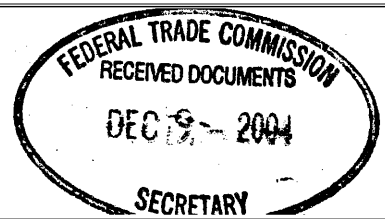


FEDERAL TRADE COMMISSION
OFFICE OF ADMINISTRATIVE LAW JUDGES



In the Matter of)

BASIC RESEARCH, LLC)

A.G. WATERHOUSE LLC)

KLEIN-BECKER USA, LLC)

NUTRASPORT, LLC)

SOVAGE DERMALOGIC LABORATORIES, LLC)

BAN, LLC d/b/a BASIC RESEARCH, LLC)

OLD BASIC RESEARCH, LLC,)

BASIC RESEARCH & WATERHOUSE)

Docket No. 9318

KLEIN-BECKER USA, NUTRA SPORT, and)
SOVAGE DERMALOGIC LABORATORIES)

DENNIS GAY)

DANIEL B. MOWREY d/b/a AMERICAN)

PHYTOTHERAPY RESEARCH LABORATORY, and)

MITCHELL K. FRIEDLANDER,)

Respondents.)

Complaint Counsel argues that Respondents' subpoenas or notices are overly broad, unduly burdensome, harassing, seek information that is not reasonably expected to yield information relevant to this matter and seek to gain expert testimony.

that the requested discovery is proper and focuses on issues central to this litigation. Opposition at 18.

III.

A.

Positions of the Parties

Complaint Counsel objects to parts of two subpoenas duces tecum served to two

any other regulatory body, either on behalf of yourself or some other third party, relating to advertising or package labeling claims that you sought to make in relation to any weight loss or fat loss product.” Motion at 10 n.12. Complaint Counsel argues that this request is overly broad, unreasonable, unduly burdensome, and not reasonably expected to yield relevant information. Motion at 11-12. Respondents contend that these requests are relevant to what constitutes competent and reliable scientific evidence, whether the experts maintain these standards in their

own work; whether these standards are relevant in the area of dietary supplements, weight and fat

loss; and that Complaint Counsel has failed to establish any real burden. Opposition at 11-12.

ETCJ BYIS 254 at *6 (Dec 15, 1000) (citing Fed. R. Civ. Pro. 26(a)(2)(B); 16 C.F.R.

B.

Complaint Council objects to twenty five subpoenas ~~duces tecum~~ issued to non-party

individuals and entities that participated in the Oelietat study and a different study regarding

violate their obligations. Final Proposed Witness Lists are not due until February 8, 2005.”
Opposition at 17.

The general rule is that a party to litigation lacks standing to object to a non-party

Corp., 513 F.2d 1121, 1126 (2d Cir. 1975). There is no reason to deviate from this general rule in this case, where, according to Respondents, the non-parties do not object to the depositions. Opposition at 16. Accordingly, the motion for protective order for the videotaped depositions is **DENIED**. Respondents are reminded, however, of their obligation to seasonably amend their witness lists. Respondents will be required to notify Complaint Counsel of any additional depositions.