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UNITED STATES OF AMERICA
FEDERAL TRADE COMMISSION

COMMISSIONERS:

Jon Leibowitz, Chairman
William E. Kovacic

1. Respondent Mark ~~D~~he, Ph.D., was the ~~ve~~ President of Science & Regulatory Affairs

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 and unbiased manner.

VI.

IT IS FURTHER ORDERED that respondent shall, for a period of seven (7) years after the date of issuance of this Order, deliver a copy of this Order to all current and future principals, officers, directors, and managers, and to all current and future employees, agents, and representatives having responsibilities with respect to the subject matter of this Order, and shall secure from each such person a signed and dated statement acknowledging receipt of the Order. Respondent shall deliver this Order to such current personnel within thirty (30) days after the effective date of this Order, and to such future personnel within thirty (30) days after the person assumes such position or responsibilities.

VII.

IT IS FURTHER ORDERED that respondent shall, for a period of five (5) years after the date of issuance of this Order, notify the Commission of the discontinuance of his current business or employment, or of his

- C. Providing all documents, records, and other tangible evidence reasonably requested by the Commission;
- D. Providing truthful declarations, affidavits, certifications, and written testimony reasonably requested by the Commission; and
- E. Appearing and providing oral testimony at any trial, deposition, or other proceeding. Respondent agrees to accept service by overnight delivery of any subpoena to appear and provide testimony.

The foregoing cooperation shall be upon reasonable written notice by the Commission. Respondent's failure to cooperate as required herein constitutes a material breach of the settlement between the parties and a violation of this Order.

X.

This Order will terminate twenty (20) years from the date of its issuance, or twenty (20) years from the most recent date that the United States or the Commission files a complaint (with or without an accompanying consent decree) in federal court alleging any violation of the Order, whichever comes later; provided, however, that the filing of such a complaint will not affect the duration of:

- A. Any Part in this Order that terminates in less than twenty (20) years; and
- B. This Order if such complaint is filed after the Order has terminated pursuant to this Part.

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 or the date such dismissal or ruling is upheld on appeal.

By the Commission.

Donald S. Clark
Secretary

ISSUED: