

**UNITED STATE OF AMERICA
BEFORE THE FEDERAL TRADE COMMISSION**

_____)
In the Matter of)
)
)
DYNAMIC HEALTH OF FLORIDA, LLC,)
CHHABRA GROUP, LLC,)
DBS LABORATORIES, LLC,)
Limited liability companies,)
)
VINCENT K. CHHABRA,)
Individually and as an officer of)
Dynamic Health of Florida, LLC,)
And Chhabra Group, LLC, and)
)
JONATHAN BARASH,)
Individually and as an officer of)
DBS Laboratories, LLC.)
_____)

DOCKET NO. 9317

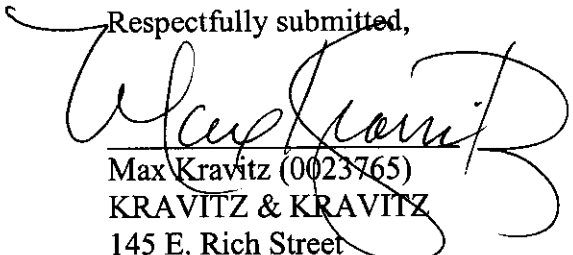
**RESPONDENTS VINCENT CHHABRA, DYNAMIC HEALTH OF SOUTH
FLORIDA, LLC, AND CHHABRA GROUP, LLC'S SECOND JOINT MOTION
FOR PROTECTIVE ORDER PURSUANT TO CIV.R. 26(C) AND FOR STAY OF
PROCEEDINGS**

TO THE HONORABLE STEPHEN J. McGUIRE:

COMES NOW Respondents Vincent Chhabra, Dynamic Health of South Florida, LLC and Chhabra Group, LLC (collectively referred to as "Respondents"), and respectfully request this Honorable Tribunal for a protective order pursuant to Civil Rule 26(C) and to stay the above-styled case until Respondent Vincent Chhabra has been sentenced and serves his sentence in the case of *United States v. Vincent Chhabra and Chhabra Group, LLC, et al.*, Criminal No. 03-530-A, United States District Court for the Eastern District of Virginia, Alexandria Division, Brinkema, J., presiding.

A stay of these proceedings (1) will be relatively short in duration, (2) would cause no serious damage to the public interest, (3) would not adversely affect in any way any government interest, (4) would impose no burden on the court, and (5) no evidence will be lost or destroyed due to the imposition of the stay order.

Respectfully submitted,



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MEMORANDUM IN SUPPORT

FACTUAL BACKGROUND

On or about June 15, 2004, the Federal Trade Commission ("FTC") filed the above-styled case.

Prior to the filing, the United States of America indicted Vincent Chhabra and Chhabra Group, LLC, on 108 counts, including Food, Drug and Cosmetic Act counts, numerous money laundering, conspiracy and substantive money laundering counts, and in the case of Mr. Chhabra, a count alleging the operation of a continuing criminal enterprise which carries a mandatory 20 year sentence if convicted. *United States v. Vincent Chhabra and Chhabra Group, LLC, et al.*, Criminal No. 03-530-A, United States District Court for the Eastern District of Virginia, Alexandria Division, Brinkema, J., presiding. Indictment (in pertinent part), Exhibit A attached. Mr. Chhabra and Chhabra Group, LLC, entered guilty pleas in the case and are awaiting sentencing.

Pursuant to his guilty plea, Mr. Chhabra will be sentenced to 33 months in prison. Mr. Chhabra and Chhabra Group, LLC, have agreed to an Order of Forfeiture of all their assets and have agreed to disclose all assets acquired in the last seven years with a value exceeding \$1,000.

Mr. Chhabra has a real, present apprehension of harm if this case is not stayed. Recently the United States moved to continue Mr. Chhabra's sentencing or, in the alternative, to vacate Mr. Chhabra's guilty plea and set the case for trial. See, Docket Sheet, *United States v. Vineet Chhabra et al.*, Case No. 03-530-A, Eastern District of Virginia, Alexandria Division, Docket No. 507, Government's Motion as to Vineet K. Chhabra, VKC Consulting, LLC, Chhabra Group, LLC by USA to Vacate Plea or in the alternative by USA, to Continue Sentencing Date, Exhibit A (in part) attached. In December 2004, the district court dismissed the government motion to vacate without prejudice, and ordered that the parties confer and agree on a new sentencing date. See, Docket Sheet, Docket No. 510, Exhibit A attached.¹ For all practical purposes, Respondents Chhabra and Chhabra Group, LLC, are unable to meaningfully participate in this process at this time because the allocation of resources to the defense of this action might render them liable for contempt (or worse) of the restraining order and Order of Forfeiture rendered in Virginia. The government has seized literally millions of dollars in assets that will be forfeited at the conclusion of the criminal case.

SUMMARY OF ARGUMENT

¹ In addition to the indictment and guilty pleas, on November 24, 2003, the district court issued a Restraining Order enjoining and restraining Vincent Chhabra and Chhabra Group, LLC, "their agents, representatives, servants, employees, attorneys, family members" and others from "selling, transferring, assigning, pledging, distributing, giving away, encumbering or otherwise participating in the disposal of or removal from the jurisdiction of [the Alexandria district court] . . . of any property, real or personal, of the defendants." Restraining Order (in pertinent part), p.2, Exhibit B, Respondents' First Joint Motion for Protective Order and Stay of Proceedings, July 27, 2004.

Neither Vincent Chhabra, Chhabra Group, LLC or Dynamic Health of Florida, LLC, have the resources to defend this case at this time. Dynamic Health of Florida, LLC, and Chhabra Group, LLC, are defunct corporations with no assets. Chhabra Group, LLC, and Mr. Chhabra have entered guilty pleas in Virginia but have not been sentenced. Mr. Chhabra will be incarcerated. Chhabra Group, LLC and Dynamic Health of Florida, LLC, do not have a Fifth Amendment privilege against self-incrimination. Mr. Chhabra, however, will assert his Fifth Amendment privilege to all discovery until his criminal case is concluded unless provided protection coextensive with the protections set forth in *Kastigar v. United States*, 406 U.S. 441 (1972). This civil proceeding, if not temporarily deferred, will undermine Mr. Chhabra's Fifth Amendment privilege against self-incrimination, or unfairly have Mr. Chhabra's assertions of the privilege used against him as an adverse inference concerning the merits of his defenses. A delay of this civil proceeding will not seriously jeopardize any public or government interest.

LEGAL ARGUMENT

A court has the discretion to stay civil proceedings, postpone civil discovery, or impose protective orders and conditions "when the interests of justice seem to require such action, sometimes at the request of the prosecution . . . sometimes at the request of the defense." *United States v. Kordel*, 397 U.S. 1, 12 n.27 (1970).

Other than where there is specific evidence of agency bad faith or malicious governmental tactics, the strongest case for deferring civil proceedings until after completion of criminal proceedings is where a party under indictment for a serious offense is required to defend a civil or administrative action involving the same matter.

Securities and Exchange Commission v. Dresser Industries, Inc., 628 F.2d 1368, 1375-76 (D.C. Cir. 1980). See also, *Wehling v. Columbia Broadcasting System*, 608 F.2d 1084, 1089 (5th Cir. 1979) *rehearing denied*, 611 F.2d 1026.

Courts generally apply a balancing test, weighing the advantages to the movant against the harm to others which would result from granting the motion for a stay. In *Federal Savings and Loan Insurance Corp. v. Molinaro*, 889 F.2d 899, 903 (9th Cir. 1989), the Ninth Circuit set out five factors for consideration in determining whether a stay should be issued: (1) plaintiff's interests in resolving the civil case quickly; (2) the burdens a stay will impose upon the Respondents; (3) the effect a stay will have on the courts; (4) third parties' interests; and (5) the public's interest. For example, in *Molinaro*, a stay was denied because the defendant was disposing of assets, the civil case had been pending more than one year, and non-parties would be "frustrated" by the delay. The court found most important, however, the lack of a criminal indictment. None of these factors is present in this case.

1. The burdens imposed on Mr. Chhabra by proceeding with this case at this time are great.

The strongest argument for a stay in a civil case occurs after an indictment is returned. *Southern District of New York Judge Milton Pollak in Parallel Civil and Criminal Proceedings*, 129 F.R.D. 201, 203 (1989) ("potential harm to civil litigants arising from delaying them is reduced due to the promise of a fairly quick resolution of the criminal case under the Speedy Trial Act"); *Dienstag v. Bronsen*, 49 F.R.D. 327 (S.D.N.Y. 1970) (civil discovery stayed where criminal case pending to protect Fifth Amendment privilege).

