

UNITED STATES OF AMERICA
FEDERAL TRADE COMMISSION

In the Matter of)
)
)

TELEBRANDS CORP.,)
a corporation,)

TV SAVINGS, LLC,)
a limited liability company, and)

AJIT KHUBANI,)
individually and as president of)
Telebrands Corp. and sole member)
of TV Savings, LLC)
_____)

DOCKET NO. 9313

PUBLIC DOCUMENT


TO: The Honorable Stephen J. McGuire
Chief Administrative Law Judge

**COMPLAINT COUNSEL'S MOTION TO COMPEL PRODUCTION
OF DOCUMENTS AND ANSWERS TO INTERROGATORIES**

Pursuant to Rule 3.38(a) of the Federal Trade Commission's Rules of Practice, 16 C.F.R. 3.38(a), Complaint Counsel respectfully move for an order compelling the production of documents and things as requested by requests 6, 7, 10.d, 15, 16, and 20 of Complaint Counsel's First Set of Requests for Production of Documentary Materials and Tangible Things and compelling answers to Interrogatory 13 of Complaint Counsel's First Interrogatories and Interrogatory 24 of Complaint Counsel's Second Set of Interrogatories. The grounds in support of this motion are set forth in the accompanying Memorandum.

Dated: January 29, 2004

Respectfully submitted,



Connie Vecellio (202) 326-2966
Walter Gross (202) 326-3319
Amy M. Lloyd (202) 326-2394
Joshua S. Millard (202) 326-2454
Division of Enforcement
Bureau of Consumer Protection
Federal Trade Commission
600 Pennsylvania Avenue, N.W.
Washington, D.C. 20580

**UNITED STATES OF AMERICA
FEDERAL TRADE COMMISSION**

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| TELEBRANDS CORP., |) | |
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| TV SAVINGS, LLC, |) | PUBLIC DOCUMENT |
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| of TV Savings, LLC. |) | |
| |) | |

TO: The Honorable Stephen J. McGuire
Chief Administrative Law Judge

**COMPLAINT COUNSEL’S MEMORANDUM OF LAW
IN SUPPORT OF ITS MOTION TO COMPEL PRODUCTION
OF DOCUMENTS AND ANSWERS TO INTERROGATORIES**

I. Statement of Facts

Complaint Counsel submits this memorandum in support of its motion for an Order compelling Respondents Telebrands Corporation, TV Savings, LLC, and Ajit Khubani to produce documents and answer interrogatories.

Complaint Counsel’s First Set of Requests for Production of Documentary Materials and Tangible Things (“First Document Request”) (Exhibit A hereto) and Complaint Counsel’s First Interrogatories (“First Interrogatories”) (Exhibit B hereto) were served on November 21, 2003. On December 12, 2003, Complaint Counsel received Respondents’ Objections and Responses to the First Document Request (Exhibit C hereto) and Respondents’ Objections and Responses to the First Interrogatories (Exhibit D hereto). At issue in this motion is Respondents’ failure to provide certain documents and things in response to Document Request Nos. 6, 7, 10.d, 15, 16, and 20, all of which sought documents related to the promotion and sale of the Ab Force outside the United States. Respondents objected that the requests were outside the jurisdiction of the Federal Trade Commission, not relevant to the allegations of the complaint, and not reasonably calculated to lead to the discovery of admissible evidence. Respondents also refused to answer Interrogatory 13 of the First Interrogatories, which also sought information about the promotion

and sale of the Ab Force outside the United States.¹ In addition, Respondents refused to answer Interrogatory 24 of Complaint Counsel's Second Set of Interrogatories, ("Second Interrogatories") (Exhibit E, hereto), which were served on December 16, 2003, on the same grounds.²

II. Argument

Complaint Counsel's document requests and interrogatories are narrowly drafted to seek documents and information relevant to the allegations in the complaint, the proposed relief, or respondents' defenses. Commission Rule 3.31 (c) (1) provides for "discovery to the extent that it may be reasonably expected to yield information relevant to the allegations of the complaint, to the proposed relief, or to the defenses of any respondent. . . . Information may not be withheld from discovery on grounds that the information will be inadmissible at the hearing if the information sought appears reasonably calculated to lead to the discovery of admissible evidence." 16 C.F.R. 3.31 (c) (1). This rule is to be applied liberally to all requests for discovery. Chain Pharmacy Assoc., Dkt. No. 9227, slip. op. at 2, 1990 FTC LEXIS 193 (June 20, 1990). Moreover, the FTC Act confers jurisdiction over false advertising in foreign countries by United States citizens and companies. Respondents have presented no persuasive arguments for withholding the requested information and documents.

A. Respondents Should Provide Information Regarding Diet and Exercise Disclaimers in Ab Force Advertisements Aired in the United Kingdom

Interrogatory No. 24, Second Interrogatories reads as follows: Describe the circumstances that led to including the statement, "For use with regular exercise and a sensible diet" in the script for the Ab Force advertisement that was submitted to the Broadcast Advertising Clearance Center in Great Britain.

Respondents objected to this interrogatory on the grounds that it seeks information outside the jurisdiction on the FTC and is not relevant to the allegations of the complaint or reasonably calculated to lead to discoverable evidence. This information is relevant and

¹ As is explained in more detail in our Statement of Good Faith Effort to Resolve Issues Raised in Motion to Compel, Counsel have resolved all other issues relating to the response to our First Documents Request and First Interrogatories.

² On December 23, 2002, Respondents served their Objections to Complaint Counsel's Second Set on Interrogatories (Exhibit F hereto). Because Respondents' failure to answer interrogatory 24 involved the same issue as the above-described discovery requests, we have included it in this motion. As noted in our statement of Good Faith effort to Resolve issues raised in Motion to Compel, we have met and conferred with opposing counsel about their failure to answer this interrogatory.

calculated to lead to admissible evidence.³

Complaint counsel first learned of ads shown in the United Kingdom when, in the course of meetings with the Commissioners, Respondents provided the Commissioners and Complaint Counsel with a “storyboard” of a television advertisement for the Ab Force that has been shown in the UK. (UK Television short spot, Exhibit G hereto). In their Answer to the Complaint in this action, Respondents denied that the ads for the AbForce represented that the product causes loss of weight, inches, or fat; causes well-defined abdominal muscles; or that it is an effective alternative to regular exercise. Answer ¶ 19. Rather, they have asserted that the ads represent that the AbForce is to be used for massage. The UK advertisement, which is otherwise almost identical to the television spots shown in the United States, contains a disclaimer stating that the Ab Force is “for use with regular exercise and a sensible diet.” The circumstances leading to the inclusion of this phrase in ads that have been shown in the United Kingdom (where ads are pre-cleared by a regulatory body, unlike the United States) are likely to lead to admissible evidence.⁴ For example, the circumstances behind the discrepancy between the U.S. and U.K. ads could provide admissible evidence of the existence of implied claims and evidence of the likelihood that the ads would mislead consumers, as well as evidence as to the role specific individuals (possibly including respondent Khubani) may have had in creating the ads.⁵ In addition, the circumstances behind the discrepancy could provide admissible evidence relating to respondents’ defense that the Ab Force was being marketed only for massage.

B. Respondents Should Provide Documents and Information Regarding the Promotion and Sale of the Ab Force in Countries other than the United States

Document Request 7 reads as follows: All promotional materials disseminated or approved for dissemination for Ab Force in the United States or any other nation.

Document Request 10.d reads as follows: All documents referring or relating to the promotion and sale of Ab Force, including the following: documents referring or relating to the reasons why promotional materials were not disseminated, either in the United States or any other nation.

³ The allegation as to lack of jurisdiction is discussed in Subsection F *infra*.

⁴ See attached introductory page Bulletin No: 20 of the Independent Television Commission (Exhibit H) issued August 18, 2003 explaining the system for pre-vetting television advertising in the United Kingdom.

⁵ Respondents also objected that “the Interrogatory is vague with regard to the request that Respondents describe ‘the circumstances that led to’ the inclusion of any phrase.” In fact, however, the interrogatory is sufficiently clear to permit a response.

Respondents have refused to provide responsive documents relating to promotion or sale of the Ab Force in countries other than the United States. Ab Force promotional materials disseminated or approved for dissemination in other countries and documents “referring or relating to the promotion and sale of Ab Force,” including documents referring or relating to the reasons why promotional materials were not disseminated, may be relevant in of themselves and are clearly “reasonably calculated to lead to the discovery of admissible evidence.” For example, to the extent that any discrepancies exist between ads shown in the U.S. and other countries, as noted above, the documents could lead to admissible evidence as to Respondents’ awareness of the claims communicated by the ads and the likelihood that the ads would mislead consumers. In addition, the documents could identify persons involved in the creation of the ads or in other marketing decisions.

C. Respondents Should Provide Information as to All Countries Where the Ab Force Has Been Sold

Interrogatory 13, First Interrogatories, reads as follows:⁶ Identify every nation in which the Ab Force was advertised, promoted, offered for sale, sold or distributed, and the number of Ab Force customers in each country identified in response to Interrogatory 13 and identify the years in which it was sold.

This interrogatory seeks information relating to the extent and duration of Respondents’ advertising and sales in foreign countries. This information, together with information about the promotional materials used in particular countries, will allow complaint counsel and its experts to evaluate the effect of different claims on sales in different countries, as well as the amount of possible consumer injury in countries other than the United States. Thus, this information, in addition to being relevant to an evaluation of the effectiveness of advertising in the U.S. and foreign countries, is also relevant to the possible remedy in that a cease and desist order that extends to foreign countries may be an appropriate remedy in this matter.

D. Respondents Should Provide All Versions of the Ab Force Device and its Packaging, Labels, and Instruction Manuals Used in Countries Other than the United States

Document Request 6 reads as follows: Two complete packages (including all components contained herein) of all versions of Ab Force that respondents have marketed in the United States or any other nation.

Document Request 20 reads as follows: All versions of Ab Force product labels, package labels, package inserts, and instructions distributed to consumers in the United States or any other nation.

⁶ Respondents renumbered this as interrogatories 25, 26 and 27.

Respondents have not objected to these requests as to documents and things in the United States.⁷ These documents and things are relevant and calculated to lead to admissible evidence because they will show how many different versions of the device were marketed and sold and whether different claims were made for different versions of the device; whether different versions were modeled after EMS exercise belts or were more similar to massage devices. The instruction manuals will also show instructions for use for the various models (for example, whether Respondents recommended it be used over abdominal muscles, or over muscle areas more typically massaged such as the back).

E. Respondents Should Provide All Documents Constituting or Referring to Technical Specifications For the Ab Force Device Marketed or Sold in Countries Other than the United States

Document Request 15 reads as follows: All documents sufficient to show the technical specification for all versions of the Ab Force offered for sale in the United States or any other nation, including: the voltage, the pulse duration (*i.e.*, the length of the pulse, typically expressed in micro-seconds), the waveform (*i.e.*, the shape of the electrical current being transmitted through the skin), the peak current (*i.e.*, amplitude, measured in milligrams), the phase charge, and, for any interrupted current stings, the amount of time the current is on or off.

Document Request 16 reads as follows: All documents referring or relating to any change or variation in the technical specification for Ab Force offered for sale in the United States or any other nation.

Respondents have not objected to these requests as to documents and things in the United States. Documents relating to technical specifications for units of the Ab Force sold in foreign countries are relevant and calculated to lead to admissible evidence because they will show the technical capabilities of all different versions of the Ab Force, which is important in evaluating efficacy claims made for the device. In addition, while Respondents did produce some documents relating to technical specifications in response to Civil Investigative Demands, the documents produced did not provide the level of detail necessary for our expert in the field to assess the capabilities of the device. It is also critical for our expert to know whether and when any changes were made because any such changes could affect the capability of the device.⁸

⁷ They stated, as to request 6, that “Respondents are in the process of attempting to obtain samples of Ab Force products sold in the United States.”

⁸ As noted, Respondents have denied that their ads made the claims alleged in the complaint. We note that we suggested, at the Prehearing Conference in October, 2003, that Respondents simplify this action by stipulating that in fact the Ab Force does not cause loss of weight, inches, or fat or cause well-defined abdominal muscles, and that it is not an effective alternative to regular exercise. They have declined to do so, however, and we are obliged to

F. The FTC Act Confers Jurisdiction over False Advertising Claims Made in Foreign Countries by United States Citizens or Companies

Sections 4 and 5 of the FTC Act confer jurisdiction over false advertising claims made in foreign countries by United States citizens. Section 5 prohibits “unfair and deceptive acts or practices in or affecting commerce,” and Section 4 defines “commerce” as “commerce among the several states or with foreign nations.” Courts have repeatedly recognized FTC jurisdiction over “unfair and deceptive acts or practices” committed by entities based in the U.S. even though the practices are directed to foreign consumers. *See Branch v. FTC*, 141 F.2d 31 (7th Cir. 1944); *FTC v. Skybiz.com, Inc.*, No. 01-5166, 2003 WL 202438 (10th Cir. Jan. 30, 2003) (affirming district court litigated preliminary injunction which, *inter alia*, applied to acts committed in the United States and in foreign countries); *FTC v. Commonwealth Mktg. Group, Inc.*, 72 F. Supp. 2d 530, 545 (W.D. Pa. 1999) (striking affirmative defense that offers for purchase and sales to foreign consumers were not subject to the FTC Act); *see also FTC v. Magui Publishers, Inc.*, 9 F.3d 1551, 1993 WL 430102, *5 (9th Cir. Oct. 22, 1993) (“The FTC Act confers jurisdiction over foreign sales.”).⁹

Although in 1982 Congress limited the extraterritorial enforcement of the antitrust aspect of the FTC Act, it left untouched the Commission’s authority to pursue extraterritorial enforcement of its consumer protection mission (“unfair and deceptive acts and practices”). 15 U.S.C. § 45(a)(1).¹⁰ *See Magui Publishers, Inc.*, 9 F.3d 1551, 1993 WL 430102, at *5 (“The

develop proof with respect to this issue.

⁹ Compare *Nieman v. Dryclean U.S.A. Franchise Co.*, 178 F.3d 1126 (11th Cir. 1999). *Nieman* was a private lawsuit brought by a disappointed foreign franchisee against the franchisor. The *Nieman* court observed that the language and history of the Franchise Rule, 16 C.F.R. § 436.1, made it clear that the FTC never intended that the Rule “protect franchisees in foreign countries.” *Nieman*, 178 F.3d at 1131. Additionally, the reasoning behind *Nieman*’s discussion of the FTC Act is flawed. The *Nieman* court analogized the FTC Act to Title VII of the Civil Rights Act of 1964, which the Supreme Court had held not to apply extraterritorially. However, the language of Title VII, unlike the FTC Act, did not explicitly cover commerce with foreign nations. The Securities and Exchange Act of 1934, 15 U.S.C. § 78c(a)(17), which defines commerce as commerce “among the several States, or between any foreign country and any State,” is more analogous to the FTC Act and has been held to have extraterritorial reach. *See Leslie v. Lloyds of London*, No. H-90-1907, 1995 U.S. Dist. LEXIS 15380, *53-55 (S.D. Tex. Aug. 28, 1995) (holding that the definition of “commerce” under the Securities Exchange Act of 1934 includes the extraterritorial application of that statute.)

