

SCANNED

1 WILLIAM BLUMENTHAL
General Counsel

2 DAVID P. FRANKEL
3 ROSEMARY ROSSO
4 MAMIE KRESSES
5 THEODORE H. HOPPOCK
6 CHRISTINE J. LEE
7 DAVID K. KOEHLER
8 ALYSA BERNSTEIN
9 JAMES A. TRILLING

Federal Trade Commission
600 Pennsylvania Ave., N.W., Rm, NJ-3212
Washington, D.C. 20580
Tel: (202) 326-2812, 2174, 2070, 3087, 2095, 3627, 3289, 3497
Fax: (202) 326-3259

COPY

FILED
CLERK, U.S. DISTRICT COURT
OCT 19 2005
CENTRAL DISTRICT OF CALIFORNIA
BY DEPUTY

10 KENNETH H. ABBE (Local Counsel)
11 California Bar # 172416
12 Federal Trade Commission
13 10877 Wilshire Boulevard, Suite 700
14 Los Angeles, CA 90024
15 Tel: (310) 824-4318
16 Fax: (310) 824-4380

Priority
Send
Enter
Closed
JS-5/JS-6
JS-2/JS-3
Scan Only

Attorneys for Plaintiff,
FEDERAL TRADE COMMISSION

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA
WESTERN DIVISION

FEDERAL TRADE COMMISSION,
Plaintiff,
v.
A. GLENN BRASWELL, et al.
Defendants.

Hon. Dickran Tevrizian
CV 03-3700-DT (PJWx)

SETTLEMENT AGREEMENT
AND [Proposed] FINAL ORDER
FOR PERMANENT
INJUNCTION AS TO HANS
KUGLER, Ph.D.

DOCKETED ON CM
OCT 21 2005

BY JV 002

Plaintiff, the Federal Trade Commission ("FTC" or "Commission") filed a
Complaint and Second Corrected First Amended Complaint for permanent

668

1 injunction and other relief against A. Glenn Braswell, JOL Management Co., G.B.
2 Data Systems, Inc., Gero Vita International, Inc., Therapeutics, Inc., Halsey
3 Holdings LLC, Health Quest Publications, Inc., G.B. Data Systems, Inc (Canada),
4 Ron Tepper, Ronald M. Lawrence, M.D., Ph.D., Hans Kugler, Ph.D., and Chase
5 Revel, pursuant to Section 13(b) of the Federal Trade Commission Act ("FTC
6 Act"), 15 U.S.C. § 53(b). Defendant Hans Kugler Ph.D. denies the allegations in
7 the Complaint, except jurisdictional facts, and disputes the legal basis for the relief
8 requested, but is willing to agree to the entry of the following Settlement
9 Agreement And Final Order For Permanent Injunction ("Order"), without
10 adjudication of any issues of fact or law and without Defendant Kugler admitting
11 liability for any of the matters alleged in the Complaint.

12 The Commission and Defendant Kugler have stipulated to the entry of the
13 following Order in settlement of the Commission's Complaint against Defendant
14 Kugler. The Court, being advised in the premises, finds:

15 FINDINGS

- 16 1. This Court has jurisdiction over the subject matter of this case and
17 jurisdiction over Defendant Kugler. Venue in the Central District of
18 California is proper.
- 19 2. The Complaint states a claim upon which relief can be granted and
20 Defendant Kugler's Answer states multiple defenses. The
21 Commission has the authority to seek the relief it has requested.
- 22 3. The activities of Defendant Kugler are or were in or affecting
23 commerce, as defined in 15 U.S.C. § 44.
- 24 4. The parties waive all rights to seek judicial review or otherwise
25 challenge or contest the validity of this Order. Defendant Kugler also
26 waives any claims that he may have held under the Equal Access to
27 Justice Act, 28 U.S.C. § 2412, concerning the prosecution of this
28 action to the date of this Order.