The prejudice to Respondents by proceeding immediately with discovery and other timetables is great. If the civil proceeding is allowed to proceed, an “adverse inference” instruction may be requested concerning Mr. Chhabra if he asserts his Fifth Amendment privilege. If Mr. Chhabra intends to testify during a deposition or at the trial of this matter, his testimony, at a minimum, could arguably be used to bolster the government’s recent attempt to vacate his guilty plea or at a subsequent criminal trial.²

² The protection extends to grand jury proceedings, civil proceedings and applies not only to evidence which may directly support a criminal conviction, but to information which would furnish a link in the chain of evidence that could lead to prosecution, as well as evidence which an individual reasonably believes could be used against him in a criminal prosecution. *Marchetti v. United States*, 390 U.S. 39 (1968); *McCarthy v. Arndstein*, 266 U.S. 34 (1924); *Ohio v. Reiner*, 532 U.S. 17, 20-21 (2001), citing *Hoffman v. United States*, 341 U.S. 479, 486 (1951). “[I]t need only be evident from the implications of the question, in the setting in which it is asked, that a response answer to the question or an explanation of why it cannot be answered might be dangerous because injurious disclosure could result.” *Ohio v. Reiner*, 532 U.S. 20-21, citing *Hoffman*, 341 U.S. 486-487.

In determining a claim of privilege under the Fifth Amendment, deference is accorded to those who seek to invoke the privilege. *United States v. Lowell*, 649 F.2d 950, 963-64 (3rd Cir. 1981). There is a strong presumption against finding that a person has waived a constitutional right. *Johnson v. Zerbst*, 304 U.S. 458, 464 (1938), and a waiver of the Fifth Amendment privilege must be knowingly, intelligently and voluntarily waived. *Gardener v. Broderick*, 392 U.S. 273, 276 (1968).

In determining whether a response may incriminate, courts cannot compel a claimant to respond since compelling a response would “surrender the very protection the privilege is designed to guarantee.” *Hoffman v. United States*, 341 U.S. 479, 486 (1951). The privilege may be invoked even though a claimant insists that he has never committed a crime and is innocent. *Ohio v. Reiner*, 532 U.S. at 21 (“To the contrary, we have emphasized that one of the Fifth Amendment’s ‘basic functions . . . is to protect innocent [women] . . . who otherwise might be ensnared by ambiguous circumstances.’”); *Grunewald v. United States*, 353 U.S. 391, 421 (1957). A response cannot be compelled unless it is “perfectly clear” from a careful consideration of all the circumstances in the case that the witness “cannot possibly” incriminate himself. *Hoffman*, 341 U.S. at 488.

“[T]here are testimonial and potentially incriminating communications inherent in the act of responding to a subpoena which may themselves be protected by the Fifth Amendment.” *United States v. Hubbell*, 167 F.3d 552 (D.C.Cir. 1999), *affirmed*, 120 S.Ct. 2037 (1999). The act of production communicates at least four different statements. It testifies to the fact that: (i) documents responsive to a given subpoena exist; (ii) they are in the possession or control of the subpoenaed party; (iii) the documents provided in the response to the subpoena are authentic; and (iv) the responding party believes that the documents produced are those described in the subpoena. *Hubbell*, 167 F.3d 567-68.

In *Fisher v. United States*, 425 U.S. 391 (1976), the Supreme Court also held that the act of producing documents pursuant to a subpoena duces tecum is protected by the fifth amendment privilege. The *Fisher* holding was restated by the Supreme Court in *United States v. Doe*, 465 U.S. 605 (1984): the act of production and its implicit authentication of the documents could constitute a testimonial communication, and absent a grant of immunity, a person could not be compelled to produce business records. Precisely when the act of production is sufficiently testimonial to come within the umbrella of Fifth Amendment protection is a case specific, factual inquiry in this “admittedly abstract and under-determined area of the law.” *Hubbell*, 167 F.3d at 570. “Compelled testimony that communicates information that may “lead to incriminating evidence” is privileged even if the information itself is not

The government has prohibited Mr. Chhabra from allocating any resources to the defense of this action at this time.

