

**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**

**RESPONSE TO COMPLAINT COUNSEL'S SECOND SET OF INTERROGATORIES**

Pursuant to Rule 3.35 of the Federal Trade Commission's Rules of Practice, Respondents Klein-Becker, USA, LLC, Basic Research, LLC, A.G. Waterhouse, LLC, NutraSport, LLC, Sövage Dermalogic Laboratories, LLC, Ban, LLC, Dennis Gay, Daniel B. Mowrey, Ph.D., and Mitchell K. Freidlander ("Respondents") object and respond to Complaint Counsel's Second Set of Interrogatories ("Interrogatories") as follows:

**General Objections**

A. Prior to this Set of Interrogatories, Complaint Counsel propounded at least fifty-eight (58) interrogatories, including all subparts. According to the Scheduling Order in this case, Complaint Counsel is only permitted to propound a total of sixty (60) interrogatories.

Respondents have not stipulated to respond to any interrogatories propounded in excess of this limit. Respondents therefore object to this Set of Interrogatories to the extent that the number of individual interrogatories, including subparts, exceeds the allotted number of interrogatories.

B. Respondents' objections and responses to Complaint Counsel's Interrogatories are made on the basis of facts and circumstances as they are presently known. Respondents have not completed their investigation of all the facts relating to this case, their discovery in or analysis of this action, and have not completed preparation for trial. Accordingly, all of the following responses are provided without prejudice to Respondents' right to introduce at trial any evidence subsequently discovered. Respondents further reserve the right to supplement their responses to Complaint Counsel's Interrogatories based upon new discovery of evidence or information of which Respondents are not presently aware, or otherwise as necessary.

C. Respondents' objections and responses are based on their understanding and interpretation of Complaint Counsel's Interrogatories. If Respondents understand or interpret any of Complaint Counsel's Interrogatories differently, Respondents reserve the right to supplement any of these objections or responses.

D. Respondents object to Complaint Counsel's Interrogatories to the extent they seek information that is subject to the attorney/client or work/product privileges or to any other applicable privilege or immunity and refuses to produce to any such information. Respondents do not intend by these responses and/or objections to waive any claim of privilege or immunity. Respondents' objections and/or responses are conditioned specifically on the understanding that the provision of information to which any claim of privilege is applicable shall be deemed inadvertent and does not constitute a waiver of any such claim or privilege.

E. Respondents object to the Interrogatories to the extent that they are duplicative, vague, ambiguous, overbroad, unduly burdensome, or not reasonably expected to yield information relevant to the allegations of the Complaint, to the proposed relief, or to the defenses of any Respondent.

F. Respondents object to the Interrogatories to the extent that they purport to impose burdens or duties upon Respondents that exceed the scope of permissible discovery under the Commission's Rules of Practice and the provisions of the Pretrial Scheduling Order.

G. Respondents reserve their right to rely at any time on information that is subsequently discovered or was omitted from response as a result of mistake, error, oversight, or inadvertence.

H. Respondents objects to the definition of the terms "Corporate Respondent," "Individual Respondent," and "Respondent(s)" to the extent that Complaint Counsel seeks to impose discovery obligations on Respondents related to information not within Respondents' possession, custody, or control.

**Specific Objections and Responses**

Based on, subject to, and without waiving its General Objections, Respondents specifically and additionally responds to each of the Specifications contained in Complaint Counsel's Interrogatories as follows:

**Interrogatory No. 59:** (Complaint Counsel's No. 1)

Identify and describe all persons and/or entities that possess, or have under their actual or constructive custody or control, any documents or communications referring or relating to the acts and practices alleged in the Complaint. (Your response shall identify and describe all such persons or entities regardless of: (i) whether they have conducted business under assumed names; (ii) whether such documents or communications were received from or disseminated to any other person or entity including attorneys, accountants, directors, officers and employees;

and (iii) whether you would raise objections to the introduction of those documents or communications at trial.)

**Response:**

Respondents incorporate by reference each General Objection as if set forth here in full. Respondents further object to this interrogatory on the following grounds: (a) it is overly broad and unduly burdensome; and (b) it seeks, or the extent that it seeks, information protected from disclosure by the attorney-client privilege, work product doctrine, and/or right of privacy.

**Interrogatory No. 60:** (Complaint Counsel's No. 2)

Describe in detail the actions taken by each person who search for, retrieved, reviewed, moved, stored, destroyed, and/or produced promotional materials, documents, communications, tangible things, and any other materials in response to, or as a result of, Complaint Counsel's discovery requests.

**Response:**

Respondents incorporate by reference each General Objection as if set forth here in full. Respondents further object to this interrogatory on the following grounds: (a) it is overly broad and unduly burdensome; (b) it seeks irrelevant information and is not reasonably expected to yield information relevant to the allegations of the Complaint, to the proposed relief, or to the defenses of any Respondent; and (c) it seeks, or the extent that it seeks, information protected from disclosure by the attorney-client privilege and/or work product doctrine.

**Interrogatory No. 61:** (Complaint Counsel's No. 3)

If you contend that the promotional materials for the challenged products do not make the claims alleged in the Complaint, for each piece of promotional material, describe the basis for your contention, specifically identifying all extrinsic evidence, including but not limited to communications, documents, and market research, that supports your contention.

**Response:**

Respondents incorporate by reference each General Objection as set forth here in full. Respondents further object to this interrogatory on the following grounds: (a) it is vague and

ambiguous; (b) it is overly broad and unduly burdensome; (c) it seeks, or the extent that it seeks, information protected from disclosure by the attorney-client privilege and/or work product doctrine; (d) it seeks irrelevant information and it is not reasonably expected to yield information relevant to the allegations of the Complaint, to the proposed relief, or to the defenses of any Respondent; and (e) it exceeds the allotted number of interrogatories.

**Interrogatory No. 62:** (Complaint Counsel's No. 4)

If you contend that the promotional materials for the challenged products make claims other than those alleged in the Complaint, for each piece of promotional material, identify all claims that you contend are made and describe the basis for your contention, specifically identifying all extrinsic evidence, including but not limited to communications, documents, and market research, that supports your contention.

**Response:**

Respondents incorporate by reference each General Objection as set forth here in full. Respondents further object to this interrogatory on the following grounds: (a) it is vague and ambiguous; (b) it is overly broad and unduly burdensome; (c) it seeks irrelevant information and is not reasonably expected to yield information relevant to the allegations of the Complaint, to the proposed relief, or to the defenses of any Respondent (the requested information has no relationship to the alleged false or misleading advertising claims that Complaint Counsel pursues in this matter); (d) it seeks, or the extent that it seeks, information protected from disclosure by the attorney-client privilege, work product doctrine, and/or right of privacy; and (e) it exceeds the allotted number of interrogatories.

**Interrogatory No. 63:** (Complaint Counsel's No. 5)

Describe all changes to draft and final promotional materials for the challenged products made by Basic Research, LLC (including, where applicable, their attorneys, accountants, directors, officers and employees).

**Response:**

Respondents incorporate by reference each General Objection as set forth here in full. Respondents further object to this interrogatory on the following grounds: (a) it is vague and ambiguous; (b) it is overly broad and unduly burdensome; (c) it seeks irrelevant information and is not reasonably expected to yield information relevant to the allegations of the Complaint, to the proposed relief, or to the defenses of any Respondent (the requested information has no relationship to the claims that Complaint Counsel pursues in this matter); (d) it seeks, or the extent that it seeks, information protected from disclosure by the attorney-client privilege and/or work product doctrine; and (e) it exceeds the allotted number of interrogatories.

**Interrogatory No. 64:** (Complaint Counsel's No. 5)

Describe all changes to draft and final promotional materials for the challenged products made by A.G. Waterhouse, LLC (including, where applicable, their attorneys, accountants, directors, officers and employees).

**Response:**

Respondents incorporate by reference each General Objection as set forth here in full. Respondents further object to this interrogatory on the following grounds: (a) it is vague and ambiguous; (b) it is overly broad and unduly burdensome; (c) it seeks irrelevant information and is not reasonably expected to yield information relevant to the allegations of the Complaint, to the proposed relief, or to the defenses of any Respondent (the requested information has no relationship to the claims that Complaint Counsel pursues in this matter); (d) it seeks, or the extent that it seeks, information protected from disclosure by the attorney-client privilege and/or work product doctrine; and (e) it exceeds the allotted number of interrogatories.

**Interrogatory No. 65:** (Complaint Counsel's No. 5)

Describe all changes to draft and final promotional materials for the challenged products made by Klein-Becker USA, LLC (including, where applicable, their attorneys, accountants, directors, officers and employees).

**Response:**

Respondents incorporate by reference each General Objection as set forth here in full. Respondents further object to this interrogatory on the following grounds: (a) it is vague and ambiguous; (b) it is overly broad and unduly burdensome; (c) it seeks irrelevant information and is not reasonably expected to yield information relevant to the allegations of the Complaint, to the proposed relief, or to the defenses of any Respondent (the requested information has no relationship to the claims that Complaint Counsel pursues in this matter); (d) it seeks, or the extent that it seeks, information protected from disclosure by the attorney-client privilege and/or work product doctrine; and (e) it exceeds the allotted number of interrogatories.

**Interrogatory No. 66:** (Complaint Counsel's No. 5)

Describe all changes to draft and final promotional materials for the challenged products made by Nutrasport, LLC (including, where applicable, their attorneys, accountants, directors, officers and employees).

**Response:**

Respondents incorporate by reference each General Objection as set forth here in full. Respondents further object to this interrogatory on the following grounds: (a) it is vague and ambiguous; (b) it is overly broad and unduly burdensome; (c) it seeks irrelevant information and is not reasonably expected to yield information relevant to the allegations of the Complaint, to the proposed relief, or to the defenses of any Respondent (the requested information has no relationship to the claims that Complaint Counsel pursues in this matter); (d) it seeks, or the extent that it seeks, information protected from disclosure by the attorney-client privilege and/or work product doctrine; and (e) it exceeds the allotted number of interrogatories.

**Interrogatory No. 67:** (Complaint Counsel's No. 5)

Describe all changes to draft and final promotional materials for the challenged products made by Sovage Dermalogic Laboratories, LLC (including, where applicable, their attorneys, accountants, directors, officers and employees).

**Response:**

Respondents incorporate by reference each General Objection as set forth here in full. Respondents further object to this interrogatory on the following grounds: (a) it is vague and ambiguous; (b) it is overly broad and unduly burdensome; (c) it seeks irrelevant information and is not reasonably expected to yield information relevant to the allegations of the Complaint, to the proposed relief, or to the defenses of any Respondent (the requested information has no relationship to the claims that Complaint Counsel pursues in this matter); (d) it seeks, or the extent that it seeks, information protected from disclosure by the attorney-client privilege and/or work product doctrine; and (e) it exceeds the allotted number of interrogatories.

**Interrogatory No. 68:** (Complaint Counsel's No. 5)

Describe all changes to draft and final promotional materials for the challenged products made by Ban, LLC (including, where applicable, their attorneys, accountants, directors, officers and employees).

**Response:**

Respondents incorporate by reference each General Objection as set forth here in full. Respondents further object to this interrogatory on the following grounds: (a) it is vague and ambiguous; (b) it is overly broad and unduly burdensome; (c) it seeks irrelevant information and is not reasonably expected to yield information relevant to the allegations of the Complaint, to the proposed relief, or to the defenses of any Respondent (the requested information has no relationship to the claims that Complaint Counsel pursues in this matter); (d) it seeks, or the extent that it seeks, information protected from disclosure by the attorney-client privilege and/or work product doctrine; and (e) it exceeds the allotted number of interrogatories.

**Interrogatory No. 69:** (Complaint Counsel's No. 5)

Describe all changes to draft and final promotional materials for the challenged products made by Dennis Gay (including, where applicable, their attorneys, accountants, directors, officers and employees).



**Response:**

Respondents incorporate by reference each General Objection as set forth here in full. Respondents further object to this interrogatory on the following grounds: (a) it is vague and ambiguous; (b) it is overly broad and unduly burdensome; (c) it seeks irrelevant information and is not reasonably expected to yield information relevant to the allegations of the Complaint, to the proposed relief, or to the defenses of any Respondent (the requested information has no relationship to the claims that Complaint Counsel pursues in this matter); (d) it seeks, or the extent that it seeks, information protected from disclosure by the attorney-client privilege and/or work product doctrine; and (e) it exceeds the allotted number of interrogatories.

**Interrogatory No. 70:** (Complaint Counsel's No. 5)

Describe all changes to draft and final promotional materials for the challenged products made by Daniel B. Mowrey (including, where applicable, their attorneys, accountants, directors, officers and employees).

**Response:**

Respondents incorporate by reference each General Objection as set forth here in full. Respondents further object to this interrogatory on the following grounds: (a) it is vague and ambiguous; (b) it is overly broad and unduly burdensome; (c) it seeks irrelevant information and is not reasonably expected to yield information relevant to the allegations of the Complaint, to the proposed relief, or to the defenses of any Respondent (the requested information has no relationship to the claims that Complaint Counsel pursues in this matter); (d) it seeks, or the extent that it seeks, information protected from disclosure by the attorney-client privilege and/or work product doctrine; and (e) it exceeds the allotted number of interrogatories.

**Interrogatory No. 71:** (Complaint Counsel's No. 5)

Describe all changes to draft and final promotional materials for the challenged products made by Mitchell K. Friedlander (including, where applicable, their attorneys, accountants, directors, officers and employees).

**Response:**

Respondents incorporate by reference each General Objection as set forth here in full. Respondents further object to this interrogatory on the following grounds: (a) it is vague and ambiguous; (b) it is overly broad and unduly burdensome; (c) it seeks irrelevant information and is not reasonably expected to yield information relevant to the allegations of the Complaint, to the proposed relief, or to the defenses of any Respondent (the requested information has no relationship to the claims that Complaint Counsel pursues in this matter); (d) it seeks, or the extent that it seeks, information protected from disclosure by the attorney-client privilege and/or work product doctrine; and (e) it exceeds the allotted number of interrogatories.

**Interrogatory No. 72:** (Complaint Counsel's No. 6)

Describe all facts relating to the choice of the trade name for Dermalin-APg. (This request includes, but is not limited to, an identification of all other names considered for each challenged product and the reason(s) why those other names were not used in advertising, marketing, promoting, or selling the product.)

**Response:**

Respondents incorporate by reference each General Objection as set forth here in full. Respondents further object to this interrogatory on the following grounds: (a) it is vague and ambiguous; (b) it is overly broad and unduly burdensome; (c) it seeks irrelevant information and is not reasonably expected to yield information relevant to the allegations of the Complaint, to the proposed relief, or to the defenses of any Respondent (the requested information has no relationship to the alleged false or misleading advertising claims that Complaint Counsel pursues in this matter); (d) it seeks, or the extent that it seeks, information protected from disclosure by the attorney-client privilege, work product doctrine, and/or right of privacy, including financial privacy; and (e) it exceeds the allotted number of interrogatories.

