# UNITED STATES DISTRICT COURT SOUTHERN DISTRICT OF TEXAS HOUSTON DIVISION

NOVO NORDISK INC.,

Plaintiff.

v.

Case No. 4:24-cv-2036

AESTHETIC MAISON LLC; and AESTHETIC CASA LLC,

Defendants.

#### **COMPLAINT**

Plaintiff Novo Nordisk Inc. ("Plaintiff" or "Novo Nordisk"), by and through its attorneys, Bowman and Brooke LLP and Covington & Burling LLP, files this Complaint against Defendants Aesthetic Maison LLC ("Aesthetic Maison") and Aesthetic Casa LLC ("Aesthetic Casa") (together, "Defendants") to enjoin Defendants from their unlawful, false, and misleading business practice of falsely advertising a non-FDA approved drug that claims to contain semaglutide and providing that drug to customers without a prescription in powder form to mix themselves without instruction, which poses potential significant risks to patient health. Novo Nordisk does not seek through this lawsuit money damages arising from Defendants' past practice of selling these drugs, but only to prevent Defendants from continuing this practice, which puts patients at potential risk, and alleges the following:

# I. FACTUAL ALLEGATIONS

# A. <u>Novo Nordisk Is the Only Company in the U.S. with FDA-Approved Drugs</u> <u>Containing Semaglutide</u>

1. Novo Nordisk is a healthcare company with a 100-year history of innovation in developing medicines to treat serious chronic diseases like diabetes and obesity.

2. The development of semaglutide is an example of this commitment to innovation

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for people living with chronic diseases. Semaglutide is the foundational molecule which serves as the primary ingredient for Novo Nordisk's three prescription-only medicines approved by the Food and Drug Administration ("FDA"):

- Wegovy<sup>®</sup> (semaglutide) injection 2.4 mg, for chronic weight management;
- Ozempic<sup>®</sup> (semaglutide) injection 0.5 mg, 1 mg, or 2 mg, for adults with type 2 diabetes; and
- Rybelsus<sup>®</sup> (semaglutide) tablets 7 mg or 14 mg, for adults with type 2 diabetes.

3. We govy<sup>®</sup> is an injectable medication indicated to reduce excess body weight and maintain weight reduction long-term in adults and children aged  $\geq 12$  years with obesity, and some adults that are overweight with weight-related medical problems, along with a reduced calorie diet and increased physical activity. We govy<sup>®</sup> is also indicated, with a reduced calorie diet and increased physical activity, to reduce the risk of major adverse cardiovascular events such as cardiovascular death, heart attack, or stroke in adults with known heart disease and with either obesity or overweight.

4. Ozempic<sup>®</sup> is an injectable medication and Rybelsus<sup>®</sup> is an oral medicine that are indicated for adults with type 2 diabetes to improve blood sugar (glucose), along with diet and exercise. Ozempic<sup>®</sup> also lowers the risk of major cardiovascular events such as stroke, heart attack or death in adults with type 2 diabetes and known heart disease.

5. Each of Wegovy<sup>®</sup>, Ozempic<sup>®</sup>, and Rybelsus<sup>®</sup> has a unique safety and efficacy profile which is detailed in its respective product label.

6. Wegovy<sup>®</sup>, Ozempic<sup>®</sup>, and Rybelsus<sup>®</sup> are prescription-only medicines that should only be prescribed in direct consultation with, and under the supervision of, a licensed healthcare professional.

7. Wegovy<sup>®</sup>, Ozempic<sup>®</sup>, and Rybelsus<sup>®</sup> have been extensively studied in clinical trials

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and are FDA-approved for the treatment of patients with serious chronic diseases.

8. Novo Nordisk is the only company in the U.S. with FDA-approved products containing semaglutide. FDA has not approved any generic versions of semaglutide.

9. Novo Nordisk does not sell its semaglutide active pharmaceutical ingredient ("API") to Defendants or any other online retailers for the purpose of selling unapproved semaglutide products.

# B. <u>Distribution of Prescription Drugs Without a Prescription Exposes Patients</u> to Potentially Serious Health Risks

10. Selling drugs through online websites without requiring a prescription puts consumers at risk. These websites may sell products that, while being passed off as authentic, "may contain too much or too little of the active ingredient, contain the wrong ingredients altogether, or even contain harmful substances."<sup>1</sup> Consumers who purchase prescription drugs online "may put their health at risk because the products, while being marketed as authentic, may be counterfeit, contaminated, expired or otherwise harmful."<sup>2</sup> Historically, because states have regulated pharmacies and the practice of medicine, several states, including Texas, have prosecuted online companies and individuals dispensing prescription drugs without a valid prescription.<sup>3</sup>

<sup>&</sup>lt;sup>1</sup> FDA, *Navigating the World of Online Pharmacies with CDR Lysette Deshields* (last updated Mar. 7, 2024), https://www.fda.gov/drugs/news-events-human-drugs/navigating-world-online-pharmacies-cdr-lysette-deshields.

<sup>&</sup>lt;sup>2</sup> FDA, *FDA and DEA Warn Online Pharmacies Illegally Selling Adderall to Consumers* (last updated Apr. 12, 2022), https://web.archive.org/web/20231130063836/https://www.fda.gov/news-events/press-announcements/fda-and-dea-warn-online-pharmacies-illegally-selling-adderall-consumers.

<sup>&</sup>lt;sup>3</sup> United States House of Representatives, *Prepared Statement of the Federal Trade Commission* on "The Internet Sale of Prescription Drugs from Domestic Websites" Before the Committee on Government Reform 3 (Mar. 27, 2003), https://www.ftc.gov/sites/default/files/documents/public\_statements/prepared-statement-federaltrade-commission-internet-sales-prescription-drugs/030327internetprescriptions.pdf; see also (continued...)

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11. FDA has issued several warning letters to websites selling unapproved and misbranded "semaglutide" products without a prescription. FDA warned that these drugs "do not carry the same assurances of safety and effectiveness as those drugs subject to FDA oversight" and "may be contaminated, counterfeit, contain varying amounts of active ingredients, or contain different ingredients altogether."<sup>4</sup>

# C. <u>Defendants' Activities Violate Texas Unfair Competition Law</u>

12. Defendants violate Texas's unfair competition law by selling Defendants' unapproved semaglutide powder and products directly to consumers without a valid prescription..

13. A defendant violates Texas's law prohibiting unfair competition through (1) an illegal act by defendant that (2) interfered with the plaintiff's ability to conduct its business. *W. Rsrv. Medtec Servs., LLC v. Stryker Corp.*, No. 4:18-CV-2604, 2019 WL 13191641, at \*8 (S.D. Tex. May 13, 2019); *Taylor Pub. Co. v. Jostens, Inc.*, 216 F.3d 465, 486 (5th Cir. 2000).

14. Defendants sell multiple unapproved semaglutide powder and products on their website, including "Semaglutide 10mg"<sup>5</sup> and "Semaglutide Peptide 5mg."<sup>6</sup> Defendants' unapproved semaglutide powder and products are sold in powder form. Defendants sell this powder directly to consumers without instructions on mixing or administration, requiring

Indictment, *United States v. Waite*, No. 14-cr-549, 2014 WL 12834797 (S.D. Tex. Nov. 6, 2014) (criminal prosecution for dispensing a prescription drug without a prescription); Indictment, *United States v. Willhite*, No. 9:02-cr-46, 2002 WL 34389633 (E.D. Tex. Nov. 20, 2002) (same).

