

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

In the Matter of

**DYNAMIC HEALTH OF FLORIDA, LLC,
CHHABRA GROUP, LLC,
DBS LABORATORIES, LLC,
Limited liability companies,**

**VINCENT K. CHHABRA,
Individually and as an officer of
Dynamic Health of Florida, LLC,
And Chhabra Group, LLC, and**

**JONATHAN BARASH,
Individually and as an officer of
DBS Laboratories, LLC.**

DOCKET NO. 9317

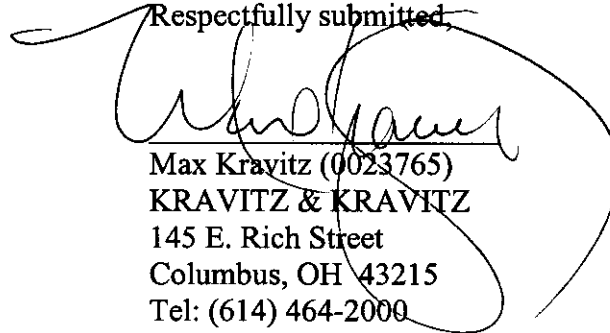
**RESPONDENTS' EXHIBITS IN SUPPORT OF RESPONDENTS'
REPLY TO COMPLAINT COUNSEL'S
PARTIAL OPPOSITION TO
RESPONDENTS' MOTION FOR EXTENSION OF TIME**

- Exhibit A Affidavit of Guy Regalado, dated November 12, 2004 (with attachment)
- Exhibit B Affidavit of Louis Cohen, dated November 12, 2004 (with attachment)
- Exhibit C Letter from Max Kravitz to Janet Evans (with attachment) dated October 14, 2004
- Exhibit D Complaint Counsel's Preliminary Witness List, dated October 15, 2004
- Exhibit E Respondents Vincent Chhabra, Dynamic Health of South Florida, LLC, and
Chhabra Group, LLC's Preliminary Witness List, dated October 25, 2004
- Exhibit F E-mail and written correspondence between Max Kravitz, Sydney Knight and
Janet Evans dated October 12, 2004 through October 29, 2004

Exhibit G Restraining Order in *United States of America v. Vineet K. Chhabra, et al.*,
U.S.D.C. for the Eastern District of Virginia, Case No. 03-530-A, dated
November 24, 2003

Exhibit H Plea Agreement of Vineet K. Chhabra in *United States of America v. Vineet K.*
Chhabra, et al., U.S.D.C. for the Eastern District of Virginia, Case No. 03-530-A,

Respectfully submitted,

A large, stylized handwritten signature in black ink, which appears to read "Max Kravitz". The signature is written over the typed name and extends upwards and to the left.

Max Kravitz (0023765)
KRAVITZ & KRAVITZ
145 E. Rich Street
Columbus, OH 43215
Tel: (614) 464-2000
Fax: (614) 464-2002
Email: mkravitz@kravitzlawnet.com

CERTIFICATE OF SERVICE

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

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

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

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

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

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

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

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

Dated: Columbus, Ohio
November 12, 2004



Max Kravitz

AFFIDAVIT

Re: In Re Dynamic Health of Florida, LLC
FTC Docket No. 9317

Guy Regalado, being duly cautioned and sworn, states the following:

1. I was employed by Chhabra Group, LLC, from August 2002 until December 2003 in the capacity of Vice President, Sales. I am no longer employed by Chhabra Group.

2. Recently, I was served with a subpoena by the Federal Trade Commission concerning the production of documents in the above-described lawsuit.

2. Prior to the commencement of the above-described lawsuit, to the best of my knowledge, all information related to the FTC case against Dynamic Health and others was voluntarily turned over to the law firm of Arent Fox in Washington, D.C., and then forwarded to the government prior to the commencement of this lawsuit.

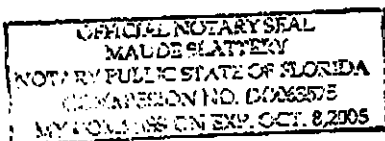
4. The subpoena I received from the FTC requested various documents be produced. I have attached a copy of the subpoena to this affidavit.

3. To the best of my knowledge there is no additional information available that has not already been turned over to the government.

Further deponent sayeth naught.


Guy Regalado

Sworn and subscribed before me this 12th day of November, 2004.




Notary Public

M. Slattery



SUBPOENA DUCES TECUM

Issued Pursuant to Rule 3.34(b), 16 C.F.R. § 3.34(b)(1997)

1. TO

Guy Regalado
1485 North Park Drive
Weston, FL 33326

2. FROM

UNITED STATES OF AMERICA
FEDERAL TRADE COMMISSION

This subpoena requires you to produce and permit inspection and copying of designated books, documents (as defined in Rule 3.34(b)), or tangible things - or to permit inspection of premises - at the date and time specified in Item 5, at the request of Counsel listed in Item 9, in the proceeding described in Item 6.

3. PLACE OF PRODUCTION OR INSPECTION

Federal Trade Commission
600 Pennsylvania Ave., NW
NJ-3213
Washington, DC 20580

4. MATERIAL WILL BE PRODUCED TO

An authorized representative of the FTC

5. DATE AND TIME OF PRODUCTION OR INSPECTION

On or before November 18, 2004

6. SUBJECT OF PROCEEDING

In the matter of
Dynamic Health of Florida, LLC
D. 9317

7. MATERIAL TO BE PRODUCED

See attached specifications. Documents may be returned via Federal Express in lieu of personal appearance on or before November 18, 2004

8. ADMINISTRATIVE LAW JUDGE

Federal Trade Commission
Washington, D.C. 20580

9. COUNSEL REQUESTING SUBPOENA

Janet M. Evans
600 Pennsylvania Ave., NW
NJ-3213
Washington, DC 20580
(202) 326-2125

DATE ISSUED

OCT 29 2004

SECRETARY'S SIGNATURE

GENERAL INSTRUCTIONS

APPEARANCE

The delivery of this subpoena to you by any method prescribed by the Commission's Rules of Practice is legal service and may subject you to a penalty imposed by law for failure to comply.

MOTION TO LIMIT OR QUASH

The Commission's Rules of Practice require that any motion to limit or quash this subpoena be filed within the earlier of 10 days after service or the time for compliance. The original and ten copies of the petition must be filed with the Secretary of the Federal Trade Commission, accompanied by an affidavit of service of the document upon counsel listed in Item 9, and upon all other parties prescribed by the Rules of Practice.

TRAVEL EXPENSES

The Commission's Rules of Practice require that fees and mileage be paid by the party that requested your appearance. You should present your claim to counsel listed in Item 9 for payment. If you are permanently or temporarily living somewhere other than the address on this subpoena and it would require excessive travel for you to appear, you must get prior approval from counsel listed in Item 9.

This subpoena does not require approval by OMB under the Paperwork Reduction Act of 1980.

RETURN OF SERVICE

I hereby certify that a duplicate original of the within subpoena was duly served: (check the method used)

- in person.*
- by registered mail.*
- by leaving copy at principal office or place of business, to wit:*

.....
.....
.....
.....

on the person named herein on:

.....
(Month, day, and year)

.....
(Name of person making service)

.....
(Official title)

ATTACHMENT A

SUBPOENA DUCES TECUM TO GUY REGALADO FOR PRODUCTION OF DOCUMENTARY MATERIALS AND TANGIBLE THINGS

I. SPECIFICATION¹

Demand is hereby made for the following documentary materials and tangible things:

1. All documents referring or relating to the formulation, development, manufacture, testing, labeling, advertising, marketing, promotion, offering for sale, sale, fulfillment, or customer service of any dietary supplement product marketed or proposed to be marketed with a label bearing the "Dynamic Health" or "DBS Labs" name, including but not limited to, Pedia Loss and Fabulously Feminine.

II. DEFINITIONS

1. "All documents" means each document, as defined below, which can be located, discovered or obtained by reasonable, diligent efforts, including without limitation all documents possessed by: (a) you or your counsel; or (b) any other person or entity from whom you can obtain such documents by request or which you have a legal right to bring within your possession by demand.

2. "And" as well as "or" shall be construed both conjunctively and disjunctively, as necessary, in order to bring within the scope of any Document Specification in this Subpoena For Documentary Materials and Tangible Things all information that otherwise might be construed to be outside the scope of the request.

3. "Document" means the complete original and any non-identical copy (whether different from the original because of notations on the copy or otherwise), regardless of origin or location, of any written, typed, printed, transcribed, taped, recorded, filmed, punched, computer-stored, or graphic matter of every type and description, however and by whomever prepared, produced, disseminated or made, including but not limited to any advertisement, book, pamphlet, periodical, contract, file, invoice, memorandum, note, telegram, report, record, handwritten note, working paper, routing slip, package insert, sticker, web page, chart, graph, paper, index, map, tabulation, manual, guide, outline, script, abstract, history, calendar, diary, agenda, minute, code book, data compilation, tests, reports, clinical studies, test reports, scientific literature, articles,

¹ Note: Read and comply with the Definitions and Instructions that follow.

expert opinions, handwritten notes, correspondence, communications, electronic mail, electronically stored data, computer (including handheld computer) material (including print-outs, cards, magnetic or electronic tapes, discs and such codes or instructions as will transform such computer materials into easily understandable form), and video and audio recordings.

4. **"Includes" or "including"** means **"including but not limited to,"** so as to avoid excluding any information that might otherwise be construed to be within the scope of any Specification.

5. **"Referring to" or "relating to"** means discussing, describing, reflecting, containing, analyzing, studying, reporting, commenting, evidencing, constituting, setting forth, considering, recommending, concerning, or pertaining to, in whole or in part.

6. **"You" or "Your"** means the person or entity to whom this subpoena duces tecum is directed.

7. The use of the singular includes the plural, and the plural includes the singular.

8. The use of a verb in any tense shall be construed as the use of the verb in all other tenses.

9. The spelling of a name shall be construed to include all similar variants thereof.

III. INSTRUCTIONS

1. Unless otherwise specified, the time period covered by this Document Specification shall not be limited and all documents responsive to the Specification, regardless of dates or time periods involved, should be provided.

2. A complete copy of each document should be submitted even if only a portion of the document is within the terms of the Specification. The document shall not be edited, cut, or expunged and shall include all covering letters and memoranda, transmittal slips, appendices, tables or other attachments.

3. All information submitted shall be clearly and precisely identified as to the Specification(s) or sub-Specification(s) to which it is responsive. You should consecutively number each page in your submission; each page submitted should be marked with a unique "Bates" document tracking number.

4. Documents covered by this Specification are those which are in your possession or under your actual or constructive custody or control, whether or not such documents were received from or disseminated to any other person or entity including attorneys, accountants,

directors, officers, and employees.

5. If any of the documentary materials requested in this Specification is available in machine-readable form (such as floppy or hard disks, drums, core storage, magnetic tapes or punch cards), state the form in which it is available and describe the type of computer or other machinery required to read the record(s) involved. If the information requested is stored in a computer or a file or record generated by a computer, indicate whether you have an existing program that will print out the record in readable form and state the name, title, business address and telephone number of each person who is familiar with the program.

6. Promotional materials submitted in response to this Specification shall be submitted in the following form(s) as follows: For documents, provide the original promotional materials if available, or, if not available, color copies thereof. For audio-only (or radio) materials, provide a tape cassette (or digitized recording, if in machine-readable form) and a script, as well as any audio out-takes. For video recordings, provide a DVD or VHS cassette and script or storyboard, as well as any video out-takes. For Internet or other online materials, provide a CD (if in machine-readable form) or a clear color printout of all screens displayed in the promotional materials and identify the site, forum, or address.

8. All objections to this Document Specification must be raised in the initial response or are otherwise waived.

9. If any requested material is withheld based on a claim of privilege, submit together with such claim a schedule of the items withheld which states individually for each item withheld: (a) the type, title, specific subject matter, and date of the item; (b) the names, addresses, positions, and organizations of all authors and recipients of the item; and (c) the specific grounds for claiming that the item is privileged. If only part of a responsive document is privileged, all non-privileged portions of the document must be submitted.

