

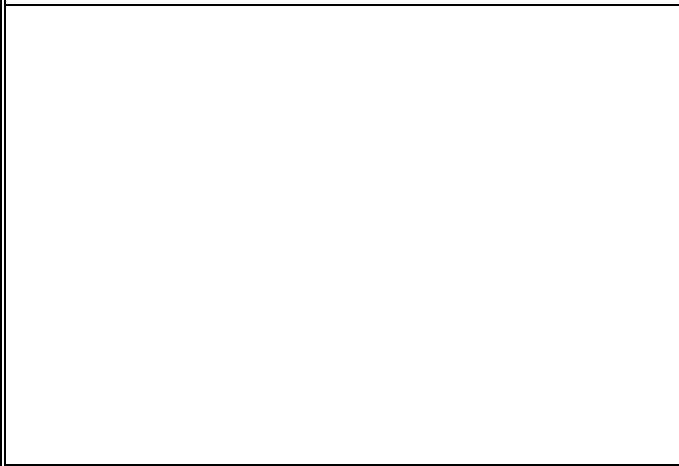
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11 Attorneys for Plaintiff,  
FEDERAL TRADE COMMISSION

12 **UNITED STATES DISTRICT COURT**  
13 **CENTRAL DISTRICT OF CALIFORNIA**  
14 **WESTERN DIVISION**



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1 injunction, restitution, disgorgement, and other equitable relief against Defendants  
2 for engaging in deceptive acts or practices and false advertising in connection with  
3 the advertising, marketing, and sale of products purporting to treat, prevent, and or  
4 cure such conditions as respiratory illnesses, diabetes, dementia, obesity, and  
5 impotence, in violation of Sections 5(a) and 12 of the FTC Act, 15 U.S.C. §§ 45(a)  
6 and 52.

### 7 **JURISDICTION AND VENUE**

8 2. This Court has jurisdiction over this matter pursuant to 15 U.S.C. §§  
9 45(a), 52, and 53(b) and 28 U.S.C. §§ 1331, 1337(a) and 1345.

10 3. Venue in this District is proper under 15 U.S.C. § 53(b) and 28 U.S.C.  
11 § 1391(b) and (c).

### 12 **PLAINTIFF**

13 4. Plaintiff, the Federal Trade Commission, is an independent agency of  
14 the United States Government created by statute. 15 U.S.C. §§ 41-58. The  
15 Commission enforces Section 5(a) of the FTC Act, 15 U.S.C. § 45(a), which  
16 prohibits unfair or deceptive acts or practices in or affecting commerce. The  
17 Commission also enforces Section 12 of the FTC Act, 15 U.S.C. § 52, which  
18 prohibits false advertisements for food, drugs, devices, services, or cosmetics in or  
19 affecting commerce. The Commission may initiate federal district court  
20 proceedings to enjoin violations of the FTC Act and to secure such equitable relief,  
21 including consumer redress, as may be appropriate in each case. 15 U.S.C. §  
22 53(b).

### 23 **DEFENDANTS**

24 5. For over twenty five years, Defendant A. Glenn Braswell (“Braswell”)  
25 has marketed dietary supplements and other health-related products through a  
26 frequently changing group of interrelated companies. These companies, operating  
27 out of the same California location and under the control of Braswell and Defendant  
28 Ron Tepper (“Tepper”), include, but are not limited to, Defendants JOL

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1 least 1999; AntiBetic Pancreas Tonic, marketed since at least 2000; and  
2 Theraceuticals GH3 Romanian Youth Formula, marketed since at least 2001. Like  
3 their other products, Defendants advertise and offer these products for sale through  
4 direct mail advertising, including the *Journal of Longevity*, and through their  
5 website, [www.gvi.com](http://www.gvi.com).

### 6 **Lung Support Formula**

7 17. Lung Support Formula (“Lung Support”) is or was promoted as a  
8 remedy for respiratory ailments, including allergies, bronchitis, emphysema, asthma,  
9 and smoking damage, among others. According to the labeling and advertising,  
10 Lung Support contains herbs such as ginseng extract root and ginkgo biloba  
11 extract, among others, and Vitamin A, Vitamin C, magnesium, and zinc. The cost  
12 to consumers for Lung Support ranges from \$29.95 for a one-month supply to  
13 \$109.95 for a six-month supply. Since 1998, sales of Lung Support Formula have  
14 exceeded \$37 million.