<sup>&</sup>lt;sup>4</sup> See, e.g., FDA, Warning Letter to www.semaspace.com (Oct. 2, 2023), https://www.fda.gov/inspections-compliance-enforcement-and-criminal-investigations/warning-letters/wwwsemaspacecom-665848-10022023; FDA, Warning Letter to Synthetix Inc. DBA Helix Chemical Supply (Feb. 13, 2024), https://www.fda.gov/inspections-compliance-enforcement-and-criminal-investigations/warning-letters/synthetix-inc-dba-helix-chemical-supply-668918-02072024.

<sup>&</sup>lt;sup>5</sup> Aesthetic Maison, *Semaglutide 10mg*, https://aestheticmaison.com/product/semaglutide-10mg/.

<sup>&</sup>lt;sup>6</sup> Aesthetic Maison, *Semaglutide Peptide 5mg*, https://aestheticmaison.com/product/semaglutide-peptide-generic-wegovy-peptide/.

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consumers to guess as to how to administer Defendants' unapproved semaglutide powder and products.

15. A "prescription drug" is defined under Texas law to include "a substance for which federal or state law requires a prescription before the substance may be legally dispensed to the public" or "a drug or device that is required by federal or state statute or regulation to be dispensed on prescription or that is restricted to use by a practitioner only." Tex. Occ. Code Ann. § 551.003(36)(A), (C).

16. Semaglutide is a prescription drug under Texas law. *See* Tex. Occ. Code Ann. § 551.003(36)(A), (C).<sup>7</sup> The Texas State Board of Pharmacy provides that prescription drugs "are drugs that require a prescription because they are considered to be potentially harmful if not used under the supervision of a licensed health care practitioner."<sup>8</sup>

17. Defendants' practice of selling its unapproved semaglutide powder and products without requiring a prescription constitutes unfair competition.

18. Defendants' unapproved semaglutide powder and products are intended to be used for weight loss in humans and, therefore, can only be distributed pursuant to a valid prescription. Because Defendants' unapproved semaglutide powder and products has the potential for harmful effects, it can only be lawfully dispensed upon the prescription of a "practitioner" as defined in

<sup>&</sup>lt;sup>7</sup> See, e.g., FDA, Warning Letter to Synthetix Inc. DBA Helix Chemical Supply (Feb. 13, 2024), https://www.fda.gov/inspections-compliance-enforcement-and-criminal-investigations/warning-letters/synthetix-inc-dba-helix-chemical-supply-668918-02072024 (stating that semaglutide is a "prescription drug[] as defined in section 503(b)(1)(A) of the FD&C Act, 21 U.S.C. 353(b)(1)(A), in light of [its] toxicity or potential for harmful effects, methods of use, or collateral measures necessary for [its] use.").

<sup>&</sup>lt;sup>8</sup> Tex. State Bd. Pharmacy, *Why do I need a prescription from a doctor for some medications and not for others?*, https://www.pharmacy.texas.gov/consumer/broch1.asp.

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Section 551.003(34) of the Texas Occupations Code.<sup>9</sup>

19. In an attempt to circumvent Texas law requiring that these drugs be distributed pursuant to a valid prescription, Defendants represent that certain of their unapproved semaglutide powder and products are intended for research use only and are not for human or animal use. For example, below and attached as Exhibit A are true and correct images of a sample of Defendants' semaglutide powder and products, which say the product is "Research Use Only" and "Not for Human or Animal Consumption of Any Kind."



20. Defendants do not represent that their unapproved semaglutide powder and products, "Semaglutide 10mg" and "semaglutide" sold in combination packs titled "Weight Loss + Hair Growth Combo pack," are for research use only and not intended for human use.

<sup>&</sup>lt;sup>9</sup> The known risks associated with use of Novo Nordisk's FDA-approved medicines are reflected in its FDA-approved product labeling.

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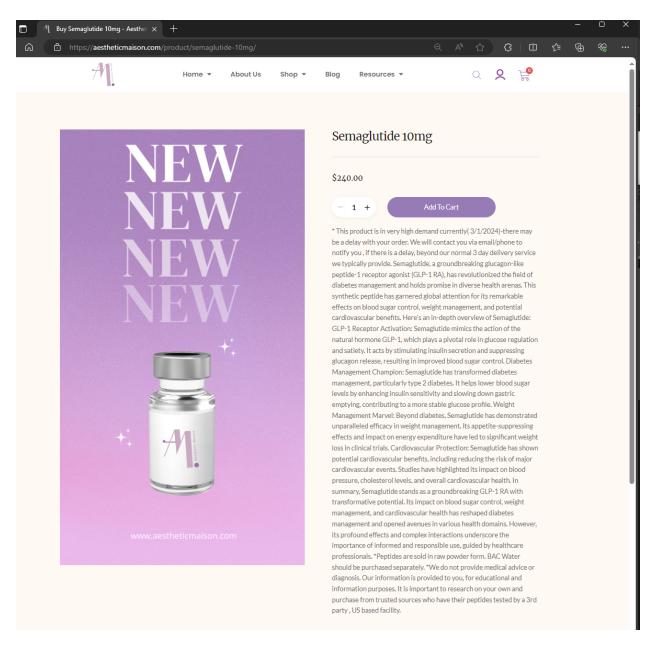


Exhibit B, Aesthetic Maison, *Semaglutide 10mg* (last visited May 23, 2024), https://aestheticmaison.com/product/semaglutide-10mg/.

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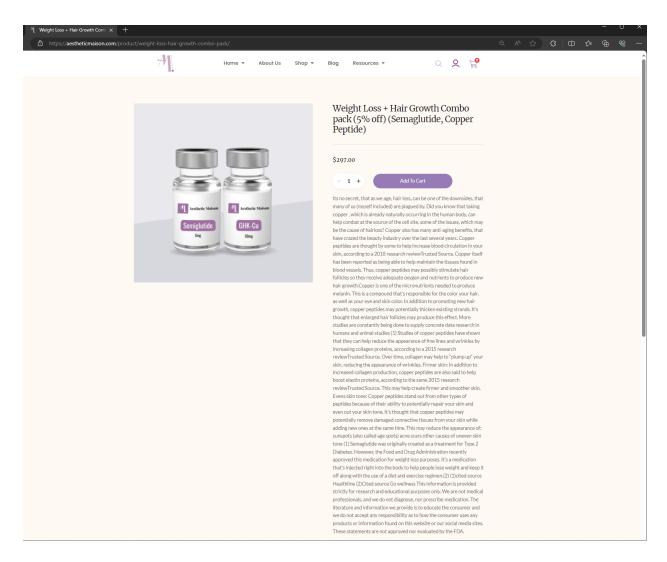


Exhibit C, Aesthetic Maison, *Weight Loss + Hair Growth Combo pack (5% off) (Semaglutide, Copper Peptide)* (last visited May 23, 2024), https://aestheticmaison.com/product/weight-loss-hair-growth-combo-pack.