**Interrogatory No. 73:** (Complaint Counsel's No. 6)

Describe all facts relating to the choice of the trade name for Cutting Gel. (This request includes, but is not limited to, an identification of all other names considered for each challenged product and the reason(s) why those other names were not used in advertising, marketing, promoting, or selling the product.)

**Response:**

Respondents incorporate by reference each General Objection as set forth here in full. Respondents further object to this interrogatory on the following grounds: (a) it is overly broad and unduly burdensome; (b) it seeks irrelevant information and is not reasonably expected to yield information relevant to the allegations of the Complaint, to the proposed relief, or to the defenses of any Respondent (the requested information has no relationship to the alleged false or misleading advertising claims that Complaint Counsel pursues in this matter); (c) it seeks, or the extent that it seeks, information protected from disclosure by the attorney-client privilege, work product doctrine, and/or right of privacy, including financial privacy; and (d) it exceeds the allotted number of interrogatories.

**Interrogatory No. 74:** (Complaint Counsel's No. 6)

Describe all facts relating to the choice of the trade name for Tummy Flattening Gel. (This request includes, but is not limited to, an identification of all other names considered for each challenged product and the reason(s) why those other names were not used in advertising, marketing, promoting, or selling the product.)

**Response:**

Respondents incorporate by reference each General Objection as set forth here in full. Respondents further object to this interrogatory on the following grounds: (a) it is overly broad and unduly burdensome; (b) it seeks irrelevant information and is not reasonably expected to yield information relevant to the allegations of the Complaint, to the proposed relief, or to the defenses of any Respondent (the requested information has no relationship to the alleged false or misleading advertising claims that Complaint Counsel pursues in this matter); (c) it seeks, or the

extent that it seeks, information protected from disclosure by the attorney-client privilege, work product doctrine, and/or right of privacy, including financial privacy; and (d) it exceeds the allotted number of interrogatories.

**Interrogatory No. 75:** (Complaint Counsel's No. 6)

Describe all facts relating to the choice of the trade name for Leptoprin. (This request includes, but is not limited to, an identification of all other names considered for each challenged product and the reason(s) why those other names were not used in advertising, marketing, promoting, or selling the product.)

**Response:**

Respondents incorporate by reference each General Objection as set forth here in full. Respondents further object to this interrogatory on the following grounds: (a) it is overly broad and unduly burdensome; (b) it seeks irrelevant information and is not reasonably expected to yield information relevant to the allegations of the Complaint, to the proposed relief, or to the defenses of any Respondent (the requested information has no relationship to the alleged false or misleading advertising claims that Complaint Counsel pursues in this matter); (c) it seeks, or the extent that it seeks, information protected from disclosure by the attorney-client privilege, work product doctrine, and/or right of privacy, including financial privacy; and (d) it exceeds the allotted number of interrogatories.

**Interrogatory No. 76:** (Complaint Counsel's No. 6)

Describe all facts relating to the choice of the trade name for Anorex. (This request includes, but is not limited to, an identification of all other names considered for each challenged product and the reason(s) why those other names were not used in advertising, marketing, promoting, or selling the product.)

**Response:**

Respondents incorporate by reference each General Objection as set forth here in full. Respondents further object to this interrogatory on the following grounds: (a) it is overly broad and unduly burdensome; (b) it seeks irrelevant information and is not reasonably expected to

yield information relevant to the allegations of the Complaint, to the proposed relief, or to the defenses of any Respondent (the requested information has no relationship to the alleged false or misleading advertising claims that Complaint Counsel pursues in this matter); (c) it seeks, or the extent that it seeks, information protected from disclosure by the attorney-client privilege, work product doctrine, and/or right of privacy, including financial privacy; and (d) it exceeds the allotted number of interrogatories.

**Interrogatory No. 77:** (Complaint Counsel's No. 6)

Describe all facts relating to the choice of the trade name for PediaLean. (This request includes, but is not limited to, an identification of all other names considered for each challenged product and the reason(s) why those other names were not used in advertising, marketing, promoting, or selling the product.)

**Response:**

Respondents incorporate by reference each General Objection as set forth here in full. Respondents further object to this interrogatory on the following grounds: (a) it is overly broad and unduly burdensome; (b) it seeks irrelevant information and is not reasonably expected to yield information relevant to the allegations of the Complaint, to the proposed relief, or to the defenses of any Respondent (the requested information has no relationship to the alleged false or misleading advertising claims that Complaint Counsel pursues in this matter); (c) it seeks, or the extent that it seeks, information protected from disclosure by the attorney-client privilege, work product doctrine, and/or right of privacy, including financial privacy; and (d) it exceeds the allotted number of interrogatories.

**Interrogatory No. 78:** (Complaint Counsel's No. 7)

Describe all facts that support or call into question your denial of the allegation that Dennis Gay has formulated, directed, controlled, or participated in the acts or practices of Basic Research, LLC alleged in the Complaint.

**Response:**

Respondents incorporate by reference each General Objection as set forth here in full. Respondents further object to this interrogatory on the following grounds: (a) it is vague and ambiguous; (b) it is overly broad and unduly burdensome; (c) it seeks irrelevant information and is not reasonably expected to yield information relevant to the allegations of the Complaint, to the proposed relief, or to the defenses of any Respondent; and (d) it exceeds the allotted number of interrogatories.

**Interrogatory No. 79:** (Complaint Counsel's No. 7)

Describe all facts that support or call into question your denial of the allegation that Dennis Gay has formulated, directed, controlled, or participated in the acts or practices of A.G. Waterhouse, LLC alleged in the Complaint.

**Response:**

Respondents incorporate by reference each General Objection as set forth here in full. Respondents further object to this interrogatory on the following grounds: (a) it is vague and ambiguous; (b) it is overly broad and unduly burdensome; (c) it seeks irrelevant information and is not reasonably expected to yield information relevant to the allegations of the Complaint, to the proposed relief, or to the defenses of any Respondent; and (d) it exceeds the allotted number of interrogatories.

**Interrogatory No. 80:** (Complaint Counsel's No. 7)

Describe all facts that support or call into question your denial of the allegation that Dennis Gay has formulated, directed, controlled, or participated in the acts or practices of Klein-Becker USA, LLC alleged in the Complaint.

**Response:**

Respondents incorporate by reference each General Objection as set forth here in full. Respondents further object to this interrogatory on the following grounds: (a) it is vague and ambiguous; (b) it is overly broad and unduly burdensome; (c) it seeks irrelevant information and is not reasonably expected to yield information relevant to the allegations of the Complaint, to

the proposed relief, or to the defenses of any Respondent; and (d) it exceeds the allotted number of interrogatories.

**Interrogatory No. 81:** (Complaint Counsel's No. 7)

Describe all facts that support or call into question your denial of the allegation that Dennis Gay has formulated, directed, controlled, or participated in the acts or practices of Nutrasport, LLC alleged in the Complaint.

**Response:**

Respondents incorporate by reference each General Objection as set forth here in full. Respondents further object to this interrogatory on the following grounds: (a) it is vague and ambiguous; (b) it is overly broad and unduly burdensome; (c) it seeks irrelevant information and is not reasonably expected to yield information relevant to the allegations of the Complaint, to the proposed relief, or to the defenses of any Respondent; and (d) it exceeds the allotted number of interrogatories.

**Interrogatory No. 82:** (Complaint Counsel's No. 7)

Describe all facts that support or call into question your denial of the allegation that Dennis Gay has formulated, directed, controlled, or participated in the acts or practices of Sovage Dermalogic Laboratories, LLC alleged in the Complaint.

**Response:**

Respondents incorporate by reference each General Objection as set forth here in full. Respondents further object to this interrogatory on the following grounds: (a) it is vague and ambiguous; (b) it is overly broad and unduly burdensome; (c) it seeks irrelevant information and is not reasonably expected to yield information relevant to the allegations of the Complaint, to the proposed relief, or to the defenses of any Respondent; and (d) it exceeds the allotted number of interrogatories.

**Interrogatory No. 83:** (Complaint Counsel's No. 7)

Describe all facts that support or call into question your denial of the allegation that Dennis Gay has formulated, directed, controlled, or participated in the acts or practices of Ban, LLC alleged in the Complaint.

**Response:**

Respondents incorporate by reference each General Objection as set forth here in full. Respondents further object to this interrogatory on the following grounds: (a) it is vague and ambiguous; (b) it is overly broad and unduly burdensome; (c) it seeks irrelevant information and is not reasonably expected to yield information relevant to the allegations of the Complaint, to the proposed relief, or to the defenses of any Respondent; and (d) it exceeds the allotted number of interrogatories.

**Interrogatory No. 84:** (Complaint Counsel's No. 8)

Describe all facts that support or call into question your denial of the allegation that Respondents have operated a common business enterprise while engaging in the acts and practices alleged in the Complaint.

**Response:**

Respondents incorporate by reference each General Objection as set forth here in full. Respondents further object to this interrogatory on the following grounds: (a) it is vague and ambiguous; (b) it is overly broad and unduly burdensome; (c) it seeks, or the extent that it seeks, information protected from disclosure by the attorney-client privilege and/or work product doctrine, including a compilation of documents requested and/or produced; and (d) it exceeds the allotted number of interrogatories.

**Interrogatory No. 85:** (Complaint Counsel's No. 9)

Describe all facts that support or call into question your denial of the allegation that certain Corporate Respondents are successors in interest to BAN, LLC with respect to acts or practices that preceded the incorporation of those Corporate Respondents.



**Response:**

Respondents incorporate by reference each General Objection as set forth here in full. Respondents further object to this interrogatory on the following grounds: (a) it is vague and ambiguous; (b) it is overly broad and unduly burdensome; (c) it seeks irrelevant information and is not reasonably expected to yield information relevant to the allegations of the Complaint, to the proposed relief, or to the defenses of any Respondent (the requested information has no relationship to the alleged false or misleading advertising claims that Complaint Counsel pursues in this matter); (d) it seeks, or the extent that it seeks, information protected from disclosure by the attorney-client privilege, work product doctrine, and/or right to privacy; and (e) it exceeds the allotted number of interrogatories.

**Interrogatory No. 86:** (Complaint Counsel's No. 10)

Describe all facts that support or call into question your denial of the allegation that Daniel Mowrey, doing business as American Phytotherapy Research Laboratory, has developed and endorsed products for Basic Research, LLC.

**Response:**

Respondents incorporate by reference each General Objection as set forth here in full. Respondents further object to this interrogatory on the following grounds: (a) it is vague and ambiguous; (b) it is overly broad and unduly burdensome; (c) it seeks irrelevant information and is not reasonably expected to yield information relevant to the allegations of the Complaint, to the proposed relief, or to the defenses of any Respondent (the requested information has no relationship to the alleged false or misleading advertising claims that Complaint Counsel pursues in this matter); (d) it seeks, or the extent that it seeks, information protected from disclosure by the attorney-client privilege, work product doctrine, and/or right to privacy; and (e) it exceeds the allotted number of interrogatories.

**Interrogatory No. 87:** (Complaint Counsel's No. 10)

Describe all facts that support or call into question your denial of the allegation that Daniel Mowrey, doing business as American Phytotherapy Research Laboratory, has participated in the acts or practices Basic Research, LLC alleged in the Complaint.

**Response:**

Respondents incorporate by reference each General Objection as set forth here in full. Respondents further object to this interrogatory on the following grounds: (a) it is vague and ambiguous; (b) it is overly broad and unduly burdensome; (c) it seeks irrelevant information and is not reasonably expected to yield information relevant to the allegations of the Complaint, to the proposed relief, or to the defenses of any Respondent (the requested information has no relationship to the alleged false or misleading advertising claims that Complaint Counsel pursues in this matter); (d) it seeks, or the extent that it seeks, information protected from disclosure by the attorney-client privilege, work product doctrine, and/or right to privacy; and (e) it exceeds the allotted number of interrogatories.

**Interrogatory No. 88:** (Complaint Counsel's No. 10)

Describe all facts that support or call into question your denial of the allegation that Daniel Mowrey, doing business as American Phytotherapy Research Laboratory, has developed and endorsed products for A.G. Waterhouse, LLC.

**Response:**

Respondents incorporate by reference each General Objection as set forth here in full. Respondents further object to this interrogatory on the following grounds: (a) it is vague and ambiguous; (b) it is overly broad and unduly burdensome; (c) it seeks irrelevant information and is not reasonably expected to yield information relevant to the allegations of the Complaint, to the proposed relief, or to the defenses of any Respondent (the requested information has no relationship to the alleged false or misleading advertising claims that Complaint Counsel pursues in this matter); (d) it seeks, or the extent that it seeks, information protected from disclosure by

the attorney-client privilege, work product doctrine, and/or right to privacy; and (e) it exceeds the allotted number of interrogatories.

**Interrogatory No. 89:** (Complaint Counsel's No. 10)

Describe all facts that support or call into question your denial of the allegation that Daniel Mowrey, doing business as American Phytotherapy Research Laboratory, has participated in the acts or practices of A.G. Waterhouse, LLC alleged in the Complaint.

**Response:**

Respondents incorporate by reference each General Objection as set forth here in full. Respondents further object to this interrogatory on the following grounds: (a) it is vague and ambiguous; (b) it is overly broad and unduly burdensome; (c) it seeks irrelevant information and is not reasonably expected to yield information relevant to the allegations of the Complaint, to the proposed relief, or to the defenses of any Respondent (the requested information has no relationship to the alleged false or misleading advertising claims that Complaint Counsel pursues in this matter); (d) it seeks, or the extent that it seeks, information protected from disclosure by the attorney-client privilege, work product doctrine, and/or right to privacy; and (e) it exceeds the allotted number of interrogatories.

**Interrogatory No. 90:** (Complaint Counsel's No. 10)

Describe all facts that support or call into question your denial of the allegation that Daniel Mowrey, doing business as American Phytotherapy Research Laboratory, has developed and endorsed products for Klein-Becker USA, LLC.

**Response:**

Respondents incorporate by reference each General Objection as set forth here in full. Respondents further object to this interrogatory on the following grounds: (a) it is vague and ambiguous; (b) it is overly broad and unduly burdensome; (c) it seeks irrelevant information and is not reasonably expected to yield information relevant to the allegations of the Complaint, to the proposed relief, or to the defenses of any Respondent (the requested information has no relationship to the alleged false or misleading advertising claims that Complaint Counsel pursues

in this matter); (d) it seeks, or the extent that it seeks, information protected from disclosure by the attorney-client privilege, work product doctrine, and/or right to privacy; and (e) it exceeds the allotted number of interrogatories.

**Interrogatory No. 91:** (Complaint Counsel's No. 10)

Describe all facts that support or call into question your denial of the allegation that Daniel Mowrey, doing business as American Phytotherapy Research Laboratory, has participated in the acts or practices of Klein-Becker USA, LLC alleged in the Complaint.