15 18. To induce consumers to purchase Lung Support, Defendants have  
16 widely disseminated, or caused to be disseminated, direct mail and Internet  
17 advertisements, including but not limited to the attached Exhibits A through C.  
18 These advertisements contain, among other things, the following statements and  
19 depictions:

20 a. **Doctors Discover 100% NATURAL Remedy That Restores**  
21 **Youth**  
22 **and Power To Your Lungs!**  
23 **Breath easier and end...**

24 ...shortness of breath

25 ...smoking damage

26 ...chest congestion

27 ...heart problems

28 ...sinus problems

1 ...colds & flu

2 ...emphysema

3 ...bronchitis

4 ...allergies

5 ...fatigue

6 ...asthma

7 Exhibit A at p. 40

8 (“*Breathe Easier*” direct mail ad)

9 b. LUNG SUPPORT has been shown in clinical studies and by  
10 thousands of users all over the world to help you live longer and END

11 T Allergies

12 T Asthma

13 T Colds & Flu

14 T Bronchitis

15 T Sinus Problems

16 T Chest Congestion

17 T Emphysema

18 T Smoking Damage

19 T Shortness of Breath.

20 Exhibit A at p. 51

21 c. **Even Emphysema Can Be Reversed Now**

22 \* \* \* \* \*

23 **Stops Coughing, Spasms and Inflammation**

24 \* \* \* \* \*

25 **End Bronchial Disease**

26 \* \* \* \* \*

27 **Stop Wheezing and Coughing**

28 \* \* \* \* \*

**Ward Off Respiratory Problems**

Exhibit A headlines at pp. 47, 49, 50

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- i. Not surprisingly, the last 20 years have seen an alarming increase in a variety of breathing problems – ranging from allergies to asthma to

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b. **U.S. PATENT AWARDED FOR THE FORMULA**

\* \* \* \* \*

A medicinal composition is provided for the treatment of diabetes in a human subject. The medicinal composition of the invention \_\_\_\_\_

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1 immediately started organizing a clinical trial on humans.

2 Exhibit D at p. 88

3 **d. picked only the sickest patients**

4 \* \* \* \* \*

5 Dr. Kuttan closely monitored the [type II] diabetic participants  
6 during the six-month trials. At the end of the clinical tests, the results  
7 showed that the formula had almost the same effect on humans that it  
8 did on the animals.

9 Exhibit D at p. 88

10 **e. successful tests on insulin-dependent diabetics**

11  
12 K. Shanmugasundaram, a professor at the medical school of the  
13 University of Madras in India, conducted tests of *Gymnema* on  
14 people with Type I diabetes who need insulin shots daily.

15 \* \* \* \* \*

16 The scientists assumed that if they could generate beta cells in  
17 animals that produce insulin, they could do it in humans, too.

18  
19 **insulin requirements go down**

20  
21 That's exactly what happened in the clinical tests on humans. Their  
22 insulin requirements dropped, along with lowered blood sugar and  
23 improved glucose utilization. Also, the glycogen (stored blood sugar)  
24 in the liver became normal after five and a half month1.579a0297 Tw 14.25 0 0 14.25

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1 go down.”

2 Exhibit D at p. 90

3 f. **formula is available now**

4 Now, thanks to the wonders of nature and an ancient but very wise  
5 old doctor, you can stop the awful pillaging of your body.

6  
7 One of the largest, most reputable nutraceutical companies in the  
8 world (Gero Vita) has just begun manufacturing the Sanskrit formula.  
9 It is called **AntiBetic**[.]

10 Exhibit D at p. 94

11 g. **it’s certainly worth the wait**

12 Clinical tests show that a minimum of four months is required for  
13 those with newly acquired adult-onset blood sugar problems and that  
14 it could take up to 15 months before those dependent on drugs can  
15 stop the need for injections. But there’s no question that it will be  
16 worth the wait.

17 Exhibit D at p. 94

18 h. Paul Yutsis, M.D.... says: “I consider diabetes the worst disease a  
19 person can get . . . Thank God, the clinical tests show that we’ve  
20 finally found the answer. I urge all diabetics to get **AntiBetic** as  
21 quickly as possible.”

22 Ron Kennedy, M.D. ... says: “. . . Drug company researchers and  
23 medical scientists galore are searching out and intensely studying old  
24 medical literature. . . . **AntiBetic** is going to wipe one of the worst  
25 diseases off of the list.”