21. Although Defendants state in the product description for the "Weight Loss Power Pack" that the unapproved semaglutide powder is for research purposes only, they note that this label is merely a technicality for compliance purposes, and that it can and has been used clinically: "The products will be labeled 'For Research Only'. This is for FDA compliance, as they have not yet been approved for consumption. That being said, these have been treatments that both Meg and MJ have personally experimented with."

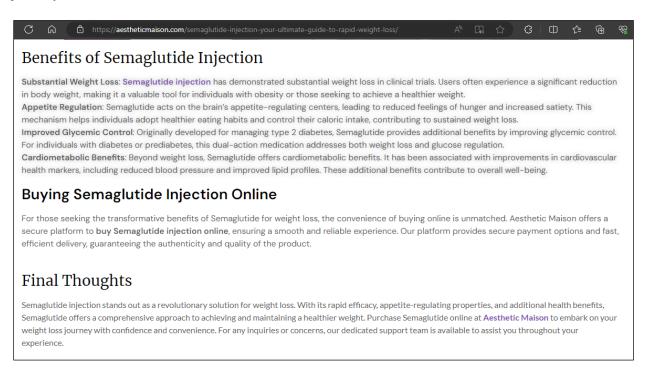
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Exhibit D, Aesthetic Maison, *Weight Loss Power Pack – Semaglutide + Adipotide*, (last visited May 23, 2024), https://aestheticmaison.com/product/semaglutide/.

22. Defendants' advertising and promotion of their unapproved semaglutide powder further demonstrates that it is intended to be used for weight loss in humans.

23. For example, Defendants published a blog post on their website titled: "Semaglutide Injection: Your Ultimate Guide to Rapid Weight Loss," a copy of which is attached here as Exhibit E. This post includes a link to Defendants' unapproved semaglutide powder and products and encourages customers to purchase its "semaglutide" "to embark on your weight loss journey with confidence and convenience."10



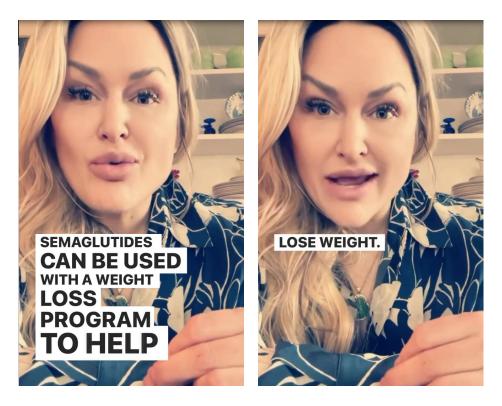
24. Defendants similarly advertise on social media that semaglutide can be used for

weight loss, including in conjunction with a weight loss program. The below images, attached

hereto as Exhibit F, are a true and correct representation of information provided by Defendants

to prospective customers via Instagram video.

<sup>&</sup>lt;sup>10</sup> Aesthetic Maison, *Semaglutide Injection: Your Ultimate Guide to Rapid Weight Loss* (Jan. 22, 2024), https://aestheticmaison.com/semaglutide-injection-your-ultimate-guide-to-rapid-weight-loss/.



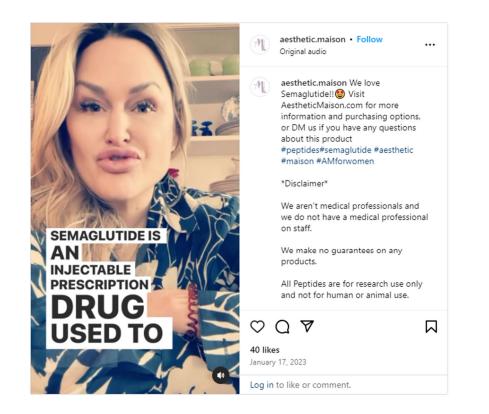
@aesthetic.maison, Instagram (Jan. 17, 2023) (available at https://www.instagram.com/reel/CnhZi7Th0NS/?hl=en).

25. Defendants are aware that semaglutide products require a prescription. In one of their promotional videos, they describe semaglutide as "an injectable prescription drug." The below image, attached hereto as Exhibit F, is a true and correct representation of information provided by Defendants to prospective customers via Instagram video.

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#### Instagram

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Log In Sign Up
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@aesthetic.maison, Instagram (Jan. 17, 2023) (available at

https://www.instagram.com/reel/CnhZi7Th0NS/?hl=en).

26. Their advertising of their unapproved semaglutide powder and products demonstrates that they are targeting individuals for human use in weight loss and, therefore, must only dispense the product pursuant to a valid prescription. Nonetheless, Defendants sell their unapproved semaglutide powder and products online without a prescription, direct to consumers, in violation of Texas's Prescription Law. Tex. Occ. Code Ann. §§ 558.001(c); 551.003(34).

27. Defendants are not qualified to prescribe their unapproved semaglutide powder and products to patients under Texas law. Defendants are not licensed as a Class A or Class E pharmacy, which are the only entities authorized to dispense a drug under a prescription drug order in Texas. Tex. Occ. Code Ann. § 560.051.

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28. Only someone licensed or registered to dispense or distribute prescription drugs may do so in Texas. Texas Prescription Law provides that "a person may not dispense or distribute prescription drugs unless the person: 1) is a pharmacist; or 2) is otherwise authorized by this subtitle to dispense or distribute prescription drugs." Tex. Occ. Code Ann. § 558.001(c). The subtitle permits practitioners to dispense drugs without being a licensed pharmacist. Tex. Att'y Gen. Op. MW-410 (1981). Practitioner includes "a person licensed or registered to prescribe, distribute, administer, or dispense a prescription drug or device in the course of professional practice in this state, including a physician, dentist, podiatrist, or veterinarian." Tex. Occ. Code Ann. § 551.003(34).

29. Defendants' managing members are not licensed as pharmacists, physicians, dentists, podiatrists, or veterinarians in Texas. Neither Aesthetic Maison nor Aesthetic Casa are licensed to dispense or distribute prescription drugs in Texas.<sup>11</sup>

# D. <u>Defendants Falsely Advertise Their Unapproved Semaglutide Powder and</u> <u>Products</u>

30. Defendants' marketing and sales of their unapproved semaglutide powder and products are false and misleading in several respects.

31. Defendants' claims regarding research on semaglutide and its efficacy are based on research of Novo Nordisk's FDA-approved medicines containing semaglutide, not of Defendants' unapproved semaglutide powder and products.

32. For instance, Defendants' product description for their "Weight Loss Power Pack," which includes their "semaglutide 5 mg," relies on clinical trials of Plaintiff's FDA-approved semaglutide medicine, Wegovy<sup>®</sup>. The product description subsequently notes that Defendants "do

<sup>&</sup>lt;sup>11</sup> See Tex. State Bd. Pharmacy, Texas Pharmacy Search, https://www.pharmacy.texas.gov/dbsearch/phy\_search.asp.

not offer the brand name Wegovy." See Exhibit D.

33. Similarly, a blog post on Defendants' website states that "Semaglutide injection has demonstrated substantial weight loss in clinical trials." *See* Exhibit E; ¶ 23, *supra*. Defendants specifically link the words "Semaglutide injection" in this blog post sentence to their unapproved semaglutide powder and products by providing a hyperlink to Defendants' "Weight Loss Power Pack." This statement is false because, on information and belief, Defendants' unapproved semaglutide powder and products have not undergone any clinical trials. Rather, it is the clinical trials of *Plaintiff's* medicine that have demonstrated substantial weight loss.