Mr. Chhabra is not a voluntary party to this action. At the present time, he is committed to defending this litigation in a professional, albeit extremely frugal, manner. He cannot be defaulted, or be required to surrender his right to defend this case merely because the government has crippled his ability to do so, or because he has a realistic apprehension that even his innocent responses during discovery or trial will be used by the government in an attempt to harm him. *Ohio v. Reiner*, 532 U.S. 17, 21 2001; *Grunewald v. United States*, 353 U.S. 391, 421 (1957); *Mitchell v. United States*, 526 U.S. 314 (1999); *Heath v. Alabama*, 474 U.S. 82 (1985).

2. Complaint Counsel's legitimate interests in resolving this case quickly are virtually non-existent.

inculpatory." *Doe v. United States*, 487 U.S. 201, 208n6 (1988); *United States v. Hubbell*, 120 S.Ct. 2037, 2044 (2000). The Supreme Court concluded in *Hubbell*:

In sum, we have no doubt that the constitutional privilege against self-incrimination protects the target of a grand jury investigation from being compelled to answer questions designed to elicit information about the existence of sources of potentially incriminating evidence. That constitutional privilege has the same application to the testimonial aspect of a response to a subpoena seeking discovery of those sources.

Id. at 2047.

Nor can the government attempt to argue that the existence of the records subpoenaed are a "foregone conclusion" and therefore outside the scope of Fifth Amendment protection. See *Fisher v. United States*, 425 U.S. 391 (1975). As a threshold matter, even the United States Supreme Court is unclear as to the scope of the "foregone conclusion" rationale. See *Hubbell*, 120 S. Ct. at 2048. In *Hubbell*, the Court rejected the government argument that individuals, and particularly business people, will always possess general business and tax records that fall within the categories described in the attached subpoena. The Court noted that "[t]he *Doe* subpoenas also sought several broad categories of general business records, yet we upheld the District Court's finding that the act of producing those records would involve testimonial self-incrimination." *Hubbell*, 120 S.Ct. at 2048.

See also, *Federal Trade Commission v. Medicor, LLC*, 217 F. Supp. 2d 1048, 1053 (C.D.Cal.W.D. 2002)(Although the court may draw adverse inferences from the failure of proof, "[t]here must, however, be evidence in addition to the adverse inference to support a court's ruling . . ." *Defendants silence may not lead "directly and without more to the conclusion of guilt or liability. Adverse inference can be drawn when silence is countered by independent evidence of the fact being questioned."*)(citations omitted)(emphasis in original). See also, *Estate of Lee B. Fisher v. Commissioner of Internal Revenue*, 905 F.2d 645 (2d Cir. 1990); *Securities and Exchange Commission v. Zimmerman*, 854 F. Supp. 896 (N.D.Ga. 1993).

Dynamic Health of Florida, LLC, and Chhabra Group, LLC, are defunct corporations that have no assets. Chhabra Group, LLC, has entered a guilty plea in the Eastern District of Virginia and agreed to a government forfeiture of whatever assets it might possess. Mr. Chhabra has also agreed to forfeit whatever assets he has and serve a sentence of incarceration.

Pedia Loss and Fabulously Feminine are the two products that concern this lawsuit. Both products were voluntarily discontinued during the fall of 2003. Neither product was ever placed in brick and mortar pharmacies or other brick and mortar retail establishments. The total internet sales of both products were between \$19,000 and \$20,000.³

A stay of this lawsuit until the proceedings in Virginia are terminated and Mr. Chhabra has served his sentence imposes no impediment on the government whatsoever. To the contrary, a stay of these proceedings frees up valuable resources and attorney time to pursue products and conduct that pose a present danger to consumers and the public.

3. A stay will not undermine any public interest, third party interest or court interest concerning this case when balanced against Mr. Chhabra's Due Process right to defend this case and assert his Fifth Amendment privilege against self-incrimination.

Respondents' Counsel is sensitive to the Court's interest in expeditiously resolving cases. However, that interest sometimes must fall when balanced against a litigant's constitutional rights. Cf. *Simmons v. United States*, 390 U.S. 377, 394

³ The Assistant United States Attorneys in the Eastern District of Virginia will not release any of the millions of dollars in forfeited assets to either counsel for Chhabra or counsel for the FTC for use in an attempt to settle this case. It should be noted that even if funds were made available, Complaint Counsel would not resolve this case on that basis alone.

