

**UNITED STATES OF AMERICA  
BEFORE 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.,  
    d/b/a BASIC RESEARCH, L.L.C.,  
    OLD BASIC RESEARCH, L.L.C.,  
    BASIC RESEARCH, A.G. WATERHOUSE,  
BAN, L.L.C.,  
    d/b/a KLEIN-BECKER USA, NUTRA SPORT, and  
    SOVAGE DERMALOGIC LABORATORIES,  
DENNIS GAY,  
DANIEL B. MOWREY,  
    d/b/a AMERICAN PHYTOTHERAPY RESEARCH  
    LABORATORY, and  
MITCHELL K. FRIEDLANDER

*Respondents.*

**DOCKET NO. 9318**

**RESPONDENTS' PRELIMINARY WITNESS LIST**

Pursuant to the August 11, 2004 *Scheduling Order*, Counsel for Basic Research, LLC, A.G. Waterhouse, LLC, Klein-Becker USA, LLC, Nutrasport, LLC, Sövage Dermalogic Laboratories, LLC, Ban, LLC, Dennis Gay, Daniel B. Mowrey, Ph.D and Mitchell K. Friedlander (collectively "Respondents") submits this Preliminary Witness List. As Counsel for Respondents, we may obtain additional information, and we may modify this list, including adding witnesses and/or additional testimony from witnesses already listed on other areas of knowledge. Counsel for the Respondents reserves the right to call additional witnesses for rebuttal and to call witnesses listed on Complaint Counsel's *Witness Lists*.

1. Counsel for the Respondents may call one or more of the following witnesses (or, where applicable, yet to be identified representatives of the following entities) to testify as to the business enterprises of the companies and other entities identified in the Complaint, the development of the challenged products, and the marketing of the challenged products.
  - a. G. (George) Evan Bybee  
Manager and Member, Winterfox, LLC  
Director, EB Enterprises, Inc.  
Registrant, Nutra Star (DBA)  
5742 West Harold Gatty Dr.  
Salt Lake City, UT 84116
  - b. Mitchell K. Friedlander  
5742 West Harold Gatty Dr.  
Salt Lake City, UT 84116
  - c. Dennis W. Gay  
Member, BAN, LLC  
Member, Basic Research, LLC  
Member, Klein-Becker, LLC  
Member, Nutrasport, LLC  
Member, Sovage Dermatologic Laboratories, LLC  
Member and Member, Winterhawk Enterprises, LLC  
President, DG Enterprises, Inc.  
5742 West Harold Gatty Dr.  
Salt Lake City, UT 84116
  - d. Michael Meade  
Director of Operations  
Administration Dep't  
5742 West Harold Gatty Dr.  
Salt Lake City, UT 84116
  - e. Daniel B. Mowrey  
Director of Scientific Affairs, American Phytotherapy  
Research Laboratory  
Director, President, and Treasurer, DBM Enterprises, Inc.  
Manager and Member, Victory Publications, LLC  
5742 West Harold Gatty Dr.  
Salt Lake City, UT 84116
  - f. Respondent AG Waterhouse, LLC  
5742 West Harold Gatty Dr.  
Salt Lake City, UT 84116
  - g. Respondent BAN, LLC

5742 West Harold Gatty Dr.  
Salt Lake City, UT 84116

- h. Respondent Basic Research, LLC  
5742 West Harold Gatty Dr.  
Salt Lake City, UT 84116
- i. Respondent Klein-Becker USA, LLC  
5742 West Harold Gatty Dr.  
Salt Lake City, UT 84116
- j. Respondent Nutrasport, LLC  
5742 West Harold Gatty Dr.  
Salt Lake City, UT 84116
- k. Respondent Sovage Dermalogic Laboratories, LLC  
5742 West Harold Gatty Dr.  
Salt Lake City, UT 84116
- l. Taige S. Bybee  
Member, Winterfox, LLC  
5742 West Harold Gatty Dr.  
Salt Lake City, UT 84116
- m. Don Atkinson  
Global Sales Director  
5742 West Harold Gatty Dr.  
Salt Lake City, UT 84116
- n. Nathalie Chevreau  
5742 West Harold Gatty Dr.  
Salt Lake City, UT 84116
- o. Jeffrey A. Davis  
Marketing Dep't  
5742 West Harold Gatty Dr.  
Salt Lake City, UT 84116
- p. Bodee Gay  
Consumer Sales Dep't  
5742 West Harold Gatty Dr.  
Salt Lake City, UT 84116
- q. Gina Jo Gay  
Marketing Dep't  
Member, Winterhawk Enterprises, LLC