SCANNED

SCANNED

- 1 5. Each party shall bear its own costs and attorneys' fees.
- 2 6. Entry of this Order is in the public interest.
- 3 7. This Order resolves all claims that arose prior to the date of entry of
4 this Order against Defendant Kugler with respect to any allegation
5 that such Defendant violated the Federal Trade Commission Act and
6 the regulations promulgated thereunder with respect to the advertising
7 of dietary supplements marketed by the Defendants in this action.
8 The Order does not resolve any claims against A. Glenn Braswell,
9 Chase Revel, or any other Defendant in this action.
- 10 8. Pursuant to Federal Rule of Civil Procedure 65(d), the provisions of
11 this Order are binding upon Defendant Kugler, and any agents,
12 servants, employees and all other persons or entities in active concert
13 or participation with him, who receive actual notice of this Order by
14 personal service or otherwise.
- 15 9. This is a final order with respect to Defendant Kugler.
- 16 10. Defendant Kugler's stipulation is for settlement purposes only; it does
17 not constitute an admission of facts, other than jurisdictional facts, or
18 violations of law as alleged in the Second Corrected First Amended
19 Complaint and in fact Defendant Kugler denies same; and it may not
20 be used against Defendant Kugler in any other proceeding, except in
21 such proceedings as may be necessary to enforce the provisions of
22 this Order.
- 23 11. This Order reflects a negotiated agreement among the parties.

24 DEFINITIONS

25 For purposes of this Order, the following definitions shall apply:

- 26 1. Unless otherwise specified, "Defendant" shall mean Hans Kugler,
27 Ph.D.
- 28 2. "Competent and reliable scientific evidence" shall mean tests,

SCANNED

1 analyses, research, studies, or other evidence based on the expertise
2 of professionals in the relevant area, that has been conducted and
3 evaluated in an objective manner by persons qualified to do so, using
4 procedures generally accepted in the relevant field to yield accurate
5 and reliable results.

6 3. "Food" and "drug" shall mean "food" and "drug" as defined in
7 Section 15 of the FTC Act, 15 U.S.C. § 55.

8 4. "Covered product" shall mean any food, drug, or dietary supplement,
9 whether sold individually or as part of a program.

10 5. "Commerce" shall mean as defined in Section 4 of the Federal Trade
11 Commission Act, 15 U.S.C. § 44.

12 6. "Endorsement" shall mean as defined in 16 C.F.R. § 255.0(b) .

13 CONDUCT PROHIBITIONS

14 Representations Concerning Respiratory Products

15 I.

16 **IT IS HEREBY ORDERED** that Defendant, directly or through any
17 corporation, partnership, subsidiary, division, trade name, or other device, and his
18 agents, representatives, employees, attorneys, and all persons or entities in active
19 concert or participation with him who receive actual notice of this Order, by
20 personal service or otherwise, in connection with the manufacturing, labeling,
21 advertising, promotion, offering for sale, sale, or distribution of Lung Support
22 Formula or any other respiratory product are hereby permanently restrained and
23 enjoined from making any representation, in any manner, expressly or by
24 implication, including through the use of endorsements or trade names, that such
25 product:

26 A. Cures or treats lung diseases or respiratory problems; and

27 B. Prevents breathing problems for persons who do not have existing
28 respiratory problems;

SCANNED

1 unless at the time the representation is made, Defendant possesses and relies upon
2 competent and reliable scientific evidence that substantiates the representation.
3 *Provided, however,* that for any representation made as an expert endorser,
4 Defendant must possess and rely upon competent and reliable scientific evidence,
5 and an actual exercise of his represented expertise, in the form of an examination
6 or testing of the product.