¹⁰ In 1982, Congress amended Section 5 of the FTC Act in order to limit – but not completely prohibit – the extraterritorial enforcement of the FTC Act with regard to “unfair methods of competition.” 15 U.S.C. § 45(a)(3); Pub.L. 97-290. Section 5 prohibits “unfair methods of competition” as well as “unfair and deceptive acts or practices,” but in recent years

FTC Act confers jurisdiction over foreign sales, and the 1982 amendment to § 5 of the Act upon which Magui relies to argue that this jurisdiction is limited applies to antitrust enforcement . . . not to the FTC's consumer protection jurisdiction.") It is reasonable to conclude that Congress intended "unfair and deceptive acts or practices" in foreign commerce to be within the Commission's jurisdiction. Otherwise, respondents in Commission actions could be prohibited from deceiving consumers in the United States, but would be allowed to deceive foreign consumers. Such an interpretation of the FTC Act would render the United States a safe haven for fraud, so long as the fraud was exported to residents of foreign nations.

III. Conclusion

The documents and information requested in the First Document Request and the First and Second Set of Interrogatories "may be reasonably expected to yield information relevant to the allegations of the complaint, to the proposed relief, or to the defenses of any respondent" as allowed by Commission Rule 3.31 (c) (1). Respondents have unnecessarily delayed the progress of this matter by failing to provide the documents and information requested.

Respectfully submitted,



Connie Vecellio (202) 326-2966

Walter Gross (202) 326-3319

Amy M. Lloyd (202) 326-2394

Joshua S. Millard (202) 326-2454

Division of Enforcement

Bureau of Consumer Protection

Federal Trade Commission

600 Pennsylvania Avenue, N.W.

Washington, D.C. 20580


Dated: January 29, 2004

the Commission has only used its jurisdiction over "unfair methods of competition" in antitrust cases and not in consumer protection cases.

CERTIFICATE OF SERVICE

I hereby certify that on this 29th day of January 2004, I caused a true copy of Complaint Counsel's *Motion to Compel Production of Documents and Answers to Interrogatories, Memorandum of Law in Support of Motion to Compel Production of Documents and Answers to Interrogatories, Statement of Good Faith Effort to Resolve Issues Raised in Motion to Compel, and Proposed Order* to be served by hand delivery, electronic mail, and United States mail upon:

Edward F Glynn, Jr., Esq.
Ted Atkinson, Esq.
Venable, Baetjer, Howard & Civiletti, LLP
575 7th Street, N.W.
Washington, D.C. 20004-1601
(202) 344-8300 fax
Attorneys for Respondents
efglynn@venable.com



Joshua S. Millard
Complaint Counsel

**UNITED STATES OF AMERICA
FEDERAL TRADE COMMISSION**

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| individually and as president of) | |
| Telebrands Corp. and sole member) | |
| of TV Savings, LLC.) | |
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TO: The Honorable Stephen J. McGuire
Chief Administrative Law Judge

**COMPLAINT COUNSEL'S STATEMENT OF GOOD FAITH
EFFORT TO RESOLVE ISSUES IN MOTION TO COMPEL**

I, CONSTANCE M. VECCELLIO, hereby state the following pursuant to Rule 3.22(f) of the Federal Trade Commission's Rules of Practice, 16 C.F.R. 3.22(f).

1. I am a staff attorney in the Division of Enforcement, Bureau of Consumer Protection, Federal Trade Commission. I am lead counsel in the above-entitled matter. Walter C. Gross, Joshua S. Millard, and Amy M. Lloyd are also Complaint Counsel in this matter.

2. Complaint Counsel have conferred with counsel for Respondents in a good faith effort to resolve by agreement the issues raised in the accompanying Motion to Compel Production of Documents and Answers to Interrogatories. However, counsel have been unable to reach agreement on the issues posed in that Motion as of January 21, 2004.

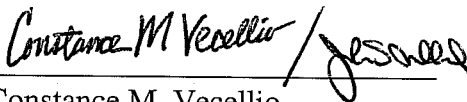
3. Walter Gross, Amy Lloyd, and I began conferring with Respondents Counsel on January 7, 2004. On that day we telephoned Respondents Counsel Ed Glynn and Ted Atkinson during regular business hours to discuss Complaint Counsel's First Set of Requests for Production of Documentary Materials and Tangible Things ("First Document Request") and Complaint Counsel's First Interrogatories ("First Interrogatories"). We specifically discussed (1) responses to Interrogatories 7, 9, and 11, which Respondents had failed to answer on the basis of attorney/client privilege; and (2) responses to Interrogatory 13 and Document Requests 6, 7, 10.d, 15, 16, and 20 (all of which sought information related to the promotion or sale of the Ab

Force outside the United States), which Respondents had failed to answer, objecting that the requests were outside the jurisdiction of the Federal Trade Commission, not relevant to the allegations of the complaint, and not reasonably calculated to lead to the discovery of admissible evidence. We continued to discuss these matters in numerous conversations, including a conversation on January 13, 2004.

4. On January 13, 2004, Respondents served us with their Supplemental Answers to Complaint Counsel's First Interrogatories in which they provided responses to Interrogatories 7, 9, and 11. On January 14, 2004, we again discussed this matter with Respondents' counsel, and on that day they served us with their Second Supplemental Answers to Complaint Counsel's First Interrogatories in which they provided expanded responses to Interrogatories 7, 9, and 11. After reviewing these responses, we agreed that we had resolved our differences with respect to these interrogatories. However, we continued to discuss the issue of interrogatories and document requests seeking information about the promotion and sale of the Ab Force outside the United States.

5. On January 22, 2004, in our final discussion about this matter, we reached an impasse on the issue of interrogatories and document requests seeking information about the promotion and sale of the Ab Force outside the United States. In that conversation, in addition to discussing Document Requests 6, 7, 10.d, 15, 16 and 20 and Interrogatory 13 of our First Interrogatories, we also discussed Interrogatory 24 of Complaint Counsel's Second Set of Interrogatories, which also seeks information about the promotion and sale of the Ab Force outside the United States and to which Respondents had also objected. We also reached an impasse with respect to the response to this interrogatory, and it is included in the attached motion.

DATED: January 29, 2004



Constance M. Vecellio
Complaint Counsel

UNITED STATES OF AMERICA
FEDERAL TRADE COMMISSION

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| of TV Savings, LLC. |) | |
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ORDER GRANTING MOTION TO COMPEL

On January 29, 2004, Complaint Counsel filed a motion to compel Respondents Telebrands Corporation, TV Savings, LLC, and Ajit Khubani to respond to Requests 6, 7, 10, 15, 16, and 20 of their *First Set of Requests for Production of Documentary Materials and Tangible Things*, to Interrogatory 13 of their *First Interrogatories to Respondents*, and to Interrogatory 24 of their *Second Set of Interrogatories to Respondents*.

IT IS HEREBY ORDERED that the motion to compel is GRANTED. Respondents shall produce such information within 10 days from the date of this Order.

ORDERED:

Stephen J. McGuire
Chief Administrative Law Judge

Dated:

EXHIBIT A

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

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**COMPLAINT COUNSEL'S FIRST SET OF REQUESTS
FOR PRODUCTION OF DOCUMENTARY MATERIALS AND TANGIBLE THINGS
DIRECTED TO TELEBRANDS CORP., TV SAVINGS, LLC, AND AJIT KHUBANI**

Pursuant to Rule 3.37(a) of the Federal Trade Commission's Rules of Practice, and the Pretrial Scheduling Order entered by Chief Administrative Law Judge Stephen J. McGuire on November 5, 2003, Complaint Counsel hereby requests that Telebrands Corp., TV Savings, LLC, and Ajit Khubani produce the documentary materials and tangible things identified below for inspection and copying within 20 days at the Federal Trade Commission, 601 New Jersey Avenue, N.W., Suite NJ-2122, Washington, D.C. 20580, or at such time and place as may be agreed upon by all counsel.

DEFINITIONS

1. "Ab Force" shall mean the Electronic Muscle Stimulation ("EMS") device advertised as "Ab Force," all of its parts, and the electro-conductive, water-based gel advertised for use with Ab Force.

2. "Ab Force spot" means the one minute and two minute commercials attached as Exhibits A, C, and E to the Complaint, or any substantially similar version thereof.

3. "All documents" shall mean each document, as defined below, which can be located, discovered or obtained by reasonable, diligent efforts, including without limitation all documents possessed by: (a) you or your counsel; or (b) any other person or entity from whom

you can obtain such documents by request or which you have a legal right to bring within your possession by demand.

4. **“And”** as well as **“or”** shall be construed both conjunctively and disjunctively, as necessary, in order to bring within the scope of any Document Specification in this First Set of Requests for Production of Documentary Materials and Tangible Things all information that otherwise might be construed to be outside the scope of the request.

5. **“Any”** shall be construed to include the word **“all,”** and the word **“all”** shall be construed to include the word **“any.”**

6. **“Communication”** or **“communications”** shall mean any transmission or receipt of facts, information, opinions, or thought, whether conveyed in writing, orally, electronically, or by any other means, including written memorializations of oral communications.

7. **“Complaint”** shall mean the complaint issued by the Federal Trade Commission, and any amendments thereto, in the above-captioned action, Docket No. 9313.

8. **“Document”** shall mean the complete original and any non-identical copy (whether different from the original because of notations on the copy or otherwise), regardless of origin or location, of any written, typed, printed, transcribed, taped, recorded, filmed, punched, computer-stored, or graphic matter of every type and description, however and by whomever prepared, produced, disseminated or made, including, but not limited to, any advertisement, pamphlet, book, periodical, contract, file, invoice, memorandum, note, telegram, report, record, working paper, routing slip, chart, graph, paper, index, map, tabulation, manual, guide, outline, script, abstract, history, calendar, diary, agenda, minute, code book, tests, reports, clinical studies, test reports, scientific literature, articles, expert opinions, handwritten notes, correspondence, written or recorded communications, opened electronic mail, computer (including handheld computer) material (including print-outs, cards, magnetic or electronic tapes, discs and such codes or instructions as will transform such computer materials into easily understandable form), and video and audio recordings.

9. **“Including”** shall mean “including but not limited to,” so as to avoid excluding any information that might otherwise be construed to be within the scope of any Document Specification in this First Set of Requests for Production of Documents and Tangible Things.

10. **“Market research”** shall mean all information referring or relating to testing, measuring or assessing consumers’ or individuals’ interpretation of, understanding of or reaction to an advertisement, draft advertisement, proposed advertisement, proposed advertising text, copy or creative strategy or platform, any other advertising material, product category, product, entity or information conveyed in an advertisement, including consumer perception tests, comprehension tests, recall tests, marketing or consumer surveys or reports, penetration tests, audience reaction tests, focus groups, and media research.

11. **“Person” or “persons”** shall mean all natural persons, corporations, partnerships or other business associations, and all other legal entities, including all members, officers, predecessors, assigns, divisions, affiliates, and subsidiaries.

12. **“Promotional material”** shall mean any written or oral statement, advertisement, illustration, or depiction that is designed to effect a sale or create interest in the purchasing of goods or services, whether the same appears in a brochure, newspaper, magazine, pamphlet, leaflet, circular, mailer, book insert, free standing insert, letter, electronic communication, news release, catalogue, poster, chart, billboard, public transit card, point of purchase material (including, but not limited to, a display or an item worn by salespeople), package insert, package label, film, slide, radio, broadcast or cable television, audio program transmitted over a telephone system, script used to make oral solicitations to consumers, program-length commercial (“infomercial”), the Internet, or any other medium.

13. **“Referring to” or “relating to”** shall mean discussing, describing, reflecting, containing, analyzing, studying, reporting, commenting, evidencing, constituting, setting forth, considering, recommending, concerning, or pertaining to, in whole or in part.

14. **“Respondents”** shall mean Telebrands Corp., TV Savings, LLC, and Ajit Khubani.

15. **“You” or “your”** shall mean the Respondents or the Respondents’, individually and collectively.

16. The singular shall be construed to include the plural, and the plural shall be construed to include the singular.

17. The use of a verb in any tense shall be construed as the use of the verb in all other tenses.

18. The spelling of a name shall be construed to include all similar variants thereof.

INSTRUCTIONS

1. Unless otherwise specified, the time period covered by a Document Specification shall not be limited and all documents responsive to the Specification, regardless of dates or time periods involved, shall be provided.

2. Documents covered by these Specifications are those which are in your possession or under your actual or constructive custody or control, whether or not such documents were received from or disseminated to any other person or entity including attorneys, accountants, directors, officers and employees.

3. All information submitted shall be clearly and precisely identified as to the

Specification(s) to which it is responsive. You should mark a unique "Bates" number on each page in your submission.

4. If any documents responsive to a Specification have been previously supplied to the Commission, you shall identify the document(s) previously provided and the date of submission instead of re-submitting the document(s). Identification shall be by Bates number if the documents were so numbered when submitted, or by author, date, and subject matter if not so numbered. Documents that may be responsive to more than one Document Specification need not be submitted more than once; however, your response shall indicate, for each document submitted, each Specification to which the document is responsive.

5. A complete copy of each document shall be submitted even if only a portion of the document is within the terms of the Specification. The document shall not be edited, cut, or expunged and shall include all covering letters and memoranda, transmittal slips, appendices, tables or other attachments.

6. If any of the information requested in these Specifications is available in machine-readable form (such as floppy or hard disks, drums, core storage, magnetic tapes or punch cards), state the form in which it is available and describe the type of computer or other machinery required to read the record(s) involved. If the information requested is stored in a computer or a file or record generated by a computer, indicate whether you have an existing program that will print out the record in readable form and state the name, title, business address and telephone number of each person who is familiar with the program.

7. All objections to these Document Specifications, or to any individual Specification, must be raised in the initial response or are otherwise waived.

8. If any requested material is withheld based on a claim of privilege, submit together with such claim a schedule of the items withheld which states individually for each item withheld: (a) the type, title, specific subject matter, and date of the item; (b) the names, addresses, positions, and organizations of all authors and recipients of the item; and (c) the specific grounds for claiming that the item is privileged. If only part of a responsive document is privileged, all non-privileged portions of the document must be submitted.

9. This First Set of Requests for Production of Documents and Tangible Things is continuing in character so as to require you to produce additional information promptly upon obtaining or discovering different, new or further information before the close of discovery.

DOCUMENT SPECIFICATIONS

1. All documents supporting, referring, or relating to your contention that the respondents have not operated as a common enterprise as alleged in Paragraph 4 of the Complaint.

2. All documents (including market research) supporting, referring, or relating to your contention that the respondents have not made the representations set forth in Paragraphs 9, 19, and 21 of the Complaint. **Respond fully to the Specification even if you contest whether the representations were made.**

3. All documents supporting, referring, or relating to your contention that the Ab Force promotional materials, including the Ab Force spots, do not refer to the devices identified in Paragraph 11 of the Complaint.

4. All documents supporting, referring, or relating to each claim you contend the Ab Force promotional materials made other than those identified in the Complaint, including massage claims and product comparison claims.

5. All documents supporting, referring, or relating to the contention that Ab Force promotional materials referenced or referred to EMS devices other than the devices identified in Paragraph 11 of the Complaint.