Member, XM International, LLC  
5742 West Harold Gatty Dr.  
Salt Lake City, UT 84116

- r. Melanie Gay  
Marketing Dep't  
5742 West Harold Gatty Dr.  
Salt Lake City, UT 84116
- s. Marie J. Hansen  
Marketing Dep't  
5742 West Harold Gatty Dr.  
Salt Lake City, UT 84116
- t. Brett Madsen  
Marketing Dep't  
5742 West Harold Gatty Dr.  
Salt Lake City, UT 84116
- u. Branna Mowrey  
American Phytotherapy Research Laboratory  
Manager and member, Victory Publications, LLC  
5742 West Harold Gatty Dr.  
Salt Lake City, UT 84116
- v. Kregg Mowrey  
American Phytotherapy Research Laboratory  
Manager and Member, Victory Publications, LLC  
5742 West Harold Gatty Dr.  
Salt Lake City, UT 84116
- w. Vicki Mowrey  
Member/Director/Officer, American Phytotherapy Research Laboratory  
Vice-President and Secretary, DBM Enterprises, Inc.  
5742 West Harold Gatty Dr.  
Salt Lake City, UT 84116
- x. Gary L. Sandberg  
Marketing Dep't  
5742 West Harold Gatty Dr.  
Salt Lake City, UT 84116
- y. Ned C. Simpson  
Marketing Dep't  
5742 West Harold Gatty Dr.  
Salt Lake City, UT 84116

- z. Tiffany Strobel  
Marketing Dep't  
5742 West Harold Gatty Dr.  
Salt Lake City, UT 84116
- aa. Patton Boggs  
1660 Lincoln Street, #1900  
Denver, CO 80264
- bb. Kellie Andrews  
Committee on Energy & Commerce  
316 Ford Building  
Washington, D.C. 20515
- cc. David Nelson
- dd. Andrea Levine  
NAD  
70 West 36<sup>th</sup> Street  
New York, NY 10018
- ee. David Mallen  
NAD  
70 West 36<sup>th</sup> Street  
New York, NY 10018

2. Counsel for the Respondents may call yet to be identified representatives of the following entities to testify as to the evaluation and/or regulation of the products identified in the *Complaint*.

- a. U.S. Food and Drug Administration  
2098 Gaither Road  
Rockville, Maryland 20850  
(301) 594-1190
- b. National Institutes of Health  
9000 Rockville Pike  
Bethesda, Maryland 20892  
(301) 496-4000

3. Counsel for the Respondents may call the following individuals or representatives of the following entities to testify as to the scientific support for the products and claims identified in the *Complaint*.
- a. Dr. George Bray  
Clinical Obesity and Metabolic Syndrome Division  
Pennington Biomedical Research Center  
Louisiana State University  
6400 Perkins Road  
Baton Rouge, LA 70808
  - b. Nathalie Chevreau  
5742 Harold Gatty Dr.  
Salt Lake City, UT 84116
  - c. DermPharm/Derm Tech International  
15222-B Avenue of Science  
San Diego, CA 92128
  - d. Dr. Edward G. Fey  
Biomodels, LLC  
227 Linden Street  
Wellesley, MA 02482
  - e. Dr. Bruce Frome  
415 North Crescent Drive – Suite 230  
Beverly Hills, CA 90210
  - f. Dr. Frank Greenway  
Outpatient Clinic  
Pennington Biomedical Research Center  
Louisiana State University  
6400 Perkins Road  
Baton Rouge, LA 70808  
(225) 763-2576
  - g. Daniel B. Mowrey  
5742 Harold Gatty Dr.  
Salt Lake City, UT 84116
  - h. Corporate Respondents
  - i. Shimizu  
Foresight Building  
3-5-2, Iwamoto-cho

