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Attorneys for Respondent Dennis Gay

UNITED STATES OF AMERICA

6. Admits the first sentence. Denies all remaining allegations.
7. Denied, except admits the last sentence.
8. Denied, except admits the last sentence.
9. Denied, except admits that Friedlander has performed marketing services for one or more of the Respondents.

10. Denied.

11. ~~Denied, except admits that at different times certain of the Respondents have~~

advertised, distributed and sold products listed in this document

16. Denied in that the phrase "reasonable basis" is not defined in the Complaint.

inherently vague, and subject to no discernible quantitative or qualitative requirements.

Additionally, Mr. Cox believes that substantiation exists and existed at the time of

inherently vague, and subject to no discernible quantitative or qualitative requirements. Additionally, Mr. Gay believes that substantiation exists now and existed at the time the Tummy Flattening Gel advertisements were made. All remaining allegations are denied.

22. Denied, in that the phrase "reasonable basis" is not defined in the Complaint. is

inherently vague, and subject to no discernible quantitative or qualitative requirements.

27. Admits that at different times Mr. Gay and certain of the Respondents disseminated the advertisements. Denies that Mr. Gay caused any advertisements to be disseminated, in that the term "caused" is inherently vague, subjective, and susceptible to numerous and different interpretations. Denies the remaining allegations.


28. Denied [redacted] in that the terms "causes" and "substantial" do not appear in Lentonrin

susceptible to numerous and different interpretations. All remaining allegations are denied.

33. Denied, in that the terms "causes", and "substantial" do not appear in Anorex advertisements, are not defined in the Complaint, and are inherently vague, subjective, and susceptible to numerous and different interpretations. All remaining allegations are denied.

34. Denied, in that the phrase "reasonable basis" is not defined in the Complaint, is inherently vague, and subject to no discernible quantitative or qualitative requirements.

Additionally, Mr. Gay believes that substantiation exists now and existed at the time



advertisements were made. All remaining allegations are denied.

35. Denied, in that the phrase "reasonable basis" is not defined in the Complaint, is inherently vague, and subject to no discernible quantitative or qualitative requirements.

Additionally, Mr. Gay believes that substantiation exists now and existed at the time Anorex

inherently vague, and subject to no discernible quantitative or qualitative requirements.

Additionally, Mr. Gay believes that substantiation exists now and existed at the time Pedialan

_____ made. All remaining allegations are denied

39. Denied, in that the phrase "reasonable basis" is not defined in the Complaint, is

_____ inherently vague, and subject to no discernible quantitative or qualitative requirements.

commercial speech through the use of ad hoc and non-defined terms and advertising

whatsoever standards that lack any measurable degree of definiteness. The Complaint further

violates Mr. Cox's First Amendment rights in that the instant administrative proceeding is

that the Commission had a "reason to believe" that Mr. Gay had violated Sections 5(a) and 12 of the Federal Trade Commission Act, the Commission possessed the predicate evidence supporting said determination years before it chose to commence this action in coordination with a parallel proceeding by a Congressional Committee. The Commission and its staff delayed this cause

for political purposes and, in doing so, caused Mr. Gay to lose the benefit of testimony from third party witnesses and otherwise caused his defense in this action to become stale.

DEMAND FOR ATTORNEYS' FEES

Mr. Gay reserves all claims for attorneys' fees and costs he may have the right to obtain under Recovery of Awards Under the Equal Access to Justice Act in Commission Proceedings, 5 U.S.C. 504 and 5 U.S.C. 553(b).

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DATED this 30th day of July, 2004.

BURBIDGE & MITCHELL

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Richard D. Burbidge
Attorneys for Respondent Dennis Gay

CERTIFICATE OF SERVICE

I hereby certify that on this 30th day of July, 2004, I caused to be filed and served the Answer and Grounds of Defense of Respondent Dennis Gay as follows:

- (1) an original and two paper copies filed by hand delivery and one electronic copy in PDF format filed by electronic mail to:

Donald S. Clark, Secretary
Federal Trade Commission
600 Pennsylvania Avenue, N.W., Room H-159
Washington, D.C. 20580
Email: secretary@ftc.gov

- (2) one paper copy served by hand delivery to:

The Honorable Steven J. McGuire
Administrative Law Judge
Federal Trade Commission
600 Pennsylvania Avenue, N.W., Room H-110
Washington, D.C. 20580

Washington, D.C. 20580

- (3) one paper copy by first class U.S. mail and one electronic copy in PDF

format by electronic mail to:

Walter C. Gross

Walter C. Gross

Ronald F. Price
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Counsel for Respondent Daniel B. Mowrey

~~_____~~

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Klein-Becker USA, L.L.C., Nutrasport, L.L.C.,
Sovage Dermalogic Laboratories, L.L.C., and
Ban, L.L.C.*

I further certify that the electronic copies sent to the Secretary of the

DATED this 30th day of July, 2004.

BURBIDGE & MITCHELL

A handwritten signature in black ink, consisting of several overlapping loops and a long horizontal stroke at the end, positioned above a horizontal line.

Richard D. Burbidge
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