1 2 3 4 5 6 7 UNITED STATES DISTRICT COURT 8 WESTERN DISTRICT OF WASHINGTON 9 AT SEATTLE 10 FEDERAL TRADE COMMISSION. CIVIL ACTION NO. C01-0818R Plaintiff, 11 v. 12 STIPULATED FINAL JUDGMENT WESTERN DIETARY PRODUCTS CO. (SKOOKUM), AND ORDER a corporation, d/b/a 13 WESTERN HERB & DIETARY PRODUCTS, INC., and 14 MARVIN BECKWITH, and MIGUELINA BECKWITH, 15 individually and as officers of the corporation, 16 Defendants. 17 18 Plaintiff Federal Trade Commission ("Commission") commenced this action by filing a 19 Complaint pursuant to Section 13(b) of the Federal Trade Commission Act ("FTC Act"), 15 U.S.C. 20 § 53(b), charging defendants Western Dietary Products Co. (Skookum), d/b/a Western Herb & 21 Dietary Products, Inc., and Marvin Beckwith and Miguelina Beckwith with engaging in unfair 22 23 FEDERAL TRADE COMMISSION STIPULATED FINAL JUDGMENT AND ORDER — PAGE 1 EAST CENTRAL REGION 24 1111 SUPERIOR AVE. — SUITE 200

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1	or deceptive acts or practices in connection with the sale, offering for sale or distribution of certain
2	herbal products and the "Zapper" electrical unit, in violation of Sections 5 and 12 of the FTC Act,
3	15 U.S.C. §§ 45 and 52.
4	Now the Commission and defendants Western Dietary Products Co. (Skookum), d/b/a
5	Western Herb & Dietary Products, Inc., and Marvin Beckwith and Miguelina Beckwith agree
6	to a settlement of this action without trial or adjudication of any issue of law or fact herein and
7	without defendants Western Dietary Products Co. (Skookum), d/b/a Western Herb & Dietary
8	Products, Inc., and Marvin Beckwith and Miguelina Beckwith admitting liability for any of the
9	violations alleged in the Complaint. The Commission and defendants Western Dietary Products
10	Co. (Skookum), d/b/a Western Herb & Dietary Products, Inc., and Marvin Beckwith and
11	Miguelina Beckwith concent to entry of this STIPULATED FINAL JUDGMENT AND ORDER ("Order")
12	without trial or adjudication of any issue of law or fact herein.
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14	FINDINGS
15	1. This is an action by the Commission instituted under Section 13(b) of the Federal
16	Trade Commission Act, 15 U.S.C. § 53(b). The Complaint seeks permanent injunctive relief against
17	defendants Western Dietary Products Co. (Skookum), d/b/a Western Herb & Dietary Products,
18	Inc., and Marvin Beckwith and Miguelina Beckwith in connection with the sale of herbal products
19	and the Zapper electrical unit.
20	 This Court has jurisdiction over the subject matter of this case and over defendants
21	Western Dietary Products Co. (Skookum), d/b/a Western Herb & Dietary Products, Inc., and
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1 2	Marvin Beckwith and Miguelina Beckwith Marvin proper.	t h . Venue in the We	estern District of Washington	on is
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3.	"Consumer"	and	"customer"	include	any	individual,	group,	unincorporated
association,	limited or genera	al par	tnership, corr	oration o	r oth	er business e	ntity.	

- 4. The terms "and" and "or" shall be construed conjunctively or disjunctively as ecessary, and to make the applicable phrase or sentence inclusive rather than exclusive.
- 5. "Covered product or service" shall mean any service, program, dietary supplement, ood, drug, or device.
- "Food," "drug," and "device" shall mean as as "food," "drug," and "device" are 6. efined in Section 15 of the Federal Trade Commission Act, 15 U.S.C. § 55.

I.

