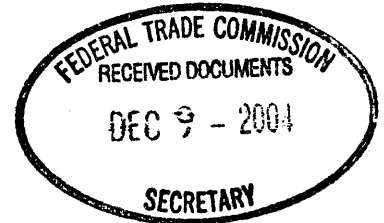


UNITED STATES OF AMERICA
FEDERAL TRADE COMMISSION
OFFICE OF ADMINISTRATIVE LAW JUDGES



_____)
In the Matter of)
)
DYNAMIC HEALTH OF FLORIDA, LLC)
CHHABRA GROUP, LLC)
DBS LABORATORIES, LLC)
VINEET K. CHHABRA aka VINCENT K. CHHABRA, and)
JONATHAN BARASH,)
Respondents.)
_____)

Docket No. 9317

ORDER DENYING RESPONDENTS' MOTION TO COMPEL

I.

On November 29, 2004, Dynamic Health of Florida, LLC, Chhabra Group, LLC, and Vincent Chhabra (collectively "Respondents") filed a motion seeking to compel compliance with 16 C.F.R. § 3.35 regarding interrogatories to parties ("Motion"). On December 6, 2004, Complaint Counsel filed its opposition ("Opposition").

Respondents seek an order limiting Complaint Counsel's interrogatories and document requests to fifty as set out in the Scheduling Order and requiring Complaint Counsel to submit interrogatory and document requests to each Respondent individually. Motion at 2-6. Complaint Counsel contends that each interrogatory properly includes only one subject and that Respondents were properly treated as one entity. Opposition at 2-9.

Commission Rule 3.35 states that "[a]ny party may serve upon any other party written interrogatories, not exceeding twenty-five (25) in number, including all discrete subparts." 16 C.F.R. § 3.35(a). The number of interrogatories permitted in this case was increased in the August 2, 2004 Scheduling Order which states that "[t]he parties are limited to a total of 50 document requests, 50 interrogatories, and 50 requests for admissions." Scheduling Order ¶ 6. Respondents contend that Complaint Counsel has exceeded that limit by compounding multiple requests into one document. Motion at 2. Complaint Counsel indicates that each interrogatory addresses only a single topic. Opposition at 2-7.

In determining whether a request is a discrete subpart, courts look to "whether one question is subsumed and related to another or whether each question can stand alone and be answered irrespective of the answer to the others." *Banks v. Office of the Senate Sargeant-at-Arms and Doorkeeper*, 222 F.R.D. 7, 10 (D.D.C. 2004). Courts have found that a subpart is


discreet when it is logically or factually independent of the question posed by the basic interrogatory. *Power & Telephone Supply Co. v. Suntrust Banks, Inc.*, 2004 U.S. Dist. LEXIS 6326, at *4 (W.D. Tenn. 2004); *Sec. Ins. Co. of Hartford v. Trustmark Ins. Co.*, 2003 U.S. Dist. LEXIS 18196, at *2 (D. Conn. 2003).

Upon review of the fourteen interrogatories and sixteen requests for production of documents issued by Complaint Counsel, most of the interrogatories and all of the requests for production of documents are appropriate. However, interrogatory 2 will be treated as two separate interrogatories – the first part requests the identity of previously-named parties involved in Chhabra’s dietary supplement business including the role they played while the second part requests information about their compensation. Interrogatory 9 will be stricken as overly broad – it requests that Respondents “[s]tate all facts that support each affirmative defense asserted” in the Answer. Opposition, Ex. B. The Answer lists a number of defenses, each of which constitutes an independent area of inquiry. *See, e.g., Sec. Ins. Co.*, 2003 U.S. Dist. LEXIS 18196, at *4. Interrogatory 9 will be stricken and not counted so that Complaint Counsel has an opportunity to draft an interrogatory regarding each individual defense, if they so choose. Therefore, Complaint Counsel has used fourteen of their fifty interrogatories (including interrogatory 2 twice, but not including interrogatory 9).

Complaint Counsel is entitled to submit fifty discovery requests to each party. Therefore, whether Complaint Counsel submits the requests to each Respondent individually or to the Respondents in a single set, with instructions that the requests be answered on behalf of each Respondent, the number of discovery requests allowed will remain the same. In turn, Respondents may respond to the discovery individually or may choose to combine their answers into one response which indicates, where necessary, any differences between the Respondents.

Respondents have not demonstrated sufficient need for an order compelling compliance with the applicable discovery rules. Accordingly, Respondents’ motion is **DENIED**.

ORDERED:



Stephen J. McGuire
Chief Administrative Law Judge

Date: December 9, 2004

