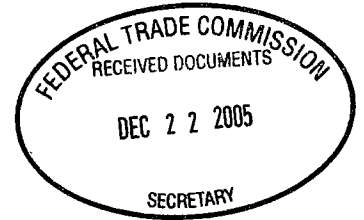


**UNITED STATES OF AMERICA
BEFORE THE FEDERAL TRADE COMMISSION
OFFICE OF ADMINISTRATIVE LAW JUDGES**



In the Matter of)
)
)

BASIC RESEARCH, L.L.C.,)
A.G. WATERHOUSE, L.L.C.,)
KLEIN-BECKER USA, L.L.C.,)
NUTRASPORT, L.L.C.,)
SOVAGE DERMALOGIC)
LABORATORIES, L.L.C.,)
BAN, L.L.C.,)
DENNIS GAY,)
DANIEL B. MOWREY, and)
MITCHELL K. FRIEDLANDER,)
)

Respondents.)
)
_____)

Docket No. 9318

PUBLIC DOCUMENT

**MOTION FOR LEAVE TO ADD ADDITIONAL MATERIALS TO
COMPLAINT COUNSEL'S SECOND FINAL PROPOSED EXHIBIT LIST**

Pursuant to RULE 3.22 and Paragraph 10 of the Court's *Scheduling Order*, Complaint Counsel respectfully request permission to add two additional exhibits to our *Second Final Proposed Exhibit List* (submitted in two parts, denominated "letter A" and "letter B"). Respondents have indicated, through counsel, that they do not oppose this request.

Although Complaint Counsel have exerted efforts to reduce the number of proposed exhibits in the interests of judicial economy,¹ and will continue to do so, we request permission to add two additional exhibits because Corporate Respondents have produced documentary

¹ Complaint Counsel's November 8th *Exhibit List* deleted approximately 20 pages of exhibits previously identified as trial exhibits. Our *Second Final Proposed Exhibit List* consists of two shorter lists, submitted in two parts, denominated as "letter A" and "letter B." The "letter A" list identifies those exhibits that Complaint Counsel presently intend to move into evidence, and the letter "B" list identifies other exhibits which we believe may also be necessary for the hearing in this matter.

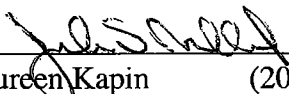
evidence not previously made available to Complaint Counsel. The documents in question are new responses to interrogatories. With leave of Court, Complaint Counsel will incorporate the following two exhibits into our "Letter 'A'" *Exhibit List*:

CX-954	Respondents' Resp. to Interrogs. 4, 6, 13, 49 (received Dec. 6, 2005).
CX-955	Respondents' Resp. to Interrog. 56, with cover letter (dated Dec. 9, 2005).

Complaint Counsel did not have the above-referenced materials before the submission of our last *Exhibit List* on November 8, 2005. Consequently, we did not identify those materials as exhibits in our previous *Exhibit List*.²

Based on the foregoing, Complaint Counsel respectfully submit that we have shown good cause to add the above-mentioned exhibits to our *Second Final Proposed Exhibit List*. We request that the Court permit the addition of those exhibits. Attached is a proposed *Order* granting the requested relief.

Respectfully submitted,



Laureen Kapin (202) 326-3237
Lemuel Dowdy (202) 326-2981
Walter C. Gross III (202) 326-3319
Joshua S. Millard (202) 326-2454

² Yesterday afternoon, Complaint Counsel received a 1½ foot tall stack of documents from Corporate Respondents' counsel. We advised opposing counsel in September of our belief that Corporate Respondents had failed to turn over certain consumer complaints. Given the late document production, Complaint Counsel have not had time to review the documents in anything other than a cursory manner. Additionally, Complaint Counsel have not received the final transcript and exhibits for the recent deposition of Respondents' proposed expert, Respondent Mowrey. Consequently, Complaint Counsel wish to notify the Court that we may file another motion to add documents to our exhibit list, and/or may request other relief as appropriate, following the receipt and review of those materials.

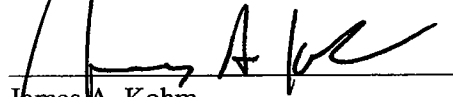
Edwin Rodriguez (202) 326-3147
Laura Schneider (202) 326-2604

Division of Enforcement
Bureau of Consumer Protection
Federal Trade Commission
600 Pennsylvania Avenue, N.W.
Counsel Supporting the Complaint

Date: December 22, 2005

CERTIFICATION OF REVIEWING OFFICIAL

I certify that I have reviewed the attached public filing, *Complaint Counsel's Motion for Leave to Add Additional Materials to Complaint Counsel's Second Final Exhibit List*, prior to its filing to ensure the proper use and redaction of materials subject to the *Protective Order* in this matter and protect against any violation of that *Order* or applicable RULE OF PRACTICE.



James A. Kohm
Associate Director, Division of Enforcement
Bureau of Consumer Protection

**UNITED STATES OF AMERICA
BEFORE THE FEDERAL TRADE COMMISSION
OFFICE OF ADMINISTRATIVE LAW JUDGES**

In the Matter of)
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DENNIS GAY,)
DANIEL B. MOWREY, and)
MITCHELL K. FRIEDLANDER,)
)
Respondents.)

Docket No. 9318

PUBLIC DOCUMENT

**ORDER GRANTING MOTION FOR LEAVE TO ADD ADDITIONAL MATERIALS TO
COMPLAINT COUNSEL'S SECOND FINAL PROPOSED EXHIBIT LIST**

On December 22, 2005, Complaint Counsel filed a motion requesting permission to add two interrogatory responses to their Second Final Proposed Exhibit List. Complaint Counsel received these responses from Respondents after the submission of their previous Exhibit List on November 8, 2005. Respondents have indicated, through counsel, that they do not oppose this request. Good cause having been shown for the addition of the interrogatory responses, it is hereby ordered that Complaint Counsel's Motion for Leave to Add Additional Materials to Complaint Counsel's Second Final Exhibit List is GRANTED.

ORDERED:

Stephen J. McGuire
Chief Administrative Law Judge

Date:

CERTIFICATE OF SERVICE

I hereby certify that on December 22, 2005, I caused the attached *Complaint Counsel's Motion for Leave to Add Additional Materials to Complaint Counsel's Second Final Exhibit List* to be served and filed as follows:

- (1) the original, two (2) paper copies, and one (1) electronic copy via email, filed with:
Donald S. Clark, Secretary
Federal Trade Commission
600 Penn. Ave., N.W., Room H-135
Washington, D.C. 20580
- (2) two (2) paper copies served by hand delivery to:
The Honorable Stephen J. McGuire
Chief Administrative Law Judge
600 Penn. Ave., N.W., Room H-113
Washington, D.C. 20580
- (3) one (1) electronic copy via email and one (1) paper copy by first class mail to the following persons:

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LLC, Basic Research, LLC,
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and BAN, LLC

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COMPLAINT COUNSEL