The fact that Respondents would obviously prefer to settle, rather than try this case, bears no relationship to the merits of the defenses asserted in Respondents' Answer. The preference to settle is solely related to the expenses and time that would be needed to defend two products that are no longer being distributed to the public and whose gross sales total approximately \$19,000 to \$20,000.

(1968)(The Supreme Court has disapproved of procedures which require a party to surrender one constitutional right in order to assert another.). To counsel's knowledge, no consumer has been injured by the products in question. To counsel's knowledge, no consumer has even complained about these products to the FTC. Any alleged harm is not on-going. A stay until Mr. Chhabra is sentenced and serves his sentence will only lead to a full and fair consideration of the issues in this case.

CONCLUSION

All courts have broad powers to regulate or prevent discovery. A stay of trial proceedings until after Mr. Chhabra is sentenced in Alexandria, Virginia and serves his sentence is well within the discretion of the district court. A stay of the civil suit would not be prejudicial to any party or injure the public trust, or frustrate any important governmental interest. The refusal to grant a stay will cripple Respondents ability to defend this action, result in substantial prejudice to Respondents' rights and deny Respondents due process of law.

Mr. Chhabra has not claimed that he will not respond to discovery requests or refuse to testify at trial. Instead, Mr. Chhabra asks only that discovery and trial be stayed until all threat of criminal liability has ended. No unfairness to Complaint Counsel will result from granting this request. *Wehling v. Columbia Broadcasting System*, 608 F.2d 1084, 1087-88 (5th Cir. 1980), *rehearing denied*, 611 F.2d 1026.

Respectfully submitted,

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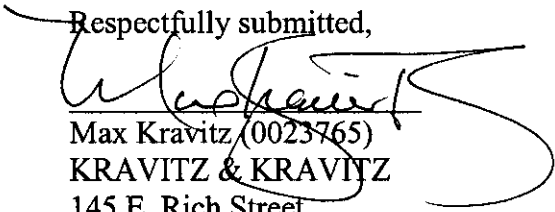
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Mr. Chhabra has not claimed that he will not respond to discovery requests or refuse to testify at trial. Instead, Mr. Chhabra asks only that discovery and trial be stayed until all threat of criminal liability has ended. No unfairness to Complaint Counsel will result from granting this request. *Wehling v. Columbia Broadcasting System*, 608 F.2d 1084, 1087-88 (5th Cir. 1980), *rehearing denied*, 611 F.2d 1026.

Respectfully submitted,


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CERTIFICATE OF SERVICE

This is to certify that on December 19, 2004, I caused a copy of the attached

**RESPONDENTS SECOND JOINT MOTION FOR PROTECTIVE ORDER
PURSUANT TO CIV.R. 26(C) AND FOR STAY OF PROCEEDINGS**

to be served upon the following persons by facsimile, email, Federal Express or U.S.

First Class Mail:

(1) the original and one (1) paper copy filed by Federal Express, and one electronic copy via email to:

Donald S. Clark, Secretary
Federal Trade Commission, Room 159
600 Pennsylvania Avenue, NW
Washington, DC 20580
E-mail: secretary@ftc.gov

(2) two (2) paper copies served by Federal Express and one electronic copy via email to:

The Honorable Stephen J. McGuire
Federal Trade Commission
600 Pennsylvania Avenue, NW
Washington, DC 20580
E-mail: dgross@ftc.gov

(3) one (1) electronic copy via email and one (1) paper copy via U.S. mail to:

Janet Evans
Syd Knight
Federal Trade Commission
600 Pennsylvania Avenue, NW
Washington, DC 20580
E-mail: jevans@ftc.gov

I further certify that the electronic copy sent to the Secretary of the Commission is a true and correct copy of the paper original, and that a paper copy with an original signature is being filed with the Secretary of the Commission by being sent by Federal Express.