Chiyoda-ku, Tokyo  
101-0032, Japan

- j. C. Livieri
- k. F. Novazi
- l. R. Lorini
- m. C.M. Colker
- n. D.S. Kalman
- o. A. Minsh
- p. P.A. Daly
- q. D.R. Krieger
- r. A.G. Dulloo
- s. J.B. Young
- t. D. DeWitt
- u. M. Garavito
  
- v. J. Antonio
- w. D. Allison
- x. E. Boozer
- y. A. Astrup
- z. R. Pasquale
- aa. L. Landsberg

4. Counsel for the Respondents may call the following witness to testify as to complaints received by the Federal Trade Commission.
  - a. Denise Owens  
Investigator  
Federal Trade Commission  
600 Pennsylvania Avenue  
Washington, D.C. 20508
  - b. Kevin Towers  
Investigator  
Federal Trade Commission  
600 Pennsylvania Avenue, N.W.  
Washington, D.C. 20580
  
5. Counsel for the Respondents may call the following witnesses to testify as to the regulatory scheme enforced by the FTC, the FTC's enforcement practices, the FTC's decision to proceed against the Respondents, the FTC's prosecution of this action, the defenses of Respondents, and any other similar matter.
  - a. Walter Gross  
Division of Enforcement  
Bureau of Consumer Protection  
Federal Trade Commission  
600 Pennsylvania Avenue, N.W.  
Washington, D.C. 20580
  - b. Joshua S. Millard  
Division of Enforcement  
Bureau of Consumer Protection  
Federal Trade Commission  
600 Pennsylvania Avenue, N.W.  
Washington, D.C. 20580
  - c. Jonathan Cowen  
Division of Enforcement  
Bureau of Consumer Protection  
Federal Trade Commission  
600 Pennsylvania Avenue, N.W.  
Washington, D.C. 20580



- d. Richard Cleland  
Bureau of Consumer Protection  
Federal Trade Commission  
600 Pennsylvania Avenue, N.W.  
Washington, D.C. 20580
- e. Timothy J. Muris  
Federal Trade Commission  
601 New Jersey Ave., N.W., Suite NJ-2122  
Washington, D.C. 20001
- f. Mozelle W. Thompson  
Federal Trade Commission  
601 New Jersey Ave., N.W., Suite NJ-2122  
Washington, D.C. 20001
- g. Orson Swindle  
Federal Trade Commission  
601 New Jersey Ave., N.W., Suite NJ-2122  
Washington, D.C. 20001
- h. Thomas B. Leary  
Federal Trade Commission  
601 New Jersey Ave., N.W., Suite NJ-2122  
Washington, D.C. 20001
- i. Pamela Jones Harbour  
Federal Trade Commission  
601 New Jersey Ave., N.W., Suite NJ-2122  
Washington, D.C. 20001
- j. Howard Beales, III  
Bureau of Consumer Protection  
Federal Trade Commission  
600 Pennsylvania Avenue, N.W.  
Washington, D.C. 20580

**EXPERT WITNESSES**

Pursuant to the August 11, 2004 *Scheduling Order*, Counsel for the Respondents will refrain from including its expert witnesses in this *Preliminary Witness List*.

Respectfully submitted,



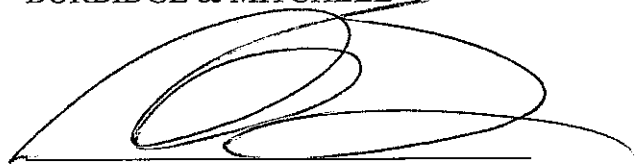
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Gregory L. Hillyer  
Christopher P. Demetriades  
FeldmanGale, P.A.  
Miami Center, 19<sup>th</sup> Floor  
201 South Biscayne Blvd.  
Miami, Florida 33131  
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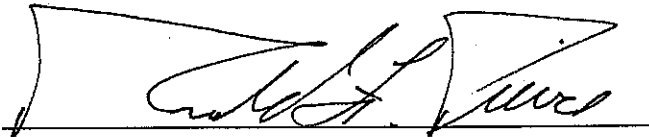
Attorneys for Respondents Basic Research,  
LLC, A.G. Waterhouse, LLC, Klein-Becker  
USA, LLC, Nutrasport, LLC, Söavage  
Dermalogic Laboratories, LLC and Ban,  
LLC

DATED this 9<sup>TH</sup> day of SEPTEMBER, 2004.

