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FEDERAL TRADE COMMISSION

12 **UNITED STATES DISTRICT COURT**
13 **CENTRAL DISTRICT OF CALIFORNIA**
14 **WESTERN DIVISION**

15 FEDERAL TRADE COMMISSION,

16 Plaintiff,

17 v.

18 A. GLENN BRASWELL,
JOL MANAGEMENT CO.,
19 G.B. DATA SYSTEMS, INC.,
GERO VITA INTERNATIONAL, INC.,
20 THERACEUTICALS, INC., and
RON TEPPER,

21 Defendants.

Hon.

Civil Action No.

**COMPLAINT FOR
PERMANENT
INJUNCTION AND
OTHER EQUITABLE
RELIEF**

22
23
24 Plaintiff, the Federal Trade Commission (“FTC” or “Commission”), through
25 its undersigned attorneys, for its Complaint alleges:

26 1. Plaintiff FTC brings this action under Section 13(b) of the Federal
27 Trade Commission Act (“FTC Act”), 15 U.S.C. § 53(b), to secure a permanent
28

1 injunction, restitution, disgorgement, and other equitable relief against Defendants
2 for engaging in deceptive acts or practices and false advertising in connection with
3 the advertising, marketing, and sale of products purporting to treat, prevent, and or
4 cure such conditions as respiratory illnesses, diabetes, dementia, obesity, and
5 impotence, in violation of Sections 5(a) and 12 of the FTC Act, 15 U.S.C. §§ 45(a)
6 and 52.

7 **JURISDICTION AND VENUE**

8 2. This Court has jurisdiction over this matter pursuant to 15 U.S.C. §§
9 45(a), 52, and 53(b) and 28 U.S.C. §§ 1331, 1337(a) and 1345.

10 3. Venue in this District is proper under 15 U.S.C. § 53(b) and 28 U.S.C.
11 § 1391(b) and (c).

12 **PLAINTIFF**

13 4. Plaintiff, the Federal Trade Commission, is an independent agency of
14 the United States Government created by statute. 15 U.S.C. §§ 41-58. The
15 Commission enforces Section 5(a) of the FTC Act, 15 U.S.C. § 45(a), which
16 prohibits unfair or deceptive acts or practices in or affecting commerce. The
17 Commission also enforces Section 12 of the FTC Act, 15 U.S.C. § 52, which
18 prohibits false advertisements for food, drugs, devices, services, or cosmetics in or
19 affecting commerce. The Commission may initiate federal district court
20 proceedings to enjoin violations of the FTC Act and to secure such equitable relief,
21 including consumer redress, as may be appropriate in each case. 15 U.S.C. §
22 53(b).

23 **DEFENDANTS**

24 5. For over twenty five years, Defendant A. Glenn Braswell (“Braswell”)
25 has marketed dietary supplements and other health-related products through a
26 frequently changing group of interrelated companies. These companies, operating
27 out of the same California location and under the control of Braswell and Defendant
28 Ron Tepper (“Tepper”), include, but are not limited to, Defendants JOL

1 Management Co. (“JOL Management”), G.B. Data Systems, Inc. (“G.B. Data
2 Systems”), Gero Vita International, Inc. (“GVI”), and Theraceuticals, Inc.
3 (“Theraceuticals”) – all of which are hereinafter collectively referred to as the
4 “Braswell Common Enterprise.”

5 6. Defendant Braswell is or has been an officer, director, and sole
6 shareholder of G.B. Data Systems, GVI, and Theraceuticals. At all times relevant
7 to the complaint, acting individually or in concert with others, he has formulated,
8 directed, controlled, or participated in the policies, acts, or practices of the
9 Braswell Common Enterprise, including the acts or practices alleged in this
10 complaint. He transacts or has transacted business in this district and throughout
11 the United States.

12 7. Defendant G.B. Data Systems is a California corporation with offices
13 located at 330 Washington Boulevard, Marina Del Rey, California. G.B. Data
14 Systems is part of the Braswell Common Enterprise and performs all management,
15 order processing, and marketing activities for the Defendants. All of the Braswell
16 Common Enterprise’s bank accounts are or were maintained in G.B. Data
17 Systems’ name, and the wages of all employees of the common enterprise are or
18 were paid through G.B. Data Systems. G.B. Data Systems is headquartered or has
19 its principal place of business in this district and transacts and has transacted
20 business in this district and throughout the United States. In January 2003, G.B.
21 Data Systems changed its name to JOL Management Co.

22 8. Defendant GVI is a Nevada or Florida corporation with offices
23 located at 520 Washington Boulevard, Marina Del Rey, California. Defendants’
24 website is conducted under the Gero Vita International name and many of
25 Defendants’ products are marketed under the Gero Vita International brand name.
26 GVI is part of the Braswell Common Enterprise. GVI is headquartered or has its
27 principal place of business in this district and transacts and has transacted business
28 in this district and throughout the United States.

1 9. Defendant Theraceuticals is a Nevada corporation with offices located
2 at 520 Washington Boulevard, Marina Del Rey, California. Defendants market a
3 brand line of products, including the Theraceuticals GH3 product, under the
4 Theraceuticals brand name. Theraceuticals is part of the Braswell Common
5 Enterprise. Theraceuticals is headquartered or has its principal place of business in
6 this district and transacts and has transacted business in this district and throughout
7 the United States.

8 10. Defendant Pepper is the Secretary and a Director of JOL
9 Management, GVI, and Theraceuticals, a key employee and editor of the *Journal of*
10 *Longevity*, a “magazine” that is produced to advertise and promote Defendants’
11 products. At all times relevant to the complaint, acting individually or in concert
12 with others, he has formulated, directed, controlled, or participated in the policies,
13 acts, or practices of the Braswell Common Enterprise, including the acts or
14 practices alleged in this complaint. He resides in this district and/or transacts or
15 has transacted business in this district and throughout the United States.

16 11. Defendants Braswell, JOL Management Co., G.B. Data Systems,
17 GVI, Theraceuticals, and Pepper operate a common business enterprise. They
18 share and have shared officers, employees, and office locations; have commingled
19 funds; and are commonly controlled and have participated in a common scheme
20 while engaging in the deceptive acts and practices alleged below. Defendants,
21 therefore, are jointly and severally liable for said acts and practices.

22 **COMMERCE**

23 12. The acts and practices of Defendants alleged in this complaint are and
24 have been in or affecting commerce, as "commerce" is defined in Section 4 of the
25 FTC Act, 15 U.S.C. § 44.

26 **DEFENDANTS’ COURSE OF CONDUCT**

27 13. For over twenty-five years, Defendants and their predecessor
28 corporations, subsidiaries, and affiliates have advertised, labeled, offered for sale,

1 sold, and distributed a variety of dietary supplements and other health-related
2 products to the public throughout the United States. Defendants’ enterprise is one
3 of the largest direct marketers of such products in the United States, with total sales
4 since 1998 exceeding \$798 million.