**Response:**

Respondents incorporate by reference each General Objection as set forth here in full. Respondents further object to this interrogatory on the following grounds: (a) it is vague and ambiguous; (b) it is overly broad and unduly burdensome; (c) it seeks irrelevant information and is not reasonably expected to yield information relevant to the allegations of the Complaint, to the proposed relief, or to the defenses of any Respondent (the requested information has no relationship to the alleged false or misleading advertising claims that Complaint Counsel pursues in this matter); (d) it seeks, or the extent that it seeks, information protected from disclosure by the attorney-client privilege, work product doctrine, and/or right to privacy; and (e) it exceeds the allotted number of interrogatories.

**Interrogatory No. 92:** (Complaint Counsel's No. 10)

Describe all facts that support or call into question your denial of the allegation that Daniel Mowrey, doing business as American Phytotherapy Research Laboratory, has developed and endorsed products for Nutrasport, LLC.

**Response:**

Respondents incorporate by reference each General Objection as set forth here in full. Respondents further object to this interrogatory on the following grounds: (a) it is vague and ambiguous; (b) it is overly broad and unduly burdensome; (c) it seeks irrelevant information and is not reasonably expected to yield information relevant to the allegations of the Complaint, to the proposed relief, or to the defenses of any Respondent (the requested information has no

relationship to the alleged false or misleading advertising claims that Complaint Counsel pursues in this matter); (d) it seeks, or the extent that it seeks, information protected from disclosure by the attorney-client privilege, work product doctrine, and/or right to privacy; and (e) it exceeds the allotted number of interrogatories.

**Interrogatory No. 93:** (Complaint Counsel's No. 10)

Describe all facts that support or call into question your denial of the allegation that Daniel Mowrey, doing business as American Phytotherapy Research Laboratory, has participated in the acts or practices of Nutrasport, LLC alleged in the Complaint.

**Response:**

Respondents incorporate by reference each General Objection as set forth here in full. Respondents further object to this interrogatory on the following grounds: (a) it is vague and ambiguous; (b) it is overly broad and unduly burdensome; (c) it seeks irrelevant information and is not reasonably expected to yield information relevant to the allegations of the Complaint, to the proposed relief, or to the defenses of any Respondent (the requested information has no relationship to the alleged false or misleading advertising claims that Complaint Counsel pursues in this matter); (d) it seeks, or the extent that it seeks, information protected from disclosure by the attorney-client privilege, work product doctrine, and/or right to privacy; and (e) it exceeds the allotted number of interrogatories.

**Interrogatory No. 94:** (Complaint Counsel's No. 10)

Describe all facts that support or call into question your denial of the allegation that Daniel Mowrey, doing business as American Phytotherapy Research Laboratory, has developed and endorsed products for Sovage Dermalogic Laboratories, LLC.

**Response:**

Respondents incorporate by reference each General Objection as set forth here in full. Respondents further object to this interrogatory on the following grounds: (a) it is vague and ambiguous; (b) it is overly broad and unduly burdensome; (c) it seeks irrelevant information and is not reasonably expected to yield information relevant to the allegations of the Complaint, to

the proposed relief, or to the defenses of any Respondent (the requested information has no relationship to the alleged false or misleading advertising claims that Complaint Counsel pursues in this matter); (d) it seeks, or the extent that it seeks, information protected from disclosure by the attorney-client privilege, work product doctrine, and/or right to privacy; and (e) it exceeds the allotted number of interrogatories.

**Interrogatory No. 95:** (Complaint Counsel's No. 10)

Describe all facts that support or call into question your denial of the allegation that Daniel Mowrey, doing business as American Phytotherapy Research Laboratory, has participated in the acts or practices of Sovage Dermalogic Laboratories, LLC alleged in the Complaint.

**Response:**

Respondents incorporate by reference each General Objection as set forth here in full. Respondents further object to this interrogatory on the following grounds: (a) it is vague and ambiguous; (b) it is overly broad and unduly burdensome; (c) it seeks irrelevant information and is not reasonably expected to yield information relevant to the allegations of the Complaint, to the proposed relief, or to the defenses of any Respondent (the requested information has no relationship to the alleged false or misleading advertising claims that Complaint Counsel pursues in this matter); (d) it seeks, or the extent that it seeks, information protected from disclosure by the attorney-client privilege, work product doctrine, and/or right to privacy; and (e) it exceeds the allotted number of interrogatories.

**Interrogatory No. 96:** (Complaint Counsel's No. 10)

Describe all facts that support or call into question your denial of the allegation that Daniel Mowrey, doing business as American Phytotherapy Research Laboratory, has developed and endorsed products for Ban, LLC.

**Response:**

Respondents incorporate by reference each General Objection as set forth here in full. Respondents further object to this interrogatory on the following grounds: (a) it is vague and ambiguous; (b) it is overly broad and unduly burdensome; (c) it seeks irrelevant information and

is not reasonably expected to yield information relevant to the allegations of the Complaint, to the proposed relief, or to the defenses of any Respondent (the requested information has no relationship to the alleged false or misleading advertising claims that Complaint Counsel pursues in this matter); (d) it seeks, or the extent that it seeks, information protected from disclosure by the attorney-client privilege, work product doctrine, and/or right to privacy; and (e) it exceeds the allotted number of interrogatories.

**Interrogatory No. 97:** (Complaint Counsel's No. 10)

Describe all facts that support or call into question your denial of the allegation that Daniel Mowrey, doing business as American Phytotherapy Research Laboratory, has participated in the acts or practices of Ban, LLC alleged in the Complaint.

**Response:**

Respondents incorporate by reference each General Objection as set forth here in full. Respondents further object to this interrogatory on the following grounds: (a) it is vague and ambiguous; (b) it is overly broad and unduly burdensome; (c) it seeks irrelevant information and is not reasonably expected to yield information relevant to the allegations of the Complaint, to the proposed relief, or to the defenses of any Respondent (the requested information has no relationship to the alleged false or misleading advertising claims that Complaint Counsel pursues in this matter); (d) it seeks, or the extent that it seeks, information protected from disclosure by the attorney-client privilege, work product doctrine, and/or right to privacy; and (e) it exceeds the allotted number of interrogatories.

**Interrogatory No. 98:** (Complaint Counsel's No. 11)

Describe all facts that support or call into question your denial of the allegation that Mitchell K. Friedlander has developed products marketed by Basic Research, LLC.

**Response:**

Respondents incorporate by reference each General Objection as set forth here in full. Respondents further object to this interrogatory on the following grounds: (a) it is vague and ambiguous; (b) it is overly broad and unduly burdensome; (c) it exceeds the allotted number of

interrogatories; and (d) it seeks, or the extent that it seeks, information protected from disclosure by the attorney-client privilege, work product doctrine, and/or right to privacy.

**Interrogatory No. 99:** (Complaint Counsel's No. 11)

Describe all facts that support or call into question your denial of the allegation that Mitchell K. Friedlander has participated in the acts or practices of Basic Research, LLC alleged in the Complaint.

**Response:**

Respondents incorporate by reference each General Objection as set forth here in full. Respondents further object to this interrogatory on the following grounds: (a) it is vague and ambiguous; (b) it is overly broad and unduly burdensome; (c) it exceeds the allotted number of interrogatories; and (d) it seeks, or the extent that it seeks, information protected from disclosure by the attorney-client privilege, work product doctrine, and/or right to privacy.

**Interrogatory No. 100:** (Complaint Counsel's No. 11)

Describe all facts that support or call into question your denial of the allegation that Mitchell K. Friedlander has developed products marketed by A.G. Waterhouse, LLC.

**Response:**

Respondents incorporate by reference each General Objection as set forth here in full. Respondents further object to this interrogatory on the following grounds: (a) it is vague and ambiguous; (b) it is overly broad and unduly burdensome; (c) it exceeds the allotted number of interrogatories; and (d) it seeks, or the extent that it seeks, information protected from disclosure by the attorney-client privilege, work product doctrine, and/or right to privacy.

**Interrogatory No. 101:** (Complaint Counsel's No. 11)

Describe all facts that support or call into question your denial of the allegation that Mitchell K. Friedlander has participated in the acts or practices of A.G. Waterhouse, LLC alleged in the Complaint.



**Response:**

Respondents incorporate by reference each General Objection as set forth here in full. Respondents further object to this interrogatory on the following grounds: (a) it is vague and ambiguous; (b) it is overly broad and unduly burdensome; (c) it exceeds the allotted number of interrogatories; and (d) it seeks, or the extent that it seeks, information protected from disclosure by the attorney-client privilege, work product doctrine, and/or right to privacy.

**Interrogatory No. 102:** (Complaint Counsel's No. 11)

Describe all facts that support or call into question your denial of the allegation that Mitchell K. Friedlander has developed products marketed by Klein-Becker USA, LLC.

**Response:**

Respondents incorporate by reference each General Objection as set forth here in full. Respondents further object to this interrogatory on the following grounds: (a) it is vague and ambiguous; (b) it is overly broad and unduly burdensome; (c) it exceeds the allotted number of interrogatories; and (d) it seeks, or the extent that it seeks, information protected from disclosure by the attorney-client privilege, work product doctrine, and/or right to privacy.

**Interrogatory No. 103:** (Complaint Counsel's No. 11)

Describe all facts that support or call into question your denial of the allegation that Mitchell K. Friedlander has participated in the acts or practices of Klein-Becker USA, LLC alleged in the Complaint.

**Response:**

Respondents incorporate by reference each General Objection as set forth here in full. Respondents further object to this interrogatory on the following grounds: (a) it is vague and ambiguous; (b) it is overly broad and unduly burdensome; (c) it exceeds the allotted number of interrogatories; and (d) it seeks, or the extent that it seeks, information protected from disclosure by the attorney-client privilege, work product doctrine, and/or right to privacy.

**Interrogatory No. 104:** (Complaint Counsel's No. 11)

Describe all facts that support or call into question your denial of the allegation that Mitchell K. Friedlander has developed products marketed by Nutrasport, LLC.

**Response:**

Respondents incorporate by reference each General Objection as set forth here in full. Respondents further object to this interrogatory on the following grounds: (a) it is vague and ambiguous; (b) it is overly broad and unduly burdensome; (c) it exceeds the allotted number of interrogatories; and (d) it seeks, or the extent that it seeks, information protected from disclosure by the attorney-client privilege, work product doctrine, and/or right to privacy.

**Interrogatory No. 105:** (Complaint Counsel's No. 11)

Describe all facts that support or call into question your denial of the allegation that Mitchell K. Friedlander has participated in the acts or practices of Nutrasport, LLC alleged in the Complaint.

**Response:**

Respondents incorporate by reference each General Objection as set forth here in full. Respondents further object to this interrogatory on the following grounds: (a) it is vague and ambiguous; (b) it is overly broad and unduly burdensome; (c) it exceeds the allotted number of interrogatories; and (d) it seeks, or the extent that it seeks, information protected from disclosure by the attorney-client privilege, work product doctrine, and/or right to privacy.

**Interrogatory No. 106:** (Complaint Counsel's No. 11)

Describe all facts that support or call into question your denial of the allegation that Mitchell K. Friedlander has developed products marketed by Sovage Dermalogic Laboratories, LLC.

**Response:**

Respondents incorporate by reference each General Objection as set forth here in full. Respondents further object to this interrogatory on the following grounds: (a) it is vague and ambiguous; (b) it is overly broad and unduly burdensome; (c) it exceeds the allotted number of

interrogatories; and (d) it seeks, or the extent that it seeks, information protected from disclosure by the attorney-client privilege, work product doctrine, and/or right to privacy.

**Interrogatory No. 107:** (Complaint Counsel's No. 11)

Describe all facts that support or call into question your denial of the allegation that Mitchell K. Friedlander has participated in the acts or practices of Sovage Dermalogic Laboratories, LLC alleged in the Complaint.

**Response:**

Respondents incorporate by reference each General Objection as set forth here in full. Respondents further object to this interrogatory on the following grounds: (a) it is vague and ambiguous; (b) it is overly broad and unduly burdensome; (c) it exceeds the allotted number of interrogatories; and (d) it seeks, or the extent that it seeks, information protected from disclosure by the attorney-client privilege, work product doctrine, and/or right to privacy.

**Interrogatory No. 108:** (Complaint Counsel's No. 11)

Describe all facts that support or call into question your denial of the allegation that Mitchell K. Friedlander has developed products marketed by Ban, LLC.

**Response:**

Respondents incorporate by reference each General Objection as set forth here in full. Respondents further object to this interrogatory on the following grounds: (a) it is vague and ambiguous; (b) it is overly broad and unduly burdensome; (c) it exceeds the allotted number of interrogatories; and (d) it seeks, or the extent that it seeks, information protected from disclosure by the attorney-client privilege, work product doctrine, and/or right to privacy.

**Interrogatory No. 109:** (Complaint Counsel's No. 11)

Describe all facts that support or call into question your denial of the allegation that Mitchell K. Friedlander has participated in the acts or practices of Ban, LLC alleged in the Complaint.

**Response:**

Respondents incorporate by reference each General Objection as set forth here in full. Respondents further object to this interrogatory on the following grounds: (a) it is vague and ambiguous; (b) it is overly broad and unduly burdensome; (c) it exceeds the allotted number of interrogatories; and (d) it seeks, or the extent that it seeks, information protected from disclosure by the attorney-client privilege, work product doctrine, and/or right to privacy.

**Interrogatory No. 110:** (Complaint Counsel's No. 12)

Describe in detail the relationship between Basic Research and the other Respondents, including a complete description of the role that each person or entity has played in formulating, testing, labeling, advertising (including claims development, substantiation, and dissemination), and selling each of the challenged products.

**Response:**

Respondents incorporate by reference each General Objection as set forth here in full. Respondents further object to this interrogatory on the following grounds: (a) it is vague and ambiguous; (b) it is overly broad and unduly burdensome; (c) it seeks irrelevant information and is not reasonably expected to yield information relevant to the allegations of the Complaint, to the proposed relief, or to the defenses of any Respondent (the requested information has no relationship to the alleged false or misleading advertising claims that Complaint Counsel pursues in this matter); (d) it seeks, or the extent that it seeks, information protected from disclosure by the attorney-client privilege, work product doctrine, and/or right to privacy; and (e) it exceeds the allotted number of interrogatories.

**Interrogatory No. 111:** (Complaint Counsel's No. 12)

Describe in detail the relationship between A.G. Waterhouse, LLC and each of the other Respondents, including a complete description of the role that each person or entity has played in formulating, testing, labeling, advertising (including claims development, substantiation, and dissemination), and selling each of the challenged products.

**Response:**

Respondents incorporate by reference each General Objection as set forth here in full. Respondents further object to this interrogatory on the following grounds: (a) it is vague and ambiguous; (b) it is overly broad and unduly burdensome; (c) it seeks irrelevant information and is not reasonably expected to yield information relevant to the allegations of the Complaint, to the proposed relief, or to the defenses of any Respondent (the requested information has no relationship to the alleged false or misleading advertising claims that Complaint Counsel pursues in this matter); (d) it seeks, or the extent that it seeks, information protected from disclosure by the attorney-client privilege, work product doctrine, and/or right to privacy; and (e) it exceeds the allotted number of interrogatories.