7 **Representations Concerning Anti-Aging Products**

8 **II.**

9 **IT IS HEREBY ORDERED** that Defendant, directly or through any
10 corporation, partnership, subsidiary, division, trade name, or other device, and his
11 agents, representatives, employees, attorneys, and all persons or entities in active
12 concert or participation with him who receive actual notice of this Order, by
13 personal service or otherwise, in connection with the manufacturing, labeling,
14 advertising, promotion, offering for sale, sale, or distribution of Gero Vita G.H.3
15 or any other anti-aging product are hereby permanently restrained and enjoined
16 from making any representation, in any manner, expressly or by implication,
17 including through the use of endorsements or trade names, that such product
18 prevents or alleviates age-related diseases or conditions, including age-related
19 memory loss, dementia, and Alzheimer's disease unless at the time the
20 representation is made, Defendant possesses and relies upon competent and
21 reliable scientific evidence that substantiates the representation. *Provided,*
22 *however,* that for any representation made as an expert endorser, Defendant must
23 possess and rely upon competent and reliable scientific evidence, and an actual
24 exercise of his represented expertise, in the form of an examination or testing of
25 the product.

26 **Representations Concerning Covered Products**

27 **III.**

28 **IT IS FURTHER ORDERED** that Defendant, directly or through any

SCANNED

1 corporation, partnership, subsidiary, division, trade name, or other device, and his
2 agents, servants, employees and all persons or entities in active concert or
3 participation with him who receive actual notice of this Order, by personal service
4 or otherwise, in connection with the manufacturing, labeling, advertising,
5 promotion, offering for sale, sale, or distribution of any covered product are
6 hereby permanently restrained and enjoined from making any representation in
7 any manner, expressly or by implication, including through the use of trade names
8 or endorsements, that such product is effective in the cure, treatment, mitigation,
9 or prevention of any disease unless the claim is true, non-misleading, and, at the
10 time it is made, Defendant possesses and relies upon competent and reliable
11 scientific evidence that substantiates the representation.

12 **Representations Regarding Tests or Studies**

13 **IV.**

14 **IT IS FURTHER ORDERED** that Defendant, directly or through any
15 corporation, partnership, subsidiary, division, trade name, or other device, and his
16 agents, servants, employees and all persons or entities in active concert or
17 participation with him who receive actual notice of this Order, by personal service
18 or otherwise, in connection with the manufacturing, labeling, advertising,
19 promotion, offering for sale, sale, or distribution of any covered product, are
20 hereby permanently restrained and enjoined from misrepresenting, in any manner,
21 expressly or by implication, the existence, contents, validity, results, conclusions,
22 or interpretations of any test or study.

23 **FDA APPROVED CLAIMS**

24 **V.**

25 **IT IS FURTHER ORDERED** that:

- 26 A. Nothing in this Order shall prohibit Defendant from making any
27 representation for any drug that is permitted in labeling for such drug
28 under any tentative final or final standard promulgated by the Food

SCANNED

1 and Drug Administration, or under any new drug application
2 approved by the Food and Drug Administration; and

3 B. Nothing in this Order shall prohibit Defendant from making any
4 representation for any product that is specifically permitted in
5 labeling for such product by regulations promulgated under the laws
6 of the United States of America.

7 **MONETARY RELIEF**

8 **VI.**

9 **IT IS FURTHER ORDERED** that:

10 A. Defendant Kugler shall pay to the Commission the sum of Fifteen
11 Thousand Dollars (\$15,000.00) in the following manner:

- 12 1. Defendant has placed this sum into a trust account at the law
13 offices of his Counsel, Robert L. Luty, Esq., which shall be
14 held by Defendant's counsel in such trust account and
15 transferred within three days after entry of this Order by wire
16 transfer into an account to be designated by the Commission in
17 accord with directions provided by the Commission.
- 18 2. All funds paid pursuant to this Order shall be deposited into an
19 account administered by the Commission or its agent to be used
20 for equitable relief, including but not limited to consumer
21 redress and any attendant expenses for the administration of
22 such equitable relief. In the event that direct redress to
23 consumers is wholly or partially impracticable or funds remain
24 after redress is completed, the Commission may apply any
25 remaining funds for such other equitable relief (including
26 consumer information remedies) as it determines to be
27 reasonably related to the Defendant's practices alleged in the
28 complaint. Any funds not used for such equitable relief shall

SCANNED

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

be deposited to the United States Treasury as disgorgement. Defendant shall have no right to challenge the Commission's choice of remedies under this Paragraph. Defendant shall have no right to contest the manner of distribution chosen by the Commission. No portion of any payments under the judgment herein shall be deemed a payment of any fine, penalty, or punitive assessment.

