

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

In the Matter of)	
)	
)	
)	
DYNAMIC HEALTH OF FLORIDA, LLC,)	
CHHABRA GROUP, LLC,)	
DBS LABORATORIES, LLC,)	
Limited liability companies,)	
)	
VINCENT K. CHHABRA,)	DOCKET NO. 9317
Individually and as an officer of)	
Dynamic Health of Florida, LLC,)	
And Chhabra Group, LLC, and)	
)	
JONATHAN BARASH,)	
Individually and as an officer of)	
DBS Laboratories, LLC.)	

**RESPONDENTS' REPLY TO COMPLAINT COUNSEL'S
PARTIAL OPPOSITION TO
RESPONDENTS' MOTION FOR EXTENSION OF TIME**

Respondents' counsel is appreciative of Complaint counsel's sympathies "to the difficulties facing counsel for respondents." Complaint Counsel's Partial Opposition to Motion for Extension of Time ("Motion to Extend"), p.1. That being said, Complaint Counsel Janet Evans' Motion to Extend is so distorted that a reply is in order.

All information possessed by Respondents is already in the possession of the government. See, e.g., Affidavits and subpoenas issued to Guy Regalado and Louis Cohen respectively, Exhibits A and B attached. See also, Respondents' Counsel's letter to Janet Evans, dated October 14, 2004 *and accompanying letter from Arent Fox to Janet Evans*, dated December 12, 2003, attached as Exhibit C. To counsel's knowledge,

there is nothing left to disclose. If additional information is discovered that is relevant, it will be provided. Responses are not due to Complaint counsel's document requests and interrogatories until November 15, 2004 – a date that cannot be met by Respondents under any circumstances.¹

Complaint Counsel assails Respondents' counsel for providing an incomplete Preliminary Witness List. As a threshold matter, the FTC is aware of everyone who has information concerning this case. After counsel reviewed Complaint Counsel's Preliminary Witness List, see Exhibit D, Respondents' counsel essentially copied (with some omissions) the disclosures provided by Complaint Counsel and provided the disclosures to Complaint Counsel. Exhibit E. The point, of course, is that individuals or entities that have information concerning this case are already well-known to the FTC. Except for potential experts, Respondents do not intend to call witnesses who do not appear on the FTC's preliminary witness list because they are the only individuals with relevant knowledge about the case.

Respondent Jonathan Barash has already settled with the FTC and has presumably provided any and all information in his possession to the FTC. Mr. Barash also provided *information that was contained in Arent Fox's disclosures to Janet Evans on December 12, 2003. Although Complaint Counsel complains that there was insufficient identifying information contained in Respondents' Preliminary Witness List, the information was provided in the same manner that Complaint Counsel provided it to Respondents.*

¹ Complaint counsel's request for documents and request for interrogatories were served on October 25, 2004. Counsel was scheduled to travel to FL on October 31, 2004 to prepare responses and interview potential witnesses. That trip was cancelled for obvious reasons and is unlikely to be rescheduled this month. Although Complaint Counsel attempts to chastize Respondents' counsel for impeding discovery in this case, at the time Janet Kravitz was diagnosed as ill, the discovery requests had been in the possession of Respondents' counsel for less than six days.

Complaint Counsel assumed that this format was sufficient since it was used by Complaint Counsel in her disclosures.

Subsequently, Complaint Counsel requested Respondents' counsel accept service for document requests to ten individuals and entities around the country, including the law firm of Arent Fox in Washington, D.C. Respondents' counsel refused, noting that he had no control over these entities or individuals. Moreover, many of the individuals were represented by independent counsel. Respondents' counsel provided the name of the attorney for many of the individuals (Michael Pasano) and also suggested that the FTC could subpoena some of the individuals at the Weston, FL business office where some of the individuals worked. Moreover, Respondents' counsel cannot compel documents from third parties without issuing a subpoena. Complaint Counsel's representation that the FTC has in some way been impeded in their presentation of this case is a complete sham. They already have all of the information relevant to this lawsuit. If there are evidentiary items or information that Complaint Counsel believes will further the FTC case, counsel is free to request those items – and they did in their interrogatory and document requests served on October 25, 2004. However, Respondents' Counsel should not be required to duplicate what is already in the possession of the FTC pursuant to the good faith disclosures by prior attorneys for Mr. Chhabra, nor should Mr. Chhabra have to expend an inordinate amount of resources looking for the proverbial “needle in a haystack” that might further the FTC case.²

² According to Louis Cohen, former controller of Chhabra Group, LLC, although unlikely, there may be some additional documents relevant to this case. These documents, assuming they exist, were seized during the execution of federal search warrants late in November 2003. These documents have not been returned as of this date. Complaint counsel can obtain these documents, assuming there are any relevant to this case, by contacting the United States Attorneys' Office in the Eastern District of Virginia.