6. Two complete packages (including all components contained therein) of all versions of Ab Force that the respondents have marketed in the United States or any other nation.

7. All promotional materials disseminated or approved for dissemination for Ab Force in the United States or any other nation.

8. Documents sufficient to identify the date, time, and medium (*i.e.*, the specific television channel, newspaper, Internet website, or other forum) that the respondents used to disseminate all promotional materials for Ab Force.

9. All instructional or educational materials referring to the promotion and sale of Ab Force.

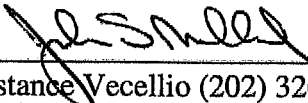
10. All documents referring or relating to the promotion and sale of Ab Force, including the following:

- a. documents (including contracts, agreements, and written or recorded communications) between the respondents and any other person or entity who furnished or offered to furnish any product or service to the respondents;
- b. documents (including marketing plans, advertising proposals, advertising messages, draft promotional materials, and written or recorded communications) referring or relating to any promotional material, regardless of whether that promotional material was disseminated or not;
- c. documents (including market research, copy tests, consumer surveys, and written or recorded communications) referring or relating to consumer perception of any promotional material; and

- d.** documents referring or relating to the reasons why promotional materials were not disseminated, either in the United states or any other nation.
- 11.** All documents constituting, referring or relating to advertisements and promotional materials for any EMS device other than Ab Force.
- 12.** All documents referring or relating to the efficacy of Ab Force, including all documents that tend to call into question or disprove the efficacy of Ab Force or any other EMS device.
- 13.** All documents (including written or recorded communications) referring or relating to substantiation for claims made in promotional materials for Ab Force or any other EMS device.
- 14.** All documents referring or relating to the U.S. Food and Drug Administration and EMS devices, including Ab Force.
- 15.** All documents sufficient to show the technical specifications for all versions of Ab Force offered for sale in the United States or any other nation, including: the voltage, the pulse duration (*i.e.*, the length of the pulse, typically expressed in micro-seconds), the waveform (*i.e.*, the shape of the electrical current being transmitted through the skin), the peak current (*i.e.*, amplitude, measured in milliamps), the phase charge, and, for any interrupted current settings, the amount of time the current is on or off.
- 16.** All documents referring or relating to any change or variation in the technical specifications for Ab Force offered for sale in the United States or any other nation.
- 17.** All documents referring or relating to the physical characteristics (such as size, color, and shape) of Ab Force.
- 18.** All documents referring or relating to the respondents' duties or responsibilities with respect to Ab Force.
- 19.** All documents referring or relating to all compensation, payments, and other benefits (whether in the form of cash, loans, real property, or other form) made to Ajit Khubani by Telebrands Corp. and TV Savings, LLC in conjunction with Ab Force.
- 20.** All versions of Ab Force product labels, package labels, package inserts, and instructions distributed to consumers in the United States or any other nation.
- 21.** All documents constituting, referring, or relating to complaints, investigations, or legal proceedings initiated by any person or entity (including any consumer, consumer groups, government agencies, Better Business Bureaus, or competitors), relating to Ab Force.

22. All documents used to prepare your responses to Complaint Counsel's First Set of Interrogatories not previously produced.

Respectfully submitted,


Constance Vecellio (202) 326-2966
Walter C. Gross III (202) 326-3319
Joshua S. Millard (202) 326-2454
Amy M. Lloyd (202) 326-2394


Complaint Counsel
Division of Enforcement
Bureau of Consumer Protection
Federal Trade Commission
600 Pennsylvania Ave., N.W, Suite NJ-2122
Washington, D.C. 20580

Dated: November 21, 2003

CERTIFICATE OF SERVICE

I hereby certify that on this 21st day of November, 2003, a copy of *Complaint Counsel's First Request for Production of Documents and Tangible Things Directed to Telebrands Corp., TV Savings, LLC, and Ajit Khubani* was served upon the following person by fax, first class mail, and e-mail:

Edward F. Glynn, Jr., Esq.
VENABLE LLP
575 Seventh St., N.W.
Washington, D.C. 20004
TEL: (202) 344-4805
FAX: (202) 344-8300
efglynn@venable.com


JOSEPH S. MILLARD

*** TX REPORT ***

TRANSMISSION OK

TX/RX NO 2055
CONNECTION TEL 812023448300
SUBADDRESS
CONNECTION ID
ST. TIME 11/21 17:01
USAGE T 02'54
PGS. SENT 8
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Federal Trade Commission

FTC Headquarters Satellite Building
601 Pennsylvania Avenue, NW Washington, DC 20580

FAX Number: (202) 326-2558

Facsimile Transmittal Sheet


| | | |
|-----------------|---|--|
| To: | Edward F. Glynn, Jr., Esq. | Total number of pages sent (including this cover sheet): 8 |
| | Fax number: (202) [REDACTED] 8300 | |
| From: | J. S. Millard, Esq.  | Sending Org Code: 1142 |
| | Telephone: (202) 326-2454 | Date: 11/21/03 |
| | | Time: |
| Subject: | Telebrands | |
| | Please see attached | |

EXHIBIT B

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

In the Matter of

TELEBRANDS CORP.,
a corporation,

TV SAVINGS, LLC,
a limited liability company, and

AJIT KHUBANI,
individually and as president of
Telebrands Corp. and sole member
of TV Savings, LLC.

Docket No. 9313

PUBLIC DOCUMENT

COMPLAINT COUNSEL'S FIRST INTERROGATORIES TO RESPONDENTS

Pursuant to Rule 3.35 of the Federal Trade Commission's Rules of Practice, and the Pretrial Scheduling Order entered on November 5, 2003, Complaint Counsel hereby requests that Telebrands Corp. ("Telebrands"), TV Savings, LLC ("TV Savings"), and Ajit Khubani ("Khubani") respond to these Interrogatories within 20 days, the time prescribed by Judge McGuire's Scheduling Order, and produce the following documents and/or tangible things for inspection and copying at the Federal Trade Commission, 601 New Jersey Avenue, N.W., Washington, D.C. 20001, or at such time and place as may be agreed upon by all counsel.

DEFINITIONS

1. "Ab Force" shall mean the Electronic Muscle Stimulation ("EMS") device advertised as "Ab Force."
2. "Ab Force spot" means the one minute and two minute commercials attached as Exhibits A, C, and E to the Complaint, or any substantially similar version thereof.
3. "All documents" shall mean each document, as defined below, which can be located, discovered or obtained by reasonable, diligent efforts, including without limitation all documents possessed by: (a) you or your counsel; or (b) any other person or entity from whom you can obtain such documents by request or which you have a legal right to bring within your possession by demand.
4. "And" as well as "or" shall be construed both conjunctively and disjunctively, as necessary, in order to bring within the scope of any Document Specification in this First Set of Requests for Production of Documentary Materials and Tangible Things all information that otherwise might be construed to be outside the scope of the request.
5. "Any" shall be construed to include the word "all," and the word "all" shall be construed to include the word "any."
6. "Communication" or "communications" shall mean any transmission or receipt

of facts, information, opinions, or thought, whether conveyed in writing, orally, electronically, or by any other means, including written memorializations of oral communications.

7. **"Complaint"** shall mean the complaint issued by the Federal Trade Commission, and any amendments thereto, in the above-captioned action, Docket No. 9313.

8. **"Dissemination schedule"** means: (a) for television or radio advertisements, the date, time of day, location and station name; (b) for product packaging or promotional materials, the names of distributors and retailers to whom the packaging or promotional material was transmitted, the date of transmittal, and the number of pieces transmitted; (c) for newspaper or magazine advertisements, the name and date of the publication in which the advertisement appeared; and (d) for Internet advertisements, the date that the advertisement was first placed on the Internet, the date (if any) that it was removed from the Internet, and the number of "hits" that the advertisement registered.

9. **"Document"** shall mean the complete original and any non-identical copy (whether different from the original because of notations on the copy or otherwise), regardless of origin or location, of any written, typed, printed, transcribed, taped, recorded, filmed, punched, computer-stored, or graphic matter of every type and description, however and by whomever prepared, produced, disseminated or made, including, but not limited to, any advertisement, pamphlet, book, periodical, contract, file, invoice, memorandum, note, telegram, report, record, working paper, routing slip, chart, graph, paper, index, map, tabulation, manual, guide, outline, script, abstract, history, calendar, diary, agenda, minute, code book, tests, reports, clinical studies, test reports, scientific literature, articles, expert opinions, handwritten notes, correspondence, written or recorded communications, opened electronic mail, computer (including handheld computer) material (including print-outs, cards, magnetic or electronic tapes, discs and such codes or instructions as will transform such computer materials into easily understandable form), and video and audio recordings.

10. **"EMS device"** shall mean any appliance or machine, or any accessories thereof, used to stimulate the muscles of the human body with electricity.

11. **"Identify"** means:

(a) when referring to a natural person, state the full name, present business address and telephone number, or if a present business affiliation or business address is not known, by the last known business and home addresses and business and home telephone numbers;

(b) when referring to a business or organization, state the legal name as well as any other names under which the entity has done business, address, telephone number and contact person, if applicable for that entity; and

(c) when referring to a document, state the full name(s) of the author(s) or preparer(s) of the document, the full name of the addressee(s) and person(s) designated to receive copies of the document, the title or description of the character or nature of the document, a brief description of the subject matter of the document, the date the document was prepared, its present location, and its present custodian.

12. **"Including"** means "including but not limited to," so as to avoid excluding any information that might otherwise be construed to be within the scope of any Interrogatory.

13. **"Market research"** means all information referring or relating to testing, measuring or assessing consumers' or individuals' interpretation of, understanding of or reaction to an advertisement, draft advertisement, proposed advertisement, proposed advertising text, copy or creative strategy or platform, any other advertising material, product category, product, entity or information conveyed in an advertisement, including consumer perception tests,

comprehension tests, recall tests, marketing or consumer surveys or reports, penetration tests, audience reaction tests, focus groups and media research.

14. **"Person"** or **"persons"** shall mean all natural persons, corporations, partnerships or other business associations, and all other legal entities, including all members, officers, predecessors, assigns, divisions, affiliates, and subsidiaries.

15. **"Promotional material"** shall mean any written or oral statement, advertisement, illustration, or depiction that is designed to effect a sale or create interest in the purchasing of goods or services, whether the same appears in a brochure, newspaper, magazine, pamphlet, leaflet, circular, mailer, book insert, free standing insert, letter, electronic communication, news release, catalogue, poster, chart, billboard, public transit card, point of purchase material (including, but not limited to, a display or an item worn by salespeople), package insert, package label, film, slide, radio, broadcast or cable television, audio program transmitted over a telephone system, script used to make oral solicitations to consumers, program-length commercial ("infomercial"), the Internet, or any other medium.

16. **"Provide"** or **"state"** means to offer a comprehensive, complete, accurate and detailed description, explanation or listing of the matter into which the Interrogatory inquires.

17. **"Referring to"** or **"relating to"** shall mean discussing, describing, reflecting, containing, analyzing, studying, reporting, commenting, evidencing, constituting, setting forth, considering, recommending, concerning, or pertaining to, in whole or in part.

18. **"Respondents"** shall mean Telebrands Corp., TV Savings, LLC, or Ajit Khubani.

19. **"Website"** means <http://www.telebrands.com/cgi-bin/PromoTrac/PromoTrac.html?Prod=t-abforce> including all contents found at all times since its registration.

20. **"You"** or **"your"** shall mean the Respondents or the Respondents', individually and collectively.

21. The singular shall be construed to include the plural, and the plural shall be construed to include the singular.

22. The use of a verb in any tense shall be construed as the use of the verb in all other tenses.

INSTRUCTIONS

1. Each Interrogatory should be set forth in full preceding the answer to it and should be answered separately and fully in writing, under oath. All answers, shall be served within 20 days after service of these Interrogatories. All objections, if any, shall be served within 10 days after service of these Interrogatories.

2. Unless otherwise specified, the time period covered by an Interrogatory shall not be limited and all information responsive to the Interrogatory, regardless of dates or time periods involved, should be provided.

3. If any Interrogatory cannot be answered in full, it shall be answered to the fullest extent possible and the reasons for the inability to answer fully shall be provided.

4. Where an Interrogatory requests an answer or portion of an answer that has already been supplied in response to another Interrogatory, the answer or portion of the answer

need not be supplied a second time. It is sufficient to specify the responses that contain the answer, and supply any additional information necessary to answer the Interrogatory.

5. All objections to these Interrogatories, or to any individual Interrogatory, must be served within 10 days after service of these Interrogatories or are otherwise waived.

6. Information covered by these Interrogatories is that which is in your knowledge or possession, or under your actual or constructive custody or control, whether or not such information is located in the files of, or possessed by your individual officers, directors or employees of the company, and whether or not such information is received from or disseminated to any other person or entity including attorneys, accountants, directors, officers or employees.

7. These Interrogatories are continuing in character so as to require you to produce additional information promptly upon obtaining or discovering different, new or further information before the close of discovery.

8. As to each answer to each of the Interrogatories where no information or only partial information is given to such Interrogatory, state a description of the efforts made to locate information needed for such answer.

9. If you object to any Interrogatory or a part of any Interrogatory, or refuse to give a particular answer, state the Interrogatory or part to which you object, state the exact nature of the objection and describe in detail the facts upon which you base your objection. If any documents or communications are not identified in response to an Interrogatory on grounds of privilege or relevance, then with respect to each such document or communication, provide a statement, setting forth the following information: (a) the type, title, specific subject matter, and date of the item; (b) the names, addresses, positions, and organizations of all authors and recipients of the item; and (c) the specific grounds for claiming that the item is privileged.

INTERROGATORIES

1. If you contend that Ab Force promotional materials do not make the claims identified in paragraphs 9, 19 and 21 of the Complaint, state the basis for your contention, including identifying any extrinsic evidence, including market research, that supports your contention.

2. If you contend that Ab Force promotional materials do not refer to the devices identified in paragraph 11 of the Complaint, state the basis for your contention.

3. If you contend that Ab Force promotional materials referenced or referred to EMS devices other than the devices identified in paragraph 11 of the Complaint, state the basis for your contention and identify each such product.

4. If you contend that Ab Force promotional materials make claims other than those identified in the Complaint, including any massage claims, describe the basis for each such claim.

5. For the claim "fitness craze," describe why the claim was included in tape "Telebrands Electronic Ab Force, :60, 9/19/02 Screening Copy" and subsequently dropped from other promotional materials and identify the persons who directed or otherwise was responsible for those decisions.

6. For the claim "just as powerful and effective," describe why the claim was included in tape "Telebrands Electronic Ab Force, :60, 9/19/02 Screening Copy" and subsequently dropped from other promotional materials and identify the persons who directed or otherwise was responsible for those decisions.

7. For the claim "relaxing massage," describe why the claim was included in tape "Telebrands Electronic Ab Force, :60, 9/13/02 Screening Copy" and not included in other promotional materials and identify the persons who directed or otherwise was responsible for those decisions

8. Identify and provide a detailed description of the roles and responsibilities of all persons who participated in the creation or development of promotional materials, media placement or dissemination, telemarketing services, or product pricing strategy for Ab Force.