3. In accordance with 31 U.S.C. § 7701, Defendant is hereby required, unless he has done so already, to furnish to the Commission his taxpayer identifying numbers and/or social security numbers, which may be used for purposes of collecting and reporting on any delinquent amount arising out of Defendant's relationship with the government.

4. Defendant relinquishes all dominion, control, and title to the funds paid into the account established pursuant to this Order, and all legal and equitable title to the funds shall vest in the Treasurer of the United States unless and until such funds are disbursed to consumers. Defendant shall make no claim to or demand for the return of the funds, directly or indirectly, through counsel or otherwise; and in the event of bankruptcy of the Defendant, Defendant acknowledges that the funds are not part of the debtor's estate, nor does the estate have any claim or interest therein.

E. Proceedings instituted under this Paragraph are in addition to, and not in lieu of, any other civil or criminal remedies that may be provided by law, including any other proceedings the Commission may initiate to enforce this Order.

Right to Reopen

VII.

IT IS FURTHER ORDERED that:

A. The Commission's agreement to this Order is expressly premised upon Defendant's financial condition as represented by Defendant Kugler in submissions made to the Commission, to wit:

1. the Financial Statement of Individual Defendant with separate typed responses and attached documents, signed and dated October 11, 2005;

This Financial Statement of Individual Defendant and attached supporting documents contain material information upon which the Commission relied in negotiating and agreeing to the terms of this Order.

B. If, upon motion by the Commission, a Court should determine that the Defendant made a material misrepresentation or omitted material information concerning his financial condition to the Commission, then the Court shall enter judgment against Defendant Kugler in favor of the Commission, in the amount of Five Hundred Thousand Dollars (\$500,000), which amount shall become immediately due and payable by Defendant Kugler, and interest computed at the rate prescribed under 28 U.S.C. § 1961, as amended, shall immediately begin to accrue on the unpaid balance; *provided, however, that* in all other respects this Final Order shall remain in full force and effect unless otherwise ordered by the Court; and, *provided further, that* proceedings instituted under this provision would be in addition to, and not in lieu of, any other civil or criminal remedies as may be provided by law, including but not limited to contempt proceedings, or any other proceedings that the Commission or the United States

SCANNED

1 may initiate to enforce this Final Order. For purposes of this
2 Paragraph, and any subsequent proceedings to enforce payment,
3 including but not limited to a non-dischargeability complaint filed in
4 a bankruptcy proceeding, Defendant Kugler agrees not to contest any
5 of the allegations in the Commission's Complaint.

6 COOPERATION WITH COMMISSION

7 VIII.

8 **IT IS FURTHER ORDERED** that Defendant Kugler must reasonably and
9 in good faith cooperate with the Commission in connection with this action or any
10 subsequent investigations related to or associated with the transactions or
11 occurrences that are the subject of the Commission's Complaint. Defendant
12 acknowledges, understands, and agrees that such cooperation shall include, but not
13 be limited to, the following:

- 14 A. Appearing for interviews as may reasonably be requested by the
15 Commission;
- 16 B. Responding to all reasonable inquiries of the Commission;
- 17 C. Providing all documents, records, and other tangible evidence
18 reasonably requested by the Commission;
- 19 D. Providing truthful declarations, affidavits, certifications, and written
20 testimony that may be reasonably requested by the Commission; and
- 21 E. Appearing and providing oral testimony at any trial, deposition, or
22 other proceeding. Defendant agrees to accept service by overnight
23 delivery of any subpoena to appear and provide testimony.