26 Exhibit D at p. 96

27 i. “I had diabetes and was taking insulin at 15 units NPH in the morning  
28 and 5 units NPH regular insulin in the evening. My sugar level was

1 always over 300 for more than six months. My doctor recommended  
2 [AntiBetic] to me, along with my insulin treatment. Immediately, my  
3 sugar level started to go down towards normal, and in just one month,  
4 I got off insulin shots to pills (Diabeta) for my glucose control. After  
5 four months of treatment, my sugar level is normal. I absolutely have  
6 not had any side effects. . . .[T]houghts of amputations, kidney  
7 dialysis, strokes or other complications don't bother me anymore. If  
8 you are diabetic you need to try this! You don't have to live with  
9 diabetes the rest of your life."

10 K. Nunez

11 "I was a diabetic for the last seven years. I tried this formula for three  
12 months and got off my Glucotrol (2 pills a day) altogether. My sugar  
13 level has been normal for one year. I am able to enjoy my favorite  
14 foods again."

15 F. Rose

16 Exhibit D at p. 96

17 j. NEW PATENTED FORMULA

18 **REDUCE**  
19 **YOUR**  
20 **CHANCE OF**  
21 **DEATH and DISEASE BY**  
22 **up to 67%**

23 " **Nerve disease DOWN 60%**

24 " **Kidney Disease DOWN 50%**

25 " **Vision Problems DOWN 76%**

26 " **Heart Disease DOWN 35%**

27 by Robert Schiffer, M.D.

28 After dozens of scientific studies over many years, the results could  
not be any more plain: **Keeping your blood sugar in balance will**





**Gero Vita G.H.3 and Theraceuticals GH3 Romanian Youth Formula**

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1 the same way as if you were injected with procaine.

2 **New Version of Gerovital H3 Is Not The Same, But May Be**  
3 **Better**

4 Taking the discoveries of Dr. Luth and Dr. Kugler, Gero Vita  
5 Laboratories has created a pill called Gero Vita GH3, which contains  
6 PABA and DMAE.

7 Exhibit F at p. 123

8 d. *SCIENTISTS DISCOVER THAT*

9 **Age Spots Signal**  
10 **the Start of Senility!**

11 Exhibit G at p. 132

12 (*“Scientists Discover That Age Spots Signal the Start of*  
13 *Senility!”* direct mail ad)

14 e. **IF YOU HAVE AGE SPOTS...**

15 **Don't Wait Until Your**  
16 **Memory Gets Worse!**

17 C

18 **Clinical Tests Show The**  
19 **Condition Can Be Fad 1 Tf 0.0197 Tcae4e\_w The**

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1 f. **True Cause of Aging,**  
2 **Memory Loss Pinpointed**

3 ***BREAKTHROUGH:***  
4 **Scientists Develop Anti-Aging Formula That Dramatically Slows**  
5 **Aging, Improves Health, Restores Energy!**

6 Exhibit H at p. 148

7 (*True Cause of Aging* direct mail ad)

8 g. Dear Reader:

9 How often have you looked into the mirror and wished you could  
10 turn back the hands of time? All of us have.

11 As a medical doctor and researcher, I have witnessed the tragedy  
12 and frustration that accompanies aging and the gradual loss of brain  
13 and body functions.

14 Now, thanks to the following special report reprinted from the  
15 pages of the prestigious *Journal of Longevity* . . . , you are about to  
16 find out about the biggest anti-aging breakthrough that I have seen in  
17 my entire medical career.

18 \* \* \* \* \*

19 The

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1 h. **SENILITY EPIDEMIC – 1 in 5 Over 60 Affected**  
2 **INSIDE: The Causes and How to Deter It**

3 Exhibit H at p. 163

4 i. Golden Nutrition Award Winner  
5 Breakthrough #3 Anti-Aging

6  
7 **Stunning new discovery stops “runaway enzyme” that causes**  
8 **premature aging and memory loss**

9 *by Ernest Michaels, senior science editor and specialist in reporting*  
10 *on age-related illness*

11  
12 *Do you worry about the prospect of developing Alzheimer’s or*  
13 *some other kind of memory disorder as you grow older?*

14  
15 *Are you aware of the link between age spots on your skin and*  
16 *mental problems like senility and dementia?*