9. Identify and provide a detailed description of communications between you and any print, television, or radio media, or any website designer, developer, manager, hoster, or any online service, referring or relating to any claims or representations in any proposed or disseminated Ab Force promotional materials.

10. Identify all experts, including market research experts, physicians and scientists, consulted by you, or upon whose advice, opinion, or expertise you relied for the creation, development, and marketing of Ab Force.

11. Identify every EMS device that was offered for sale, sold or distributed in the United States during or before the time period in which the Ab Force promotional materials appeared, including, without limitations, the persons who offered for sale, sold or distributed each such device and the sale price.

12. Identify every "ab belt infomercial" that was on television in the United States during or before the time period in which the Ab Force promotional materials appeared, including the persons who offered for sale, or sold each such device and the sale price.

13. Identify every nation in which the Ab Force was advertised, promoted, offered for sale, sold or distributed, and the number of Ab Force customers in each country identified in response to Interrogatory 13 and identify the years in which it was sold.

14. State the total number of Ab Force units sold.

15. State the total amount of money Khubani received directly or indirectly from the sale of the Ab Force during each calendar year from 2000 through the date of you receive these interrogatories, separately identifying each source of money, and including but not limited to salary, wages, commissions, bonuses and other distributions.

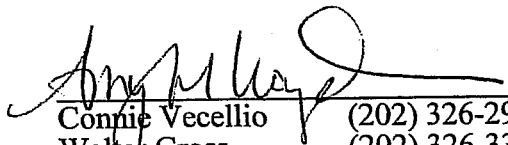
16. Describe in detail Ajit Khubani's current and former role and responsibilities with regard to Ab Force, including but not limited to, the promotion and sale of the Ab Force; the amount and dates of all compensation, payments, and other benefits he has received in conjunction with Ab Force.

17. Identify and describe the technical specifications for all versions of Ab Force offered for sale in the United States or any other country, including but not limited to: the voltage, the pulse duration (*i.e.*, the length of the pulse, typically expressed in micro-seconds), the waveform (*i.e.*, the shape of the electrical current being transmitted through the skin), the peak current (*i.e.*, amplitude, measured in milliamps), the phase charge, and, for any interrupted current settings, the amount of time the current is on or off.

18. For the first version of the Ab Force and each version identified in response to Interrogatory 18, identify and describe, any change or variation in the physical characteristics (such as size, color, and shape) of each version of Ab Force and the reason for such change.

19. Annually for 2001 and 2002 to date, state the total number of units returned and the total dollar amount of refunds.

Respectfully submitted,



Connie Vecellio (202) 326-2966
Walter Gross (202) 326-3319
Amy M. Lloyd (202) 326-2394
Joshua S. Millard (202) 326-2394

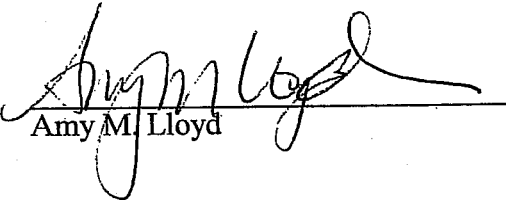
Division of Enforcement
Bureau of Consumer Protection
Federal Trade Commission
600 Pennsylvania Avenue, N.W.
Washington, D.C. 20580

Dated: November 21, 2003

CERTIFICATE OF SERVICE

I hereby certify that on this 21st day of November, 2003, a copy of *Complaint Counsel's First interrogatories to Respondents* was served upon the following person by fax, first class mail, and e-mail:

Edward F. Glynn, Jr., Esq.
VENABLE LLP
575 Seventh St., N.W.
Washington, D.C. 20004
TEL: (202) 344-4805
FAX: (202) 344-8300
efglynn@venable.com



Amy M. Lloyd

EXHIBIT C

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

| | | |
|---|---|------------------------|
| In the Matter of |) | |
| |) | |
| TELEBRANDS CORP., |) | |
| a corporation, |) | |
| |) | |
| TV SAVINGS, LLC, |) | |
| A limited liability company, and |) | Docket No. 9313 |
| |) | |
| AJIT KHUBANI, |) | |
| Individually and as president of |) | |
| Telebrands Corp. and sole member |) | |
| of TV Savings, LLC. |) | |
| |) | |

**TELEBRANDS CORP., TV SAVINGS, LLC, AND AJIT KHUBANI'S
OBJECTIONS AND RESPONSES TO
COMPLAINT COUNSEL'S FIRST SET OF REQUESTS FOR
PRODUCTION OF DOCUMENTARY MATERIALS AND TANGIBLE THINGS**

Telebrands Corp., TV Savings, LLC, and Ajit Khubani ("Respondents"), by counsel, for their Objections and Responses to Complaint Counsel's First Set of Requests for Production of Documentary Materials and Tangible Things, respond as follows:

GENERAL OBJECTIONS

1. The information contained in these Responses is provided in accordance with the provisions and intent of the Federal Trade Commission Rules of Practice, which require the disclosure of non-privileged facts within the recipient's knowledge that may be relevant or lead to discovery of relevant information. Accordingly, by providing the information requested, the parties answering these Requests do not waive objections to their admission in evidence on the grounds of relevance, materiality, or on any other proper grounds for objections, nor do they submit to the instructions and definitions listed at the beginning of the Requests, except as those instructions and definitions specifically conform to the requirements of the aforesaid Rules and

the applicable case law developed thereunder. Specific objections are noted on advice of counsel, and without waiver of the objections reserved as stated above.

2. Discovery has only recently commenced and Respondents' investigation is ongoing. The Responses set forth herein are based upon information that has been collected and/or reviewed for the purpose of responding to these Requests. Respondents reserve the right to supplement their Responses in the event that they obtain additional, better, or different information.

3. Respondents object to each and all of the Requests to the extent they seek information that is protected from disclosure by the attorney-client privilege, work product doctrine, or other applicable privilege. Respondents do not waive any protections or privileges by responding to these Requests.

4. Respondents object to these Requests to the extent they seek information that is not relevant to the issues in this litigation or are not reasonably calculated to lead to the discovery of relevant or admissible information.

5. Respondents object to these Requests to the extent they are unreasonably vague, broad, repetitious, unduly burdensome, or purport to require the disclosure of information beyond the scope of permissible discovery under the Federal Trade Commission Rules of Practice.

6. Respondents object to these Requests to the extent that they purport to require Respondents to produce documents or information outside Respondents' possession, custody, and control.

7. Respondents incorporate by reference their General Objections in each of the specific responses set forth below.

DOCUMENT SPECIFICATIONS

REQUEST NO. 1: All documents supporting, referring, or relating to your contention that the respondents have not operated as a common enterprise as alleged in Paragraph 4 of the Complaint.

RESPONSE:

Subject to and without waiving any of the General Objections, Respondents state that they have previously produced all responsive documents to complaint counsel in response to Civil Investigative Demands. The documents that are responsive to this Request include, but may not be limited to, the following Bates ranges: T000053 - T000081.

REQUEST NO. 2: All documents (including market research) supporting, referring, or relating to your contention that the respondents have not made the representations set forth in Paragraphs 9, 19, and 21 of the Complaint. Respond fully to the Specification even if you contest whether the representations were made.

RESPONSE:

Subject to and without waiving any of the General Objections, Respondents state that they have previously produced all responsive documents to complaint counsel in response to Civil Investigative Demands. The documents that are responsive to this Request include, but may not be limited to, the following Bates ranges: T000001 - T000004; T000016 - T000047.

REQUEST NO. 3: All documents supporting, referring, or relating to your contention that the Ab Force promotional materials, including the Ab Force spots, do not refer to the devices identified in Paragraph 11 of the Complaint.

RESPONSE:

Subject to and without waiving any of the General Objections, Respondents state that they have previously produced all responsive documents to complaint counsel in response to Civil Investigative Demands. The documents that are responsive to this Request include, but may not be limited to, the following Bates ranges: T000001 - T000004; T000016 - T000047.

REQUEST NO. 4: All documents supporting, referring, or relating to each claim you contend the Ab Force promotional materials made other than those identified in the Complaint, including massage claims and product comparison claims.

RESPONSE:

Subject to and without waiving any of the General Objections, Respondents state that they have previously produced all responsive documents to complaint counsel in response to Civil Investigative Demands. The documents that are responsive to this Request include, but may not be limited to, the following Bates ranges: T000001 - T000004; T000016 - T000047.

REQUEST NO. 5: All documents supporting, referring, or relating to the contention that Ab Force promotional materials referenced or referred to EMS devices other than the devices identified in Paragraph 11 of the Complaint.

RESPONSE:

Subject to and without waiving any of the General Objections, Respondents state that they have previously produced all responsive documents to complaint counsel in response to Civil Investigative Demands. The documents that are responsive to this Request include, but may not be limited to, the following Bates ranges: T000001 - T000004; T000016 - T000047.

REQUEST NO. 6: Two complete packages (including all components contained herein) of all versions of Ab Force that the respondents have marketed in the United States or any other nation.

RESPONSE:

Respondents object to the Request to the extent it seeks information relating to the promotion or sale of the Ab Force product outside of the United States or its territories as being outside the scope of discovery permitted by Federal Trade Commission Rule of Practice § 3.31(c) because it seeks information that is outside the jurisdiction of the Federal Trade Commission, is not relevant to the allegations of the complaint and is not reasonably calculated to lead to the discovery of admissible evidence.

Subject to and without waiving any of the General Objections or the specific objection herein, Respondents are in the process of attempting to obtain samples of Ab Force products sold in the United States for complaint counsel's inspection.

REQUEST NO. 7: All promotional materials disseminated or approved for dissemination for Ab Force in the United States or any other nation.

RESPONSE:

Respondents object to the Request to the extent it seeks information relating to the promotion or sale of the Ab Force product outside of the United States or its territories as being outside the scope of discovery permitted by Federal Trade Commission Rule of Practice § 3.31(c) because it seeks information that is outside the jurisdiction of the Federal Trade Commission, is not relevant to the allegations of the complaint and is not reasonably calculated to lead to the discovery of admissible evidence.

Subject to and without waiving any of the General Objections or the specific objection herein, Respondents state that they have previously produced all responsive documents to complaint counsel in response to Civil Investigative Demands. The documents that are

responsive to this Request include, but may not be limited to, the following Bates ranges:

T000001 - T000004; T000016 - T000047.

REQUEST NO. 8: Documents sufficient to identify the date, time, and medium (*i.e.*, the specific television channel, newspaper, Internet website, or other forum) that the respondents used to disseminate all promotional materials for Ab Force.

RESPONSE:

Subject to and without waiving any of the General Objections, Respondents state that they have previously produced all responsive documents to complaint counsel in response to Civil Investigative Demands. The documents that are responsive to this Request include, but may not be limited to, the following Bates ranges: T010785 – T010832.

REQUEST NO. 9: All instructional or educational materials referring to the promotion or sale of Ab Force.

RESPONSE:

Respondents object that the Request is vague and ambiguous.

Subject to and without waiving any of the General Objections and the specific objection herein, Respondents state that they have previously produced all responsive documents to complaint counsel in response to Civil Investigative Demands. The documents that are responsive to this Request include, but may not be limited to, the following Bates ranges:

T000005 - T000015.

REQUEST NO. 10: All documents referring to or relating to the promotion and sale of Ab Force, including the following:

- a. documents (including contracts, agreements, and written or recorded communications) between the respondents and any other person or entity who furnished or offered to furnish any product or service to the respondents;
- b. documents (including marketing plans, advertising proposals, advertising messages, draft promotional materials, and written or recorded communications) referring or relating to any promotional material, regardless of whether that promotional material was disseminated or not;

- c. documents (including market research, copy tests, consumer surveys, and written or recorded communications) referring or relating to consumer perception of any promotional material; and
- d. documents referring or relating to the reasons why promotional materials were not disseminated, either in the United States or any other nation.

RESPONSE:

Respondents object to the Request to the extent it seeks information relating to the promotion or sale of the Ab Force product outside of the United States or its territories as being outside the scope of discovery permitted by Federal Trade Commission Rule of Practice § 3.31(c) because it seeks information that is outside the jurisdiction of the Federal Trade Commission, is not relevant to the allegations of the complaint and is not reasonably calculated to lead to the discovery of admissible evidence.

Subject to and without waiving any of the General Objections or the specific objection herein, Respondents state that they have previously produced all responsive documents to complaint counsel in response to Civil Investigative Demands. The documents that are responsive to this Request include, but may not be limited to, the following Bates ranges:

T000053 - T000081. T000082 - T000400; T000410 - T000758; T000822 - T000873; T000877 - T000883; T000885 - T000938; T000950 - T000961; T001012 - T001110; T004363 - T008696; T00944 - T009446; T009841 - T010386; T010403 - T010609; T010713 - T010746; T01050; T010752 - T010774.

REQUEST NO. 11: All documents constituting, referring or relating to advertisements and promotional materials for any EMS device other than Ab Force.

RESPONSE:

Subject to and without waiving any of the General Objections, Respondents state that they have previously produced all responsive documents to complaint counsel in response to

Civil Investigative Demands. The documents that are responsive to this Request include, but may not be limited to, the following Bates ranges: T050024 – T050068.

REQUEST NO. 12: All documents referring or relating to the efficacy of Ab Force, including all documents that tend to call into question or disprove the efficacy of Ab Force or any other EMS device.

RESPONSE:

Subject to and without waiving any of the General Objections, Respondents state that they have previously produced all responsive documents to complaint counsel in response to Civil Investigative Demands. The documents that are responsive to this Request include, but may not be limited to, the following Bates ranges: T008697 – T009443; T009447 – T09840; T010618 – T010712.

REQUEST NO. 13: All documents (including written or recorded communications) referring or relating to substantiation for claims made in promotional materials for Ab Force or any other EMS device.

RESPONSE:

Subject to and without waiving any of the General Objections, Respondents state that they have previously produced all responsive documents to complaint counsel in response to Civil Investigative Demands. The documents that are responsive to this Request include, but may not be limited to, the following Bates ranges: T008697 – T009443; T009447 – T09840; T010618 – T010712.

REQUEST NO. 14: All documents referring or relating to the U.S. Food and Drug Administration and EMS devices, including Ab Force.

RESPONSE:

Subject to and without waiving any of the General Objections, Respondents state that they have previously produced all responsive documents to complaint counsel in response to Civil Investigative Demands. The documents that are responsive to this Request include, but

may not be limited to, the following Bates ranges: T010387; T008697 – T009443; T009447 – T09840; T010618 – T010712.

REQUEST NO. 15: All documents sufficient to show the technical specifications for all versions of Ab Force offered for sale in the United States or any other nation, including: the voltage, the pulse duration (*i.e.*, the length of the pulse, typically expressed in micro-seconds), the waveform (*i.e.*, the shape of the electrical current being transmitted through the skin), the peak current (*i.e.*, amplitude, measured in milliamps), the phase charge, and, for any interrupted current settings, the amount of time the current is one or off.

RESPONSE:

Respondents object to the Request to the extent it seeks information relating to the promotion or sale of the Ab Force product outside of the United States or its territories as being outside the scope of discovery permitted by Federal Trade Commission Rule of Practice § 3.31(c) because it seeks information that is outside the jurisdiction of the Federal Trade Commission, is not relevant to the allegations of the complaint and is not reasonably calculated to lead to the discovery of admissible evidence.