5 14. Defendants use direct mail solicitations to generate business. They
6 purchase or rent consumer names and addresses from brokers, targeting persons
7 aged 40 to 60, and mail advertising to these consumers. New and repeat
8 purchasers receive multi-page advertisements that describe various medical
9 conditions and detail various remedies – often purportedly based on “scientific
10 breakthroughs” or “long lost but newly discovered” formulas. Defendants claim
11 that their products will cure, treat, or alleviate these conditions. These glossy,
12 multi-page brochures typically feature “expert” medical or scientific endorsers,
13 consumer testimonials, and frequent references to “scientific” evidence that
14 purports to substantiate the efficacy and benefits of Defendants’ products.
15 Purchasers also receive a “subscription” to the *Journal of Longevity*, which
16 appears to be a legitimate medical journal with scientific articles written by medical
17 professionals but which is, in fact, promotional advertising prepared and
18 disseminated by Defendants. Consumers can purchase the advertised products
19 via mail order, telephone, or electronically on Defendants’ website, www.gvi.com.

20 15. Defendants’ advertisements contain a return address in Toronto,
21 Canada, suggesting that the company is either located or headquartered in Canada.
22 Consumers who purchase products by mail likewise send their orders to the
23 Canadian address. In fact, Defendants have no employees in Canada and all such
24 mail orders are sent from the Canadian mail drop address to Defendants’ offices in
25 the United States for fulfillment.

26 16. Among the products that Defendants have advertised, labeled, offered
27 for sale, sold, and distributed in recent years are: Lung Support Formula, Gero Vita
28 G.H.3, and Testorex, all marketed since at least 1998; ChitoPlex, marketed since at

1 least 1999; AntiBetic Pancreas Tonic, marketed since at least 2000; and
2 Theraceuticals GH3 Romanian Youth Formula, marketed since at least 2001. Like
3 their other products, Defendants advertise and offer these products for sale through
4 direct mail advertising, including the *Journal of Longevity*, and through their
5 website, www.gvi.com.

6 **Lung Support Formula**

7 17. Lung Support Formula (“Lung Support”) is or was promoted as a
8 remedy for respiratory ailments, including allergies, bronchitis, emphysema, asthma,
9 and smoking damage, among others. According to the labeling and advertising,
10 Lung Support contains herbs such as ginseng extract root and ginkgo biloba
11 extract, among others, and Vitamin A, Vitamin C, magnesium, and zinc. The cost
12 to consumers for Lung Support ranges from \$29.95 for a one-month supply to
13 \$109.95 for a six-month supply. Since 1998, sales of Lung Support Formula have
14 exceeded \$37 million.

15 18. To induce consumers to purchase Lung Support, Defendants have
16 widely disseminated, or caused to be disseminated, direct mail and Internet
17 advertisements, including but not limited to the attached Exhibits A through C.
18 These advertisements contain, among other things, the following statements and
19 depictions:

20 a. **Doctors Discover 100% NATURAL Remedy That Restores**
21 **Youth**
22 **and Power To Your Lungs!**
23 **Breath easier and end...**

24 ...shortness of breath

25 ...smoking damage

26 ...chest congestion

27 ...heart problems

28 ...sinus problems

1 ...colds & flu

2 ...emphysema

3 ...bronchitis

4 ...allergies

5 ...fatigue

6 ...asthma

7 Exhibit A at p. 40

8 (“*Breathe Easier*” direct mail ad)

9 b. LUNG SUPPORT has been shown in clinical studies and by
10 thousands of users all over the world to help you live longer and END

11 T Allergies

12 T Asthma

13 T Colds & Flu

14 T Bronchitis

15 T Sinus Problems

16 T Chest Congestion

17 T Emphysema

18 T Smoking Damage

19 T Shortness of Breath.

20 Exhibit A at p. 51

21 c. **Even Emphysema Can Be Reversed Now**

22 * * * * *

23 **Stops Coughing, Spasms and Inflammation**

24 * * * * *

25 **End Bronchial Disease**

26 * * * * *

27 **Stop Wheezing and Coughing**

28 * * * * *

Ward Off Respiratory Problems

Exhibit A headlines at pp. 47, 49, 50

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1 d. If you have a serious lung condition like emphysema, bronchitis or
2 asthma, your breathing problems are obvious, and you should start
3 taking **LUNG SUPPORT** right away.

4 Exhibit A at p. 48

5 e. You will notice a dramatic improvement in your overall health and ease
6 of breathing within just a few days of regular use of LUNG
7 SUPPORT.

8 Exhibit A at p. 51

9 f. **Pack-A-Day Smoker Stops Coughing**

10 “My wife ordered LUNG SUPPORT for me because I smoke over a
11 pack a day. I was always congested and coughing. Well, I’m still
12 smoking, but it sure stopped the congestion and coughing. Thanks.”

13 A. Almgren, GA.

14 Exhibit A at p. 44

15 g. **Breathing improved 75% – Even with**
16 **Emphysema**

17 “Due to emphysema, I had severe shortness of breath. Since I’ve
18 been taking LUNG SUPPORT, my breathing has improved at least
19 75%. I will never be without this product. It is simply marvelous.
20 Thank you.” E. Barrett, CA

21 Exhibit A at p. 52

22 h. “LUNG SUPPORT is the first formula that offers ingredients
23 scientifically shown to rejuvenate important lung functions. I sincerely
24 recommend it to all those with asthma, bronchitis, emphysema and
25 allergies.”

26 --Joseph Weissman, M.D.

27 Exhibit A at p. 47

28

1 i. Not surprisingly, the last 20 years have seen an alarming increase in a
2 variety of breathing problems – ranging from allergies to asthma to
3 emphysema, even in non-smokers!

4 * * * * *

5 Fortunately, leading researchers have discovered a safe, natural
6 formula that dramatically alleviates these problems and helps *restore*
7 *easy breathing!*

8 Scientists at the internationally renowned nutraceutical company Gero
9 Vita have now combined the most beneficial of these ingredients into
10 one easy-to-take capsule called LUNG SUPPORT FORMULA. And
11 the results people are getting with this 100% safe and natural
12 supplement are nothing short of remarkable.

13 Exhibit B at p. 59

14 (“*You Are At Risk*” direct mail ad)

15 j. “No one can escape air pollutants, which steadily erode the
16 membranes of the respiratory system. Fortunately scientists have
17 found natural substances that protect the delicate membranes of the
18 lungs and help rejuvenate them. . . Whether a person has lung
19 problems or not, I think they should be taking LUNG SUPPORT
20 FORMULA daily.”

21 – Hans Kugler, Ph.D.

22 “LUNG SUPPORT FORMULA was carefully designed to strengthen
23 your respiratory function, in addition to the other organs that support
24 your lungs. For many people with severe breathing problems, this can
25 tremendously enhance your energy and the very essence of life’s
26 force, your breath.”

27 – Albert Lerner, M.D.