**Interrogatory No. 112:** (Complaint Counsel's No. 12)

Describe in detail the relationship between Klein-Becker USA, LLC and each of the other Respondents, including a complete description of the role that each person or entity has played in formulating, testing, labeling, advertising (including claims development, substantiation, and dissemination), and selling each of the challenged products.

**Response:**

Respondents incorporate by reference each General Objection as set forth here in full. Respondents further object to this interrogatory on the following grounds: (a) it is vague and ambiguous; (b) it is overly broad and unduly burdensome; (c) it seeks irrelevant information and is not reasonably expected to yield information relevant to the allegations of the Complaint, to the proposed relief, or to the defenses of any Respondent (the requested information has no relationship to the alleged false or misleading advertising claims that Complaint Counsel pursues in this matter); (d) it seeks, or the extent that it seeks, information protected from disclosure by the attorney-client privilege, work product doctrine, and/or right to privacy; and (e) it exceeds the allotted number of interrogatories.

**Interrogatory No. 113:** (Complaint Counsel's No. 12)

Describe in detail the relationship between Nutrasport, LLC and each of the other Respondents, including a complete description of the role that each person or entity has played in formulating, testing, labeling, advertising (including claims development, substantiation, and dissemination), and selling each of the challenged products.

**Response:**

Respondents incorporate by reference each General Objection as set forth here in full. Respondents further object to this interrogatory on the following grounds: (a) it is vague and ambiguous; (b) it is overly broad and unduly burdensome; (c) it seeks irrelevant information and is not reasonably expected to yield information relevant to the allegations of the Complaint, to the proposed relief, or to the defenses of any Respondent (the requested information has no relationship to the alleged false or misleading advertising claims that Complaint Counsel pursues in this matter); (d) it seeks, or the extent that it seeks, information protected from disclosure by the attorney-client privilege, work product doctrine, and/or right to privacy; and (e) it exceeds the allotted number of interrogatories.

**Interrogatory No. 114:** (Complaint Counsel's No. 12)

Describe in detail the relationship between Sovage Dermalogic Laboratories, LLC and each of the other Respondents, including a complete description of the role that each person or entity has played in formulating, testing, labeling, advertising (including claims development, substantiation, and dissemination), and selling each of the challenged products.

**Response:**

Respondents incorporate by reference each General Objection as set forth here in full. Respondents further object to this interrogatory on the following grounds: (a) it is vague and ambiguous; (b) it is overly broad and unduly burdensome; (c) it seeks irrelevant information and is not reasonably expected to yield information relevant to the allegations of the Complaint, to the proposed relief, or to the defenses of any Respondent (the requested information has no relationship to the alleged false or misleading advertising claims that Complaint Counsel pursues

in this matter); (d) it seeks, or the extent that it seeks, information protected from disclosure by the attorney-client privilege, work product doctrine, and/or right to privacy; and (e) it exceeds the allotted number of interrogatories.

**Interrogatory No. 115:** (Complaint Counsel's No. 12)

Describe in detail the relationship between Ban, LLC and each of the other Respondents, including a complete description of the role that each person or entity has played in formulating, testing, labeling, advertising (including claims development, substantiation, and dissemination), and selling each of the challenged products.

**Response:**

Respondents incorporate by reference each General Objection as set forth here in full. Respondents further object to this interrogatory on the following grounds: (a) it is vague and ambiguous; (b) it is overly broad and unduly burdensome; (c) it seeks irrelevant information and is not reasonably expected to yield information relevant to the allegations of the Complaint, to the proposed relief, or to the defenses of any Respondent (the requested information has no relationship to the alleged false or misleading advertising claims that Complaint Counsel pursues in this matter); (d) it seeks, or the extent that it seeks, information protected from disclosure by the attorney-client privilege, work product doctrine, and/or right to privacy; and (e) it exceeds the allotted number of interrogatories.

**Interrogatory No. 116:** (Complaint Counsel's No. 12)

Describe in detail the relationship between Dennis Gay and each of the other Respondents, including a complete description of the role that each person or entity has played in formulating, testing, labeling, advertising (including claims development, substantiation, and dissemination), and selling each of the challenged products.

**Response:**

Respondents incorporate by reference each General Objection as set forth here in full. Respondents further object to this interrogatory on the following grounds: (a) it is vague and ambiguous; (b) it is overly broad and unduly burdensome; (c) it seeks irrelevant information and

is not reasonably expected to yield information relevant to the allegations of the Complaint, to the proposed relief, or to the defenses of any Respondent (the requested information has no relationship to the alleged false or misleading advertising claims that Complaint Counsel pursues in this matter); (d) it seeks, or the extent that it seeks, information protected from disclosure by the attorney-client privilege, work product doctrine, and/or right to privacy; and (e) it exceeds the allotted number of interrogatories.

**Interrogatory No. 117:** (Complaint Counsel's No. 12)

Describe in detail the relationship between Daniel Mowrey and each of the other Respondents, including a complete description of the role that each person or entity has played in formulating, testing, labeling, advertising (including claims development, substantiation, and dissemination), and selling each of the challenged products.

**Response:**

Respondents incorporate by reference each General Objection as set forth here in full. Respondents further object to this interrogatory on the following grounds: (a) it is vague and ambiguous; (b) it is overly broad and unduly burdensome; (c) it seeks irrelevant information and is not reasonably expected to yield information relevant to the allegations of the Complaint, to the proposed relief, or to the defenses of any Respondent (the requested information has no relationship to the alleged false or misleading advertising claims that Complaint Counsel pursues in this matter); (d) it seeks, or the extent that it seeks, information protected from disclosure by the attorney-client privilege, work product doctrine, and/or right to privacy; and (e) it exceeds the allotted number of interrogatories.

**Interrogatory No. 118:** (Complaint Counsel's No. 12)

Describe in detail the relationship between Mitchell Friedlander and each of the other Respondents, including a complete description of the role that each person or entity has played in formulating, testing, labeling, advertising (including claims development, substantiation, and dissemination), and selling each of the challenged products.



**Response:**

Respondents incorporate by reference each General Objection as set forth here in full. Respondents further object to this interrogatory on the following grounds: (a) it is vague and ambiguous; (b) it is overly broad and unduly burdensome; (c) it seeks irrelevant information and is not reasonably expected to yield information relevant to the allegations of the Complaint, to the proposed relief, or to the defenses of any Respondent (the requested information has no relationship to the alleged false or misleading advertising claims that Complaint Counsel pursues in this matter); (d) it seeks, or the extent that it seeks, information protected from disclosure by the attorney-client privilege, work product doctrine, and/or right to privacy; and (e) it exceeds the allotted number of interrogatories.

**Interrogatory No. 119:** (Complaint Counsel's No. 13)

From 2000 to the present, identify all products that have been advertised, marketed, promoted, or sold by Basic Research, LLC using one or more of the types of media used to advertise, market, promote, or sell any of the challenged products (e.g., television, radio, Internet website, email, print, or telephone).

**Response:**

Respondents incorporate by reference each General Objection as set forth here in full. Respondents further object to this interrogatory on the following grounds: (a) it is overly broad and unduly burdensome; (b) it seeks irrelevant information and is not reasonably expected to yield information relevant to the allegations of the Complaint, to the proposed relief, or to the defenses of any Respondent (the requested information has no relationship to the alleged false or misleading advertising claims that Complaint Counsel pursues in this matter); (c) it exceeds the allotted number of interrogatories; and (d) it seeks, or the extent that it seeks, information protected from disclosure by the attorney-client privilege, work product doctrine, and/or right to privacy.

**Interrogatory No. 120:** (Complaint Counsel's No. 13)

From 2000 to the present, identify all products that have been advertised, marketed, promoted, or sold by A.G. Waterhouse, LLC using one or more of the types of media used to advertise, market, promote, or sell any of the challenged products (e.g., television, radio, Internet website, email, print, or telephone).

**Response:**

Respondents incorporate by reference each General Objection as set forth here in full. Respondents further object to this interrogatory on the following grounds: (a) it is overly broad and unduly burdensome; (b) it seeks irrelevant information and is not reasonably expected to yield information relevant to the allegations of the Complaint, to the proposed relief, or to the defenses of any Respondent (the requested information has no relationship to the alleged false or misleading advertising claims that Complaint Counsel pursues in this matter); (c) it exceeds the allotted number of interrogatories; and (d) it seeks, or the extent that it seeks, information protected from disclosure by the attorney-client privilege, work product doctrine, and/or right to privacy.

**Interrogatory No. 121:** (Complaint Counsel's No. 13)

From 2000 to the present, identify all products that have been advertised, marketed, promoted, or sold by Klein-Becker USA, LLC using one or more of the types of media used to advertise, market, promote, or sell any of the challenged products (e.g., television, radio, Internet website, email, print, or telephone).

**Response:**

Respondents incorporate by reference each General Objection as set forth here in full. Respondents further object to this interrogatory on the following grounds: (a) it is overly broad and unduly burdensome; (b) it seeks irrelevant information and is not reasonably expected to yield information relevant to the allegations of the Complaint, to the proposed relief, or to the defenses of any Respondent (the requested information has no relationship to the alleged false or misleading advertising claims that Complaint Counsel pursues in this matter); (c) it exceeds the

allotted number of interrogatories; and (d) it seeks, or the extent that it seeks, information protected from disclosure by the attorney-client privilege, work product doctrine, and/or right to privacy.

**Interrogatory No. 122:** (Complaint Counsel's No. 13)

From 2000 to the present, identify all products that have been advertised, marketed, promoted, or sold by Nutrasport, LLC using one or more of the types of media used to advertise, market, promote, or sell any of the challenged products (e.g., television, radio, Internet website, email, print, or telephone).

**Response:**

Respondents incorporate by reference each General Objection as set forth here in full. Respondents further object to this interrogatory on the following grounds: (a) it is overly broad and unduly burdensome; (b) it seeks irrelevant information and is not reasonably expected to yield information relevant to the allegations of the Complaint, to the proposed relief, or to the defenses of any Respondent (the requested information has no relationship to the alleged false or misleading advertising claims that Complaint Counsel pursues in this matter); (c) it exceeds the allotted number of interrogatories; and (d) it seeks, or the extent that it seeks, information protected from disclosure by the attorney-client privilege, work product doctrine, and/or right to privacy.

**Interrogatory No. 123:** (Complaint Counsel's No. 13)

From 2000 to the present, identify all products that have been advertised, marketed, promoted, or sold by Sovage Dermalogic Laboratories, LLC using one or more of the types of media used to advertise, market, promote, or sell any of the challenged products (e.g., television, radio, Internet website, email, print, or telephone).

**Response:**

Respondents incorporate by reference each General Objection as set forth here in full. Respondents further object to this interrogatory on the following grounds: (a) it is overly broad and unduly burdensome; (b) it seeks irrelevant information and is not reasonably expected to

yield information relevant to the allegations of the Complaint, to the proposed relief, or to the defenses of any Respondent (the requested information has no relationship to the alleged false or misleading advertising claims that Complaint Counsel pursues in this matter); (c) it exceeds the allotted number of interrogatories; and (d) it seeks, or the extent that it seeks, information protected from disclosure by the attorney-client privilege, work product doctrine, and/or right to privacy.

**Interrogatory No. 124:** (Complaint Counsel's No. 13)

From 2000 to the present, identify all products that have been advertised, marketed, promoted, or sold by Ban, LLC using one or more of the types of media used to advertise, market, promote, or sell any of the challenged products (e.g., television, radio, Internet website, email, print, or telephone).

**Response:**

Respondents incorporate by reference each General Objection as set forth here in full. Respondents further object to this interrogatory on the following grounds: (a) it is overly broad and unduly burdensome; (b) it seeks irrelevant information and is not reasonably expected to yield information relevant to the allegations of the Complaint, to the proposed relief, or to the defenses of any Respondent (the requested information has no relationship to the alleged false or misleading advertising claims that Complaint Counsel pursues in this matter); (c) it exceeds the allotted number of interrogatories; and (d) it seeks, or the extent that it seeks, information protected from disclosure by the attorney-client privilege, work product doctrine, and/or right to privacy.

**Interrogatory No. 125:** (Complaint Counsel's No. 13)

From 2000 to the present, identify all products that have been advertised, marketed, promoted, or sold by Dennis Gay using one or more of the types of media used to advertise, market, promote, or sell any of the challenged products (e.g., television, radio, Internet website, email, print, or telephone).

**Response:**

Respondents incorporate by reference each General Objection as set forth here in full. Respondents further object to this interrogatory on the following grounds: (a) it is overly broad and unduly burdensome; (b) it seeks irrelevant information and is not reasonably expected to yield information relevant to the allegations of the Complaint, to the proposed relief, or to the defenses of any Respondent (the requested information has no relationship to the alleged false or misleading advertising claims that Complaint Counsel pursues in this matter); (c) it exceeds the allotted number of interrogatories; and (d) it seeks, or the extent that it seeks, information protected from disclosure by the attorney-client privilege, work product doctrine, and/or right to privacy.

**Interrogatory No. 126:** (Complaint Counsel's No. 13)

From 2000 to the present, identify all products that have been advertised, marketed, promoted, or sold by Daniel Mowrey using one or more of the types of media used to advertise, market, promote, or sell any of the challenged products (e.g., television, radio, Internet website, email, print, or telephone).

**Response:**

Respondents incorporate by reference each General Objection as set forth here in full. Respondents further object to this interrogatory on the following grounds: (a) it is overly broad and unduly burdensome; (b) it seeks irrelevant information and is not reasonably expected to yield information relevant to the allegations of the Complaint, to the proposed relief, or to the defenses of any Respondent (the requested information has no relationship to the alleged false or misleading advertising claims that Complaint Counsel pursues in this matter); (c) it exceeds the allotted number of interrogatories; and (d) it seeks, or the extent that it seeks, information protected from disclosure by the attorney-client privilege, work product doctrine, and/or right to privacy.

**Interrogatory No. 127:** (Complaint Counsel's No. 13)

From 2000 to the present, identify all products that have been advertised, marketed, promoted, or sold by Mitchell Friedlander using one or more of the types of media used to advertise, market, promote, or sell any of the challenged products (e.g., television, radio, Internet website, email, print, or telephone).

**Response:**

Respondents incorporate by reference each General Objection as set forth here in full. Respondents further object to this interrogatory on the following grounds: (a) it is overly broad and unduly burdensome; (b) it seeks irrelevant information and is not reasonably expected to yield information relevant to the allegations of the Complaint, to the proposed relief, or to the defenses of any Respondent (the requested information has no relationship to the alleged false or misleading advertising claims that Complaint Counsel pursues in this matter); (c) it exceeds the allotted number of interrogatories; and (d) it seeks, or the extent that it seeks, information protected from disclosure by the attorney-client privilege, work product doctrine, and/or right to privacy.

**Interrogatory No. 128:** (Complaint Counsel's No. 14)

From 2000 to the present, describe the marketing capabilities of Basic Research, LLC. (This request specifically include each Respondents' capacities with respect to the development and production of products, the development and review of advertisements, the dissemination of advertisements, the financing of product production and promotion, and the provision of the following services: telemarketing, credit card processing, shipment, customer service or relations, and customs clearance.)

