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**UNITED STATES DISTRICT COURT
 FOR THE WESTERN DISTRICT OF OKLAHOMA**

FEDERAL TRADE COMMISSION,)		
)		
Plaintiff,	)		Hon.
	)		Civil Action No.
v.)		
)		
BLUE STUFF, INC.,	)		STIPULATED FINAL ORDER
	)		FOR PERMANENT
JACK MCCLUNG, and	)		INJUNCTION AND
	)		SETTLEMENT OF CLAIMS
MCCLUNG ADVERTISING, INC.,	)		FOR MONETARY RELIEF
)		
Defendants, and)		
)		
EMMA MCCLUNG,)		
)		
Relief Defendant.)		
_____)		

Plaintiff, the Federal Trade Commission (“FTC” or “Commission”) filed a Complaint for permanent injunction and other relief against Blue Stuff, Inc., Jack McClung, and McClung Advertising, Inc., (collectively, “Defendants”), and Emma McClung as a relief defendant (“Relief Defendant”) pursuant to Section 13(b) of the Federal Trade Commission Act (“FTC Act”), 15

U.S.C. § 53(b), alleging violations of Sections 5 and 12 of the FTC Act, 15 U.S.C. §§ 45, 52.

Defendants and Relief Defendant deny the allegations in the Complaint, except jurisdictional facts, but are willing to agree to the entry of the following Stipulated Final Order for Permanent Injunction and Settlement of Claims for Monetary Relief (“Order”).

The Commission, Defendants, and Relief Defendant have stipulated to the entry of the following Order in settlement of the Commission’s Complaint against Defendants and Relief Defendant. The Court, being advised in the premises, finds:

FINDINGS

1. This Court has jurisdiction over the subject matter of this case and jurisdiction over all parties. Venue in the Western District of Oklahoma is proper.
2. The Complaint states a claim upon which relief can be granted, and the Commission has the authority to seek the relief it has requested.
3. The activities of Defendants are in or affecting commerce, as defined in 15 U.S.C. § 44.
4. Defendants and Relief Defendant waive all rights to seek judicial review or otherwise challenge or contest the validity of this Order. Defendants and Relief Defendant also waive any claim that they may have held under the Equal Access to Justice Act, 28 U.S.C. § 2412, concerning the prosecution of this action to the date of this Order.
5. Each party shall bear its own costs and attorneys’ fees.
6. Entry of this Order is in the public interest.

DEFINITIONS

For purposes of this Order, the following definitions shall apply:

1. Unless otherwise specified, “Defendants” shall mean:
 - A. Blue Stuff, Inc. (“BSI”), a corporation, its divisions and subsidiaries, and its successors and assigns;
 - B. Jack McClung, individually and in his capacity as a director or officer of BSI; and
 - C. McClung Advertising, Inc. which sometimes does business as MacAds (“McClung Advertising”), a corporation, its divisions and subsidiaries, and its successors and assigns.
2. Unless otherwise specified, “Relief Defendant” shall mean Emma McClung.
3. “Target Products” shall mean Blue Stuff Gel, Super Blue Stuff Gel, Essential Stuff capsules, Her Stuff, and any substantially similar product containing one or more of the ingredients in the current target products.
4. “Competent and reliable scientific evidence” shall mean tests, analyses, research, studies, or other evidence based on the expertise of professionals in the relevant area, that has been conducted and evaluated in an objective manner by persons qualified to do so, using procedures generally accepted in the profession to yield accurate and reliable results.
5. “Food,” “drug,” “device,” and “cosmetic,” shall mean “food,” “drug,” “device,” and “cosmetic” as defined in Section 15 of the FTC Act, 15 U.S.C. § 55.
6. “Covered product” means any dietary supplement, food, drug, cosmetic, or

device.