34. In addition, Defendants falsely equate Novo Nordisk's FDA-approved semaglutide medicines with their unapproved semaglutide powder and products. In the product description for their "Weight Loss + Hair Growth Combo Pack," which includes their "semaglutide 5 mg," they state that "Semaglutide was originally created as a treatment for Type 2 Diabetes. However, the Food and Drug Administration recently approved this medication for weight loss purposes. It's a medication that's injected right into the body to help people lose weight and keep it off along with the use of a diet and exercise regimen." *See* Exhibit C. This statement is false. While the FDA has approved Novo Nordisk's semaglutide-based medicines, it has not approved Defendants' unapproved semaglutide powder and products, an entirely different product.

35. Defendants further falsely equate their unapproved semaglutide powder and products with Novo Nordisk's Wegovy<sup>®</sup> by suggesting that their "Semaglutide Peptide 5mg" powder is a generic version of Wegovy<sup>®</sup>.<sup>12</sup>

<sup>&</sup>lt;sup>12</sup> Aesthetic Maison, Semaglutide Peptide 5mg (last visited May 23, 2024), https://aestheticmaison.com/product/semaglutide-peptide-generic-wegovy-peptide/.

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36. Such a comparison is false and misleading because the FDA has not approved any generic versions of Novo Nordisk's semaglutide medicines.

37. Indeed, Defendants' statements are designed to conflate their unapproved semaglutide powder and products with Novo Nordisk's FDA-approved medicines. For example, Defendants advertise their unapproved semaglutide powder and products on Instagram as weight loss products that "you'll see in two different brand names of Ozempic and Wegovy. They're both the same medication, semaglutide." While stating this, Defendants' representative in the video is holding and pointing to Defendants' unapproved semaglutide powder and products. The below images, attached hereto as Exhibit G, are true and correct representations of information provided by Defendants to prospective customers via Instagram video.







@aesthetic.maison, Instagram (June 20, 2023) (available at https://www.instagram.com/reel/CtunQ4uOUQT/?hl=en).

38. Defendants' statements are likely to deceive customers into believing, erroneously, that its unapproved semaglutide powder and products are the same as Novo Nordisk's FDA-approved semaglutide medicines. Defendants' statements are also likely to deceive customers into believing that its unapproved semaglutide powder and products are safe and effective by comparing them to Novo Nordisk's FDA-approved semaglutide medicine.

39. Defendants knew or should have known that these statements were false and that they would be likely to induce customers to rely on these statements in order to purchase Defendants' unapproved semaglutide powder and products, believing them to be equivalent to Novo Nordisk's FDA-approved medicines containing semaglutide.

# E. <u>Plaintiff Has Been Injured by Defendants' Unlawful, Deceptive, and Unfair</u> <u>Competition</u>

40. Novo Nordisk is the only company in the United States with FDA-approved products containing semaglutide.

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41. Defendants sell their unapproved semaglutide powder and products to customers in Texas and other states without a prescription. As a result of Defendants' unlawful, deceptive, and unfair competition, which jeopardizes public health, Defendants have interfered with Novo Nordisk's ability to conduct its business. Specifically, as a result of Defendants' unlawful conduct, Novo Nordisk has and will continue to suffer harm to its goodwill and reputation. Additionally, absent Defendants' unlawful and unfair actions, sales made by Defendants would and will have been made by Novo Nordisk; thus, Novo Nordisk has and will suffer harm in the form of lost sales and customers as a direct result of Defendants' unlawful acts and false advertising. Novo Nordisk does not seek through this lawsuit money damages arising from Defendants' past practice of selling these unlawful drugs, but only to prevent Defendants from continuing this practice, which potentially puts patients at risk.

#### F. Plaintiff Seeks to Enjoin Defendants From Their Unlawful Practices

42. Novo Nordisk brings this action under the Lanham Act and Texas unfair competition law to stop Defendants from unlawfully marketing, selling, and distributing its unapproved semaglutide powder and products. Novo Nordisk seeks a declaration that Defendants' business practices violate Texas unfair competition law and the Lanham Act, and entry of a preliminary and permanent injunction prohibiting Defendants from committing such violations. Novo Nordisk also seeks attorney's fees and court costs but does not seek monetary damages from Defendants' past violations of the Lanham Act or Texas unfair competition law.

#### II. <u>THE PARTIES</u>

43. Novo Nordisk is a corporation organized and existing under the laws of the State of Delaware, with a principal place of business in New Jersey.

44. Novo Nordisk promotes, offers, and/or sells FDA-approved semaglutide-based products—Wegovy<sup>®</sup>, Ozempic<sup>®</sup>, and Rybelsus<sup>®</sup>—throughout the United States. Novo Nordisk is

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the only company in the U.S. with FDA-approved products containing semaglutide. FDA has not approved any generic versions of semaglutide. Novo Nordisk does not sell its semaglutide active pharmaceutical ingredient ("API") to Defendants or any other online retailers for the purpose of selling unapproved semaglutide products.

45. Novo Nordisk and/or its parents and affiliates have invested significant time and resources to research, develop, manufacture, and test Wegovy<sup>®</sup>, Ozempic<sup>®</sup>, and Rybelsus<sup>®</sup> in order to obtain regulatory approval from FDA to market these drugs.

46. Aesthetic Maison is a legal entity that was formerly organized as a limited liability company existing under the laws of Nevada, though it recently had its LLC status revoked by Nevada. The managing member of Aesthetic Maison is Mandy Rasmussen. Its website, www.aestheticmaison.com, lists its founders as Mandy and Megan.<sup>13</sup> Upon information and belief, Aesthetic Maison drop ships its products, including its unapproved semaglutide powder and products, to customers from shipping centers in South Korea and Mexico. It uses its registered agent's address in Nevada as the return address for shipments. Upon information and belief, it does not maintain its own physical office space in Nevada, but instead maintains a satellite office in Texas through its founder, Megan King.

47. Aesthetic Casa is a limited liability company organized and existing under the laws of Florida. The managing member of Aesthetic Casa is Megan King, who upon information and belief is the same Megan King that is the founder of Aesthetic Maison. Upon information and belief, it does not maintain its own physical office space in Florida. Upon information and belief, Aesthetic Casa processes the payments received from customers for products purchased from www.aestheticmaison.com, from Megan King's address at 3915 Schlottman Road, Brenham,

<sup>&</sup>lt;sup>13</sup> Aesthetic Maison, https://aestheticmaison.com/about-us/.

Texas.

48. Upon information and belief, Aesthetic Casa is the legal entity through which Megan King and Mandy Rasmussen conduct business through the www.aestheticmaison.com website, and Aesthetic Maison and Aesthetic Casa are used interchangeably by Megan King and Mandy Rasmussen to conduct business. For example, Aesthetic Casa processes payments received from customers for purchases made on www.aestheticmaison.com. Megan King and Mandy Rasmussen have ignored the corporate form and conduct their unlawful business through both entities without regard to the distinctions between the two.

#### III. JURISDICTION AND VENUE

49. The Court has subject matter jurisdiction over the Lanham Act cause of action pleaded herein pursuant to 15 U.S.C. § 1121 and 28 U.S.C. § 1338(a), and supplemental jurisdiction over the state law cause of action pursuant to 28 U.S.C. § 1338(b) and 28 U.S.C. § 1367(a).