CERTIFICATE OF SERVICE


I hereby certify that I have this 29th day of October, 2004 filed and served the attached **SUBPOENA DUCES TECUM TO GUY REGALADO FOR PRODUCTION OF DOCUMENTARY MATERIALS AND TANGIBLE THINGS** upon the following as set forth below:

- (1) one (1) copy via overnight delivery service to:

Guy Regalado
1485 North Park Drive
Weston, FL 33326

Guy Regalado
4899 NW 26th Ave
Boca Raton, FL 33434-2524

Guy Regalado
7287 Panache Way
Boca Raton, FL 33433-6920



Sydney M. Knight

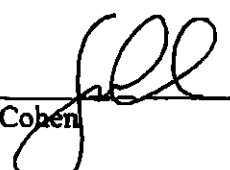
AFFIDAVIT

Re: In Re Dynamic Health of Florida, LLC
FTC Docket No. 9317

Louis Cohen, being duly cautioned and sworn, states the following:

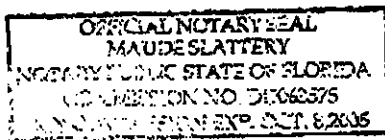
1. I was employed by Chhabra Group, LLC, from September 2002 until December 2003 in the capacity of controller. I am no longer employed by Chhabra Group.
2. Recently, I was served with a subpoena by the Federal Trade Commission concerning the production of documents in the above-described lawsuit.
2. Prior to the commencement of the above-described lawsuit, to the best of my knowledge, all information related to the FTC case against Dynamic Health and others was voluntarily turned over to the law firm of Arent Fox in Washington, D.C., and then forwarded to the government prior to the commencement of this lawsuit.
4. The subpoena I received from the FTC requested various documents be produced. I have attached a copy of the subpoena to this affidavit.
3. To the best of my knowledge there is no additional information available that has not already been turned over to the government.

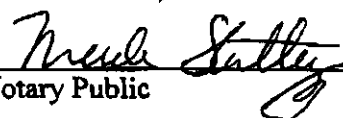
Further deponent sayeth naught.



Louis Cohen

Sworn and subscribed before me this 12th day of November, 2004.





Notary Public

M. Slattery

B



SUBPOENA DUCES TECUM

Issued Pursuant to Rule 3.34(b), 16 C.F.R. § 3.34(b)(1997)

| | |
|--|---|
| <p>1. TO</p> <p>Louis Cohen 1485 North Park Drive Weston, FL 33326</p> | <p>2. FROM</p> <p>UNITED STATES OF AMERICA FEDERAL TRADE COMMISSION</p> |
|--|---|

This subpoena requires you to produce and permit inspection and copying of designated books, documents (as defined in Rule 3.34(b)), or tangible things - or to permit inspection of premises - at the date and time specified in Item 5, at the request of Counsel listed in Item 9, in the proceeding described in Item 6.

| | |
|--|---|
| <p>3. PLACE OF PRODUCTION OR INSPECTION</p> <p>Federal Trade Commission 600 Pennsylvania Ave., NW NJ-3213 Washington, DC 20580</p> | <p>4. MATERIAL WILL BE PRODUCED TO</p> <p>An authorized representative of the FTC</p> <p>5. DATE AND TIME OF PRODUCTION OR INSPECTION</p> <p>On or before November 18, 2004</p> |
|--|---|

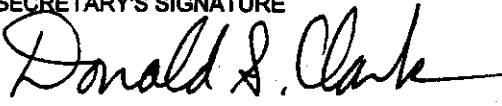
6. SUBJECT OF PROCEEDING

In the matter of
Dynamic Health of Florida, LLC
D. 9317

7. MATERIAL TO BE PRODUCED

See attached specifications. Documents may be returned via Federal Express in lieu of personal appearance on or before November 18, 2004

| | |
|---|---|
| <p>8. ADMINISTRATIVE LAW JUDGE</p> <p>Federal Trade Commission Washington, D.C. 20580</p> | <p>9. COUNSEL REQUESTING SUBPOENA</p> <p>Janet M. Evans 600 Pennsylvania Ave., NW NJ-3213 Washington, DC 20580 (202) 326-2125</p> |
|---|---|

| | |
|---------------------------------------|--|
| <p>DATE ISSUED</p> <p>OCT 29 2004</p> | <p>SECRETARY'S SIGNATURE</p>  |
|---------------------------------------|--|

GENERAL INSTRUCTIONS

APPEARANCE

The delivery of this subpoena to you by any method prescribed by the Commission's Rules of Practice is legal service and may subject you to a penalty imposed by law for failure to comply.

MOTION TO LIMIT OR QUASH

The Commission's Rules of Practice require that any motion to limit or quash this subpoena be filed within the earlier of 10 days after service or the time for compliance. The original and ten copies of the petition must be filed with the Secretary of the Federal Trade Commission, accompanied by an affidavit of service of the document upon counsel listed in Item 9, and upon all other parties prescribed by the Rules of Practice.

TRAVEL EXPENSES

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This subpoena does not require approval by OMB under the Paperwork Reduction Act of 1980.

RETURN OF SERVICE

I hereby certify that a duplicate original of the within subpoena was duly served: (check the method used)

in person.

by registered mail.

by leaving copy at principal office or place of business, to wit:

on the person named herein on:

(Month, day, and year)

(Name of person making service)

(Official title)

ATTACHMENT A

**SUBPOENA DUCES TECUM TO
LOUIS COHEN
FOR PRODUCTION OF
DOCUMENTARY MATERIALS AND TANGIBLE THINGS**

I. SPECIFICATION¹

Demand is hereby made for the following documentary materials and tangible things:

1. All documents referring or relating to the formulation, development, manufacture, testing, labeling, advertising, marketing, promotion, offering for sale, sale, fulfillment, or customer service of any dietary supplement product marketed or proposed to be marketed with a label bearing the "Dynamic Health" or "DBS Labs" name, including but not limited to, Pedia Loss and Fabulously Feminine.

II. DEFINITIONS

1. "All documents" means each document, as defined below, which can be located, discovered or obtained by reasonable, diligent efforts, including without limitation all documents possessed by: (a) you or your counsel; or (b) any other person or entity from whom you can obtain such documents by request or which you have a legal right to bring within your possession by demand.

2. "And" as well as "or" shall be construed both conjunctively and disjunctively, as necessary, in order to bring within the scope of any Document Specification in this Subpoena For Documentary Materials and Tangible Things all information that otherwise might be construed to be outside the scope of the request.

3. "Document" means the complete original and any non-identical copy (whether different from the original because of notations on the copy or otherwise), regardless of origin or location, of any written, typed, printed, transcribed, taped, recorded, filmed, punched, computer-stored, or graphic matter of every type and description, however and by whomever prepared, produced, disseminated or made, including but not limited to any advertisement, book, pamphlet, periodical, contract, file, invoice, memorandum, note, telegram, report, record, handwritten note, working paper, routing slip, package insert, sticker, web page, chart, graph, paper, index, map, tabulation, manual, guide, outline, script, abstract, history, calendar, diary, agenda, minute, code book, data compilation, tests, reports, clinical studies, test reports, scientific literature, articles,

¹ **Note: Read and comply with the Definitions and Instructions that follow.**

expert opinions, handwritten notes, correspondence, communications, electronic mail, electronically stored data, computer (including handheld computer) material (including print-outs, cards, magnetic or electronic tapes, discs and such codes or instructions as will transform such computer materials into easily understandable form), and video and audio recordings.

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6. **"You" or "Your"** means the person or entity to whom this subpoena duces tecum is directed.

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4. Documents covered by this Specification are those which are in your possession or under your actual or constructive custody or control, whether or not such documents were received from or disseminated to any other person or entity including attorneys, accountants,

directors, officers, and employees.

5. If any of the documentary materials requested in this Specification is available in machine-readable form (such as floppy or hard disks, drums, core storage, magnetic tapes or punch cards), state the form in which it is available and describe the type of computer or other machinery required to read the record(s) involved. If the information requested is stored in a computer or a file or record generated by a computer, indicate whether you have an existing program that will print out the record in readable form and state the name, title, business address and telephone number of each person who is familiar with the program.

6. Promotional materials submitted in response to this Specification shall be submitted in the following form(s) as follows: For documents, provide the original promotional materials if available, or, if not available, color copies thereof. For audio-only (or radio) materials, provide a tape cassette (or digitized recording, if in machine-readable form) and a script, as well as any audio out-takes. For video recordings, provide a DVD or VHS cassette and script or storyboard, as well as any video out-takes. For Internet or other online materials, provide a CD (if in machine-readable form) or a clear color printout of all screens displayed in the promotional materials and identify the site, forum, or address.

8. All objections to this Document Specification must be raised in the initial response or are otherwise waived.

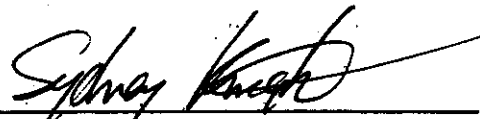
9. If any requested material is withheld based on a claim of privilege, submit together with such claim a schedule of the items withheld which states individually for each item withheld: (a) the type, title, specific subject matter, and date of the item; (b) the names, addresses, positions, and organizations of all authors and recipients of the item; and (c) the specific grounds for claiming that the item is privileged. If only part of a responsive document is privileged, all non-privileged portions of the document must be submitted.

CERTIFICATE OF SERVICE

I hereby certify that I have this 29th day of October, 2004 filed and served the attached **SUBPOENA DUCES TECUM TO LOUIS COHEN FOR PRODUCTION OF DOCUMENTARY MATERIALS AND TANGIBLE THINGS** upon the following as set forth below:

- (1) one (1) copy via overnight delivery service to:

Louis Cohen
1485 North Park Drive
Weston, FL 33326



Sydney M. Knight

Kravitz & Kravitz, LLC

Attorneys at Law

Max Kravitz
Janet Kravitz
Paula Brown
Kort Gatterdam
Of Counsel:
William H. Bluth*
*Also admitted in NY

145 East Rich Street
Columbus, Ohio 43215-5240
614.464.2000
fax 614.464.2002

Writer's email address:
mkravitz@kravitzlawnet.com

October 14, 2004

Janet Evans, Esq.
Sydney Knight, Esq.
Federal Trade Commission
Division of Advertising Practices
601 New Jersey Ave. N.W.
Washington D.C. 20580

VIA FEDERAL EXPRESS

VIA FACSIMILE TRANSMISSION
(202) 326-3259
Pages: 19

Re: Initial Disclosures 16 C.F.R. §3.31(b)

Ms. Evans and Mr. Knight:

This letter shall serve as our initial responses to the above mentioned FTC rule. The documents that pertain to this section are already bates stamped and in your possession, pursuant to the voluntary disclosures made on behalf of DBS Laboratories, LLC by Arent Fox dated December 12, 2003. For your convenience, a copy of the letter signed by Brian P. Waldman and James A. Kaminski referencing the material is enclosed. If you have misplaced or destroyed the materials referenced in the Arent Fox correspondence, please advise and I will send you another complete copy.

I realize that the voluntary submissions by Arent Fox subsume material outside the four corners of this lawsuit. Please consider materials referenced in the Arent Fox voluntary submissions concerning products other than Pedia Loss and Fabulously Feminine as irrelevant and outside the scope of Respondents' initial responses.

C

October 14, 2004

Page 2 of 2

The documents included in the Arent Fox disclosures are sufficient to satisfy 16 C.F.R. §3.31(b). According to the scheduling order set forth by the Chief Administrative Law Judge, specific information regarding witnesses and experts are not due from Respondents at this time. We are reviewing all of the materials in these initial disclosures to determine which articles, authors and experts can be available for this litigation as well as any other witnesses and experts that may be available. For present purposes, you may assume that we will be calling all persons with pertinent information.