7. “Commerce” shall mean as defined in Section 4 of the Federal Trade Commission Act, 15 U.S.C. § 44.
8. A requirement that any Defendant or Relief Defendant “notify the Commission” shall mean that the Defendant or Relief Defendant shall send the necessary information via first-class mail, costs prepaid, to the Associate Director for Advertising Practices, Federal Trade Commission, 600 Pennsylvania Ave., N.W., Washington, D.C. 20580. Attn: FTC v. Blue Stuff, Inc. et al., (W.D. Okla.).
9. The term “including” in this Order shall mean “without limitation.”
10. The terms “and” and “or” in this Order shall be construed conjunctively or disjunctively as necessary, to make the applicable phrase or sentence inclusive rather than exclusive.

I. PROHIBITION ON UNSUBSTANTIATED CLAIMS

IT IS HEREBY ORDERED that Defendants BSI, Jack McClung, and McClung Advertising, directly or through any corporation, subsidiary, division, trade name, or other device, and their officers, agents, servants, employees and all persons or entities in active concert or participation with them who receive actual notice of this Order, by personal service or otherwise, in connection with the manufacturing, labeling, advertising, promotion, offering for sale, sale, or distribution of the target products, are hereby permanently restrained and enjoined from making any representation, in any manner, expressly or by implication, that:

- a. The target products, such as Super Blue Stuff or Blue Stuff, provide significant or complete relief from severe pain, including but not limited to pain from nerve

damage, arthritis, shingles, crushed vertebrae, fibromyalgia, sciatic nerve injury, brain tumors, sinus headache, or other conditions; or

- b. The target products, such as Super Blue Stuff or Blue Stuff, are more effective than other products or treatments in relieving or eliminating severe pain;

unless, at the time it is made, Defendants possess and rely upon competent and reliable scientific evidence that substantiates the representation.

II. PROHIBITION ON FALSE CLAIMS

IT IS FURTHER ORDERED that Defendants, directly or through any corporation, subsidiary, division, trade name, or other device, and their officers, agents, servants, employees and all persons or entities in active concert or participation with them who receive actual notice of this Order, by personal service or otherwise, in connection with the manufacturing, labeling, advertising, promotion, offering for sale, sale, or distribution of any target products, shall not misrepresent that:

- A. The target products, such as Essential Stuff, reduce cholesterol; or
- B. The target products, such as natural progesterone products including Her Stuff, have been medically proven to slow bone loss or improve bone density.

III. COVERED PRODUCT CLAIMS

IT IS FURTHER ORDERED that Defendants BSI, Jack McClung, and McClung Advertising, directly or through any corporation, subsidiary, division, trade name, or other device, and their officers, agents, servants, employees and all persons or entities in active concert or participation with them who receive actual notice of this Order, by personal service or otherwise, in connection with the manufacturing, labeling, advertising, promotion, offering for sale, sale, or

distribution of any covered product, are hereby permanently restrained and enjoined from making any representation, in any manner, expressly or by implication, about the absolute or comparative health benefits, performance, efficacy, safety, or side effects, of any covered product unless, at the time the representation is made, Defendants possess and rely upon competent and reliable scientific evidence that substantiates the representation.

IV. MISREPRESENTATIONS OF TESTS OR STUDIES

IT IS FURTHER ORDERED that Defendants BSI, Jack McClung, and McClung Advertising, directly or through any corporation, subsidiary, division, trade name, or other device, and their officers, agents, servants, employees and all persons or entities in active concert or participation with them who receive actual notice of this Order, by personal service or otherwise, in connection with the manufacturing, labeling, advertising, promotion, offering for sale, sale, or distribution of any covered product, are hereby permanently restrained and enjoined from misrepresenting, in any manner, expressly or by implication, the existence, contents, validity, results, conclusions, or interpretations of any test or study.

V. FDA APPROVED CLAIMS

IT IS FURTHER ORDERED that:

1. Nothing in this Order shall prohibit Defendants from making any representation for any drug that is permitted in labeling for such drug under any tentative final or final standard promulgated by the Food and Drug Administration, or under any new drug application approved by the Food and Drug Administration, including, but not limited to, *External Analgesic Drug Products for Over-the-Counter Human Use; Tentative Final Monograph*, 48 Fed. Reg. 5852 (February 8, 1983).