28 Exhibit B at p. 66

1 k. Whether your problem is shortness of breath, coughing, wheezing or
2 any of the many other lung problems facing mature adults today, there
3 is some good news. An incredible breakthrough for lung problems has
4 been found in the Far East and is being imported to the U.S.

5
6 This breathing formula is an all-natural way to help fortify every aspect
7 of your respiratory system. Those who have breathing problems may
8 finally be able to overcome them.

9 Exhibit C at p. 74

10 (“*Priest’s Lost Journal*” direct mail ad)

11 **AntiBetic Pancreas Tonic**

12 19. AntiBetic Pancreas Tonic (“AntiBetic”) is or was promoted to treat
13 and cure Type I and Type II diabetes. According to the labeling and advertising,
14 AntiBetic contains a combination of herbs including pterocarpus marsupium,
15 gymnema sylvestre, momordica charantia, and fenugreek, among others. The sale
16 price of AntiBetic ranged from \$39.95 for a one-month supply to \$149.95 for a six-
17 month supply. Since the year 2000, sales for AntiBetic exceeded \$18 million.

18 20. To induce consumers to purchase AntiBetic, Defendants have widely
19 disseminated, or caused to be disseminated, direct mail and Internet
20 advertisements, including but not limited to the attached Exhibits D and E. These
21 advertisements contain, among other things, the following statements and
22 depictions:

23 a. **HAVE TYPE I OR TYPE II DIABETES?**
24 **AMAZING 2,000-YEAR-OLD**
25 **“LOST” FORMULA**
26 **CAN ELIMINATE THE NEED FOR DRUGS**

27 **WORLD RENOWNED CLINIC INVOLVED IN TESTS**
28 **DISTRIBUTED AS A PUBLIC INFORMATION SERVICE BULLETIN**

Exhibit D at p. 84

(“*Have Type I or Type II Diabetes?*” direct mail ad)

1 **b. U.S. PATENT AWARDED FOR THE FORMULA**

2 * * * * *

3 A medicinal composition is provided for the treatment of diabetes in a
4 human subject. The medicinal composition of the invention induces a
5 significant reduction in serum glucose due to the regeneration of
6 pancreatic islet cells. . . . The unique combination of components in
7 the medicinal composition leads to a regeneration of the pancreatic
8 cells, which then start producing insulin on their own. Since the
9 composition restores normal pancreatic function, treatment can be
10 discontinued after between about four and twelve months, for type I
11 and type II diabetes.

12 Exhibit D at p. 85

13 **c. scientist astounded**

14 The doctor found that the formula dramatically lowered blood sugar
15 and substantially decreased glycosylated hemoglobin (another diabetes
16 indicator). It didn't affect the blood sugar of normal animals, and
17 none of the animals experienced low blood sugar, indicating that the
18 formula had a normalizing effect. It also revitalized the liver and
19 kidneys.

20 The most startling fact was the rejuvenation of the pancreas. The
21 formula had reversed the damage to the beta cells which had been
22 destroyed or didn't work, as in type I diabetes.

23 **first formula to make cells**

24 Dr. Kuttan said: *"It is a major breakthrough. This is the first*
25 *formula ever that regenerates the beta cells of the pancreas."* (Beta
26 cells produce insulin.)
27

28 There were absolutely no side effects or toxicity, so the doctor . . .

1 immediately started organizing a clinical trial on humans.

2 Exhibit D at p. 88

3 **d. picked only the sickest patients**

4 * * * * *

5 Dr. Kuttan closely monitored the [type II] diabetic participants
6 during the six-month trials. At the end of the clinical tests, the results
7 showed that the formula had almost the same effect on humans that it
8 did on the animals.

9 Exhibit D at p. 88

10 **e. successful tests on insulin-dependent diabetics**

11
12 K. Shanmugasundaram, a professor at the medical school of the
13 University of Madras in India, conducted tests of *Gymnema* on
14 people with Type I diabetes who need insulin shots daily.

15 * * * * *

16 The scientists assumed that if they could generate beta cells in
17 animals that produce insulin, they could do it in humans, too.

18
19 **insulin requirements go down**

20
21 That's exactly what happened in the clinical tests on humans. Their
22 insulin requirements dropped, along with lowered blood sugar and
23 improved glucose utilization. Also, the glycogen (stored blood sugar)
24 in the liver became normal after five and a half months of taking
25 *Gymnema*.

26
27 Dr. Shanmugasundaram concluded in his clinical report that after
28 administration of *Gymnema* for several months, "insulin requirements

1 go down.”

2 Exhibit D at p. 90

3 f. **formula is available now**

4 Now, thanks to the wonders of nature and an ancient but very wise
5 old doctor, you can stop the awful pillaging of your body.

6
7 One of the largest, most reputable nutraceutical companies in the
8 world (Gero Vita) has just begun manufacturing the Sanskrit formula.
9 It is called **AntiBetic**[.]

10 Exhibit D at p. 94

11 g. **it’s certainly worth the wait**

12 Clinical tests show that a minimum of four months is required for
13 those with newly acquired adult-onset blood sugar problems and that
14 it could take up to 15 months before those dependent on drugs can
15 stop the need for injections. But there’s no question that it will be
16 worth the wait.

17 Exhibit D at p. 94

18 h. Paul Yutsis, M.D.... says: “I consider diabetes the worst disease a
19 person can get . . . Thank God, the clinical tests show that we’ve
20 finally found the answer. I urge all diabetics to get **AntiBetic** as
21 quickly as possible.”

22 Ron Kennedy, M.D. ... says: “. . . Drug company researchers and
23 medical scientists galore are searching out and intensely studying old
24 medical literature. . . . **AntiBetic** is going to wipe one of the worst
25 diseases off of the list.”

26 Exhibit D at p. 96

27 i. “I had diabetes and was taking insulin at 15 units NPH in the morning
28 and 5 units NPH regular insulin in the evening. My sugar level was

1 always over 300 for more than six months. My doctor recommended
2 [AntiBetic] to me, along with my insulin treatment. Immediately, my
3 sugar level started to go down towards normal, and in just one month,
4 I got off insulin shots to pills (Diabeta) for my glucose control. After
5 four months of treatment, my sugar level is normal. I absolutely have
6 not had any side effects. . . .[T]houghts of amputations, kidney
7 dialysis, strokes or other complications don't bother me anymore. If
8 you are diabetic you need to try this! You don't have to live with
9 diabetes the rest of your life."

10 K. Nunez

11 "I was a diabetic for the last seven years. I tried this formula for three
12 months and got off my Glucotrol (2 pills a day) altogether. My sugar
13 level has been normal for one year. I am able to enjoy my favorite
14 foods again."

15 F. Rose

16 Exhibit D at p. 96

17 j. NEW PATENTED FORMULA

18 **REDUCE**
19 **YOUR**
20 **CHANCE OF**
21 **DEATH and DISEASE BY**
22 **up to 67%**

23 " **Nerve disease DOWN 60%**

24 " **Kidney Disease DOWN 50%**

25 " **Vision Problems DOWN 76%**

26 " **Heart Disease DOWN 35%**

27 by Robert Schiffer, M.D.