If you are of the opinion that the requirements of 16 C.F.R. §3.31(b) have not been met by the materials already in your possession and referred to at the beginning of this letter, please advise and we will review your concern. Once again, as to witnesses and experts, we have determined that 16 C.F.R. § 3.31(b), when considered *in pari materia* with the Scheduling Order in this case, are not due at this time.

Very truly yours,



Max Kravitz

MK:jfg



Arent Fox Kintner Plotkin & Kahn, PLLC
1050 Connecticut Avenue, NW
Washington, DC 20036-5339
Phone 202/857-6000
Fax 202/857-6395
www.arentfox.com

December 12, 2003

Brian P. Waldman
202/857-8971
waldman.brian@arentfox.com

BY FEDERAL EXPRESS

James A. Kaminski
202/828-3447
kaminski.james@arentfox.com

Janet Evans, Esq.
Sydney Knight, Esq.
Federal Trade Commission
Division of Advertising Practices
601 New Jersey Ave. N.W.
Washington, D.C. 20580

Re: DBS Laboratories, LLC

Dear Ms. Evans and Mr. Knight:

Enclosed please find a voluntary submission of information made on behalf of DBS Laboratories, LLC ("DBS Labs" or "the Company"), marketers and distributors of dietary supplement products. As discussed during our telephone conversation on December 2, 2003, DBS Labs became aware of the Federal Trade Commission's ("FTC") inquiry into products marketed by the Company when it mistakenly received a copy of the Civil Investigative Demand ("CID") issued to USA Prescriptions, Inc. ("USAP"). That company is not affiliated with DBS Labs, but is an Internet retailer of DBS Labs' products.

DBS Labs seeks to cooperate fully with the FTC to resolve any concerns regarding the Company's products. To that end, the Company has provided responses to the Specifications and Interrogatories contained in the CID issued to USAP, although from the Company's perspective, of course. Attachment 1 presents in bold type the Specifications (as written) in the CID, followed by DBS Labs' responses. Attachment 2 presents in bold type the Interrogatories (as written) in the CID, followed by DBS Labs' responses. Responsive documents are Bates labeled and identified accordingly.

It is important to note that while DBS Labs was incorporated in March 2003, the Company only began selling the subject products in August 2003, with total sales to date of less than \$19,000. Further, while the Company continues to promote and sell 5 of the 6 products covered by this submission, the Company voluntarily has decided to discontinue further promotion of its Pedia Loss product pending further market analysis.

We are hopeful that you find this information useful in resolving any concerns you may have. To the extent that additional relevant information becomes available to the Company, we voluntarily will supplement this submission. DBS Labs requests that all



Janet Evans, Esq.
Sydney Knight, Esq.
December 12, 2003
Page 2

documents and information submitted pursuant to this voluntary submission remain confidential pursuant to 15 U.S.C. §§ 46(f) and 57b-2(f) and 16 C.F.R. §§ 4.10-4.11.

Please contact us if you have any questions.

Sincerely,

Brian P. Waldman / gw

Brian P. Waldman

James A. Kaminski

James A. Kaminski

DBS LABORATORIES, LLC

Specification 1. Two (2) packages of the following, in their original packaging, including any package insert (s):

**Pedia Loss
Apimin-AM
Apimin-PM
Carb-Crusher
Fat-Fighter and
Thermo-Loss.**

Response: Two packages of each product are enclosed herein. The product Carb-Crusher was renamed and is currently marketed under the name "Carb-Control." DBS does not offer a product under the name "Thermo-Loss," but assumes that the FTC is referring to the product "Thermo Lean." All references to "Carb-Crusher" and "Thermo-Loss" will be construed to mean "Carb-Control" and "Thermo Lean."

Specification 2. A copy of every advertisement for the products identified in Specification 1, including but not limited to package labeling, package inserts, Web pages, promotional materials, marketing materials, and telemarketing materials, that has been disseminated or read to consumers, health professionals, distributors, or any other person since January 1, 2001, or that has been prepared for future dissemination or use. Review the Instructions and Definitions that accompany these Specifications for directions regarding compliance with this Specification 1.

Response: Responsive documents are provided herein and Bates labeled DBS 0001 – DBS 0979.

Specification 3. In connection with the products identified in Specification 1, all scripts that have been read to consumers or otherwise used to make oral solicitations to consumers, and all instructional or educational materials, manuals, training material (including audio or video tapes of oral instructions), quality control standards, and any other documents disclosing or setting forth direction, advice, recommendations, guidance, control, monitoring or instruction referring or relating to the promotion or advertising of such products to consumers provided since

DBS LABORATORIES, LLC

January 1, 2001 to telephone sales personnel utilized or employed by you.

Response: There are no responsive documents. DBS Labs receives only inbound telemarketing. When a consumer contacts a call center about one of the DBS Labs' products, the customer service representative responds by visiting the retailer's web site that generated the consumer's inquiry and describing the product by reemphasizing the representations set forth on that web site.

Specification 4. All documents, including but not limited to tests, reports, studies, scientific literature, and written opinions, you relied upon as substantiation for each of the following claims, regardless of whether you believe each claim is made in your advertisements or promotional materials:

- a. **Pedia Loss suppresses children's appetite;**
- b. **Pedia Loss increases fat burning in children;**
- c. **Pedia Loss slows children's absorption of carbohydrates;**
- d. **Pedia Loss allows children to eat their favorite foods without gaining weight;**
- e. **Apimin-AM significantly increases metabolism and burns fat;**
- f. **Apimin-AM suppresses appetite and thereby helps users control their weight;**
- g. **Apimin-AM causes or contributes to significant weight loss;**
- h. **Apimin-PM significantly increases fat metabolism and suppresses appetite;**
- i. **Apimin-PM causes or contributes to significant weight loss;**

DBS LABORATORIES, LLC

- j. Apimin-PM can help users lose up to 20 pounds in 8 weeks;**
- k. Carb-Crusher blocks digestion and absorption of dietary sugars and starches;**
- l. Taking two capsules of Carb-Crusher has been scientifically shown to block absorption of 50 percent of the carbohydrates in a meal;**
- m. Carb-Crusher helps prevent weight gain from carbohydrate or starch intake;**
- n. Carb-Crusher causes or contributes to significant weight loss without the need to diet or exercise;**
- o. Carb-Crusher has been scientifically shown to cause weight loss of 10 pounds per month without any changes in diet or exercise;**
- p. Fat-Fighter traps fat molecules and prevents their absorption into the bloodstream;**
- q. Fat-Fighter can attract and hold up to six times its weight in fat;**
- r. Fat-Fighter causes or contributes to significant weight loss;**
- s. Thermo-Loss significantly increases metabolism and burns calories and fat;**
- t. Thermo-Loss binds to and blocks the absorption of fat; and**
- u. Thermo-Loss causes or contributes to significant weight loss.**

Response: DBS Labs does not believe that all of the claims above are made in its advertisements and promotional materials. However, for purposes of clarity and completeness,

DBS LABORATORIES, LLC

the Company has included each of the claims specified in the CID issued to USA Prescriptions, Inc.

Please note that DBS Labs was incorporated in March 2003, but only started selling the products in Specification 1 in August 2003. Prior to product launch, the Company, with the assistance of consultants, compiled information to establish a reasonable basis to substantiate all product claims. In part, that information was collected and compiled under the name "Health Tek Laboratories."

The relevant substantiation for each product is indicated below:

Response: Subparts a-d

Responsive documents are provided herein and Bates labeled DBS 0001 – DBS 0010, DBS 0980 – DBS 0990, DBS 1034 – DBS 1168, and *passim*.

Response: Subparts e-g

Responsive documents are provided herein and Bates labeled DBS 0011 – 0023, DBS 0999 – DBS 1011 and *passim*.

Response: Subparts h-j

Responsive documents are provided herein and Bates labeled DBS 0024 – 0029, DBS 0991 – DBS 0994 and *passim*.

Response: Subparts k-o

Responsive documents are provided herein and Bates labeled DBS 0030 – 0036, DBS 1020 – DBS 1033 and *passim*.

Response: Subparts p-r

Responsive documents are provided herein and Bates labeled DBS 0037 – DBS 0041, DBS 1012 – DBS 1019 and *passim*.

DBS LABORATORIES, LLC

Response: Subparts s-u

Responsive documents are provided herein and Bates labeled DBS 0042 – DBS 0046, DBS 0995 – DBS 0998 and *passim*.

Specification 5. All documents that tend to call into question or disprove any of the claims listed in Specification 4.

Response: There are no responsive documents.

Specification 6. All laboratory tests and analyses of the products identified in Specification 1 and their ingredients.

Response: Responsive documents are provided herein and Bates labeled DBS 1170 – DBS 1171.

Specification 7. All documents referring to or relating to any clinical study of the products identified in Specification 1, or any clinical study conducted by you or on your behalf on any product with a formulation similar to products identified in Specification 1, whether or not the study was completed or published, including but not limited to:

- a. All draft and final protocols;
- b. All data, including baseline and outcome measurements for all subjects enrolled in the study, including any subjects who may not have completed the study,
- c. All instructions provided to study participants;
- d. All logs filled out by each of the subjects enrolled in the study, including any subjects who may not have completed the study;
- e. All compliance data for each of the subjects enrolled in the study, including and subjects who might not have completed the study;
- f. Copies of each of the test instruments used in the study; and

DBS LABORATORIES, LLC

- g. All other documents not explicitly referenced herein that were used by the researchers to obtain data, determine subject non-compliance, or otherwise provide guidance regarding the execution of the study.
- h. All communications, with any persons or entities, referring or relating to the study.

Response: There are no responsive documents.

Specification 8. All documents constituting, referring to, or relating to marketing plans or strategies for the products identified in Specification 1. This includes, but is not limited to, all marketing studies and surveys conducted regarding the products.

Response: There are no responsive documents.

Specification 9. All documents constituting, referring to, or relating to any media, creative, or copy strategy, creative planning, or creative review for each advertisement or package label requested in Specifications 1 and 2.

Response: There are no responsive documents.

Specification 10. All documents constituting, referring to, or relating to market or consumer research, regardless of whether completed or merely proposed, whether qualitative, empirical, or otherwise, referring or relating to any advertisement or draft advertisement or package label requested in Specifications 1 and 2.

Response: There are no responsive documents.

Specification 11. All documents constituting, referring to, or relating to consumer complaints you received about the products identified in Specification 1, including but not limited to requests for refunds, and your responses.

DBS LABORATORIES, LLC

Response: DBS Labs has received no consumer complaints regarding the subject products.

Specification 12. All documents constituting, referring to, or relating to any communications between you and the FDA, or any other federal, state, or local government agency or entity, referring or relating to products identified in Specification 1, including but not limited to notifications made pursuant to Section 6 of the Dietary Supplement Health and Education Act of 1994, 21 U.S.C. § 343(6).

Response: There are no responsive documents.

Specification 13. All documents constituting, referring to, or relating to any communications between you and any Better Business Bureau, consumer group, or consumer protection entity referring or relating to products identified in Specification 1.

Response: There are no responsive documents.

Specification 14. Each U.S. Internal Revenue Service Corporate Tax Filing, profit and loss statement, and balance sheet for USA Prescription, Inc. from 2001 to the present.

Response: DBS Labs was incorporated in March 2003. There are no responsive documents.

DBS LABORATORIES, LLC

Interrogatory 1. For USA Prescription, Inc., state its full legal name, principal address, telephone number, state and date of incorporation or licensing, and all other names under which the company has done business, and identify all of its officers, directors, principals, and shareholders with five percent or more ownership, stating each shareholder's percentage of ownership.

Response:

DBS Laboratories, LLC
1485 North Park Dr.
Weston, FL 33326
Tel: (954) 888-4013

Incorporated: March 2003

Chhabra International Ltd. owns a 75% interest.
Jonathan Barash owns a 25% interest.