Subject to and without waiving any of the General Objections or the specific objection herein, Respondents state that they have previously produced all responsive documents to complaint counsel in response to Civil Investigative Demands. The documents that are responsive to this Request include, but may not be limited to, the following Bates ranges: T001025 – T001026; T001028 – T001030; T001032 – T001034; T001062; T001074 – T001083; T001096. In addition see specification sheet prepared and produced as Exhibit A to Respondent Ajit Khubani's Responses to the Federal Trade Commission's September 30, 2002 Civil Investigative Demand for Written Interrogatories.

REQUEST NO. 16: All documents referring or relating to any change or variation in the technical specifications for Ab Force offered for sale in the United States or any other nation.

RESPONSE:

Respondents object to the Request to the extent it seeks information relating to the promotion or sale of the Ab Force product outside of the United States or its territories as being outside the scope of discovery permitted by Federal Trade Commission Rule of Practice § 3.31(c) because it seeks information that is outside the jurisdiction of the Federal Trade Commission, is not relevant to the allegations of the complaint and is not reasonably calculated to lead to the discovery of admissible evidence.

Subject to and without waiving any of the General Objections or the specific objection herein, Respondents state that they have previously produced all responsive documents to complaint counsel in response to Civil Investigative Demands. The documents that are responsive to this Request include, but may not be limited to, the following Bates ranges: T001025 – T001026; T001028 – T001030; T001032 – T001034; T001062; T001074 – T001083; T001096.

REQUEST NO. 17: All documents referring or relating to the physical characteristics (such as size, color, and shape) of Ab Force.

RESPONSE:

Respondents object to the Request to the extent it seeks information relating to the promotion or sale of the Ab Force product outside of the United States or its territories as being outside the scope of discovery permitted by Federal Trade Commission Rule of Practice § 3.31(c) because it seeks information that is outside the jurisdiction of the Federal Trade Commission, is not relevant to the allegations of the complaint and is not reasonably calculated to lead to the discovery of admissible evidence.

Subject to and without waiving any of the General Objections or the specific objection herein, Respondents state that they have previously produced all responsive documents to complaint counsel in response to Civil Investigative Demands. The documents that are responsive to this Request include, but may not be limited to, the following Bates ranges: T001025 – T001026; T001028 – T001030; T001032 – T001034; T001062; T001074 – T001083; T001096. In addition see specification sheet prepared and produced as Exhibit A to Respondent Ajit Khubani's Responses to the Federal Trade Commission's September 30, 2002 Civil Investigative Demand for Written Interrogatories.

REQUEST NO. 18: All documents referring or relating to the respondents' duties or responsibilities with respect to Ab Force.

RESPONSE:

Respondents object that the Request is overly broad, vague and ambiguous.

Subject to and without waiving any of the General Objections or the specific objections set forth herein, Respondents state that they have previously produced all responsive documents to complaint counsel in response to Civil Investigative Demands. The documents that are responsive to this Request include, but may not be limited to, the following Bates ranges: T000053 - T000081. T000082 - T000400; T000410 - T000758; T000822 - T000873; T000877 - T000883; T000885 - T000938; T000950 - T000961; T001012 – T001110; T004363 - T008696; T00944 – T009446; T009841 - T010386; T010403 - T010609; T010713 - T010746; T01050; T010752 –T010774.

REQUEST NO. 19: All documents referring or relating to all compensation, payments, and other benefits (whether in the form of cash, loans, real property, or other form) made to Ajit Khubani by Telebrands Corp. and TV Savings, LLC in conjunction with Ab Force.

RESPONSE:

Subject to and without waiving any of the General Objections or the specific objections set forth herein, Respondents state that they have previously produced all responsive documents to complaint counsel in response to Civil Investigative Demands. The documents that are responsive to this Request include, but may not be limited to, the following Bates ranges: T000048; T000050 – T000051.

REQUEST NO. 20: All versions of Ab Force product labels, package labels, package inserts, and instructions distributed to consumers in the United States or any other nation.

RESPONSE:

Respondents object to the Request to the extent it seeks information relating to the promotion or sale of the Ab Force product outside of the United States or its territories as being outside the scope of discovery permitted by Federal Trade Commission Rule of Practice § 3.31(c) because it seeks information that is outside the jurisdiction of the Federal Trade Commission, is not relevant to the allegations of the complaint and is not reasonably calculated to lead to the discovery of admissible evidence.

Subject to and without waiving any of the General Objections or the specific objection herein, Respondents state that they have previously produced all responsive documents to complaint counsel in response to Civil Investigative Demands. The documents that are responsive to this Request include, but may not be limited to, the following Bates ranges: T000005 – T000016.

REQUEST NO. 21: All documents constituting, referring, or relating to complaints, investigations, or legal proceedings initiated by any person or entity (including any consumer, consumer groups, government agencies, Better Business Bureaus, or competitors), relating to Ab Force.

RESPONSE:

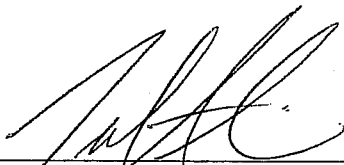
Subject to and without waiving any of the General Objections, Respondents state that they have previously produced all responsive documents to complaint counsel in response to Civil Investigative Demands. The documents that are responsive to this Request include, but may not be limited to, the following Bates ranges: T001111 – T008116.

REQUEST NO. 22: All documents used to prepare your responses to Complaint Counsel's First Set of Interrogatories not previously produced.

RESPONSE:

Subject to and without waiving any of the General Objections, Respondents state that they have previously produced all responsive documents to complaint counsel in response to Civil Investigative Demands. Respondents state that there are no documents they relied on, apart from documents previously produced, in answering Complaint Counsel's First Set of Interrogatories.

Dated: December 12, 2003



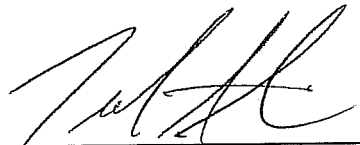
Edward F. Glynn
Theodore W. Atkinson
VENABLE LLP
575 7th Street, N.W.
Washington, DC 20004-1601
(202) 344-8000

Attorneys for Respondents
Telebrands Corp., TV Savings, LLC,
and Ajit Khubani

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy of the foregoing Objections and Response to First Request for Production of Documents and Tangible Things was hand delivered this 12th day of December, 2003, to:

Connie Vecellio *
Walter Gross
Amy M. Lloyd
Joshua S. Millard
Division of Enforcement
Bureau of Consumer Protection
Federal Trade Commission
600 Pennsylvania Avenue, N.W.
Washington, DC 20580



Edward F. Glynn /TUA

DC2/504044

EXHIBIT D

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

| | | |
|--|---|------------------------|
| In the Matter of |) | |
| |) | |
| TELEBRANDS CORP., |) | |
| a corporation, |) | |
| |) | |
| TV SAVINGS, LLC, |) | |
| A limited liability company, and |) | Docket No. 9313 |
| |) | |
| AJIT KHUBANI, |) | |
| Individually and as president of |) | |
| Telebrands Corp. and sole member |) | |
| of TV Savings, LLC. |) | |
| <hr style="border: 0.5px solid black;"/> | | |

**TELEBRANDS CORP., TV SAVINGS, LLC, AND AJIT KHUBANI'S
OBJECTIONS AND RESPONSES TO
COMPLAINT COUNSEL'S FIRST INTERROGATORIES**

Telebrands Corp., TV Savings, LLC, and Ajit Khubani ("Respondents"), by counsel, for their Objections and Responses to Complaint Counsel's First Interrogatories, respond as follows:

GENERAL OBJECTIONS

1. The information contained in these Answers is provided in accordance with the provisions and intent of the Federal Trade Commission Rules of Practice, which require the disclosure of non-privileged facts within the recipient's knowledge that may be relevant or lead to discovery of relevant information. Accordingly, by providing the information requested, the parties answering these Answers do not waive objections to their admission in evidence on the grounds of relevance, materiality, or on any other proper grounds for objections, nor do they submit to the instructions and definitions listed at the beginning of the Answers, except as those instructions and definitions specifically conform to the requirements of the aforesaid Rules and

the applicable case law developed thereunder. Specific objections are noted on advice of counsel, and without waiver of the objections reserved as stated above.

2. The word usage and sentence structure herein may be that of the attorney assisting in the preparation of these Answers, and thus they do not necessarily purport to be the precise language of the executing parties.

3. Not all of these Answers are necessarily prepared from personal knowledge of any single individual.

4. The Answers set forth herein are based upon information that has been collected and/or reviewed for the purpose of responding to these Interrogatories. Respondents reserve the right to supplement their Answers in the event that it obtains additional, better, or different information.

5. Respondents object to each and all of the Interrogatories to the extent they seek information that is protected from disclosure by the attorney-client privilege, work product doctrine, or other applicable privilege. Respondents do not waive any protections or privileges by responding to these Interrogatories.

6. Respondents object to these Interrogatories to the extent they seek information that is not relevant to the issues in this litigation or are not reasonably calculated to lead to the discovery of relevant or admissible information.

7. Respondents object to these Interrogatories to the extent they are unreasonably vague, broad, repetitious, unduly burdensome, or purport to require the disclosure of information beyond the scope of permissible discovery under the Federal Trade Commission Rules of Practice.

8. Respondents object to these Interrogatories to the extent that they purport to require Respondents to produce information outside Respondents' possession, custody, and control.

9. Respondents incorporate by reference their General Objections in each of the specific responses set forth below.

INTERROGATORIES

INTERROGATORY NO. 1 (FTC INTERROGATORY NO. 1, FIRST PART): If you contend that Ab Force promotional materials do not make the claims identified in paragraphs 9, 19 and 21 of the Complaint, state the basis for your contention.

ANSWER:

Subject to and without waiving any of the General Objections, Respondents contend that there is no evidence that Ab Force promotional materials make the claims identified in paragraphs 9, 19 and 21 of the Complaint. The basis of that contention is the language of the promotional materials.

INTERROGATORY NO. 2 (FTC INTERROGATORY NO. 1, SECOND PART): If you contend that Ab Force promotional materials do not make the claims identified in paragraphs 9, 19 and 21 of the Complaint, [] identify[] any extrinsic evidence, including market research, that supports your contention.

ANSWER:

Subject to and without waiving any of the General Objections, Respondents answer that there is, at this point, no extrinsic evidence of which Respondents are aware, including market research on which Respondents rely for that contention.

INTERROGATORY NO. 3 (FTC INTERROGATORY NO. 2): If you contend that Ab Force promotional materials do not refer to the devices identified in paragraph 11 of the Complaint, state the basis for your contention.

ANSWER:

Subject to and without waiving any of the General Objections, Respondents answer that the Ab Force promotional materials refer to "Electronic Ab Belt infomercials on TV." The devices identified in paragraph 11 of the Complaint are such devices.

INTERROGATORY NO. 4 (FTC INTERROGATORY NO. 3, FIRST PART): If you contend that Ab Force promotional materials referenced or referred to EMS devices other than the devices identified in paragraph 11 of the Complaint, state the basis for your contention.

ANSWER:

Subject to and without waiving any of the General Objections, Respondents answer that the Ab Force promotional materials referred to all EMS devices being sold in the market during the same period of time as the Ab Force promotional materials were being disseminated.

INTERROGATORY NO. 5 (FTC INTERROGATORY NO. 3, SECOND PART): If you contend that Ab Force promotional materials referenced or referred to EMS devices other than the devices identified in paragraph 11 of the Complaint, [] identify each such product.

ANSWER:

Subject to and without waiving any of the General Objections, Respondents answer that the devices include those devices identified in Complaint Counsel's response to Respondents' Interrogatory No. 3 (reclassified by Respondents as Interrogatory No. 9).

INTERROGATORY NO. 6 (FTC INTERROGATORY NO. 4): If you contend that Ab Force promotional materials make claims other than those identified in the Complaint, including any massage claims, describe the basis for each such claim.

ANSWER:

Subject to and without waiving any of the General Objections, Respondents answer that the Ab Force promotional materials make a claim that the product is a massager. The basis for that contention is the wording of the advertisement at issue.

INTERROGATORY NO. 7 (FTC INTERROGATORY NO. 5, FIRST PART): For the claim “fitness craze,” describe why the claim was included in tape “Telebrands Electronic Ab Force, “60, 9/19/02 Screening Copy” and subsequently dropped from other promotional materials.

ANSWER:

Respondents object to the Interrogatory as calling for information protected by the attorney-client privilege.

INTERROGATORY NO. 8 (FTC INTERROGATORY NO. 5, SECOND PART): For the claim “fitness craze,” [and regarding the reasons why the] claim was included in tape “Telebrands Electronic Ab Force, “60, 9/19/02 Screening Copy” and subsequently dropped from other promotional materials, [] identify the persons who directed or otherwise was responsible for those decisions.

ANSWER:

Subject to and without waiving any of the General Objections, Respondents answer that Respondent Ajit Khubani was ultimately responsible for any decision not to include the quoted statement in any advertisement.

INTERROGATORY NO. 9 (FTC INTERROGATORY NO. 6, FIRST PART): For the claim “just as powerful and effective,” describe why the claim was included in tape “Telebrands Electronic Ab Force :60, 9/19/02 Screening Copy” and subsequently dropped from other promotional materials.

ANSWER:

Respondents object to the Interrogatory as calling for information protected by the attorney-client privilege.

INTERROGATORY NO. 10 (FTC INTERROGATORY NO. 6, SECOND PART): For the claim “just as powerful and effective,” [and regarding the reasons why the] claim was included in tape “Telebrands Electronic Ab Force :60, 9/19/02 Screening Copy” and subsequently dropped from other promotional materials, [] identify the persons who directed or otherwise was responsible for those decisions.

ANSWER:

Subject to and without waiving any of the General Objections, Respondents answer that Respondent Ajit Khubani was ultimately responsible for any decision not to include the quoted statement in any advertisement.

INTERROGATORY NO. 11 (FTC INTERROGATORY NO. 7, FIRST PART): For the claim “relaxing massage,” describe why the claim was included in tape “Telebrands Electronic Ab Force, :60, 9/13/02 Screening Copy” and not included in other promotional materials.

ANSWER:

Respondents object to the Interrogatory as calling for information protected by the attorney-client privilege.

INTERROGATORY NO. 12 (FTC INTERROGATORY NO. 7, SECOND PART): For the claim “relaxing massage,” [and regarding the reasons why the] claim was included in tape “Telebrands Electronic Ab Force, :60, 9/13/02 Screening Copy” and not included in other promotional materials, [] identify the persons who directed or otherwise was responsible for those decisions.

ANSWER:

Subject to and without waiving any of the General Objections, Respondents answer that Respondent Ajit Khubani was ultimately responsible for any decision not to include the quoted statement in any advertisement.

INTERROGATORY NO. 13 (FTC INTERROGATORY NO. 8, FIRST PART): Identify [] all persons who participated in the creation or development of promotional materials [] for Ab Force.

ANSWER:

Respondents object that the Interrogatory is overly broad and unduly burdensome in that it seeks the identification of "all persons," regardless of the level of their participation.