2. Nothing in this Order shall prohibit Defendants from making any representation for any product that is specifically permitted in labeling for such product by regulations promulgated by the Food and Drug Administration pursuant to the Nutrition Labeling and Education Act of 1990.

VI. MONETARY JUDGMENT AND CONSUMER REDRESS

IT IS FURTHER ORDERED that judgment in the amount of three million dollars (\$3,000,000.00) is hereby entered against Defendants BSI, Jack McClung, and McClung Advertising, and Emma McClung, as Relief Defendant, jointly and severally, which shall be paid as follows:

- A.
1. Within twenty (20) days of the date of entry of this Order, Defendants BSI, Jack McClung, and McClung Advertising and Relief Defendant Emma McClung shall pay the sum of one million dollars (\$1,000,000.00) to the Commission; and
 2. By December 31, 2002, Defendants BSI, Jack McClung, and McClung Advertising and Relief Defendant Emma McClung shall pay the sum of an additional one million dollars (\$1,000,000.00) to the Commission; and
 3. Thereafter, Defendants BSI, Jack McClung, and McClung Advertising and Relief Defendant Emma McClung shall pay the sum of eighty three thousand, three hundred and thirty three dollars (\$83,333.00) on January 31, 2003 and on the last day of each following month, until the final one million dollars (\$1,000,000.00) is paid in full.

All payments shall be made by certified check or other guaranteed funds payable to and delivered to the Commission, or by wire transfer in accord with directions provided by the Commission.

- B. In the event of any default in the above payments, the Defendants shall not transfer any of their assets into any charitable organization, including but not limited to, the Loyd McClung Foundation. Further, in the event of any default in the above payments, unless any Defendant cures the default within thirty (30) days of receiving written notice of default from the Commission, the Court shall enter judgment against the Defendants and Relief Defendant, jointly and severally, in the amount of four million dollars (\$4,000,000.00) in U.S. currency, minus any payments previously made under Paragraph A of this Part V, which amount would be rendered immediately due and payable. For the purpose of this Paragraph, the Defendants and Relief Defendant waive any right to contest any of the allegations in the Complaint filed in this action.
- C. Defendants BSI, Jack McClung, and McClung Advertising, and Relief Defendant Emma McClung agree that until the Commission has received the full three million dollar (\$3,000,000.00) judgment from Defendants and Relief Defendant, Defendants and Relief Defendant will not transfer any of their assets (or any newly acquired assets) into any trusts, trust funds, or off-shore accounts.
- D. In the event that Defendants or Relief Defendant transfer or sell any of their rights in BSI or any interest therein (including but not limited to ownership or partial ownership of BSI or the right to market or sell Super Blue Stuff or Blue Stuff) to any person or entity in a transaction where the amount of net proceeds realized by the Defendants or Relief Defendant (after payment of all liabilities to secured creditors of Defendants or Relief Defendant relating to BSI and after the establishment of reasonable reserves for working capital) exceeds two million dollars (\$2,000,000), any funds then remaining to be paid to

the Commission pursuant to this Order shall become immediately due and shall be paid to the Commission within 30 days of the triggering event. If separate transfers of their rights in BSI occur, the funds obtained from each separate transaction shall be combined to determine whether there have been transfers or sales exceeding \$2,000,000. A secured loan and a license in exchange for a royalty shall not be deemed to be a sale or transfer of rights or interests in BSI.