Interrogatory 2. For each advertisement requested in Specification 2 of the CID for Documents, describe fully the dates, times, and locations the ads were disseminated. For print ads, identify every publication, date, and community of dissemination; for television or radio ads, provide every network, system or station, date, and community of dissemination; for all other materials, provide sufficient information to permit a determination of how many items were disseminated, when, where, and to whom.

Response: Responsive information is provided in the document Bates labeled DBS 1169.

Interrogatory 3. Identify each of the persons or entities listed below and describe the role, if any, that that person or entity plays in the ownership, manufacturing, packaging, advertising, marketing (including telemarketing, web site design), sale, and distributing (including fulfillment) of the products identified in Specification 1 of the CID for Documents:

DBS LABORATORIES, LLC

a. Dynamic Health Products, Inc.

Response: This entity has no role with respect to the subject products. DBS Labs is not aware of the existence of this entity.

b. Dynamic Health International Ltd., Dublin, IE

Response: This entity has no role with respect to the subject products.

c. Mandeep Taneja

Response: DBS Labs does not know this person.

d. Coral Pharmaceuticals, Inc.

Response: DBS Labs believes that this entity is the owner of USA Prescriptions, Inc., an Internet retailer of the subject products.

e. Delta Body Systems Institute, Inc.

Response: This entity has no role with respect to the subject products.

f. DBS Laboratories

Response: This entity is a limited liability company that acquires product formulations, coordinates the manufacturing of dietary supplements, and distributes those supplements.

g. Brian Yusem

Response: This individual has no role with respect to the subject products.

h. USA Prescription, Inc.

DBS LABORATORIES, LLC

Response: This entity is an Internet retailer of the subject products.

i. Chhabra Group LLC

Response: This entity is a management company. Chhabra Group personnel serve as consultants to DBS Labs.

j. Chhabra Internet Support Center LLC

Response: This entity operates a call center and provides customer service functions related to the subject products.

k. Chhabra Internet Fulfillment Services LLC

Response: This entity provides fulfillment services for the subject products.

l. Chhabra Management LLC

Response: This entity has no role with respect to the subject products.

m. Metability of Florida LLC

Response: This entity provides web-hosting and software services to DBS Labs.

n. Metability, LLC

Response: This entity has no role with respect to the subject products.

o. 1800INKJETS LLC

Response: This entity has no role with respect to the subject products.

DBS LABORATORIES, LLC

p. **Vincent K. Chhabra**

Response: This individual is the CEO of Chhabra Group LLC, the entity that provides consulting services to DBS Labs.

q. **Carleta Carolina**

Response: DBS Labs believes that this individual is the owner of USA Prescriptions, Inc., an Internet retailer of the subject products.

r. **Sabina Faruqui**

Response: This individual is an employee of Chhabra Group, LLC.

Interrogatory 4. For each person or entity listed in interrogatory 3, describe the relationship to each other person or entity on the list.

Response: Please see responses to Interrogatory #3, incorporated herein by reference.

Interrogatory 5. Identify, by name, address, and telephone number, all individuals and companies, including but not limited to advertising agencies, telemarketing firms, marketing firms, public relations firms, and production companies, who have participated in anyway in the sales of the products identified in Specification 1 of the CID for Documents or the development, preparation, or placement of the advertisements, promotional materials, package labels, and inserts requested in Specification 2 of the CID for Documents. Include in your answer a brief description of the services that each individual and/or company has provided.

Response:

For advertisement, label and packaging creation:

Kreating, LLC
1485 N Park Dr

DBS LABORATORIES, LLC

Weston, FL 33326
Tel: (954) 888-4000

For coordination of media purchases:

Chhabra Group, LLC
1455 N Park Dr.
Weston, FL 33326
Tel: (954) 888-4000

For public relations services:

Hill, Knowlton, & Samcor
2100 Ponce de Leon Blvd.
Suite 1201
Coral Gables, FL 33134
Tel: (305) 443-5454

Interrogatory 6. Identify, by name, business address, and telephone number:

- a. All individuals and companies whom you have authorized to sell the products identified in Specification 1 of the CID for Documents; and**

USAPrescription.com
AtCostMeds.com
AmericanMedsRx.com
RapidPharmacy.com
24X7Meds.com
24HourDrugstore.com
CVS Online Pharmacy Store
MedPharmacy.com
Feelingwell.com
DynamicHealthProducts.com
USARx.com
MedPharmacy.com
247Drugstore.com
SelectPharmacy.com
ClickMeds.com
MedPrescribe.com

DBS LABORATORIES, LLC

EPrescribe.com
FastMedRx.com
E-Pillsshop.com
RxClinic.com
EasyRxPharmacy.com
Active-Prescriptions.com
SafeWebMedical.com

- b. **All individuals and companies who have authorized or licensed you to market the products identified in Specification 1 of the CID for Documents, or any of the ingredients contained therein.**

Response: There are no such authorizations or licenses.

Interrogatory 7. Identify all experts whom you consulted, or upon whose advice, opinion, or expertise you relied to substantiate the claims set forth in Specification 4 of the CID for Documents.

Response:

Pharmachem Laboratories, Inc.
265 Harrison Avenue
Kearny, NJ 07032
Tel: (800) 526-0609 or (201) 246-1000

Vanson HaloSource, Inc.
14716 NE 87th Street
Redmond, WA 98052
Tel: (425) 881-6464
Fax: (425) 882-2476

Dr. Alberto Guzman
1605 Osceola St
Johnson City, TN 37604.

Nutrition Formulators
Beacon Industrial Park
11005 NW 33rd Street
Miami, FL 33172

DBS LABORATORIES, LLC

Tel: (305) 592-2111
Fax: (305) 592-5551

Interrogatory 8. For each of the products identified in Specification 1 of the CID for Documents:

- a. Identify by name and quantity each ingredient contained the recommended dosage, and**

Response: This information is identified in the documents Bates labeled DBS 1170 – DBS 1171.

- b. Provide the name, business address, and telephone number of the manufacturer of the product and its ingredients.**

Response:

Nutrition Formulators
Beacon Industrial Park
11005 NW 33rd Street,
Miami, FL 33172
Tel: (305) 592-2111
Fax: (305) 592-5551

Highland Laboratories
110 South Garfield Street
Mount Angel, OR 97362
Tel: (503) 845-9223

Interrogatory 9. For each of the products identified in Specification 1 of the CID for Documents, provide the following information: the product name; the per unit price to consumers; the number of units sold in each of 2001, 2002, and 2003 to date; your gross sales revenue for each of 2001, 2002, and 2003 to date; and the advertising expenditure for the product in 2001, 2002, and 2003 to date. If you maintain financial data on a fiscal year schedule that differs from the calendar year schedule, provide this data according to those fiscal years and identify the dates of the fiscal year.

DBS LABORATORIES, LLC

Response: Since August 2003, when the products were first sold, gross sales amount to \$19,000.

The total number of units sold per product is listed below:

ThermoLean - 66
Carb-Control - 176
Fat-Fighter - 213
Apimin-AM - 58
Apimin-PM - 53
Pedia Loss - 225

Advertising expenditures were incurred for two products, Fat-Fighter and Carb-Control, and amounted to \$152,000 for 2003. There were no other advertising expenditures for the other subject products.

Interrogatory 10. State your gross sales revenue for 2001, 2002, and 2003 to date. If you maintain financial data on a fiscal year schedule that differs from the calendar year, provide the total gross sales revenue according to those fiscal years and identify the dates of the fiscal year.

Response: Since August 2003, when the products were first sold, gross sales amount to less than \$19,000.

Interrogatory 11. Identify, by name, address, telephone number, and website address (URL), each USA Prescription affiliate that operates a website that features information about one or more of the products identified in Specification 1 of the CID for Documents, and state, with regard to those products, what assistance you, or any of the other entities identified in Specification 3 of this CID, provided to such sites in connection with advertising, marketing (including telemarketing), and sales (including fulfillment) of those products.

Response: DBS Labs operates the following two informational web sites: www.dynamichealthproducts.com and www.dbslabs.com.

**UNITED STATES OF AMERICA
FEDERAL TRADE COMMISSION**

| | | |
|--|---|-----------------|
| In the Matter of |) | |
| |) | |
| DYNAMIC HEALTH OF FLORIDA, LLC, |) | |
| CHHABRA GROUP, LLC, |) | DOCKET NO. 9317 |
| DBS LABORATORIES, LLC, |) | |
| VINEET K. CHHABRA, a/k/a VINCENT K. CHHABRA, and |) | |
| JONATHAN BARASH, |) | |
| Respondents. |) | |

COMPLAINT COUNSEL'S PRELIMINARY WITNESS LIST

Pursuant to the August 2, 2004 *Scheduling Order*, complaint counsel submits its Preliminary Witness List to respondents. As complaint counsel, we may obtain additional information, and we may modify this list, including adding witnesses and/or modifying the scope of testimony. Complaint counsel reserves the right to call additional witnesses for rebuttal and to call witnesses listed on respondents' witness list(s), once submitted.

Fact Witnesses

Complaint counsel may call one or more of the following witnesses (or, where applicable, yet to be identified representatives of the following entities) to testify, by deposition or live testimony, in this matter:

1. Arent Fox Kintner Plotkin & Kahn PLLC. A representative of this firm may be called to testify, without limitation, to respondents' statement that the challenged advertising was prepared and approved by this law firm.

2. Barash, Jonathan. Mr. Barash was manager of DBS Laboratories LLC and assisted in the development, marketing, and/or sale of the challenged products. He may be called to testify, without limitation, regarding respondents' involvement in the advertising, marketing, offering for sale, sale, and distribution of the challenged products; the development, advertising, marketing, offering for sale, sale, and distribution of those products; and/or the substantiation for advertising, labeling, marketing, and sales claims for the products.

3. Chhabra, Vineent a/k/a Vincent Chhabra. Mr. Chhabra may be called to testify, without limitation, regarding respondents' involvement in the advertising, marketing, offering for sale, sale, and distribution of the challenged products; the development, advertising, marketing, offering for sale, sale, and distribution of those products; and/or the substantiation for advertising, labeling, marketing, and sales claims.

4. Chhabra International, Ltd. This entity participated in the development and management of respondents' dietary supplement business. A representative of this entity may be called to testify, without limitation, regarding respondents' involvement in the advertising, marketing, offering for sale, sale, and distribution of the challenged products; the development, advertising, marketing, offering for sale, sale, and distribution of those products; and/or the substantiation for advertising, labeling, marketing, and sales claims.

5. Chhabra Group, LLC. Chhabra Group participated in the coordination of media purchases for respondents' dietary supplements. A representative of Chhabra Group may be called to testify, without limitation, regarding respondents' involvement in the advertising, marketing, offering for sale, sale, and distribution of the challenged products; the development, advertising, marketing,

offering for sale, sale, and distribution of those products; and/or the substantiation for advertising, labeling, marketing, and sales claims.

6. CG Fulfillment. CG Fulfillment participated in fulfilling orders for respondents' dietary supplements. A representative of CG Fulfillment may be called to testify, without limitation, regarding respondents' involvement in the sale and distribution of the challenged products.

7. Chhabra Internet Support Center LLC. This entity provided call center and customer service functions related to respondents' dietary supplements. A representative of Chhabra Internet Support Center LLC may be called to testify, without limitation, regarding respondents' involvement in the advertising, sale, and distribution of the challenged products.

8. Chhabra Internet Fulfillment Services LLC. This entity participated in fulfillment services for respondents' dietary supplements. A representative of Chhabra Internet Support Center LLC may be called to testify, without limitation, regarding respondents' involvement in the advertising, sale, and distribution of the challenged products.

9. Cohen, Lewis. Mr. Cohen is an affiliate/employee of Mr. Chhabra. Mr. Cohen may be called to testify, without limitation, regarding respondents' involvement in the advertising, sale, and distribution of the challenged products.

