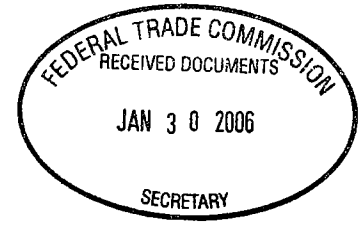


UNITED STATES OF AMERICA  
BEFORE THE FEDERAL TRADE COMMISSION

In the Matter of )

BASIC RESEARCH, L.L.C., )  
A.G. WATERHOUSE, L.L.C., )  
KLEIN-BECKER USA, L.L.C., )  
NUTRASPORT, L.L.C., )  
SOVAGE DERMALOGIC )  
LABORATORIES, L.L.C., )  
BAN, L.L.C., )  
DENNIS GAY, )  
DANIEL B. MOWREY, and )  
MITCHELL K. FRIEDLANDER, )  
Respondents. )

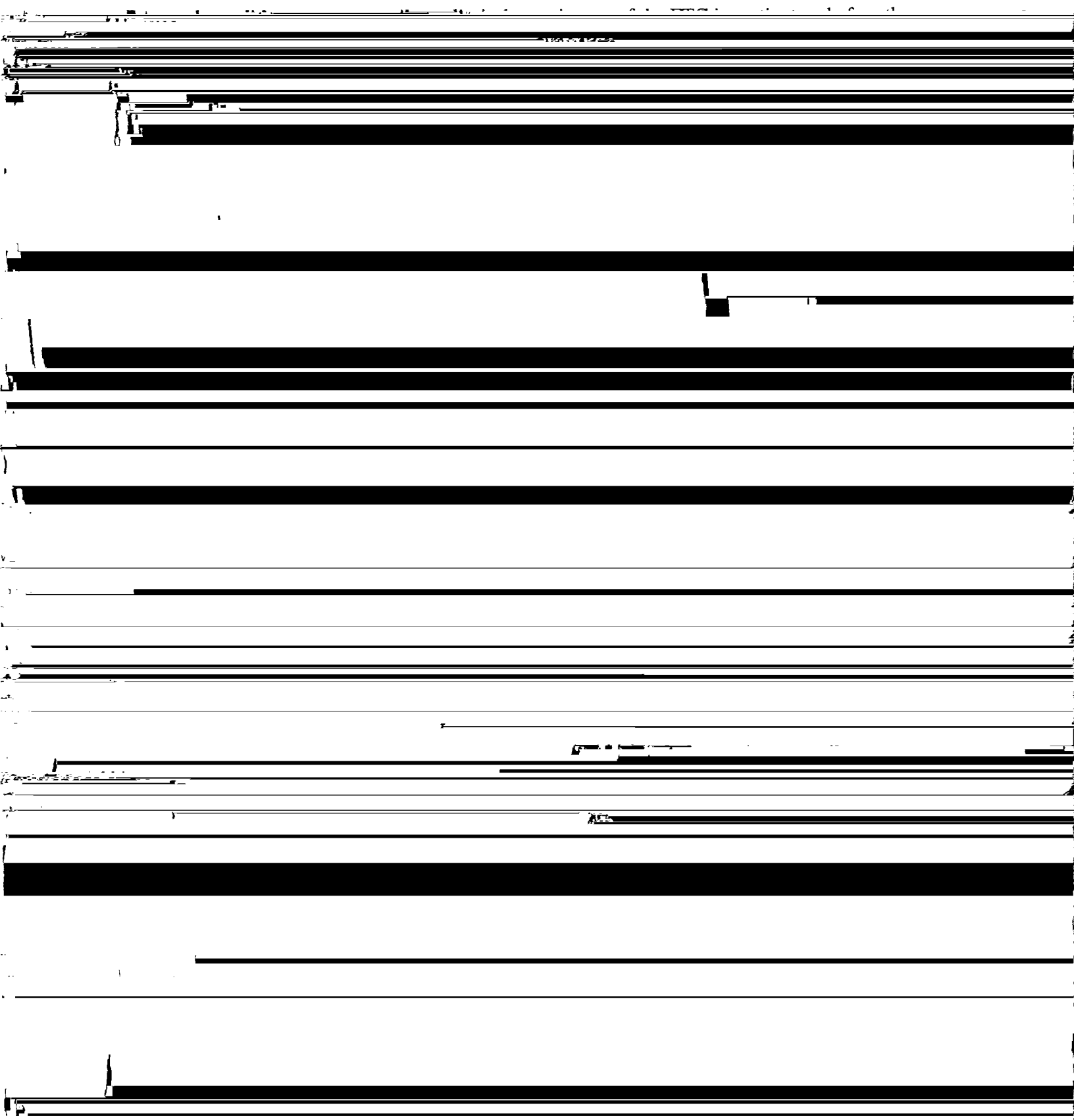


Docket No. 9318

PUBLIC DOCUMENT

COMPLAINT COUNSEL'S OPPOSITION TO RESPONDENTS'

strike and motions *in limine* expired soon thereafter. See Scheduling Order, Aug. 11, 2004, at 2.



Dec. 7, 2005, at 2. Respondents have filed their present motion out of time, without showing good cause therefor. See Scheduling Order, Aug. 11, 2004, at ¶ 1 (“extensions . . . to these deadlines will be made only upon a showing of good cause”). Respondents’ motion is untimely and should be denied on that basis. See, e.g., Order, Dec. 7, 2005, at 2 (denying Respondents’ motions to exclude three of Complaint Counsel’s trial witnesses as untimely, stating: “A scheduling order is not a frivolous piece of paper, idly entered, which can be cavalierly

investigations pertaining to Respondents' alleged acts or practices, and second, that the proffered

~~Respondents' alleged acts or practices, and second, that the proffered~~

**A. Respondents Have Misread the January 10<sup>th</sup> Order; Evidence Relating to Respondents' Alleged Acts or Practices is Admissible Irrespective of Whether It Was Obtained Before, or After, the Issuance of the *Complaint*.**

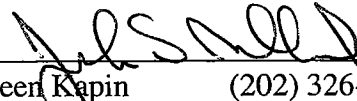
~~Respondents' alleged acts or practices, and second, that the proffered~~