Subject to and without waiving any of the General Objections or the specific objection herein, Respondents answer as follows:

1. Ajit Khubani
2. Collette Liantonio
Concepts TV Productions, Inc.
170 Changebridge Road, Suite B2
Montville, NJ 07045
(973) 808-5646
3. Laserwave Inc.
103 Bayard Street
New Brunswick, NJ 08901
(732) 745-7764

INTERROGATORY NO. 14 (FTC INTERROGATORY NO. 8, SECOND PART): [P]rovide a detailed description of the roles and responsibilities of all persons who participated in the creation or development of promotional materials.

ANSWER:

Respondents object that the Interrogatory is overly broad and unduly burdensome in that it seeks the description of the roles and responsibilities of "all persons," regardless of the level of their participation.

Subject to and without waiving any of the General Objections or the specific objection herein, Respondents answer as follows:

1. Ajit Khubani is ultimately responsible for overseeing the marketing and creative design of the Ab Force advertising and promotional campaign and was the primary person who created and developed the promotional materials.
2. Collette Liantonnio is the President of Concepts TV Productions, Inc., and participated by consulting with Ajit Khubani regarding creative elements for the production of the television advertising.
3. Laserwave Inc. printed the instruction booklet included with the Ab Force product.

INTERROGATORY NO. 15 (FTC INTERROGATORY NO. 8, THIRD PART): Identify all persons who participated in the media placement or dissemination for Ab Force.

ANSWER:

Respondents object that the Interrogatory is overly broad and unduly burdensome in that it seeks the description of the roles and responsibilities of "all persons," regardless of the level of their participation.

Subject to and without waiving any of the General Objections or the specific objection herein, Respondents answer as follows:

1. Shail Prasad
Artha Marketing

Mr. Prasad has an office at Telebrands and may be contacted through counsel.

2. E & M Advertising, Inc.
462 Seventh Avenue
New York, New York 10018
(212) 981-5900
3. Media Advantage Corporation
395 Pleasant Valley Way
West Orange, New Jersey 07052
(973) 325-0050
4. Next Reflex
462 Seventh Avenue, 8th Floor
New York, New York 10018
(212) 981-5980
5. Mosaic Data Solutions
1880 Oak Avenue, 2nd Floor
Evanston, IL 60201-5937
(847) 864-3900
6. Manhattan Media, LLC
63 W. 38th Street, Suite 206
New York, New York 10018
(212) 268-8600
7. ThrottleBox Media, Inc.
271 Main Street
Johnson City, NY 13790-2190
(607) 798-7300

INTERROGATORY NO. 16 (FTC INTERROGATORY NO. 8, FOURTH PART): [P]rovide a detailed description of the roles and responsibilities of all persons who participated in [] media placement or dissemination [] for Ab Force.

ANSWER:

Respondents object that the Interrogatory is overly broad and unduly burdensome in that it seeks the description of the roles and responsibilities of "all persons," regardless of the level of their participation.

Subject to and without waiving any of the General Objections or the specific objection herein, Respondents answer as follows:

1. Shail Prasad is an independent consultant, who was employed by Telebrands Corporation to oversee the placement and dissemination of television, radio, e-mail and print advertising for the Ab Force campaign.
2. E & M Advertising participated in the dissemination of television advertising, primarily through the buying of advertising time at different media outlets.
3. Media Advantage Corporation participated in the dissemination of test radio and television advertising through the buying of advertising time at different media outlets.
4. Next Reflex participated in the placement and dissemination of the test e-mail advertisement for the Ab Force product.
5. Mosaic Data Solutions participated by providing permission-based consumer e-mail addresses for use in the test e-mail advertisement for the Ab Force product.
6. Manhattan Media, LLC participated in the placement and dissemination of test print advertisements for the Ab Force product.
7. Throttlebox Media participated in the placement and dissemination of advertising for the Ab Force product on the internet.

INTERROGATORY NO. 17 (FTC INTERROGATORY NO. 8, FIFTH PART): Identify [] all persons who participated in [] telemarketing services [] for Ab Force.

ANSWER:

Respondents object that the Interrogatory is overly broad and unduly burdensome in that it seeks the identification of "all persons," regardless of the level of their participation.

Subject to and without waiving any of the General Objections or the specific objection herein, Respondents answer as follows:

1. Shail Prasad
2. Cyber City Teleservices, Ltd.
Continental Plaza
Hackensack, NJ
(800) 213-4144

3. West Telemarketing Corporation
9910 Maple Street
Omaha, NE 68134-5500
(402) 571-7700

INTERROGATORY NO. 18 (FTC INTERROGATORY NO. 8, SIXTH PART): [P]rovide a detailed description of the roles and responsibilities of all persons who participated in [] telemarketing services [] for Ab Force.

ANSWER:

Respondents object that the Interrogatory is overly broad and unduly burdensome in that it seeks the description of the roles and responsibilities of "all persons," regardless of the level of their participation.

Subject to and without waiving any of the General Objections or the specific objection herein, Respondents answer as follows:

1. Cyber City Teleservices participated as a telemarketing service provider with regard to the sales of the Ab Force product.
2. West Telemarketing Corporation participated as a telemarketing service provider with regard to the sales of the Ab Force product.
3. Shail Prasad participated by helping to coordinate and obtain telemarketing services related to the sale of the Ab Force product.

INTERROGATORY NO. 19 (FTC INTERROGATORY NO. 8, SEVENTH PART): Identify [] all persons who participated in the [] product pricing strategy for Ab Force.

ANSWER:

Respondents object that the Interrogatory is overly broad and unduly burdensome in that it seeks the identification of "all persons," regardless of the level of their participation.

Subject to and without waiving any of the General Objections or the specific objection herein, Respondents answer as follows:

1. Ajit Khubani

INTERROGATORY NO. 20 (FTC INTERROGATORY NO. 8, EIGHTH PART): [P]rovide a detailed description of the roles and responsibilities of all persons who participated in the [] product pricing strategy for Ab Force.

ANSWER:

Respondents object that the Interrogatory is overly broad and unduly burdensome in that it seeks the description of the roles and responsibilities of "all persons," regardless of the level of their participation.

Subject to and without waiving any of the General Objections or the specific objection herein, Respondents answer as follows:

1. Ajit Khubani was responsible for assessing the factors that went into establishing the price for the Ab Force product and was responsible for determining the price of the Ab Force product.

INTERROGATORY NO. 21 (FTC INTERROGATORY NO. 9): Identify and provide a detailed description of communications between you and any print, television, or radio media, or any website designer, developer, manager, hoster, or any online service, referring or relating to any claims or representations in any proposed or disseminated Ab Force promotional materials.

ANSWER:

Respondents object that the Interrogatory is overly broad and unduly burdensome in that it seeks the identification and description of each communication between Respondents and any media related third party, regardless of the nature of the communication, provided it "relates" to any claims in any proposed or disseminated Ab Force advertisement.

Subject to and without waiving any of the General Objections or the specific objection herein, Respondents answer this Interrogatory by stating that all responsive documents reflecting communications between Respondents and the media-related third parties have already been produced, and that such communications may be found at, but not limited to, the following Bates ranges: T000053 - T000081. T000082 - T000400; T000410 - T000758; T000822 - T000873; T000877 - T000883; T000885 - T000938; T000950 - T000961; T001012 - T001110; T004363 -

T008696; T00944 – T009446; T009841 - T010386; T010403 - T010609; T010713 - T010746;
T01050; T010752 –T010774.

INTERROGATORY NO. 22 (FTC INTERROGATORY NO. 10): Identify all experts, including market research experts, physicians and scientists, consulted by you, or upon whose advice, opinion, or expertise you relied for the creation, development, and marketing of Ab Force.

ANSWER:

Subject to and without waiving any of the General Objections or the specific objection herein, Respondents answer as follows:

None. However, Respondents refer the FTC to the information which is incorporated in the documents produced by Respondents at T 008697- T 009443, T 009447- T 00980, T 01618- T 01712, and any additional documentation which may be produced at a later time.

INTERROGATORY NO. 23 (FTC INTERROGATORY NO. 11): Identify every EMS device that was offered for sale, sold or distributed in the United States during or before the time period in which the Ab Force promotional materials appeared, including, without limitations, the persons who offered for sale, sold or distributed each such device and the sale price.

ANSWER:

Respondents answer that in addition to the numerous devices identified by complaint counsel in response to Respondents' First Set of Interrogatories, Respondents are in the process of gathering information responsive to this Interrogatory and will seasonably supplement this answer.

INTERROGATORY NO. 24 (FTC INTERROGATORY NO. 12): Identify every “ab belt infomercial” that was on television in the United States during or before the time period in which the Ab Force promotional materials appeared, including the persons who offered for sale, or sold each such device and the sale price.

ANSWER:

Respondents answer that in addition to the numerous devices identified by complaint counsel in response to Respondents' First Set of Interrogatories, Respondents are in the process

of gathering information responsive to this Interrogatory and will seasonably supplement this answer.

INTERROGATORY NO. 25 (FTC INTERROGATORY NO. 13, FIRST PART): Identify every nation in which the Ab Force was advertised, promoted, offered for sale, sold or distributed.

ANSWER:

Respondents object to the Interrogatory to the extent it seeks information relating to the promotion or sale of the Ab Force product outside of the United States or its territories as being outside the scope of discovery permitted by Federal Trade Commission Rule of Practice § 3.31(c) because it seeks information that is outside the jurisdiction of the Federal Trade Commission, is not relevant to the allegations of the complaint and is not reasonably calculated to lead to the discovery of admissible evidence.

Subject to and without waiving any of the General Objections or the specific objection herein, Respondents answer that the Ab Force was advertised, promoted, offered for sale, sold and distributed throughout the United States.

INTERROGATORY NO. 26 (FTC INTERROGATORY NO. 13, SECOND PART): Identify [] the number of Ab Force customers in each country identified in response to Interrogatory 13.

ANSWER:

Respondents object to the Interrogatory to the extent it seeks information relating to the promotion or sale of the Ab Force product outside of the United States or its territories as being outside the scope of discovery permitted by Federal Trade Commission Rule of Practice § 3.31(c) because it seeks information that is outside the jurisdiction of the Federal Trade Commission, is not relevant to the allegations of the complaint and is not reasonably calculated to lead to the discovery of admissible evidence.

Subject to and without waiving any of the General Objections or the specific objection raised in response to the previous Interrogatory, Respondents answer that each customer of the Ab Force product in the United States was identified in documents previously produced to complaint counsel in response to Civil Investigative Demands. Respondents answer that those documents are found in the boxes Bates labeled T010833 (570 pages) and T010834 (approximately 24,000 pages).

INTERROGATORY NO. 27 (FTC INTERROGATORY NO. 13, THIRD PART): [I]dentify the years in which [the Ab Force] was sold [in each country identified in response to Interrogatory No. 13].

ANSWER:

Respondents object to the Interrogatory to the extent it seeks information relating to the promotion or sale of the Ab Force product outside of the United States or its territories as being outside the scope of discovery permitted by Federal Trade Commission Rule of Practice § 3.31(c) because it seeks information that is outside the jurisdiction of the Federal Trade Commission, is not relevant to the allegations of the complaint and is not reasonably calculated to lead to the discovery of admissible evidence.

Subject to and without waiving any of the General Objections or the specific objection herein, Respondents answer that the Ab Force was sold in the United States in 2002.

INTERROGATORY NO. 28 (FTC INTERROGATORY NO. 14): State the total number of Ab Force units sold.

ANSWER:

Respondents answer that the number of units sold are itemized as follows:

Belts: 747,812

Gels: 850,757 (includes gels provided at no cost as well as sales)

Batteries: 487,032 (does not include batteries originally installed in belt)

INTERROGATORY NO. 29 (FTC INTERROGATORY NO. 15): State the total amount of money Khubani received directly or indirectly from the sale of the Ab Force during each calendar year from 2000 through the date of you receive these interrogatories, separately identifying each source of money, and including but not limited to salary, wages, commissions, bonuses and other distributions.

ANSWER:

Subject to and without waiving any of the General Objections or the specific objection herein, Respondents answer that Mr. Khubani's compensation is not tied, either directly or indirectly, to the performance of any single product marketed and sold by Telebrands Corporation or TV Savings, LLC, but is derived instead from his duties and responsibilities as President and CEO of Telebrands Corporation and sole member and officer of TV Savings, LLC.

INTERROGATORY NO. 30 (FTC INTERROGATORY NO. 16, FIRST PART): Describe in detail Ajit Khubani's current and former role and responsibilities with regard to Ab Force, including but not limited to, the promotion and sale of the Ab Force.

ANSWER:

Subject to and without waiving any of the General Objections or the specific objection herein, Respondents answer that Mr. Khubani was primarily responsible for the creation and development of the Ab Force advertising; approved all advertising disseminated; set the pricing strategy for the Ab Force; directed the placement and dissemination of the advertising of the Ab Force product; and decided when the Ab Force product would no longer be marketed or sold.

INTERROGATORY NO. 31 (FTC INTERROGATORY NO. 16, SECOND PART): Describe in detail [] the amount and dates of all compensation, payments, and other benefits [Mr. Khubani] has received in conjunction with Ab Force.

ANSWER:

See answer to Interrogatory No. 29.

INTERROGATORY NO. 32 (FTC INTERROGATORY NO. 17): Identify and describe the technical specifications for all versions of Ab Force offered for sale in the United States or any other country, including but not limited to: the voltage, the pulse duration (*i.e.*, the length of the pulse, typically expressed in micro-seconds), the waveform (*i.e.*, the shape of the electrical current being transmitted through the skin), the peak current (*i.e.*, amplitude, measured in milliamps), the phase charge, and, for any interrupted current settings, the amount of time the current is on or off.

ANSWER:

Subject to and without waiving any of the General Objections, Respondents answer that all responsive technical specifications and information Respondents have in their possession was provided to complaint counsel in response to Civil Investigative Demands. Specifically, Exhibit A to Ajit Khubani's Responses and Objections to the Federal Trade Commission's September 30, 2002 Civil Investigative Demand for Written Interrogatories provides technical specifications known to Respondents at this time. In addition, documents containing other descriptions of the physical characteristics of the Ab Force products are found in the documents previously produced to complaint counsel at Bates ranges T001025 – T001026; T001028 – T001030; T001032 – T001034; T001062; T001074 – T001083; T001096.

INTERROGATORY NO. 33 (FTC INTERROGATORY NO. 18): For the first version of the Ab Force and each version identified in response to Interrogatory 18, identify and describe, any change or variation in the physical characteristics (such as size, color, and shape) of each version of Ab Force and the reason for such change.

ANSWER:

See answer to Interrogatory No. 32.

INTERROGATORY NO. 34 (FTC INTERROGATORY NO. 19): Annually for 2001 and 2002 to date, state the total number of units returned and the total dollar amount of refunds.

ANSWER:

Subject to and without waiving any of the General Objections or the specific objection herein, Respondents answer as follows:

As of September 30, 2003, the number of orders refunded was 40,450.

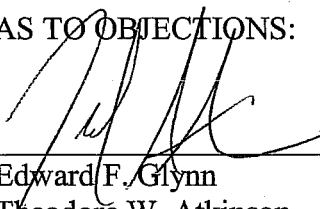
As of September 30, 2003, in terms of individual belts, *not* orders, TV Savings has provided refunds to consumers for 80,582 belts.