28 After dozens of scientific studies over many years, the results could
not be any more plain: **Keeping your blood sugar in balance will**

1 **slash your risk of death and disease.**

2 The problem has been that until recently, there wasn't a safe,
3 proven, natural way to keep your blood sugar in line.

4 All that has changed now, with the discovery of an ancient formula
5 that is so powerful it even has enabled some diabetics to throw away
6 their insulin syringes.

7 The pages that follow will help you discover how to change your
8 life and live longer and healthier with a patented, natural formula that is
9 100% safe to take with any prescription, vitamin or herb.

10 Exhibit E at p. 101

11 (“*Blood Sugar Breakthrough*” direct mail ad)

- 12 k. The safe, natural ingredients in the ancient formula have been proven
13 by modern scientific tests – and by the extraordinary stories of real
14 people – to conquer blood sugar imbalances once and for all!

15
16 What this means is that now, with this safe, natural proven and
17 *patented* formula, you can help your body better process sugar and –
18 with you doctor’s approval – possibly even be through with insulin or
19 other drugs for good! This is not only possible...it is a reality for
20 many people all over the world.

21 Exhibit E at p. 107

- 22 l. Since the unique combination of natural herbs and plants in **AntiBetic**
23 is proven to work so well at regenerating pancreatic cells, your body
24 will soon be producing all the insulin you need. With normal function
25 of your pancreas restored, we expect that you may even be able to
26 stop taking **AntiBetic** for reducing blood sugar within 12 months.
27 That sure beats a lifetime of insulin shots and drugs.

28 Exhibit E at p. 110

1 **Gero Vita G.H.3 and Theraceuticals GH3 Romanian Youth Formula**

2 21. Gero Vita G.H.3. (“GH3”) is or was promoted as an anti-aging
3 product that dramatically slows aging, restores energy, and deters memory loss.
4 According to the labeling and advertising, G.H.3 contains para-aminobenzoic acid
5 (“PABA”), dimethylaminoethanol bitartrate (“DMAE”), folic acid, magnesium,
6 ginkgo biloba, and Vitamins A, C, E, B1, B2, B6, and B12, among other
7 ingredients. The sale price of G.H.3 ranges from \$29.95 for a one-month supply to
8 \$109.95 for a six-month supply. Since 1998, gross sales for G.H.3 have exceeded
9 \$82 million. Theraceuticals GH3 Romanian Youth Formula (“Theraceuticals GH3”)
10 is promoted as a new and improved version of G.H.3. According to the
11 advertising, Theraceuticals GH3 has the same formula as G.H.3 plus Nicoplex™, a
12 compound consisting of nicotinamide, zinc, and carotenoids. The sale price of
13 Theraceuticals GH3 ranges from \$29.95 for a one-month supply to \$109.95 for a
14 six-month supply. Since late 2001, its total sales have exceeded \$1.4 million.

15 22. To induce consumers to purchase G.H.3 and Theraceuticals GH3,
16 Defendants have widely disseminated, or caused to be disseminated, direct mail
17 and Internet advertisements, including but not limited to the attached Exhibits F
18 through J. These advertisements contain, among other things, the following
19 statements and depictions:

- 20 a. **STOP THE CLOCK!**
21 **Scientists Say:**
22 **You Can Live**
23 **29% Longer**
24 **And Healthier!**

25 Exhibit F at p. 116

26 (“*Stop the Clock*” direct mail ad)

1 b. MAO [monoamine oxidase] is implicated in the onset of several
2 ailments, such as arthritis, arteriosclerosis, (clogging of the arteries),
3 neuritis (inflamed nerves), senility, depression and impotence.

4 * * * * *

5 **Reduces MAO by 87%**

6
7 In the early 1960's Dr. Ana Aslan invented an MAO inhibitor called
8 Gerovital H3, which substantially lowered MAO. Scientists worldwide
9 applauded her discovery, but her exclusive formula was available only
10 at her clinic in Romania – and by injection.

11 * * * * *

12 . . . Right after [Dr. Aslan's] discovery of Gerovital, she set up a test
13 group of 111 patients suffering from a variety of age-related afflictions.

14 **Patients Lived 29% Longer!**

15 She treated them regularly with Gerovital and kept careful records
16 of their responses. At the end of 15 years, Dr. Aslan disclosed that
17 the test group lived an average of 29% longer than the normal life
18 expectancy.

19 Exhibit F at pp. 121-122

20 c. **Improved Version Now Available in America**

21 Dr. Aslan made her original Gerovital H3 from procaine. ...

22 [A] German scientist, Dr. Paul Luth . . . found that the body
23 converts procaine to two well-known nutritional adjuncts – para-
24 aminobenzoic acid (PABA) and DMAE. . . .

25 **No Prescription or Shots Necessary**

26 Dr. Hans Kugler, an associate professor at Chicago's Roosevelt
27 University at the time, confirmed in his research studies that by taking
28 the proper amounts of PABA and DMAE, your body would respond

1 the same way as if you were injected with procaine.

2 **New Version of Gerovital H3 Is Not The Same, But May Be**
3 **Better**

4 Taking the discoveries of Dr. Luth and Dr. Kugler, Gero Vita
5 Laboratories has created a pill called Gero Vita GH3, which contains
6 PABA and DMAE.

7 Exhibit F at p. 123

8 d. *SCIENTISTS DISCOVER THAT*

9 **Age Spots Signal**
10 **the Start of Senility!**

11 Exhibit G at p. 132

12 (*“Scientists Discover That Age Spots Signal the Start of*
13 *Senility!”* direct mail ad)

14 e. **IF YOU HAVE AGE SPOTS...**

15 **Don’t Wait Until Until Your**
16 **Memory Gets Worse!**

17 C

18 **Clinical Tests Show The**
19 **Condition Can Be Reversed!**

20 At the same time you develop age spots on your skin, a brown
21 slime (lipofuscin) begins to form on the nuerons in your brain, and
22 short-term memory begins deteriorating. Many scientists are certain
23 that deficiency of some essential brain nutrients is the cause. . .

24 Exhibit G at p. 134

1 f. **True Cause of Aging,**
2 **Memory Loss Pinpointed**

3 ***BREAKTHROUGH:***
4 **Scientists Develop Anti-Aging Formula That Dramatically Slows**
5 **Aging, Improves Health, Restores Energy!**

6 Exhibit H at p. 148

7 (*True Cause of Aging* direct mail ad)

8 g. Dear Reader:

9 How often have you looked into the mirror and wished you could
10 turn back the hands of time? All of us have.

11 As a medical doctor and researcher, I have witnessed the tragedy
12 and frustration that accompanies aging and the gradual loss of brain
13 and body functions.

14 Now, thanks to the following special report reprinted from the
15 pages of the prestigious *Journal of Longevity* . . . , you are about to
16 find out about the biggest anti-aging breakthrough that I have seen in
17 my entire medical career.