Dated: Columbus, Ohio
December 19, 2004


/s/ Max Kravitz
Max Kravitz

Docket as of December 27, 2004 7:02 pm

Web PACER (v2.4)

U.S. District Court

Eastern District of Virginia (Alexandria)

CRIMINAL DOCKET FOR CASE #: 03-CR-530-ALL

USA, et al v. Chhabra, et al

Filed: 12/04/03

Dkt# in other court: None

Case Assigned to: Judge Leonie M. Brinkema

VINEET K. CHHABRA (1)
aka
Vincent K. Chhabra
defendant

Thomas Gerard Connolly
[COR LD NTC ret]
Harris Wiltshire & Grannis LLP
1200 18th Street, NW
Suite 1200
Washington, DC 20036
(202) 730-1339

Defendant Assigned to: Judge Leonie M. Brinkema

Pending Counts:

Disposition

[21:846=CD.F] 21:846
Conspiracy to Violate the
Controlled Substances Act
(October 2003) FORFEITURE
(1s)

Dismissed upon Motion of the
United States
(26s)

[21:841A=CD.F] 21:841(a) (1),
841(b) (1) (D), 841(b) (2); 18:2
and 21 CFR 1306.04 Unlawful
Distribution and Dispensing of
Controlled Substances (5.5.99)
FORFEITURE
(26s)

Offense Level (opening): 4

Terminated Counts:

Disposition

[21:846=CD.F] 21:846
Conspiracy to Distribute and
Dispense Sch. III and IV
Controlled Substances and to

DISMISSED per filing of
Superseding Indictment
(1)

12/8/04 494 Rule 35 MOTION by Daniel L. Thompson to Correct Sentencing Error (pmet) [Entry date 12/08/04]

12/8/04 495 MOTION by Daniel L. Thompson for Stay of Execution of Prison Sentence Pending Disposition of Appeal (pmet) [Entry date 12/08/04]

12/8/04 496 POSITION with Respect to Sentencing Factors by Chhabra Group, LLC, VKC Consulting, LLC (pmet) [Entry date 12/08/04]

12/8/04 497 RESPONSE by USA to Petition of Michelle Spears and Lawrence Spears (rtra) [Entry date 12/08/04]

12/8/04 498 MOTION with Memorandum in support of Payment in Excess of CJA Allowable Maximum by James A. Trovato Jr. [Filed Ex Parte and Under Seal] (rtra) [Entry date 12/08/04]

12/9/04 499 Rule 35(b) MOTION as to Daniel M. Varalli by USA to Reduce Sentence (pmet) [Entry date 12/09/04]

12/9/04 500 MEMORANDUM by USA as to Daniel M. Varalli in support of [499-1] motion by USA to Reduce Sentence (pmet) [Entry date 12/09/04]

□

12/9/04 501 NOTICE of Hearing as to Daniel M. Varalli:, Motion Hearing Deadline before Judge Leonie M. Brinkema set for 9:00 12/17/04 for Daniel M. Varalli for [499-1] motion by USA to Reduce Sentence (pmet) [Entry date 12/09/04]

12/10/04 502 Petitioner's RESPONSE to [481-1] Government's response to petition of Hill & Knowlton/SAMCOR, LLC (pmet) [Entry date 12/10/04]

12/10/04 503 Order requesting Michelle Spears, Lawrence Spears to reply, should they choose to do so, to [497-1] response by USA within 10 Days (Signed by Judge Leonie M. Brinkema) (pmet) [Entry date 12/13/04]

12/13/04 504 Reply by Prosys Information to [480-1] Response by USA (pmet) [Entry date 12/13/04]

12/13/04 505 RESPONSE by USA to [494-1] Rule 35 motion by Daniel L. Thompson to Correct Sentencing Error (pmet) [Entry date 12/13/04]

12/14/04 506 Unopposed MOTION by Daniel M. Varalli to Continue from 12-17-2004 until 01-14-2005 (pmet) [Entry date 12/14/04]

12/15/04 -- Deadline updated as to Daniel M. Varalli Motion Hearing Deadline before Judge Leonie M. Brinkema set for 9:00 1/28/05 for Daniel M. Varalli for [499-1] motion by USA to Reduce Sentence (jcup) [Entry date 12/15/04]

12/15/04 -- USCA Case Number as to Daniel L. Thompson Re: [493-1] appeal USCA Number: 04-5062 Case Manager: Lisa D. Nesbitt (pmet) [Entry date 12/15/04]

12/15/04 507 Government's MOTION as to Vineet K. Chhabra, VKC Consulting, LLC, Chhabra Group, LLC by USA to Vacate Plea or in the alternative by USA to Continue Sentencing Date (pmet) [Entry date 12/15/04]