As of September 30, 2003, TV Savings has refunded the purchase price for 106,192 bottles of gel and 73,867 batteries. The refunded batteries were additional batteries that were ordered as part of "upsells," separate from the one battery that came in each belt.

Product related returns total: \$2,579,331.29. This figure does not include any charge-back credits or courtesy credits issued to consumers by TV Savings.

Dated: December 12, 2003

AS TO OBJECTIONS:



Edward F. Glynn
Theodore W. Atkinson
VENABLE LLP
575 7th Street, N.W.
Washington, DC 20004-1601
(202) 344-8000

Attorneys for Respondents
Telebrands Corp., TV Savings, LLC,
and Ajit Khubani

VERIFICATION

I, Ajit Khubani, President of Telebrands Corp. and officer of TV Savings, LLC, am duly authorized to execute the Objections and Responses to Complaint Counsel's First Interrogatories, under oath on its behalf. The information set forth in these Responses was collected by others, and such information is not necessarily within my personal knowledge. However, on behalf of Telebrands Corp. and TV Savings, LLC, as well as myself, I declare under penalty of perjury that the foregoing Objections and Responses to Complaint Counsel's First Interrogatories are true and correct to the best of my knowledge, information and belief.



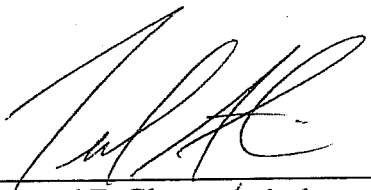
Ajit Khubani
President

DCI/174830

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy of the foregoing Objections and Response to Interrogatories was hand delivered this 12th day of December, 2003, to:

Connie Vecellio
Walter Gross
Amy M. Lloyd
Joshua S. Millard
Division of Enforcement
Bureau of Consumer Protection
Federal Trade Commission
600 Pennsylvania Avenue, N.W.
Washington, DC 20580



Edward F. Glynn /TUA

DC2/503975

EXHIBIT E

**UNITED STATES OF AMERICA
FEDERAL TRADE COMMISSION**

In the Matter of)
)
TELEBRANDS CORP.,)
 a corporation,)
)
TV SAVINGS, LLC,)
 a limited liability company, and)
)
AJIT KHUBANI,)
 individually and as president of)
 Telebrands Corp. and sole member)
 of TV Savings, LLC.)

Docket No. 9313

PUBLIC DOCUMENT

**COMPLAINT COUNSEL'S SECOND SET OF INTERROGATORIES TO
RESPONDENTS**

Pursuant to Rule 3.35 of the Federal Trade Commission's Rules of Practice, and the Pretrial Scheduling Order entered on November 5, 2003, Complaint Counsel hereby requests that Telebrands Corp. ("Telebrands"), TV Savings, LLC ("TV Savings"), and Ajit Khubani ("Khubani") respond to these Interrogatories within 20 days, the time prescribed by Judge McGuire's Scheduling Order, and produce the following documents and/or tangible things for inspection and copying at the Federal Trade Commission, 601 New Jersey Avenue, N.W., Washington, D.C. 20001, or at such time and place as may be agreed upon by all counsel.

DEFINITIONS

1. **"Ab Force"** shall mean the Electronic Muscle Stimulation ("EMS") device advertised as "Ab Force."
2. **"All documents"** shall mean each document, as defined below, which can be located, discovered or obtained by reasonable, diligent efforts, including without limitation all documents possessed by: (a) you or your counsel; or (b) any other person or entity from whom you can obtain such documents by request or which you have a legal right to bring within your possession by demand.
3. **"And"** as well as **"or"** shall be construed both conjunctively and disjunctively, as necessary, in order to bring within the scope of any Document Specification in this First Set of Requests for Production of Documentary Materials and Tangible Things all information that otherwise might be construed to be outside the scope of the request.

4. **"Any"** shall be construed to include the word **"all,"** and the word **"all"** shall be construed to include the word **"any."**

5. **"Complaint"** shall mean the complaint issued by the Federal Trade Commission, and any amendments thereto, in the above-captioned action, Docket No. 9313.

6. **"Document"** shall mean the complete original and any non-identical copy (whether different from the original because of notations on the copy or otherwise), regardless of origin or location, of any written, typed, printed, transcribed, taped, recorded, filmed, punched, computer-stored, or graphic matter of every type and description, however and by whomever prepared, produced, disseminated or made, including, but not limited to, any advertisement, pamphlet, book, periodical, contract, file, invoice, memorandum, note, telegram, report, record, working paper, routing slip, chart, graph, paper, index, map, tabulation, manual, guide, outline, script, abstract, history, calendar, diary, agenda, minute, code book, tests, reports, clinical studies, test reports, scientific literature, articles, expert opinions, handwritten notes, correspondence, written or recorded communications, opened electronic mail, computer (including handheld computer) material (including print-outs, cards, magnetic or electronic tapes, discs and such codes or instructions as will transform such computer materials into easily understandable form), and video and audio recordings.

7. **"Identify"** means:

(a) when referring to a natural person, state the full name, present business address and telephone number, or if a present business affiliation or business address is not known, by the last known business and home addresses and business and home telephone numbers;

(b) when referring to a business or organization, state the legal name as well as any other names under which the entity has done business, address, telephone number and contact person, if applicable for that entity; and

(c) when referring to a document, state the full name(s) of the author(s) or preparer(s) of the document, the full name of the addressee(s) and person(s) designated to receive copies of the document, the title or description of the character or nature of the document, a brief description of the subject matter of the document, the date the document was prepared, its present location, and its present custodian.

8. **"Including"** means "including but not limited to," so as to avoid excluding any information that might otherwise be construed to be within the scope of any Interrogatory. audience reaction tests, focus groups and media research.

9. **"Person"** or **"persons"** shall mean all natural persons, corporations, partnerships or other business associations, and all other legal entities, including all members, officers, predecessors, assigns, divisions, affiliates, and subsidiaries.

10. **"Promotional material"** shall mean any written or oral statement, advertisement, illustration, or depiction that is designed to effect a sale or create interest in the purchasing of

goods or services, whether the same appears in a brochure, newspaper, magazine, pamphlet, leaflet, circular, mailer, book insert, free standing insert, letter, electronic communication, news release, catalogue, poster, chart, billboard, public transit card, point of purchase material (including, but not limited to, a display or an item worn by salespeople), package insert, package label, film, slide, radio, broadcast or cable television, audio program transmitted over a telephone system, script used to make oral solicitations to consumers, program-length commercial ("infomercial"), the Internet, or any other medium.

11. **"Provide"** or **"state"** means to offer a comprehensive, complete, accurate and detailed description, explanation or listing of the matter into which the Interrogatory inquires.

12. **"Referring to"** or **"relating to"** shall mean discussing, describing, reflecting, containing, analyzing, studying, reporting, commenting, evidencing, constituting, setting forth, considering, recommending, concerning, or pertaining to, in whole or in part.

13. **"Respondents"** shall mean Telebrands Corp., TV Savings, LLC, or Ajit Khubani.

14. **"You"** or **"your"** shall mean the Respondents or the Respondents', individually and collectively.

15. The singular shall be construed to include the plural, and the plural shall be construed to include the singular.

16. The use of a verb in any tense shall be construed as the use of the verb in all other tenses.

INSTRUCTIONS

1. Each Interrogatory should be set forth in full preceding the answer to it and should be answered separately and fully in writing, under oath. All answers, shall be served within 20 days after service of these Interrogatories. All objections, if any, shall be served within 10 days after service of these Interrogatories.

2. Unless otherwise specified, the time period covered by an Interrogatory shall not be limited and all information responsive to the Interrogatory, regardless of dates or time periods involved, should be provided.

3. If any Interrogatory cannot be answered in full, it shall be answered to the fullest extent possible and the reasons for the inability to answer fully shall be provided.

4. Where an Interrogatory requests an answer or portion of an answer that has already been supplied in response to another Interrogatory, the answer or portion of the answer need not be supplied a second time. It is sufficient to specify the responses that contain the answer, and supply any additional information necessary to answer the Interrogatory.

5. All objections to these Interrogatories, or to any individual Interrogatory, shall be served within 10 days after service of these Interrogatories or are otherwise waived.

6. Information covered by these Interrogatories is that which is in your knowledge or possession, or under your actual or constructive custody or control, whether or not such information is located in the files of, or possessed by your individual officers, directors or employees of the company, and whether or not such information is received from or disseminated to any other person or entity including attorneys, accountants, directors, officers or employees.

7. These Interrogatories are continuing in character so as to require you to produce additional information promptly upon obtaining or discovering different, new or further information before the close of discovery.

8. As to each answer to each of the Interrogatories where no information or only partial information is given to such Interrogatory, state a description of the efforts made to locate information needed for such answer.

9. If you object to any Interrogatory or a part of any Interrogatory, or refuse to give a particular answer, state the Interrogatory or part to which you object, state the exact nature of the objection and describe in detail the facts upon which you base your objection. If any documents or communications are not identified in response to an Interrogatory on grounds of privilege or relevance, then with respect to each such document or communication, provide a statement, setting forth the following information: (a) the type, title, specific subject matter, and date of the item; (b) the names, addresses, positions, and organizations of all authors and recipients of the item; and (c) the specific grounds for claiming that the item is privileged.

INTERROGATORIES

20. Identify any markets other than "major national markets" [see Answer of Respondents Telebrands Corporation, TV Savings, LLC and Ajit Khubani] where respondents disseminated, or caused to be disseminated promotional materials for Ab Force.

21. Identify any electronic ab belt other than Ab Energizer, Ab Tronic, or Fast Abs that was advertised on television during the period September 2001 through May 2002.

22. Identify each separate item of promotional material for Ab Energizer, Ab Tronic, or Fast Abs that Respondent Telebrands Corporation, TV Savings, LLC or Ajit Khubani, or any agent, representative, employee, or contractor for any respondent, possessed or referred to at any time during the period from the beginning of the development of promotional materials for the Ab Force to the dissemination of television advertisements for the Ab Force.

23. Identify each agent, representative, employee, or contractor for any respondent who, during the time period from the beginning of the development of promotional materials for the Ab Force to the dissemination of television advertisements for the Ab Force, possessed or

referred to any item of promotional material for Ab Energizer, Ab Tronic, or Fast Abs.

24. Describe the circumstances that led to including the statement, "For use with regular exercise and a sensible diet" in the script for the Ab Force advertisement that was submitted to the Broadcast Advertising Clearance Center in Great Britain.

25. Describe the role of TV Savings in the marketing, promotion, sale, and distribution of the Ab Force.

26. Describe the role of Telebrands in the marketing, promotion, sale, and distribution of the Ab Force.

27. State the time period or periods during which TV Savings had offices at 81 Two Bridges Road, Fairfield, NJ 07004.

28. Identify the person or persons who possessed legal title to distribute the Ab Force prior to January 22, 2002.

29. Identify the "Program Manager" appointed by Telebrands pursuant to the Services Agreement between Telebrands and TV Savings dated January 22, 2002.

30. State the number of Ab Force units sold on or before January 22, 2002.

31. Identify the legal entity or entities (including but not limited to Telebrands and TV Savings) Ajit Khubani was representing when he oversaw the marketing and creative design of the Ab Force advertising and promotional campaign and the creation and development of the Ab Force promotional materials.

32. If documents responsive to a particular document request in the accompanying Complaint Counsel's Second Set of Requests for Production of Documentary Materials and Tangibles no longer exist or are no longer in your possession or control but you have reason to believe that they have been in existence or in your possession, state the circumstances under which they were lost, destroyed, or transferred; describe the documents to the fullest extent possible; state the request(s) to which they are responsive; and identify persons having knowledge of the content of such documents.

33. List any products sold as massage products by any of the respondents.

34. Identify the person or persons responsible for creating the Ab Force User Manual.

Respectfully submitted,

Constance Vecellio

Constance Vecellio (202) 326-2966

Walter C. Gross III (202) 326-3319

Amy M. Lloyd (202) 326-2394

Joshua S. Millard (202) 326-2454

Complaint Counsel

Division of Enforcement

Bureau of Consumer Protection

Federal Trade Commission

600 Pennsylvania Ave., N.W, Suite NJ-2122


Washington, D.C. 20580

Dated: December 16, 2003

CERTIFICATE OF SERVICE

I hereby certify that on this 16th day of December 2003, I caused a true copy of Complaint Counsel's Second Set of Interrogatories to Respondents to be served by electronic mail, U.S. Mail, and facsimile upon:

Edward F Glynn, Jr.
Theodore Atkinson, Esq.
Venable, Baetjer, Howard & Civiletti, LLP
575 7th Street, N.W.
Washington, D.C. 20004-1601
(202) 344-8300 fax
Attorneys for Respondents
efgynn@venable.com
twatkinson@venable.com



Amy M. Lloyd
Complaint Counsel

*** TX REPORT ***

TRANSMISSION OK

TX/RX NO 2508
CONNECTION TEL 93448300
SUBADDRESS
CONNECTION ID
ST. TIME 12/16 17:43
USAGE T 03'15
PGS. 8
RESULT OK



UNITED STATES OF AMERICA
FEDERAL TRADE COMMISSION
600 PENNSYLVANIA AVENUE, NW
WASHINGTON, DC 20580

Division of Enforcement
Bureau of Consumer Protection

FAX COVER SHEET

To: Edward Glynn, Esq.
Ted Atkinson, Esq.
Venable, Baetjer, Howard and Civiletti, LLP

Fax (202) 344-8300

From: Amy M. Lloyd *aml*
Division of Enforcement

Date: December 16, 2003

Re: See attached

Pages (including cover) 8

EXHIBIT F

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

| | | |
|---|---|------------------------|
| In the Matter of |) | |
| |) | |
| TELEBRANDS CORP., |) | |
| a corporation, |) | |
| |) | |
| TV SAVINGS, LLC, |) | |
| A limited liability company, and |) | Docket No. 9313 |
| |) | |
| AJIT KHUBANI, |) | |
| Individually and as president of |) | |
| Telebrands Corp. and sole member |) | |
| of TV Savings, LLC. |) | |
| |) | |

**TELEBRANDS CORP., TV SAVINGS, LLC, AND AJIT KHUBANI'S
OBJECTIONS TO COMPLAINT COUNSEL'S SECOND SET OF INTERROGATORIES**

Telebrands Corp., TV Savings, LLC, and Ajit Khubani ("Respondents"), by counsel, for their Objections to Complaint Counsel's Second Set of Interrogatories, respond as follows:

GENERAL OBJECTIONS

1. These objections are provided in accordance with the provisions and intent of the Federal Trade Commission Rules of Practice and the Scheduling Order governing this case, which require Respondents to state objections to any request on any basis related to the scope of discovery or form of the request. Accordingly, by making the following objections, the parties objecting to these Interrogatories do not waive objections to their admission in evidence on the grounds of relevance, materiality, or on any other proper grounds for objections.

2. Respondents do not submit to the instructions and definitions listed at the beginning of the Interrogatories, except as those instructions and definitions specifically conform to the requirements of the aforesaid Rules and the applicable case law developed thereunder.