18 * * * * *

19 The *Journal* story . . . discuss[es] lipofuscin, a little known but
20 devastating “brown slime” that is the real cause of dementia, senility
21 and even Alzheimer’s. Then, the most exciting part of the story --what
22 can be done to overcome these problems.

23 I urge you to read this highly informative, fact-filled report ... and
24 then make a personal commitment to a long and happy life by putting
25 this vital information to work for you – today!

26 Sincerely,

27 Dr. Ron Kennedy, M.D.

28 Exhibit H at p. 149

1 h. **SENILITY EPIDEMIC – 1 in 5 Over 60 Affected**
2 **INSIDE: The Causes and How to Deter It**

3 Exhibit H at p. 163

4 i. Golden Nutrition Award Winner
5 Breakthrough #3 Anti-Aging

6
7 **Stunning new discovery stops “runaway enzyme” that causes**
8 **premature aging and memory loss**

9 *by Ernest Michaels, senior science editor and specialist in reporting*
10 *on age-related illness*

11
12 *Do you worry about the prospect of developing Alzheimer’s or*
13 *some other kind of memory disorder as you grow older?*

14
15 *Are you aware of the link between age spots on your skin and*
16 *mental problems like senility and dementia?*

17 * * * * *

18 Based on an exclusive rejuvenation treatment **originally developed**
19 **for the ultra-rich clients of a famous European anti-aging clinic,**
20 a prominent American researcher recently made a revolutionary
21 breakthrough that can:

- 22 • Boost brain power
23 • Fight senility, dementia and Alzheimer’s
24 • Maintain mental and physical fitness
25 • Make age spots disappear
26 • Tighten and smooth sagging skin

27 Exhibit I at p. 173

28 (“*New Life Nutrition Magazine*” direct mail ad)

1 j. **Just as effective as [Dr. Aslan’s] treatments**

2 * * * * *

3 . . . Interestingly enough [Dr.] Kugler’s research supported the 29%
4 increase in human life span that Dr. Aslan had observed in her original
5 research.

6 * * * * *

7 **Just as effective**

8 Even better, in its ability to reduce and even reverse the damage done
9 to your brain and body by high levels of the monoamine oxidase
10 enzyme, Dr. Kugler’s G.H.3. has been shown to be **as effective as**
11 **Dr. Aslan’s original formula.**

12 Exhibit I at pp. 175-176

13 k. **The First Vitality Discovery of the 21st Century ...**

14 **New**

15 *Improved G.H.3*

16 **Romanian Youth Formula!**

17 Exhibit J at p. 180

18 (*“First Vitality Discovery of 21st Century”* direct mail ad)

19 l. **Original G.H.3 Scientist Discovers**

20 **New Nutrient Factor – From Sweden!**

21 Clinical tests reveal compound makes G.H.3 even more potent!

22 * * * * *

23 . . . The original G.H.3 formula was designed by renowned anti-aging
24 researcher Hans Kugler of Roosevelt University.

25 Recently, Dr. Kugler and his G.H.3 research staff discovered a
26 remarkable new nutrient compound from Sweden that can boost the
27 overall potency of G.H.3 while offering its own rejuvenating effects.
28

1 Now, Kugler and his team have improved the original G.H.3 formula
2 to make it even more effective.

3 Exhibit J at p. 181

4 m. 1985: Dr. Hans Kugler studies benefits of giving PABA and DMAE
5 orally to humans.

6 Exhibit J at p. 181

7 **ChitoPlex**

8 23. ChitoPlex is promoted as a weight loss product. According to the
9 labeling and advertising, ChitoPlex contains chitosan, Vitamin C, Vitamin B6,
10 chromium, and lemon flavor. The sale price of ChitoPlex ranges from \$29.95 for a
11 one-month supply to \$109.95 for a six-month supply. Since 1998, sales for
12 ChitoPlex have exceeded \$12 million.

13 24. To induce consumers to purchase ChitoPlex, Defendants have widely
14 disseminated, or caused to be disseminated, direct mail and Internet
15 advertisements, including but not limited to the attached Exhibits I and K. These
16 advertisements contain, among other things, the following statements and
17 depictions:

18 a. Annual Consumer Guide to the “Best Nutritional Products of the
19 Year”

20 **NEW LIFE**

21 **NUTRITION**
22 magazine

23 **Golden**
24 **Nutrition**
25 **Award Winner**

Inside:

* * * * *

New diet formula
helps you lose weight
4 different ways

26 Exhibit I at p. 164

27 (“*New Life Nutrition Magazine*” direct mail ad)
28

1 b. A special message from the director of the Council on Natural
2 Nutrition:

3
4 **More than 10,000 nutritional health products are introduced**
5 **each year. Here are the *Golden Nutrition Award Winners*:**

6
7 Dear Health-Conscious Reader:

8 * * * * *

9 At *New Life Nutrition*, three top science editors have examined
10 and evaluated more than 90% of these new products.

11 * * * * *

12 Each of the editors involved is an expert on a specific health
13 problem. And by reading their special reports that follow, you'll
14 discover better ways to:

15 * * * * *

16 lose weight safely and naturally

17 * * * * *

18 As a physician who is well aware of the powerful advantages of
19 natural therapies, I urge you to use these breakthroughs[.]

20
21 Yours truly,

22 Ronald Lawrence, M.D., Ph.D.

23 Director, Council on Natural Nutrition

24 Exhibit I at p. 165

25 c. **New four-way breakthrough makes losing weight with European**
26 **diet miracle easier than ever**

27 by Jon Fredericks, senior science editor and specialist in reporting on
28 advances in weight loss

1 *Have you ever tried one of those highly publicized “fad” diets and*
2 *found that it just didn’t work for you?*

3
4 *Are you concerned about the dangers of liposuction or the risks of*
5 *diet drugs like Fen-Phen and Redux?*

6
7 *Are you looking for a safe, natural way to lose weight and boost*
8 *energy without giving up the foods you love?*

9
10 * * * * *

11 I’m going to show you how [ChitoPlex] actually...

- 12 • absorbs the fat from your food
- 13 • burns up the fat that’s already stored in your body
- 14 • burns off the sugar in your food before it can turn to fat
- 15 • makes losing weight so **safe, fast and easy** that you’ll never
16 have to go on another diet again

17 Exhibit I at p. 169

18 d. **How much weight do you want to lose?**

19
20 Even more exciting were the results of a 1994 study in Finland that
21 set out to find out how much a person could lose using chitosan.

22
23 In a scientific, double-blind study 30 people were given chitosan
24 and 30 others were given a placebo. Within four weeks those taking
25 chitosan each lost **an average of 15 pounds**. Since these results
26 were achieved with the patients’ normal diets, these results are truly
27 outstanding.