17 \* \* \* \* \*

18 Based on an exclusive rejuvenation treatment **originally developed**  
19 **for the ultra-rich clients of a famous European anti-aging clinic,**  
20 a prominent American researcher recently made a revolutionary  
21 breakthrough that can:

- 22 • Boost brain power  
23 • Fight senility, dementia and Alzheimer’s  
24 • Maintain mental and physical fitness  
25 • Make age spots disappear  
26 • Tighten and smooth sagging skin

27 Exhibit I at p. 173

28 (“*New Life Nutrition Magazine*” direct mail ad)

1           j.       **Just as effective as [Dr. Aslan’s] treatments**

2                               \* \* \* \* \*

3           . . . Interestingly enough [Dr.] Kugler’s research supported the 29%  
4           increase in human life span that Dr. Aslan had observed in her original  
5           research.

6                               \* \* \* \* \*

7           **Just as effective**

8           Even better, in its ability to reduce and even reverse the damage done  
9           to your brain and body by high levels of the monoamine oxidase  
10          enzyme, Dr. Kugler’s G.H.3. has been shown to be **as effective as**  
11          **Dr. Aslan’s original formula.**

12                              Exhibit I at pp. 175-176

13          k.       The First Vitality Discovery of the 21<sup>st</sup> Century ...

14   **New**

15   *Improved G.H.3*

16   Romanian Youth Formula!

17                              Exhibit J at p. 180

18                              (*“First Vitality Discovery of 21<sup>st</sup> Century”* direct mail ad)

19          l.       **Original G.H.3 Scientist Discovers**

20          **New Nutrient Factor – From Sweden!**

21   Clinical tests reveal compound makes G.H.3 even more potent!

22                               \* \* \* \* \*

23           . . . The original G.H.3 formula was designed by renowned anti-aging  
24           researcher Hans Kugler of Roosevelt University.

25           Recently, Dr. Kugler and his G.H.3 research staff discovered a  
26           remarkable new nutrient compound from Sweden that can boost the  
27           overall potency of G.H.3 while offering its own rejuvenating effects.  
28

1 Now, Kugler and his team have improved the original G.H.3 formula  
2 to make it even more effective.

3 Exhibit J at p. 181

4 m. 1985: Dr. Hans Kugler studies benefits of giving PABA and DMAE  
5 orally to humans.

6 Exhibit J at p. 181

### 7 **ChitoPlex**

8 23. ChitoPlex is promoted as a weight loss product. According to the  
9 labeling and advertising, ChitoPlex contains chitosan, Vitamin C, Vitamin B6,  
10 chromium, and lemon flavor. The sale price of ChitoPlex ranges from \$29.95 for a  
11 one-month supply to \$109.95 for a six-month supply. Since 1998, sales for  
12 ChitoPlex have exceeded \$12 million.

13 24. To induce consumers to purchase ChitoPlex, Defendants have widely  
14 disseminated, or caused to be disseminated, direct mail and Internet  
15 advertisements, including but not limited to the attached Exhibits I and K. These  
16 advertisements contain, among other things, the following statements and  
17 depictions:

18 a. Annual Consumer Guide to the “Best Nutritional Products of the  
19 Year”

20 **NEW LIFE**

21 **NUTRITION**  
22 magazine

23 **Golden**

24 **Nutrition**

25 **Award Winner**

**Inside:**

\* \* \* \* \*

*New* diet formula

helps you lose weight

4 different ways

26 Exhibit I at p. 164

27 (“*New Life Nutrition Magazine*” direct mail ad)  
28

1 b. A special message from the director of the Council on Natural  
2 Nutrition:

3  
4 **More than 10,000 nutritional health products are introduced**  
5 **each year. Here are the *Golden Nutrition Award Winners*:**

6  
7 Dear Health-Conscious Reader:

8 \* \* \* \* \*

9 At *New Life Nutrition*, three top science editors have examined  
10 and evaluated more than 90% of these new products.

11 \* \* \* \* \*

12 Each of the editors involved is an expert on a specific health  
13 problem. And by reading their special reports that follow, you'll  
14 discover better ways to:

15 \* \* \* \* \*

16 lose weight safely and naturally

17 \* \* \* \* \*

18 As a physician who is well aware of the powerful advantages of  
19 natural therapies, I urge you to use these breakthroughs[.]