10. Colbert, Lynne. Ms. Colbert is an investigator employed by the FTC. She may be called to testify, without limitation, regarding information obtained in the course of the investigation in this matter.

11. Cox, Devenette. Ms. Cox is an investigator employed by the FTC. She may be called to testify, without limitation, regarding information obtained in the course of the investigation in

this matter.

12. Dynamic Health of Florida, LLC. A representative of respondent Dynamic Health of Florida, LLC may be called to testify, without limitation, regarding respondents' involvement in the advertising, marketing, offering for sale, sale, and distribution of the challenged products; the development, advertising, marketing, offering for sale, sale, and distribution of those products; and the substantiation for advertising, labeling, marketing, and sales claims.

13. Faruqui, Sabina. Ms. Faruqui, an officer and owner of respondents Dynamic Health of Florida, LLC and Chhabra Group, LLC, may be called to testify, without limitation, regarding respondents' involvement in the advertising, marketing, offering for sale, sale, and distribution of the challenged products; the development, advertising, marketing, offering for sale, sale, and distribution of those products; and the substantiation for advertising, labeling, marketing, and sales claims.

14. Guzman, Dr. Alberto. Dr. Guzman provided services to respondents in connection with substantiation of claims. He may be called to testify, without limitation, regarding respondents' involvement in the advertising, marketing, offering for sale, sale, and distribution of the challenged products; the development, advertising, marketing, offering for sale, sale, and distribution of those products; and the substantiation for advertising, labeling, marketing, and sales claims.

15. Highland Laboratories. Highland Laboratories is a manufacturer of dietary supplements. A representative of Highland may be called to testify, without limitation, regarding respondents' involvement in the purchase, marketing, and sale of the challenged products, and the

substantiation for the advertising and marketing claims.

16. Hill, Knowlton & Samcor. Hill, Knowlton & Samcor provided public relations services in connection with the target products. A representative of Hill, Knowlton may be called to testify, without limitation, regarding respondents' involvement in the advertising and marketing of the challenged products.

17. Kreating, LLC. Kreating participated in the creation of advertising, labeling, and packaging for the challenged products. A representative of Kreating may be called to testify, without limitation, regarding the respondents' involvement in these activities and regarding the development, advertising, marketing, offering for sale, sale, and distribution of those products.

18. Metability of Florida, LLC. Metability of Florida provides web-hosting and software services. A representative of Metability may be called to testify, without limitation, regarding respondents' involvement in the advertising, marketing, offering for sale, sale and distribution of the target products via the Internet.

19. Nutrition Formulators. This entity is a manufacturer of some of respondents' dietary supplements. A representative of Nutrition Formulators may be called to testify, without limitation, regarding respondents' involvement in the purchase, marketing, and sale of the challenged products, and the substantiation for the advertising and marketing claims.

20. Pharmachem Laboratories, Inc. This is a vendor of nutritional materials. A representative of Pharmachem may be called to testify, without limitation, regarding respondents' involvement in the purchase, marketing, and sale of the challenged products, and the substantiation for the advertising and marketing claims.

21. Regalado, Guy. Mr. Regalado is an associate/employee of Mr. Chhabra. He may be called to testify, without limitation, regarding respondents' involvement in the advertising, marketing, offering for sale, sale, and distribution of the challenged products; the development, advertising, marketing, offering for sale, sale, and distribution of those products; and the substantiation for advertising, labeling, marketing, and sales claims.

22. Reinbergs, John. Mr. Reinbergs was an associate/employee of Mr. Chhabra. He may be called to testify, without limitation, regarding respondents' involvement in the advertising, marketing, offering for sale, sale, and distribution of the challenged products; the development, advertising, marketing, offering for sale, sale, and distribution of those products; and the substantiation for advertising, labeling, marketing, and sales claims.

23. Swatt, Randy. Ms. Swatt is an associate/employee of Mr. Chhabra. She may be called to testify, without limitation, regarding respondents' involvement in the advertising, marketing, offering for sale, sale, and distribution of the challenged products; the development, advertising, marketing, offering for sale, sale, and distribution of those products; and the substantiation for advertising, labeling, marketing, and sales claims.

24. Trant, Dr. Aileen. Dr. Trant is the Director of Research for Daily Wellness, marketer of Women's ArginMax. She may be called to testify, without limitation, to the ingredients in Women's ArginMax.

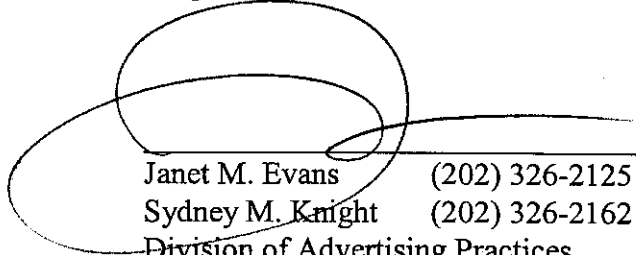
25. David Wood. Mr. Wood assisted in the development of the dietary supplements sold by respondents. He may be called to testify, without limitation, regarding respondents' involvement in the advertising, marketing, offering for sale, sale, and distribution of the challenged products;

the development, advertising, marketing, offering for sale, sale, and distribution of those products; and the substantiation for advertising, labeling, marketing, and sales claims.

Expert Witnesses

Pursuant to the August 2, 2004 *Scheduling Order*, Complaint Counsel will identify its expert witnesses on November 5, 2004.

Respectfully submitted,



Janet M. Evans (202) 326-2125

Sydney M. Knight (202) 326-2162

Division of Advertising Practices

FEDERAL TRADE COMMISSION

600 Pennsylvania Avenue, N.W.

Mail drop NJ-3212

Washington, D.C. 20580

jevans@ftc.gov

sknight@ftc.gov

Fax: (202) 326-3259

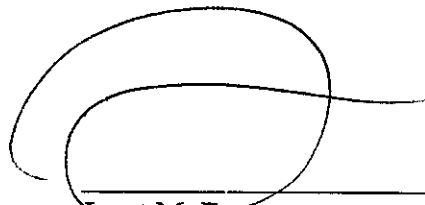
Dated: October 15, 2004

CERTIFICATE OF SERVICE

I hereby certify that I have this 15nd day of October 2004, served the attached COMPLAINT COUNSEL'S PRELIMINARY WITNESS LIST upon the following as set forth below:

Max Kravitz, Esq.
Kravitz & Kravitz LLC
145 East Rich Street
Columbus, OH 43215
mkravitz@kravitzlawnet.com
614-464-2000
fax: 614-464-2002
via electronic mail and express mail

DBS Laboratories LLC
1485 North Park Dr.,
Weston, FL 33326.
via express mail



Janet M. Evans

UNITED STATES OF AMERICA
BEFORE THE FEDERAL TRADE COMMISSION

In the Matter of)
)
)
)
DYNAMIC HEALTH OF FLORIDA, LLC,)
CHHABRA GROUP, LLC,)
DBS LABORATORIES, LLC,)
Limited liability companies,)
)
VINCENT K. CHHABRA,)
Individually and as an officer of)
Dynamic Health of Florida, LLC,)
And Chhabra Group, LLC, and)
)
JONATHAN BARASH,)
Individually and as an officer of)
DBS Laboratories, LLC.)
)

DOCKET NO. 9317

**RESPONDENTS VINCENT CHHABRA, DYNAMIC HEALTH OF SOUTH
FLORIDA, LLC, AND CHHABRA GROUP, LLC'S PRELIMINARY
WITNESS LIST**

Pursuant to the August 2, 2004 *Scheduling Order*, Respondents' counsel submits its Preliminary Witness List to complaint counsel. As Respondents' counsel, I may obtain additional information, and may modify this list, including adding witnesses and/or modifying the scope of testimony. Respondents' counsel reserves the right to call additional witnesses for rebuttal and to call witnesses listed on complaint counsel's witness list(s), once submitted.

Fact Witnesses

Respondents' counsel may call one or more of the following witnesses (or, where applicable, yet to be identified representatives of the following entities to testify, by deposition or live testimony, in this matter:

1. Arent Fox Kintern Plotkin & Kahn PLLC ("Arent Fox"). A representative of this firm may be called to testify, without limitation, to Respondents' claim that the challenged advertising was prepared and approved by Arent Fox.
2. Barash, Jonathan. Mr. Barash was manager of DBS Laboratories LLC and assisted in the development, marketing, and/or sale of the challenged products. He may be called to testify, without limitation, regarding Respondents' involvement in the advertising, marketing, offering for sale, sale, and distribution of the challenged products; the development, advertising, marketing, offering for sale, sale, and distribution of those products; and/or the substantiation for advertising, labeling, marketing, and sales claims for the products.
3. Chhabra, Vincent. Mr. Chhabra may be called to testify, without limitation, regarding his involvement in the advertising, marketing, offering for sale, sale, and distribution of the challenged products; the development, advertising, marketing, offering for sale, sale, and distribution of those products; and/or the substantiation for advertising, labeling, marketing, and sales claims.
4. Chhabra International, Ltd. This entity participated in the development and management of Respondents' dietary supplement business. A representative of this entity may be called to testify, without limitation, regarding Respondents' involvement in the advertising, marketing, offering for sale, sale, and distribution of the challenged

products; the development, advertising, marketing, offering for sale, sale, and distribution of those products; and/or the substantiation for advertising, labeling, marketing, and sales claims.

5. Chhabra Group, LLC. Chhabra Group participated in some of the media purchases for Respondents' dietary supplements. A representative of Chhabra Group may be called to testify, without limitation, regarding Respondents' involvement in the advertising, marketing, offering for sale, sale, and distribution of the challenged products; the development, advertising, marketing, offering for sale, sale, and distribution of those products; and/or the substantiation for advertising, labeling, marketing, and sales claims.

6. CG Fulfillment. CGT Fulfillment participated in the fulfilling orders for Respondents' dietary supplements. A representative of CG Fulfillment may be called to testify, without limitation, regarding Respondents' involvement in the sale and distribution of the challenged products.

7. Chhabra Internet Support Center LLC. This entity may have provided call center and customer service functions related to Respondents' dietary supplements. A representative of Chhabra Internet Support Center LLC may be called to testify, without limitation, regarding Respondents' involvement in the advertising, sale, and distribution of the challenged products.

8. Chhabra Internet Fulfillment Services LLC. This entity participated in fulfillment services for Respondents' dietary supplements. A representative of Chhabra Internet Support Center LLC may be called to testify, without limitation, regarding Respondents' involvement in the advertising, sale, and distribution of the challenged products.

9. Cohen, Lewis. Mr. Cohen is an employee of an entity that Mr. Chhabra has a relationship with. Mr. Cohen may be called to testify, without limitation, regarding Respondents' involvement in the advertising, sale, and distribution of the challenged products.

10. Dynamic Health of Florida, LLC. A representative of Respondent Dynamic Health of Florida, LLC may be called to testify, without limitation, regarding Respondents' involvement in the advertising, marketing, offering for sale, sale, and distribution of the challenged products; the development, advertising, marketing, offering for sale, sale, and distribution of those products; and the substantiation for advertising, labeling, marketing, and sales claims.

11. Guzman, Dr. Alberto. Dr. Guzman provided services to Respondents in connection with substantiation of claims. He may be called to testify, without limitation, regarding Respondents' involvement in the advertising, marketing, offering for sale, sale, and distribution of the challenged products; the development, advertising, marketing, offering for sale, sale, and distribution of those products; and the substantiation for advertising, labeling, marketing, and sales claims.

12. Highland Laboratories. Highland Laboratories is a manufacturer of dietary supplements. A representative of Highland may be called to testify, without limitations, regarding Respondents' involvement in the purchase, marketing, and sale of the challenged products, and the substantiation for the advertising and marketing claims.