- E. All funds paid pursuant to this Order shall be deposited into a fund administered by the Commission or a Redress Administrator designated by the Commission to be used for equitable relief, including but not limited to consumer redress for purchasers of Her Stuff, Essential Stuff, Blue Stuff, and Super Blue Stuff, and any attendant expenses for the administration of such equitable relief.
- F. In the event that direct redress to consumers is wholly or partially impracticable or funds remain after redress is completed, the Commission may apply any remaining funds for such other equitable relief (including consumer information remedies) as it determines to be reasonably related to the Defendants' practices alleged in the complaint. Any funds not used for such equitable relief shall be deposited in the United States Treasury as disgorgement. Defendants and Relief Defendant shall have no right to challenge the Commission's choice of remedies under this Paragraph. Defendants and Relief Defendant shall have no right to contest the manner of distribution chosen by the Commission. No portion of any payments under the judgement herein shall be deemed a payment of any fine, penalty, or punitive assessment.
- G. Defendants and Relief Defendant relinquish all dominion, control and title to the funds paid

to the Commission, and all legal and equitable title to the funds. Defendants and Relief Defendant shall make no claim to or demand for the return of the funds, directly or indirectly, through counsel or otherwise; and in the event of bankruptcy of any Defendant or Relief Defendant, Defendants and Relief Defendant acknowledge that the funds are not part of the debtor's estate, nor does the estate have any claim or interest therein.

- H. Defendants shall provide their complete customer lists, including most recently updated contact information and all prior purchase information, to the Commission within 30 days of the date of entry of this Order. The customer lists shall include the name and address of all purchasers of Her Stuff, Essential Stuff, Blue Stuff, and Super Blue Stuff, and shall include the number of each product purchased, the date of purchase, and the number of times each consumer made a repeat purchase.
- I. In accordance with 31 U.S.C. § 7701, Defendants and Relief Defendant are hereby required, unless they have done so already, to furnish to the FTC their taxpayer identifying number and/or social security number, which shall be used for purposes of collecting and reporting on any delinquent amount arising out of Defendants' and Relief Defendant's relationship with the government.

VII. RIGHT TO REOPEN

IT IS FURTHER ORDERED that:

- A. The Commission's agreement to this Order, requiring that the Defendants and Relief Defendant be liable for less than the full amount of alleged consumer injury, is expressly premised upon the truthfulness, accuracy and completeness of their sworn financial statements and supporting documents submitted to the Commission, namely the tax

returns for Jack McClung and Emma McClung provided on June 21, 2002; the corporate financial statements for BSI, submitted June 21, 2002 and July 11, 2002; the individual financial report statements for Jack McClung and Emma McClung, submitted July 11, 2001, the corporate tax returns for BSI submitted on July 11, 2002, and the letter, submitted September 20, 2002, regarding the Loyd McClung Foundation. Such financial statements and supporting documents contain material information upon which the Commission relied in negotiating and agreeing to this Order.

B. If, upon motion by the Commission, this Court finds that Defendants or Relief Defendant have failed to disclose any material asset, or made any other material misrepresentation or omission in the above-referenced financial statements, the Court shall enter a judgment against Defendants and Relief Defendant in favor of Plaintiff for the value of the omitted item or the difference between the represented and actual value of the asset in question.

Provided further that, if upon motion by the Commission, this Court finds that the Defendants or Relief Defendant knowingly failed to disclose any material asset, or knowingly have materially misstated the value of any asset in the financial statements and related documents described above, the Court shall enter judgment against the Defendants and Relief Defendant, jointly and severally, in the amount of Fifteen Million Dollars (\$15,000,000) in U.S. currency, minus any payments previously made under Paragraph A of Part VI, which amount would be rendered immediately due and payable. For the purposes of this Paragraph, the Defendants and Relief Defendant waive any right to contest any of the allegations in the Complaint filed in this action.

C. Proceedings instituted under this Part are in addition to, and not in lieu of,

any other civil or criminal remedies that may be provided by law, including any other proceedings the Commission may initiate to enforce this Order.

