UNITED STATES OF AMERICA
FEDERAL TRADE COMMISSION

In the Matter of	)	**FILE NO. 082 3122**
MARK DREHER, PH.D., individually.	)	**AGREEMENT CONTAINING CONSENT ORDER**

The Federal Trade Commission ("Commission") has conducted an investigation of certain acts and practices of Mark Dreher, Ph.D., individually ("proposed respondent"). Proposed respondent, having been represented by counsel, is willing to enter into an agreement containing a consent order resolving the allegations contained in the attached draft complaint. Therefore,

IT IS HEREBY AGREED by and between Mark Dreher, Ph.D., individually, and counsel for the Federal Trade Commission that:

1. Proposed respondent Mark Dreher, Ph.D., was the Vice President of Science & Regulatory Affairs of POM Wonderful LLC from approximately August 2005 to May 2009. His current principal office or place of business is located in Wimberley, Texas.

2. Proposed respondent admits all the jurisdictional facts set forth in the draft complaint.

3. Proposed respondent waives:

   a. Any further procedural steps;

   b. The requirement that the Commission's decision contain a statement of findings of fact and conclusions of law; and

   c. All rights to seek judicial review or otherwise to challenge or contest the validity of the order entered pursuant to this agreement.

4. This agreement shall not become part of the public record of the proceeding unless and until it is accepted by the Commission. If this agreement is accepted by the Commission,

it, together with the draft complaint, will be placed on the public record for a period of thirty (30) days and information about it will be publicly released. The Commission thereafter may either withdraw its acceptance of this agreement and so notify proposed respondent, in which ev2.80i0000 0.0000 0.0000 cm0.00 0.6take su000a(r may)3nd so notifyr ma51r ma

5. “Endorsement” shall mean as def

D. the representation is specifically permitted in labeling for such product by regulations promulgated by the FDA pursuant to the Nutrition Labeling and Education Act of 1990.

II.

IT IS FURTHER ORDERED that respondent, directly or through any corporation, partnership, subsidiary, division, trade name, or other device, in connection with the manufacturing, labeling, advertising, promotion, offering for sale, sale, or distribution of any Covered Product, in or affecting commerce, shall not misrepresent, in any manner, expressly or by implication, including through the use of a product name, endorsement, depiction, or illustration, trademark, or trade name, the existence, contents, validity, results, conclusions, or interpretations of any test, study, or research.

III.

IT IS FURTHER ORDERED that respondent, directly or through any corporation, partnership, subsidiary, division, trade name, or other device, in connection with the manufacturing, labeling, advertising, promotion, offering for sale, sale, or distribution of any Covered Product, in or affecting commerce, shall not make any representation, other than representations under Part I of this Order, in any manner, expressly or by implication, including through the use of a product name, endorsement, depiction, illustration, trademark, or trade name, about the health benefits, performance, or efficacy of any Covered Product, unless the representation is non-misleading, and, at the time of making such representation, respondent relies upon competent and reliable scientific evidence that is sufficient in quality and quantity based on standards generally accepted in the relevant scientific fields, when considered in light of the entire body of relevant and reliable scientific evidence, to substantiate that the representation is true. *Provided that*, for any representation made by respondent as an expert endorser, respondent must possess and rely upon competent and reliable scientific evidence, and an actual exercise of his represented expertise in evaluating medical research at least as extensive as an expert in that field would normally conduct in order to support the conclusions presented in the representation. For purposes of this Part, competent and reliable scientific evidence means tests, analyses, research, or studies that have been conducted and evaluated in an objective manner by qualified persons, and that are generally accepted in the profession to yield accurate and reliable results.

IV.

IT IS FURTHER ORDERED that:

A. Nothing in Parts II and III of this Order shall prohibit respondent from making any representation for any product that is specifically permitted in labeling for such product by regulations promulgated by the Food and Drug Administration pursuant to the Nutrition Labeling and Education Act of 1990; and

under any tentative final or final monograph promulgated by the Food and Drug Administration, or under any new drug application approved by the Food and Drug Administration.

V.

IT IS FURTHER ORDERED that Respondent shall, for five (5) years after the last date of dissemination of any representation covered by this Order, maintain and upon request make available to the Commission for inspection and copying:

A. All advertisements, labeling, packaging, and promotional materials containing the representation;

B. All materials that were relied upon in disseminating the representation;

C. All tests, reports, studies, surveys, demonstrations, or other evidence in his possession or control that contradict, qualify, or call into question the representation, or the basis relied upon for the representation, including

VIII.

IT IS FURTHER ORDERED that respondent shall within sixty (60) days after the effective date of this Order, file with the Commission a true and accurate report, in writing, setting forth in detail the manner and form of his compliance with this Order. Within ten (10) days of receipt of writte

Provided, further, that if such complaint is dismissed or a federal court rules that respondent did not violate any provision of the Order, and the dismissal or ruling is either not appealed or upheld on appeal, then the Order will terminate according to this Part as though the complaint had never been filed, except that the Order will not terminate between the date such complaint is filed and the later of the deadline for appealing such dismissal or ruling and the date such dismissal or ruling is upheld on appeal.

Signed this 14th day of September, 2010.

By: _____
MARK DREHER, PH.D.

Date: _____

By: _____
WILLIAM M. HANNAY
Schiff Harden LLP
Counsel for respondent

Date: _____

_____
JANET EVANS
Counsel for the Federal Trade Commission

Date: _____

APPROVED:

_____ Date: _____

MARY K. ENGLE
Associate Director
Division of Advertising Practices

_____ Date: _____

DAVID C. VLADECK
Director
Bureau of Consumer Protection