13. Hill, Knowlton & Samcor. Hill, Knowlton & Samcor provided public relations services in connection with the target products. A representative of Hill, Knowlton may

be called to testify, without limitation, regarding its involvement in the advertising and marketing of the challenged products.

14. Kreating, LLC. Kreating participated in the creation of advertising, labeling, and packaging for the challenged products. A representative of Kreating may be called to testify, without limitation, regarding the Respondents' involvement in these activities and regarding the development, advertising, marketing, offering for sale, sale, and distribution of those products.

15. Metability of Florida, LLC. Metability of Florida has provided web-hosting and software services. A representative of Metability may be called to testify, without limitation, regarding Respondents' involvement in the advertising, marketing, offering for sale, sale, and distribution of the target products via the Internet.

16. Nutrition Formulators. This entity is a manufacturer of some of Respondents' dietary supplements. A representative of Nutrition Formulators may be called to testify, without limitation, regarding Respondents' involvement in the purchase, marketing, and sale of the challenged products, and the substantiation for the advertising and marketing claims.

17. Pharmachem Laboratories, Inc. This is a vendor of nutritional materials. A representative of Pharmachem may be called to testify, without limitation, regarding Respondents' involvement in the purchase, marketing, and sale of the challenged products, and the substantiation for the advertising and marketing claims.

18. Regalado, Guy. Mr. Regalado is associated with the products that are subject of this lawsuit. He may be called to testify, without limitation, regarding Respondents' involvement in the advertising, marketing, offering for sale, sale, and distribution of the challenged products; the development, advertising, marketing, offering for sale, sale, and

distribution of those products; and the substantiation for advertising, labeling, marketing, and sales claims.

19. Reinbergs, John. Mr. Reinbergs was involved with the challenged products. He may be called to testify, without limitation, regarding Respondents' involvement in the advertising, marketing, offering for sale, sale, and distribution of the challenged products; the development, advertising, marketing, offering for sale, sale, and distribution of those products; and the substantiation for advertising, labeling, marketing, and sales claims.

20. Swatt, Randy. Ms. Swatt may have been involved with the challenged products. She may be called to testify, without limitation, regarding Respondents' involvement in the advertising, marketing, offering for sale, sale, and distribution of the challenged products; the development, advertising, marketing, offering for sale, sale, and distribution of those products; and the substantiation for advertising, labeling, marketing, and sales claims.

21. Trant, Dr. Aileen. Dr. Trant is the Director of Research for Daily Wellness, marketer of Women's ArginMax. She may be called to testify, without limitation, to the ingredients in Women's ArginMax.

22. Wood, David. Mr. Wood may have assisted in the development of the dietary supplements sold by Respondents. He may be called to testify, without limitation, regarding Respondents' involvement in the advertising, marketing, offering for sale, sale, and distribution of the challenged products; the development, advertising, marketing, offering for sale, sale, and distribution of those products; and the substantiation for advertising, labeling, marketing, and sales claims.

Expert Witnesses

Pursuant to the August 2, 2004 Scheduling Order, Respondents' counsel will attempt to identify its expert witnesses by November 15, 2004.

Respectfully submitted,

\s\Max Kravitz

Max Kravitz (0023765)

KRAVITZ & KRAVITZ

145 E. Rich Street

Columbus, OH 43215

Tel: (614) 464-2000

Fax: (614) 464-2002

Email: mkravitz@kravitzlawnet.com

CERTIFICATE OF SERVICE

This is to certify that on October 25, 2004, I caused a copy of the attached:

**RESPONDENTS VINCENT CHHABRA, DYNAMIC HEALTH OF SOUTH
FLORIDA, LLC, AND CHHABRA GROUP, LLC'S PRELIMINARY
WITNESS LIST**

to be served upon the following persons by email and/or U.S. First Class Mail:

Janet Evans
Syd Knight
Federal Trade Commission
600 Pennsylvania Avenue, NW
Washington, DC 20580
Via email (10/25/04) & U.S. mail (10/26/04)

DBS Laboratories LLC
1485 North Park Dr.,
Weston, FL 33326
Via ordinary mail (10/26/04)

This 25th day of October, 2004.

\s\Max Kravitz _____
Max Kravitz



UNITED STATES OF AMERICA
FEDERAL TRADE COMMISSION
WASHINGTON, D.C. 20580

Bureau of Consumer Protection
Division of Advertising Practices

Janet M. Evans
Attorney

Direct Dial: (202) 326-2125
Facsimile: (202) 326-3259
E-mail: jevans@ftc.gov

October 15, 2004

Via Electronic Mail
and Fedex Ground

614-464-2002
Max Kravitz, Esq.
Kravitz & Kravitz LLC
145 East Rich Street
Columbus, OH 43215

Re: *In re Dynamic Health of Florida LLC,*
Docket No. 9317

Dear Mr. Kravitz:

Pursuant to 16 C.F.R. § 3.31(b), complaint counsel makes its initial disclosures as follows:

A. The identity of persons likely to have discoverable information relevant to the allegations, relief, or defenses.

Response

1. Jonathan Barash
6599 NW 97th Drive
Parkland, FL 33076
2. All individuals identified on Complaint Counsel's Preliminary Witness List; the information in that list is herein incorporated by reference.

Max Kravitz

p. 2

B. A copy of, or a description by category and location of, all documents relevant to the allegations, relief, or defenses:

Response

Copies of documents identified in § 3.31(b)(2) (and subject to the exclusions stated therein) within the possession, custody, or control of complaint counsel are being shipped with the Fedex version of this letter.

Very truly yours,

Janet M. Evans
Sydney Knight
Complaint Counsel

Encl.

Max Kravitz

From: Knight, Sydney [SKNIGHT@ftc.gov]
Sent: Friday, October 29, 2004 1:12 PM
To: Max Kravitz
Cc: Evans, Janet M.
Subject: RE: Service of Subpoenas

Hi Max:

Since you are counsel for the respondents in this matter, it is required that you take the appropriate steps to ascertain and provide the accurate contact information for individuals who are likely to have relevant information regarding this case, particularly when, as you acknowledge, they continue to have "business dealings at the Weston property." I don't think you can transfer that responsibility to complaint counsel.

Your email also mentions that the individuals are represented by counsel. What is the contact information for the attorney(s) representing these individuals.

Sydney Knight, Esq.
Federal Trade Commission
Division of Advertising Practices
601 New Jersey Ave NW
Washington DC 20580
Tel: 202-326-2162

-----Original Message-----

From: Max Kravitz [mailto:mkravitz@kravitzlawnet.com]
Sent: Thursday, October 28, 2004 10:02 PM
To: Knight, Sydney
Subject: RE: Service of Subpoenas

Hello Sydney. If this information should have been in my initial disclosures, shouldn't they have been in the FTC's initial disclosures? I just copied yours.

In any event, I only represent Vincent Chhabra and DBS Labs. I cannot accept service for any of the other individuals. Please understand that I do not know the addresses of these individuals although most have business dealings at the Weston property. More importantly, to my knowledge, every one of the individuals (Louis Cohen, Randi Swat, Sabina, etc.) is represented by independent counsel, not me, and I don't think I have authority to accept service for them.

If you intend to subpoena the individuals for depositions, my best days are Mondays, Thursdays and Saturdays. I assume the depositions will have to take place in FL since I don't know of any way you can compel them to travel to DC for depositions. If you can compel them to appear for depositions in DC, that would make it easier on me but FL is OK too. Why don't we discuss what dates are convenient for all of us.

Max

-----Original Message-----

From: Knight, Sydney [mailto:SKNIGHT@ftc.gov]
Sent: Thursday, October 28, 2004 6:10 PM
To: Max Kravitz
Cc: Evans, Janet M.
Subject: Service of Subpoenas

F

Hi Max:

I left a voicemail message for you earlier today regarding the subpoenas that we will be serving on Guy Regalado, Randi Swatt, Sabina Faruqui, John Reinbergs, and Louis Cohen in connection with the Dynamic Health of Florida, LLC matter. Information about the names and addresses of these individuals should have been provided in the Initial Disclosures you submitted on October 14, 2004. However, that information was not included in your submission. Please let us know by close of business tomorrow if your office will accept service of the subpoenas for these individuals since they appear to be employees or are associated with the respondents in this matter. In addition, provide us with the current contact information (home and business addresses and telephone numbers) for these individuals no later than 5 p.m. on Friday, October 29.

Sydney Knight, Esq.
Federal Trade Commission
Division of Advertising Practices
601 New Jersey Ave NW
Washington DC 20580
Tel: 202-326-2162

Max Kravitz

From: Evans, Janet M. [JEVANS@ftc.gov]
Sent: Tuesday, October 26, 2004 8:46 AM
To: Max Kravitz
Cc: Knight, Sydney
Subject: RE: Preliminary Witness List.doc

Max,
We've told you before what the Commission will require. Feel free to let us know when your clients are ready to accept this. Janet & Syd

-----Original Message-----
From: Max Kravitz [mailto:mkravitz@kravitzlawnet.com]
Sent: Monday, October 25, 2004 11:00 PM
To: Evans, Janet M.; Knight, Sydney
Subject: Preliminary Witness List.doc

Janet & Sydney, feel free to contact me if the government desires to enter into serious settlement discussions. Max

<<Preliminary Witness List.doc>>

Kravitz & Kravitz, LLC

Attorneys at Law

Max Kravitz
Janet Kravitz
Paula Brown
Kort Gatterdam
Of Counsel:
William H. Bluth*
*Also admitted in NY

145 East Rich Street
Columbus, Ohio 43215-5240
614.464.2000
fax 614.464.2002

Writer's email address:
mkravitz@kravitzlawnet.com

October 12, 2004

Janet Evans
Sydney Knight
Federal Trade Commission
600 Pennsylvania Avenue, NW
Washington, DC 20580

VIA FACSIMILE TRANSMISSION
(202) 326-3259
Pages: 1
Confirmed by Mail

Re: *In the Matter of Dynamic Health of Florida, LLC, et al.*
FTC Docket No. 9317

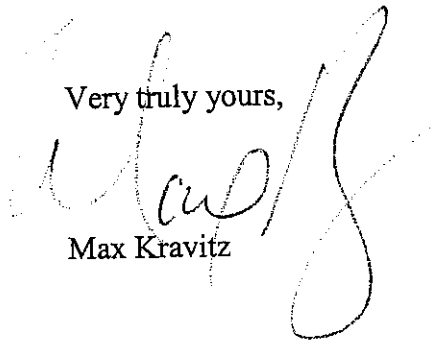
Dear Janet and Sydney:

In response to your letter dated October 4, 2004, my clients intend to make initial disclosures required by 16 CFR 3.31(b) on October 15, 2004 concerning any matters that are not specifically enumerated in the Scheduling Order. In other words, we will not be providing a preliminary witness list on October 15, 2004 but will provide the list prior to or on October 25, 2004. We will not be providing an expert witness list on October 15th, but will provide the list prior to or on November 15, 2004. I hope this has been helpful and responsive to your inquiries.

Once again, I am somewhat perplexed about the FTC pursuing this time-consuming and expensive action for products that are no longer being distributed and that have generated gross sales of \$19,000. On the other hand, it certainly speaks well of FTC enforcement efforts around the country to know that there aren't any more serious, potential problems or issues to litigate than the issues set forth in your Complaint.

October 12, 2004
Page 2 of 2

Very truly yours,

A handwritten signature in black ink, appearing to read 'Max Kravitz', written in a cursive style. The signature is positioned above the printed name 'Max Kravitz'.

Max Kravitz

MK:jfg



IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
Richmond, Virginia

FILED
NOV 24 2003
CLERK, U.S. DISTRICT COURT
ALEXANDRIA, VIRGINIA

UNITED STATES OF AMERICA)
Plaintiff,)

v.)