VIII. ACKNOWLEDGMENT OF RECEIPT OF ORDER

IT IS FURTHER STIPULATED AND ORDERED that, within five (5) business days after receipt by Defendants of this Order as entered by the Court, Defendant Jack McClung, individually and on behalf of Defendants BSI, McClung Advertising, and Relief Defendant Emma McClung individually shall execute and submit to the Commission a truthful sworn statement, in the form shown on Appendix A, that shall acknowledge receipt of this Order.

IX. DISTRIBUTION OF ORDER

IT IS FURTHER ORDERED that Defendants BSI and McClung Advertising and any business where (1) Defendant Jack McClung is the majority owner of the business or directly or indirectly manages or controls the business, and (2) the business is engaged in advertising, marketing, promotion, offering for sale, distribution or sale of any covered product, shall:

1. Within thirty (30) days after the date of entry of this Order, deliver a copy of this Order to, and obtain a signed and dated acknowledgment of receipt of same from, each of their current principals, officers, and directors, and to all current managers, employees, representatives, and agents responsible for or engaged in advertising or consumer communications, whether designated as employees, consultants, independent contractors or otherwise;
2. For a period of five (5) years from the date of entry of this Order, provide a copy of this Order to, and obtain a signed and dated acknowledgment of receipt of same from, each of their future principals, officers, and directors, and to all future

managers, employees, representatives, and agents responsible for or engaged in advertising or consumer communications, whether designated as employees, consultants, independent contractors or otherwise, within thirty (30) days after the person assumes such position or responsibilities; and

- C. Maintain for a period of three (3) years after creation, and upon reasonable notice make available to representatives of the Commission, the original signed and dated acknowledgments of the receipt of copies of this Order, as required in Subsection (A) of this Paragraph.

X. NOTICE TO RESELLERS AND DISTRIBUTORS

IT IS FURTHER ORDERED that Defendant BSI shall:

- A. Send, within twenty (20) days of entry of this Order, by first class mail, postage prepaid and return receipt requested, an exact copy of the notice attached hereto as Appendix B, showing the date of mailing, to each distributor or reseller who purchased the target products from Defendants between January 1, 2000, and the date of entry of this Order. This mailing shall not include any other document or enclosures.
- B. Notify, immediately, each distributor or reseller that defendants will stop doing business with that distributor or reseller if it continues to use any advertisement or promotional material that contains any representation prohibited by this Order, in the event BSI becomes aware that the distributor or reseller is using or disseminating any such advertisement or promotional material subsequent to receipt of Appendix B.

- C. Terminate any distributor or reseller within ten (10) days after it becomes aware that the distributor or reseller has continued to use any advertisement or promotional material that contains any representation prohibited by this Order after receipt of the notice required by subparagraph B of this Part.

XI. COMMISSION'S AUTHORITY TO MONITOR COMPLIANCE

IT IS FURTHER ORDERED that the Commission is authorized to monitor Defendants' and Relief Defendant's compliance with this Order by all lawful means, including but not limited to the following means:

- A. The Commission is authorized, without further leave of court, to obtain discovery from any person in the manner provided by Chapter V of the Federal Rules of Civil Procedure, Fed. R. Civ. P. 26 - 37, including the use of compulsory process pursuant to Fed. R. Civ. P. 45, for the purpose of monitoring and investigating Defendants' and Relief Defendant's compliance with any provision of this Order;
- B. The Commission is authorized to use representatives posing as consumers and suppliers to Defendants, Defendants' employees, or any other entity managed or controlled in whole or in part by any Defendant, without the necessity of identification or prior notice;
- C. Nothing in this Order shall limit the Commission's lawful use of compulsory process, pursuant to Sections 9 and 20 of the FTC Act, 15 U.S.C. §§ 49, 57b-1, to investigate whether any Defendant or Relief Defendant has violated any provision of this Order or Section 5 or 12 of the FTC Act, 15 U.S.C. §§ 45, 52.