50. This Court has personal jurisdiction over Defendants. Defendants maintain a principal place of business in Texas where, upon information and belief, Defendants direct, control, and coordinate their business activities, such as by processing payments for orders received on its website of its products, including its unapproved semaglutide powder and products and products purporting to be authentic Novo Nordisk medicines. Because Aesthetic Maison and Aesthetic Casa are used interchangeably by Megan King and Mandy Rasmussen, and the activities of the venture take place in Texas, both entities are subject to jurisdiction in Texas.

51. Venue in this District is proper under 28 U.S.C. § 1391(b).

#### IV. FIRST CAUSE OF ACTION

# (Defendants' False and Misleading Advertising and Promotion in Violation of 15 U.S.C. § 1125(a)(1)(B))

52. Plaintiff realleges and incorporates by reference each and every allegation set forth in paragraphs 1–51, above, as if fully stated herein.

53. Defendants' practices, as described in this Complaint, constitute false advertising and unfair competition in violation of Section 43(a)(1)(B) of the Lanham Act, 15 U.S.C. § 1125(a)(1)(B).

54. Defendants have violated the Lanham Act by using false or misleading descriptions of fact and false or misleading representations of fact in their commercial advertising or promotion that misrepresent the nature, characteristics, and/or qualities of Defendants' unapproved semaglutide powder and products, as set forth above.

55. The above-described acts of Defendants, if not enjoined by this Court, are likely to deceive members of the general public.

56. The above-described acts of Defendants have irreparably harmed and, if not enjoined, will continue to irreparably harm Plaintiff.

57. The above-described acts of Defendants have irreparably harmed and, if not enjoined, will continue to irreparably harm the interest of the public in being free from confusion, mistake, and deception.

58. By reason of Defendants' acts as alleged above, Plaintiff has suffered and will continue to suffer injuries, including injury to Plaintiff's business reputation. However, Plaintiff's remedies at law are not adequate to compensate for all the injuries inflicted by Defendants. Accordingly, Plaintiff is entitled to entry of preliminary and permanent injunctive relief requiring Defendants to cease their false and misleading advertising and promotion and unfair competitive

practices.

59. This is an exceptional case, making Plaintiff eligible for an award of attorneys' fees under 15 U.S.C. § 1117.

### V. <u>SECOND CAUSE OF ACTION</u>

#### (Violation of Texas Unfair Competition Law)

60. Plaintiff realleges and incorporates by reference each and every allegation set forth in paragraphs 1–59, above, as if fully stated herein.

61. Defendants have engaged in unfair competition through their violation of Texas's Prescription Law, Tex. Occ. Code Ann. §§ 558.001(c); 551.003(34), by selling their unapproved semaglutide powder and products for use in weight loss without a prescription, constituting an illegal act. All other suppliers, like Novo Nordisk, are subject to this same Texas Prescription Law for "semaglutide" products intended for use in humans.

62. Defendants' violation of Texas law of selling their unapproved semaglutide powder and products for use in weight loss without a prescription has interfered with Plaintiff's ability to conduct its business, by allowing Defendants to compete unfairly with Novo and other suppliers of semaglutide.

63. Defendants have also engaged in unfair competition through their violation of the Lanham Act, by selling their unapproved semaglutide powder and products and by engaging in false advertising that deceives and harms patients.

64. Defendants' violation of Texas law has and will continue to interfere with Plaintiff's ability to conduct its business because it has and will continue to harm Plaintiff's goodwill and reputation and has caused Plaintiff to lose sales and customers.

65. Plaintiff seeks a declaration that Defendants' business practices constitute unfair competition by advertising, distributing, and selling prescription drugs without a prescription.

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Plaintiff also seeks an injunction prohibiting Defendants from committing such violations.

66. Plaintiff also seeks attorney's fees and court costs pursuant to Tex. Civ. Prac. & Rem. Code § 37.009.

#### VI. <u>CONCLUSION AND PRAYER FOR RELIEF</u>

WHEREFORE, Plaintiff respectfully requests judgment against Defendants as follows:

- 1. That the Court enter a judgment against Defendants that Defendants have:
  - Engaged in false and misleading advertising and promotion, in violation of
     15 U.S.C. § 1125(a); and
  - b. Violated Texas unfair competition law.
- 2. That the Court enter judgment that each of the above acts was willful.
- 3. That the Court preliminarily and permanently enjoin and restrain Defendants and their agents, servants, employees, successors, and assigns, and all other persons acting in concert or conspiracy with or affiliated with Defendants from:
  - a. Continuing the unlawful and unfair business practices alleged in this complaint;
  - b. Advertising, stating, or suggesting that any unapproved semaglutide powder and products, including but not limited to any unapproved semaglutide powder and products that either are available, directly or indirectly, from or through Defendants or the use of which or access to which is facilitated by, or with the involvement of, Defendants:
    - i. Are sponsored by or associated with Novo Nordisk;
    - Are approved by FDA; have been reviewed by FDA for safety,
       effectiveness, or quality; or have been demonstrated to FDA to be
       safe or effective for their intended use;

- iii. Achieve or have been shown to achieve certain therapeutic results, effects, or outcomes, including but not limited to by relying on or making reference to clinical trial results for Novo Nordisk's medicines; relying on or making reference to the therapeutic results, effects, or outcomes of Novo Nordisk's medicines; or suggesting that any unapproved semaglutide powder and products are interchangeable or equivalent to genuine Novo Nordisk medicines;
- iv. Are Novo Nordisk medicines, or are associated or connected in any way with Novo Nordisk or Novo Nordisk's medicines; or contain any ingredient (including but not limited to semaglutide) that is supplied by Novo Nordisk, is approved by FDA, or is the same in any ingredient in any Novo Nordisk medicine;
- c. Engaging in any unfair competition with Plaintiff; and/or
- d. Engaging in any deceptive acts or practices.
- 4. That the Court require Defendants to engage in corrective advertising.
- That the Court award Plaintiff its reasonable attorneys' fees pursuant to 15 U.S.C. § 1117, Tex. Civ. Prac. & Rem. Code § 37.009, and any other applicable provisions of law.
- 6. That the Court award Plaintiff the costs of suit incurred herein.
- 7. That the Court award such other or further relief as it may deem just and proper.

Dated: May 30, 2024

Respectfully submitted,

# BOWMAN AND BROOKE LLP

By: <u>/s/ Randall L. Christian</u> Randall L. Christian Texas Bar No. 00783826 Southern District No. 15935 Jonathan L. Smith Texas Bar No. 24088436 Southern District No. 3632192

2901 Via Fortuna Drive, Suite 500 Austin, Texas 78746 Tel.: (512) 874-3800 Fax: (512) 874-3801 Randall.Christian@bowmanandbrooke.com Jonathan.Smith@bowmanandbrooke.com

Gregory L. Halperin (*pro hac vice application forthcoming*) **COVINGTON & BURLING LLP** The New York Times Building, 620 Eighth Avenue New York, NY 10018-1405 (212) 841-1166 ghalperin@cov.com

Michael X. Imbroscio (pro hac vice application forthcoming) Amee Frodle (pro hac vice application forthcoming) **COVINGTON & BURLING LLP** 850 Tenth Street, NW Washington, DC 20001-4956 Telephone: (202) 662-6000 Facsimile: (202) 662-6291 mimbroscio@cov.com afrodle@cov.com

Attorneys for Plaintiff NOVO NORDISK INC.