Specific objections are noted on advice of counsel, and without waiver of the objections reserved as stated above.

3. Respondents object to each and all of the Interrogatories to the extent they seek information that is protected from disclosure by the attorney-client privilege, work product doctrine, or other applicable privilege. Respondents do not waive any protections or privileges by responding to these Interrogatories.

4. Respondents object to these Interrogatories to the extent they seek information that is not relevant to the issues in this litigation or are not reasonably calculated to lead to the discovery of relevant or admissible information.

5. Respondents object to these Interrogatories to the extent they are unreasonably vague, broad, repetitious, unduly burdensome, or purport to require the disclosure of information beyond the scope of permissible discovery under the Federal Trade Commission Rules of Practice.

6. Respondents object to these Interrogatories to the extent that they purport to require Respondents to produce information outside Respondents' possession, custody, and control.

7. Respondents object that with discrete subparts in Interrogatory No. 32, Complaint Counsel have exceeded the 50 interrogatories permitted by the Scheduling Order.

8. Respondents incorporate by reference their General Objections in each of the specific responses set forth below.

INTERROGATORIES

INTERROGATORY NO. 20 (As Numbered by Complaint Counsel): Identify any markets other than “major national markets” [see Answer of Respondents Telebrands Corporation, TV Savings, LLC and Ajit Khubani] where respondents disseminated, or caused to be disseminated promotional materials for Ab Force.

OBJECTIONS:

Respondents object that the Interrogatory is vague as to its scope.

Subject to and without waiving the foregoing General Objections and the specific objection stated herein, Respondents will Answer the Interrogatory to the extent they have responsive information.

INTERROGATORY NO. 21 (As Numbered by Complaint Counsel): Identify any electronic ab belt other than Ab Energizer, Ab Tronic, or Fast Abs that was advertised on television during the period September 2001 through May 2002.

OBJECTIONS:

Subject to and without waiving the foregoing General Objections, Respondents will Answer the Interrogatory to the extent they have responsive information.

INTERROGATORY NO. 22 (As Numbered by Complaint Counsel): Identify each separate item of promotional material for Ab Energizer, Ab Tronic, or Fast Abs that Respondent Telebrands Corporation, TV Savings, LLC or Ajit Khubani, or any agent, representative, employee, or contractor for any respondent, possessed or referred to at any time during the period from the beginning of the development of promotional materials for the Ab Force to the dissemination of television advertisements for the Ab Force.

OBJECTIONS:

Respondents object that the Interrogatory is vague as a whole, and vague specifically with regard to the use of the term “referred to.”

Subject to and without waiving the foregoing General Objections and the specific objection stated herein, Respondents will Answer the Interrogatory to the extent they have responsive information.

INTERROGATORY NO. 23 (As Numbered by Complaint Counsel): Identify each agent, representative, employee, or contractor for any respondent who, during the time period from the beginning of the development of promotional materials for the Ab Force to the dissemination of television advertisements for the Ab Force, possessed or referred to any item of promotional material for Ab Energizer, Ab Tronic, or Fast Abs.

OBJECTIONS:

Respondents object that the Interrogatory is vague as a whole, and vague specifically with regard to the use of the term “referred to.”

Subject to and without waiving the foregoing General Objections and the specific objection stated herein, Respondents will Answer the Interrogatory to the extent they have responsive information.

INTERROGATORY NO. 24 (As Numbered by Complaint Counsel): Describe the circumstances that led to including the statement, “For use with regular exercise and a sensible diet” in the script for the Ab Force advertisement that was submitted to the Broadcast Advertising Clearance Center in Great Britain.

OBJECTIONS:

Respondents object to the Request to the extent it seeks information relating to the promotion or sale of the Ab Force product outside of the United States or its territories as being outside the scope of discovery permitted by Federal Trade Commission Rule of Practice § 3.31(c) because it seeks information that is outside the jurisdiction of the Federal Trade Commission, is not relevant to the allegations of the complaint and is not reasonably calculated to lead to the discovery of admissible evidence.

Respondents further object that the Interrogatory is vague with regard to the request that Respondents describe “the circumstances that led to” the inclusion of any phrase.

INTERROGATORY NO. 25 (As Numbered by Complaint Counsel): Describe the role of TV Savings in the marketing, promotion, sale, and distribution of the Ab Force.

OBJECTIONS:

Subject to and without waiving the foregoing General Objections, Respondents will Answer the Interrogatory to the extent they have responsive information.

INTERROGATORY NO. 26 (As Numbered by Complaint Counsel): Describe the role of Telebrands in the marketing, promotion, sale, and distribution of the Ab Force.

OBJECTIONS:

Subject to and without waiving the foregoing General Objections, Respondents will Answer the Interrogatory to the extent they have responsive information.

INTERROGATORY NO. 27 (As Numbered by Complaint Counsel): State the time period or periods during which TV Savings had offices at 81 Two Bridges Road, Fairfield, NJ 07004.

OBJECTIONS:

Subject to and without waiving the foregoing General Objections, Respondents will Answer the Interrogatory to the extent they have responsive information.

INTERROGATORY NO. 28 (As Numbered by Complaint Counsel): Identify the period or persons who possessed legal title to distribute the Ab Force prior to January 22, 2002.

OBJECTIONS:

Respondents object that the Interrogatory is vague and incomprehensible with regard to the phrases “period or persons” and “legal title.”

INTERROGATORY NO. 29 (As Numbered by Complaint Counsel): Identify the “Program Manager” appointed by Telebrands pursuant to the Services Agreement between Telebrands and TV Savings dated January 22, 2002.

OBJECTIONS:

Subject to and without waiving the foregoing General Objections, Respondents will Answer the Interrogatory to the extent they have responsive information.

INTERROGATORY NO. 30 (As Numbered by Complaint Counsel): State the number of Ab Force units sold on or before January 22, 2002.

OBJECTIONS:

Subject to and without waiving the foregoing General Objections, Respondents will Answer the Interrogatory to the extent they have responsive information.

INTERROGATORY NO. 31 (As Numbered by Complaint Counsel): Identify the legal entity or entities (including but not limited to Telebrands and TV Savings) Ajit Khubani was representing when he oversaw the marketing and creative design of the Ab Force advertising and promotional campaign and the creation and development of the Ab Force promotional materials.

ANSWER:

Respondents object that the Interrogatory is vague as to the phrase “representing” and that the Interrogatory is vague as to the difference between “marketing and creative design of the Ab Force advertising and promotional campaign” and the “creation and development of the Ab Force promotional materials.”

Subject to and without waiving the foregoing General Objections and the specific objections stated herein, Respondents will Answer the Interrogatory to the extent they have responsive information.

INTERROGATORY NO. 32 (As Numbered by Complaint Counsel): If documents responsive to a particular document request in the accompanying Complaint Counsel's Second Set of Requests for Production of Documentary Materials and Tangibles no longer exist or are no longer in your possession or control but you have reason to believe that they have been in existence or in your possession, state the circumstances under which they were lost, destroyed, or transferred; describe the documents to the fullest extent possible; state the request(s) to which they are responsive; and identify persons having knowledge of the content of such documents.

OBJECTIONS:

Respondents object that the interrogatory is actually four separate interrogatories, using the separation and counting method apparently employed by Complaint Counsel in responding to Respondents' First Set of Interrogatories.

Subject to and without waiving the foregoing General Objections and the specific objection stated herein, Respondents will Answer the Interrogatory to the extent they have responsive information.

INTERROGATORY NO. 33 (As Numbered by Complaint Counsel): List any products sold as massage products by any of the respondents.

OBJECTIONS:

Respondents object that this is actually the 51st Interrogatory propounded by Complaint Counsel using the separation and counting method apparently employed by Complaint Counsel in responding to Respondents' First Set of Interrogatories.

Respondents have no other objections.

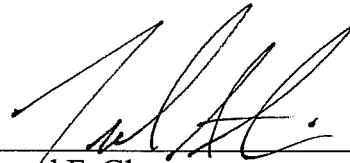
INTERROGATORY NO. 34 (As Numbered by Complaint Counsel): Identify the person or persons responsible for creating the Ab Force User Manual.

OBJECTIONS:

Respondents object that this is actually the 52nd Interrogatory propounded by Complaint Counsel using the separation and counting method apparently employed by Complaint Counsel in responding to Respondents' First Set of Interrogatories.

Respondents have no other objections.

Dated: December 23, 2003



Edward F. Glynn
Theodore W. Atkinson
VENABLE LLP
575 7th Street, N.W.
Washington, DC 20004-1601
(202) 344-8000

Attorneys for Respondents
Telebrands Corp., TV Savings, LLC,
and Ajit Khubani

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy of the foregoing Objections and Response to Second

Set of Interrogatories was e-mailed and mailed this 23rd day of December, 2003, to:

Connie Vecellio
Walter Gross
Amy M. Lloyd
Joshua S. Millard
Division of Enforcement
Bureau of Consumer Protection
Federal Trade Commission
600 Pennsylvania Avenue, N.W.
Washington, DC 20580



Theodore W. Atkinson

EXHIBIT G

Client: Telebrands
Product: Ab Force
Duration: 120 Seconds
Date: 4/8/03

BACC Executive: Paul Burrows
Agency: UKAMS
Contact: Holly Catterick
Tel: 01322 228899
Fax: 01322 288721

| VIDEO | AUDIO |
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(Telebrands Logo)
 Pat Murphy-Stark presenting
SUPER: Pat Murphy-Stark Ab Force spokeswoman.

Cut to woman/man wearing Ab Force.
SUPER: AB FORCE SHOWN.

SUPER: TEL NO: 000 000 0000
 Pat Murphy Stark on screen.

SUPER: TEL NO: 000 000 0000
 Pat Murphy Stark
 Cut to man wearing Ab Force
SUPER: AB FORCE JUST £20

SUPER: TEL NO: 000 000 0000
 Pat Murphy Stark on screen.
SUPER: AB FORCE
 Cut to woman wearing AB FORCE
 Cut to man wearing AB FORCE

Man demonstrating how AB FORCE works.
SUPER: SUPER QUALITY
SUPER: ELECTRONIC COMPONENTS
SUPER: 10 INTENSITY LEVELS

Pat Murphy-Stark on screen.
SUPER: How can we afford to sell AB FORCE for so little?
TEL NO: 000 000 0000
SUPER: Price of electronics comes down
Mass production factory deal
Pass saving to you!

Hi Pat Murphy with a terrific offer.

I'm sure you have seen those fantastic electronic Ab belt infomercials on TV.

They're amazing and they're the latest craze to sweep the country and everybody wants one, and that's why we have developed the Ab Force that you can buy now for just £20

That's right £20! But don't be fooled by the price. The Ab Force uses the same electronic principle as those Ab Belts sold by other companies on infomercials.

The Ab Force is a truly amazing product with easy to follow instructions. The Ab Force is capable of directing 10 completely different intensity levels at your abdominal area.

So how can we afford to sell the Ab Force for so little? Well just like cellphones and VCR's the price of electronic products keeps coming down and thanks to intense competition and a saving for mass production we're able to cut a great deal directly with the factory and we are passing the saving onto you. It's that simple.

SUPER: TEL NO 000 000 0000
 Woman wearing Ab Force
SUPER: LIGHTWEIGHT
 Cut to man wearing Ab Force
SUPER: ADJUSTABLE BELT
 For use with regular exercise and a sensible diet.
SUPER: RELAXING MASSAGE

Pat Murphy Stark on screen

SUPER: TEL NO 000 000 0000
 Demonstration of Ab Force
SUPER: AB FORCE
 Super quality
 Powerful
 Comfortable

Pat Murphy-Stark on screen.
SUPER: HERE'S AN EVEN BETTER DEAL!
 Cut to Ab Force belt
 Cut to split screen showing double Ab Force belts
SUPER 2 FOR £20

SUPER: TEL NO: 000 000 0000
 Cut to woman & man wearing Ab Force belts.

SUPER: TEL NO: 000 000 0000
 Pat Murphy-Stark on screen
 Male and female using gym equipment

Close up of Ab Force
 Cut to men & woman wearing belts.

SUPER: AB FORCE 2 FOR £20.

The Ab Force is made of durable, lightweight material with a fully adjustable belt for stomach, buttocks, thighs and arms. It is so comfortable that you even wear it under your clothes.

In fact I am wearing one right now and its working while I am working.

The Ab Force is super quality, powerful, comfortable and best of all it's just £20.

But here's an even better deal. We will double your order that's two Ab Force belts for just £20 plus post & packing. That is an unbelievable offer.

We expect demand for Ab Force to be overwhelming.

Don't miss out on this incredible opportunity.

Call 000 000 0000 to receive two Ab Force belts for £20 NOW.

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|---|-----------------------------|
| <p>End Tag Two Ab Force Baits For only £20 plus £4.99 post & packing. Credit Card Logos Please allow 14 days for delivery. Call 000 000 0000 Telebrands Ltd, Admail 68, Plymouth PL1 1AD</p> | <p>That's 000 000 0000.</p> |
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EXHIBIT H

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Telephone: 020 7306 7743

Facsimile: 020 7306 7737

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Television

Advertising

Complaints

REPORT



Independent Television Commission

How Television Advertising

is Controlled

The ITC is the statutory body created by the Broadcasting Act 1990 to license and regulate commercial television in the UK. Its remit extends to all commercially funded television services broadcasting from the UK, including satellite and cable services. The Act requires the ITC to draw up and enforce a code on advertising standards. The ITC also has a duty under the Control of Misleading Advertisements Regulations 1988 to consider complaints about misleading television advertisements.

The ITC *sets standards* for television advertising through its Advertising Standards Code. This is adopted and reviewed after wide public consultation. The ITC also consults regularly with the Government and has a duty to carry out any government directions about categories of products and services which may or may not be advertised. In addition, the ITC receives regular advice on advertising standards from an external advisory committee comprising representatives of both consumer and advertising interests.

The ITC *enforces compliance* through a combination of prevetting requirements and direct intervention. It requires the television companies it licenses to employ trained staff to check advertising carefully before accepting it for transmission. In particular they are required to satisfy themselves that any claims are accurate and, where appropriate, to inspect documentary evidence or seek the advice of independent consultants. The majority of television advertising is vetted by a central body called the Broadcast Advertising Clearance Centre (BACC) who act on behalf of a number of ITC licensees collectively, including ITV, GMTV, Channel 4, Channel 5, BSkyB and UKTV. In practice, most television advertising is submitted initially in script form and clearance for film production is given only when the BACC, or the individual company, is satisfied that there will be no breach of the rules. Where there is doubt about interpretation of the rules the television companies are encouraged to seek guidance from the ITC. These procedures, which are more searching than those applicable to any other advertising medium, ensure that the vast majority of advertisements which appear on television do not breach the rules. The ITC does, however, monitor the finished output closely and where necessary intervenes to require non-complying advertising to be withdrawn. A decision by ITC to suspend or discontinue an advertisement has mandatory and immediate effect and there are severe sanctions for non-compliance.

The ITC *considers all complaints* which it receives about advertising and, where an investigation is necessary, requires the television companies to submit background material to it promptly so that an assessment may be made with a minimum of delay. All complainants receive a personal reply to their complaint.