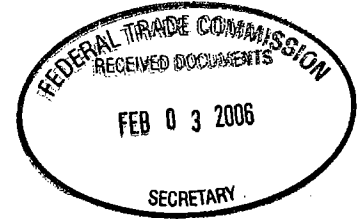


UNITED STATES OF AMERICA
BEFORE THE FEDERAL TRADE COMMISSION
OFFICE OF ADMINISTRATIVE LAW JUDGES

In the Matter of)

BASIC RESEARCH, L.L.C.,)
A.G. WATERHOUSE, L.L.C.,)
KLEIN-BECKER USA, L.L.C.,)
NUTRASPORT, L.L.C.,)
SOVAGE DERMALOGIC)
LABORATORIES, L.L.C.,)
BAN, L.L.C.,)
DENNIS GAY,)
DANIEL B. MOWREY, and)
MITCHELL K. FRIEDLANDER,)

Respondents.)



Docket No. 9318

PUBLIC VERSION

**SECOND MOTION FOR LEAVE TO ADD ADDITIONAL MATERIALS TO
COMPLAINT COUNSEL'S SECOND FINAL PROPOSED EXHIBIT LIST**

Pursuant to RULE 3.22 and Paragraph 10 of the Court's *Scheduling Order*, Complaint Counsel respectfully request permission to add additional exhibits to part "A" of our *Second Final Proposed Exhibit List* (submitted in parts denominated "letter A" and "letter B").

Respondents have indicated, through counsel, that they do not oppose this request.

Complaint Counsel submit this second request to add additional exhibits because we have received additional materials not available at the time of our first request on December 22, 2005. Our first request noted that we had not received the final transcript and marked exhibits for the deposition of Respondents' proposed expert, Respondent Mowrey, at that time. We recently received those materials and, therefore, now request leave to add portions of the deposition record to our exhibit list, as follows:

Exhibit	Description	Bates Range	Confid.
CX-956	Continued Deposition of Daniel B. Mowrey (Dec. 2005)	N/A	
CX-957	REDACTED [Mowrey Dep. Ex. 50]	Document Produced by Daniel B. Mowrey 08.16.05, p. 22 of 30, <i>with</i> Mowrey Qualification Docs. Produced 01/10/05 pp. 39-53 of 185	** ¹
CX-958	REDACTED [Mowrey Dep. Ex. 53]	Document Produced by Daniel B. Mowrey 08.16.05, p. 15 of 30, <i>with</i> Mowrey Qualification Docs. Produced 01/10/05 pp. 146-65 of 185	**
CX-959	REDACTED [Mowrey Dep. Ex. 55]	Document Produced by Daniel B. Mowrey 08.16.05, p. 9 of 30, <i>with</i> Mowrey Qualification Docs. Produced 01/10/05 pp. 176-85 of 185	**
CX-960	REDACTED [Mowrey Dep. Ex. 56]	Document Produced by Daniel B. Mowrey 08.16.05, p. 21 of 30, <i>with</i> Mowrey Qualification Docs. Produced 01/10/05 pp. 114-34 of 185	**

¹ Out of an abundance of caution, the titles of deposition exhibits that Respondent(s) marked as confidential will be redacted from the public version of this filing. As before, the fact that Complaint Counsel have labeled certain documents as confidential pursuant to markings on those documents does not indicate that we consent or agree to such designations. Complaint Counsel reserve the right to object to such designations.

CX-961	REDACTED [Mowrey Dep. Ex. 58]	Document Produced by Daniel B. Mowrey 08.16.05, p. 25 of 30, <i>with</i> Mowrey Qualification Docs. Produced 01/10/05 pp. 17-34 of 185	**
CX-962	REDACTED [Mowrey Dep. Ex. 60]	Document Produced by Daniel B. Mowrey 08.16.05, p. 7 of 30, <i>with</i> Mowrey Qualification Docs. Produced 01/10/05 pp. 166-75 of 185	**
CX-963	REDACTED [Mowrey Dep. Ex. 61]	Document Produced by Daniel B. Mowrey 08.16.05, p. 17 of 30, <i>with</i> Mowrey Qualification Docs. Produced 01/10/05 pp. 135-45 of 185	**
CX-964	Daniel B. Mowrey, Untitled Notes (undated) [Mowrey Dep. Ex. 63]	N/A	
CX-965	Letter from Ronald Price to Complaint Counsel (Aug. 22, 2005), <i>with</i> REDACTED [Mowrey Dep. Ex. 51]	N/A, <i>with</i> Documents Produced by Daniel B. Mowrey 08.22.05, p. 1-7 of 7	**
CX-966	Corp. Resp'ts' Supp. Resps. to Reqs. for Admission (served January 31, 2006)	N/A	**

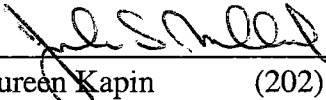
Six of these documents were previously listed as separate exhibits in our *Second Final Proposed Exhibit List*, but those documents did not bear deposition labels. So that the record clearly reflects the deposition exhibits upon which Dr. Mowrey has offered testimony, we wish to substitute exhibits bearing those deposition labels (CX-957-60, CX-962-63, CX-965) for the unmarked versions of those documents (CX-267, CX-270-74, and CX-941). Substituting the

marked deposition exhibits for the unmarked versions of those documents yields a very slight increase in the total number of trial exhibits.