20  
21 Yours truly,

22 Ronald Lawrence, M.D., Ph.D.

23 Director, Council on Natural Nutrition

24 Exhibit I at p. 165

25 c. **New four-way breakthrough makes losing weight with European**  
26 **diet miracle easier than ever**

27 by Jon Fredericks, senior science editor and specialist in reporting on  
28 advances in weight loss





1 e. **200-year-old French**  
2 **discovery makes losing**  
3 **weight almost too easy!**

4 **New research** reveals the safest way to lose 20...30...40 pounds or  
5 more

6 **Without** deadly drugs!

7 **Without** silly diets!

8 **Without** exercise programs that only make you hungry!

9 Exhibit K at p. 184

10 (“200 year-old French discovery” direct mail ad)

11 f. **You mean we can eat the foods we love and still lose weight?”**

12 That’s the first question I hear from my patients when I give them the  
13 information I’m about to share with you.

14 \* \* \* \* \*

15 Scientists in Europe and the United States have discovered how you  
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1 career searching for better solutions to health problems ... I am  
2 delighted to be able to share the news of a new medical breakthrough.

3 The story of this incredible development began almost 200 years  
4 ago in Paris, France, at the French Academy of Science.

5 \* \* \* \* \*

6 I'm going to tell you about an astounding natural weight-loss  
7 discovery that actually...

- 8 • “pulls” the fat out of your food!
- 9 • prevents this fat from being digested, absorbed and stored by your  
10 body!
- 11 • helps you lose weight--safely and easily!
- 12 • dramatically decreases the risk of developing life-threatening  
13 health problems!

14 Exhibit K at p. 186

15 h. With [ChitoPlex] you can:

- 16 • block fat
- 17 • balance cholesterol
- 18 • normalize your metabolism
- 19 • burn fat and calories
- 20 • gain nutritional support as you lose weight

21 Exhibit K at p. 192

## 22 **Testorex**

23 25. Testorex is promoted to effectively and safely treat erectile  
24 dysfunction. According to its labeling and advertising, Testorex contains  
25 pausinyntalia yohimbe extract, among other ingredients. The sale price of Testorex  
26 ranges from \$29.95 for a one-month supply to \$109.95 for a six-month supply.  
27 Since 1998, sales for Testorex have exceeded \$19 million.

1           26. To induce consumers to purchase Testex, Defendants have widely  
2 disseminated, or caused to be disseminated, direct mail and Internet  
3 advertisements, including but not limited to the attached Exhibit L. These  
4 advertisements contain, among other things, the following statements and  
5 depictions:

6           a. *Direct from university research lab:*

7                           **THE SUPER SEX**  
8                           **BREAKTHROUGH OF THE YEAR!**

9  
10                          *No drugs!*

11                          *No doctor's prescription!*

12                          *No Kidding!*

13    Exhibit L at p. 200

14    (*"Super Sex Breakthrough"* direct mail ad)

15           b.   **Amazing Experiment In Which Rats Doubled**  
16                   **Their Mating Activity In 15 Minutes**

17  
18                   **Leads to Super Sex Breakthrough!**

19    *By Murray Susser, M.D.*

20  
21    Do you have trouble getting and maintaining a firm erection?

22  
23    Are you concerned about the dangerous side effects of prescription  
24    drugs?

25    Are you "turned off" by the thought of painful penile injections,  
26    risky implants and embarrassing pumps and suction devices?

27    These unpleasant approaches are no longer your only options. . . .

28    \* \* \* \* \*

1 . . .I'm going to tell you about a series of medical discoveries that will  
2 explain why sexual problems do not have to be the natural result of  
3 aging.

4  
5 Specifically, these discoveries can:

- 6 • give you “rock hard” erections -- safely and naturally!
- 7 • make orgasms stronger and more satisfying !

8 \* \* \* \* \*

9 As a doctor who has spent more than 30 years studying age-related  
10 sexual problems ...

11 \* \* \* \* \*

12 I can honestly say that the information in this special report ...

13  
14 **...answers the bedroom prayers of every man over 50!**

15 Exhibit L at pp. 202-203

- 16 c. In a moment I am going to reveal a new sexual enhancement discovery  
17 that stunned laboratory researchers at a major American University.

18  
19 I am also going to reveal how this new research breakthrough can give  
20 older men the sexual power of men half their age.