12/15/04 508 ORDER granting in part [506-1] motion by Daniel M. Varalli

to Continue Motion Hearing from 12-17-2004. Hearing is scheduled for 01-28-2005 at 9:00am (Signed by Judge Leonie M. Brinkema) Copies Mailed: y (pmet) [Entry date 12/16/04]

- 12/15/04 509 ORDER transferring jurisdiction from Eastern District of Virginia to Northern District of Ohio as to Laurence L. Cokerille Jr. (Signed by Judge Leonie M. Brinkema) Copies Mailed: y (pmet) [Entry date 12/16/04]
-
- 12/16/04 -- Probation jurisdiction transferred out as to Laurence L. Cokerille Jr. Transmitted to the Clerk, Northern District of Ohio, Transfer of Jurisdiction form, with certified copies of Indictment, Plea Agreement, Statement of Facts, Judgment and docket sheet. Copy of letter of transmittal w/certified copy of Transfer of Jurisdiction forwarded to USPO in VA and OH. (pmet) [Entry date 12/16/04]
- 12/16/04 510 ORDER dismissing without prejudice [507-1] motion by USA to Vacate Plea as to Vineet K. Chhabra (1), Chhabra Group, LLC (12), VKC Consulting, LLC (13), granting [507-2] motion by USA to Continue Sentencing Date as to Vineet K. Chhabra (1), Chhabra Group, LLC (12), VKC Consulting, LLC (13) ORDERED that the parties confer and suggest to the Court a new sentencing date for the three defendants. (Signed by Judge Leonie M. Brinkema) Copies Mailed: y (pmet) [Entry date 12/16/04]
- 12/16/04 511 ORDER as to Arturo L. Portales granting leave to travel (See Order for details) (Signed by Judge Leonie M. Brinkema) Copies Mailed: y (pmet) [Entry date 12/16/04]
- 12/16/04 512 Opposition by USA to [495-1] motion by Daniel L. Thompson for Stay of Execution of Prison Sentence Pending Disposition of Appeal (pmet) [Entry date 12/16/04]
- 12/17/04 513 RESPONSE by USA [504-1] Reply of Prosys Information Systems' Inc. (pmet) [Entry date 12/17/04]
- 12/20/04 514 ORDER as to Arturo L. Portales, that the dft's self surrender date is hereby extended to 1/4/05. All other conditions of his conditions of release remain the same (Signed by Judge Leonie M. Brinkema) Copies Mailed: Yes (kjon) [Entry date 12/20/04]
- 12/20/04 515 MOTION by James A. Trovato Jr. to Amend [492-1] judgment order dated 12/3/04 (kjon) [Entry date 12/21/04]
- 12/21/04 516 ORDER for Richard A. Sharpstein to appear pro hac vice Filing Fee Paid \$ 50.00 Receipt # 100 177260 (Signed by Judge Leonie M. Brinkema) Copies Mailed: Yes (kjon) [Entry date 12/22/04]
- 12/23/04 517 ORDER granting [515-1] motion by James A. Trovato Jr. to Amend [492-1] judgment order dated 12/3/04 as to James A. Trovato (4). ORDERED that this Order be attached to the Judgment and Commitment Order and sent to the BOP as evidence that the Court recommends the drug program and designation discussed herein. (See Order for details) (Signed by Judge Leonie M. Brinkema) Copies Mailed: y (pmet) [Entry date 12/27/04]
- 12/27/04 518 Reply by Michelle Spears, Lawrence Spears to [497-1] Response by USA (pmet) [Entry date 12/27/04]

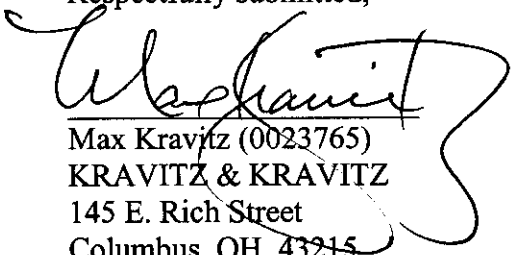
**UNITED STATE OF AMERICA
BEFORE THE FEDERAL TRADE COMMISSION**

_____))
In the Matter of))
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DYNAMIC HEALTH OF FLORIDA, LLC,))
CHHABRA GROUP, LLC,))
DBS LABORATORIES, LLC,))
 Limited liability companies,))
))
VINCENT K. CHHABRA,))
 Individually and as an officer of))
 Dynamic Health of Florida, LLC,))
 And Chhabra Group, LLC, and))
))
JONATHAN BARASH,))
 Individually and as an officer of))
 DBS Laboratories, LLC.))
_____))