PROHIBITED REPRESENTATIONS

IT IS HEREBY ORDERED, in connection with the advertising, offering for sale or sale f the Zapper electrical unit or any other covered product or service, that defendants and their uccessors, assigns, officers, agents, servants, employees, attorneys and those persons or entities in ctive concert or participation with them who receive actual notice of this Order by personal service r otherwise—whether acting directly or through any corporation, subsidiary, division or other evice—are hereby permanently restrained and enjoined from misrepresenting that use of any such roduct in the treatment of cancer makes surgery or chemotherapy unnecessary.

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24	STIPULATED FINAL JUDGMENT AND ORDER — PAGE 6 FEDERAL TRADE COMMISSION ES
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2 Order.

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STIPULATED FINAL JUDGMENT AND ORDER — PAGE 7

FEDERAL TRADE COMMISSION EAST CENTRAL REGION 1111 SUPERIOR AVE. — SUITE 200 CLEVELAND, OHIO 44114-2507

All funds paid pursuant to this Order shall be deposited into a fund administered by the Commission or its agent to be used for equitable relief, including but not limited to consumer redress and any attendant expenses for the administration of any redress fund. In the event that direct redress to consumers is wholly or partially impracticable or funds remain after redress is completed, the Commission may apply any remaining funds for such other equitable relief (including consumer information remedies) as it determines to be reasonably related to the Defendants' practices alleged in the Complaint. Any funds not used for such equitable relief shall be deposited to the Treasury as disgorgement. Defendants shall have no right to challenge the Commission's choice of remedies under this Section.

provided further that this judgment shall be subject to the conditions set forth in Section V of this

IV.

RIGHT TO REOPEN AND TERMINATE SUSPENSION

IT IS FURTHER ORDERED that the Commission's agreement to this Order is expressly premised upon the truthfulness, accuracy and completeness of the sworn financial statement of defendants Marvin Beckwith and Miguelina Beckwith. Said financial statement contains material information upon which the FTC has relied in negotiating and agreeing to the terms of this Order. If, upon motion by the Commission to the Court, the Court finds that an individual defendant failed to submit to the Commission the sworn statement required by Section V of this Order, or failed to disclose any material asset with a value exceeding One Thousand Dollars (\$1,000), or materially misrepresented the value of any asset, or made any other material misrepresentation in or omission

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1	A. all materials relied upon to substantiate any claim or representation covered by this
2	order; and
3	B. all test reports, studies, surveys or other materials in their possession or control, or
4	of which they have knowledge, that contradict, qualify or call into question such representation or
5	the basis upon which defendants relied for such representation, including complaints from
6	consumers; and
7	C. copies of all sales scripts, training materials, advertisements, or other marketing
8	materials utilized; <i>provided</i> that copies of all sales scripts, training materials, advertisements, or
9	other marketing materials utilized shall be retained for five (5) years after the last date of
10	dissemination of any such materials.
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12	VII.
13	COMPLIANCE REPORTING
14	IT IS FURTHER ORDERED that, in order that compliance with the provisions of this
15	Order may be monitored, for a period of five (5) years commencing with the date of entry of this
16	Order, each of the individual defendants shall notify the Commission of the following:
17	A. any change of residence, mailing address or telephonenumber, within ten (10) days
18	of the date of such change;
19	B. any change in employment status, self-employment, within ten (10) business days of
20	such change; such notice shall include the name and address of each business with which he is
21	affiliated or employed, a statement of the nature of the business, and a statement of his duties and
22	responsibilities in connection with the business; and