24 The foregoing cooperation shall be upon reasonable written notice by the
25 Commission. Defendant's failure to cooperate as required herein constitutes a
26 material breach of the settlement between the parties and a violation of this Order.
27 If, upon motion by the Commission after written notice and a five (5) calendar day
28 opportunity to cure, the Court finds that Defendant has failed to cooperate

1 reasonably and in good faith with the Commission as provided for in this
2 Paragraph, the Court shall enter judgment against the Defendant to the
3 Commission, in favor of the Commission, in the amount of Five Hundred
4 Thousand Dollars (\$500,000), which amount shall become immediately due and
5 payable by Defendant, and interest computed at the rate prescribed under 28
6 U.S.C. § 1961, as amended, shall immediately begin to accrue on the unpaid
7 balance; *provided, however, that* in all other respects this Final Judgment shall
8 remain in full force and effect unless otherwise ordered by the Court; and,
9 *provided further, that* proceedings instituted under this provision would be in
10 addition to, and not in lieu of, any other civil or criminal remedies as may be
11 provided by law, including but not limited to contempt proceedings, or any other
12 proceedings that the Commission or the United States may initiate to enforce this
13 Final Judgment. For purposes of this Paragraph, and any subsequent proceedings
14 to enforce payment, including but not limited to a non-dischargeability complaint
15 filed in a bankruptcy proceeding, Defendant agrees not to contest any of the
16 allegations in the Commission's Complaint.

17 COMPLIANCE REQUIREMENTS

18 Compliance Reporting

19 IX.

20 **IT IS FURTHER ORDERED** that, in order that compliance with the
21 provisions of this Order may be monitored:

- 22 A. For a period of five (5) years from the date of entry of this Order,
23 Defendant Kugler:
- 24 1. Shall notify the Commission of the following:
 - 25 a. Any changes in residence(s), mailing address(es), and
26 telephone number(s) of the Defendant, within ten (10)
27 days of the date of such change; and
 - 28 b. Any changes in Defendant's employment status

1 (including self-employment) or in Defendant's
2 ownership of any business entity engaged in the sale of a
3 covered product, within ten (10) days of such change.
4 Such notice shall include the name and address of each
5 such business engaged in the sale of a covered product
6 that the Defendant is affiliated with, employed by,
7 creates or forms, or performs services for; a statement of
8 the nature of the business; and a statement of the
9 Defendant's duties and responsibilities in connection
10 with the business or employment; and

11 2. Shall notify the Commission of any proposed change in
12 corporate structure of any business entity that Defendant
13 Kugler directly or indirectly controls, or has an ownership
14 interest in, that may affect compliance obligations arising under
15 this Order, including but not limited to a dissolution,
16 assignment, sale, merger, or other action that would result in
17 the emergence of a successor corporation; the creation or
18 dissolution of a subsidiary, parent, or affiliate that engages in
19 any acts or practices subject to this Order; the filing of a
20 bankruptcy petition; or a change in the corporate name or
21 address, at least thirty (30) days prior to such change, *provided*
22 *that*, with respect to any proposed change in the corporation
23 about which Defendant Kugler learns less than thirty (30) days
24 prior to the date such action is to take place, Defendant Kugler
25 shall notify the Commission as soon as is practicable after
26 obtaining such knowledge.

27 B. Sixty (60) days after the date of entry of this Order, Defendant Kugler
28 shall provide a written report to the Commission, sworn to under

1 penalty of perjury, setting forth in detail the manner and form in
2 which he has complied and is complying with this Order. This report
3 shall include, but not be limited to:

- 4 1. The then-current residence addresses, mailing addresses, and
5 telephone numbers of Defendant Kugler;
- 6 2. The then-current employment and business addresses and
7 telephone numbers of Defendant Kugler, a description of the
8 business activities of each such employer or business, and the
9 title and responsibilities of the Defendant, for each such
10 employer or business;
- 11 3. The full name, address, telephone number, and state of
12 incorporation of each corporation for which Defendant Kugler
13 is an officer or director or in which he holds more than five (5)
14 percent of the shares of the corporation;
- 15 4. A copy of each acknowledgment of receipt of this Order
16 obtained by Defendant Kugler pursuant to Paragraph XII;
17 and
- 18 5. Any other changes required to be reported under Subparagraph
19 A of this Section.