# JS 44 (Rev. 03/24) Case 4:24-cv-02036 Deepvoent dove Eiged Some 2/20/24 in TXSD Page 1 of 2

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. *(SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)* 

purpose of initiating the civil do	Jeket sheet. (SEE INSTRUCT	TONS ON NEAT PAGE OF	,	~~			
I. (a) PLAINTIFFS			DEFENDANT	ĽS			
Novo Nordisk In	С.		Aesthetic Mai	Aesthetic Maison LLC and Aesthetic Casa LLC			
(b) County of Residence of First Listed Plaintiff Middlesex County,			NJ County of Residen	County of Residence of First Listed Defendant Washoe County, NV			
(EX	XCEPT IN U.S. PLAINTIFF CAS			(IN U.S. PLAINTIFF CASES ONLY)			
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(c) Attorneys (Firm Name, 2	-		Attorneys (If Know	n)			
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130 Miller Act	315 Airplane Product	Product Liability 367 Health Care/	690 Other	28 USC 157	3729(a))		
140 Negotiable Instrument 150 Recovery of Overpayment	Liability 320 Assault, Libel &	Pharmaceutical		INTELLECTUAL PROPERTY RIGHTS	400 State Reapportionment 410 Antitrust		
& Enforcement of Judgment		Personal Injury		820 Copyrights	430 Banks and Banking		
151 Medicare Act 152 Recovery of Defaulted	330 Federal Employers' Liability	Product Liability 368 Asbestos Personal		830 Patent 835 Patent - Abbreviated	450 Commerce 460 Deportation		
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of Veteran's Benefits 160 Stockholders' Suits	350 Motor Vehicle 355 Motor Vehicle	370 Other Fraud 371 Truth in Lending	710 Fair Labor Standards Act	Act of 2016	(15 USC 1681 or 1692) 485 Telephone Consumer		
190 Other Contract	Product Liability	380 Other Personal	720 Labor/Management	SOCIAL SECURITY	Protection Act		
195 Contract Product Liability	360 Other Personal	Property Damage	Relations	861 HIA (1395ff)	490 Cable/Sat TV		
196 Franchise	Injury 362 Personal Injury -	385 Property Damage Product Liability	740 Railway Labor Act 751 Family and Medical	862 Black Lung (923) 863 DIWC/DIWW (405(g))	850 Securities/Commodities/ Exchange		
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210 Land Condemnation	440 Other Civil Rights	Habeas Corpus:	791 Employee Retirement	865 RSI (405(g))	891 Agricultural Acts 893 Environmental Matters		
220 Foreclosure	441 Voting	463 Alien Detainee	Income Security Act	FEDERAL TAX SUITS	895 Freedom of Information		
230 Rent Lease & Ejectment 240 Torts to Land	442 Employment 443 Housing/	510 Motions to Vacate Sentence		870 Taxes (U.S. Plaintiff or Defendant)	Act 896 Arbitration		
245 Tort Product Liability	Accommodations	530 General		871 IRS—Third Party	899 Administrative Procedure		
290 All Other Real Property	445 Amer. w/Disabilities - Employment	535 Death Penalty Other:	IMMIGRATION 462 Naturalization Applicat	26 USC 7609	Act/Review or Appeal of Agency Decision		
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VIII. RELATED CASE	E(S)						
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# UNITED STATES DISTRICT COURT SOUTHERN DISTRICT OF TEXAS HOUSTON DIVISION

NOVO NORDISK INC.,

Plaintiff,

v.

Case No. 4:24-cv-2036

AESTHETIC MAISON LLC; and AESTHETIC CASA LLC,

Defendants.

### ADDENDUM TO JS-44: ATTORNEY OF RECORD FOR PLAINTIFF NOVO NORDISK INC.

Randall L. Christian Texas Bar No. 00783826 Southern District No. 15935 **BOWMAN AND BROOKE LLP** 2901 Via Fortuna, Suite 500 Austin, Texas 78746 (512) 874-3800

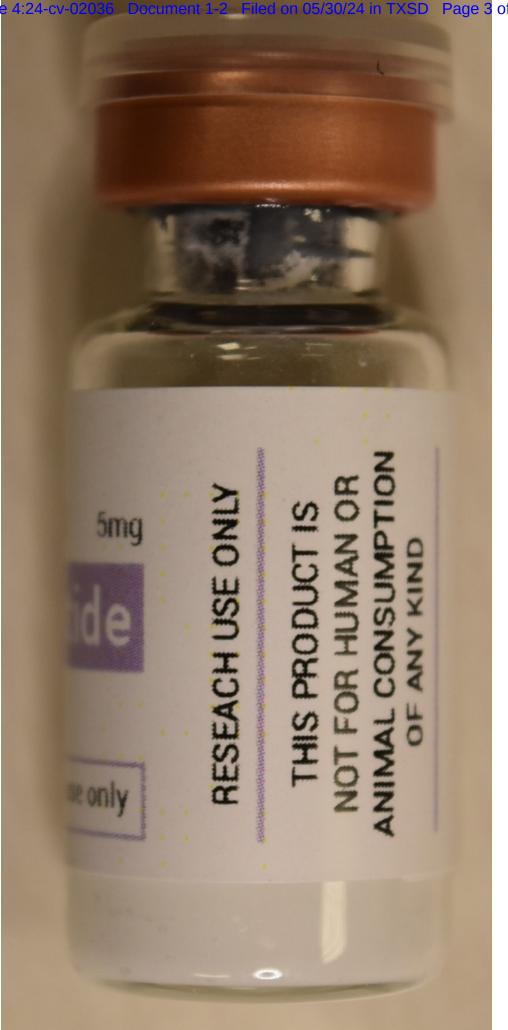
Jonathan L. Smith Texas Bar No. 24088436 Southern District No. 3632192 **BOWMAN AND BROOKE LLP** 2901 Via Fortuna, Suite 500 Austin, Texas 78746 (512) 874-3800 Gregory L. Halperin (*pro hac vice application forthcoming*) **COVINGTON AND BURLING LLP** The New York Times Building, 620 Eighth Avenue New York, NY 10018-1405 (212) 841-1166

Michael X. Imbroscio (*pro hac vice application forthcoming*) **COVINGTON & BURLING LLP** 850 Tenth Street, NW Washington, DC 20001-4956 (202) 662-6000

Amee Frodle (*pro hac vice application forthcoming*) **COVINGTON & BURLING LLP** 850 Tenth Street, NW Washington, DC 20001-4956 (202) 662-6000