28 Exhibit I at p. 171

1 e. **200-year-old French**
2 **discovery makes losing**
3 **weight almost too easy!**

4 **New research** reveals the safest way to lose 20...30...40 pounds or
5 more

6 **Without** deadly drugs!

7 **Without** silly diets!

8 **Without** exercise programs that only make you hungry!

9 Exhibit K at p. 184

10 (“200 year-old French discovery” direct mail ad)

11 f. **You mean we can eat the foods we love and still lose weight?”**

12 That’s the first question I hear from my patients when I give them the
13 information I’m about to share with you.

14 * * * * *

15 Scientists in Europe and the United States have discovered how you
16 can maintain normal weight and even reverse obesity – effortlessly and
17 painlessly.

18 * * * * *

19 Yours for safer, more natural weight loss,
20 Larry Doss, M.D.

21 Exhibit K at p. 185

22
23 g. **Lose Weight while you eat!**

24 A special report by Larry Doss, M.D.

25
26 As a physician who has studied the special problems of overweight
27 people for more than 20 years ... as someone who has spent his own
28

1 career searching for better solutions to health problems ... I am
2 delighted to be able to share the news of a new medical breakthrough.

3 The story of this incredible development began almost 200 years
4 ago in Paris, France, at the French Academy of Science.

5 * * * * *

6 I'm going to tell you about an astounding natural weight-loss
7 discovery that actually...

- 8 • “pulls” the fat out of your food!
- 9 • prevents this fat from being digested, absorbed and stored by your
10 body!
- 11 • helps you lose weight--safely and easily!
- 12 • dramatically decreases the risk of developing life-threatening
13 health problems!

14 Exhibit K at p. 186

15 h. With [ChitoPlex] you can:

- 16 • block fat
- 17 • balance cholesterol
- 18 • normalize your metabolism
- 19 • burn fat and calories
- 20 • gain nutritional support as you lose weight

21 Exhibit K at p. 192

22 **Testorex**

23 25. Testorex is promoted to effectively and safely treat erectile
24 dysfunction. According to its labeling and advertising, Testorex contains
25 pausinystalia yohimbe extract, among other ingredients. The sale price of Testorex
26 ranges from \$29.95 for a one-month supply to \$109.95 for a six-month supply.
27 Since 1998, sales for Testorex have exceeded \$19 million.

28

1 26. To induce consumers to purchase Testex, Defendants have widely
2 disseminated, or caused to be disseminated, direct mail and Internet
3 advertisements, including but not limited to the attached Exhibit L. These
4 advertisements contain, among other things, the following statements and
5 depictions:

6 a. *Direct from university research lab:*

7 **THE SUPER SEX**
8 **BREAKTHROUGH OF THE YEAR!**

9
10 *No drugs!*

11 *No doctor's prescription!*

12 *No Kidding!*

13 Exhibit L at p. 200

14 (*"Super Sex Breakthrough"* direct mail ad)

15 b. **Amazing Experiment In Which Rats Doubled**
16 **Their Mating Activity In 15 Minutes**

17
18 **Leads to Super Sex Breakthrough!**

19 *By Murray Susser, M.D.*

20
21 Do you have trouble getting and maintaining a firm erection?

22
23 Are you concerned about the dangerous side effects of prescription
24 drugs?

25 Are you "turned off" by the thought of painful penile injections,
26 risky implants and embarrassing pumps and suction devices?

27 These unpleasant approaches are no longer your only options. . . .

28 * * * * *

1 . . .I'm going to tell you about a series of medical discoveries that will
2 explain why sexual problems do not have to be the natural result of
3 aging.

4
5 Specifically, these discoveries can:

- 6 • give you “rock hard” erections -- safely and naturally!
- 7 • make orgasms stronger and more satisfying !

8 * * * * *

9 As a doctor who has spent more than 30 years studying age-related
10 sexual problems ...

11 * * * * *

12 I can honestly say that the information in this special report ...

13
14 **...answers the bedroom prayers of every man over 50!**

15 Exhibit L at pp. 202-203

- 16 c. In a moment I am going to reveal a new sexual enhancement discovery
17 that stunned laboratory researchers at a major American University.

18
19 I am also going to reveal how this new research breakthrough can give
20 older men the sexual power of men half their age.

21
22 Even better, I'm going to give you all of the details about what many
23 medical experts are calling. . .

24 **‘The Super Sex Breakthrough of the Year’**

25 Exhibit L, at p. 203

- 26 d. The point is that scientists have indeed discovered several natural
27 ways to deal with the four major causes of male sexual problems[.] ...
28 All of them have been reported on and evaluated in leading medical

1 science journals.

2 * * * * *

3 Just as important, these new natural breakthroughs are so safe that
4 they don't even require a doctor's prescription!

5 Exhibit L at p. 205

- 6 e. Today, a new research breakthrough that combines several potent
7 herbal extracts and nutrients has resulted in dramatic improvements in
8 the sex lives of thousands of men over 50 across the country.

9 Exhibit L, at p. 206

- 10 f. Specifically, two amazing substances that help alleviate sexual
11 disorders have been found in the plants of South American and
12 African healers.

13 * * * * *

14 The people called this plant Muira puama or "potency wood." And
15 the French government assigned Dr. Jacques Waynberg, one of the
16 world's foremost authorities on sexual functioning, the job of testing
17 it.

18 . . . *The American Journal of Natural Medicine* reported the
19 astounding results. Of those taking Muira puama...

20 . . . **62% reported an**
21 **increase in sexual performance!**

22 * * * * *

23 Yet another amazing plant-derived ingredient [is] yohimbine[.]

24 * * * * *

25 Doctors from around the world are proving the value of yohimbine as
26 a powerful sexual enhancer.

27 Exhibit L at p. 207

- 28 g. In England, a specialist in sexual medicine and a consulting

1 pharmaceutical physician reported some truly remarkable results
2 [about yohimbine] in the *British Journal of Clinical Practitioners*.

3 **Restored Erections in 95%**

4 Dr. A.J. Riley analyzed all of the results from the extensive testing
5 of yohimbine and concluded, “It is now possible to restore usable
6 erections for up to 95% of men with erectile inadequacy.”

7 Exhibit L at p. 209

- 8 h. You see, what makes this new formula so unique – and I can’t
9 emphasize this enough – is that **TestereX** is ...

10
11 **the only sexual performance**
12 **enhancer that tackles all of the**
13 **major causes of the problem.**

14 * * * * *

15 With all of these powerful, natural ingredients now together for the
16 first time in a single, convenient product, **TestereX** can truly add a
17 whole new chapter in sexual enjoyment to the life of any man who is
18 50 years of age or older.

19 Exhibit L at pp. 210-211

- 20 i. **Is TestereX better than prescription drugs?**
21 **Here’s why yet another prominent doctor says “yes!”**

22
23 Dr. Victor Contreras, M.D., has long been concerned with the
24 research being conducted in the area of improved sexual performance.
25 However, in the midst of the current craze for prescription drugs that
26 can enhance sexual performance, he asks men to be cautious.