20 For purposes of this Paragraph, "employment" includes the
21 performance of services as an employee, consultant, or independent
22 contractor; and "employers" include any individual or entity for
23 whom Defendant Kugler performs services as an employee,
24 consultant, or independent contractor.

- 25 C. For purposes of this Order, Defendant Kugler shall, unless otherwise
26 directed by the Commission's authorized representatives, mail all
27 written notifications to the Commission to:

28 Associate Director for Advertising Practices

SCANNED

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

Federal Trade Commission
600 Pennsylvania Avenue, N.W., Rm. NJ3212
Washington, D.C. 20580

Re: FTC v. Braswell et al., No. CV 03-3700-DT (PJWx)

D. For purposes of the compliance reporting required by this Paragraph, the Commission is authorized to communicate in writing directly with Defendant Kugler, with a copy to Defendant's counsel of record herein, or such substitute counsel as Defendant may advise Plaintiff. Defendant shall be given the opportunity to have counsel present for any oral communications..

Compliance Monitoring

X.

IT IS FURTHER ORDERED that, for the purpose of monitoring and investigating compliance with any provision of this Order,

A. Within ten (10) days, or such longer period as may be reasonable but not to exceed thirty (30) days, of receipt of written notice from a representative of the Commission, Defendant Kugler shall submit additional written reports, sworn to under penalty of perjury; produce documents for inspection and copying; appear for deposition; and/or provide entry during normal business hours to any business location in Defendant Kugler's possession or direct or indirect control to inspect the business operation;

B. In addition, the Commission is authorized to monitor compliance with this Order by all other lawful means, including but not limited to the following:

- 1. obtaining discovery from any person, without further leave of court, using the procedures prescribed by Fed. R. Civ. P. 30, 31, 33, 34, 36, and 45;

SCANNED

2. posing as consumers or suppliers to Defendant Kugler, employees of Defendant Kugler, or any other entity managed or controlled in whole or in part by Defendant Kugler without the necessity of identification or prior notice; and

C. Defendant Kugler shall permit representatives of the Commission to interview any employer, consultant, independent contractor, representative, agent, or employee who has agreed to such an interview, relating in any way to any conduct subject to this Order. The person interviewed may have counsel present.

Provided, however, that nothing in this Order shall limit the Commission's lawful use of compulsory process, pursuant to Sections 9 and 20 of the FTC Act, 15 U.S.C. §§ 49, 57b-1, to obtain any documentary material, tangible things, testimony, or information relevant to unfair or deceptive acts or practices in or affecting commerce (within the meaning of 15 U.S.C. § 45(a)(1)).

RECORD KEEPING PROVISIONS

XI.

IT IS FURTHER ORDERED that, for a period of five (5) years from the date of entry of this Order, Defendant Kugler and his agents, employees, officers, corporations, successors, and assigns, and those persons in active concert or participation with them who receive actual notice of this Order by personal service or otherwise, is hereby restrained and enjoined from failing to continue to create and retain the following records:

A. All payments, whether by salary, consulting fees, monthly retainer, percentage of sales, royalty, expense reimbursement, options, loans, stock dividends, gifts, or other transfer arrangement made to Defendant Kugler by any of the Defendants in this action, their affiliated companies, or other persons or entities engaged in the manufacturing, labeling, advertising, promotion, offering for sale,

