raise and reset the metabolism, we do. They don't reset the weight set point, we do. They don't utilize NRF technology and they're not personalized and customized. They are not doctor supervised. They don't guarantee the results and they have a higher cost per pound lost. And regarding the cost, we have to ask ourselves, 'what's the cost in not being there for your kids, your spouse or your family; the cost of having a heart attack or stroke; the cost of not living and fulfilling your dreams; the cost of loss of mobility or being in a nursing home.' See, the amazing thing about this program, is that the cost per pound loss on this program is less than other programs available. So just image, looking great, feeling great, better health, better skin, better hair, better sleep, more energy; you came for a reason. You want to change. You want results. See you already took that first step by watching this video. Now just image what life would be like just 40 short days from now. How would you like to lose 25 or more pounds, have more energy, look great and decrease your risk of diabetes and heart disease all in the next 40 days? And the best part, it's guaranteed. And remember, 90% of success is what, it's showing up. And because you showed up and you're watching this right now, we're giving you a gift. It's normally \$99, but today it's only \$27. You will receive that advanced body composition analysis, along with your weight loss consultation where we review your goals and your analysis, as well as our recommendations for a personalized plan to hit your goals, as well as unlimited email questions to the doctor. All for only \$27." (Dr. Ray)

Dr. Davidson's staff will be with you shortly. (Woman's voiceover different)

Your transformation over the next 40 days is going to be spectacular. (Woman's voiceover)