VINEET K. CHHABRA, et al)
(aka VINCENT K. CHHABRA))

CRIMINAL NO. 03-530-A

RESTRAINING ORDER

UPON MOTION OF the United States of America, pursuant to Title 21, United States Code, Section 853(e)(1), and Title 18, United States Code, Section 982(b)(1), incorporating the same, which provides courts with jurisdiction to enter restraining orders and take such other action in connection with any property or other interest subject to forfeiture to ensure its availability for forfeiture, and pursuant to this Court's inherent power to make orders necessary and proper to the orderly carrying on of litigation brought within the Court's jurisdiction, and

IT APPEARING TO THE COURT THAT on October 30, 2003, an indictment was returned against the defendants seeking criminal forfeiture pursuant to 21 U.S.C. § 853 and 18 U.S.C. § 982, of certain assets with respect to which this order is sought, it is hereby ORDERED pursuant to Title 21, United States Code, Section 853(e)(1) and Title 18, United States Code, Section 982(b)(1), incorporating Title 21, United States Code, Section 853(e)(1):

THAT THE DEFENDANTS, their agents, representatives, servants, employees, attorneys, family members and those persons in active concert or participation with them, and anyone holding property, both real or personal, including escrow and bank accounts, for

A TRUE COPY, TESTE:
CLERK, U.S. DISTRICT COURT

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BY 
DEPUTY CLERK

them, be and are hereby ENJOINED AND RESTRAINED from selling, transferring, assigning, pledging, distributing, giving away, encumbering or otherwise participating in the disposal of (by transfer of stock or otherwise) or removal from the jurisdiction of this Court, or removal from any checking or savings account of all or part of a defendants' interest, direct or indirect, in all property, real or personal, of the defendants, without prior approval of the court upon notice to the United States and an opportunity for the United States to be heard, except as specified in this Order. The United States is hereby authorized to record a notice of *lis pendens* on the real property named in the Indictment, or file any other documents to ensure the property is preserved for forfeiture. The defendants are further required to provide the vehicle titles for the cars listed on Attachment C.

The property subject to this order includes, but is not limited to, each defendants' interest, whether joint or exclusive, in any BANK ACCOUNT, REAL PROPERTY, CURRENCY, PERSONAL PROPERTY, BUSINESS ENTITY, or FINANCIAL INSTRUMENT, including the properties listed in Attachments A, B and C.

Should a defendant desire to transfer, convey, liquidate or encumber any property, and if the United States consents to such action, said action may take place upon condition that all sale proceeds shall be placed in escrow in an account(s) approved by counsel for the government. In the event that forfeiture is ultimately ordered, any funds received from the sale of property for the actual property forfeited shall be substituted for the actual property and such funds shall also be available to satisfy an order forfeiting substitute assets pursuant to

Title 21, United States Code, Section 853(p), and Title 18, United States Code, Section 982(b)(1).

If any defendant demonstrates that assets with value exceeding the value of assets described in the Indictment has been restrained, the Court will review the execution of this order as it applies to that defendant and make an appropriate determination and consider modification of this restraining order in relation to that defendant's property interests.

**RESTRAINT OF ASSETS
HELD AT FINANCIAL INSTITUTIONS**

IT IS HEREBY ORDERED that the accounts and other property of the defendants maintained at United States financial institutions be and the same are "frozen". The United States financial institutions are directed to prevent and are otherwise enjoined from transferring (by wire or otherwise), conveying or disposing of all monies or other property currently within any accounts or safe deposit boxes of the defendants. In ordering the financial institutions to "freeze" all the accounts, it is the intention of the court that the financial institutions shall not honor any demands by the correspondent banks to release any money nor shall the financial institutions honor any checks or other negotiable instruments drawn on the accounts of the specific banks, if to do so would reduce the balance of the account below the "amount frozen".

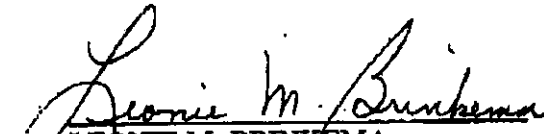
It is DIRECTED that all United States financial institutions which maintain accounts identified herein shall immediately inform the government agents who serve the certified copies of this order, of the account balances on the date of service. The respective financial institutions are further DIRECTED to continue to receive and credit monies to the defendants'

accounts. As for the foreign financial institutions which maintain accounts identified herein, Defendant Vincent K. Chhabra is hereby ORDERED to repatriate the funds he owns in the foreign bank accounts listed on Attachment B, pursuant to 21 U.S.C. §853(e)(4)(A).

The court also DIRECTS that the United States serve a certified copy of this order on the each affected financial institution.

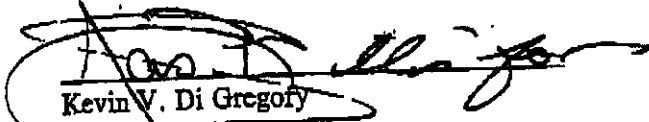
The United States is authorized and directed to serve a copy of this order on each defendant, counsel for all defendants, and any other entity or individual the government believes may be in control or possession of property of any defendant.

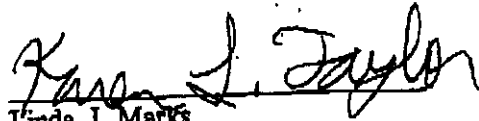
So ORDERED this th 24 day of November, 2003


LEONIE M. BRINKEMA
UNITED STATES DISTRICT JUDGE

I ask for this:

PAUL J. McNULTY
UNITED STATES ATTORNEY


~~Kevin V. Di Gregorio~~
~~Acting Criminal Chief~~
~~Assistant United States Attorney~~


Linda I. Marks
Attorney
Karen L. Taylor
Senior Trial Attorney
Mary Beth Schultz
Attorney
U.S. Department of Justice

James P. Gillis
Assistant United States Attorney

IN THE UNITED STATES DISTRICT COURT FOR THE
EASTERN DISTRICT OF VIRGINIA

Alexandria Division

UNITED STATES OF AMERICA)
)
) No. 03-530-A
)
VINEET K. CHHABRA)

PLEA AGREEMENT

The United States and defendant Vineet K. Chhabra have entered into a plea agreement pursuant to Rule 11 of the Federal Rules of Criminal Procedure. The terms of the agreement are as follows:

1. Offense and Maximum Penalties

The defendant agrees to plead guilty to Count One of the superseding indictment charging the defendant with conspiracy, in violation of Title 21, United States Code, Section 846. The maximum penalties for this offense are a maximum term of five years of imprisonment, a fine of \$250,000, full restitution, a special assessment, and three years of supervised release. The defendant understands that this supervised release term is in addition to any prison term the defendant may receive, and that a violation of a term of supervised release could result in the defendant being returned to prison for the full term of supervised release.

2. Factual Basis for the Plea

The defendant will plead guilty because the defendant is in fact guilty of the charged offense. The defendant admits the facts set forth in the statement of facts filed with this plea

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agreement and agrees that those facts establish guilt of the offense charged beyond a reasonable doubt. The statement of facts is hereby incorporated into this plea agreement.

3. Assistance and Advice of Counsel

The defendant is satisfied that the defendant's attorney has rendered effective assistance. The defendant understands that by entering into this agreement, defendant surrenders certain rights as provided in this agreement. The defendant understands that the rights of criminal defendants include the following:

- a. the right to plead not guilty and to persist in that plea;
- b. the right to a jury trial;
- c. the right to be represented by counsel – and if necessary have the court appoint counsel – at trial and at every other stage of the proceedings; and
- d. the right at trial to confront and cross-examine adverse witnesses, to be protected from compelled self-incrimination, to testify and present evidence, and to compel the attendance of witnesses.

4. Waiver of Right to Jury Trial on Sentencing Factors

The defendant, by entering this plea, also waives the right to have facts that determine the offense level under the Sentencing Guidelines (including facts that support any specific offense characteristic or other enhancement or adjustment) (1) charged in the indictment, or (2) proven to a jury. The defendant explicitly consents to be sentenced pursuant to the applicable Sentencing Guidelines as recommended by the parties, and to allow the Court to consider any reliable

evidence without regard to its admissibility at trial. The defendant also waives all challenges to the constitutionality of the Sentencing Guidelines.

5. The Parties' Agreement Concerning Sentencing

This plea is taken pursuant to Rule 11(c)(1)(C) of the Federal Rules of Criminal Procedure, in that the parties have agreed that a specific sentence is the appropriate disposition of the case, and that particular provisions of the Sentencing Guidelines, policy statements, and sentencing factors are applicable to this case. Pursuant to Rule 11(c)(1)(C), such a plea agreement is binding on the Court once it is accepted by the Court. Specifically, the parties agree to the following:

- a. The appropriate sentence in this case is 33 months of imprisonment.
- b. The appropriate application of the United States Sentencing Guidelines is as follows:
 - i. The applicable base offense level for Count 1 is 20, pursuant to U.S.S.G. § 2D1.1(c)(10). No reduction pursuant to U.S.S.G. § 2D1.1(b)(6) is applicable.
 - ii. A three level upward adjustment is applicable for the defendant's role in the offense, pursuant to U.S.S.G. § 3B1.1(b).
 - iii. A three level reduction is applicable for acceptance of responsibility, pursuant to U.S.S.G. § 3E1.1(a) and (b).
 - iv. The defendant's criminal history category is Category I.
Therefore, the guideline sentencing range is 33 to 41 months.

v. The parties agree and stipulate that the appropriate sentence within this guideline range is 33 months of imprisonment.

c. The parties agree that there exists no aggravating or mitigating circumstance of a kind, or to a degree, not adequately taken into consideration by the Sentencing Commission in formulating the Guidelines that should result in a sentence different from the range determined by the Court. Accordingly, the parties agree not to seek or support any departure from or sentence outside of the applicable guideline range for any reason not set out explicitly in this agreement.

The United States agrees to recommend to the Court that the defendant remain free under the defendant's current bail conditions after the entry of the defendant's plea and that the defendant be permitted to self-surrender to the designated Bureau of Prisons facility following the defendant's sentencing. These recommendations concerning bail and self-surrender are not binding upon the Court.

6. Role of the Court

This plea agreement is made pursuant to Rule 11(c)(1)(C) of the Federal Rules of Criminal Procedure and, therefore, pursuant to Rule 11(c)(3), it requires submission to the Court for its review before entry of the plea. The parties have submitted this plea agreement to the Court and have requested that the Court accept the plea agreement, pursuant to Rule 11(c)(4). If the Court accepts the plea agreement, the agreed disposition will be included in the judgment. If the Court rejects the plea agreement, the Court will give the defendant an opportunity to withdraw the defendant's guilty plea.

7. Waiver of Appeal and Review

The defendant also understands that Title 18, United States Code, Section 3742 affords a defendant the right to appeal the sentence imposed. Nonetheless, the defendant knowingly waives the right to appeal the conviction and the agreed upon sentence (or the manner in which that sentence was determined) on the grounds set forth in Title 18, United States Code, Section 3742 or on any ground whatsoever, in exchange for the concessions made by the United States in this plea agreement. This agreement does not affect the rights or obligations of the United States as set forth in Title 18, United States Code, Section 3742(b). The defendant also hereby waives all rights, whether asserted directly or by a representative, to request or receive from any department or agency of the United States any records pertaining to the investigation or prosecution of this case, including without limitation any records that may be sought under the Freedom of Information Act, Title 5, United States Code, Section 552, or the Privacy Act, Title 5, United States Code, Section 552a.

8. Special Assessment

On or before sentencing in this case, the defendant agrees to pay a mandatory special assessment of one hundred dollars (\$100.00) per count of conviction.

9. Payment of Monetary Penalties

The defendant understands and agrees that, pursuant to Title 18, United States Code, Sections 3613, whatever monetary penalties are imposed by the Court will be due and payable immediately and subject to immediate enforcement by the United States as provided for in Section 3613. Furthermore, the defendant agrees to provide all of his financial information to the United States and the Probation Office and, if requested, to participate in a pre-sentencing

debtor's examination. If the Court imposes a schedule of payments, the defendant understands that the schedule of payments is merely a minimum schedule of payments and not the only method, nor a limitation on the methods, available to the United States to enforce the judgment. If the defendant is incarcerated, the defendant agrees to participate in the Bureau of Prisons' Inmate Financial Responsibility Program, regardless of whether the Court specifically directs participation or imposes a schedule of payments.