SCANNED

- 1 sale, or distribution of a covered product, in connection with
- 2 Defendant Kugler's endorsement of said covered product;
- 3 B. Copies of all draft and/or final versions of all endorsements, articles,
- 4 advertisements, promotional materials, or other marketing materials
- 5 provided to Defendant Kugler by any of the Defendants in this action
- 6 or other person or entity engaged in the manufacturing, labeling,
- 7 advertising, promotion, offering for sale, sale, or distribution of a
- 8 covered product, in connection with Defendant Kugler's endorsement
- 9 of said covered product;
- 10 C. Copies of all documents provided to Defendant Kugler by any other
- 11 Defendant or other person or other business entity in connection with
- 12 each endorsement subject to Subparagraph B, above;
- 13 D. All materials that were relied upon in making any representations
- 14 subject to Subparagraph B above, including all documents evidencing
- 15 or referring to the accuracy of any claim therein or to the efficacy of
- 16 any covered product, including, but not limited to, all tests, reports,
- 17 studies, demonstrations, and other evidence in Defendant Kugler's
- 18 possession that confirms, contradicts, qualifies, or calls into question
- 19 the accuracy of such claims regarding the efficacy of such covered
- 20 product;
- 21 E. All examinations, tests, research, or other evaluations conducted by
- 22 Defendant Kugler in connection with each endorsement subject to
- 23 Subparagraph B, above;
- 24 F. All materials Defendant Kugler provided to any Defendant, other
- 25 person, or other business entity in connection with each endorsement
- 26 subject to Subparagraph B, above; and
- 27 G. All records and documents necessary to demonstrate full compliance
- 28 with each provision of this Order, including but not limited to, copies

SCANNED

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

of acknowledgments of receipt of this Order and all reports submitted to the FTC pursuant to this Order.

DISTRIBUTION OF ORDER

XII.

IT IS FURTHER ORDERED that, for a period of five (5) years from the date of entry of this Order:

- A. Defendant Kugler shall deliver copies of the Order to all principals, officers, directors and managers of each person or business entity engaged in the manufacturing, labeling, advertising, promotion, offering for sale, sale, or distribution of a covered product who requests Defendant Kugler's endorsement of any covered product.
- B. Defendant Kugler must secure a signed and dated statement acknowledging receipt of the Order, within thirty (30) days of delivery, from all persons receiving a copy of the Order pursuant to this Paragraph.

ACKNOWLEDGMENT OF RECEIPT OF ORDER

XIII.

IT IS FURTHER ORDERED that Defendant Kugler, within five (5) business days of receipt of this Order as entered by the Court, must execute and submit to the Commission a sworn statement acknowledging receipt of this Order.

COURT'S RETENTION OF JURISDICTION

XIV.

IT IS FURTHER ORDERED that this Court shall retain jurisdiction of this matter for purposes of construction, modification, and enforcement of this Order.

IT IS SO ORDERED

Dated OCT 19 2005

DICKRAN TEVRIZIAN

United States District Judge

SCANNED

1 SO STIPULATED:

2
 3 Rosemary Rosso
 4 DAVID P. FRANKEL
 5 ROSEMARY ROSSO
 6 MAMIE KRESSES
 7 THEODORE H. HOPPOCK
 8 CHRISTINE J. LEE
 9 DAVID K. KOEHLER
 10 ALYSA BERNSTEIN
 11 JAMES A. TRILLING

Hans Kugler
 HANS KUGLER, P.D.

9 Federal Trade Commission
 10 600 Pennsylvania Avenue, N.W.
 11 Rm. NJ-3212
 12 Washington, D.C. 20580
 Tel: (202) 326-2812, 2174, 2070,
 3087, 2095, 3627, 3289
 Fax: (202) 326-3259

Robert Luty
 ROBERT L. LUTY
 29900 Hawthorne Road
 Rolling Hills, CA 90274
 Tel: (310) 544-4588
 Fax: (310) 544-4580

Attorney for DEFENDANT KUGLER

13 Attorneys for Plaintiff
14 FEDERAL TRADE COMMISSION

15 SO ORDERED:

18 DATED: _____

Hon. Dickran Tevrizian
 UNITED STATES DISTRICT JUDGE

19
20
21
22
23
24
25
26
27
28