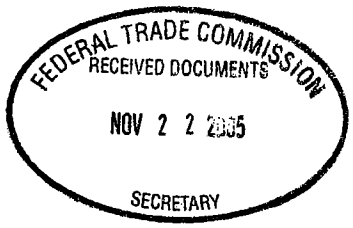
UNITED STATES OF AMERICA
FEDERAL TRADE COMMISSION
OFFICE OF ADMINISTRATIVE LAW JUDGES



In the Matter of	)	
	)	
BASIC RESEARCH, LLC	)	
KLEIN-BECKER USA, LLC	)	
NUTRASPORT, LLC	)	
SOVAGE DERMALOGIC LABORATORIES, LLC	)	
BAN, LLC d/b/a BASIC RESEARCH, LLC	)	
OLD BASIC RESEARCH, LLC,	)	Docket No. 9318
BASIC RESEARCH, A.G. WATERHOUSE,	)	
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.	)	

ORDER ON COMPLAINT COUNSEL'S MOTION FOR *IN CAMERA* REVIEW, SANCTIONS, AND OTHER RELIEF RELATING TO MOWREY'S PRODUCTION OF EXPERT RELATED DOCUMENTS

I.

On September 1, 2005, Complaint Counsel filed a Motion for *In Camera* Review, Sanctions, and Other Relief for Respondent Mowrey's Continued Refusal to Produce All Expert Related Documents. Respondent Mowrey filed its Opposition on September 16, 2005. For the

The August 9, 2005 Order held, "'for each expert expected to testify at trial, the parties [redacted] forming his or her opinion on the subject on which he or she is expected to testify, regardless of the source of the document . . . .'" *In re Basic Research*, 2005 FTC LEXIS 121, *3 (August 9, 2005) ("August 9, 2005 Order") (quoting *In re Basic Research*, 2005 FTC LEXIS 8, *2-3 (Jan. 19, 2005) (citing *Dura Lube*, 1999 FTC LEXIS 254, at *6-7; *In re Shell Oil Refinery,* 1992 U.S. Dist. LEXIS 4896, at *2 (E.D. La. 1992))). The August 9, 2005 Order compelled Mowrey, as a testifying expert, to "produce all documents that Dr. Mowrey reviewed in the course of forming his opinion on the subject on which he is expected to testify - even if such documents are covered by the attorney-client privilege or work product doctrine." August 9, 2005 Order, 2005 FTC LEXIS 121, *4 (quoting *In re Pioneer Hi-Bred Int'l Inc.*, 238 F.3d 1370, 1375-76 (Fed. Cir. 2001) ("litigants should no longer be able to argue that materials furnished to their experts to be used in forming their opinions – whether or not ultimately relied upon by the expert – are [redacted]

expert witness, or in connection with [his] expert opinion/report." Respondent further asserts that because Mowrey has complied with the August 9, 2005 Order, judicial *in camera* review is unnecessary and sanctions are inappropriate.

IV.

The sworn Mowrey Declaration certifies that the withheld documents do not relate to Mowrey's capacity as an expert witness and that Mowrey did not read, consider, review or rely upon the withheld documents in his capacity as an expert witness, or in connection with his expert opinion or report. Accepting these declarations as true, Mowrey has thus complied with the requirements of the August 9, 2005 Order.

Complaint Counsel requests that the Court require Respondent Mowrey to produce the challenged documents for purposes of judicial *in camera* inspection. Inspection of the withheld documents would not enable the Court to determine whether Mowrey reviewed, consulted, or

request for relief is **DENIED.**

Complaint Counsel also requests that the Court impose sanctions for Mowrey's continued refusal to produce documents. Because Mowrey has complied with the August 9, 2005 Order, this request for relief is **DENIED.**