# **Exhibit** A





05/30/24 in TXSD Page 3 of 3 Case 4:24-cv-02036 C

# **Exhibit B**

# Case 4:24-cv-02036 Document 1-3 Filed on 05/30/24 in ₹XSD<sup>Q</sup> P<sup>2</sup>age<sup>2</sup> of 3



### Semaglutide 10mg

#### \$240.00

1 Add To Cart

\* This product is in very high demand currently( 3/1/2024)-there may be a delay with your order. We will contact you via email/phone to notify you, if there is a delay, beyond our normal 3 day delivery service we typically provide. Semaglutide, a groundbreaking glucagon-like peptide-1 receptor agonist (GLP-1 RA), has revolutionized the field of diabetes management and holds promise in diverse health arenas. This synthetic peptide has garnered global attention for its remarkable effects on blood sugar control, weight management, and potential cardiovascular benefits. Here's an in-depth overview of Semaglutide: GLP-1 Receptor Activation: Semaglutide mimics the action of the natural hormone GLP-1, which plays a pivotal role in glucose regulation and satiety. It acts by stimulating insulin secretion and suppressing glucagon release, resulting in improved blood sugar control. Diabetes Management Champion: Semaglutide has transformed diabetes management, particularly type 2 diabetes. It helps lower blood sugar levels by enhancing insulin sensitivity and slowing down gastric emptying, contributing to a more stable glucose profile. Weight Management Marvel: Beyond diabetes, Semaglutide has demonstrated unparalleled efficacy in weight management. Its appetite-suppressing effects and impact on energy expenditure have led to significant weight loss in clinical trials. Cardiovascular Protection: Semaglutide has shown potential cardiovascular benefits, including reducing the risk of major cardiovascular events. Studies have highlighted its impact on blood pressure, cholesterol levels, and overall cardiovascular health. In summary, Semaglutide stands as a groundbreaking GLP-1 RA with transformative potential. Its impact on blood sugar control, weight management, and cardiovascular health has reshaped diabetes management and opened avenues in various health domains. However, its profound effects and complex interactions underscore the importance of informed and responsible use, guided by healthcare professionals. \*Peptides are sold in raw powder form. BAC Water should be purchased separately. \*We do not provide medical advice or diagnosis. Our information is provided to you, for educational and information purposes. It is important to research on your own and purchase from trusted sources who have their peptides tested by a 3rd party, US based facility.

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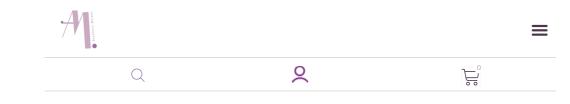
#### **Related products**

# Case 4:24-cv-02036 Document 1-3 Filed on 05/30/24 in TXSD Page 3 of 3

	Company	Resources	Store	Policies
	Home	Affiliate Links	Weight Loss	Term Of Use
	About	Product Links	Wrinkle Prevention	Privacy Policy
	Contact	Dr.maurucio	Skin Boosters	Shipping Policy
			Threads	Affilitate Policy
Email: admin@aestheticmaison.com Phone: +1(713)855-6036				Cookie policy

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# **Exhibit** C





# Weight Loss + Hair Growth Combo pack (5% off) (Semaglutide, Copper Peptide)

#### \$297.00

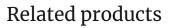
1 Add To Cart

Its no secret, that as we age, hair loss, can be one of the downsides, that many of us (myself included) are plagued by. Did you know that taking copper, which is already naturally occurring in the human body, can help combat at the source of the cell site, some of the issues, which may be the cause of hairloss? Copper also has many anti-aging benefits, that have crazed the beauty industry over the last several years. Copper peptides are thought by some to help increase blood circulation in your skin, according to a 2018 research reviewTrusted Source. Copper itself has been reported as being able to help maintain the tissues found in blood vessels. Thus, copper peptides may possibly stimulate hair follicles so they receive adequate oxygen and nutrients to produce new hair growth.Copper is one of the micronutrients needed to produce melanin. This is a compound that's responsible for the color your hair, as well as your eye and skin color. In addition to promoting new hair growth, copper peptides may potentially thicken existing strands. It's thought that enlarged hair follicles may produce this effect. More studies are constantly being done to supply concrete data research in humans and animal studies (1) Studies of copper peptides have shown that they can help reduce the appearance of fine lines and wrinkles by increasing collagen proteins, according to a 2015 research reviewTrusted Source. Over time, collagen may help to "plump up" your skin, reducing the appearance of wrinkles. Firmer skin: In addition to increased collagen production, copper peptides are also said to help boost elastin proteins, according to the same 2015 research reviewTrusted Source. This may help create firmer and smoother skin. Evens skin tone: Copper peptides stand out from other types of peptides because of their ability to potentially repair your skin and even out your skin tone. It's thought that copper peptides may potentially remove damaged connective tissues from your skin while adding new ones at the same time. This may reduce the appearance of: sunspots (also called age spots) acne scars other causes of uneven skin tone (1) Semaglutide was originally created as a treatment for Type 2 Diabetes. However, the Food and Drug Administration recently approved this medication for weight loss purposes. It's a medication that's injected right into the body to help

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people lose weight and keep it off along with the use of a diet and exercise regimen.(2) (1)cited source Healthline (2)Cited source Go wellness This information is provided strictly for research and educational purposes only. We are not medical professionals, and we do not diagnose, nor prescribe medication. The literature and information we provide is to educate the consumer and we do not accept any responsibility as to how the consumer uses any products or information found on this website or our social media sites. These statements are not approved nor evaluated by the FDA.

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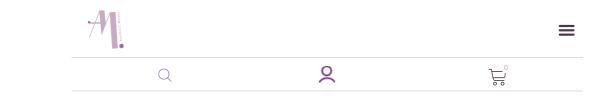




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# **Exhibit D**



#### Sale!

## weight Loss Power Pack



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### Weight Loss Power Pack – Semaglutide + Adipotide

\$600.00 \$550.00

#### 🙁 Out of stock

The Weight loss Power Pack is finally here! (Semaglutide) and Adipotide (Peptides intended for research) How it works: Semaglutide lowers body weight through decreased calorie intake. The effects are likely mediated by affecting appetite. The effect of Semaglutide was studied in animal models. (Semaglutide) is a GLP-1 analog with 94% sequence homology to human GLP-1. Semaglutide acts as a GLP-1 receptor agonist that selectively binds to and activates the GLP-1 receptor, the target for native GLP-1.1" GLP-1 is a physiological regulator of appetite and caloric intake, and the GLP-1 receptor is present in several areas of the brain involved in appetite regulation. Animal studies show that Semaglutide distributed to and activated neurons in brain regions involved in regulation of food intake. Semaglutide's mechanism of action. Semaglutide is a longacting glucagon-like peptide-1 (GLP-1) receptor agonist with 94% sequence homology to naturally occurring human GLP-1 hormone. It binds to and mimics the activity of the human GLP-1 receptor, which is present in various regions of the brain involved in regulating appetite. GLP-1 is a physiological regulator of appetite and caloric intake. Semaglutide regulates food intake and promotes weight reduction by suppressing appetite and boosting the feeling of fullness, making people eat less and thus consume fewer calories. Clinical trials on Wegovy: The FDA's approval of Wegovy was based on the results of the Semaglutide Treatment Effect in People with Obesity (STEP) clinical trial program. Semaglutide safety and efficacy were studied in four 68-week, randomized, double-blind, clinical trials with around 4,500 participants, who were either obese or overweight. Three of the four studies (Studies I, II and III) were placebo-controlled trials, while the other study was a placebowithdrawal trial." Information Resource Citation Fat Burning Peptide Adipotide: Adipotide is a peptidomimetic which consists of two units: one called a prohibitin-1-targeting peptide, and a proapoptotic helical peptide, making it a chimeric molecule [1 The unit works by disrupting, or interrupting, mitochondrial membranes [1]. Adipotide is intended to help you in the reduction of weight. Adipotide is a peptide product that is meant to help in weight reduction by killing the fat cells in the body. This is because when the fat cells die, it decreases the volume within the subcutaneous fat,