21  
22 Even better, I'm going to give you all of the details about what many  
23 medical experts are calling. . .

24 **‘The Super Sex Breakthrough of the Year’**

25 Exhibit L, at p. 203

- 26 d. The point is that scientists have indeed discovered several natural  
27 ways to deal with the four major causes of male sexual problems[.] ...  
28 All of them have been reported on and evaluated in leading medical

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1 pharmaceutical physician reported some truly remarkable results  
2 [about yohimbine] in the *British Journal of Clinical Practitioners*.

3 **Restored Erections in 95%**

4 Dr. A.J. Riley analyzed all of the results from the extensive testing  
5 of yohimbine and concluded, “It is now possible to restore usable  
6 erections for up to 95% of men with erectile inadequacy.”

7 Exhibit L at p. 209

- 8 h. You see, what makes this new formula so unique – and I can’t  
9 emphasize this enough – is that **TestereX** is ...

10  
11 **the only sexual performance**  
12 **enhancer that tackles all of the**  
13 **major causes of the problem.**

14 \* \* \* \* \*

15 With all of these powerful, natural ingredients now together for the  
16 first time in a single, convenient product, **TestereX** can truly add a  
17 whole new chapter in sexual enjoyment to the life of any man who is  
18 50 years of age or older.

19 Exhibit L at pp. 210-211

- 20 i. **Is TestereX better than prescription drugs?**  
21 **Here’s why yet another prominent doctor says “yes!”**

22  
23 Dr. Victor Contreras, M.D., has long been concerned with the  
24 research being conducted in the area of improved sexual performance.  
25 However, in the midst of the current craze for prescription drugs that  
26 can enhance sexual performance, he asks men to be cautious.

27 “I suppose that every man wants to be able to perform like Don  
28 Juan. However, real world experience with these drugs suggests that





1                                   **DECEPTIVE ACTS OR PRACTICES**  
2                                   **IN VIOLATION OF THE FTC ACT**  
3                                   **COUNT I**

4                                   **Unlawful Claims for Lung Support**

5           29.   Through the means described in Paragraph 18, including through the  
6 statements contained in the advertisements attached as Exhibits A through C,  
7 Defendants have represented, expressly or by implication, that Lung Support:

- 8           a.   Cures or significantly alleviates lung diseases and respiratory  
9                problems, including allergies, asthma, colds, influenza, bronchitis,  
10              sinus problems, chest congestion, emphysema, smoking damage, and  
11              shortness of breath;
- 12           b.   Reverses existing lung damage in persons with emphysema and  
13                significantly improves their breathing;
- 14           c.   Prevents breathing problems for many persons who do not have  
15                existing respiratory problems; and
- 16           d.   Is clinically proven to eliminate or cure allergies, asthma, colds,  
17                influenza, bronchitis, sinus problems, chest congestion, emphysema,  
18                smoking damage, and shortness of breath.

19           30.   The representations set forth in Paragraph 29 are false or were not  
20 substantiated at the time the representations were made. Therefore, the making of  
21 the representations set forth in Paragraph 29 constitutes a deceptive practice, and  
22 the making of false advertisements, in or affecting commerce, in violation of  
23 Sections 5(a) and 12 of the FTC Act, 15 U.S.C. §§ 45(a) and 52.

24                                   **COUNT II**

25                                   **Unlawful Claims for AntiBetic**

26           31.   Through the means described in Paragraph 20, including through the  
27 statements contained in the advertisements attached as Exhibits D and E,  
28 Defendants have represented, expressly or by implication, that AntiBetic:

- 1 a. Can cure Type I and Type II diabetes;  
2 b. Is an effective or superior alternative to insulin or other diabetes  
3 medications for the treatment of Type I and Type II diabetes; and  
4 c. Is clinically proven to regenerate or repair the pancreatic beta cells that  
5 produce insulin and to lower blood sugar levels in persons with  
6 diabetes.

7 32. The representations set forth in Paragraph 31 are false or were not  
8 substantiated at the time the representations were made. Therefore, the making of  
9 the representations set forth in Paragraph 31 constitutes a deceptive practice, and  
10 the making of false advertisements, in or affecting commerce, in violation of  
11 Sections 5(a) and 12 of the FTC Act, 15 U.S.C. §§ 45(a) and 52.