In Respondents' opinion, what the FTC is really frustrated about is Mr. Chhabra's refusal to settle this case on extremely onerous terms that were presented to him as non-negotiable. (Since Complaint Counsel has decided to attach some of the correspondence between the parties, Respondents' counsel has done the same. See Exhibit F, and October 25-26, 2004.) Although refusing to settle this case, which presumably Mr. Chhabra has a right not to do; Mr. Chhabra is prohibited by the government from devoting *any* resources to the litigation of this action. At this time, there is a Restraining Order issued by the United States Court for the Eastern District of Virginia, Alexandria Division, forbidding him and Chhabra Group, LLC from selling, transferring, assigning, pledging, distributing, giving away or otherwise disposing of any money or property, including funds currently held in attorney trust accounts. See, Exhibit G. As important, Mr. Chhabra's Plea Agreement in the Eastern District of Virginia requires Mr. Chhabra to forfeit his interest in any asset obtained during the past seven years with a value of more than \$1,000. See, Exhibit H. This forfeiture provision includes substantial assets presently in the possession of the government. There are no funds available for travel, depositions, transcripts or any of the other expenses that normally accompany even the most rudimentary litigation. If depositions are taken, Respondents' counsel will request permission to participate in the depositions telephonically (although counsel will attempt to attend depositions in Florida).

Mr. Chhabra is not the moving party in this litigation. He is before this Court involuntarily. At the present time, he is committed to defend the litigation in a professional, albeit extremely frugal, manner. Faced with 33 months in jail, the forfeiture of all of his assets and multiple lawsuits from creditors, this case is not a "high priority

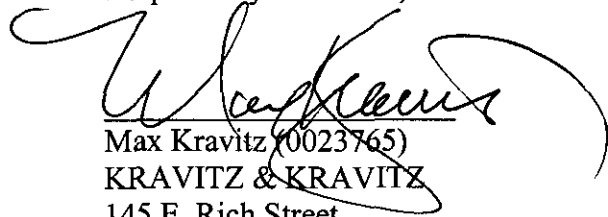
item” as set forth in Respondents counsel’s email to Complaint Counsel on October 15, 2004. Nevertheless, he is not required to surrender his right to defend this case merely because the government, rightly or wrongly, has crippled his ability to do so. Ordinarily, a respondent would be able to employ substitute counsel to pursue a case if current counsel is unable to meet the scheduling requirements of the Court due to unforeseen circumstances. Mr. Chhabra does not have that luxury.

Complaint counsel is well aware of the financial impediments concerning Mr. Chhabra’s ability to defend himself and his companies. Mr. Chhabra understands that merely because he is impoverished does not mean that the government has to forego this litigation. Mr. Chhabra also understands that this case must be litigated in a professional manner and there are inherent risks in not being able to commit unlimited resources to his defense. However, the fact that he cannot afford to defend this lawsuit does not mean he must settle the case on whatever terms the FTC desires to impose on him.

Respondents counsel takes great umbrage to the suggestion by Complaint Counsel that the FTC has been impeded in some way from obtaining information relevant to this case. The fact that Mr. Chhabra was distracted from this case during the pendency of criminal proceedings in Virginia, or that present counsel cannot immediately respond to discovery requests or other deadlines set forth in the Scheduling Order of August 2, 2004 due to unforeseen circumstances, or that present counsel questions the wisdom of the FTC’s current posture concerning the resolution of this case does not mean that Complaint Counsel has been in any way impeded.

It is respectfully requested that this Court grant Respondents Motion for Extension of Time.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Max Kravitz', written over a horizontal line. The signature is fluid and cursive, with a large loop at the end.

Max Kravitz (0023765)

KRAVITZ & KRAVITZ

145 E. Rich Street

Columbus, OH 43215

Tel: (614) 464-2000

Fax: (614) 464-2002

Email: mkravitz@kravitzlawnet.com

CERTIFICATE OF SERVICE

This is to certify that on November 12, 2004, I caused a copy of the attached Respondent's Reply to Complaint Counsel's Partial Objection to Motion to Extend Time to be served upon the following persons by facsimile, email or U.S. First Class Mail:

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

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

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

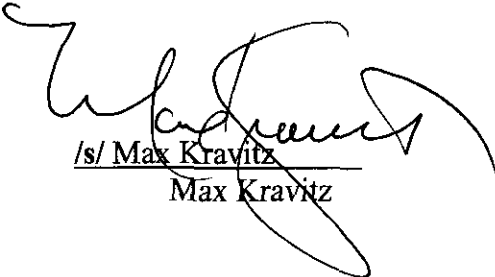
The Honorable Stephen J. McGuire
Federal Trade Commission
600 Pennsylvania Avenue, NW
Washington, DC 20580
E-mail: dgross@ftc.gov

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

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

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

Dated: Columbus, Ohio
November 12, 2004


/s/ Max Kravitz
Max Kravitz