Additionally, Complaint Counsel wish to advise the Court that we anticipate the need to file one additional motion to add trial exhibits. This anticipated motion would address one additional group of exhibits not presently in our possession, *i.e.*, the final transcript and/or exhibits to the deposition of Paul Lehman that took place in mid-January.

Based on the foregoing, Complaint Counsel respectfully submit that we have shown good cause to add the above-mentioned exhibits to our *Second Final Proposed Exhibit List*. We request that the Court permit the addition of those exhibits. Attached is a proposed *Order* granting the requested relief.

Respectfully submitted,



Laureen Kapin	(202) 326-3237
Lemuel Dowdy	(202) 326-2981
Walter C. Gross III	(202) 326-3319
Joshua S. Millard	(202) 326-2454
Edwin Rodriguez	(202) 326-3147
Laura Schneider	(202) 326-2604

Division of Enforcement
Bureau of Consumer Protection
Federal Trade Commission
600 Pennsylvania Avenue, N.W.
Counsel Supporting the Complaint

Date: February 3, 2006

Public Version

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

In the Matter of)	
)	
)	
BASIC RESEARCH, L.L.C.,)	
A.G. WATERHOUSE, L.L.C.,)	
KLEIN-BECKER USA, L.L.C.,)	
NUTRASPORT, L.L.C.,)	
SOVAGE DERMALOGIC)	Docket No. 9318
LABORATORIES, L.L.C.,)	
BAN, L.L.C.,)	
DENNIS GAY,)	
DANIEL B. MOWREY, and)	
MITCHELL K. FRIEDLANDER,)	
)	
Respondents.)	
)	

**ORDER GRANTING MOTION FOR LEAVE TO ADD ADDITIONAL MATERIALS TO
COMPLAINT COUNSEL'S SECOND FINAL PROPOSED EXHIBIT LIST**

Complaint Counsel have filed a motion requesting permission to add additional exhibits to their Second Final Proposed Exhibit List. The additional exhibits consist of a newly-obtained deposition transcript and exhibits thereto. Good cause having been shown for the addition of the proposed exhibits, it is hereby ordered that Complaint Counsel's Motion for Leave to Add Additional Materials to Complaint Counsel's Second Final Exhibit List is **GRANTED**. In connection therewith, Complaint Counsel may substitute exhibits CX-957-60 and CX-962-63 for CX-267 and CX-270-74.

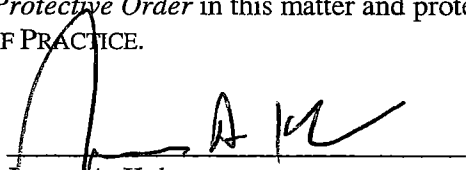
ORDERED:

Stephen J. McGuire
Chief Administrative Law Judge

Date:

CERTIFICATION OF REVIEWING OFFICIAL

I certify that I have reviewed the attached public filing, *Complaint Counsel's Motion for Leave to Add Additional Materials to Complaint Counsel's Second Final Exhibit List*, prior to its filing to ensure the proper use and redaction of materials subject to the *Protective Order* in this matter and protect against any violation of that *Order* or applicable RULE OF PRACTICE.



James A. Kohm
Associate Director, Division of Enforcement
Bureau of Consumer Protection

CERTIFICATE OF SERVICE

I hereby certify that on February 3, 2006, I caused the attached public version of *Complaint Counsel's Motion for Leave to Add Additional Materials to Complaint Counsel's Second Final Exhibit List* to be served and filed as follows:

- (1) the original, two (2) paper copies, and one (1) electronic copy via email, filed with:
Donald S. Clark, Secretary
Federal Trade Commission
600 Penn. Ave., N.W., Room H-135
Washington, D.C. 20580
- (2) two (2) paper copies served by hand delivery to:
The Honorable Stephen J. McGuire
Chief Administrative Law Judge
600 Penn. Ave., N.W., Room H-113
Washington, D.C. 20580
- (3) one (1) electronic copy via email and one (1) paper copy by first class mail to the following persons:

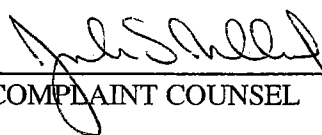
Stephen E. Nagin
Nagin Gallop Figueroa P.A.
3225 Aviation Ave.
Miami, FL 33133-4741
(305) 854-5353
(305) 854-5351 (fax)
snagin@ngf-law.com
For Respondents

Jonathan W. Emord
Emord & Associates, P.C.
1800 Alexander Bell Dr. #200
Reston, VA 20191
(202) 466-6937
(202) 466-6938 (fax)
jemord@emord.com
For Respondents Klein-Becker
USA, LLC, A.G. Waterhouse,
LLC, Basic Research, LLC,
Nutrasport, LLC, Sovage
Dermalogic Laboratories, LLC,
and BAN, LLC

Ronald F. Price
Peters Scofield Price
310 Broadway Centre
111 East Broadway
Salt Lake City, UT 84111
(801) 322-2002
(801) 322-2003 (fax)
rfp@psplawyers.com
For Respondent Mowrey

Richard D. Burbidge
Burbidge & Mitchell
215 S. State St., Suite 920
Salt Lake City, UT 84111
(801) 355-6677
(801) 355-2341 (fax)
rburbidge@burbidgeandmitchell.com
For Respondent Gay

Mitchell K. Friedlander
5742 West Harold Gatty
Salt Lake City, UT 84116
(801) 517-7000
(801) 517-7108 (fax)
mkf555@msn.com
Respondent


COMPLAINT COUNSEL