XII. COMPLIANCE REPORTING

IT IS FURTHER ORDERED that, in order that compliance with the provisions of this

Order may be monitored:

- A. For a period of five (5) years from the date of entry of this Order, each individual Defendant or Relief Defendant shall notify the Commission of the following:
1. Any changes in Defendant's or Relief Defendant's residence, mailing addresses, and telephone numbers, within ten (10) days of the date of such change; and
 2. Any changes in Defendant's or Relief Defendant's employment status (including self-employment) within ten (10) days of such change. Such notice shall include the name and address of each business that Defendant is affiliated with or employed by, a statement of the nature of the business, and a statement of Defendant's duties and responsibilities in connection with the business or employment; and
 3. Any proposed change in the structure of Defendants BSI, McClung Advertising, or any proposed change in the structure of any business entity owned or controlled by any individual Defendant or Relief Defendant, such as creation, incorporation, dissolution, assignment, sale, creation or dissolution of subsidiaries, or any other change that may affect compliance obligations arising out of this Order, thirty (30) days prior to the effective date of any proposed change; *provided, however*, that, with respect to any proposed change in the corporation about which BSI learns less than thirty (30) days prior to the date such action is to

take place, it shall notify the Commission as soon as is practicable after obtaining such knowledge;

- B. Sixty (60) days after the date of entry of this Order, Defendants shall provide a written report to the FTC, sworn to under penalty of perjury, setting forth in detail the manner and form in which they have complied and are complying with this Order. This report shall include but not be limited to:
1. The individual Defendant's then current residence addresses and telephone numbers;
 2. The individual Defendant's then current employment, business addresses, and telephone numbers, a description of the business activities of each such employer, and the Defendant's title and responsibilities for each employer;
 3. Defendant BSI's and Defendant McClung Advertising's then current business addresses, telephone numbers, a description of its business activities, and identification of all products that it advertises or sells;
 4. A copy of each acknowledgment of receipt of this Order obtained by Defendants pursuant to Paragraph VIII; and
 5. A statement describing the manner in which Defendants have complied and are complying with Paragraphs I through V, and VII.
- C. Upon written request by a representative of the Commission, Defendants and Relief Defendant shall submit additional written reports (under oath, if requested) and produce documents on fifteen (15) days' notice with respect to any conduct subject to this Order.

- D. For the purposes of this Order, Defendants and Relief Defendant shall, unless otherwise directed by the Commission's authorized representatives, mail all written notifications to the Commission to: Associate Director, Division of Advertising Practices, 600 Pennsylvania Avenue, N.W., Washington, D.C. 20580, Re: FTC v. Blue Stuff, Inc.
- E. For the purposes of this Paragraph, "employment" includes the performance of services as an employee, consultant, or independent contractor; and "employers" include any individual or entity for whom any individual Defendant or Relief Defendant performs services as an employee, consultant, or independent contractor.
- F. For purposes of the compliance reporting required by this Paragraph, the Commission is authorized to communicate directly with Defendants and Relief Defendant.

XIII. ACCESS TO BUSINESS PREMISES

IT IS FURTHER ORDERED that, for a period of five (5) years from the date of entry of this Order, for the purpose of further determining compliance with this Order, Defendants BSI, Jack McClung, and McClung Advertising shall permit representatives of the Commission, within three (3) business days of receipt of written notice from the Commission:

- A. Access during normal business hours to any office, or facility storing documents, of BSI, McClung Advertising, or any business where (1) Defendant Jack McClung is the majority owner of the business or directly or indirectly manages or controls the business, and (2) the business is engaged in advertising, marketing, promotion,

offering for sale, distribution or sale of any covered product. In providing such access, Defendants BSI, Jack McClung, and McClung Advertising shall permit representatives of the Commission to inspect and copy all documents relevant to any matter contained in this Order; and

- B. During normal business hours, to interview the officers, directors, and employees, including all personnel involved in responding to consumer complaints or inquiries, and all sales personnel, whether designated as employees, consultants, independent contractors or otherwise, of any business to which Subsection (A) of this Paragraph applies, concerning matters relating to compliance with the terms of this Order. The person interviewed may have counsel present.