distinction between these two subjects quite distinctly: “[T]he issue to be tried is whether

**B. Respondents' Assumptions Regarding the**

Respondents also base their motion on the speculative and unsubstantiated assumption that the FTC investigators' proffered testimony relates solely to a pre-*Complaint* investigation. This assumption is incorrect. The proffered witnesses have investigated and obtained evidence relevant to the allegations of the *Complaint* since the issuance of that document, and they are

Respectfully submitted,



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Laureen Kapin	(202) 326-3237
Lemuel Dowdy	(202) 326-2981
Walter C. Gross, III	(202) 326-3319
Joshua S. Millard	(202) 326-2454
Edwin Redman	(202) 326-2147

Division of Enforcement  
Federal Trade Commission  
600 Pennsylvania Avenue, N.W.  
Washington, D.C. 20580

I certify that I have reviewed the attached public filing, *Complaint Counsel's Opposition to*



I hereby certify that on this \_\_\_ day of January, 2006, I caused *Complaint Counsel's Opposition to Respondents' Motion to Exclude FTC Investigator Witnesses* to be served and filed as follows:

- (1) the original, two (2) paper copies filed by hand delivery and one (1) electronic copy via email to:

**Donald S. Clark, Secretary**  
Federal Trade Commission  
600 Penn. Ave., N.W., Room H-135  
Washington, D.C. 20580

- (2) two (2) paper copies served by hand delivery to: \_\_\_\_\_

Chief Administrative Law Judge  
600 Penn. Ave., N.W., Room H-104  
Washington, D.C. 20580

- (3) one (1) electronic copy via email and one (1) paper copy by first class mail to:

**Stephen E. Nagin**

**Mitchell K. Friedlander**

**Ronald F. Price**