DOCKET NO. 9317

**RESPONDENTS VINCENT CHHABRA, DYNAMIC HEALTH OF SOUTH
FLORIDA, LLC, AND CHHABRA GROUP, LLC'S PROPOSED ORDER
CONCERNING SECOND JOINT MOTION
FOR PROTECTIVE ORDER PURSUANT TO CIV.R. 26(C) AND FOR STAY OF
PROCEEDINGS**

Attached is a proposed Order concerning Respondents' Second Joint Motion for Protective Order Pursuant to Civ. R. 26(C) and for Stay of Proceedings.

Respectfully submitted,

Max Kravitz (0023765)
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**UNITED STATE OF AMERICA
BEFORE THE FEDERAL TRADE COMMISSION**

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In the Matter of)	
)	
)	
DYNAMIC HEALTH OF FLORIDA, LLC,)	
CHHABRA GROUP, LLC,)	
DBS LABORATORIES, LLC,)	
Limited liability companies,)	
)	
VINCENT K. CHHABRA,)	DOCKET NO. 9317
Individually and as an officer of)	
Dynamic Health of Florida, LLC,)	
And Chhabra Group, LLC, and)	
)	
JONATHAN BARASH,)	
Individually and as an officer of)	
DBS Laboratories, LLC.)	
)	
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**[Proposed] ORDER GRANTING RESPONDENTS' MOTION FOR
STAY OF PROCEEDINGS**

On _____, Respondents' Counsel filed a Second Joint Motion for Protective Order and Stay of Proceedings. After balancing the interests of the parties and the public concerning this motion,

IT IS HEREBY ORDERED that the motion for the stay of proceedings is GRANTED. This case is stayed until Mr. Chhabra is sentenced and has served his sentence arising from his guilty plea in the Eastern District of Virginia. Respondents' Counsel is directed to notify the Court when Mr. Chhabra is released from federal incarceration.

Stephen J. McGuire
Chief Administrative Law Judge

Dated:

CERTIFICATE OF SERVICE

This is to certify that on December 19, 2004, I caused a copy of the attached
**RESPONDENTS PROPOSED ORDER CONCERNING SECOND JOINT
MOTION FOR PROTECTIVE ORDER PURSUANT TO CIV.R. 26(C) AND FOR
STAY OF PROCEEDINGS**

to be served upon the following persons by facsimile, email, Federal Express or U.S.

First Class Mail:

(1) the original and one (1) paper copy filed by Federal Express, and one electronic copy via email to:

Donald S. Clark, Secretary
Federal Trade Commission, Room 159
600 Pennsylvania Avenue, NW
Washington, DC 20580
E-mail: secretary@ftc.gov

(2) two (2) paper copies served by Federal Express and one electronic copy via email to:

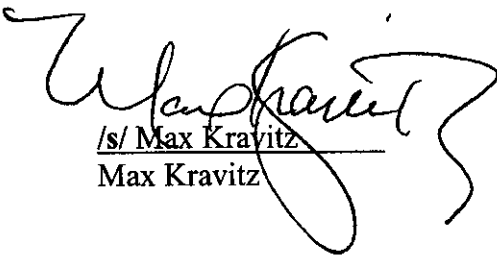
The Honorable Stephen J. McGuire
Federal Trade Commission
600 Pennsylvania Avenue, NW
Washington, DC 20580
E-mail: dgross@ftc.gov

(3) one (1) electronic copy via email and one (1) paper copy via U.S. mail to:

Janet Evans
Syd Knight
Federal Trade Commission
600 Pennsylvania Avenue, NW
Washington, DC 20580
E-mail: jevans@ftc.gov

I further certify that the electronic copy sent to the Secretary of the Commission is a true and correct copy of the paper original, and that a paper copy with an original signature is being filed with the Secretary of the Commission by being sent by Federal Express.

Dated: Columbus, Ohio
December 19, 2004


/s/ Max Kravitz
Max Kravitz