Provided, however, that upon application of the Commission and for good cause shown, the Court may enter an *ex parte* order granting immediate access to the premises of any business to which Subsection (A) of this Paragraph applies for the purposes of inspecting and copying all documents relevant to any matter contained in this Order.

XIV. RECORD KEEPING PROVISIONS

IT IS FURTHER ORDERED that, for a period of five (5) years from the date of entry of this Order, Defendants BSI, Jack McClung, and McClung Advertising, in connection with Defendants BSI, McClung Advertising, and any business where (1) individual Defendant Jack McClung is the majority owner or an officer or director of the business, or directly or indirectly manages or controls the business and where (2) the business engages, or assists others engaged in, the advertising, marketing, promotion, offering for sale, distribution or sale of any covered product, and those persons in active concert or participation with them who receive actual notice

of this Order by personal service or otherwise, are restrained and enjoined from failing to create and retain, unless otherwise specified:

- A. Accounting records that reflect the cost of goods sold, revenues generated, and disbursement of such revenues;
- B. Personnel records accurately reflecting: the name, address, and telephone number of each person employed in any capacity by such business, including as an independent contractor; that person's job title or position; the date upon which the person commenced work; and the date and reason for the person's termination, if applicable;
- C. Customer files containing the names, addresses, telephone numbers, dollar amounts paid, quantity of items purchased, and description of items purchased, to the extent such information is obtained in the ordinary course of business;
- D. Complaint and refund requests (whether received directly, indirectly, or through any third party) and any responses to those complaints or requests;
- E. Copies of all advertisements, promotional materials, sales scripts, training materials, or other marketing materials utilized in the advertising, marketing, promotion, offering for sale, distribution or sale of any covered product, to the extent such information is prepared in the ordinary course of business;
- F. All materials that were relied upon in making any representations contained in the materials identified in Subparagraph (E), including all documents evidencing or referring to the accuracy of any claim therein or to the efficacy of any covered product, including, but not limited to, all tests, reports, studies, demonstrations, or

other evidence that confirm, contradict, qualify, or call into question the accuracy or efficacy of such covered product; and

- G. Records accurately reflecting the name, address, and telephone number of each manufacturer or laboratory engaged in the development or creation of any testing obtained for the purpose of advertising, marketing, promoting, offering for sale, distributing, or selling any covered product.

XV. SCOPE OF ORDER

This Order resolves only claims against the named Defendants, Relief Defendant, and the Loyd McClung Foundation, and their employees, officers, directors, shareholders, and immediate family members, and it does not preclude the Commission from initiating further action or seeking any remedy against any other persons or entities, including without limitation persons or entities who may be subject to portions of this Order by virtue of actions taken in concert or participation with Defendants or Relief Defendant, and persons or entities in any type of indemnification or contractual relationship with Defendants or Relief Defendant.

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XVI. RETENTION OF JURISDICTION

IT IS FURTHER ORDERED that this Court shall retain jurisdiction of this matter for purposes of construction, modification, and enforcement of this Order.

SO STIPULATED:

JANET M. EVANS
KIAL S. YOUNG
RIELLE C. MONTAGUE
DANIEL KAUFMAN
Federal Trade Commission
600 Pennsylvania Ave., N.W.
Mail Drop S-4002
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(202) 326-2125, 3525, 2645 or 2675
(202) 326-3259 (facsimile)
Attorneys for Plaintiff
FEDERAL TRADE COMMISSION

BLUE STUFF, INC.
by: Jack McClung, President

JACK MCCLUNG, individually and as an officer
or director of Blue Stuff, Inc.

MCCLUNG ADVERTISING, INC.
by: Jack McClung, President

EMMA MCCLUNG, Relief Defendant

JEFFREY D. KNOWLES
EDWARD F. GLYNN, JR.
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Suite 1000
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(202) 962-4805 or 4860
(202) 962-8300 (facsimile)
Attorneys for Defendants and Relief Defendant

DONE AND ORDERED in Chambers at Oklahoma City, Oklahoma, this _____ day of _____, 2002.