27 “I suppose that every man wants to be able to perform like Don
28 Juan. However, real world experience with these drugs suggests that

1 significant side effects, such as vision disturbances, can result –
2 especially when they are used on a long-term basis.

3 “My personal and professional recommendation is for men who
4 have sexual problems to use **Testerex**, a natural, nontoxic formula
5 that will give them all the enhanced sexual performance they desire –
6 safely and risk free.”

7 Exhibit L at p. 211

8 **All Gero Vita International Products**

9 27. To induce consumers to purchase products, Defendants have widely
10 disseminated, or caused to be disseminated, Internet advertising, including the
11 attached Exhibit M. These advertisements contain or have contained, among other
12 things, the following statement and depiction:

13 All Gero Vita formulas are tested for effectiveness and purity by a
14 team of specially trained researchers.

15 Exhibit M at p. 216

16 **SECTIONS 5 AND 12 OF THE FTC ACT**

17 28. Section 5(a) of the FTC Act, 15 U.S.C. § 45(a), prohibits unfair or
18 deceptive acts or practices in or affecting commerce. Section 12(a) of the FTC
19 Act, 15 U.S.C. § 52(a), prohibits the dissemination of any false advertisement in or
20 affecting commerce for the purpose of inducing, or which is likely to induce, the
21 purchase of food, drugs, devices, services, or cosmetics. For the purposes of
22 Section 12 of the FTC Act, Lung Support, AntiBetic, G.H.3. and Theraceuticals
23 GH3, ChitoPlex, and Testerex, are either “foods” or “drugs” as defined in Section
24 15(b) and (c) of the FTC Act, 15 U.S.C. § 55(b) and (c). As set forth below, the
25 Defendants have engaged and are continuing to engage in such unlawful practices in
26 connection with the marketing and sale of Lung Support, AntiBetic, G.H.3. and
27 Theraceuticals GH3, ChitoPlex, and Testerex.

1 **DECEPTIVE ACTS OR PRACTICES**
2 **IN VIOLATION OF THE FTC ACT**
3 **COUNT I**

4 **Unlawful Claims for Lung Support**

5 29. Through the means described in Paragraph 18, including through the
6 statements contained in the advertisements attached as Exhibits A through C,
7 Defendants have represented, expressly or by implication, that Lung Support:

- 8 a. Cures or significantly alleviates lung diseases and respiratory
9 problems, including allergies, asthma, colds, influenza, bronchitis,
10 sinus problems, chest congestion, emphysema, smoking damage, and
11 shortness of breath;
- 12 b. Reverses existing lung damage in persons with emphysema and
13 significantly improves their breathing;
- 14 c. Prevents breathing problems for many persons who do not have
15 existing respiratory problems; and
- 16 d. Is clinically proven to eliminate or cure allergies, asthma, colds,
17 influenza, bronchitis, sinus problems, chest congestion, emphysema,
18 smoking damage, and shortness of breath.

19 30. The representations set forth in Paragraph 29 are false or were not
20 substantiated at the time the representations were made. Therefore, the making of
21 the representations set forth in Paragraph 29 constitutes a deceptive practice, and
22 the making of false advertisements, in or affecting commerce, in violation of
23 Sections 5(a) and 12 of the FTC Act, 15 U.S.C. §§ 45(a) and 52.

24 **COUNT II**

25 **Unlawful Claims for AntiBetic**

26 31. Through the means described in Paragraph 20, including through the
27 statements contained in the advertisements attached as Exhibits D and E,
28 Defendants have represented, expressly or by implication, that AntiBetic:

- 1 a. Can cure Type I and Type II diabetes;
2 b. Is an effective or superior alternative to insulin or other diabetes
3 medications for the treatment of Type I and Type II diabetes; and
4 c. Is clinically proven to regenerate or repair the pancreatic beta cells that
5 produce insulin and to lower blood sugar levels in persons with
6 diabetes.

7 32. The representations set forth in Paragraph 31 are false or were not
8 substantiated at the time the representations were made. Therefore, the making of
9 the representations set forth in Paragraph 31 constitutes a deceptive practice, and
10 the making of false advertisements, in or affecting commerce, in violation of
11 Sections 5(a) and 12 of the FTC Act, 15 U.S.C. §§ 45(a) and 52.

12 **COUNT III**

13 **Unlawful Claims for G.H.3 Products**

14 33. Through the means described in Paragraph 22, including through the
15 statements contained in the advertisements attached as Exhibits F through J,
16 Defendants have represented, expressly or by implication, that:

- 17 a. G.H.3 reverses and prevents age-related memory loss, dementia, and
18 Alzheimer's disease;
19 b. Persons who use G.H.3 or Theraceuticals GH3 can live 29% longer;
20 and
21 c. G.H.3 is clinically proven to prevent and reverse age-related memory
22 loss, dementia, and Alzheimer's disease.

23 34. The representations set forth in Paragraph 33 are false or were not
24 substantiated at the time the representations were made. Therefore, the making of
25 the representations set forth in Paragraph 33 constitutes a deceptive practice, and
26 the making of false advertisements, in or affecting commerce, in violation of
27 Sections 5(a) and 12 of the FTC Act, 15 U.S.C. §§ 45(a) and 52.

1 **COUNT IV**

2 **Unlawful Claims for ChitoPlex**

3 35. Through the means described in Paragraph 24, including through the
4 statements contained in the advertisements attached as Exhibits I and K,
5 Defendants have represented, expressly or by implication, that ChitoPlex:

- 6 a. Enables consumers to lose substantial weight without the need for a
7 restricted calorie diet or exercise;
- 8 b. Enables consumers to reverse obesity; and
- 9 c. Is proven to cause weight loss based on a 1994 double-blind,
10 placebo-controlled chitosan study conducted in Finland that resulted
11 in the chitosan subjects losing an average of fifteen pounds in four
12 weeks while consuming their normal diet.

13 36. The representations set forth in Paragraph 35 are false or were not
14 substantiated at the time the representations were made. Therefore, the making of
15 the representations set forth in Paragraph 35 constitutes a deceptive practice, and
16 the making of false advertisements, in or affecting commerce, in violation of
17 Sections 5(a) and 12 of the FTC Act, 15 U.S.C. §§ 45(a) and 52.

18 **COUNT V**

19 **Unlawful Claims for Testorex**

20 37. Through the means described in Paragraph 26, including through the
21 statements contained in the advertisement attached as Exhibit L, Defendants have
22 represented, expressly or by implication, that Testorex:

- 23 a. Is effective in treating impotence or erectile dysfunction in 62-95% of
24 users; and
- 25 b. Is safe and has no harmful side effects.

26 38. The representations set forth in Paragraph 37 are false or were not
27 substantiated at the time the representations were made. Therefore, the making of
28 the representations set forth in Paragraph 37 constitutes a deceptive practice, and

1 the making of false advertisements, in or affecting commerce, in violation of
2 Sections 5(a) and 12 of the FTC Act, 15 U.S.C. §§ 45(a) and 52.

