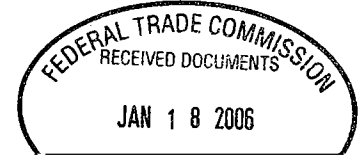


UNITED STATES OF AMERICA
BEFORE THE FEDERAL TRADE COMMISSION

In the Matter of)
)
)
)
)

BASIC RESEARCH, L.L.C.)



KLEIN-BECKER USA, L.L.C.,)
NUTRASPORT, L.L.C.,)
SOVAGE DERMALOGIC)
LABORATORIES, L.L.C.,)
BAN, L.L.C.,)
DENNING CLAY)

Docket No. 9318

PUBLIC DOCUMENT

MITCHELL K. FRIEDLANDER,)
)
)
)
)

Respondents.

COMPLAINT COUNSEL'S OPPOSITION TO RESPONDENTS' MOTION

given any weight at all. Respondents' documents are not material facts, and to the extent that those documents are offered as "evidence," official notice does not obviate the necessity for

[REDACTED]

listing the documents as exhibits. The documents are not relevant to whether Respondents violated the FTC Act, and relate instead to Respondents' challenge of Federal Trade Commission ("FTC") substantiation policy for dietary supplement and weight-loss claims, which

~~is not the issue to be litigated in this administrative trial~~

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

Respondents' present Motion seeking official notice of FTC, FDA, and NIH documents

(“Previous Request”). In their Previous Request, Respondents only sought official notice that certain statements contained in the FTC’s web pages were made, not that they were relevant or

material. Previous Request at 4. Respondents’ present Motion, however, seeks to establish the 23 FTC, FDA, and NIH documents as relevant and material evidence that Respondents intend to use at trial.²

Respondents respectfully request the Court, without any supporting facts or argument, that the 23

upon them in their findings and conclusions at 4/1/99. It is clear that these letters were

the documents as "evidence."

Demanded that the documents be returned to the FBI. It is clear that these letters were

... Demands' intention to challenge the FTC's substantiation policy at trial despite the

Court's previous determinations.

... arguments can be grouped into seven categories: the First Four of which comprise

In addition, statements in Document 1 (RX-001), made by former Commissioner Azcuenaga, who briefly served as Respondents' counsel, are non-binding on the FTC, and

of the Commission or any other Commission. Furthermore, Respondents have failed

(3) FTC TRANSCRIPT AND BUSINESS EDUCATION DOCUMENTS⁶

Complaint Counsel do not dispute the existence or accuracy of Documents 11 and 14 (RX-015 and RX-018), which are business education documents, but have objected to Document 13 (RX-017) on hearsay and relevancy grounds. The documents were published to assist industry members comply with existing laws and controlling cases. They are not material

evidence and do not constitute the standard against which Respondents' claims will be judged. Accordingly, Respondents have not established the relevance of any of the documents to any disputed issue.

(4) VOLUNTARY INDUSTRY GUIDELINES⁷

(b) REGISTER COMMENTS BY OTHER COMMISSIONS AND AGENCIES⁸

The three documents in this category are EPC staff comments in connection with the

(7) NIH GRANT APPLICATIONS AND GUIDELINES ON OBESITY¹⁰

Respondents have not shown how the documents in this category, including grant applications and NIH guidelines, are relevant to any disputed issue in this FTC matter. The NIH

[Redacted text]

[Redacted text]

[Redacted text]

[Redacted text]

[Redacted text]

[Redacted text]

Edwin Rodriguez (202) 326-3147
Laura Schneider (202) 326-2604
Bureau of Consumer Protection
Federal Trade Commission

18-0006

Washington, D.C. 20580

QUALIFICATION OF RECEIVING OFFICIAL

1. Name of the receiving official: [REDACTED]

2. Position held by the receiving official: [REDACTED]

3. Date of appointment: [REDACTED]

4. Signature of the receiving official: [REDACTED]

5. Date of signature: [REDACTED]

6. Name of the issuing official: [REDACTED]

7. Position held by the issuing official: [REDACTED]

8. Date of appointment: [REDACTED]

9. Signature of the issuing official: [REDACTED]

10. Date of signature: [REDACTED]

11. Name of the receiving official: [REDACTED]

12. Position held by the receiving official: [REDACTED]

13. Date of appointment: [REDACTED]

14. Signature of the receiving official: [REDACTED]

15. Date of signature: [REDACTED]

16. Name of the issuing official: [REDACTED]

17. Position held by the issuing official: [REDACTED]

18. Date of appointment: [REDACTED]

19. Signature of the issuing official: [REDACTED]

20. Date of signature: [REDACTED]

21. Name of the receiving official: [REDACTED]

22. Position held by the receiving official: [REDACTED]

23. Date of appointment: [REDACTED]

24. Signature of the receiving official: [REDACTED]

25. Date of signature: [REDACTED]

26. Name of the issuing official: [REDACTED]

27. Position held by the issuing official: [REDACTED]

28. Date of appointment: [REDACTED]

29. Signature of the issuing official: [REDACTED]

30. Date of signature: [REDACTED]

31. Name of the receiving official: [REDACTED]

32. Position held by the receiving official: [REDACTED]

33. Date of appointment: [REDACTED]

34. Signature of the receiving official: [REDACTED]

35. Date of signature: [REDACTED]

36. Name of the issuing official: [REDACTED]

37. Position held by the issuing official: [REDACTED]

38. Date of appointment: [REDACTED]

39. Signature of the issuing official: [REDACTED]

40. Date of signature: [REDACTED]

41. Name of the receiving official: [REDACTED]

42. Position held by the receiving official: [REDACTED]

43. Date of appointment: [REDACTED]

44. Signature of the receiving official: [REDACTED]

45. Date of signature: [REDACTED]

46. Name of the issuing official: [REDACTED]

47. Position held by the issuing official: [REDACTED]

48. Date of appointment: [REDACTED]

49. Signature of the issuing official: [REDACTED]

50. Date of signature: [REDACTED]