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1	C.	nothing in this Order shall limit the Commission's lawful use of compulsory process,
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1	XIV.
2	CONTINUED JURISDICTION
3	IT IS FURTHER ORDERED that this Court shall retain jurisdiction of this matter for all
4	purposes.
5	XV.
6	ENTRY BY CLERK
7	THERE BEING NO JUST REASON FOR DELAY, the Clerk of Court is hereby directed
8	to enter this Order.
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10	SO ORDERED, this day of
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12	Barbara Jacobs Rothstein
13	United States District Judge
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15	STIPULATED TO
16	By Plaintiff Federal Trade Commission:
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23	STIPULATED FINAL JUDGMENT AND ORDER — PAGE 13 FEDERAL TRADE COMMISSION
24	EAST CENTRAL REGION 1111 SUPERIOR AVE. — SUITE 200 CLEVELAND, OHIO 44114-2507
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6	NADINE S. WEAMITGETH: Bar No. 23881 Federal Trade Commission — Northwest
5	NADINE CYCANTED D. N. 20001
4	216–263–3426 Trial Counsel
3	Cleveland, Ohio 44114-2507 Phone 216-263-3414 / Fax
2	Central Region 1111 Superior Avenue — Suite 200
1	Federal Trade Commission—East

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2	D ATE:	_, 2001			
3			MIGUELINA BECKWITH individually and as an owner		
			and officer of defendant corporation.		
4					
5	By Counsel for Defenda	ınts			
6	Western Dietary Products Co. (Skookum), d/b/a Western Herb & Dietary Products, Inc., and Marvin Beckwith and Miguelina Beckwith				
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9	D ATE:	, 2001	MICHAEL TARIO, ESQ.		
			Tario & Associates		
0			119 N. Commercial St., Suite 1000 Bellingham, WA 98225		
1			Phone 360–671–8500 / Fax 360–733–7092		
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1	[APPENDIX 1]				
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8	UNITED STATES DISTRICT COURT				
9	WESTERN DISTRICT OF WASHINGTON AT SEATTLE				
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11	FEDERAL TRADE COMMISSION, Plaintiff,	CIVIL ACTION NO. C01-0818R			
12	v.				
13	WESTERN DIETARY PRODUCTS CO. (SKOOKUM), a corporation, d/b/a	DEFENDANT[NAME]'S AFFIDAVIT REGARDING			
14	WESTERN HERB & DIETARY PRODUCTS, INC., and	ACKNOWLEDGEMENT OF SERVICE OF			
15	MARVIN BECKWITH, and MIGUELINA BECKWITH,	STIPULATED FINAL JUDGMENT AND ORDER			
16	individually and as officers of the corporation,				
17	Defendants.				
18	I, <u>[NAME]</u> , hereby declare as follows:				
19	1. I am a defendant in the action, Federal Trade Commission v. Western Dietary				
20	Products Co. (Skookum), a corporation, d/b/a Western Herb & Dietary Products, Inc., and				
21	Marvin Beckwith, and Miguelina Beckwith, individually and as officers of the corporation				
22	(United States District Court, Western District of Washington at Seattle, Civil Action				
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24	STIPULATED FINAL JUDGMENT AND ORDER — PAGE 16	FEDERAL TRADE COMMISSION EAST CENTRAL REGION 1111 SUPERIOR AVE — SUITE 200			

1 [APPENDIX 1] 2 3 No. C01–0818R. My current residence address is *current residence address*. I am a citizen of 4 the United States and over the age of eighteen. I have personal knowledge of the facts set forth in 5 this Affidavit. 6 I agreed to entry of a Stipulated Final Judgment and Order ("Stipulated Order") 2. 7 against me to settle the charges in the Commission's Complaint. I read the provisions of the 8 Stipulated Order before signing it. I understand all the provisions of the Stipulated Order. By 9 signing the Stipulated Order, I agreed to be bound by those provisions. 10 3. On *Date*, I received a copy of the Stipulated Order, which had been signed by 11 a United States District Judge and was entered on _____ Date ___. A true and correct copy of the 12 Stipulated Order I received is appended to this affidavit. After receiving the entered Stipulated Order 13 I reviewed it and confirmed it was the document I had previously signed. 14 I declare under penalty of perjury under the laws of the United States that the foregoing is 15 true and correct. 16 17 Executed on **Date**, at **City**, State . 18 [Individual Defendant's Name] 19 State of City of 20 Subscribed and sworn to before me this _____ day of ____ 21 22 My Commission Expires: _____ **Notary Public** 23

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