**Response:**

Respondents incorporate by reference each General Objection as set forth here in full. Respondents further object to this interrogatory on the following grounds: (a) it is vague and ambiguous; (b) it is overly broad and unduly burdensome; (c) it seeks irrelevant information and is not reasonably expected to yield information relevant to the allegations of the Complaint, to

the proposed relief, or to the defenses of any Respondent (the requested information has no relationship to the alleged false or misleading advertising claims that Complaint Counsel pursues in this matter); (d) it seeks, or the extent that it seeks, information protected from disclosure by the attorney-client privilege, work product doctrine, and/or right to privacy; and (e) it exceeds the allotted number of interrogatories.

**Interrogatory No. 129:** (Complaint Counsel's No. 14)

From 2000 to the present, describe the marketing capabilities of A.G. Waterhouse, LLC. (This request specifically includes each Respondents' capacities with respect to the development and production of products, the development and review of advertisements, the dissemination of advertisements, the financing of product production and promotion, and the provision of the following services: telemarketing, credit card processing, shipment, customer service or relations, and customs clearance.)

**Response:**

Respondents incorporate by reference each General Objection as set forth here in full. Respondents further object to this interrogatory on the following grounds: (a) it is vague and ambiguous; (b) it is overly broad and unduly burdensome; (c) it seeks irrelevant information and is not reasonably expected to yield information relevant to the allegations of the Complaint, to the proposed relief, or to the defenses of any Respondent (the requested information has no relationship to the alleged false or misleading advertising claims that Complaint Counsel pursues in this matter); (d) it seeks, or the extent that it seeks, information protected from disclosure by the attorney-client privilege, work product doctrine, and/or right to privacy; and (e) it exceeds the allotted number of interrogatories.

**Interrogatory No. 130:** (Complaint Counsel's No. 14)

From 2000 to the present, describe the marketing capabilities of Klein-Becker USA, LLC. (This request specifically includes each Respondents' capacities with respect to the development and production of products, the development and review of advertisements, the dissemination of advertisements, the financing of product production and promotion, and the

provision of the following services: telemarketing, credit card processing, shipment, customer service or relations, and customs clearance.)

**Response:**

Respondents incorporate by reference each General Objection as set forth here in full. Respondents further object to this interrogatory on the following grounds: (a) it is vague and ambiguous; (b) it is overly broad and unduly burdensome; (c) it seeks irrelevant information and is not reasonably expected to yield information relevant to the allegations of the Complaint, to the proposed relief, or to the defenses of any Respondent (the requested information has no relationship to the alleged false or misleading advertising claims that Complaint Counsel pursues in this matter); (d) it seeks, or the extent that it seeks, information protected from disclosure by the attorney-client privilege, work product doctrine, and/or right to privacy; and (e) it exceeds the allotted number of interrogatories.

**Interrogatory No. 131:** (Complaint Counsel's No. 14)

From 2000 to the present, describe the marketing capabilities of Nutrasport, LLC. (This request specifically includes each Respondents' capacities with respect to the development and production of products, the development and review of advertisements, the dissemination of advertisements, the financing of product production and promotion, and the provision of the following services: telemarketing, credit card processing, shipment, customer service or relations, and customs clearance.)

**Response:**

Respondents incorporate by reference each General Objection as set forth here in full. Respondents further object to this interrogatory on the following grounds: (a) it is vague and ambiguous; (b) it is overly broad and unduly burdensome; (c) it seeks irrelevant information and is not reasonably expected to yield information relevant to the allegations of the Complaint, to the proposed relief, or to the defenses of any Respondent (the requested information has no relationship to the alleged false or misleading advertising claims that Complaint Counsel pursues



in this matter); (d) it seeks, or the extent that it seeks, information protected from disclosure by the attorney-client privilege, work product doctrine, and/or right to privacy; and (e) it exceeds the allotted number of interrogatories.

**Interrogatory No. 132:** (Complaint Counsel's No. 14)

From 2000 to the present, describe the marketing capabilities of Sovage Dermalogic Laboratories, LLC. (This request specifically includes each Respondents' capacities with respect to the development and production of products, the development and review of advertisements, the dissemination of advertisements, the financing of product production and promotion, and the provision of the following services: telemarketing, credit card processing, shipment, customer service or relations, and customs clearance.)

**Response:**

Respondents incorporate by reference each General Objection as set forth here in full. Respondents further object to this interrogatory on the following grounds: (a) it is vague and ambiguous; (b) it is overly broad and unduly burdensome; (c) it seeks irrelevant information and is not reasonably expected to yield information relevant to the allegations of the Complaint, to the proposed relief, or to the defenses of any Respondent (the requested information has no relationship to the alleged false or misleading advertising claims that Complaint Counsel pursues in this matter); (d) it seeks, or the extent that it seeks, information protected from disclosure by the attorney-client privilege, work product doctrine, and/or right to privacy; and (e) it exceeds the allotted number of interrogatories.

**Interrogatory No. 133:** (Complaint Counsel's No. 14)

From 2000 to the present, describe the marketing capabilities of Ban, LLC. (This request specifically includes each Respondents' capacities with respect to the development and production of products, the development and review of advertisements, the dissemination of advertisements, the financing of product production and promotion, and the provision of the following services: telemarketing, credit card processing, shipment, customer service or relations, and customs clearance.)

**Response:**

Respondents incorporate by reference each General Objection as set forth here in full. Respondents further object to this interrogatory on the following grounds: (a) it is vague and ambiguous; (b) it is overly broad and unduly burdensome; (c) it seeks irrelevant information and is not reasonably expected to yield information relevant to the allegations of the Complaint, to the proposed relief, or to the defenses of any Respondent (the requested information has no relationship to the alleged false or misleading advertising claims that Complaint Counsel pursues in this matter); (d) it seeks, or the extent that it seeks, information protected from disclosure by the attorney-client privilege, work product doctrine, and/or right to privacy; and (e) it exceeds the allotted number of interrogatories.

**Interrogatory No. 134:** (Complaint Counsel's No. 14)

From 2000 to the present, describe the marketing capabilities of Dennis Gay. (This request specifically includes each Respondents' capacities with respect to the development and production of products, the development and review of advertisements, the dissemination of advertisements, the financing of product production and promotion, and the provision of the following services: telemarketing, credit card processing, shipment, customer service or relations, and customs clearance.)

**Response:**

Respondents incorporate by reference each General Objection as set forth here in full. Respondents further object to this interrogatory on the following grounds: (a) it is vague and ambiguous; (b) it is overly broad and unduly burdensome; (c) it seeks irrelevant information and is not reasonably expected to yield information relevant to the allegations of the Complaint, to the proposed relief, or to the defenses of any Respondent (the requested information has no relationship to the alleged false or misleading advertising claims that Complaint Counsel pursues in this matter); (d) it seeks, or the extent that it seeks, information protected from disclosure by

the attorney-client privilege, work product doctrine, and/or right to privacy; and (e) it exceeds the allotted number of interrogatories.

**Interrogatory No. 135:** (Complaint Counsel's No. 14)

From 2000 to the present, describe the marketing capabilities of Daniel Mowrey. (This request specifically includes each Respondents' capacities with respect to the development and production of products, the development and review of advertisements, the dissemination of advertisements, the financing of product production and promotion, and the provision of the following services: telemarketing, credit card processing, shipment, customer service or relations, and customs clearance.)

**Response:**

Respondents incorporate by reference each General Objection as set forth here in full. Respondents further object to this interrogatory on the following grounds: (a) it is overly broad and unduly burdensome; and (b) it exceeds the allotted number of interrogatories.

**Interrogatory No. 136:** (Complaint Counsel's No. 14)

From 2000 to the present, describe the marketing capabilities of Mitchell Friedlander. (This request specifically includes each Respondents' capacities with respect to the development and production of products, the development and review of advertisements, the dissemination of advertisements, the financing of product production and promotion, and the provision of the following services: telemarketing, credit card processing, shipment, customer service or relations, and customs clearance.)

**Response:**

Respondents incorporate by reference each General Objection as set forth here in full. Respondents further object to this interrogatory on the following grounds: (a) it is vague and ambiguous; (b) it is overly broad and unduly burdensome; (c) it seeks irrelevant information and is not reasonably expected to yield information relevant to the allegations of the Complaint, to the proposed relief, or to the defenses of any Respondent (the requested information has no relationship to the alleged false or misleading advertising claims that Complaint Counsel pursues

in this matter); (d) it seeks, or the extent that it seeks, information protected from disclosure by the attorney-client privilege, work product doctrine, and/or right to privacy; and (e) it exceeds the allotted number of interrogatories.

Respectfully submitted this 4<sup>th</sup> day of November, 2004

Respectfully submitted,



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Todd M. Malynn

Gregory L. Hillyer

Christopher P. Demetriades

FeldmanGale, P.A.

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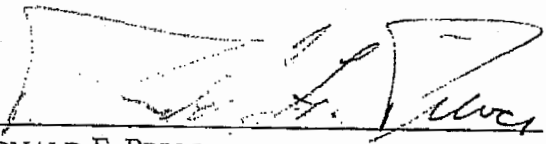
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Attorneys for Respondents Basic Research,  
LLC, A.G. Waterhouse, LLC, Klein-Becker  
USA, LLC, Nutrasport, LLC, Söavage  
Dermalogic Laboratories, LLC and Ban,  
LLC



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Attorneys for Respondent Daniel B. Mowrey

DATED this \_\_\_\_ day of \_\_\_\_\_, 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

*M*

Mitchell K. Friedlander  
c/o Compliance Department  
5742 West Harold Getty Drive  
Salt Lake City, Utah 84116  
Telephone: (801) 414-1800  
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Pro Se Respondent



## CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of Response to Complaint Counsel's Second Set of Interrogatories was provided to the following parties this 4<sup>th</sup> day of November, 2004 as follows:

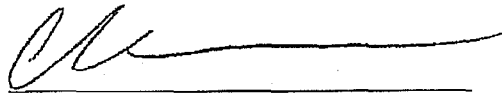
(1) One (1) copy via e-mail attachment in Adobe® ".pdf" format to Commission Complaint Counsel, Lauren Kapin, Joshua S. Millard, and Laura Schneider, all care of [lkapin@ftc.gov](mailto:lkapin@ftc.gov), [jmillard@ftc.gov](mailto:jmillard@ftc.gov); [richardson@ftc.gov](mailto:richardson@ftc.gov); [lschneider@ftc.gov](mailto:lschneider@ftc.gov) 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;

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

(3) 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.

(4) 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.

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

A handwritten signature in black ink, consisting of a stylized initial 'M' followed by a long horizontal line, positioned above a solid horizontal line.

UNITED STATES OF AMERICA  
BEFORE FEDERAL TRADE COMMISSION

002-3300

In the Matter of )  
)  
BASIC RESEARCH, LLC, )  
a limited liability company; )  
)  
A.G. WATERHOUSE, L.L.C. )  
a limited liability corporation, )  
)  
KLEIN-BECKER USA, LLC, )  
a limited liability company; )  
)  
NUTRASPORT, LLC, )  
a limited liability company; )  
)  
SÖVAGE DERMALOGIC LABORATORIES, LLC, )  
a limited liability company; )  
)  
BAN, LLC, )  
a limited liability corporation, also doing )  
business as BASIC RESEARCH, L.L.C., )  
OLD BASIC RESEARCH, L.L.C., )  
BASIC RESEARCH, A.G. WATERHOUSE, )  
KLEIN-BECKER USA, NUTRA SPORT, and )  
SOVAGE DERMALOGIC LABORATORIES, )  
)  
DENNIS GAY, )  
individually and as an officer of the )  
limited liability corporations, )  
)  
DANIEL B. MOWREY, Ph.D., )  
Also doing business as AMERICAN )  
PHYTOTHERAPY RESEARCH )  
LABORATORY, and )  
)  
MITCHELL K. FREIDLANDER, )  
Defendants. )

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Docket No. 9318

**RESPONSE TO COMPLAINT COUNSEL'S SECOND REQUEST FOR PRODUCTION  
OF DOCUMENTARY MATERIALS AND TANGIBLE THINGS**

Pursuant to Rule 3.37 of the Federal Trade Commission's Rules of Practice, Respondents Klein-Becker, USA, LLC, Basic Research, LLC, A.G. Waterhouse, LLC, NutraSport, LLC, Söavage Dermalogic Laboratories, LLC, Ban, LLC, Dennis Gay, Daniel B. Mowrey, Ph.D., and Mitchell K Freidlander ("Respondents") object and respond to Complaint Counsel's Second Request for Production of Documentary Materials and Tangible Things ("Request for Production") as follows:

**General Objections**

A. Prior to this Request for Production, Complaint Counsel propounded thirty-eight (38) requests for production of documents, including all subparts. According to the Scheduling Order in this case, Complaint Counsel is only permitted to propound a total of sixty (60) requests for production of documents. Respondents therefore object to this Request for Production to the extent that the number of individual requests, including subparts, exceeds the allotted number of requests for production.

B. Respondents' objections and responses to Complaint Counsel's Request for Production are made on the basis of facts and circumstances as they are presently known. Respondents have not completed their investigation of all the facts relating to this case, their discovery in or analysis of this action, and have not completed preparation for trial. Accordingly, all of the following responses are provided without prejudice to Respondents' right to introduce at trial any evidence subsequently discovered. Respondents further reserve the right to supplement their responses to Complaint Counsel's Request for Production based upon newly

discovery evidence or information of which Respondents are not presently aware, or otherwise as necessary.

C. Respondents' objections and responses are based on their understanding and interpretation of Complaint Counsel's Request for Production. If Respondents understand or interpret any of Complaint Counsel's Requests for Production differently, Respondents reserve the right to supplement any of these objections or responses.

D. Respondents object to Complaint Counsel's Requests for Production to the extent they seek information that is subject to the attorney/client or work/product privileges or to any other applicable privilege or immunity and refuses to produce to any such information. Respondents do not intend by these responses and/or objections to waive any claim of privilege or immunity. Respondents objections and/or responses are conditioned specifically on the understanding that the provision of information to which any claim of privilege is applicable shall be deemed inadvertent and does not constitute a waiver of any such claim or privilege.

E. Respondents object to Complaint Counsel's Requests for Production relating to the expert witnesses that Respondents intend to use at the hearing on the ground that the time for discovery relating to experts' opinion and testimony is established in the Scheduling Order dated August 11, 2004.

F. Respondents object to Complaint Counsel's Requests for Production to the extent that they seek documents relating to non-testifying expert witnesses because Complaint Counsel have not made the proper showing that they are entitled to such information pursuant to Rule 3.31(c)(4)(ii).

G. Respondents object to the definition of the terms "Corporate Respondent," "Individual Respondent," and "Respondent(s)" to the extent that Complaint Counsel seeks to

impose discovery obligations on Respondents related to documents not within Respondents' possession, custody, or control.

H. Respondents object to Complaint Counsel's Requests for Production to the extent that they seek documents already in Complaint Counsel's possession, custody, or control, or to the extent that they seek documents that are publicly available or equally accessible to Complaint Counsel as to Respondents, on the ground that such requests are unduly burdensome.

I. Respondents object to the Requests for Production to the extent that they are duplicative, vague, ambiguous, overbroad, unduly burdensome, or not reasonably expected to yield information relevant to the allegations of the Complaint, to the proposed relief, or to the defenses of any Respondent.

J. Respondents object to the Requests for Production to the extent that they purport to impose burdens or duties upon Respondents that exceed the scope of permissible discovery under the Commission's Rules of Practice and the provisions of the Pretrial Scheduling Order.

K. Respondents reserve their right to rely at any time on documents that are subsequently discovered or were omitted from response as a result of mistake, error, oversight, or inadvertence.

L. The statement in any given response that documents will be produced means that documents will be produced, as limited by the stated objections, provided that such documents exist and are in the possession, custody, or control of Respondents. Respondents' stated willingness to produce certain documents should in no way be construed as an affirmative acknowledgement that such documents exist or are in the possession, custody, or control of Respondents.

M. Respondents' production of documents in response to any request does not mean and shall not evidence that Respondents possessed or reviewed such documents at or prior to any specific point in time.

**Specific Objections and Responses**

Based on, subject to, and without waiving its General Objections, Respondent specifically and additionally responds to each of the Specifications contained in Complaint Counsel's Interrogatories as follows:

**Request for Production No. 39:** (Complaint Counsel's No. 1)

All documents and communications that support or refute, or refer or relate to, your interpretation(s) of the claims made in promotional materials for the challenged products. (This request includes all claims regardless of whether the claims are express or implied, and regardless of whether the claims are based on a selected portion of the promotional material or are based the [sic] overall net impression created by the interaction of different elements in the promotional material.)

**Response:**

In addition to the general objections set forth above, Respondents object to this request to the extent that it is overbroad, seeks attorney work product and documents protected by the attorney-client privilege, is vague, ambiguous, unduly burdensome, and unlimited in scope and time. Respondents further object to this request as premature to the extent that this request seeks information relating to expert witnesses that Respondents intend to use at the hearing and information relating to non-testifying or consulting expert witnesses.

**Request for Production No. 40:** (Complaint Counsel's No. 2)

All documents and communications referring or relating to the depictions, images, photographs, graphs, or other visuals employed or displayed in any draft or final promotional material for any of the challenged products.

**Response:**

In addition to the general objections set forth above, Respondents object to this request to the extent that it is overbroad, is vague, ambiguous, unduly burdensome, unlimited in scope and time, and not reasonably expected to yield information relevant to the allegations of the Complaint, to the proposed relief, or to the defenses of any Respondent.

**Request for Production No. 41:** (Complaint Counsel's No. 3)

All draft and final promotional materials that contain one or more of the following words or phrases appearing in the claims alleged in the Complaint: "rapid."

**Response:**

In addition to the general objections set forth above, Respondents object to this request to the extent that it is overbroad, seeks attorney work product and documents protected by the attorney-client privilege, is vague, ambiguous, unduly burdensome, unlimited in scope and time, and not reasonably expected to yield information relevant to the allegations of the Complaint, to the proposed relief, or to the defenses of any Respondent.

**Request for Production No. 42:** (Complaint Counsel's No. 3)

All draft and final promotional materials that contain one or more of the following words or phrases appearing in the claims alleged in the Complaint: "visibly obvious."

**Response:**

In addition to the general objections set forth above, Respondents object to this request to the extent that it is overbroad, seeks attorney work product and documents protected by the attorney-client privilege, is vague, ambiguous, unduly burdensome, unlimited in scope and time, and not reasonably expected to yield information relevant to the allegations of the Complaint, to the proposed relief, or to the defenses of any Respondent.

**Request for Production No. 43:** (Complaint Counsel's No. 3)

All draft and final promotional materials that contain one or more of the following words or phrases appearing in the claims alleged in the Complaint: "fat loss."

**Response:**

In addition to the general objections set forth above, Respondents object to this request to the extent that it is overbroad, seeks attorney work product and documents protected by the attorney-client privilege, is vague, ambiguous, unduly burdensome, unlimited in scope and time, and not reasonably expected to yield information relevant to the allegations of the Complaint, to the proposed relief, or to the defenses of any Respondent.

**Request for Production No. 44:** (Complaint Counsel's No. 3)

All draft and final promotional materials that contain one or more of the following words or phrases appearing in the claims alleged in the Complaint: "clinical testing."



**Response:**

In addition to the general objections set forth above, Respondents object to this request to the extent that it is overbroad, seeks attorney work product and documents protected by the attorney-client privilege, is vague, ambiguous, unduly burdensome, unlimited in scope and time, and not reasonably expected to yield information relevant to the allegations of the Complaint, to the proposed relief, or to the defenses of any Respondent.

**Request for Production No. 45:** (Complaint Counsel's No. 3)

All draft and final promotional materials that contain one or more of the following words or phrases appearing in the claims alleged in the Complaint: "cause."

**Response:**

In addition to the general objections set forth above, Respondents object to this request to the extent that it is overbroad, seeks attorney work product and documents protected by the attorney-client privilege, is vague, ambiguous, unduly burdensome, unlimited in scope and time, and not reasonably expected to yield information relevant to the allegations of the Complaint, to the proposed relief, or to the defenses of any Respondent.

**Request for Production No. 46:** (Complaint Counsel's No. 3)

All draft and final promotional materials that contain one or more of the following words or phrases appearing in the claims alleged in the Complaint: "weight loss."

**Response:**

In addition to the general objections set forth above, Respondents object to this request to the extent that it is overbroad, seeks attorney work product and documents protected by the attorney-client privilege, is vague, ambiguous, unduly burdensome, unlimited in scope and time,

and not reasonably expected to yield information relevant to the allegations of the Complaint, to the proposed relief, or to the defenses of any Respondent.

**Request for Production No. 47:** (Complaint Counsel's No. 3)

All draft and final promotional materials that contain one or more of the following words or phrases appearing in the claims alleged in the Complaint: "more than 20 pounds."

**Response:**

In addition to the general objections set forth above, Respondents object to this request to the extent that it is overbroad, seeks attorney work product and documents protected by the attorney-client privilege, is vague, ambiguous, unduly burdensome, unlimited in scope and time, and not reasonably expected to yield information relevant to the allegations of the Complaint, to the proposed relief, or to the defenses of any Respondent.

**Request for Production No. 48:** (Complaint Counsel's No. 3)

All draft and final promotional materials that contain one or more of the following words or phrases appearing in the claims alleged in the Complaint: "significantly overweight."

**Response:**

In addition to the general objections set forth above, Respondents object to this request to the extent that it is overbroad, seeks attorney work product and documents protected by the attorney-client privilege, is vague, ambiguous, unduly burdensome, unlimited in scope and time, and not reasonably expected to yield information relevant to the allegations of the Complaint, to the proposed relief, or to the defenses of any Respondent.

**Request for Production No. 49:** (Complaint Counsel's No. 3)

All draft and final promotional materials that contain one or more of the following words or phrases appearing in the claims alleged in the Complaint: "substantial."

**Response:**

In addition to the general objections set forth above, Respondents object to this request to the extent that it is overbroad, seeks attorney work product and documents protected by the attorney-client privilege, is vague, ambiguous, unduly burdensome, unlimited in scope and time, and not reasonably expected to yield information relevant to the allegations of the Complaint, to the proposed relief, or to the defenses of any Respondent.

**Request for Production No. 50:** (Complaint Counsel's No. 3)

All draft and final promotional materials that contain one or more of the following words or phrases appearing in the claims alleged in the Complaint: "excess fat."

**Response:**

In addition to the general objections set forth above, Respondents object to this request to the extent that it is overbroad, seeks attorney work product and documents protected by the attorney-client privilege, is vague, ambiguous, unduly burdensome, unlimited in scope and time, and not reasonably expected to yield information relevant to the allegations of the Complaint, to the proposed relief, or to the defenses of any Respondent.

**Request for Production No. 51:** (Complaint Counsel's No. 3)

All draft and final promotional materials that contain one or more of the following words or phrases appearing in the claims alleged in the Complaint: "obese."

**Response:**

In addition to the general objections set forth above, Respondents object to this request to the extent that it is overbroad, seeks attorney work product and documents protected by the attorney-client privilege, is vague, ambiguous, unduly burdensome, unlimited in scope and time,

and not reasonably expected to yield information relevant to the allegations of the Complaint, to the proposed relief, or to the defenses of any Respondent.

**Request for Production No. 52:** (Complaint Counsel's No. 3)

All draft and final promotional materials that contain one or more of the following words or phrases appearing in the claims alleged in the Complaint: "unfair."

**Response:**

In addition to the general objections set forth above, Respondents object to this request to the extent that it is overbroad, seeks attorney work product and documents protected by the attorney-client privilege, is vague, ambiguous, unduly burdensome, unlimited in scope and time, and not reasonably expected to yield information relevant to the allegations of the Complaint, to the proposed relief, or to the defenses of any Respondent.

**Request for Production No. 53:** (Complaint Counsel's No. 4)

As to BASIC RESEARCH, LLC., all documents and communications referring or relating to the contents of draft or final promotional material described in Specification 3, above. (This request includes, but is not limited to, all documents and communications referring or relating to the intended meaning of such promotional material.)

**Response:**

In addition to the general objections set forth above, Respondents object to this request to the extent that it is overbroad, seeks attorney work product and documents protected by the attorney-client privilege, is vague, ambiguous, unduly burdensome, unlimited in scope and time, and not reasonably expected to yield information relevant to the allegations of the Complaint, to the proposed relief, or to the defenses of any Respondent. Respondents further object to this request as premature to the extent that this request seeks information relating to expert witnesses

that Respondents intend to use at the hearing and information relating to non-testifying or consulting expert witnesses.

**Request for Production No. 54:** (Complaint Counsel's No. 4)

As to A.G. WATERHOUSE, L.L.C., all documents and communications referring or relating to the contents of draft or final promotional material described in Specification 3, above. (This request includes, but is not limited to, all documents and communications referring or relating to the claims or messages in such promotional material.)

**Response:**

In addition to the general objections set forth above, Respondents object to this request to the extent that it is overbroad, seeks attorney work product and documents protected by the attorney-client privilege, is vague, ambiguous, unduly burdensome, unlimited in scope and time, and not reasonably expected to yield information relevant to the allegations of the Complaint, to the proposed relief, or to the defenses of any Respondent. Respondents further object to this request as premature to the extent that this request seeks information relating to expert witnesses that Respondents intend to use at the hearing and information relating to non-testifying or consulting expert witnesses.

**Request for Production No. 55:** (Complaint Counsel's No. 4)

As to KLEIN-BECKER USA, LLC, All documents and communications referring or relating to the contents of draft or final promotional material described in Specification 3, above. (This request includes, but is not limited to, all documents and communications referring or relating to the consumer perception of such promotional material.)

**Response:**

In addition to the general objections set forth above, Respondents object to this request to the extent that it is overbroad, seeks attorney work product and documents protected by the attorney-client privilege, is vague, ambiguous, unduly burdensome, unlimited in scope and time, and not reasonably expected to yield information relevant to the allegations of the Complaint, to the proposed relief, or to the defenses of any Respondent. Respondents further object to this request as premature to the extent that this request seeks information relating to expert witnesses that Respondents intend to use at the hearing and information relating to non-testifying or consulting expert witnesses.

**Request for Production No. 56:** (Complaint Counsel's No. 4)

As to NUTRASPORT, LLC, all documents and communications referring or relating to the contents of draft or final promotional material described in Specification 3, above. (This request includes, but is not limited to, all documents and communications referring or relating to the consumer perception of such promotional material.)

**Response:**

In addition to the general objections set forth above, Respondents object to this request to the extent that it is overbroad, seeks attorney work product and documents protected by the attorney-client privilege, is vague, ambiguous, unduly burdensome, unlimited in scope and time, and not reasonably expected to yield information relevant to the allegations of the Complaint, to the proposed relief, or to the defenses of any Respondent. Respondents further object to this request as premature to the extent that this request seeks information relating to expert witnesses that Respondents intend to use at the hearing and information relating to non-testifying or consulting expert witnesses.

**Request for Production No. 57:** (Complaint Counsel's No. 4)

As to SÖVAGE DERMALOGIC LABORATORIES, LLC, all documents and communications referring or relating to the contents of draft or final promotional material described in Specification 3, above. (This request includes, but is not limited to, all documents and communications referring or relating to, the consumer perception of such promotional material.)

**Response:**

In addition to the general objections set forth above, Respondents object to this request to the extent that it is overbroad, seeks attorney work product and documents protected by the attorney-client privilege, is vague, ambiguous, unduly burdensome, unlimited in scope and time, and not reasonably expected to yield information relevant to the allegations of the Complaint, to the proposed relief, or to the defenses of any Respondent. Respondents further object to this request as premature to the extent that this request seeks information relating to expert witnesses that Respondents intend to use at the hearing and information relating to non-testifying or consulting expert witnesses.

**Request for Production No. 58:** (Complaint Counsel's No. 4)

As to BAN, LLC, all documents and communications referring or relating to the contents of draft or final promotional material described in Specification 3, above. (This request includes, but is not limited to, all documents and communications referring or relating to the consumer perception of such promotional material.)

**Response:**

In addition to the general objections set forth above, Respondents object to this request to the extent that it is overbroad, seeks attorney work product and documents protected by the

attorney-client privilege, is vague, ambiguous, unduly burdensome, unlimited in scope and time, and not reasonably expected to yield information relevant to the allegations of the Complaint, to the proposed relief, or to the defenses of any Respondent. Respondents further object to this request as premature to the extent that this request seeks information relating to expert witnesses that Respondents intend to use at the hearing and information relating to non-testifying or consulting expert witnesses.

**Request for Production No. 59:** (Complaint Counsel's No. 4)

As to DENNIS GAY, all documents and communications referring or relating to the contents of draft or final promotional material described in Specification 3, above. (This request includes, but is not limited to, all documents and communications referring or relating to the consumer perception of such promotional material.)

**Response:**

In addition to the general objections set forth above, Respondents object to this request to the extent that it is overbroad, seeks attorney work product and documents protected by the attorney-client privilege, is vague, ambiguous, unduly burdensome, unlimited in scope and time, and not reasonably expected to yield information relevant to the allegations of the Complaint, to the proposed relief, or to the defenses of any Respondent. Respondents further object to this request as premature to the extent that this request seeks information relating to expert witnesses that Respondents intend to use at the hearing and information relating to non-testifying or consulting expert witnesses.

**Request for Production No. 60:** (Complaint Counsel's No. 4)

As to DANIEL B. MOWREY, all documents and communications referring or relating to the contents of draft or final promotional material described in Specification 3, above. (This



request includes, but is not limited to, all documents and communications referring or relating to the consumer perception of such promotional material.)