which leads to a reduction in fatty tissues, reduced BMI, and reduced waist circumference. You should not purchase this product for personal use but for research purposes only. How It Works: Adipotide is a chimeric peptide, meaning it is made up of two components; together this affects the function of prohibitins (PHBs) [2]. The function of adipotide is known to damage the vasculature of adipose tissue, which then interrupts blood supply to the fat storing cells (adipocytes) [2]. Citation Important to Note: The products will be labeled "For Research Only". This is for FDA compliance, as they have not yet been approved for consumption. That being said, these have been treatments that both Meg and MJ have personally experimented with. \*This pack includes: 5mg Semiglutide, 10mg Adipotide, 30ml Saline, Reconstitution syringe/needle tip, 10 pack of insulin syringes-31gauge. If you Have more questions-email us at admin@aestheticmaison.com \* To be Noted we do not offer the brand name Wegovy. This is not sold nor suggested to be used outside of research and testing purposes. You will need to reconstitute with Saline or BAC water, which is sold on our site. If you purchase 4 peptides, we will send you 1 BAC water for free. These products nor product descriptions, have to been evaluated nor approved by the FDA.

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## **Related products**



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# **Exhibit** E

## Semaglutide Injection: Your Ultimate Guide to Rapid Weight Loss

Semaglutide, a breakthrough medication originally developed to treat type 2 diabetes, has garnered significant attention for its remarkable impact on weight loss. This GLP-1 receptor agonist works by regulating appetite and reducing caloric intake, making it an effective tool in the battle against obesity

#### How Fast Does Semaglutide Work for Weight Loss?

Semaglutide demonstrates rapid efficacy in promoting weight loss. Clinical trials have shown significant reductions in body weight within a relatively short period. Many individuals experience noticeable changes within the first few weeks of starting the medication. The speed of results, coupled with its safety profile, positions Semaglutide as a promising option for those struggling with obesity.



#### Benefits of Semaglutide Injection

Substantial Weight Loss: Semaglutide injection has demonstrated substantial weight loss in clinical trials. Users often experience a significant reduction in body weight, making it a valuable tool for individuals with obesity or those seeking to achieve a healthier weight. Appetite Regulation: Semaglutide acts on the brain's appetite-regulating centers, leading to reduced feelings of hunger and increased satiety. This mechanism helps individuals adopt healthier eating habits and control their caloric intake, contributing to sustained weight loss.

Improved Glycemic Control: Originally developed for managing type 2 diabetes, Semaglutide provides additional benefits by improving glycemic control. For individuals with diabetes or prediabetes, this dual-action medication addresses both weight loss and glucose regulation.

Cardiometabolic Benefits: Beyond weight loss, Semaglutide offers cardiometabolic benefits. It has been associated with improvements in cardiovascular health markers, including reduced blood pressure and improved lipid profiles. These additional benefits contribute to overall well-being.

#### **Buying Semaglutide Injection Online**

For those seeking the transformative benefits of Semaglutide for weight loss, the convenience of buying online is unmatched. Aesthetic Maison offers a secure platform to **buy Semaglutide injection online**, ensuring a smooth and reliable experience. Our platform provides secure payment options and fast, efficient delivery, guaranteeing the authenticity and quality of the product.

#### **Final Thoughts**

Semaglutide injection stands out as a revolutionary solution for weight loss. With its rapid efficacy, appetite-regulating properties, and additional health benefits, Semaglutide offers a comprehensive approach to achieving and maintaining a healthier weight. Purchase Semaglutide online at **Aesthetic Maison** to embark on your weight loss journey with confidence and convenience. For any inquiries or concerns, our dedicated support team is available to assist you throughout your experience.

Case 4:24-cv-02036 Document 1-6	Company Filed on 05/3	Resources 0/24 in TXSD Affiliate Links	Store Page 3 of 3 Weight Loss	<b>Policies</b> Term Of Use
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			Threads	Affilitate Policy
Email: admin@aestheticmaison.com Phone: +1(713)855-6036				Cookie policy

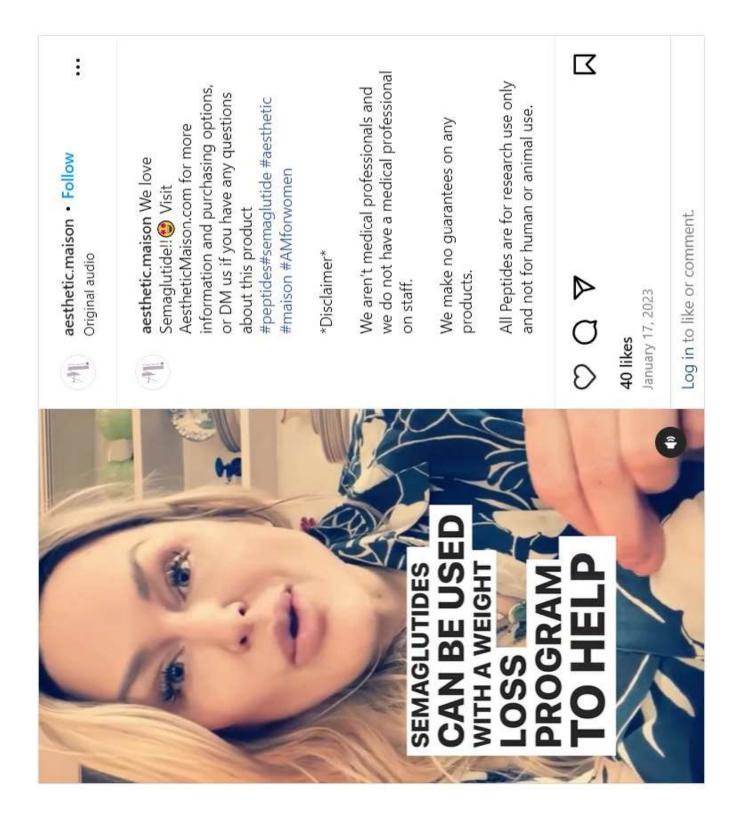
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# Exhibit F



semacurine is a staff. AN AN Nuccrable N	UTIDE IS	*Disclaimer*	AestheticMaison.com for more information and purchasing options, or DM us if you have any questions about this product #peptides#semaglutide #aesthetic #maison #AMforwomen	Criginal audio	A aesthetic.maison • Follow Original audio
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	O O ▼ ▼ 40 likes January 17, 2023

# Exhibit G

Case 4:24-cv-02036 Document 1-8 Filed on 05/30/24 in TXSD Page 2 of 5

# second up is semiglutide

Case 4:24-cv-02036 Document 1-8 Filed on 05/30/24 in TXSD Page 3 of 5

and this you'll see in 2 different brand names of Ozempic and Wagovey Case 4:24-cv-02036 Document 1-8 Filed on 05/30/24 in TXSD Page 4 of 5

# they're both the same medication

# semiglutide this is also a GLP one agonist