BURBIDGE & MITCHELL

A handwritten signature in black ink, consisting of several overlapping loops and a long horizontal stroke at the bottom, positioned above a horizontal line.

Richard D. Burbidge  
Attorneys for Respondent Dennis Gay

A handwritten signature in black ink, appearing to read "Ronald F. Price", is written over a horizontal line.

RONALD F. PRICE

**PETERS SCOFIELD PRICE**

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Attorneys for Respondent Daniel B. Mowrey



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5742 West Harold Getty Drive  
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Pro Se Respondent

## CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing was provided to the following parties this 9th day of September, 2004 as follows:

(1) One (1) original and one (1) copy by Federal Express to Donald S. Clark, Secretary, Federal Trade Commission, Room H-159, 600 Pennsylvania Avenue, N.W., Washington, D.C., 20580;

(2) One (1) electronic copy via e-mail attachment in Adobe® “.pdf” format to the Secretary of the FTC at [Secretary@ftc.gov](mailto:Secretary@ftc.gov);

(3) Two (2) copies by Federal Express to Administrative Law Judge Stephen J. McGuire, Federal Trade Commission, Room H-104, 600 Pennsylvania Avenue N.W., Washington, D.C. 20580;

(4) One (1) copy via e-mail attachment in Adobe® “.pdf” format to Commission Complaint Counsel, Lauren Kapin, Joshua S. Millard, and Laura Schneider, all care of [lkapin@ftc.gov](mailto:lkapin@ftc.gov), [jmillard@ftc.gov](mailto:jmillard@ftc.gov); [r-richardson@ftc.gov](mailto:r-richardson@ftc.gov); [lschneider@ftc.gov](mailto:lschneider@ftc.gov) with one (1) paper courtesy copy via U. S. Postal Service to Lauren Kapin, Bureau of Consumer Protection, Federal Trade Commission, Suite NJ-2122, 600 Pennsylvania Avenue, N.W., Washington, D.C., 20580;

(5) One (1) copy via U. S. Postal Service to Elaine Kolish, Associate Director in the Bureau of Consumer Protection, Federal Trade Commission, 600 Pennsylvania Avenue, N.W., Washington, D.C. 20580

(6) One (1) copy via United States Postal Service to Stephen Nagin, Esq., Nagin Gallop & Figueredo, 3225 Aviation Avenue, Suite 301, Miami, Florida 33131.

(7) One (1) copy via United States Postal Service to Richard Burbidge, Esq., Jefferson W. Gross, Esq. and Andrew J. Dymek, Esq., Burbidge & Mitchell, 215 South State Street, Suite 920, Salt Lake City, Utah 84111, Counsel for Dennis Gay.

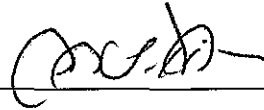
(8) One (1) copy via United States Postal Service to Ronald F. Price, Esq., Peters Scofield Price, A Professional Corporation, 340 Broadway Centre, 111 East Broadway, Salt Lake City, Utah 84111, Counsel for Daniel B. Mowrey.

(9) One (1) copy via United States Postal Service to Mitchell K. Friedlander, 5742 West Harold Gatty Drive, Salt Lake City, Utah 84111, Pro Se.

  
\_\_\_\_\_

**CERTIFICATION FOR ELECTRONIC FILING**

I HEREBY CERTIFY that the electronic version of the foregoing is a true and correct copy of the original document being filed this same day of September 9, 2004 via Federal Express with the Office of the Secretary, Room H-159, Federal Trade Commission, 600 Pennsylvania Avenue, N.W., Washington, D.C. 20580.

  
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