**Response:**

In addition to the general objections set forth above, Respondents object to this request to the extent that it is overbroad, seeks attorney work product and documents protected by the attorney-client privilege, is vague, ambiguous, unduly burdensome, unlimited in scope and time, and not reasonably expected to yield information relevant to the allegations of the Complaint, to the proposed relief, or to the defenses of any Respondent. Respondents further object to this request as premature to the extent that this request seeks information relating to expert witnesses that Respondents intend to use at the hearing and information relating to non-testifying or consulting expert witnesses.

**Request for Production No. 61:** (Complaint Counsel's No. 4)

As to MITCHELL K. FREIDLANDER, All documents and communications referring or relating to the contents of draft or final promotional material described in Specification 3, above. (This request includes, but is not limited to, all documents and communications referring or relating to the consumer perception of such promotional material.)

**Response:**

In addition to the general objections set forth above, Respondents object to this request to the extent that it is overbroad, seeks attorney work product and documents protected by the attorney-client privilege, is vague, ambiguous, unduly burdensome, unlimited in scope and time, and not reasonably expected to yield information relevant to the allegations of the Complaint, to the proposed relief, or to the defenses of any Respondent. Respondents further object to this request as premature to the extent that this request seeks information relating to expert witnesses

that Respondents intend to use at the hearing and information relating to non-testifying or consulting expert witnesses.

**Request for Production No. 62:** (Complaint Counsel's No. 5)

Documents and communications sufficient to show the marketing capabilities of BASIC RESEARCH, LLC, specifically including documents and communications sufficient to show each Respondent's capabilities with respect to the creation and development of products, the creation, development, and review of promotional materials, the shipment of products, the dissemination of promotional materials, media management services, financing and accounting services, telemarketing services, credit card processing, the provision of customer service, and customs clearance.

**Response:**

In addition to the general objections set forth above, Respondents object to this request to the extent that it is overbroad, seeks attorney work product and documents protected by the attorney-client privilege, unduly burdensome, unlimited in scope and time, and not reasonably expected to yield information relevant to the allegations of the Complaint, to the proposed relief, or to the defenses of any Respondent.

**Request for Production No. 63:** (Complaint Counsel's No. 5)

Documents and communications sufficient to show the marketing capabilities of A.G. WATERHOUSE, L.L.C., specifically including documents and communications sufficient to show each Respondent's capabilities with respect to the creation and development of products, the creation, development, and review of promotional materials, the shipment of products, the dissemination of promotional materials, media management services, financing and accounting

services, telemarketing services, credit card processing, the provision of customer service, and customs clearance.

**Response:**

In addition to the general objections set forth above, Respondents object to this request to the extent that it is overbroad, seeks attorney work product and documents protected by the attorney-client privilege, unduly burdensome, unlimited in scope and time, and not reasonably expected to yield information relevant to the allegations of the Complaint, to the proposed relief, or to the defenses of any Respondent.

**Request for Production No. 64:** (Complaint Counsel's No. 5)

Documents and communications sufficient to show the marketing capabilities of KLEIN-BECKER USA, LLC specifically including documents and communications sufficient to show each Respondent's capabilities with respect to the creation and development of products, the creation, development, and review of promotional materials, the shipment of products, the dissemination of promotional materials, media management services, financing and accounting services, telemarketing services, credit card processing, the provision of customer service, and customs clearance.

**Response:**

In addition to the general objections set forth above, Respondents object to this request to the extent that it is overbroad, seeks attorney work product and documents protected by the attorney-client privilege, unduly burdensome, unlimited in scope and time, and not reasonably expected to yield information relevant to the allegations of the Complaint, to the proposed relief, or to the defenses of any Respondent.

**Request for Production No. 65:** (Complaint Counsel's No. 5)

Documents and communications sufficient to show the marketing capabilities of NUTRASPORT, LLC, specifically including documents and communications sufficient to show each Respondent's capabilities with respect to the creation and development of products, the creation, development, and review of promotional materials, the shipment of products, the dissemination of promotional materials, media management services, financing and accounting services, telemarketing services, credit card processing, the provision of customer service, and customs clearance.

**Response:**

In addition to the general objections set forth above, Respondents object to this request to the extent that it is overbroad, seeks attorney work product and documents protected by the attorney-client privilege, unduly burdensome, unlimited in scope and time, and not reasonably expected to yield information relevant to the allegations of the Complaint, to the proposed relief, or to the defenses of any Respondent.

**Request for Production No. 66:** (Complaint Counsel's No. 5)

Documents and communications sufficient to show the marketing capabilities of SÖVAGE DERMALOGIC LABORATORIES, LLC, specifically including documents and communications sufficient to show each Respondent's capabilities with respect to the creation and development of products, the creation, development, and review of promotional materials, the shipment of products, the dissemination of promotional materials, media management services, financing and accounting services, telemarketing services, credit card processing, the provision of customer service, and customs clearance.

**Response:**

In addition to the general objections set forth above, Respondents object to this request to the extent that it is overbroad, seeks attorney work product and documents protected by the attorney-client privilege, unduly burdensome, unlimited in scope and time, and not reasonably expected to yield information relevant to the allegations of the Complaint, to the proposed relief, or to the defenses of any Respondent.

**Request for Production No. 67:** (Complaint Counsel's No. 5)

Documents and communications sufficient to show the marketing capabilities of BAN, LLC, specifically including documents and communications sufficient to show each Respondent's capabilities with respect to the creation and development of products, the creation, development, and review of promotional materials, the shipment of products, the dissemination of promotional materials, media management services, financing and accounting services, telemarketing services, credit card processing, the provision of customer service, and customs clearance.

**Response:**

In addition to the general objections set forth above, Respondents object to this request to the extent that it is overbroad, seeks attorney work product and documents protected by the attorney-client privilege, unduly burdensome, unlimited in scope and time, and not reasonably expected to yield information relevant to the allegations of the Complaint, to the proposed relief, or to the defenses of any Respondent.

**Request for Production No. 68:** (Complaint Counsel's No. 5)

Documents and communications sufficient to show the marketing capabilities of DENNIS GAY specifically including documents and communications sufficient to show each

Respondent's capabilities with respect to the creation and development of products, the creation, development, and review of promotional materials, the shipment of products, the dissemination of promotional materials, media management services, financing and accounting services, telemarketing services, credit card processing, the provision of customer service, and customs clearance.

**Response:**

In addition to the general objections set forth above, Respondents object to this request to the extent that it is overbroad, seeks attorney work product and documents protected by the attorney-client privilege, unduly burdensome, unlimited in scope and time, and not reasonably expected to yield information relevant to the allegations of the Complaint, to the proposed relief, or to the defenses of any Respondent.

**Request for Production No. 69:** (Complaint Counsel's No. 5)

Documents and communications sufficient to show the marketing capabilities of DANIEL B. MOWREY, Ph.D, specifically including documents and communications sufficient to show each Respondent's capabilities with respect to the creation and development of products, the creation, development, and review of promotional materials, the shipment of products, the dissemination of promotional materials, media management services, financing and accounting services, telemarketing services, credit card processing, the provision of customer service, and customs clearance.

**Response:**

In addition to the general objections set forth above, Respondents object to this request to the extent that it is overbroad, seeks attorney work product and documents protected by the attorney-client privilege, unduly burdensome, unlimited in scope and time, and not reasonably

expected to yield information relevant to the allegations of the Complaint, to the proposed relief, or to the defenses of any Respondent.

**Request for Production No. 70:** (Complaint Counsel's No. 5)

Documents and communications sufficient to show the marketing capabilities of MITCHELL K. FREIDLANDER, specifically including documents and communications sufficient to show each Respondent's capabilities with respect to the creation and development of products, the creation, development, and review of promotional materials, the shipment of products, the dissemination of promotional materials, media management services, financing and accounting services, telemarketing services, credit card processing, the provision of customer service, and customs clearance.

**Response:**

In addition to the general objections set forth above, Respondents object to this request to the extent that it is overbroad, seeks attorney work product and documents protected by the attorney-client privilege, unduly burdensome, unlimited in scope and time, and not reasonably expected to yield information relevant to the allegations of the Complaint, to the proposed relief, or to the defenses of any Respondent.

**Request for Production No. 71:** (Complaint Counsel's No. 6)

All documents and communications that support or refute your interpretation(s) of the documents submitted as product substantiation by Respondents.

**Response:**

In addition to the general objections set forth above, Respondents object to this request to the extent that it is overbroad and seeks attorney work product. Respondents further object to this request as premature to the extent that this request seeks information relating to expert

witnesses that Respondents intend to use at the hearing and information relating to non-testifying or consulting expert witnesses.

**Request for Production No. 72:** (Complaint Counsel's No. 6)

All documents and communications that refer or relate to, your interpretation(s) of the documents submitted as product substantiation by Respondents.

**Response:**

In addition to the general objections set forth above, Respondents object to this request to the extent that it is overbroad and seeks attorney work product. Respondents further object to this request as premature to the extent that this request seeks information relating to expert witnesses that Respondents intend to use at the hearing and information relating to non-testifying or consulting expert witnesses.

**Request for Production No. 73:** (Complaint Counsel's No. 7)

All documents and communications referring or relating to the Commission's advertising substantiation standard, specifically including all previously-undisclosed documents and communications referring or relating to your contentions regarding that standard and your interpretation of that standard.

**Response:**

In addition to the general objections set forth above, Respondents object to this request to the extent that it is overbroad and seeks attorney work product. Respondents further object to this request as premature to the extent that this request seeks information relating to expert witnesses that Respondents intend to use at the hearing and information relating to non-testifying or consulting expert witnesses.



**Request for Production No. 74:** (Complaint Counsel's No. 8)

All documents and communications made or adopted by any Respondent that analyze, discuss, or criticize any other documents (including but not limited to clinical studies, test reports, articles, and expert opinions) submitted as substantiation for dietary supplement advertising or promotional materials.

**Response:**

In addition to the general objections set forth above, Respondents object to this request to the extent that it is overbroad, seeks attorney work product, and not reasonably expected to yield information relevant to the allegations of the Complaint, to the proposed relief, or to the defenses of any Respondent. Respondents further object to this request as premature to the extent that this request seeks information relating to expert witnesses that Respondents intend to use at the hearing and information relating to non-testifying or consulting expert witnesses. Respondents further object to this request to the extent that responsive documents are public record and are equally available to Complaint Counsel. Respondents are not obliged to conduct Complaint Counsel's legal research.

**Request for Production No. 75:** (Complaint Counsel's No. 8)

All federal and state court filings and trial or deposition testimony made or adopted by any Respondent that analyze, discuss, or criticize any other documents (including but not limited to clinical studies, test reports, articles, and expert opinions) submitted as substantiation for dietary supplement advertising or promotional materials. (This request specifically includes, but is not limited to, responsive.)

**Response:**

In addition to the general objections set forth above, Respondents object to this request to the extent that it is overbroad, seeks attorney work product, and not reasonably expected to yield information relevant to the allegations of the Complaint, to the proposed relief, or to the defenses of any Respondent. Respondents further object to this request as premature to the extent that this request seeks information relating to expert witnesses that Respondents intend to use at the hearing and information relating to non-testifying or consulting expert witnesses. Respondents further object to this request to the extent that responsive documents are public record and are equally available to Complaint Counsel. Respondents are not obliged to conduct Complaint Counsel's legal research.

**Request for Production No. 76:** (Complaint Counsel's No. 9)

All documents, communications, and tangible things considered, and/or relied upon by any expert witness in connection with his services in this action, including but not limited to any notes on documents and notes of conversations with the parties or their counsel.

**Response:**

In addition to the general objections set forth above, Respondents object to this request to the extent that it is overbroad. Respondents further object to this request as premature to the extent that this request seeks information relating to expert witnesses that Respondents intend to use at the hearing and information relating to non-testifying or consulting expert witnesses.

**Request for Production No. 77:** (Complaint Counsel's No. 10)

All documents, communications, and tangible things given to, or generated by, any expert witness in connection with his services in this action, including but not limited to any documents, communications, and videos, photographs, test, test results, notes, or memoranda.

**Response:**

In addition to the general objections set forth above, Respondents object to this request to the extent that it is overbroad. Respondents further object to this request as premature to the extent that this request seeks information relating to expert witnesses that Respondents intend to use at the hearing and information relating to non-testifying or consulting expert witnesses.

**Request for Production No. 78:** (Complaint Counsel's No. 11)

All documents, communications, tangible things, and evidence listed in your Initial Disclosures and any supplemental Disclosure that you may file.

**Response:**

In addition to the general objections set forth above, Respondents object to this request to the extent that Respondents have already produced responsive documents and/or responsive documents are otherwise already in Complaint Counsel's possession, custody, or control. Additionally, Respondents are uncertain as to what is meant by supplemental Disclosure. Subject to these objections and the general objections stated above, and to the extent not already produced, Respondents will produce any responsive documents that have not been previously produced.

**Request for Production No. 79:** (Complaint Counsel's No. 12)

All communications made to persons and entities other than the Federal Trade Commission or Respondents that refer or relate to the Federal Trade Commission's law enforcement investigation and action against BASIC RESEARCH, LLC. (This request specifically includes, but is not limited to, all communications made to all third parties, including subpoena recipients, since the filing of the administrative Complaint.)

**Response:**

In addition to the general objections set forth above, Respondents object to this request to the extent that it is overbroad, seeks attorney work product and not reasonably expected to yield information relevant to the allegations of the Complaint, to the proposed relief, or to the defenses of any Respondent.

**Request for Production No. 80:** (Complaint Counsel's No. 12)

All communications made to persons and entities other than the Federal Trade Commission or Respondents that refer or relate to the Federal Trade Commission's law enforcement investigation and action against A.G. WATERHOUSE, L.L.C.. (This request specifically includes, but is not limited to, all communications made to all third parties, including subpoena recipients, since the filing of the administrative Complaint.)

**Response:**

In addition to the general objections set forth above, Respondents object to this request to the extent that it is overbroad, seeks attorney work product and not reasonably expected to yield information relevant to the allegations of the Complaint, to the proposed relief, or to the defenses of any Respondent.

**Request for Production No. 81:** (Complaint Counsel's No. 12)

All communications made to persons and entities other than the Federal Trade Commission or Respondents that refer or relate to the Federal Trade Commission's law enforcement investigation and action against KLEIN-BECKER, LLC. (This request specifically includes, but is not limited to, all communications made to all third parties, including subpoena recipients, since the filing of the administrative Complaint.)

**Response:**

In addition to the general objections set forth above, Respondents object to this request to the extent that it is overbroad, seeks attorney work product and not reasonably expected to yield information relevant to the allegations of the Complaint, to the proposed relief, or to the defenses of any Respondent.

**Request for Production No. 82:** (Complaint Counsel's No. 12)

All communications made to persons and entities other than the Federal Trade Commission or Respondents that refer or relate to the Federal Trade Commission's law enforcement investigation and action against NUTRASPORT, LLC. (This request specifically includes, but is not limited to, all communications made to all third parties, including subpoena recipients, since the filing of the administrative Complaint.)