10. Immunity from Further Prosecution in this District

The United States will not further criminally prosecute the defendant in the Eastern District of Virginia for the specific conduct described in the superseding indictment or statement of facts.

11. Dismissal of Other Counts

As a condition of the execution of this agreement and the Court's acceptance of the defendant's plea of guilty, the United States will move to dismiss the remaining counts of the superseding indictment against this defendant.

12. Defendant's Cooperation

The defendant agrees to cooperate fully and truthfully with the United States, and provide all information known to the defendant regarding any criminal activity as requested by the government. In that regard:

- a. The defendant agrees to testify truthfully and completely at any grand juries, trials or other proceedings.
- b. The defendant agrees to be reasonably available for debriefing and pre-trial conferences as the United States may require.

- c. The defendant agrees to provide all documents, records, writings, or materials of any kind in the defendant's possession or under the defendant's care, custody, or control relating directly or indirectly to all areas of inquiry and investigation.
- d. The defendant agrees that, upon request by the United States, the defendant will voluntarily submit to polygraph examinations to be conducted by a polygraph examiner of the United States' choice.
- e. The defendant agrees that the Statement of Facts is limited to information to support the plea. The defendant will provide more detailed facts relating to this case during ensuing debriefings.
- f. The defendant is hereby on notice that the defendant may not violate any federal, state, or local criminal law while cooperating with the government, and that the government will, in its discretion, consider any such violation in evaluating whether to file a motion for a downward departure or reduction of sentence.
- g. Nothing in this agreement places any obligation on the government to seek the defendant's cooperation or assistance.

13. Use of Information Provided by the Defendant Under This Agreement

The United States agrees not to use any truthful information that the defendant provides pursuant to this agreement to further prosecute the defendant in the Eastern District of Virginia, except for information concerning crimes of violence or crimes involving or relating to terrorism. The United States will bring this plea agreement and the full extent of the defendant's

cooperation to the attention of other prosecuting offices if requested. Nothing in this plea agreement, however, restricts the Court's or Probation Office's access to information and records in the possession of the United States. Furthermore, nothing in this agreement prevents the government in any way from prosecuting the defendant should the defendant provide false, untruthful, or perjurious information or testimony. Nothing in this agreement in any way prevents the government from using information provided by the defendant in furtherance of any forfeiture action, whether criminal or civil, administrative or judicial.

14. Prosecution in Other Jurisdictions

The United States Attorney's Office for the Eastern District of Virginia and the Office of Consumer Litigation, U.S. Department of Justice, will not contact any other state or federal prosecuting jurisdiction and voluntarily turn over truthful information that the defendant provides under this agreement to aid a prosecution of the defendant in that jurisdiction. Should any other prosecuting jurisdiction attempt to use truthful information the defendant provides pursuant to this agreement against the defendant the United States Attorney's Office for Eastern District of Virginia agrees, upon request, to contact that jurisdiction and ask that jurisdiction to abide by the immunity provisions of this plea agreement. The parties understand that the prosecuting jurisdiction retains the discretion over whether to use such information.

15. Ban from Internet Pharmacy Business

As a condition of supervised release, the defendant agrees not to engage directly or indirectly in any business, entity, or organization that involves the distribution of prescription medication through the use of the Internet.

16. Defendant Must Provide Full, Complete, and Truthful Cooperation

This plea agreement is not conditioned upon charges being brought against any other individual. This plea agreement is not conditioned upon any outcome in any pending investigation. This plea agreement is not conditioned upon any result in any future prosecution which may occur because of the defendant's cooperation. This plea agreement is not conditioned upon any result in any future grand jury presentation or trial involving charges resulting from this investigation. This plea agreement is conditioned upon the defendant providing full, complete and truthful cooperation.

17. Motion for a Downward Departure

The parties agree that the United States reserves the right to seek any departure from the applicable sentencing guidelines, pursuant to Section 5K1.1 of the Sentencing Guidelines and Policy Statements, or any reduction of sentence pursuant to Rule 35(b) of the Federal Rules of Criminal Procedure, if, in its sole discretion, the United States determines that such a departure or reduction of sentence is appropriate. The defendant acknowledges that he has been advised that the United States does not anticipate that it will file a motion seeking such a departure or reduction.

18. The Defendant's Obligations Regarding Assets Subject to Forfeiture

The defendant agrees to identify all assets over which the defendant exercises or exercised control, directly or indirectly, within the past seven years, or in which the defendant has or had during that time any financial interest. The defendant agrees to complete, sign and return to the United States Attorney's Office, attention AUSA Karen Taylor, an OBD 500. The defendant agrees to take all steps as requested by the United States to obtain from any other parties by any lawful means any records of assets owned at any time by the defendant. The

defendant agrees to undergo any polygraph examination the United States may choose to administer concerning such assets and to provide and/or consent to the release of the defendant's tax returns for the previous seven years. Defendant agrees to forfeit to the United States all of the defendant's interests in any asset of a value of more than \$1,000 that, within the last seven years, the defendant owned, or in which the defendant maintained an interest, the ownership of which the defendant fails to disclose to the United States in accordance with this agreement.

19. Forfeiture Agreement

The defendant agrees to forfeit all interests in any drug-related asset that the defendant owns or over which the defendant exercises control, directly or indirectly, as well as any property that is traceable to, derived from, fungible with, or a substitute for property that constitutes the proceeds of his offense, including but not limited to all property identified in the superseding indictment. The defendant further agrees to waive all interest in the assets in any administrative or judicial forfeiture proceeding, whether criminal or civil, state or federal. The defendant agrees to consent to the entry of orders of forfeiture for such property and waives the requirements of Federal Rules of Criminal Procedure 32.2 and 43(a) regarding notice of the forfeiture in the charging instrument, announcement of the forfeiture at sentencing, and incorporation of the forfeiture in the judgment. The defendant understands that the forfeiture of assets is part of the sentence that shall be imposed in this case.

20. Waiver of Further Review of Forfeiture

The defendant further agrees to waive all constitutional and statutory challenges in any manner (including direct appeal, habeas corpus, or any other means) to any forfeiture carried out in accordance with this plea agreement on any grounds, including that the forfeiture constitutes

an excessive fine or punishment. The defendant also waives any failure by the Court to advise the defendant of any applicable forfeiture at the time the guilty plea is accepted as required by Rule 11(b)(1)(J). The defendant agrees to take all steps as requested by the United States to pass clear title to forfeitable assets to the United States, and to testify truthfully in any judicial forfeiture proceeding. The defendant understands and agrees that all property covered by this agreement is subject to forfeiture as proceeds of illegal conduct and substitute assets for property otherwise subject to forfeiture.

21. Breach of the Plea Agreement and Remedies

This agreement is effective when signed by the defendant, the defendant's attorney, and an attorney for the United States. The defendant agrees to entry of this plea agreement at the date and time scheduled with the Court by the United States (in consultation with the defendant's attorney). If the defendant withdraws from this agreement, or commits or attempts to commit any additional federal, state or local crimes, or intentionally gives materially false, incomplete, or misleading testimony or information, or otherwise violates any provision of this agreement, then:

- a. The United States will be released from its obligations under this agreement, including any obligation to seek a downward departure or a reduction in sentence. The defendant, however, may not withdraw the guilty plea entered pursuant to this agreement;
- b. The defendant will be subject to prosecution for any federal criminal violation, including, but not limited to, perjury and obstruction of justice, that is not time-barred by the applicable statute of limitations on the date this agreement is signed. Notwithstanding the subsequent expiration of

the statute of limitations, in any such prosecution, the defendant agrees to waive any statute-of-limitations defense; and

- c. Any prosecution, including the prosecution that is the subject of this agreement, may be premised upon any information provided, or statements made, by the defendant, and all such information, statements, and leads derived therefrom may be used against the defendant. The defendant waives any right to claim that statements made before or after the date of this agreement, including the statement of facts accompanying this agreement or adopted by the defendant and any other statements made pursuant to this or any other agreement with the United States, should be excluded or suppressed under Fed. R. Evid. 410, Fed. R. Crim. P. 11(f), the Sentencing Guidelines or any other provision of the Constitution or federal law.

Any alleged breach of this agreement by either party shall be determined by the Court in an appropriate proceeding at which the defendant's disclosures and documentary evidence shall be admissible and at which the moving party shall be required to establish a breach of the plea agreement by a preponderance of the evidence. The proceeding established by this paragraph does not apply, however, to the decision of the United States whether to file a motion based on "substantial assistance" as that phrase is used in Rule 35(b) of the Federal Rules of Criminal Procedure and Section 5K1.1 of the Sentencing Guidelines and Policy Statements. The defendant agrees that the decision whether to file such a motion rests in the sole discretion of the United States.

22. Guilty Pleas by Co-Defendant Sabina S. Faruqui and Corporate Defendants

This plea agreement is expressly contingent upon the entry of a guilty plea by defendant Sabina S. Faruqui, pursuant to a separate plea agreement between Faruqui and the United States. If either defendant Vineet K. Chhabra or Sabina S. Faruqui fails to plead guilty as contemplated by the plea agreements, or if either defendant's plea is not accepted by the Court or is later withdrawn, the United States will, at its option, be released from its obligations under its plea agreement with the other defendant. The withdrawal of a plea of guilty or the breach of the plea agreement by one defendant will not, however, serve as a ground for the withdrawal of a guilty plea by the other defendant.

The defendant further agrees to cause defendants defendant VKC Consulting, LLC, and defendant Chhabra Group, LLC, each to plead guilty, pursuant to separate plea agreements with the United States, to Count 43 of the superseding indictment and represents he has the authority to cause VKC Consulting, LLC and Chhabra Group, LLC to enter into plea agreements. The defendant further agrees and represents to the Court that he currently has no control over USA Prescriptions, Inc. and has not had any control over USA Prescriptions, Inc. since he divested himself of all ownership and rights in that corporation in or about July 2003.

23. Nature of the Agreement and Modifications

This written agreement constitutes the complete plea agreement between the United States, the defendant, and the defendant's counsel. The defendant and his attorney acknowledge that no threats, promises, or representations have been made, nor agreements reached, other than those set forth in writing in this plea agreement, to cause the defendant to plead guilty. Any modification of this plea agreement shall be valid only as set forth in writing in a supplemental or revised plea agreement signed by all parties.

Defendant's Signature: I hereby agree that I have consulted with my attorney and fully understand all rights with respect to the pending criminal indictment. Further, I fully understand all rights with respect to the provisions of the Sentencing Guidelines and Policy Statements which may apply in my case. I have read this plea agreement and carefully reviewed every part of it with my attorney. I understand this agreement and voluntarily agree to it.

Date: _____

Vineet K. Chhabra

Defendant

Defense Counsel Signature: I am counsel for the defendant in this case. I have fully explained to the defendant the defendant's rights with respect to the pending indictment. Further, I have reviewed the provisions of the Sentencing Guidelines and Policy Statements and I have fully explained to the defendant the provisions of those Guidelines which may apply in this case. I have carefully reviewed every part of this plea agreement with the defendant. To my knowledge, the defendant's decision to enter into this agreement is an informed and voluntary one.

Date: _____

Thomas G. Connolly
Counsel for the Defendant

Respectfully submitted,

PAUL J. McNULTY
UNITED STATES ATTORNEY

By:

Brian D. Miller
Karen L. Taylor
Assistant United States Attorneys

Eugene Thirolf
Director
Office of Consumer Litigation
United States Department of Justice

Approved:

Kevin V. Di Gregory
Deputy Chief, Criminal Division
Assistant United States Attorney