3 **COUNT VI**

4 **False Testing Claim for All Gero Vita Products**

5 39. Through the means described in Paragraph 27, including through the
6 use of the statements contained in the advertisement attached as Exhibit M,
7 Defendants have represented, directly or by implication, that all Gero Vita
8 products, including Lung Support, ChitoPlex, AntiBetic, G.H.3 and Theraceuticals
9 GH3, and Testex, have been scientifically tested and proven to be effective.

10 40. In truth and in fact, Gero Vita products, including Lung Support,
11 ChitoPlex, AntiBetic, G.H.3 and Theraceuticals GH3, and Testex, have not been
12 scientifically tested and proven to be effective. Therefore, the making of the
13 representation set forth in Paragraph 39 constitutes a deceptive practice, and the
14 making of false advertisements, in or affecting commerce, in violation of Sections
15 5(a) and 12 of the FTC Act, 15 U.S.C. §§ 45(a) and 52.

16 **COUNT VII**

17 **Deceptive Format Regarding New Life Nutrition Magazine**

18 41. Through the means described in Paragraphs 24(a) and (b),
19 Defendants have represented, expressly or by implication, that the *New Life*
20 *Nutrition* magazine is an independent publication and not paid commercial
21 advertising.

22 42. In truth and in fact, the *New Life Nutrition* magazine is not an
23 independent publication, but is paid commercial advertising written and
24 disseminated by Defendants for the purpose of selling their products. Therefore,
25 the making of the representation set forth in Paragraph 41 constitutes a deceptive
26 practice, and the making of false advertisements, in or affecting commerce, in
27 violation of Sections 5(a) and 12 of the FTC Act, 15 U.S.C. §§ 45(a) and 52.

1 **COUNT VIII**

2 **Deceptive Representations Regarding the Council on Natural Nutrition**

3 43. Through the means described in Paragraphs 22(i) and 24(a) and (b),
4 Defendants have represented, expressly or by implication, that the Council on
5 Natural Nutrition is an independent organization that has expertise in the
6 examination and evaluation of nutritional health products, and that the Council
7 conferred its exclusive Golden Nutrition Award on three of Defendants’ products,
8 including G.H.3 and ChitoPlex, based upon its senior scientific editors’
9 independent, objective, and valid examination and evaluation of thousands of
10 nutritional health products, using procedures generally accepted by experts in the
11 relevant fields to yield accurate and reliable results.

12 44. In truth and in fact, the Council on Natural Nutrition is not an
13 independent organization that has expertise in the examination or evaluation of
14 nutritional health products, and it did not confer its exclusive Golden Nutrition
15 Award on Defendants’ products, including G.H.3 and ChitoPlex, based upon its
16 senior scientific editors’ independent, objective, and valid examination and
17 evaluation of thousands of nutritional health products, using procedures generally
18 accepted by experts in the relevant fields to yield accurate and reliable results. The
19 Council on Natural Nutrition was established by the Defendants and has been used
20 by the Defendants for the purpose of selling their products. In addition, the
21 Council on Natural Nutrition does not have a staff of “senior scientific editors” with
22 expertise in evaluating health-related products. In fact, at least one of the Council
23 on Natural Nutrition “senior scientific editors” is or was an employee of Defendants
24 with no scientific training in the examination or evaluation of nutritional health
25 products. Therefore, the making of the representations set forth in Paragraph 43
26 constitutes a deceptive practice, and the making of false advertisements, in or
27 affecting commerce, in violation of Sections 5(a) and 12 of the FTC Act, 15
28 U.S.C. §§ 45(a) and 52.

1 **COUNT IX**

2 **Deceptive Representation Regarding Expert Endorser Dr. Ronald**
3 **Lawrence**

4 45. Through the means described in Paragraphs 24(a) and (b), Defendants
5 have represented, expressly or by implication, that Dr. Ronald Lawrence, Director
6 of the Council on Natural Nutrition, has endorsed Defendants' products, including
7 G.H.3 and ChitoPlex, based upon his independent, objective evaluation of the
8 products. Defendants have failed to disclose that Dr. Lawrence and the Council on
9 Natural Nutrition have material connections to Defendants. Among other things,
10 Dr. Lawrence is or was a paid endorser of Defendants' products and is or was a
11 member of Defendant G.B. Data Systems' Board of Directors. The Council of
12 Natural Nutrition is or was an organization established by Defendants and is or was
13 used for the purpose of advertising and promoting their products. These facts
14 would be material to consumers in their purchase or use decisions regarding
15 Defendants' products. Therefore, the failure to disclose these facts, in light of the
16 representation made, constitutes a deceptive practice and the making of false
17 advertisements, in or affecting commerce, in violation of Sections 5(a) and 12 of
18 the FTC Act, 15 U.S.C. §§ 45(a).

19 **INJURY**

20 46. Consumers throughout the United States have suffered and continue
21 to suffer substantial monetary loss as a result of Defendants' unlawful acts or
22 practices. In addition, Defendants have been unjustly enriched as a result of their
23 unlawful practices. Absent injunctive relief by this Court, Defendants are likely to
24 continue to injure consumers, reap unjust enrichment, and harm the public interest.

25 **THIS COURT'S POWER TO GRANT RELIEF**

26 47. Section 13(b) of the FTC Act, 15 U.S.C. § 53(b), empowers this
27 Court to grant injunctive and such other relief as the Court may deem appropriate
28 to halt and redress violations of the FTC Act. The Court, in the exercise of its

1 equitable jurisdiction, may award other ancillary relief, including consumer redress,
2 disgorgement, and restitution, to prevent and remedy injury caused by Defendants'
3 law violations.

4 **PRAYER FOR RELIEF**

5 Wherefore, Plaintiff requests that this Court, as authorized by Section 13(b)
6 of the FTC Act, 15 U.S.C. § 53(b), and pursuant to its own equitable powers:

- 7 (1) Permanently enjoin Defendants from violating Sections 5(a) and 12 of
8 the FTC Act in connection with the advertising or sale of food, drugs,
9 devices, cosmetics or other products, services or programs;
- 10 (2) Permanently enjoin Defendant Braswell from participating in the
11 advertising or sale of any food, vitamin, mineral, dietary supplement, drug,
12 device, cosmetic, or other health-related product or service;
- 13 (3) Award such equitable relief as the Court finds necessary to redress
14 injury to consumers resulting from Defendants' violations of the FTC Act,
15 including but not limited to rescission of contracts and restitution, other forms
16 of redress, and disgorgement of ill-gotten gains; and
- 17 (4) Award Plaintiff the costs of bringing this action and any other
18 equitable relief the Court may determine to be just and proper.

19 Respectfully submitted,

20
21 Dated: _____, 2003

22 **WILLIAM E. KOVACIC**
General Counsel

23 **ROSEMARY ROSSO**
24 **MAMIE KRESSES**
25 **DAVID P. FRANKEL**
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