**Response:**

In addition to the general objections set forth above, Respondents object to this request to the extent that it is overbroad, seeks attorney work product and not reasonably expected to yield information relevant to the allegations of the Complaint, to the proposed relief, or to the defenses of any Respondent.

**Request for Production No. 83:** (Complaint Counsel's No. 12)

All communications made to persons and entities other than the Federal Trade Commission or Respondents that refer or relate to the Federal Trade Commission's law enforcement investigation and action against SÖVAGE DERMALOGIC LABORATORIES, LLC. (This request specifically includes, but is not limited to, all communications made to all third parties, including subpoena recipients, since the filing of the administrative Complaint.)

**Response:**

In addition to the general objections set forth above, Respondents object to this request to the extent that it is overbroad, seeks attorney work product and not reasonably expected to yield information relevant to the allegations of the Complaint, to the proposed relief, or to the defenses of any Respondent.

**Request for Production No. 84:** (Complaint Counsel's No. 12)

All communications made to persons and entities other than the Federal Trade Commission or Respondents that refer or relate to the Federal Trade Commission's law enforcement investigation and action against BAN, LLC. (This request specifically includes, but is not limited to, all communications made to all third parties, including subpoena recipients, since the filing of the administrative Complaint.)

**Response:**

In addition to the general objections set forth above, Respondents object to this request to the extent that it is overbroad, seeks attorney work product and not reasonably expected to yield information relevant to the allegations of the Complaint, to the proposed relief, or to the defenses of any Respondent.

**Request for Production No. 85:** (Complaint Counsel's No. 12)

All communications made to persons and entities other than the Federal Trade Commission or Respondents that refer or relate to the Federal Trade Commission's law enforcement investigation and action against DENNIS GAY. (This request specifically includes, but is not limited to, all communications made to all third parties, including subpoena recipients, since the filing of the administrative Complaint.)

**Response:**

In addition to the general objections set forth above, Respondents object to this request to the extent that it is overbroad, seeks attorney work product and not reasonably expected to yield information relevant to the allegations of the Complaint, to the proposed relief, or to the defenses of any Respondent.

**Request for Production No. 86:** (Complaint Counsel's No. 12)

All communications made to persons and entities other than the Federal Trade Commission or Respondents that refer or relate to the Federal Trade Commission's law enforcement investigation and action against DANIEL B. MOWREY, Ph.D. (This request specifically includes, but is not limited to, all communications made to all third parties, including subpoena recipients, since the filing of the administrative Complaint.)

**Response:**

In addition to the general objections set forth above, Respondents object to this request to the extent that it is overbroad, seeks attorney work product and not reasonably expected to yield information relevant to the allegations of the Complaint, to the proposed relief, or to the defenses of any Respondent.

**Request for Production No. 87:** (Complaint Counsel's No. 12)

All communications made to persons and entities other than the Federal Trade Commission or Respondents that refer or relate to the Federal Trade Commission's law enforcement investigation and action against MITCHELL K. FREIDLANDER. (This request specifically includes, but is not limited to, all communications made to all third parties, including subpoena recipients, since the filing of the administrative Complaint.)

**Response:**

In addition to the general objections set forth above, Respondents object to this request to the extent that it is overbroad, seeks attorney work product and not reasonably expected to yield information relevant to the allegations of the Complaint, to the proposed relief, or to the defenses of any Respondent.

**Request for Production No. 88:** (Complaint Counsel's No. 12)

All communications made to persons and entities other than the Federal Trade Commission or Respondents that refer or relate to the Federal Trade Commission's law enforcement investigation and action against MITCHELL K. FREIDLANDER. (This request specifically includes, but is not limited to, all communications made to all third parties, including subpoena recipients, since the filing of the administrative Complaint.)

**Response:**

In addition to the general objections set forth above, Respondents object to this request to the extent that it is overbroad, seeks attorney work product and not reasonably expected to yield information relevant to the allegations of the Complaint, to the proposed relief, or to the defenses of any Respondent.



**Request for Production No. 89:** (Complaint Counsel's No. 13)

From January 1, 2000 to the present, all documents and communications referring or relating to BASIC RESEARCH, LLC's respective practices and/or policies with respect to the retention, storage, movement (both within the Respondents' business premises and from those premises), destruction, or production of documents and communications, whether in written or electronic or other form, specifically including the documents and communications described in Complaint Counsel's current or previous Requests for Production.

(This request specifically includes, but is not limited to, any written retention policies, confidentiality agreements, or destruction protocols, and any documents or communications referring or relating to any action taken to retain, store, move, destroy, or produce documents or communications described in Complaint Counsel's current or previous Requests for Productions. For Corporate Respondents, this request includes the document practices and/or policies of their owners, directors, officers, managers, and/or employees, as well as any consultants with offices at Respondents' business premises.)

**Response:**

In addition to the general objections set forth above, Respondents object to this request to the extent that it is overly broad, and not reasonably expected to yield information relevant to the allegations of the Complaint, to the proposed relief, or to the defenses of any Respondent. Respondents further object on the basis that the request seeks attorney work product, and materials protected by the attorney client privilege.

**Request for Production No. 90:** (Complaint Counsel's No. 13)

From January 1, 2000 to the present, all documents and communications referring or relating to A.G. WATERHOUSE, L.L.C.'s respective practices and/or policies with respect to the retention, storage, movement (both within the Respondents' business premises and from those premises), destruction, or production of documents and communications, whether in written or electronic or other form, specifically including the documents and communications described in Complaint Counsel's current or previous Requests for Production.

(This request specifically includes, but is not limited to, any written retention policies, confidentiality agreements, or destruction protocols, and any documents or communications referring or relating to any action taken to retain, store, move, destroy, or produce documents or communications described in Complaint Counsel's current or previous Requests for Productions. For Corporate Respondents, this request includes the document practices and/or policies of their owners, directors, officers, managers, and/or employees, as well as any consultants with offices at Respondents' business premises.)

**Response:**

In addition to the general objections set forth above, Respondents object to this request to the extent that it is overly broad, and not reasonably expected to yield information relevant to the allegations of the Complaint, to the proposed relief, or to the defenses of any Respondent. Respondents further object on the basis that the request seeks attorney work product, and materials protected by the attorney client privilege.

**Request for Production No. 91:** (Complaint Counsel's No. 13)

From January 1, 2000 to the present, all documents and communications referring or relating to KLEIN-BECKER USA, LLC's respective practices and/or policies with respect to the

retention, storage, movement (both within the Respondents' business premises and from those premises), destruction, or production of documents and communications, whether in written or electronic or other form, specifically including the documents and communications described in Complaint Counsel's current or previous Requests for Production.

(This request specifically includes, but is not limited to, any written retention policies, confidentiality agreements, or destruction protocols, and any documents or communications referring or relating to any action taken to retain, store, move, destroy, or produce documents or communications described in Complaint Counsel's current or previous Requests for Productions. For Corporate Respondents, this request includes the document practices and/or policies of their owners, directors, officers, managers, and/or employees, as well as any consultants with offices at Respondents' business premises.)

**Response:**

In addition to the general objections set forth above, Respondents object to this request to the extent that it is overly broad, and not reasonably expected to yield information relevant to the allegations of the Complaint, to the proposed relief, or to the defenses of any Respondent. Respondents further object on the basis that the request seeks attorney work product, and materials protected by the attorney client privilege.

**Request for Production No. 92:** (Complaint Counsel's No. 13)

From January 1, 2000 to the present, all documents and communications referring or relating to NUTRASPORT, LLC's respective practices and/or policies with respect to the retention, storage, movement (both within the Respondents' business premises and from those premises), destruction, or production of documents and communications, whether in written or

electronic or other form, specifically including the documents and communications described in Complaint Counsel's current or previous Requests for Production.

(This request specifically includes, but is not limited to, any written retention policies, confidentiality agreements, or destruction protocols, and any documents or communications referring or relating to any action taken to retain, store, move, destroy, or produce documents or communications described in Complaint Counsel's current or previous Requests for Productions. For Corporate Respondents, this request includes the document practices and/or policies of their owners, directors, officers, managers, and/or employees, as well as any consultants with offices at Respondents' business premises.)

**Response:**

In addition to the general objections set forth above, Respondents object to this request to the extent that it is overly broad, and not reasonably expected to yield information relevant to the allegations of the Complaint, to the proposed relief, or to the defenses of any Respondent. Respondents further object on the basis that the request seeks attorney work product, and materials protected by the attorney client privilege.

**Request for Production No. 93:** (Complaint Counsel's No. 13)

From January 1, 2000 to the present, all documents and communications referring or relating to SOVAGE DERMALOGIC LABORATORIES, LLC's respective practices and/or policies with respect to the retention, storage, movement (both within the Respondents' business premises and from those premises), destruction, or production of documents and communications, whether in written or electronic or other form, specifically including the documents and communications described in Complaint Counsel's current or previous Requests for Production.

(This request specifically includes, but is not limited to, any written retention policies, confidentiality agreements, or destruction protocols, and any documents or communications referring or relating to any action taken to retain, store, move, destroy, or produce documents or communications described in Complaint Counsel's current or previous Requests for Productions. For Corporate Respondents, this request includes the document practices and/or policies of their owners, directors, officers, managers, and/or employees, as well as any consultants with offices at Respondents' business premises.)

**Response:**

In addition to the general objections set forth above, Respondents object to this request to the extent that it is overly broad, and not reasonably expected to yield information relevant to the allegations of the Complaint, to the proposed relief, or to the defenses of any Respondent. Respondents further object on the basis that the request seeks attorney work product, and materials protected by the attorney client privilege.

**Request for Production No. 94:** (Complaint Counsel's No. 13)

From January 1, 2000 to the present, all documents and communications referring or relating to BAN, LLC's respective practices and/or policies with respect to the retention, storage, movement (both within the Respondents' business premises and from those premises), destruction, or production of documents and communications, whether in written or electronic or other form, specifically including the documents and communications described in Complaint Counsel's current or previous Requests for Production.

(This request specifically includes, but is not limited to, any written retention policies, confidentiality agreements, or destruction protocols, and any documents or communications referring or relating to any action taken to retain, store, move, destroy, or produce documents or

communications described in Complaint Counsel's current or previous Requests for Productions. For Corporate Respondents, this request includes the document practices and/or policies of their owners, directors, officers, managers, and/or employees, as well as any consultants with offices at Respondents' business premises.)

**Response:**

In addition to the general objections set forth above, Respondents object to this request to the extent that it is overly broad, and not reasonably expected to yield information relevant to the allegations of the Complaint, to the proposed relief, or to the defenses of any Respondent. Respondents further object on the basis that the request seeks attorney work product, and materials protected by the attorney client privilege.

**Request for Production No. 95:** (Complaint Counsel's No. 13)

From January 1, 2000 to the present, all documents and communications referring or relating to DENNIS GAY's respective practices and/or policies with respect to the retention, storage, movement (both within the Respondents' business premises and from those premises), destruction, or production of documents and communications, whether in written or electronic or other form, specifically including the documents and communications described in Complaint Counsel's current or previous Requests for Production.

(This request specifically includes, but is not limited to, any written retention policies, confidentiality agreements, or destruction protocols, and any documents or communications referring or relating to any action taken to retain, store, move, destroy, or produce documents or communications described in Complaint Counsel's current or previous Requests for Productions. For Corporate Respondents, this request includes the document practices and/or policies of their

owners, directors, officers, managers, and/or employees, as well as any consultants with offices at Respondents' business premises.)

**Response:**

In addition to the general objections set forth above, Respondents object to this request to the extent that it is overly broad, and not reasonably expected to yield information relevant to the allegations of the Complaint, to the proposed relief, or to the defenses of any Respondent. Respondents further object on the basis that the request seeks attorney work product, and materials protected by the attorney client privilege.

**Request for Production No. 96:** (Complaint Counsel's No. 13)

From January 1, 2000 to the present, all documents and communications referring or relating to DANIEL B. MOWREY, Ph.D's respective practices and/or policies with respect to the retention, storage, movement (both within the Respondents' business premises and from those premises), destruction, or production of documents and communications, whether in written or electronic or other form, specifically including the documents and communications described in Complaint Counsel's current or previous Requests for Production.

(This request specifically includes, but is not limited to, any written retention policies, confidentiality agreements, or destruction protocols, and any documents or communications referring or relating to any action taken to retain, store, move, destroy, or produce documents or communications described in Complaint Counsel's current or previous Requests for Productions. For Corporate Respondents, this request includes the document practices and/or policies of their owners, directors, officers, managers, and/or employees, as well as any consultants with offices at Respondents' business premises.)

**Response:**

In addition to the general objections set forth above, Respondents object to this request to the extent that it is overly broad, and not reasonably expected to yield information relevant to the allegations of the Complaint, to the proposed relief, or to the defenses of any Respondent. Respondents further object on the basis that the request seeks attorney work product, and materials protected by the attorney client privilege.

**Request for Production No. 97:** (Complaint Counsel's No. 13)

From January 1, 2000 to the present, all documents and communications referring or relating to MITCHELL K. FREIDLANDER's respective practices and/or policies with respect to the retention, storage, movement (both within the Respondents' business premises and from those premises), destruction, or production of documents and communications, whether in written or electronic or other form, specifically including the documents and communications described in Complaint Counsel's current or previous Requests for Production.

(This request specifically includes, but is not limited to, any written retention policies, confidentiality agreements, or destruction protocols, and any documents or communications referring or relating to any action taken to retain, store, move, destroy, or produce documents or communications described in Complaint Counsel's current or previous Requests for Productions. For Corporate Respondents, this request includes the document practices and/or policies of their owners, directors, officers, managers, and/or employees, as well as any consultants with offices at Respondents' business premises.)

**Response:**

In addition to the general objections set forth above, Respondents object to this request to the extent that it is overly broad, and not reasonably expected to yield information relevant to the



allegations of the Complaint, to the proposed relief, or to the defenses of any Respondent. Respondents further object on the basis that the request seeks attorney work product, and materials protected by the attorney client privilege.

Respectfully submitted this 4<sup>th</sup> day of November, 2004

Respectfully submitted,



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Gregory L. Hillyer

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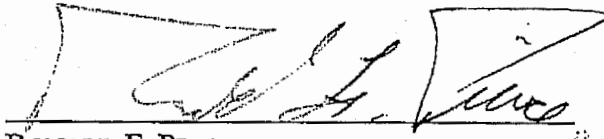
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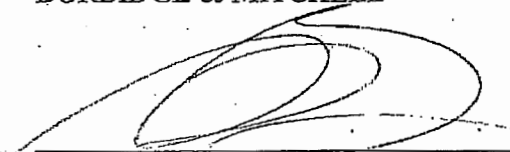
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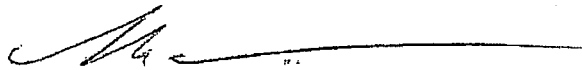
Attorneys for Respondent Daniel B. Mowrey

DATED this 4<sup>th</sup> day of November, 2004.

BURBIDGE & MITCHELL

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

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