### 12 **COUNT III**

#### 13 **Unlawful Claims for G.H.3 Products**

14 33. Through the means described in Paragraph 22, including through the  
15 statements contained in the advertisements attached as Exhibits F through J,  
16 Defendants have represented, expressly or by implication, that:

- 17 a. G.H.3 reverses and prevents age-related memory loss, dementia, and  
18 Alzheimer's disease;  
19 b. Persons who use G.H.3 or Theraceuticals GH3 can live 29% longer;  
20 and  
21 c. G.H.3 is clinically proven to prevent and reverse age-related memory  
22 loss, dementia, and Alzheimer's disease.

23 34. The representations set forth in Paragraph 33 are false or were not  
24 substantiated at the time the representations were made. Therefore, the making of  
25 the representations set forth in Paragraph 33 constitutes a deceptive practice, and  
26 the making of false advertisements, in or affecting commerce, in violation of  
27 Sections 5(a) and 12 of the FTC Act, 15 U.S.C. §§ 45(a) and 52.

28

1 **COUNT IV**

2 **Unlawful Claims for ChitoPlex**

3 35. Through the means described in Paragraph 24, including through the  
4 statements contained in the advertisements attached as Exhibits I and K,  
5 Defendants have represented, expressly or by implication, that ChitoPlex:

- 6 a. Enables consumers to lose substantial weight without the need for a  
7 restricted calorie diet or exercise;
- 8 b. Enables consumers to reverse obesity; and
- 9 c. Is proven to cause weight loss based on a 1994 double-blind,  
10 placebo-controlled chitosan study conducted in Finland that resulted  
11 in the chitosan subjects losing an average of fifteen pounds in four  
12 weeks while consuming their normal diet.

13 36. The representations set forth in Paragraph 35 are false or were not  
14 substantiated at the time the representations were made. Therefore, the making of  
15 the representations set forth in Paragraph 35 constitutes a deceptive practice, and  
16 the making of false advertisements, in or affecting commerce, in violation of  
17 Sections 5(a) and 12 of the FTC Act, 15 U.S.C. §§ 45(a) and 52.

18 **COUNT V**

19 **Unlawful Claims for Testorex**

20 37. Through the means described in Paragraph 26, including through the  
21 statements contained in the advertisement attached as Exhibit L, Defendants have  
22 represented, expressly or by implication, that Testorex:

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**COUNT IX**

**Deceptive Representation Regarding Expert Endorser Dr. Ronald  
Lawrence**

45. Through the means described in Paragraphs 24(a) and (b), Defendants have represented, expressly or by implication, that Dr. Ronald Lawrence, Director of the Council on smra712

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1 equitable jurisdiction, may award other ancillary relief, including consumer redress,  
2 disgorgement, and restitution, to prevent and remedy injury caused by Defendants'  
3 law violations.

4 **PRAYER FOR RELIEF**

5 Wherefore, Plaintiff requests that this Court, as authorized by Section 13(b)  
6 of the FTC Act, 15 U.S.C. § 53(b), and pursuant to its own equitable powers:

- 7 (1) Permanently enjoin Defendants from violating Sections 5(a) and 12 of  
8 the FTC Act in connection with the advertising or sale of food, drugs,  
9 devices, cosmetics or other products, services or programs;
- 10 (2) Permanently enjoin Defendant Braswell from participating in the  
11 advertising or sale of any food, vitamin, mineral, dietary supplement, drug,  
12 device, cosmetic, or other health-related product or service;
- 13 (3) Award such equitable relief as the Court finds necessary to redress  
14 injury to consumers resulting from Defendants' violations of the FTC Act,  
15 including but not limited to rescision of contracts and restitution, other forms  
16 of redress, and disgorgement of ill-gotten gains; and
- 17 (4) Award Plaintiff the costs of bringing this action and any other  
18 equitable relief the Court may determine to be just and proper.

19 Respectfully submitted,

20  
21 Dated: \_\_\_\_\_, 2003

22 **WILLIAM E. KOVACIC**  
General Counsel

23 **ROSEMARY ROSSO**  
24 **MAMIE KRESSES**  
25 **DAVID P. FRANKEL**  
26 **THEODORE H. HOPPOCK**  
27 **JILL F. DASH**  
Federal Trade Commission  
600 Pennsylvania Ave., N.W.  
Mail Drop NJ-3212  
Washington, D.C. 20580  
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28 Fax: (202) 326-3259

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