UNITED STATES DISTRICT JUDGE

APPENDIX A

UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF OKLAHOMA

_____))	
FEDERAL TRADE COMMISSION,))	
Plaintiff, )	)	Hon.
))	
v. )	)	Civil Action No.
))	
BLUE STUFF, INC. )	)	AFFIDAVIT OF DEFENDANT
))	
JACK MCCLUNG, and )	)	[NAME]
))	
MCCLUNG ADVERTISING, INC.,))	
Defendants, and))	
))	
EMMA MCCLUNG,))	
Relief Defendant))	
_____))	

[Defendant], being duly sworn, hereby states and affirms:

1. My name is _____. I am a citizen of the United States and am over the age of eighteen. I have personal knowledge of the matters discussed in this declaration, and if called as a witness, I could and would competently testify as to the matters stated herein. I am a Defendant in the above captioned action.

2. My current business address is _____. My current business telephone number is _____. My current residential address is _____. My current residential telephone number is _____.

3. On (date) _____, I received a copy of the Stipulated Final Order and Settlement of Claims for Monetary Relief, which was signed by the Honorable _____, United States District Court Judge for the Western District of Oklahoma. A true and correct copy of the Order that I received is appended to this Affidavit.

4. I reaffirm and attest to the truthfulness, accuracy and completeness of the financial statements that I submitted to the Federal Trade Commission on or about _____.

I hereby declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed on (date) _____, at (city, state) _____,

(Name of Defendant)

STATE OF _____
COUNTY OF _____

BEFORE ME this day personally appeared _____, who being first
duly sworn, deposes and says that s/he has read and understands the foregoing statement and that
s/he has executed the same for the purposes contained therein.

SUBSCRIBED AND SWORN TO before me this _____ day of _____, 2002 by
_____. S/he is personally known to me or has
presented (state identification) _____ as identification.

Print Name

NOTARY PUBLIC,

STATE OF _____

Commission Number

Affix Seal

APPENDIX B

BY FIRST CLASS MAIL, RETURN RECEIPT REQUESTED

(To be printed on Defendant's Letterhead)

[date]

Dear [distributor or reseller]

Our records indicate that you have been a distributor or reseller of Blue Stuff, Inc. products. This letter is to inform you that Blue Stuff, Inc. recently settled a civil dispute with the Federal Trade Commission regarding its advertising for Blue Stuff Gel, Super Blue Stuff Gel, Essential Stuff capsules, and Her Stuff. Among other things, we have agreed to notify distributors and resellers of the settlement.

In its complaint, the FTC alleged that advertisements for Blue Stuff Gel, Super Blue Stuff Gel, Essential Stuff capsules, and Her Stuff made the following false or unsubstantiated claims:

- a. Super Blue Stuff or Blue Stuff provide significant or complete relief from severe pain, including but not limited to pain from nerve damage, arthritis, shingles, crushed vertebrae, fibromyalgia, sciatic nerve injury, brain tumors, sinus headache, or other conditions;
- b. Super Blue Stuff or Blue Stuff are more effective than other products or treatments in relieving or eliminating severe pain;
- c. Essential Stuff reduces cholesterol; and
- d. Natural progesterone products, such as Her Stuff, have been medically proven to slow bone loss or improve bone density.

Blue Stuff denies the FTC's allegations and does not admit to any wrongdoing or violation of law. Nonetheless, in order to resolve this matter, we have agreed not to make the challenged claims, and to request that our distributors and resellers stop using or distributing advertisements, packaging, or promotional materials containing the claims challenged by the FTC. Under the FTC Order, we must stop doing business with you if you continue to make the representations set forth above.

This letter has been provided for your files. If you have any questions or if you want a copy of the FTC Order, please contact [insert name and telephone number of contact representative].

Blue Stuff, Inc.
Jack McClung, President